

## PLANNING COMMITTEE AGENDA - 5th October 2022

### Applications of a non-delegated nature

- | <u>Item No.</u> | <u>Description</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01.             | <p>22/01753/NMA - Non-material amendment for 21/01957/FULL to allow reduction of building width by 1.5m, increase the stair core height by 0.6m and addition of a fixed clear glazing panel above the East elevation windows at Garages and Forecourt, Shapland Place, Tiverton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission.</p>                                                                                                                                                                                                                                                                                                       |
| 02.             | <p>22/01668/TPO - Application to reduce limbs on south and southeast aspect of one Oak tree protected by Tree Preservation Order 94/00008/TPO by 3-5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate southwest limb at c.2.5m in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the south, southeast and west aspect by c.3-4m along with crown thinning of sub lateral branches c.10% at Land at NGR 295892 103149, Wyndham Road, Silverton.</p> <p><b>RECOMMENDATION</b><br/>Grant consent.</p> |
| 03.             | <p>22/00398/MFUL - Erection of swimming pool building, conversion of squash courts into a P.E. department, external services compound and associated landscaping at Land at NGR 297202 113154 (Blundells School), Blundells Road, Tiverton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>                                                                                                                                                                                                                                                                                                                      |
| 04.             | <p>22/00665/MFUL - Retention of silage clamp and erection of roof over Retention of silage clamp and erection of roof over at Land at NGR 299554 112915 (Red Linhay), Crown Hill, Halberton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>                                                                                                                                                                                                                                                                                                                                                                     |
| 05.             | <p>22/00706/MFUL - Construction of vehicular access onto Tiverton Road and construction of spine road and associated infrastructure to facilitate the North West Cullompton urban extension at Land North West of Cullompton, Tiverton Road, Cullompton.</p> <p><b>RECOMMENDATION</b></p>                                                                                                                                                                                                                                                                                                                                                     |

Grant permission subject to conditions.

06. 22/01255/MFUL - Erection of 70 affordable dwellings including associated roads, footpaths, landscaping and amenity area at Land at NGR 298768 113600, Uplowman Road, Tiverton.

**RECOMMENDATION**

Grant permission subject to conditions.

**Application No. 22/01753/NMA**

**Plans List No. 1**

**Grid Ref:** 111887 : 294975

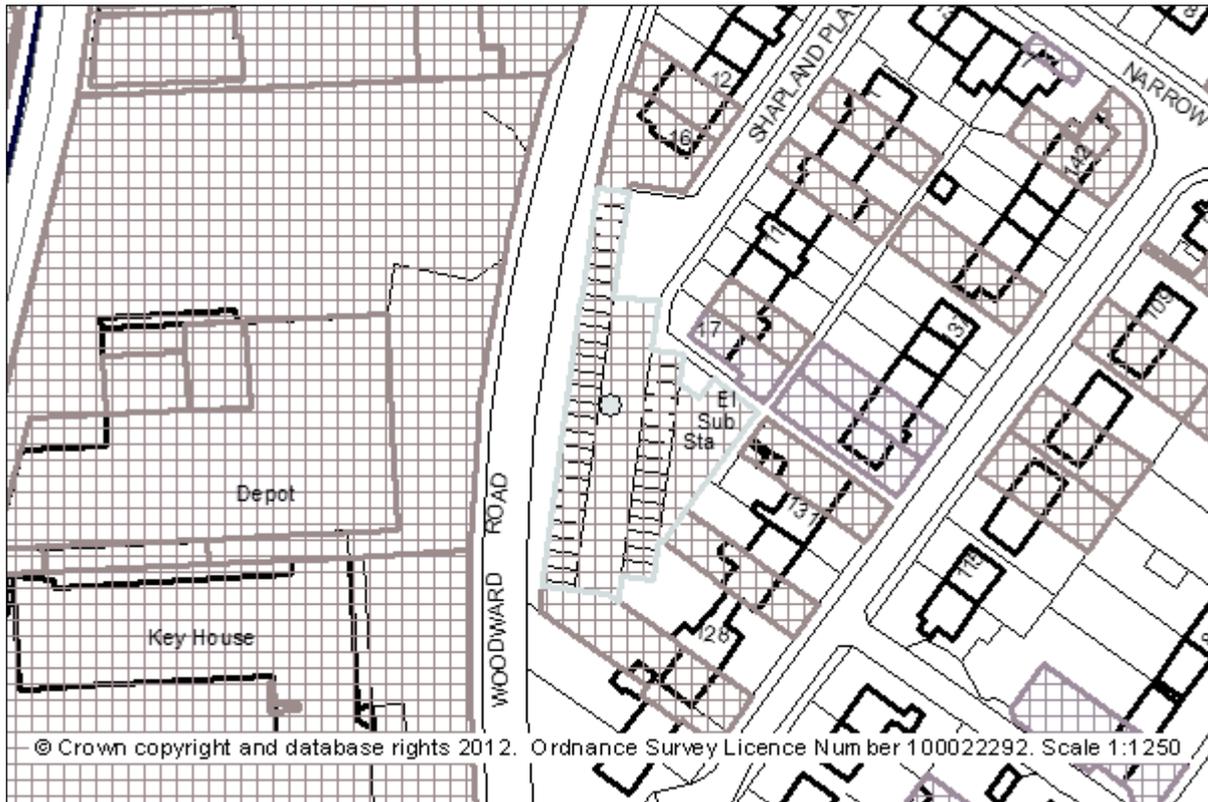
**Applicant:** Mr Mike Lowman, Mid Devon  
District Council

**Location:** Garages and Forecourt  
Shapland Place Tiverton  
Devon

**Proposal:** Non-material amendment for  
21/01957/FULL to allow  
reduction of building width by  
1.5m, increase the stair core  
height by 0.6m and addition of  
a fixed clear glazing panel  
above the East elevation  
windows

**Date** 13th September 2022

**Valid:**



**PLANNING COMMITTEE**  
**5<sup>th</sup> October 2022**

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

### **22/01753/NMA - NON-MATERIAL AMENDMENT FOR 21/01957/FULL TO ALLOW REDUCTION OF BUILDING WIDTH BY 1.5M, INCREASE THE STAIR CORE HEIGHT BY 0.6M AND ADDITION OF A FIXED CLEAR GLAZING PANEL ABOVE THE EAST ELEVATION WINDOWS - GARAGES AND FORECOURT SHAPLAND PLACE TIVERTON DEVON**

#### **Reason for Report:**

A Non-material amendment application for planning permission 21/01957/FULL to allow reduction of building width by 1.5m, increase the stair core height by 0.6m and addition of a fixed clear glazing panel above the East elevation windows was received on the 13<sup>th</sup> September 2022. These proposed changes are to be considered under s96A of the Town and Country Planning Act 1990. As the applicant is Mid Devon District Council there is a requirement for the application to be determined by the Planning Committee.

## **RECOMMENDATION(S)**

GRANT PERMISSION FOR THE FOLLOWING NON MATERIAL AMENDMENT:

1. To allow reduction of building width by 1.5m
2. Increase the stair core height by 0.6m
3. Allow for the addition of a fixed clear glazing panel above the East elevation windows

### **Relationship to Corporate Plan:**

Homes

- Work with applicants/organisations to deliver homes retained in perpetuity for local need

Environment

- Protecting the natural environment, enhancing biodiversity and addressing carbon pressures

### **Financial Implications:**

Costs involved in the delay of delivering the approved development.

### **Legal Implications:**

None at this stage. If these changes are not accepted as a non-material amendment to the previously approved scheme, a Section 73 application would be required to be submitted. This could possibly have legal implications in terms of the bilateral S106 agreement signed with Devon County Council to provide a financial contribution of £5808 towards additional secondary education infrastructure at Tiverton High School.

### **Risk Assessment:**

If Committee decide not to accept the changes as a non-material amendment to the approved development under planning permission 21/01957/FULL, then there would be the requirement for a Section 73 application to be submitted to consider acceptance of the proposed amendments. The result would be a delay to the delivery of the scheme and provide further uncertainty.

## **1.0 BACKGROUND OF THE APPROVED DEVELOPMENT**

- 1.1 Application 21/01957/FULL was approved on 20<sup>th</sup> May 2022 for the demolition of garages, erection of a two-storey block of 8 dwellings, raised above a podium structure atop car parking level with associated soft and hard landscaping works at Garages and Forecourt, Shapland Place, Tiverton. Members may recall that this application was considered at Planning Committee on the 16<sup>th</sup> March 2022 where it

was resolved to approve subject to the completion of a bilateral S106 agreement with Devon County Council to provide a financial contribution of £5808 towards additional secondary education infrastructure at Tiverton High School.

- 1.2 The application site is located within the settlement limits of Tiverton, previously being the home to 39 garages at the end of the terraced housing of Shapland Place which have now been demolished. The approved development is to provide 4 one bed units, 3 two bed units and 1 three bed unit, all being affordable flats, each with their own private balcony amenity space. The proposed block has been situated towards the centre of the existing road with habitable windows and balconies primarily facing outwards towards Woodward Road with obscure glass windows along the external walkways facing neighbouring gardens.
- 1.3 The residential accommodation is to sit atop a steel podium structure serving parking bays on either side. The existing space next to the substation would be transformed into a community space with access for local residents. The units are to be entered via two stairwells at the centre of the terrace creating a main entrance with cycle storage. There are also to be enclosed refuse and cycle store in the under-croft spaces. Solar PV panels are proposed on the roof and 3 EV charging points are proposed in the parking area.

## 2.0 PROCESS OF A NON MATERIAL AMENDMENT APPLICATION

- 2.1 An application has been submitted to be considered under s96A of the Town and Country Planning Act 1990 where the determination is down to whether the changes are considered acceptable as being non-material to the approved development. The time period for determination of a non-material amendment is 28 days. As an application to make a non-material amendment is not an application for planning permission, the existing [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) provisions relating to statutory consultation and publicity do not apply.
- 2.2 There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under [section 96A of the Town and Country Planning Act 1990](#).

## 3.0 PROPOSED CHANGES TO THE APPROVED SCHEME

- 3.1 The non-material amendments proposed for 21/01957/FULL are to allow a reduction of building width by 1.5m, increase the stair core height by 0.6m and the addition of a fixed clear glazing panel above the East elevation windows. The case is made that the overall ridge height of the approved building will remain the same

with the building to be reduced in size, which would reduce any impact on neighbouring properties to the east. The changes to the eastern windows would still comply with planning condition 12.

- 3.2 The reduction of the width of the building will result in the building being further away from neighbouring properties to the east with the stairwells moved a little more centrally. As such the increase in height of the stair core by 0.6m is not considered to result in a material impact on neighbouring properties, still being below the ridge height of the approved building.
- 3.3 With respect to the changes to windows on the east elevation, planning condition 12 states that *'Prior to occupation of the development hereby approved, the first and second floor windows in the east elevation shall be glazed with translucent glass and shall be non-opening below a height of 1.7m measured from the floor level of this room and shall be so retained in this condition thereafter. Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.'*
- 3.4 The purpose of the condition is to ensure that there is no overlooking of neighbouring properties. The proposal is to have windows which are translucent (obscure glazed) and fixed below a height of 1.7m when measured from floor level in order to comply with condition 12. The additional clear glazed window would be a high level window sited above 1.7m and fixed with restrictors to ensure no overlooking can occur.
- 3.5 Under Section 96A of the Town and Country Planning Act 1990 it is possible to amend the wording of a planning condition where considered to be non-material in nature. In light of the proposed changes to the windows and to take into account the 1.7m high obscure glazed privacy screen secured through condition 13 of planning permission it is considered to amend condition 12 as follows:
- 3.6 *12. Prior to occupation of the development hereby approved, the first and second floor windows in the east elevation not screened by the 1.7m high privacy screen situated on the first and second floor, shall be non-opening below a height of 1.7m measured from the floor level of this room and glazed with translucent glass. Windows sited above 1.7m as illustrated on the plan hereby approved Z21B-ZP-A2-XX-DR-A-E-001-S01-P02 when measured from the floor level of the room which are clear glazed shall be fixed with restrictors. The windows shall be so retained in this condition thereafter.*

*Reason:*

*To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.*

- 3.7 The Officer recommendation is to accept the changes as being a non-material amendment to planning permission 21/01957/FULL. The reason being that the proposed changes do not result in an increase in the scale of development, nor alter the form significantly and would not result in a significant detrimental impact visually or in terms of amenity compared to the approved scheme. The amendments are not contrary to the development plan. The proposal results in a change to the external appearance of the building but these changes do not negatively impact the surrounding area nor do they erode the quality of the development originally approved. Having regard to the effect of the changes on the planning permission as originally granted, the Local Planning Authority on balance is satisfied that they are not material.

<b>Contact for any more information</b>	Mr Adrian Devereaux, Area Team Leader 01884 234267
<b>Background Papers</b>	Committee Report
<b>File Reference</b>	21/01957/FULL
<b>Circulation of the Report</b>	Cllrs Richard Chesterton Members of Planning Committee

[Previous Committee report for 21/01957/FULL](#)

Application No. 21/01957/FULL

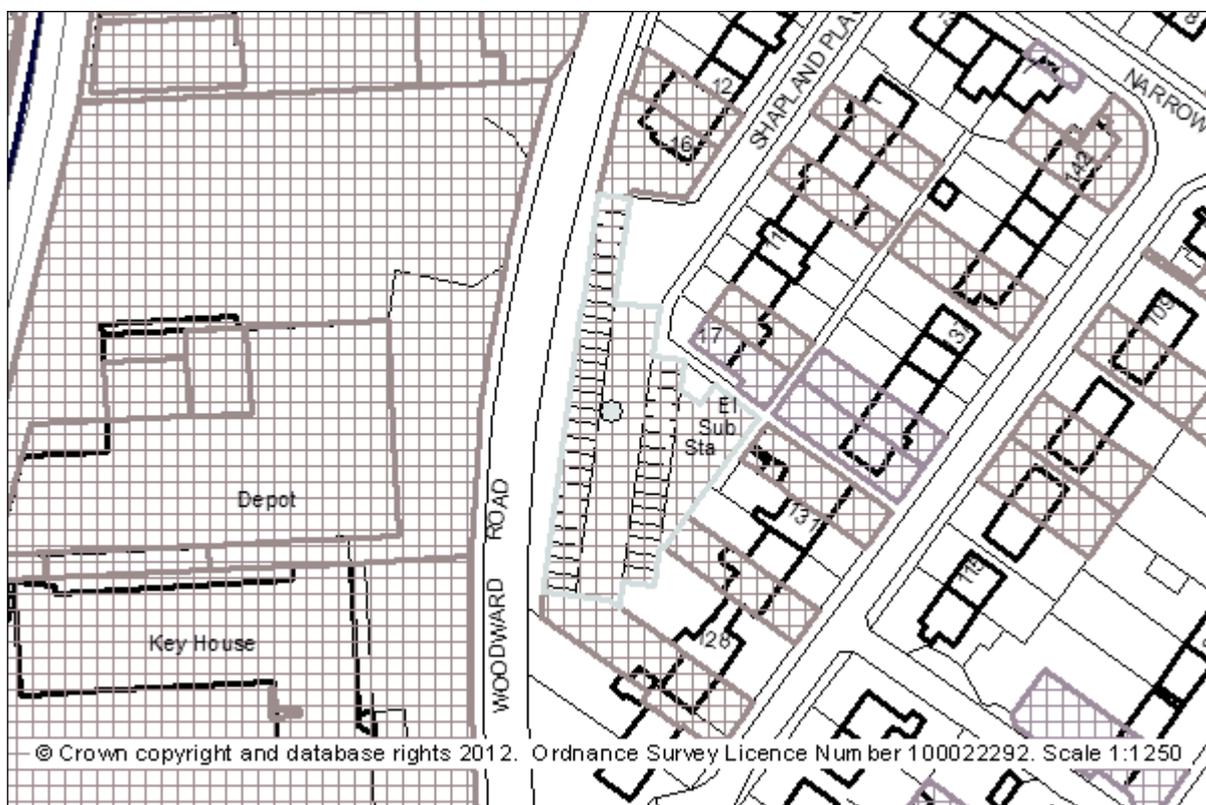
Grid Ref: 294975: 111887

Applicant: Mr Mike Lowman, Mid Devon District Council

Location: Garages and Forecourt  
Shapland Place  
Tiverton  
Devon

Proposal: Demolition of garages, erection of a two-storey block of 8 dwellings, raised above a podium structure atop car parking level with associated soft and hard landscaping works

Date Valid: 10th November 2021



## **APPLICATION NO: 21/01957/FULL**

### **CALL-IN**

Mid Devon District Council is the applicant

### **RECOMMENDATION**

Grant permission subject to conditions and the signing of a bilateral S106 agreement with Devon County Council to provide a financial contribution of £5808 towards additional secondary education infrastructure at Tiverton High School.

### **PROPOSED DEVELOPMENT**

The application seeks approval for the demolition of garages, erection of a two-storey block of 8 dwellings, raised above a podium structure atop car parking level with associated soft and hard landscaping works at Garages and Forecourt, Shapland Place, Tiverton.

The application site is located within the settlement limits of Tiverton, previously being the home to 39 garages at the end of the terraced housing of Shapland Place which have now been demolished. The proposal is to provide, 4 one bed units, 3 two bed units and 1 three bed unit, all being affordable flats, each with their own private balcony amenity space. The proposed block has been situated towards the centre of the existing road with habitable windows and balconies primarily facing outwards towards Woodward road with obscure glass windows along the external walkways facing neighbouring gardens.

The residential accommodation is to sit atop a steel podium structure serving parking bays on either side. The existing space next the substation would be transformed into a community space with access for local residents. The units are to be entered via two stairwells at the centre of the terrace creating a main entrance with cycle storage. There are also to be enclosed refuse and cycle store in the under-croft spaces. Solar PV panels are proposed on the roof and 3 EV charging points are proposed in the parking area.

## **APPLICANT'S SUPPORTING INFORMATION**

Complete application form, plans, 3D aerial views, Design and Access Statement, Planning Statement, Wildlife Trigger List, Preliminary Ecological Appraisal, Transport Statement, Flood Risk Assessment, Sequential Testing, Daylight and Sunlight Assessment.

## **RELEVANT PLANNING HISTORY**

There is no relevant planning history on this site.

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities  
Policy S2 - Amount and distribution of development  
Policy S3 - Meeting housing needs  
Policy S4 - Ensuring housing delivery  
Policy S5 - Public open space  
Policy S8 – Infrastructure  
Policy S9 – Environment  
Policy S10 – Tiverton  
Policy DM1 - High quality design  
Policy DM2 - Renewable and low carbon energy  
Policy DM3 - Transport and air quality  
Policy DM4 – Pollution  
Policy DM5 – Parking

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

Tiverton Town Council - 22.02.2022

Tiverton Town Council feels that a three storey building would be out of place in this area and would dominate the adjacent properties. There seems to be some confusion as to whether the pedestrian entrance to Woodward Way is to continue or not as the paperwork contradicts itself. TTC is concerned, as we note are highways about this.

Concerns at having frosted non-opening bedroom windows which would require internal ventilation systems.

Disappointed that no electric vehicle charging points are being installed at this location.

The minimum separation distances between properties is below normal standard.

Fire safety concerns at parking being under dwellings.

Tiverton Council therefore unable to support

Tiverton Town Council – 07.12.2021 (earlier response)

Whilst supporting the general application for the dwellings the council cannot support the creation of the pedestrian access due to the lack of pavements in that area, which would, in the opinion of the council, create a highway hazard to pedestrians

Local Highway Authority - 14.02.2022

Previous Comments:

The site is accessed off an unclassified County Route which is restricted to 30 MPH although observed traffic speeds are considerably lower.

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 application originally showed the vehicle access to be from Woodward Road, this has now been changed to Shapland Place and pedestrian/cycle access only onto Woodward Road. At the location of this access on to Woodward road, there is no existing footway and is surrounded by large trees. My concern here is the pedestrian visibility to cross the road. Therefore a drawing would be required to show how this access will be safe for all users.

The access to the dwelling via Shapland Place is acceptable along with the parking provision to be provided which meets the Mid Devon DM5 Policy.

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

The County Highway Authority cannot put forward a recommendation until the pedestrian access plan has been provided.

A Note the Applicant that part of the existing highway within the Development is Public Highway Maintained at the Public Expense and therefore any works that is carried out here will require the appropriate Licences from Devon County Council

Further Information Submitted:

The Footway link has been removed from the proposal.

The County Highway Authority has no objections to this proposal

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that the following conditions shall be incorporated in any grant of permission.

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

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

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

D.C.C. Education Services - 24.11.2021

Regarding the above application, Devon County Council has identified that the proposed increase of 4 family type dwellings will generate an additional 1 primary pupils and 0.60 secondary pupils which would have a direct impact on the Primary Schools in Tiverton and Tiverton high.

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

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

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

Tiverton High is forecast to have capacity for 57% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 43% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £5,808 (based on the DfE extension rate of £22,513 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

All contributions would be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to contributions requested should be applied from this date.

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

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

#### Natural England - 22.02.2022

Natural England has no comments to make on this application.

#### Environment Agency - 18.02.2022

Environment Agency position

We have reviewed the email response and can confirm that we withdraw our previous objection.

Reason

From the development and flood risk perspective we respond to the three points you raise (in italics) as follows below:

*'The development is safe over its lifetime as the development is essentially raised well above the anticipated flood levels. The FRA does recommend a flood evacuation procedure and flood evacuation plan are undertaken which can be conditioned should that be necessary.'*

Having reviewed the submissions we note that the Design and Access Statements, both initially submitted and the revised version, contain information. (i.e. the section shown within page 29,

section 4.7 'Flood Mitigation Strategy') which help demonstrate the risks posed to the site, and the proposed development. These would have been better presented within the Flood Risk Assessment but clearly they form part of the application. Importantly these supplement wordage within the applicants FRA and thus it is evident that the LPA are in an informed position to determine the application.

*'With regards to risk elsewhere, a SuDS scheme is proposed within the FRA utilising an attenuation based system, up to and including the 1 in 100 year event and 40% allowance for climate change.'*

The management of surface water runoff lies outside the Environment Agency's remit.

*'In addition, with respect to flood risks elsewhere, the development is demolishing the existing garages to replace with elevated residential, where the only items on the ground floor would be columns and stairwells, providing a significant betterment in terms of flood storage and flow routes. The development intention is to retain the existing site levels. '*

We note 'intention is to retain the existing site levels'. This is important to ensure any flood risk nearby is not adversely affected by the development.

In light of this we withdraw our previous objection.

Environment Agency – 06.12.2021 (earlier response)

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

#### Environment Agency Position

From the development and flood risk perspective we object on the grounds of an inadequate Flood Risk Assessment (FRA). This does not necessarily mean the principle of development, or indeed that proposed, is not acceptable, subject to the above (i.e. the Sequential and exception tests) but we consider more work is required to better demonstrate the risks posed to the site, and the proposed development, so that a fully informed decision can be made.

#### Reason

The site lies within an area at high risk of fluvial flooding (FZ3 as defined with the NPPF) and is at risk from both the River Exe, and Cottey Brook. Whilst the risk of flooding is recognised, the FRA report submitted with the application lacks details of the specific circumstances and modes of flooding that could affect the site. It is important these are adequately understood and demonstrated given the complex nature of flood risk in this area of Tiverton.

#### Overcoming our objection

In light of the above we advise the FRA be revised to better reflect the circumstances so that a fully informed decision can be made. The applicant can overcome our objection by submitting an FRA which demonstrates that the proposed development will be safe from flooding over its lifetime without increasing flood risk elsewhere.

We ask to be re-consulted with the results of the FRA. We will provide you with bespoke comments within 21 days of receiving formal reconsultation. Our objection will be maintained until an adequate FRA has been submitted.

#### Public Health - 26.11.2021

Contaminated Land - No concerns because we anticipate that any below surface contamination will be removed during oversite works, and in any case the whole site will be covered with new hardstanding (23.11.21)

Air Quality - No concerns (23.11.21)

Environmental Permitting - Not applicable (23.11.21)

Drainage - No concerns (23.11.21)

Noise & other nuisances - No concerns anticipated once built, but the standard CEMP condition should be included on any approval (23.11.21)

Housing Standards - No comments (15/11/21)

Licensing - No comments (10.11.21)

Food Hygiene - Not applicable (10.11.21)

Private Water Supplies - Not applicable (10.11.21)

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.

#### Asbestos:

Prior to demolition commencing, a work plan and risk assessment shall be submitted for approval to the Local Planning Authority. This plan and assessment should identify and risks and any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potentially hazardous materials should be assessed. (10.11.21)

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice, 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).

25 letters of objection and a petition containing 50 signatures has been received. The objection grounds were as follows:

- Obscure glazed windows can be opened and turned for cleaning which would result in overlooking.
- The junction proposed from Woodward road will be used as a rat run for drivers and could be used by lorries.
- The access to the industrial estate need not be vehicular but pedestrian.
- If a path/cycle route is created this will be dangerous as will be used by people at the industrial site in order to use parking spaces impacting on school children walking to school.
- Pods still too high for the aesthetics of the houses around them.
- A three storey block is not in keeping with surrounding two storey terrace properties.

- A two storey block would be more suitable, either a conventional two storey terrace or coach houses with single level of flats above a parking level.
- If the residential block was reduced with an associated reduction in the number of additional cars expected, this would free up space for further green infrastructure and play areas.
- The building will be 18 metres from the rear doors of neighbouring properties.
- O.A.P one bedroom bungalows would be more in keeping with this quiet area which could free up more council houses.
- The homes proposed will result in a loss of privacy to residential properties behind.
- 35/36 parking spaces seems excessive, who will use them? Concerns raised that they could be used to store cars of a nearby car business.
- The parking spaces should be for residents only.
- Bin lorries reverse down the road but could turn if there weren't as many parking spaces.
- Who will use the electric points proposed? Will they be free for all?
- Traffic levels have increased in the area of the last 20 years and any further increase will be dangerous.
- The surrounding residential roads are narrow and parking takes place creating further obstructions.
- The adjacent roads are used by heavy goods vehicles and other commercial traffic so adding further children and parents could result in accidents.
- The development could de value neighbouring properties.
- The garage blocks were demolished without notice and apparently without permission, with the site blocked up ever since.
- The description of the housing as "a two-storey block" is misleading, neglecting to count the additional storey of the parking 'podium'.
- The failure to mention the allotments as part of the 'Location' that would be destroyed to make room, or the destruction of the existing trees and hedgeline (and associated wildlife) for assembly access even if the permanent road linkage does not go ahead.
- Family's walking to and from school already have to struggle with the busy Howden road with no pedestrian crossings in place and it's a dangerous road with a child being airlifted to hospital earlier on in the year as was hit by a speeding vehicle.
- There is a large amount of children in the area and unlike other housing estate we don't have a play park so children playing in the roads, this development area would be better suited to a play park at the end of the cul-de-sac.
- An increase in houses in the area will result in a further demand for parking when it is difficult enough for existing residents to park.
- Existing homes are too close to build such a big structure towering over them and this will impact on them massively.
- There is new home development sites around Tiverton so why not locate these pods there where they will be more in keeping with the new build homes.
- Sewage and drainage in the area is known to struggle already without adding extra to it.
- Woodward road floods with the smallest of rainfall as the council do not maintain their drainage systems around the area.
- What happens in the winter when the mesh planting screen dies off on the external walk way and the privacy will no longer be there so properties will be overlooked. There will also be noise disturbance.
- Disturbing the trees and greenery will have a negative impact on the wildlife as there is currently bats, hedgehogs, mice and birds living in the trees and hedgerows.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Principle of development/planning policy
2. Highways and highway safety
3. Drainage and Flood Risk
4. Public open space, green infrastructure (GI) and other planning obligations
5. Design of development and impact on landscape and ecology
6. Living conditions of the occupiers of nearby residential properties
7. Planning balance.

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

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

The National Planning Policy Framework (2021) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The Mid Devon Local Plan 2013-2033 was adopted in 2020 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and Crediton. Policy S10 (Tiverton) which recognises proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable.

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

With respect to other relevant policies within the saved Development Plan, Policy S1 (Sustainable development priorities) of the Mid Devon Local Plan 2013-2033 seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy S3 (Meeting housing needs) seeks to meet the diverse housing needs of the community, including the provision of affordable dwellings across the District. It is noted that the 8 apartments proposed will be for social rent, a recognised form of affordable housing.

The layout plan submitted shows how the layout for the residential development of 8 residential units would be achieved which has been considered to be acceptable and below the planning matters of the development are considered further.

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

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

The application site is bounded to the west by Woodward Road, to the south, east and north is bounded by existing residential properties along Shapland Place and The Walronds. The site

takes direct access from Shapland Place which forms the northern boundary of the development. Shapland Place is a residential cul-de-sac with footways and adequate street lighting along the eastern flank. With respect to a new vehicular access, the proposal is to create a re-laid road surface with open parking bays in parallel and towards the entrance of Shapland Place a hammerhead turn has been designed to allow HGVs and emergency vehicles to enter into and egress the site. Pedestrian access would also build off the existing footpaths on site bringing them into the site and the community green space. The original plans submitted showed a new vehicular junction onto Woodward Road and a pedestrian link but following concerns raised by Tiverton Town Council and a number of residents, this was removed so that the present cul-de-sac arrangement would remain.

A Transport Statement has been submitted which assesses the characteristics of the existing infrastructure in the surrounding area of the site and it concludes that the adjacent highway network can adequately accommodate the traffic impact of the proposed development in terms of safety and capacity. This assessment has considered the existing and proposed operation of the highway in terms of highway safety, sustainability and capacity. It has shown that the predicted traffic from the proposed development has no material or significant impact on the local highway network. In conclusion, it has been demonstrated that the proposed development can be accommodated on the adjacent highway network without any significant negative impact and there are therefore no highway capacity or safety reasons why this development should not be granted planning approval. The Local Highway Authority has not objected to the development with the view being that the impact on the highway network will not be severe.

With regard to the required on-site parking provision Policy DM5 (Parking) of Mid Devon Local Plan 2013-2033 sets a residential parking standard of 1.7 spaces per unit. The existing 41 garages on site are to be replaced by 29 open parking bays to retain some of the local capacity used by neighbouring residents. The provision of 12 cycle storage spaces has been allocated to encourage travel by bike and foot in place of additional car journeys forming part of the sustainable transport strategy along with a commitment to build in infrastructure for 3 EVCPs. Therefore the development is considered to be in accordance with Policy DM5.

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

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Policy S9 of the Mid Devon Local Plan 2013-2033 guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. The site is located within flood zone 3 and as such a Flood Risk Assessment (FRA) has been submitted.

The government guidance is that the siting of development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. For these purposes:

- 'areas at risk of flooding' means land within Flood Zones 2 and 3; or land within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency;
- 'flood risk' means risk from all sources of flooding - including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources."

The FRA outlines that *'the nature of the site has been considered from the earliest stages of design and design development by employing the following strategies to mitigate flooding risk:*

- *The proposed development will reduce the on ground volume of mass proposed from that of the existing garage structures thereby reducing the amount of water displaced on site and helping the proposal to positively reduce the flooding risk and damage to the neighbouring area and properties.*
- *A raised podium structure with minimal columns placed on ground level results in no units, habitable spaces or sensitive services that are located on ground level, with the finish floor level sitting more than 3.3m above ground ensuring there is no risk of damage to the development in the worst (1 in 100 year) flooding scenarios.*
- *Exposed walkways and balconies ensure there are multiple points of safe emergency egress from the proposed units in the event of extreme flooding.*
- *Retention of green spaces, additional tree planting and installation of permeable paving area increase the rate of ground infiltration of the site allowing more water to be retained.'*

The FRA also outlines the proposals sustainable urban drainage systems (SUDs) and strategies to reduce water consumption through the specification of water saving appliances which seek to further reduce the impacts of the scheme on the local water and drainage systems.

The site has been found to be at risk from fluvial flooding although all other anticipated flood risks have been assessed with the risk to the site considered low or very low. With respect to surface water drainage, an assumed infiltration rate has been used to specify an infiltration-based system, with a back-up attenuation option should infiltration fail. Should infiltration prove successful a single soakaway is proposed to serve all impermeable areas of the site.

If an attenuation system is required, a single tank in conjunction with flow control device will limit flows to the South West Water (SWW) dedicated surface water sewer at a controlled peak flow of 5 l/s. The storage calculations allow for surface water to be stored below ground for up to and including the 1 in 100-year event including a 40% allowance for climate change, a 10% increase in impermeable areas has also been allowed for to account for urban creep. A factor of safety of 5 has been applied to the infiltration calculations due to the total impermeable area. Exceedance runoff will be intercepted, by use of kerbs etc, and routed to the existing site low point in the southern corner, where it will be contained.

Foul water created by the proposal will be served by connecting to the South West Water (SWW) combined sewer to the north-east of the site. **It is considered that** the proposed development can be carried out without increasing flood risk on or off-site and as such complies with the requirements of the NPPF and local planning authority. It is recommended that a Flood Evacuation Procedure and Flood Emergency Plan is produced to provide evacuation routes and responsibilities should a flood event occur and this has been conditioned.

With regard to flood evacuation, the development is designed as a floating system allowing ground floor areas to flood while keeping all dwelling access safe above 3 metre. In terms of a Flood Strategy, the proposal to demolish all garages on ground floor and replacing only staircase with cycle and bin store reduces the impact on ground level water displacement, which should reduce flood risk for wider community.

The Environment Agency have confirmed that they have no objection to the development and the Public Health Department has raised no objection on drainage grounds. Policy DM1 of the Local Plan requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. On this basis, the FRA submitted including a drainage strategy is considered to comply with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

The development proposal is sited within an area designated as Flood Zone 3, as such the sequential test should be applied, which is a matter for the Local Authority to determine. As the

residential development is proposed in the areas of flood zones 2 and 3, a sequential test is required to be undertaken with the aim being to steer new development to areas with the lowest probability of flooding. As noted at pre-application stage, one concern raised with introducing new residential development on an area of high flood risk on a site within the settlement limits of Tiverton would be that it could be considered that the sequential test could fail in the first instance as there may be other sites allocated within Tiverton to provide residential development, being sites at less risk of flooding and therefore the case could be made that the housing was necessary.

A sequential Test has been carried out to ensure development is sited on land that has the lowest risk of flooding within the local area. It compares the site that is proposed for development with other available sites. The area of search for alternative sites to include in this Sequential Test has been limited to Tiverton town and to sites that are not considerably further away from the facilities and services available within Tiverton Town centre.

The Mid Devon Local Plan has been reviewed to identify allocated sites for comparison, these being Policy TIV9 (Howden Court) and Policy TIV10 (Roundhill). However these sites have been ruled out on the grounds that they are further from the services and facilities of Tiverton town centre than the application site, they are less accessible given the topography with construction/ground stability concerns with associated costs. It has been noted that the application site is a brownfield site where it proposes the reuse of an under-utilised site and will regenerate it to provide additional 100% socially rented affordable homes and the issues associated with the two allocated sites would make the development unviable.

Other sites within Tiverton settlement boundary have been considered as there are other parcels of brownfield land within the settlement boundary of Tiverton that are in flood zone 1 that could be suitable for the provision of additional housing. However, these sites are not allocated for development and there is no published information regarding their availability. The sequential test submitted outlines that the Applicant does not have the available funds to investigate all potential parcels of previously used land which may or may not become available for redevelopment, neither does the Applicant have the funds to purchase additional land on which to provide the much needed affordable homes that the current application would provide. The current application site is available, close to services and facilities and can be redeveloped immediately, whereas the site feasibility appraisals have not yet been completed for the potential additional sites, plus a number of these have some remaining constraints relating to long term uses that need to be overcome.

As the current application is for a 100% affordable housing scheme, Policy DM6 provides support for sites that are beyond the defined settlement limit of Tiverton to be considered for development of this type. The sequential test submitted noted that there would be greenfield parcels of land either adjacent or close to the settlement boundary of Tiverton that are in flood zone 1 and could be suitable for the provision of 100% affordable housing proposals. However, such sites are very likely to be a greater distance from the services and facilities of Tiverton Town Centre and West Exe (unlike the proposed dwellings) and the Applicant does not have funds available to purchase third party land in order to provide affordable housing and this is therefore not a feasible option.

In addition to the locational, accessibility and deliverability benefits associated with the proposed site; its development also offers an opportunity to install a system for the controlled management of surface water on the site. The managed surface water system and landscaping that can be implemented on this site as part of the development will present a considerably more sustainable surface water solution for the site. As there are no other local sites, within a lower flood risk area that are available and provide a better or more viable opportunity for the provision of 8 socially rented affordable dwellings, it is considered that the Sequential Test has been passed in this case.

#### **4. Public open space, green infrastructure (GI) and other planning obligations**

Public open space is required from residential development of 6 or more dwellings in line with Policy S5 (Public Open Space). However, as this is a development for solely affordable housing, no financial contribution would be required. Notwithstanding this a small area of public open space would be retained on site with further small tree planting to improve the amenity of the area.

The existing detached garages on site have been cleared and would be replaced by new areas of hard and soft landscaping. A new hardcourt surface would be installed to replace the concrete bases of the garages that have been removed from site, atop this new road surfacing would mark out 29 proposed open parking bays. Pedestrian walkways would be distinguished by a permeable paving surface leading to a larger open communal entrance area for access to the two staircases, enclosed undercroft bin and cycle stores. The existing access to the rear garden of 122 The Walronds would be kept clear with road markings.

Along the northern boundary of the site the existing roadway of Shapland place would remain unaltered and would act as a key vehicular entrance for development. Along the eastern boundary of the site which adjoins the rear garden fencing of 114-120 The Walronds the treatment would retain the existing timber fencing and where the garage walls are demolished new 1.8m height timber fencing would be installed to reinstate the secure perimeter of the back gardens. Towards the southern boundary, the walls of the removed garages would be replaced with new 1.8m height timber fencing. Along the Western boundary that separates the site from the embankment of Woodward road would be 1.8m height timber fencing which would screen the development from the industrial estate.

With respect to planning obligations, a financial contribution towards education has been requested by Devon County Council as outlined within the consultee response section of this report. Education is covered by Policy S8 (Infrastructure) whereby if a development will generate a need for additional pupil places at the existing schools within Tiverton, a financial contribution will be required in accordance with Devon County Council's Education. As this is a planning application made for Mid Devon Council, the council would not be able to enter into a S106 agreement with itself so a bilateral S106 agreement is to be entered into with Devon County Council to make this undertaking. As far as other planning obligations are concerned, on the basis of all the units being affordable housing and restricted to this through a planning condition, there would be no financial contributions towards public open space.

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

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

The site is not located within a designated landscape but the development would be viewed from a number of public vantage points. Policy DM1 (High quality design) outlines:

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

*a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;*

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

The proposed development is for the erection of a 2 storey block raised one storey above car parking level atop a podium structure containing 8 single storey apartments. All of the units are built to be national space standard compliant and are intended for social rent as part of the HRA portfolio. The proposed two storey massing is located towards the Southern boundary of the site furthest away from neighbouring buildings and closer towards Woodward Road and is situated in the centre of the road between proposed parallel rows of open parking bays atop a steel podium structure.

The Design and Access Statements comments that all the proposed units would consist of 1 storey apartments that are served by two enclosed communal staircases in the centre of the blocks East elevation with external walkways providing connections to enter the units. Each unit would feature a private balcony space which provides a minimum of 5 square metres of private outdoor amenity space which would serve the main habitable rooms within the development and would face towards Woodward road and the hills in the distance. The block would have a 15 degree dual pitched roof mirroring local roofing precedents. The general design of the dwellings and orientation are considered to be acceptable and they meet the nationally described space standard.

In terms of materials, the external elevations are to be treated with an off-white coloured lightly textured rendered on the first floor and staircase walls, the upper floors would be clad with coloured sail cloth and soft green horizontal weatherboarding. The roof is to be clad in a Merlin coloured smooth seamed steel sheeting with photovoltaic panels mounted atop both the Eastern and Western aspects with all flashings to be coloured the same finish. There would be 8 cantilevering balconies on the Western elevation with 1.8m high privacy screens along the northern and southern aspects to prevent overlooking of the neighbouring garden and adjacent units. A condition is recommended to agree the final material details to be used.

The proposal includes a Solar photovoltaic electric system with PV panels on the roof. There would be approximately 23.76 kWp of PV on-site with 19,650 kWh annual PV energy production. This has been modelled via the Standard Assessment Procedure (SAP) to show the development is capable of offsetting all regulated energy demands and the A-rated Preliminary Energy

Assessment (PEA) shows that negative carbon emissions are possible across the site. In addition, the plans show the provision of 3 EV charging points within the parking area. This would be supported by policy DM2 (Renewable and low carbon energy) of the Mid Devon Local Plan 2013-2033.

With respect to the sustainability credentials of zpods, the modules would be super insulated, airtight and feature triple glazed windows and doors resulting in very high thermal performance. They would also be mechanically ventilated to further reduce energy losses. Combined with on site renewable generation of hot water via solar assisted and air source heat pumps and electricity via the roof mounted solar photovoltaic panels the proposal would be a net zero carbon development.

In relation to the wider landscape, the site is within an urban environment surrounded by adjacent housing with industrial units on the opposite side of Woodward Road. Therefore whilst the development would represent a three storey block, it would be viewed within this context. The existing green area on site is proposed to be converted to a communal green space for the new residents of the development. Small tree planting will line the perimeter of this space creating additional privacy and helping to soften the visual prominence of the development.

With regards to protected species and habitats a preliminary ecological appraisal was submitted which concluded that the site comprises of habitats low grade habitats and of local value with the most valuable habitats being the amenity habitats to the east and west. No further survey effort is required to evaluate the site if the recommendations and enhancements outlined are provided. Biodiversity enhancements for bat roosting and bird nesting were outlined to result in biodiversity gains. A condition is therefore recommended for the development to be carried out in accordance with the recommendations within the ecological appraisal and for confirmation of the biodiversity enhancement measures installed throughout the development to be provided prior to occupation of the dwellings.

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

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

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

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the residential block and orientation of windows is such that it is considered that a residential development has been designed to be in accordance with these two policies, with adequate separation with windows to habitable rooms to be located on the west elevation away from neighbours. By situating the terrace in line with Woodward Road the development and planting would also help to screen sources of noise from the adjacent industrial activities and road to the back gardens of nearby residents.

Windows on the east elevation facing neighbours are to be obscured glazed with an obscure glazed privacy screen to be erected along the walkway in order to retain privacy to neighbouring properties, these have been conditioned. The other matter relates to whether the development would result in an overbearing impact on neighbouring properties. As shown within the submitted plans, the massing has been situated above the central road on the site keeping development as far away from the nearby housing as possible, with 11m being the closer corner to corner distance and 18m from corner to the nearest habitable window. There is also to be an 8m setback from the road. The original submission has been amended so as to reduce the overall height of the building down to 10.16m so that the ridge height of the development would be approximately 2.6m higher than the ridge of the neighbouring two storey properties. On balance it is considered that the development is acceptable in respect to the requirements of Policy DM1 of the Mid Devon Local Plan 2013-2033.

A detailed third party daylight and sunlight assessment has been commissioned to support this application that outlines the effects of overshadowing neighbouring gardens, impact on neighbouring windows and daylighting levels and the internal daylight and sunlight factory within the spaces of the proposed development. In conclusion the report highlights that there will imperceptible impacts on neighbouring building and area and that more than 95% of all spaces and 100% of living proposed within the scheme will far exceed the BRE 209 requirements for internal daylighting levels.

## **7. Planning balance**

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

The delivery of 8 new affordable homes for social rent weighs in favour of approval of the application. Taking all the above into consideration, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development

include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

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

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development hereby approved shall be for affordable housing and retained as such. The development shall not be occupied until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the NPPF(2021) as set out in Annex 2 or any future guidance that replaces it. The scheme shall include:
  - i. the numbers, type and tenure of the affordable housing provision to be made;
  - ii. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
  - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
4. Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials and shall be so retained.
5. Notwithstanding the landscape plans as submitted, prior to the development hereby approved taking place above ground level, a scheme detailing final tree planting including details of existing vegetation to be retained shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained. For the avoidance of doubt all new tree planting shall be semi-mature trees being a minimum height of 180-240cm prior to planting.
6. Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been

submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

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

The CEMP shall also identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

8. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
9. The development hereby approved shall be carried out in accordance with the recommendations, mitigation and enhancements outlined within the Preliminary Ecological Appraisal, dated October 2021 and produced by HEA Ecology. Prior to occupation of any of the dwellings hereby approved, details shall be submitted to the Local Planning Authority to confirm the location of the ecological enhancement measures installed for the bird nesting provision and bat roosting provision as set out in the Ecological Appraisal which shall be made available for inspection.

10. The residential development hereby approved shall not be occupied until the parking spaces have been provided in accordance with the approved plans. Following their provision these facilities shall be so retained. For the avoidance of doubt, the three electric charging points shall be provided prior to occupation unless an alternative timeframe is agreed in writing with the Local Planning Authority.
11. Prior to occupation of the development hereby approved, a Flood Evacuation Procedure and Flood Emergency Plan providing evacuation routes and responsibilities should a flood event occur shall be produced and submitted to the Local Planning Authority for approval. The agreed procedure and plan shall be adhered to thereafter for the life of the development unless alternative arrangements are agreed to in writing with the Local Planning Authority.
12. Prior to occupation of the development hereby approved, the first and second floor windows in the east elevation shall be glazed with translucent glass and shall be non-opening below a height of 1.7m measured from the floor level of this room and shall be so retained in this condition thereafter.
13. Prior to occupation of the development hereby approved a 1.7m high obscure glazed privacy screen shall be installed along the walkway between the stairwells on the east elevation. The privacy screen shall be so retained in that condition thereafter.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework, as an open market scheme would require a financial contribution towards other infrastructure requirements.
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Local Plan 2013-2033 Policies S9 and DM1.
5. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
6. In the interests of visual amenity and in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
7. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
8. In the interest of public safety and to prevent damage to the highway.
9. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats &

Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.

10. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.
11. To ensure that the proposal conforms to the aims and policies contained within the National Planning Policy Framework and its associated Planning Practice Guidance relating to the mitigation against flood risk.
12. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
13. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.

## **INFORMATIVES**

1. Prior to demolition commencing, a work plan and risk assessment shall be submitted for approval to the Local Planning Authority. This plan and assessment should identify and risks and any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potentially hazardous materials should be assessed.

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

The site is located within the defined settlement limit of Tiverton, therefore the principle of residential development on this site is accepted. The access into the site to serve a development of 8 dwellings is considered acceptable to the Highway Authority. It is considered that on balance, the overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. There are no technical reasons why the application should not be approved subject to appropriate mitigation as proposed with drainage measures considered to be acceptable and impacts on biodiversity and landscape can be adequately mitigated. The delivery of 8 new homes, of which would be affordable dwellings weighs in favour of approval of the application providing public benefits which would outweigh any harm from the development with adequate parking facilities provided. The site is considered to be a sustainable location within walking distance of service and facilities. Taking all the above into consideration, the application is considered to be acceptable meeting the requirements of Policies S1, S2, S3, S4, S8, S9, S10, DM1 and DM2 of the Mid Devon Local Plan 2013-2033.

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

Application No. 22/01668/TPO

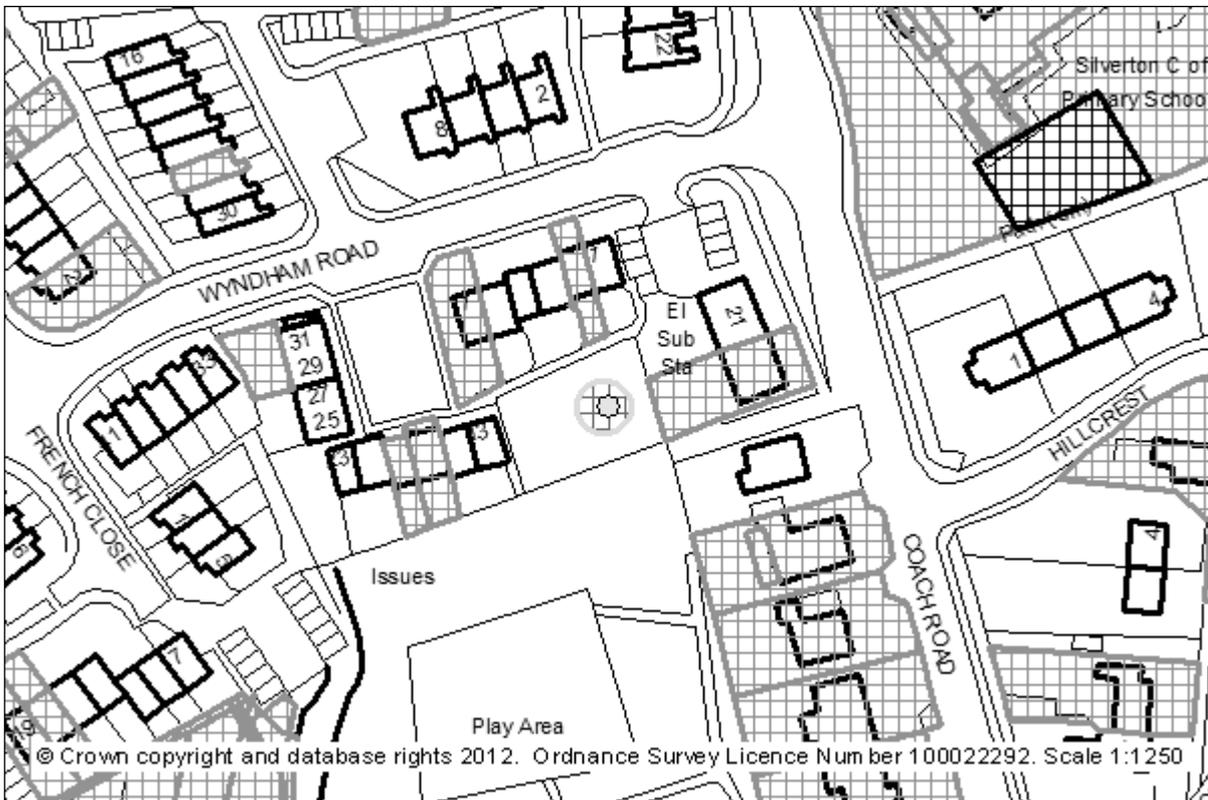
Grid Ref: 295892 : 103149

Applicant: Mr Tim Jarratt

Location: Land at NGR 295892 103149  
Wyndham Road  
Silverton  
Devon

Proposal: Application to reduce limbs on south and southeast aspect of one Oak tree protected by Tree Preservation Order 94/00008/TPO by 3-5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate southwest limb at c.2.5m in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the south, southeast and west aspect by c.3-4m along with crown thinning of sub lateral branches c.10%

Date Valid: 30th August 2022



## **APPLICATION NO: 22/01668/TPO**

### **REASON FOR REFERRAL TO COMMITTEE**

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the landowner, and the application is submitted by the Council's Tree Officer.

### **RECOMMENDATION**

Grant consent.

### **PROPOSED DEVELOPMENT**

Application to reduce limbs on S and SE aspect of one Oak tree protected by TPO 94/00008/TPO by 3- 5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate SW limb at c.2.5 in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the S, SE and W aspect by c.3-4m along with crown thinning of sub lateral branches c.10%.

This application relates to a large oak tree, which is subject to a Tree Preservation Order (TPO) located on Council-owned park land to the south of Wyndham Road. The tree is sited close to adjoining residential properties and has been identified as having a hazard beam crack on the north aspect, which poses a high risk to park users and neighbouring residents and properties. It is therefore proposed to carry out the proposed works in order to mitigate the defects and make the tree safe for the time being.

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

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

### **RELEVANT PLANNING HISTORY**

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

### **DEVELOPMENT PLAN POLICIES**

None applicable to this development.

National Planning Practice Guidance - *Tree Preservation Orders and trees in conservation areas.*

### **CONSULTATIONS**

#### SILVERTON COUNCIL

Support the application.

## REPRESENTATIONS

This planning application has been advertised by means of a site notice, 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.

One letter of support has been received from a neighbouring resident, which states the following:

*"I live in the vicinity of the oak tree, which is a very well known and loved village oak tree. However, it is clear that work has not been undertaken on the tree for a number of years and it clearly needs urgent remedial work doing. I support the proposals outlined in this application."*

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application is made to carry out works to an oak tree protected by Tree Preservation Order (TPO) 94/00008/TPO, located in the north east corner of Council-owned park to the south of Wyndham Road, and west of Coach Road, Silverton. The works would comprise the reduction of limbs on south and south east aspect of the oak tree by 3- 5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate SW limb at c.2.5 in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the S, SE and W aspect by c.3-4m along with crown thinning of sub lateral branches c.10%.

When considering an application relating to works to trees protected by a TPO, the Planning Practice Guidance outlines that the Local Planning Authority may grant consent unconditionally; grant consent subject to such conditions as it thinks fit; or refuse consent. The authority must decide the application before it, so it should not issue a decision which substantively alters the work applied for. The authority could, however, grant consent for less work than that applied for. The authority should make absolutely clear in its decision notice what is being authorised. This is particularly important where the authority grants consent for some of the operations in an application and refuses consent for others.

In assessing this application, it is important to consider the amenity value of the tree. In this case, it is noted that it is very old and large oak tree that has historical significance locally. The tree does however suffer from a number of defects that put its long-term stability and health at risk. The proposed works are intended to mitigate the tree's defects, preventing it from needing to be felled.

In submitting this application, the Council's Tree Officer has identified the tree as having significant hazard beam crack on its north aspect. There is also a heavily extend southern limb that is now resting on the floor. This, along with the crown being significantly weighted to the southern and south eastern aspect, has led to additional pressure being put upon the identified defect on the northern aspect.

The tree has been assessed as being potentially dangerous and having a high risk of failure. Due to its location close to neighbouring residential properties, within a public park, and adjoining a footpath into the park, it is considered to pose an unacceptable risk to park users, commuters walking through the park, and adjacent residents and properties.

In cases such as this, it is usually necessary to fell the tree, fence it off or significantly reduce it. Due to its proximity to adjoining properties and one of the access points to the park, fencing off is not feasible. Therefore the options available are felling or reduction.

As discussed above, this oak tree is very large and old, with high amenity value and historical significance. As such, it would not be desirable to fell it unless strictly necessary. It is therefore proposed to carry out the works identified by the Council's Tree Officer. These are significant works, however they are considered necessary to release the existing stress points on the tree and prevent its further deterioration.

It is concluded that the proposals have been appropriately justified, and are considered necessary to preserve the health and amenity value of the tree, while also reducing the risk of harm to park users, and local residents and properties. It is therefore recommended that consent is granted for the proposed works to this protected oak tree.

## **SUMMARY**

The specified works constitute good management of the tree in its location, and are considered necessary to preserve the health and amenity value of the tree, while also reducing the risk of harm to park users, and local residents, and properties.

## **CONDITIONS**

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. All works shall be carried out in accordance with BS3998:2010 Tree Work Recommendations and/or European Pruning Guide (AA Guidance Note. 5) by an appropriate experienced and qualified tree surgeon.

## **REASON FOR CONDITIONS**

1. To ensure the works carried out remain appropriate to the conditions of the tree and in the interests of visual amenity.
2. To ensure the works are carried out in accordance with best Arboricultural practice.

## **INFORMATIVES**

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed.

If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

**BATS.** The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment)

Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Governments advisers on wildlife, Natural England (Tel. 0845 1300 228). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

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.

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



## **APPLICATION NO: 22/00398/MFUL**

### **REASON FOR REFERRAL TO COMMITTEE**

This application is required to be considered by the Planning Committee, as Members requested it be considered from the Committee Major Applications list.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Erection of swimming pool building, conversion of squash courts into a P.E. department, external services compound and associated landscaping

The proposed development relates to Blundell's School, an independent school sited on 44 hectares of land to the east of Tiverton. The school was originally founded in 1604 but moved from the Old Blundell's site in the centre of Tiverton to its current site in 1882. The school campus comprises a number of buildings of varying ages and designs on the north and south sides of Blundell's Road.

It is located within the Blundell's Conservation Area, which includes the school complex and a wider area to the south of the River Lowman and A361 Devon Link Road and to the north of the Grand Western Canal. There are residential developments to the east and west of the wider school grounds. The land to the north of the school, known as Lowman Fields, is currently undeveloped. It falls within the Local Plan allocation TIV16, which comprises a 14 hectare site allocated for residential development. Blundell's school own land to the north of the school, which form part of the allocation site.

This application seeks to construct a new 25 metre, six lane swimming pool to the north east edge of the school campus, an area referred to as the 'Sports Quarter'. This area is currently home to the school's main sporting facilities, including a large sports hall, buildings containing badminton and squash courts and cricket nets, fitness suite, storage buildings and a range of outdoor courts for various sports.

As well as seeking planning permission for the erection of the swimming pool building, it is proposed to alter and refurbish the building containing four squash courts for use as a new PE department building, containing 2 classrooms, offices and staff changing facilities. An external services compound adjacent to the swimming pool is also proposed. The proposed swimming pool building would be located at the north east edge of the site, overlapping slightly onto the adjoining Lowman Fields.

The pool building would have a floor area of approximately 48.5m by 24.5m and would contain the swimming pool, pool store, viewing gallery and pool plant room. Additionally, it would include an entrance and changing block with four communal changing rooms, staff changing room, accessible WCs and changing room, a function room, office/reception, stores and a plant room. The entrance/changing block is designed to be constructed over two storeys, thereby minimising the overall footprint. The building is designed to take advantage of the topography, with the school site being raised several metres above the adjoining Lowman Fields. The building would be dug into the slope, such that the upper level would be at ground level in relation to the school campus and adjacent sports buildings. The building comprises a sloped roof in line with the natural

topography of the land, with an eaves height of approximately 7m to the south, and 8.5m to the north. The external walls of the swimming pool are proposed to be finished with metal architectural wall panels in horizontal bands, with a muted palette of colours with a selection of greens, greys and browns proposed. A terrace housing an air source heat pump enclosure, roof top air handling unit area, and adjoining external service compound are proposed to be enclosed with timber hit and miss fencing.

The squash court building will be mainly altered internally, although it is proposed to install new windows, which would be white uPVC to accord with the existing white frames in the building.

## **APPLICANT'S SUPPORTING INFORMATION**

Existing and proposed plans, design and access statement, archaeology and heritage statement, ecological impact assessment, arboricultural impact assessment, flood risk assessment, foul and surface water drainage strategy, carbon reduction statement, waste audit statement and statement of community involvement

## **RELEVANT PLANNING HISTORY**

95/00471/FULL - PERMIT date 26th May 1995 Construction of synthetic grass, hockey pitch with perimeter fence, floodlighting and landscaping

95/01515/FULL - PERMIT date 30th November 1995 Variation of condition (5) of p.p 4/52/95/471 to permit the lighting on all-weather sports pitch to remain on until 2300 hrs in lieu of the present 2130 hrs restriction

01/02341/FULL - PERMIT date 7th November 2002 Change of use from education to sport/leisure, construction of sports facilities (real tennis court) and associated landscaping

07/00155/FULL - PERMIT date 9th March 2007 Erection of extension to existing groundsman storage shed and demolition of existing timber shed

08/01752/FULL - PERMIT date 5th November 2008 Construction of all-weather sports pitch, warm up area, tennis court, spectator area, dug out/goal store area, ancillary pathways and gathering area and erection of floodlighting and fencing

10/01892/FULL - PERMIT date 4th March 2011 Erection of extension to sports hall

14/01505/CAT - NOBJ date 8th October 2014 Notification of intention to crown reduce 2 Lime Trees by 2m within a Conservation Area

16/00020/CAT - NOBJ date 12th February 2016 Notification of intention to carry out works to one Quercus Suber (Cork Oak) tree, one Chamaecyparis Lawsoniana tree and fell one Chamaecyparis Lawsoniana tree within a Conservation Area

19/00092/CAT - NOBJ date 22nd February 2019 Notification of intention to remove overhanging branch of 1 Ash tree; remove deadwood of 1 Lime tree; remove the stems of 2 Poplar trees; remove the limb of 1 Lime tree and 1 Oak tree; fell 1 Plum tree, 1 Indian Bean tree and 1 Apple tree within the Conservation Area

19/01749/CAT - NOBJ date 19th November 2019 Notification of intention to remove limb on 1 Plum tree, remove deadwood on 10 Lime trees, fell to safe height 1 Lime tree, 4 Ash trees and 1 Chestnut tree within the Conservation Area

20/01887/CAT - NOBJ date 11th January 2021 Notification of intention to fell 1 Whitebeam tree and 1 Lime tree, reduce the height of 1 Beech tree by 4m and reduce the height of 1 Maple tree by 2m within the Conservation Area

21/01193/CAT - NOBJ date 28th July 2021 Notification of intention to raise the crown of 1 Holm Oak tree to 6m over pavement and 4m over lawn and pollard 15 Large Leaved Limes and 12 Common Limes within the Conservation Area

21/02175/CAT - NOBJ date 24th December 2021 Notification of intention to dismantle 1 Willow (G34) to a safe height, fell 1 Poplar (T216), pollard 4 lime trees (T339, T340, T341, T344), reduce

1 Sycamore (T358) by 2-3m and remove lower limbs on SE side. reduce 2 Sycamore (T359, T360) and 1 Oak by 2-3m and reduce 1Oak (T389) by 4m within a Conservation Area  
22/01717/CAT - PCO date Notification of intention to fell 1 Spruce (T1); remove torn limb from 1 Cedar (T3); fell 2 Silver Birch trees (T5 & T6), 1 Poplar (T7), 1 Willow (T8), 1 Elm and 1 Ash stem (T9) and 2 Horse Chestnuts (T10 & T11); dismantle 2 Ash trees to monoliths (T12 & T13); fell 3 Ash trees (T14, T15, T16); reduce the height of Beech hedgerow trees (G1); fell 2 Elms (G2); coppice all Willow and Alder (G3) and fell a group of Elms (G4) within the Conservation Area

## **DEVELOPMENT PLAN POLICIES**

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

TIV16 - Blundell's School

DM1 - High quality design

DM3 - Transport and air quality

DM5 - Parking

DM24 - Protection of Local Green Space and recreational land/buildings

DM25 - Development affecting heritage assets

DM26 - Green infrastructure in major development

National Planning Policy Framework

## **CONSULTATIONS**

TIVERTON TOWN COUNCIL - Support

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

MDDC FORWARD PLANNING - 07.04.2022

There is a need to ensure that the application will not limit the ability of policy TIV16 coming forward, as set out in the policy wording.

However, while the application encroaches on policy TIV16, it is considered that the nature of the proposed development, coupled with the scale of the site, should not adversely impact upon existing infrastructure provision.

FLOOD AND COASTAL RISK MANAGEMENT TEAM - Recommendation:

At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage

management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained.

Reason: To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Observations:

The applicant has proposed to manage surface water within an underground attenuation tank before discharging into a ditch.

The applicant has provided a survey of this ditch, however, the applicant should also submit photographs of this ditch to demonstrate its condition. The applicant should also confirm the extent of this ditch. The ditch appears to stop on the survey. Another ditch is picked up by the survey further west.

The applicant could consider SuDS Planters, green roofs, living walls, rain gardens, tree pits and permeable paving. The applicant could also consider implementing interactive features for pupils to get involved.

The applicant should submit a maintenance plan for the proposed surface water drainage system.

NATURAL ENGLAND - 06.04.2022

Natural England has no comments to make on this application.

MDDC TREE OFFICER - 07.04.2022

Relevant Tree Preservation Order/Conservation Area: None. Part of development fall within a Conservation area. However, this does not include the trees affected by the proposal.

Information Provided/Reviewed: Arboriculture Impact Assessment & Planting Plan

The proposal as it currently stand will result in the loss of 6 trees, 1 group and impact on two hedges. T243, a cedar identified for removal is noted as of tree of future potential and noted of moderate arboriculture value. T246, a significant oak tree will also require removal. The supporting arboriculture report notes the tree of moderate value in both terms of arboriculture and landscape value. A second oak, T245, noted be of lesser quality will also need removing. Both oaks are mature within an estimated retaining life expectancy greater than 40 years. The loss of these will have some impact on the views landscape as noted in the report. It is felt that the proposal should have been designed in a manor to allow retention of these trees. In addition the proposal as it stands will be in close proximity to T247, another oak tree of moderate value in both terms of arboriculture and landscape. Though this trees is highlighted for retention this is likelihood of future crown management pressure on the tree.

The arboriculture report notes "If the proposed building was moved east the mature hedgerow and a significant number of young trees within G2 will require removal. However, the majority of the young trees within G2 could be transplanted so adjusting the position of the building into G2 would

result in little overall lost in tree numbers". It is unsure what level of consideration has been given to this?

The proposed replanting highlights 4 field maples, 4 whitebeams and 4 small leaved limes. Along with native thicket planning. It is felt this does not adequately replace the loss of large mature trees.

01.09.2022

The application proposes the removal of large oak and a semi-mature oak that could have significant future potential. It would be hoped that replacement planting of at least 4 extra heavy standard oak trees could be planted. Possible to the north of the proposal. Which in time could offset the loss of the trees removed along with the tree replacement planning already noted.

HISTORIC ENVIRONMENT TEAM - 17.03.2022

Comments from Stephen Reed, Senior Historic Environment Officer

HET ref: ARCH/DM/MD/37474a

The Historic Environment Team has no comments to make on this planning application.

DEVON, CORNWALL & DORSET POLICE - Re Erection of swimming pool building, P.E. department, external services compound and associated landscaping at Blundells School, Blundells Road Tiverton

Thank you for this application, there are no police objections in principle to the proposal. However, as there is no mention within the Design & Access Statement of security or crime prevention measures per se, it is not known if these key matters have been considered for the scheme or where and how it is proposed they be implemented. Therefore, please find the following observations, advice and recommendations for consideration from a designing out crime, anti-social behaviour and safeguarding perspective.

It is now widely accepted that a key strand in the design of a 'sustainable' development is its resistance to crime, fear of crime, and anti-social behaviour. A sensible and practical level of security, which will not adversely affect the efficient running of the proposed facilities, is essential to helping provide a safe and successful teaching and learning environment.

Crime within schools falls mainly into the following categories:

- ' Theft by insiders (pupils, staff);
- ' Vandalism by insiders (mainly pupils);
- ' Theft & vandalism by outsiders connected to the school (pupils relatives, former pupils);
- ' Theft & vandalism by other outsiders (local groups);
- ' Arson;

A single main entrance to each building is a good design feature, which can be enhanced with the prominent display of directional signs indicating the location of and the route visitors should follow to and from the pool/sports area.

Good access control is the matrix to the security for any school during the school day. Procedures should be in place to ensure as far as is reasonably practicable, that no one is able to access the school buildings unacknowledged and that once in the building, systems are in place to protect or

help pupils and staff, should support become necessary. It is recommended that all visitors, including school governors etc. should initially report to the school office / reception, where the purpose of their visit can be established prior to them signing in and being issued with a visitor's badge, valid only on the day of issue. To prevent unauthorised access to staff only areas, for example, staff rooms, offices, non-pupil changing, stores (including chemicals) and plant rooms, access control measures must be incorporated.

All ground floor and easily accessible glazing to incorporate glass successfully tested to BS EN 356:2000 Glass in building. Security glazing 'resistance to manual attack to category P1A. All external doors/windows should be independently tested/certified to an appropriate nationally recognised security standard such as PAS 24:2016.

Nearly all schools are vulnerable in some degree or other to youths climbing. Much damage is caused to the fabric of the roof by this unauthorised access. The damage frequently goes unnoticed until it rains and the roof starts to leak or other ancillary damage is caused to pipes or wiring. The proposed pool building design incorporates flat roofed areas which should be made inaccessible. To help prevent climbing, which can not only lead to damage and anti-social behaviour, but also result in accidents and injuries to those persons climbing, service pipes and drainage should be flush fitting or enclosed. Suitable worded warning signs regarding trespass, the danger of climbing on roofs should be clearly displayed around the school site. \*Occupiers Liability Act 1984; Section 1(3)

Any roof lights are advised to be an independently security tested to an appropriate standard such as LPS 1175 or STS 202 to an appropriate security level.

External equipment and bin stores kept locked and wheelie bins must still be secured in place as they can be used as climbing aids and the contents used to start fires.

Whilst it is recommended CCTV be included as part of the initial build and conversion process, it should not be seen as a universal solution to security problems. It can help deter vandalism or burglary and assist with the identification of offenders once a crime has been committed, but unless it is monitored continuously and appropriately recorded, CCTV will be of limited value in relation to the personal security of staff and visitors. That being said, the provision and effective use of CCTV fits well within the overall framework of security management and is most effective when it forms part of an overall security plan. It is recommended an appropriate monitored CCTV and alarm system is installed as part of the overall security package for school site with any lighting tested for compatibility with the CCTV system.

### PUBLIC HEALTH

Contaminated Land - No concerns - 31.03.22

Air Quality - Not applicable - 31.03.22

Environmental Permitting - Not applicable - 31.03.22

Drainage - No concerns - 31.03.22

Noise & other nuisances - No concerns anticipated - 31.03.22

Housing Standards - Not applicable - 31.03.22

Licensing - If the area concerned appears on the plan for the licence (issued under the Licensing Act 2003) a variation may be required. Contact licensing for more information - 17.03.22

Food Hygiene - No comments - 17.03.22

Private Water Supplies - No comments - 17.03.22

Health and Safety - No comments - 17.03.22

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice, 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).

One letter of objection has been received from Tiverton Squash Club, who currently play at the squash courts that are proposed to be demolished. It is advised that the Squash Club have been allowed to play at Blundell's School for 60 years and it would be regrettable if the facility was no longer available to the local community, particularly as there are no squash courts at the leisure centre, and nowhere else to play locally.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location
- 2) Design and impact on the character and appearance of the surrounding area
- 3) Parking and access
- 4) Impact on residential amenity
- 5) Flood risk and drainage
- 6) Biodiversity
- 7) Other matters

- 1) Principle for development in this location

The proposal seeks to improve the sports facilities at Blundell's School. The applicant states that the existing school facilities are dated and disjointed, falling below the standard provided by competitor schools. The application site is contained within the wider school campus site, and falls within the Tiverton defined settlement limit.

An objection has been received from Tiverton Squash Club, who have been using the squash courts at Blundell's School for 60 years, noting that there are no other squash facilities available locally. While this is noted, and it is regrettable that the squash courts will be lost as part of this proposal, the resulting development will provide for much improved sporting facilities at Blundell's School.

It is noted that a small part of the proposed swimming pool building overlaps the current landscaped site boundary with Lowman Fields. As a result there is small-scale encroachment onto the TIV16 site allocated within the Mid Devon Local Plan for residential development. Part of the expectations of policy TIV16 is that it should include provision of a road junction on Heathcoat Way and a safeguarded route through the site to serve as a future second strategic road access for development at Tiverton eastern urban extension (EUE). It is noted that an application has recently been made for the erection of 120 houses on the western part of the TIV16 site

(22/01098/MOUT), although this is entirely on land outside of the ownership of Blundell's School. Consideration has been given to the impact of the proposed development on the allocated site. However, despite the minor encroachment proposed, it is not considered to compromise the development, should the land in the school's ownership come forward in the future. Additionally, the proposal would not negatively impact on the ability for a safeguarded road route to be provided on this land. The Council's Forward Planning Team have offered further comment on this matter, and have raised no objections, based on the nature of the development and its scale.

Overall, the proposed improvement of school facilities is considered to be acceptable in principle, subject to assessment of the proposal against other site specific considerations, which will be considered below.

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

Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes. In this case, it is considered that the proposed development is acceptable, respecting and relating to the character and appearance of the school site, and wider area in general.

In considering the proposed development generally, the scheme is for the provision of a large swimming pool building, refurbishment and repurposing of the building containing squash courts and the provision of an external services compound. The site has been chosen following consideration of three sites within the school grounds. The current site was chosen however due to among other things, its proximity to existing sports facilities, suitable distance from the boarding and educational hub of the school, and neighbouring residential areas, and the presence of existing internal roads and car parking.

Following the decision to site the new swimming pool building in the proposed location, it has been designed to reduce its impact on the surrounding area as much as possible. The two storey design takes advantage of the site topography, with the ground floor element of the building to be built into the ground, where it will be level with the adjoining Lowman Fields. The upper floor will therefore be accessed at ground level within the school site, reducing the height in conjunction with the adjoining buildings. When viewed in the context of the existing buildings, especially from Blundell's road, the swimming pool building will be in part of a similar height to the squash court building, and set lower than the existing large sports hall to the south. The building is to be finished with metal cladding with a variety of muted colours to allow it to blend in better to its surroundings and limit its impact on the local landscape and conservation area. The alterations to the squash court building will be minimal, with the external works comprising mainly the provision of additional windows. The external services compound will be enclosed within a timber fence.

It is noted that there will be a need to remove six trees, and part of two boundary hedgerows to enable the construction of the swimming pool building. This includes the removal of two oak trees, one a significant tree identified as having moderate value in terms of both amenity and landscape value, the other of lesser quality. The Council's Tree Officer initially commented, questioning the siting of the building, noting that there was reference in the arboricultural report was made to adjusting the building position, in a way that would require removal of a mature hedge and young trees, albeit the majority of those young trees could be transplanted resulting in little overall loss of tree numbers. The Tree Officer has asked whether this was given consideration. In response, the

applicant has confirmed that the final position, as noted within the design and access statement, was dictated by a number of reasons. These include the presence of a natural break in the landscape edge, the position of existing circulation routes and buildings, and with reference to the School's strategic plan. Notwithstanding these concerns, a comprehensive planting plan has been provided. This includes thicket planting to the north and west of the building, linking into existing areas of planting on Lowman Fields, and the addition of twelve new trees, four each of field maple, common whitebeam and small-leaved lime. The Tree Officer did initially advise that the tree planting was insufficient to compensate for the lost mature trees, and as a result the plan has been amended to include four new oak trees, in line with updated comments from the Tree Officer, who has advised that this could offset the loss of trees, alongside the original planting scheme submitted. Taking this into account, it is considered that while the loss of some good quality trees is unfortunate, appropriate compensation will be provided to mitigate against their loss, while providing overall enhancement.

As noted earlier, the site is within the Blundell's conservation area, as well as being within the school site, which is identified as being a non-designated heritage asset and included on the Local List. The application is supported by an archaeology and heritage assessment, which also identifies and considers the impact of the proposal on other designated heritage assets in both the immediate vicinity and wider area. These include the grade II listed Great Gornhay Farm, which is located approximately 165m to the east of the site, Poll Anthony Farmhouse, 39, 41 and 43 Tidcombe Lane, Tidcombe Bridge, Lime Kiln Cottage and the Grand Western Canal conservation area. Having taken the advice of the Council's Conservation Officer during pre-application discussions on site, despite its distance from the site, consideration is also given to the setting of Knightshayes Court registered park and gardens, as well as the setting of the Grade II\* house itself.

Consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 192 of the NPPF advises that "in determining applications, local planning authorities should take account of:

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

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

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their

significance, character, setting and local distinctiveness, and opportunities to enhance them.

- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and
- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”

In coming to this decision the council must also be mindful of the duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

The submitted archaeology and heritage assessment provides a comprehensive appraisal of the significance of the identified heritage assets, and the impact of the development on their setting and significance. The report concludes that despite the site being within the Blundell's conservation area, it is considered that the proposal will not result in harm to the character and appearance of the conservation area. It is also concluded that the other heritage assets would not be affected by the proposed development.

A detailed assessment of local archaeological potential is also included within the report. It concludes that the development site would have very low potential for features or deposits of significance. In this case it is therefore considered that further archaeological investigation is unwarranted. The County Historic Environment Team have considered the proposal and have raised no objections, making no request for further investigation.

The findings of the archaeology and heritage assessment are not disputed and as a result it is concluded that the proposed development is acceptable and will not lead to any harm to the setting or significance of local heritage assets. Overall, it is considered that the proposal is acceptable and accords with policies DM1 and DM25 of the Mid Devon Local Plan.

### 3) Parking and access

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

In this case, the proposed development will form part of the existing school facilities, primarily for use by pupils of Blundell's school. As such, the provision of a swimming pool building, and reconfigured PE department will not materially alter the type and number of vehicle movements associated with the site. It is not therefore proposed to provide any new access or parking facilities. It is considered that the existing car park and access is appropriate to meet the needs of the new development.

The County Highway Authority have raised no objections to the proposal directly, advising that proposal should be assessed against the County Council's Standing Advice. Noting the existing access and car parking arrangements and the expected minor nature of the proposal in respect to traffic movements locally, it is considered that it accords with the Highway Authority's standing advice, with no further highway improvements required.

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

#### 4) Residential amenity

Policy DM2 e) states that new development should be create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”*

The proposed development is set well away from the nearest properties, with no concerns raised in respect to impact on residential amenity as a result of overlooking or overshadowing. Similarly, the properties are sited appropriately to avoid unacceptable harm from noise and associated disturbance resulting from the operation of the swimming pool, PE department building, and external services.

#### 5) Flood risk and drainage

Policy DM1 requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available.

It is proposed that the foul water drainage would discharge into an existing on-site private drainage system, which in turn would be discharged into the existing connection to the combined public sewer in Blundell's Road.

It is advised that there are no public surface water sewers on site, or within the immediate vicinity. It is of course necessary to consider the provision of infiltration techniques initially, in line with the SuDS hierarchy. However, it is noted following site specific ground investigations, that soakaways are considered to be unsuitable, with controlled attenuation required. In this case, the submitted drainage strategy suggests that the new development comprising the swimming pool and paved areas be positively drained via a piped drainage system, which would control rates of flow before discharging into an existing ditch on route to the nearest watercourse, which is the River Lowman, approximately 80m to the north. Such discharge would be controlled to be as near as possible to greenfield runoff rates, in compliance with Lead Local Flood Authority (LLFA) requirements.

In considering the proposed drainage scheme, the LLFA have commented, raising no objections in principle, subject to the imposition of a pre-commencement condition for drainage arrangement during construction. The LLFA further note that despite surveying the existing ditch its full extent is not necessarily known, as it appears to stop on the survey before being picked up further to the west. The LLFA have recommended that photographs of the ditch be provided to demonstrate its condition, as well as the need for a maintained plan to be submitted. It is also suggested that additional measures such as green roofs, and other SuDS infrastructure could be included. In this regard, it is noted that the swimming pool building would incorporate a sedum roof. Noting the comments of the LLFA, it is considered that the proposed drainage strategy is acceptable in

principle and would appropriately deal with surface water on site, in line with LLFA requirements, and that of the NPPF. As such, a condition shall be imposed for final a final drainage scheme to be provided and agreed prior to commencement. This condition would include the submission of a maintenance plan. The applicant has confirmed agreement to the suggested drainage conditions being pre-commencement, which is considered necessary to ensure that the final drainage arrangements are agreed prior to works commencing on site.

In terms of risk of flooding of the site, the School is located within Flood Risk Zone 1, which is the lowest level of risk. The River Lowman is to the north, however the site is approximately 50m away from Flood Risk Zone 2, and is sited on higher ground. As such, it is not considered that the proposed development is at risk of being flooded, or is considered likely to lead to increased risk of flooding locally.

#### 6) Biodiversity

The application is supported by an ecology appraisal. This does not identify any significant ecological constraints that would be affected by the development. The ecological appraisal includes recommendations for precautionary measures to avoid committing any offence in relation to protected species, should any be found during construction, and also in relation to breeding birds, as well as mitigation and enhancement measures. A condition requiring that the recommended precautionary measures, details of mitigation and biodiversity enhancement measures comply with the recommendations of the report, would be imposed on any grant of planning permission.

#### 7) Other matters

The Police have commented on the proposal from a crime and design perspective. The suggested measures will not significantly impact on the proposal as submitted, and are noted by the applicant.

### **SUMMARY**

The proposed development comprising the provision of a swimming pool building, conversion of existing building containing squash courts to a PE department, external services compound and associated landscaping at Blundells School, is considered to be acceptable. The proposal by virtue of its siting and design will appropriately respect and relate to the character and appearance of the surrounding development, will preserve the character and setting of the conservation area and the significance other heritage assets, and would have no unacceptable impact on the private amenities of the occupiers of nearby residential properties. Furthermore, the proposal is not considered to cause unacceptable harm to highway safety, local ecology or increase the risk of flooding locally. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S9, S10, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013 and the National Planning Policy Framework.

### **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans

listed in the schedule on the decision notice.

3. No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained.
4. No development hereby permitted shall commence until a final detailed drainage scheme for the permanent surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. This shall be based upon the submitted *Foul and Surface Water Drainage Strategy* (prepared by Hydrock, dated 3<sup>rd</sup> February 2022), and include survey details of the ditch that it is proposed to discharge into, as well as a maintenance plan for the surface water drainage system. The approved drainage scheme shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.
5. A landscaping scheme shall be implemented in accordance with the details indicated in the submitted 'Planting Plan', drawing ref. '1942-PP-300 Rev B'. All planting, seeding, and earth works comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. The development hereby permitted shall be carried out in strict accordance with the schedule of tree works and protection measures contained within the submitted 'Arboricultural Impact Assessment', prepared Coastal Tree Consultancy, dated 9<sup>th</sup> November 2021. The approved tree protection measures shall be installed in their entirety prior to commencement of the development, any site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, and shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled with the prior consent of the Council in-writing.
7. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Ecological Impact Assessment (EclA)* (prepared by ACD Environmental - dated 14<sup>th</sup> March 2022) covering avoidance of harm to protected species and nesting birds, mitigation, compensation and biodiversity enhancement measures.

## **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 surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. This condition should be pre-commencement since it is essential that any temporary surface water drainage system is agreed before works commence. The applicant has confirmed their agreement to the imposition of this pre-commencement condition.
4. This condition is 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 condition 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. The applicant has confirmed their agreement to the imposition of this pre-commencement condition.
5. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. To preserve the health, structure and amenity value of existing landscape features (trees and hedges) to safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. For the conservation and protection of legally protected species and for the enhancement of biodiversity, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).

## **INFORMATIVES**

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

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.

Application No. 22/00665/MFUL

Grid Ref: 299384: 112863

Applicant: Mr J Clapp

Location: Land at NGR 299554 112915 (Red Linhay)  
Crown Hill  
Halberton  
Devon

Proposal: Retention of silage clamp and erection of roof over  
Retention of silage clamp and erection of roof over

Date Valid: 26th April 2022



## **APPLICATION NO: 22/00665/MFUL**

**Decision Delayed Reason:** change in officer dealing with the application along with additional information requirements.

## **RECOMMENDATION**

Grant permission subject to conditions.

## **PROPOSED DEVELOPMENT**

The site is at Red Linhay farm located in a countryside location approximately ½ mile to the west of Halberton. The Grand Western Canal Conservation area is approximately 150m to the west of the site. The site was originally part of an agricultural field. The wider field is enclosed by trees and hedges providing visual screening. The site adjoins the north western side of the Red Linhay Farm complex and is approximately 150m to the northwest of the farmhouse. The site is adjacent to two existing livestock buildings.

The proposal is for the retention of silage clamp and erection of new roof over the clamp, to serve the applicants agricultural enterprises. The applicant has stated that the material stored within the silage clamp is 100% cropped from their agricultural land.

The existing clamp measuring approximately 85m in length by 36m in width and has concrete walls 3m in height. The proposed roof structure would have a pitched roof measuring approximately 6.7m to eaves height and 8.5m to ridge height. The roof structure would be a steel portal structure clad with green box profile. The land falls away to the southwest. Therefore, to accommodate the building and for it to function with the other farm buildings, it has been dug into the ground on its southern side, adjacent to the access road, and there is a grass bank on its northern side.

The clamp would be accessed by the existing access that serves Red Linhay. The clamp building itself is accessed from its western end.

Drainage would be dealt with by a soakaway to the north west of the silage clamp. The attenuation tank for the silage liquor is located at the south western end of the building.

## **APPLICANT'S SUPPORTING INFORMATION**

Agricultural Holding details  
Archaeological Trench Evaluation  
Design and access Statement  
Wildlife trigger table and letter from Western Ecology  
Soakaway design

## **RELEVANT PLANNING HISTORY**

14/00801/FULL - PERMIT date 15th September 2014Erection of agricultural livestock building  
15/00382/FULL - PERMIT date 20th August 2015Erection of an agricultural livestock building (889 sq.m)  
21/00397/FULL - REFUSE date 28th May 2021Construction of a concrete storage area  
21/01263/FULL - REFUSE date 25th November 2021Construction of a concrete storage area

## **OTHER HISTORY**

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 – Sustainable development priorities  
Policy S6 – Employment  
Policy S9 – Environment  
Policy S14 – Countryside  
Policy DM1 – High quality design  
Policy DM3 – Transport and air quality  
Policy DM4 – Pollution  
Policy DM20 – Agricultural development  
Policy DM25 – Development affecting heritage assets  
Policy DM26 – Green infrastructure in major development

National Planning Policy framework

National Planning Practice guidance

## **CONSULTATIONS**

EAST AREA CONSERVATION OFFICER - 15.06.2022

Thank you for consulting me on the above application.

I have visited the area around the site. To the north is the listed road/canal bridge with the canal to the north of the site and then to the east where there is another listed bridge.

Whilst there is some ability to see the site from the northern bridge looking south west, given the context grouping with the other buildings, and subject to the use of dark colours, I have no objections.

THE GRAND WESTERN CANAL JOINT ADVISORY COMMITTEE - Comments summary  
1 Invalidity as a retrospective Application

This Application calls for the retention of and a change of an installation that had been refused previously.

The GWCJAC doesn't consider that this is in the spirit of a retrospective Application, say where an Applicant had started a development without realising that it required Planning consent. Consequently, it feels that the original Refusal stands so this Application should not be permitted.

2 Uncertainty about the scale and purpose of the non-permitted installation.

The GWCJAC needs clarification of the purpose of this structure.

The concrete base had started as an Application for a hard standing; a welfare area for cattle during 2021. Permission was refused on two occasions. It was then constructed without planning permission. The Applicant's Agent has now suggested that the harvested grass will be used to produce grass cubes or pellets; a third proposed use of the structure.

The GWCJAC asks if the Application is solely for the operation of the Red Linhay agricultural holding or whether it is to amass materials for commercial trade with other businesses.

The scale of what is now referred to as a silage clamp appears to be far greater than required for feeding the herd of cattle at Red Linhay, particularly since there is another large silage clamp being used on the holding. This scale is an indication of a new commercial undertaking to trade externally to Red Linhay.

The GWCJAC objects to the Application since it would be a new commercial enterprise in the countryside adjacent to the GWC Conservation Area.

Condition 13 of the Planning Permission specifies sound levels which must not be exceeded during the operation of the AD plant. It also requires the operator to undertake mitigation works if the sound levels exceed these limits. It appears that a Sound Assessment carried out in March 2018 showed that the sound levels were exceeded.

It is possible that the 22dB limit specified in the Condition could have been a typographical error since it represents a relatively low, possibly unrealistic target so, rather than removing the Condition, it should be reviewed by the Planning Officer.

However, Condition 13 fits in well with the other noise Conditions; 12 & 14 so that those Conditions, as a set, serve to protect the nearby residences and the Grand Western Canal corridor that passes close to the AD plant. The operation of the AD plant with its attendant noise and associated intermittent butyric smells, that occur when the plant is not operating correctly, have a deleterious effect on the peace and character of the Canal's Conservation Area.

The GWCJAC notes MDDC's Local Plan for 2013-2033 Policy S1, referring to sustainable development priorities, seeks to

conserve and enhance the natural environment by protecting and enhancing valued landscapes.....and prevent significant harm to soil, air, water, noise and visual quality, in particular air quality.....

The GWCJAC considers that the AD plant contravenes this Policy so any reduction of the Noise Conditions would be damaging so it Objects to the removal of Condition 13.

Additionally, Policy S9, referring to Environment, states that Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through:  
d) Renewable energy development in locations where there is an acceptable local impact, including visual, on nearby residents, landscape character and wildlife, balanced with the wider sustainability benefits of renewable energy...

The GWCJAC feels that the AD plant already breaches this Policy. Again considering Policy S9, it objects to the removal of Condition 13.

HISTORIC ENVIRONMENT TEAM - 29.04.2022

Comments from Stephen Reed, Senior Historic Environment Officer  
Devon County Historic Environment Team ref: Arch/DM/MD/37627

In the light of this information, the Historic Environment Team has no comments to make on this planning application.

Highway Authority - The County Highway Authority have no comments to make on this application

HALBERTON PARISH COUNCIL - Sent via email on 16/5/22 and acknowledged by MDDC on the same date.

Reason for action: website down

It was RESOLVED to write to MDDC as follows:

This application is a retrospective application.

The silage clamp in question does not have planning permission and, therefore, both the silage clamp and the erection of the roof over must be considered as a primary application and not the 'retention' of an existing facility.

The original application was for a storage area for cows with no perimeter wall. The Parish Council would like MDDC to look at the materials specified in that application which did not include the erection of a perimeter wall (now present) to see if the correct materials were used in its construction.

The stated use of the silage clamp, which has been subject to enforcement procedures, is for the storage of home grown silage considered essential to the diet of the cows and their calves.

The Parish Council believe the size and scope of the proposed silage clamp is excessive for the amount of pasture land and the number of cows able to be supported on that holding.

The number of agricultural vehicles travelling to the site along roads within the parish is of concern given its location and the reduced visibility splays either side of the lane leading to the proposed clamp especially given its proximity to the AD Plant.

For the above reasons, the Parish Council strongly OBJECT to the application and will ask for their MDDC representative Councillor Ray Radford to call the application in.

If MDDC planning were mindful to grant approval of the application, the Parish Council would ask that a condition of that approval be that the silage clamp is solely used for its stated agricultural purpose in relation to the storage of home produced silage for the feeding of cows on the farm. Furthermore, there should be clear separation between the storage of grown forage to livestock and the incoming silage for the adjacent AD plant.

FLOOD and COASTAL RISK MANAGEMENT TEAM - 12.05.2022

Recommendation:

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 part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase flood risk, or pose water quality issues, to the surrounding area.

Observations:

Following my previous consultation response (FRM/MD/00665/2022; 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 they shall maintain the permanent surface water drainage system.

DEVON, CORNWALL & DORSET POLICE - Re: Retention of silage clamp and erection of roof over at (Red Linhay) Crown Hill Halberton - 26th April 2022

Thank you for this application

The Police have no comments at this time, and unless the local authority has any specific concern(s) in relation to crime and disorder, will have no future comment to make.

Kind regards

Rick Napier

Designing Out Crime officer

North Devon, Torridge & Mid Devon

PUBLIC HEALTH - 23.05.2022

We have considered the application and also the comments of members of the public concerned about the scale of this development. Covering silage clamps is becoming more common and the reduction of water inputs does benefit the management of clamps by reducing the amount of liquor run-off whilst the silage is stored. The application is not clear on whether the silage will be utilised within the adjacent AD plant, but this should not be a concern as long as the plant remains within its current permissions. By way of clarification we consider that the applicant should address the concerns of the members of the public, particularly whether the size of clamp is justified for a herd of only 100 or so cattle. We would be pleased to comment again in due course.

## **REPRESENTATIONS**

There have been 5 objections submitted relating to this application raising the following matters:

1. The application has been refused in the past and should still be refused.
2. The size of the unit is excessive.
3. There will be additional traffic and pollution on the road network.
4. The silage will be used for the AD plant not farming.
5. Red Linhay flouts planning rules and proceeds regardless of any restrictions.
6. Retrospective application.
7. Another building would continue to spoil the surrounding countryside, including the Grand Western canal country park.
8. The huge silage clamps on Red Linhay cannot be just for the benefit of the small herd of Charolais cattle.
9. Previous applications 21/00397/FULL and 21/01263/FULL for the construction of a large concrete storage area at this site were, following the planning officer's recommendations, refused. These included the detrimental effect on the character and appearance of the surrounding countryside and designated heritage assets, including the Grand Western Canal and Conservation Area; the increased risk of flooding because of the increased surface run-off; and the potential negative impact on the quality of the environment resulting from foul/dirty water being discharged to soakaways and potentially contaminating groundwater.
10. The impermeable surface beneath the clamp leading to an increased risk of flooding would still occur as would the potentially negative impact on the quality of the environment.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Principle of development
2. Character and Appearance
3. Impact on heritage assets including the Grand Western Canal Conservation Area
4. Neighbouring Amenity
5. Highway impacts
6. Land Drainage/flood risk/contamination
7. Impact on ecology/biodiversity

### **1. Principle of development**

S.38 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 site is located in the countryside where local plan policy S14 requires that development will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.

Criterion (a) of policy DM20 (agricultural development) 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;**

This application is a further submission following the previous two applications 21/00397/FULL and 21/01263/FULL for the construction of a concrete storage area. Both previous applications have been refused the reasons being as set out below:

#### **21/00397/Full**

- 1 *Insufficient information has been provided to demonstrate that the proposed development, having regard for its scale, massing design and materials, would not have a detrimental impact on the character and appearance of the surrounding countryside and designated heritage assets including the Grand western Canal conservation area. In the absence of this information the Local Planning Authority is not able to fully assess the impact of the proposal and be satisfied that it delivers sustainable development in accordance with policy S1 of the Mid Devon local Plan 2013-2033 and the NPPF*
- 2 *Insufficient information has been submitted to allow a full assessment of the implications of the development on the ecology and wildlife within the site. The proposal is therefore contrary to policies S1, S9, S14, DM1 and DM20 of the Mid Devon local Plan 2013-2033 and the NPPF*
- 3 *It has not been adequately demonstrated that the development would manage surface water run-off sustainably and minimise the risk of flooding contrary to S1, S9, S14, Dm1 and DM20 of the Mid Devon Local Plan 2013-2033 and the NPPF*
- 4 *The proposal risks negatively impacting on the quality of the environment as it does not demonstrate a mechanism for the prevention of foul/dirty water from being discharged to soakaway and contaminating ground water. The proposal is therefore contrary to policies S1, S9, S14, DM1, DM14 and DM20 of the Mid Devon Local Plan 2013-2033 and the NPPF*

#### **21/01263/Full**

- 1 *The applicant has still not demonstrated that the proposed development, having regard for its scale, massing design and materials, would not have a detrimental impact on the character and*

*appearance of the surrounding countryside and designated heritage assets including the Grand western Canal conservation area. In the absence of this information the Local Planning Authority is not able to fully assess the impact of the proposal and be satisfied that it delivers sustainable development in accordance with policy S1 of the Mid Devon local Plan 2013-2033 and the NPPF*

2 *It has not been adequately demonstrated that the development would manage surface water run-off sustainably and minimise the risk of flooding contrary to S1, S9, S14, Dm1 and DM20 of the Mid Devon Local Plan 2013-2033 and the NPPF*

3 *The proposal risks negatively impacting on the quality of the environment as it does not demonstrate a mechanism for the prevention of foul/dirty water from being discharged to soakaway and contaminating ground water. The proposal is therefore contrary to policies S1, S9, S14, DM1, DM14 and DM20 of the Mid Devon Local Plan 2013-2033 and the NPPF*

The proposal is to provide a storage area for silage associated with the farming enterprise. This enterprise consists of a substantial number of farms in the ownership of the applicant. As such the building needs to be considered not only with regard to Red Linhay itself but also the wider ownership of other farms within the farm enterprise.

It is common that farms are made up of multiple land holdings with the use of one area as a main focus for the farm enterprise. In this case the principal farm and hub is Red Linhay. The applicant has stated that the silage clamp will produce silage to feed their Charolais cattle and to produce silage cubes. These are both agricultural products that fall within the definition of agriculture in s336 of the Town and Country Planning Act 1990. Therefore, based on the land holding associated with the enterprise it is considered that the proposed unit is reasonably necessary for the farming activity and is compliant with Policy DM20 of the local Plan 2013-2033 and the National Planning Policy framework.

Representations have been received raising concern that the silage clamp may be used to produce feedstock for the anaerobic digester plant. This is not, however, being proposed by the applicant. It should be noted that a recent Counsel legal opinion provided to the Council regarding a silage clamp at Gibbett Moor Farm confirmed that making grass silage for use as a biofuel feedstock is also an agricultural use, as the definition in s336 of the 1990 act does not require horticulture to be for the purposes of food production.

This application also proposes to provide suitable sufficient information to overcome the previous refusal reasons. This information is set out below in the remaining report.

## **2. Character and appearance**

The NPPF attaches great importance to the design of the built environment, stating good design is a key aspect of sustainable development and should contribute positively to making places better for people. It stresses the need to plan positively for the achievement of high quality and inclusive design for all development. While it states that local authorities should not impose architectural styles or particular tastes, it reinforces that it is also important to consider local character and distinctiveness.

The government at chapter 12 of the NPPF says it attaches great importance to the design of the built environment. It goes on to advice that good design is a key aspect of sustainable

development, is indivisible from good planning and should contribute positively to making places better for people.

Local plan policy S14 urges developments to create local character by responding to the site's immediate and wider context and local character to spaces and buildings which draw on the best of that local character without stifling innovation.

Criterion (b) of policy DM20 (agricultural development) states that:

*Agricultural development will be permitted where:*

*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.*

The site does not fall within a designated protected landscape and is within Landscape Character LCT3: Low Land Plains, which is characterised by an open, low lying flat landscape and is a prosperous agricultural area.

The site is located on land that is typical of the Mid Devon lowland plains landscape character area and the wider field is bordered by hedgerows with trees. The building has been dug into the ground and its ridge height is lower than the adjacent farm buildings. As such it would be seen grouped closely together with existing agricultural structures relating to the same farm business and not as a solitary new built form in the landscape.

The Design & Access Statement submitted with the application provides a landscape and visual appraisal. It includes a number of photos from various view points in the locality and sets out the impact the building will have on the countryside. The appraisal indicates that the building will not have a significant impact on the countryside due to its scale and massing.

Silage clamps are common features in an agricultural landscape. The proposed structure is agricultural in its character and appearance, would respond to the existing agricultural site context and would be sympathetic to the existing site layout and access. The building would be read in the context of the existing agricultural buildings and would not appear incongruous.

Officers are mindful that the previously refused application were accompanied by landscape schemes. It is considered that a similar scheme should be included within this application to soften the scale and massing of the building within the context of the area and GWC conservation area. As such a condition will secure a suitable landscaping scheme within 3 months of a positive determination of this application.

It is considered the first reasons for refusal previously stated have been resolved to the satisfaction of officer. This reason for refusal therefore falls away. It is considered that the proposal is now compliant with Policy S1, S14 and DM20 of the Local Plan 2013-2033 and the National Planning Policy Framework.

### **3. Impact on heritage assets including the Grand Western Canal Conservation Area**

Policy S1 of the Mid Devon Local Plan seeks to conserve and enhance the historic environment through protection of heritage assets and by assessing the impact of new development on historic character. Policy S9 requires the protection of listed buildings, conservation areas, scheduled monuments and local heritage assets. Policy DM25 requires proposals likely to affect the significance of heritage assets to consider their significance, character and setting, and to examine

opportunities to enhance them. Criterion (b) of policy DM20 (agricultural development) that development is sensitively located is well-designed and respecting the character and appearance of the area. The National Planning Policy Framework affords great weight to the conservation of heritage assets and requires that any harm arising from development must be clearly justified.

The site is visible from points within the Great Western Canal Conservation Area and from two grade II listed road/canal bridges to the north and east of the application site.

The field which contains the silage clamp is bound on its northwest, southwest and southeast by low banked hedges up to 1.5m in height with some mature trees. The banks and boundaries of the canal is also characterised by trees and hedging which screens views of the site from the canal towpath. The farm complex can be clearly seen from the nearby listed canal bridges but there are significant separation distances with intervening hedgerows, trees and buildings. Although the proposed structure is relatively large, it is considered that the proposed will be tempered by the fact that the building will be seen in the context of the existing farm buildings.

It is considered therefore that the proposed silage clamp building would not harm the setting of the GWC Conservation area or listed canal bridges. The Council's Conservation Officer has assessed the proposal and considers that there will be no negative impacts on the setting of these heritage assets. The Conservation Officer has stated that whilst there is some ability to see the site from the northern bridge looking south west, given the context grouping with the other buildings, and subject to the use of dark colours, I have no objections. The colour of the cladding shall be secured by condition.

As regards archaeology, an Archaeological Trench Evaluation was submitted as part of the application. On the basis of the submitted details the County Archaeologist has no comments to make on this planning application.

It is considered, subject to a condition, that the proposal would not harm heritage assets and is therefore in accordance with policy S1, S9, DM20, DM25 and guidance outlined within the NPPF.

#### **4. Neighbouring Amenity**

Local plan policy DM1 stipulates details relating to the protection of amenity of neighbouring occupiers. Criterion (b) of policy DM20 outlined above requires that agricultural development is sensitively located to limit any adverse effects on the living conditions of local residents. At chapter 12 of the NPPF the government requires new development to provide a good standard of amenity for all.

The nearest offsite dwellings are a significant distance to the southwest of the application site. 'New House' located at a timber yard is located approximately 60m to the southwest. Badger's Holt and Lisieux are over 175m to the southwest of the site.

It is considered that there is sufficient separation distances between the proposed agricultural building and the neighbouring dwellings to restrict any adverse impact upon amenity with regard to loss of light or an overbearing impact.

Accordingly, the development would not adversely harm neighbour amenity in accordance with Policy DM1(b), DM20 and the NPPF.

#### **5. Highway impacts**

Criterion d) of Policy DM20 states that agricultural development will be permitted where the development will not have an unacceptable traffic impact on the local road network.

The proposed silage clamp building will not only be used to produce silage from crops at Red Linhay but also from other land holdings owned by the applicant. The Red Linhay Farm, despite being approximately 100 acres, would not produce enough crops to fill the clamp. Crops will therefore be brought by tractor from other parts of the applicant's farm enterprise. However, this would not increase traffic movements on the local road network because these movements have already been counted for. The tractors that serve the farm enterprise are permanently based at Red Linhay therefore the traffic movements already exist.

The proposed silage clamp would utilise the existing access to serve Red Linhay which is of an appropriate size with suitable visibility providing safe access to and from the highway. Improvements to the access serving Crown Hill Road were previously undertaken by the owner having been secured by previous applications for the anaerobic digester. The visibility onto Post Hill Road is also considered by the Highway Officer. Crown Hill Road is only single track but there is suitable onward visibility from Red Linhay to Post Hill from the 45 degree bend in Crown Hill Road.

As such the Local Highway Authority have stated that they have no comments to make on the proposed development. The development does not require a transport appraisal under Policy DM3.

It is considered that the proposed traffic impacts are acceptable in accordance with criterion d) of Policy DM20.

## **6. Environmental considerations - pollution, air quality and waste management**

Criterion c) of Policy DM20 states that agricultural development will be permitted where the development will not have an unacceptable adverse impact on the environment. Policy DM4 states that applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

The rules around the storage of Silage, Slurry and Agricultural Fuel (SSAFO) are part of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England)/ (Wales) Regulations 2010. These regulations set standards for storing silage, slurries and agricultural fuel oil, so as to minimise the risk of water pollution. Under the regulations the farmer or land manager is responsible for meeting the rules. There are specific rules for making and storing silage. Where silage is stored in a permanent clamp it must have an impermeable base extending beyond any walls and have impermeable drainage collection channels around the outside flowing into an effluent tank. The tank must have adequate capacity to give at least two days storage. Details of the size of the tank are set out above. The farmer or land manager is obliged to notify the Environment Agency 14 days before construction of the clamp and is responsible for carrying out maintenance of the overall development to ensure there is no risk of pollution.

The applicant has stated that the stored liquid would be taken by tanker onto the applicant's land disposal in accordance with agricultural best practice.

The proposed clamp and roof would provide some environmental benefits. The Council's Public Health team have stated that the covering of silage clamps is becoming more common and the

reduction of water inputs does benefit the management of clamps by reducing the amount of liquor run-off whilst the silage is stored.

It is considered that the proposed development would have acceptable environmental impacts and is in accordance with Policy DM4 and DM20(c).

## **6. Land drainage/flood risk/contamination**

The application site is within flood zone 1 and is not part of an area identified as being at risk of surface water flooding. Policy DM4 requires development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution to be accompanied by a Pollution Impact Assessment and mitigation scheme where necessary. Criterion c) of Policy DM20 states that agricultural development will be permitted where the development will not have an unacceptable adverse impact on the environment.

The application proposes 170 mm Box valley guttering to be provided around the roofline of the shed into 150 mm down pipes which will be piped underground into a soakaway provided.

The site area is below the major threshold as it is less than 1 hectare and for this reason has not been individually appraised by the Lead Local Flood Authority (LLFA). However, the area of impermeable surfacing exceeds 1000sqm and standing advice is issued by the LLFA. The previous applications which were refused included drainage as a reason for refusal.

The LLFA initially required further information regarding management of the drainage of the site. It has now been confirmed this would be undertaken by the applicant. The LLFA have subsequently withdrawn their objection and so accordingly it is considered that the second and third reasons for refusal set out in decision notice for 21/00397/Full and 21/01263/FULL have fallen away and are considered to be adequately provided for and is in compliance with Policy DM4 and DM20 of the Local Plan. The inclusion of the roof assists with reducing run off of any contaminants from the storage of the silage.

## **Impact on ecology/biodiversity and green infrastructure in major development**

Policy S1 states that sustainable development can be achieved by minimising impacts on biodiversity and geodiversity by recognising the wider benefits of ecosystems, delivering natural environment objectives, providing a net gain in biodiversity.

Policy S9 states that development will sustain environmental assets and minimise impact on the change on both designated and undesignated sites by supporting opportunities for protecting and enhancing species populations and linking habitats.

Policy DM26 requires green infrastructure and biodiversity net gains to be demonstrated.

The application site comprises part of an agricultural field but does not fall within any special landscape designation. Given the size, location and nature of the application an ecological appraisal is not required (see wildlife trigger list and letter for western ecology). However, as this is a major application, in line with Policy DM26, proposals must demonstrate that biodiversity mitigation will be provided that will result in a biodiversity net gain (BNG). This will be secured by planning condition which must demonstrate a net gain in accordance with the Natural England's BNG metric.

As per criterion (d) of Policy DM26, new green infrastructure will also need to be secured by condition, which will in part crossover with the BNG requirements and the landscape condition discussed under section 3 of this report. The policy explicitly mentions the creation of native woodland but this could include other habitats such as hedging and scrub planting.

On this basis, subject to conditions, the proposal would not be contrary to policies S1, S9, DM20 & DM26 with regard to green infrastructure and BNG net gain.

## **Conclusions**

The proposal is for a large silage clamp with roof within a field on the northern edge of Red Linhay. Officers consider the application to be for an agricultural use and therefore appropriate in the countryside location.

The proposed development is considered not to cause demonstrable harm to the character and appearance of the rural landscape or harm the setting of nearby heritage assets including the GWC Conservation Area and 2 listed canal bridges.

Biodiversity net gain, Green Infrastructure and landscape improvements will be secured by condition.

There would be no adverse harm to residential amenity. Highway/traffic impact are considered to be acceptable.

Suitable surface water drainage details have been demonstrated. Drainage of the clamp is through attenuation with the effluent being deposited on the land in accordance with best practice. The proposed development would be required to comply with The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England)/ (Wales) Regulations 2010. These regulations set standards for storing silage, slurries and agricultural fuel oil, so as to minimise the risk of water pollution. The proper storage of silage combined with the erection of a roof would result in less effluent generated.

The proposal is considered to be acceptable in accordance with local and national policy and is therefore recommended for approval.

## **CONDITIONS**

1. The date of commencement of this development shall be taken as the 26.04.2022 when the application was registered by the Local Planning Authority
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Within 3 months of the date of this permission there shall have been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within the next available planting season (from the date of this permission). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained. (the Planting Season runs from November to March).

4. No development shall take place until a Landscape and Ecological Management Plan is submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of the following:

- (a) Retained Ecological and Landscape Features
- (b) Proposed Habitats, Ecological and Landscape Features including length, height, width and specification of the new hedge bank around the perimeter of the silage clamp
- (c) Habitat and landscape Management Measures for the lifetime of the development
- (d) Demonstrate a biodiversity net gain using the Natural England metric
- (d) Monitoring and Review of Plan.

The development shall not be carried out other than in accordance with the approved details and planted up within the next planting season.

5. Prior to its use in the development, colour details of the box profile sheeting hereby approved shall be submitted to and confirmed in writing by the local planning authority. The development shall thereafter proceed in accordance with the approved details.

#### Reasons

- 1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
- 2. For the avoidance of doubt and in the interests of proper planning.
- 3. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Local Plan 2013-2033.
- 4. To mitigate the impact of the approved development and in the interests of improving Biodiversity, in accordance with Policies DM1, DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
- 5. in the interests of good design to mitigate the visual impact of the development on the area.

#### **REASON FOR APPROVAL OF PERMISSION**

The proposed retention of an agricultural building is considered to be supportable in policy terms. The development is considered reasonably necessary in supporting farming activity on the extensive farm holdings associated with the business. The design is of a typical agricultural type structure and given the location of the development it is considered that the proposal will not have an adverse impact on the living conditions of any local residents or the visual amenity of the area. Although located relatively close to GWC Conservation Area the conservation officer is content that there will be no harm to the setting of the conservation area. The use of some form of planting to soften the building is considered to be acceptable and a suitable condition will be imposed, to reduce any perceived concerns about the impact of the proposed on the wider environs. The development is not considered to result in an unacceptable increase in traffic upon the local road network, and the existing access to the site is considered to be acceptable. As such, the proposal is considered to comply with policies S14 and DM20 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.

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.

Plans List No. 5

Application No. 22/00706/MFUL

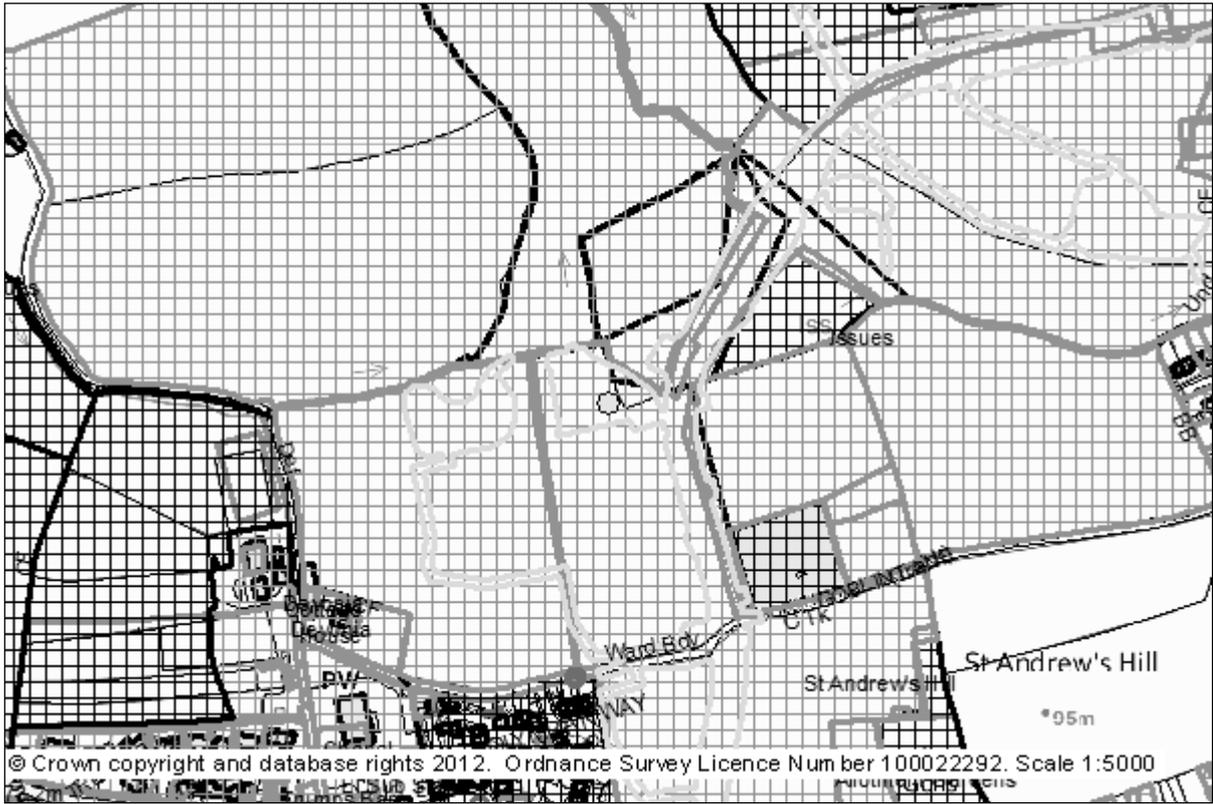
Grid Ref: 301560 : 107570

Applicant: Barratt David Wilson

Location: Land North West of Cullompton  
Tiverton Road  
Cullompton  
Devon

Proposal: Construction of vehicular access onto Tiverton Road and construction of  
spine  
road and associated infrastructure to facilitate the North West Cullompton  
urban extension

Date Valid: 12th April 2022



## **APPLICATION NO: 22/00706/MFUL**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The application is for construction of vehicular access onto Tiverton Road and construction of spine road and associated infrastructure to facilitate the North West Cullompton urban extension.

The development would form the southern section of a spine road through the NW Cullompton urban extension linking Tiverton Road and Willand Road. Access would be from Tiverton Road between the cemetery and Olympian Way, crossing the Goblin Lane bridleway and St George's Well stream and connecting into the northern section of the link road on the adjacent land parcel at the bridleway to the east of Rull Hill known as Bluebell Lane. The northern section of the road through the Persimmon Homes parcel benefits from an existing planning permission.

The spine road would be 6.5 metres wide with additional footways on either side, one of which would also be a cycleway. This road layout will follow the same form as the northern section already granted planning permission. There are to be 'Pegasus' bridleway crossings at Goblin Lane and Bluebell Lane.

A 'hybrid' outline planning permission reference 17/01346/MOUT was granted in 2021 for 200 dwellings including the spine road, with all matters reserved. A 100 metre section of the road where it adjoins the Persimmon parcel and the northern 'Pegasus' crossing were granted full planning permission through this hybrid application. In addition, the outline planning permission secured the principle of the remainder of the road between Tiverton Road and the section of road subject to the full planning permission part of the hybrid application.

However, when the detailed design of the spine road was carried out, some of the elements needed to construct the spine road, such as embankments and drainage features, fell outside the original red line of the outline planning permission meaning that a reserved matters application could not be submitted for the whole development including the spine road. The current planning application for the road is therefore a full application.

There is an associated reserved matters application reference 22/00735/MARM seeking approval of the detail of the rest of the development.

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

Environmental Statement

Design and Access Statement

Ecological Impact Assessment and Wildlife Survey

Flood Risk Assessment

Surface Water Drainage Strategy and SUDS Technical Information

Geo-Environmental and Geo-Technical Site Investigation  
Acoustic Assessment  
Air Quality Assessment  
Heritage Statement  
Archaeological Written Scheme of Investigation  
Waste Management Plan  
Statement of Community Involvement

### **RELEVANT PLANNING HISTORY**

22/00097/SCR - CLOSED date 17th February 2022 - Request for Scoping Opinion relating to Phase 2 of the North West Cullompton Allocation and Spine Road

17/01346/MOUT - PERCON date 26th November 2021 - Outline hybrid planning application for the erection of 200 dwellings together with associated infrastructure and public open space and Full permission for portion of Link Road (land comprising southern portion of

Phase 1 of North West Cullompton Urban Extension)

There is a related application currently being considered in relation to the parcel of land with the benefit of the outline planning permission which is expected to come before Planning Committee in November 2022.

22/00735/MARM Reserved matters for the erection of 200 dwellings following outline approval 17/01346/MOUT.

One other planning permission is relevant to this report:

17/01178/MFUL - PERCON date 26th November 2021 - Full application for 200 dwellings on land to the south of Rull Lane to include the transfer of land for a new primary school and community building (Persimmon Homes).

### **OTHER HISTORY**

21/02348/PREAPP - Northwest Cullompton Phase 1 and Phase 2 development

### **DEVELOPMENT PLAN POLICIES**

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

S1 – Sustainable Development

S2 – Amount and Distribution of Development

S3 – Meeting Housing Needs

S4 – Ensuring Delivery of Housing

S8 - Infrastructure

S9 – Environment

S11 – Cullompton

CU1 –North West Cullompton

CU2 –North West Cullompton Transport Provision

CU3 - North West Cullompton Environmental Protection and Green Infrastructure

CU5 - North West Cullompton Carbon Reduction and Air Quality

DM1 – High Quality Design

DM3 - Transport and Air Quality

DM4 - Pollution

DM25 - Development affecting heritage assets

DM26 – Green infrastructure in major developments

### **Cullompton Neighbourhood Plan 2020-2033**

EN01 Protecting and Enhancing the Natural Environment,

EN02 Improving the Public Rights of Way Network

HT03 Improving our Cycle Network

HT04 Improving Footpaths

SD01 Traffic Impact of Major Development Proposals

SD02 Links to the Town Centre

TC01 Designated and Non-designated Heritage Assets

### **Devon Waste Plan 2011-2031**

W4 – Waste Prevention

National Planning Policy Framework

National Planning Policy Guidance

Adopted North West Cullompton Masterplan SPD

## **CONSULTATIONS**

**Cullompton Town Council** – 21 June 2022

The application does not comply with Local Plan Policy CU1 and Neighbourhood Plan Policy SD01.

If permission is to be granted, the following considerations and conditions should be applied:

1. Cullompton Town Council demands an input into the formulation of the Construction Management Plan.
2. There are serious concerns about the width of pavements at Tiverton Road/Fore Street junction and the increased danger to pedestrians resulting from an increased number of LGV movements in and out of this junction.
3. A full traffic assessment and count is required the results of which should be incorporated into any Traffic Management Plan for this proposal.
4. That proper monitoring and enforcement of the Construction Management Plan, particularly in terms of contractor parking the early arrival of LGV traffic waiting to make deliveries to site. In addition, close monitoring of wheel washing and the spreading of mud of the public highway.
5. s38 and s138 of the Planning Act 2008 agreements should be in place prior to construction commencing. (Officer Note – this comment relates to S38 and S278 of the Highways Act 1980)
6. Traffic management measures to alleviate congestion and pedestrian safety issues at the High Street/Tiverton Road junction be conditioned and that, should the construction management plan indicate this junction will be used by construction traffic, these measures are implemented prior to any construction.
7. Provision of a pedestrian crossing in the vicinity of the school crossing patrol area is conditioned.
8. The new link road should be joined to the existing Tiverton Road by means of a roundabout.
9. Provision of a safe signal-controlled pedestrian crossing in the vicinity of the school crossing patrol area on Tiverton Road be conditioned and in place before any construction is started.
10. Parking be removed along Tiverton Road between Fore Street / High Street and the site entrance.
11. The spine road is linked to Tiverton Road by way of roundabout and not a signal controlled junction and in addition, due to their proximity, the junctions of Langlands Road and the entrance to the cemetery should also form part of this junction.
12. Tiverton Road Swept daily during construction (and more regularly if required).
13. Bank person / supervisor on duty at the site entrance at all times when the site is open.
14. No construction traffic to park or wait on Tiverton Road.
15. CCTV installed around site entrance and along Tiverton Road to monitor compliance.
16. No construction traffic to transit to or from the site between 07:30 and 09:30, 15:00 and 18:00 and overnight between 20:00 and 06:00
17. All construction work to stop when a funeral is in progress at the cemetery.
18. Dust Control measures are put in place.
19. It is understood that there is Japanese Knotweed on the site, this is an invasive species and the Landowner have been notified. It should be conditioned that no work is to commence until this Japanese Knotweed is treated and contaminated soil/vegetation removed.
20. Goblin Lane to remain open for the duration of work, providing an essential foot link to the Town Centre.

### **Public Health 16 September 2022**

A comprehensive noise assessment has been submitted by Clarke Saunders dated September 2022. This complies with the relevant noise guidance and includes an Acoustic Design Statement. We have no concerns with the proposals included in this report which relate to good acoustic design and mitigation, as long as the applicant commits to implementing the recommendations within the report.

An updated air quality report has been submitted by Kairus Ltd dated September 2022. The report is comprehensive and we agree with the predictions that there are not likely to be any unacceptable impacts by the new development on existing and future residents. The addition of the spine road will relieve pressure on traffic elsewhere in the town which should benefit air quality. The report includes a Low Emissions Assessment and we have raised queries with the writer regarding the financial contributions calculations. There are clarifications needed, but this outstanding issue need not delay any decision making.

There is no lighting report included at this stage, but we consider that this matter can be addressed by condition to be discharged at a later stage

In addition to noise, air quality and lighting we have also considered the section of the environmental impact assessment relating to potentially contaminated land. This area has been in agricultural use but involves intrusive work over a large area. There is therefore potential for small areas of infill and contaminated material to be encountered. The applicant states that this will be remediated as and when necessary. We agree with this approach and recommend that the "unexpected contamination" condition is included on any approval.

There is potential for the construction process to impact on the local and wider community during the long period of development. We therefore recommend a comprehensive Construction Environment Management plan which takes into account all potential negative impacts, as described in the standard CEMP condition. This condition would be subject to discharge at a later date. I have added below some draft suitable conditions that could cover these first 3 subject areas, and the additional matters of potentially contaminated land and a CEMP:

Noise: The acoustic design statement and recommendations included in the Clarke Saunders noise report dated September 2022 should be implemented in full throughout the period of construction and during the operational stage of this development. Reason: to protect the amenities of existing and future residents from unacceptable levels of noise.

AQ: The recommendations in the air quality report, including the low emission statement, prepared by Kairus Ltd and dated September 2022 should be implemented in full throughout the period of construction and during the operational stage of this development. Reason: to protect the amenities of existing and future residents from unacceptable levels of air pollution and to contribute to an overall improvement in air quality in this area.

Lighting: A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. Reason: To comply with planning policy for the avoidance of light pollution.

Contaminated Land: The standard "unexpected contamination" condition should be included on any approval.

CEMP: The standard detailed CEMP condition should be included on any approval.

Public Health 18 August 2022

We have considered the additional documents recently submitted. On 24 May 2022 we requested that reports were required covering noise, air quality and lighting. These reports are still awaited. We would be pleased to comment on them in due course.

Public Health 24 May 2022

We have considered the application and the environmental health aspects of the comprehensive environmental impact assessment. We have no concerns regarding the findings of the phase 1 contaminated land survey and recommend that the standard "unexpected contamination" condition is included on any approval. There is no noise report included in the EIA, and no reference to air quality. We would be pleased to comment on both reports in due course once they have been received.

This EIA was prepared at outline stage in 2017. The application under consideration now is a major full application and therefore we would also expect to see a lighting report for us to comment on. We would be pleased to comment on this in due course once received.

Public Health 6 May 2022

Licensing - No comments - 14/04/22

Food Hygiene - No comments -14/04/22

Private Water Supplies - No comments - 14/04/22

Health and Safety - No comments - 14/04/22

**Historic England** 15 September 2022

Following our previous advice we have met and discussed the proposals with the applicants and your colleagues and believe the impact on the setting of the monument has been minimised as far as possible. We are now content that the proposal be determined by your authority in line with local and national policy.

**Historic England has no objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF.** Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

Historic England 5 August 2022

This application for the Cullompton NW expansion area, has the potential to impact upon the significance of the Scheduled Monument, two Roman forts and two Roman camps on St Andrews Hill (1019543), through changes to the monuments setting.

Roman forts are rare nationally and are extremely rare south of the Severn Trent line. As one of a small group of Roman military monuments, which are important in representing army strategy and therefore government policy, forts are of particular significance to our understanding of the period. Situated on the prominent St Andrew's Hill immediately to the north west of Cullompton town

centre, overlooking the valley of the River Culm, the Roman remains and in particular the multiple periods of usage, demonstrate their control of the surrounding land and strategic importance to the Romans.

The introduction of new development into the setting of the monument has the potential to impact upon both the rural nature and the outlook, and the strategic importance of the site. In this instance we believe that any impact will be of a 'less than substantial' nature and as such advise that it will be for your authority to determine the application having duly considered the planning balance. We do, however, believe that the proposed layout makes no contribution to the conservation of nationally important designed views from the monument, although we recognise the challenging nature of the site with regards gradients and will be recommending that any subsequent development allows for the inclusion of 'visual corridors' to allow some degree of visual permeability to views from the monument, In this instance you should determine the application in line with local and national policy.

Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. The onus is therefore on you to rigorously test the necessity of any harmful works.

Your authority should also aim to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. Your authority should therefore also seek to improve proposals so that they avoid or minimise harm to the significance of designated heritage assets. We do not believe this proposal meets these requirements.

Your authority should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

If a proposal cannot be amended to avoid all harm, then if the proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use

We are pleased to note a thorough Heritage section has been included in the supporting information and are generally content with the findings of that document in relation to this application. It appears that this statement may be intended to cover the whole of the expansion

area and if that is the case further work will be required, however, for this application it does suffice.

We are also pleased to note that the application includes potential proposals to enhance public understanding and enjoyment of the monument through a package of increased access and the provision of interpretation. We would suggest that the interpretation boards be supplemented by a short monograph intended for general audiences. We would also note that the Scheduled Monument is currently inscribed on the Heritage at Risk register as being 'at risk'. This is primarily as a result of continued cultivation that is believed to be destroying the interior features identified by geophysical survey and aerial photography. Any proposals to remove the monument from cultivation would be likely to also remove it from threat and from the Heritage at Risk Register and, as such would provide significant public benefits for you to consider in your deliberations.

Should you be minded to approve the application we would recommend that a package of public benefits including improved and increased access, on and off site interpretation and removal from cultivation be secured by condition, with the final package to be agreed in writing with myself at Historic England and Mr S Reed at DCC.

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of the NPPF.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

**Devon County Historic Environment Team 21 April 2022**

The proposed new road lies in an area of archaeological potential with regard to known prehistoric and Roman activity in the surrounding landscape, and this is detailed in the supporting heritage information. Construction work will have an impact upon any below-ground archaeological deposits that are present within the application area. For this reason the impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with 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 205 of the National Planning Policy Framework (2021) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM25 (2020), 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 DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

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

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

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/>.

**MDDC Tree Officer** – 13 September 2022

Previous comments made on the 28/7/22 in relation to the 1st revision of the Arboriculture Impact Assessment. Further comments are made relate only to the changes within 2nd revision of the Arboriculture Impact Assessment and the revised landscape plan where no previous comment was made.

Largely, there is very little change between 1st and 2nd revision of the Arboriculture Impact Assessment. No additional significant trees are highlighted for removal. However, there is an

increase of shrub/tree removal of G11. This is a mix of elm, elder, ash, and hawthorn of low amenity value. A further 4m from 7m to 11m is now proposed to be removed. This is viewed as minor and will not have a noticeable impact.

Following previous comments made regarding removal of trees within G66 and G67, both category 'A' groups of trees. The 2nd revision of the Arboriculture Impact Assessment informs that two heavy standard oak trees and one heavy standard beech tree will be planted adjacent to the northern Pegasus crossing. These are not shown on the revised Landscape Strategy. The additional planting is welcomed and will provide suitable mitigation in the medium and long-term.

The proposed tree planning along the proposed bypass only consist of single tree species tree planting of *Betula utilis* 'jacquemontii'. Though an avenue of a one species can appear attractive it would be prudent to have a diverse mix of species in order to provide a greater resilience in the event of potential impact from pest and diseased and climate change. A mix of 30-10-5 (Family-Genus-Species) is typically recommended. It is recommended the tree species selection for planting is reviewed and diversified.

**Tree Officer** - 28 July 2022

The site contains a number of significant oak trees that contribute greatly to the landscape. Collectively all trees present provide moderate amenity value the local landscape. A historic tree preservation ref: 66/00004/TPO protects 6 elms trees on site and 8 oak trees. Due the age of the TPO it anticipated that the elms may not be present or there are regrowth from the previous elms trees present.

The Revised Arboricultural Impact Assessment report dated July 2022 informs that there will be loss of three trees within G66 and G67, both category 'A' groups of trees. G66 removal is required to facilitate the northern Pegasus crossing and G67 require removal to facilitate the construction of the bridleway link between the existing bridleway to the north and proposed Pegasus crossing to the south. Also, lower category trees in group G64 and section of G63 requires removal to facilitate northern Pegasus crossing.

The removal of trees highlighted within the revised Arboricultural Impact Assessment will have an impact on the amenity value of the site and immediately areas. The report notes the loss of these trees can be largely mitigated by the retention of the majority of trees in the area and the implementation of a tree replacement strategy during the soft landscape phase. As the trees highlighted for removal are mature significant component in the landscape. Mitigation planting should be in the form of Advanced Heavy Standard (AHS) or Semi-mature size.

The revised Arboricultural Impact Assessment notes there will be encroachment within the root protection area of G24 to facilitate access for construction of the attenuation banks and outfalls. This impact is viewed as minor and will not have a long-term consequence.

Excavation is also highlighted in the root protection areas of G65 and the retained tree of G67. However, it's unlikely that roots from these trees will extend into the required excavation area due to the bridleway that forms a significant cut from the surrounding ground levels. Despite this there must be protection measure in place before commencing excavation in this area.

At the time of the revised Arboricultural Impact Assessment the routing of the services and utilities is unknown. However, installation of services should seek to avoid root protection areas. Where this is not possible the council should receive a detailed method statement.

In summary, the majority of trees are to be retained. A number of significant and moderate trees require removal to facilitate the proposal. This will result in a loss and amenity value. Some of which is mitigated by the retention of remaining trees and can be further mitigated through appropriate tree replacement planting in the long-term.

#### **Environment Agency 23 May 2022**

We have no objections to this proposal. However, the applicant will need to obtain the appropriate consents for the proposed ordinary watercourse crossings. Advice on this is provided below, together with advice on pollution prevention and waste management.

We inform all relevant parties that the St Georges Well Stream, and other ditch features within the application boundary that perform important land drainage functions, are all designated as 'Ordinary' watercourses. Erection of flow control structures or any culverting of any ordinary watercourses requires consent from the Lead Local Flood Authority (LLFA), which in this instance is Devon County Council. It is best to discuss proposals for any works with them at an early stage.

We observe that the culvert size shown on drawing Avo21085 PLA-380 A01 by Avocet Civil Engineering Consultancy of the St Georges Well Stream would appear to be excessively large, the arrangement highly urban in nature, and we question the need for a personnel screen. These comments are observations only.

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

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

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

The developer must apply the waste hierarchy as a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Government guidance on the waste hierarchy in England can be found here:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69403/pb\\_13530-waste-hierarchy-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69403/pb_13530-waste-hierarchy-guidance.pdf)

Site Waste Management Plans (SWMP) are no longer a legal requirement, however, in terms of meeting the objectives of the waste hierarchy and your duty of care, they are a useful tool and considered to be best practice.

As much material as possible should be re-used on site. If materials that are potentially waste are to be used on-site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc...' in order for the material not to be considered as waste. Meeting these criteria will mean waste permitting requirements do not apply. Where the applicant cannot meet the criteria, they will be required to obtain the appropriate waste permit or exemption from us. The applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. Should a permit be required, they should be aware that there is no guarantee that it will be granted.

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales. The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here: [https://www.gov.uk/uploads/system/uploads/attachment\\_data/file/waste-duty-care-codepractice-2016.pdf](https://www.gov.uk/uploads/system/uploads/attachment_data/file/waste-duty-care-codepractice-2016.pdf)

In order to meet the applicant's objectives for the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Some waste (e.g. wood and wood based products) may be either a hazardous or non-hazardous waste dependent upon whether or not they have had preservative treatments.

Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. In the case of treated wood, it may require high temperature incineration in a directive compliant facility. More information on this can be found here: <https://www.gov.uk/how-to-classify-different-types-of-waste>

#### **Lead Local Flood Authority 12 September 2022**

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:

1. 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.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) 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/00706/2022; dated 12/9/2022), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. We have also discussed the proposals with the applicant's drainage consultant. The applicant has confirmed that they will not be accounting for Parcel 5 within their surface water drainage systems. The two parcels of land either side of the spine road will need to manage surface water appropriately:

The applicant has updated the Drainage Layout Sheets due to the updates in site layout. The detention basins have been altered to attenuation ponds. The basins will now have low flow channels with 'cells' of permanent water. The applicant has confirmed that they will connect the filter drains into the pipework which feeds into the ponds. The applicant has confirmed which areas will drain to each rain garden.

The applicant should submit their SuDS Features Catchment Areas Plan (Revision A01; dated 11th August 2022) to the Local Planning Authority. The applicant should submit the most recent revision of the Flood Exceedance Routes plan (Revision A04; dated 8/9/2022) to the Local Planning Authority. The applicant should route exceedance flows within areas of public open space or highway if possible. The current revision of the Flood Exceedance Routes plan has an exceedance route through a rear garden, but this should be altered. The applicant has also acknowledged that they will need to arrange a private management company for some SuDS features if South West Water will not fully adopt them (as South West Water usually adopt theoretical channels through drainage features which can be classed as a sewer).

#### **Lead Local Flood Authority 5 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 manage surface water within basins before discharging to the Ordinary Watercourses. The applicant has also proposed to manage surface water within an attenuation tank before discharging into South West Water's surface water sewer.

Greenfield runoff rates should be calculated for impermeable areas only. This area should not include allowances for urban creep nor climate change. Allowances for urban creep and climate change should only be included within storage calculations.

The applicant has proposed to drain part of the site into South West Water's surface water drainage system. The applicant must submit correspondence from South West Water to confirm that they will accept these flows into their system.

Attenuation ponds were previously proposed for these catchments. The applicant should clarify whether permanent water levels are proposed within the basins.

The Local Planning Authority should confirm whether they would prefer the basins to contain permanent water levels. The applicant has referred to low flow channels within the basins.

Infiltration tests are referred to within the Surface Water Drainage Strategy (Ref. AVO21085-220223-R-SWDS; Rev. A01; dated March 2022). However, the results of these tests do not appear to have been submitted for this planning application. The Surface Water Drainage Strategy refers to 2 separate Ground Investigation reports, one of these reports has been submitted for 22/00729/MFUL.

The Ground Investigation report (Ref. E05588-CLK-XX-XX-RP-GT-0002) submitted for 22/00729/MFUL encountered groundwater. The applicant should ensure that groundwater will not affect the surface water drainage system.

The applicant should confirm whether the fields either side of the proposed spine road have been accounted for within Catchment 5:

Factors should not be applied to the Pollution Hazard Indices within the Simple Index Approach. Whilst we appreciate that the applicant has proposed rain gardens to treat surface water from the spine road, the applicant should reassess the Simple Index Approach. The applicant should include these rain gardens on the Drainage Layout Sheets.

The applicant should include surface water drainage features within the housing areas. This could provide a SuDS Management Train which provides opportunities for interception losses as well as treatment.

The applicant has submitted maintenance details for the proposed surface water drainage system. The applicant must also confirm who shall be responsible for maintaining the entire surface water drainage system.

The applicant must demonstrate how exceedance flows shall be managed.

The proposed culvert will require Land Drainage Consent from Devon County Council's Flood and Coastal Risk Management Team. For a Land Drainage Consent application, we would require calculations to demonstrate the sizing of the culvert. We would also question the necessity for the proposed grill. The culvert should not impact on the functionality of the watercourse. A clear span

bridge would allow the existing channel (banks and bed) to remain in-situ. An applicant would need to clarify how the culvert would be accessed for maintenance.

The applicant should include flood zones on a plan to demonstrate that the basins/ponds are located outside of flood zones 2 and 3. The applicant should also include the outfalls for all basins/ponds.

#### **Highway Authority – 12 September 2022**

The County Highway Authority would like to add to the comments that a suitable condition to be added to any approval that the offsite highway works for the access on to Tiverton Road shown in drawing PLA-351 Rev AO2 should be completed and available for use prior to occupation of any dwellings.

#### **Highway Authority – 1 September 2022**

The Applicant has addressed all the comments made by the County Highway Authority satisfactorily and included a proposed new junction on to Tiverton Road which is shown in drawing number PLA -351 rev A02, which should be included in approval if the Planning Officer is minded to approve.

Conditions:

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

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

- (l) The proposed route of all construction traffic exceeding 7.5 tonnes;
- (m) Details of the amount and location of construction worker parking;
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

2. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

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

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

### **Highway Authority – 11 May 2022**

The details submitted under planning application number 22/00706/MFUL have been assessed in conjunction with Devon County Council's Highway Design Guidance and current national best practice, including: Manual for Streets 1 & 2 (MfS) LTN1/20 – Cycle Infrastructure Design.

Unfortunately, the proposed highway design and layout, as submitted falls short of the standards acceptable to Devon County Council. Subsequently, the following items should be addressed, or suitably demonstrated to be safe, appropriate to the location, its intended usage, and be generally fit for purpose: It is noted that no Road Safety Audit, or Designer's Response, appears to have been provided to demonstrate that the proposed 3-way signal-controlled junction at Tiverton Road is adequately safe and fit for purpose including capacity suitability for the future number of dwellings to be accessed at this junction.

There are several potential conflict issues and safety risks, which should be considered. These include the adjacent cemetery access, the junction of New Proposed Link road, the start/finish of the foot/cycleway, pedestrian crossing all 3 arms of the junction. What speed control measures have been introduced within the design and layout to manage vehicular speeds appropriately, along the spine road?

This route is relatively wide (6.5m), with exception forward visibility, along the straights and sweeping bends. Property frontage is set well back from the road space and the potential "side friction" (cycle/pedestrian activity) is segregated from the vehicular flow, particularly on the eastern side of the street. Although the vertical alignment may have some positive influence, the only controls on speed are the two signal-controlled junctions at either end (Tiverton Road & Pegasus

crossing) and one “pinch point”, approximately mid-way along the spine road. It is suggested that the introduction of several humped plateaus along the spine road, at major crossing points (Goblin Lane, Pegasus, culverted watercourse, and at significant side road junctions, may be appropriate. Thereby, significantly reducing traffic speed along the route and improving pedestrian cycle movement.

The multi-property private driveways, mews, and forecourts will not be serviced internally, by Council refuse vehicles. This is likely to result in wheelie bins, recycling boxes, etc. being left on the foot/cycle ways and potentially the carriageway of spine road. With the resultant risks and dangers to all road users. It is suggested that appropriate designated hard standing areas to be constructed, within easy reach of the spine road on which the wheelie bins and recycling boxes can be left safely on collection days without interference or hindrance to the users of the adjacent highway, pedestrian, and cycle facilities. The visibility splays from all the side roads and private drives on the eastern side of the spine road should be measured from (x) and along (y) the nearside edge of the adjacent foot/cycleway.

As this facility will take precedence over the traffic movements, and all motor vehicles will need to give-way to these more vulnerable users of the highway. All individual footway/verge crossings serving all private property driveways, fronting the spine road, should be shown on the general arrangement drawings. Currently the layout is misleading in respect to the visual amenity/expectation of the overall street scene. Therefore, the impression of a continuous unbroken verge/rain garden along the east side of the spine road is incorrect. Indeed, where these driveways cross the proposed rain gardens, it may be necessary to re-examine the drainage details, as there will be a significant increase in the impervious areas of construction and/or catchment of surface water run-off may not have been appropriately considered.

It should also be noted that no street furniture (i.e., lighting columns, traffic signs, bins, post-boxes, utility cabinets, etc.) has been shown. Subsequently, no assessment of the potential risks, to pedestrians, cyclists or vehicles has been undertaken.

Consideration should be given to providing a raised kerb/pedestrian platform at the proposed bus stop locations, to improve access to public transport, for mobility impaired users. Also, it is noted that the proposed location for these bus stops is within the undeveloped mid-way point of the spine road. Although this might be optimum, as it is equidistant from the extremities of the site, the location is not considered conducive to the encouragement of public transport usage. Ideally such facilities should be as close to development and the potential users as possible. Shelters and seating should be provided too.

The proposed Goblin Lane Bridleway crossing, and the “Pegasus” (signal controlled) equestrian crossing of the spine road appear overly convoluted and contrived. Ideally, all non-motor vehicle movements should take precedence in residential areas. It is considered that an appropriate Safety Audit should be undertaken and submitted to determine the potential risks and issues, associated with the mix of vehicles, pedestrians, cyclists, and horses.

A Designer’s Response to the RSAs would also be beneficial to understand what assumptions or departures from standard were made as part of the design process. As well as any appropriate

modifications to be made to reduce conflict. The horizontal alignment and general layout of the proposed spine road carriageway and signal controlled junction is considered acceptable, subject to the RSA reports.

Although the proposed gradients along the spine road are generally acceptable, for the expected vehicle movements, the design submitted shows most of the vertical curves have a KF value of +/- 9 or below, with several vertical curves being below the absolute minimum requirement of KF value = +/- 6.5, for an all-purpose highway. Therefore, the vertical alignment for this development is not acceptable. Please note, ideally all vertical sag/hog curves should be a minimum of 30 metres in length, with a minimum KF value = +/-10, especially as there are likely to be significant bus and commercial traffic movements on this spine road.

No details have been provided to assess the vertical alignment of the proposed foot/cycleway, along the eastern side of the spine road. Cyclists require more relaxed undulations in vertical deflection to be both safe and comfortable. Currently, the profile proposed for the spine road carriageway is not considered conducive to general cycle usage. Ideally, gradients along cycle ways should not exceed 5%. Also, cross falls should not exceed 2.5%.

It is noted that the proposed foot/cycleway, on the eastern side of the spine road, is only 3 metres in width. Although suitable for two-way cycling (LTN1/20) there would be little or no room for pedestrians, especially when using prams, or wheelchairs. It is suggested that this facility should be widened appropriately to accommodate all users better (ideally by at least 1m). In addition, this foot/cycle lane facility should have priority over the side road junctions. (LTN1/20)

No cycle facility has been proposed on the west side of the spine road even though similar demand by cycle users could reasonably be expected, from this side of the development. Within the design/layout proposed, there does not appear to be any facilities for cyclists from the west being able to safely access the cycle facility on the east side. Given the overall proposed width of this spine road corridor (15.5m), it is thought that sufficient room could have been made available to accommodate suitable facilities for cyclists and pedestrians, on both sides of a centralised carriageway.

Consideration could have been given to providing this facility on alternate sides of the spine road, with appropriate crossings thereby serving both sides of the development more equitably and providing variety with enhanced side friction (MfS). Alternatively, has consideration been given to an on-road cycleway facility, maybe in a contrast surfacing material (green)? This could potentially be safer with reduced pedestrian/cycle conflict, as well as reduce the need for specific side road junction crossings, blister/corduroy paving, signage, etc. as well as introduce greater side friction, adding to other traffic calming measures to control traffic speeds. Furthermore, it could improve the function and safety of the Tiverton Road traffic signal junction and Pegasus crossing. The County Highway Authority cannot put forward a recommendation until all the above has been satisfactorily been addressed.

## **Public Rights of Way – 22 April 2022**

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

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

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

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

The proposal as submitted directly effects two bridleways. The plans show that Bridleway No.8 is to be diverted and a Pegasus crossing installed to allow safe passage for public users when crossing the road. The diversion will need to be completed prior to the commencement of any work. This should be undertaken by planning Authority under S275 of the Town and Country Planning Act,

Bridleway No.9 is also to be bisected by the same spine road, however it appears that no provision has been given to the safe crossing this new road. The bridleway is a well-used pre-existing highway and must have as a minimum requirement a Pegasus crossing as detailed on Bridleway 8.

I believe that previous correspondence asked how vehicle traffic will be prevented from utilising Goblin Lane as a means of general access through to Willand Road and Tiverton Road. It should be noted that there are existing residential properties which have access rights over the bridleway and need to be considered.

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

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

**Natural England** 17 May 2022

No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Sites of Special Scientific Interest Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

**Devon and Cornwall Police** 19 April 2022

Thank you for this application, I have no objections to the proposal from a designing out crime and anti-social behaviour perspective.

**REPRESENTATIONS**

This application has been advertised by means of a site notice, 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.

44 objections and one general comment from members of the public were received. Where the same person has commented more than once, all the comments are taken into account but are counted as one objection. The grounds for objection and general comments are summarised as follows.

*Construction traffic*

1. Construction traffic chaos through the town centre, increased pollution, noise and vibration detrimental to air quality and the environmental and historic wellbeing of the town.
2. The area the development affects already has poor air quality. Construction traffic will further negatively affect the environment for residents.
3. The Tiverton Road junction cannot take construction traffic.
4. The junction with Tiverton Road, Cullompton town centre and the junction with Station Road are totally unsuitable for sustained building traffic and heavy goods vehicles.
5. Vehicles turning into Tiverton Road have to reverse back into the High Street when large vehicles are waiting to turn out.
6. Tiverton Road is narrow with parked cars and there is no dedicated crossing point, making it dangerous for children going to St Andrew's School and other pedestrians.
7. Construction traffic could delay fire engines leaving the station.
8. Construction traffic could cause damage to the ancient Manor Hotel at the junction.
9. Construction traffic should only be permitted along the new spine road from the Willand Road end and this should be a pre-requisite.
10. It had been previously agreed that the NW spine road was to be completed prior to any dwelling construction, this was to enable heavy plant and delivery vehicles to access the entire site from Millennium Way, thus reducing the impact of construction away from existing residences and Cullompton Town Centre.
11. There is an alternative available to the developers; they can lay the spine road running from Rull Lane / Willand Road to Tiverton Road first, and then all construction traffic can bypass the residential area, the pedestrians, the school children, the heritage action zone, and an area already severely congested.

12. Traffic in the high street gets held up as it is and if construction traffic is allowed to use this road the town will come to a standstill, if construction traffic is queuing then no other vehicles will be able to pass. The spine road must be built first to carry all construction traffic as originally planned. If the spine road is not built then this will pose a high danger to life, which we have already had due to traffic congestion.
13. Tiverton Road is already busy and dangerous. To add construction traffic and more new build residents to this already congested road will simply contribute to the already questionable road safety.
14. Colebrooke Lane, Langlands Road and Swallow Way are not suitable alternatives for construction traffic.
15. Will construction traffic park on the development and not on other roads or bridleways?
16. How has the Neighbourhood Plan been taken into account in considering construction from the Tiverton Road end? Representations by the Town Council have been ignored.
17. Tiverton Road is a high accident area. What risk assessments or road safety audits have been carried out?
18. How will the access to Olympian Way be affected?
19. The Tiverton Road/High Street/Fore Street junction has now been abandoned for construction traffic and 4 other routes proposed. Any route using Fore Street is unsuitable. It is the only road through Cullompton and the main shopping street. It is a bottleneck, used by large vehicles and frequently gridlocked. It will be the route for Stagecoach buses and is the default route when the M5 is closed. The route from Exeter involves a sharp turn at Nag's Head Bridge which involves a sharp turn and causes problems when traffic is diverted from the M5. The road from Tiverton has steep gradients and is narrow with new passing places.

#### *Other construction issues*

20. How long with the construction period last?
21. Goblin Lane must remain viable and accessible throughout the construction period for commuters, walkers, cyclists, disabled scooters, children and care home residents.
22. It is clear that an archaeological team have been on site for over 2 weeks on what is a site of historical importance. Why is this construction being allowed to continue? I believe the onsite team have found an ancient burial ground and all onsite construction should be ceased whilst this is independently assessed.

#### *Operational traffic*

23. Residents will have to wait a few years before the spine road is complete with associated traffic problems. The spine road will not be in place until 500 houses have been occupied. The application states the spine road needs to be in place before development starts – the developer is trying to ignore its obligations.
24. Access onto Tiverton Road will act as a rat run and increase traffic into a residential area.
25. The relief road must be built first to avoid additional traffic in the town centre.
26. It had been assumed that the Town Centre Relief Road would be built first but this may not happen due to financial problems. This calls into question any further development.
27. J28 is not fit for purpose for all the additional traffic and there is queuing at the junction and on station road at certain times of the day.
28. Businesses in the town already struggle because of congestion and more development is going to make this worse.
29. Tiverton Road is not suitable for the access as it is very narrow with a very poor junction onto High Street. Traffic has to wait on High Street if a large vehicle is turning out of Tiverton Road. The increase in traffic from 2 cars per house will add to congestion and air pollution.

30. Tiverton Road is already problematic with no continuous footpath for pedestrians and no public transport, and no viable alternative walking route.
31. Vehicle exhaust particulates in Tiverton Road already cause problems.
32. Road infrastructure is overloaded and traffic pollution is a serious issue.
33. The large traffic using Tiverton Road is forever having to use the pavement to pass each other. There are a lot of children daily walking up and down Tiverton Road and it is only a matter of time before something tragic happens.
34. There must be action to increase public safety on Tiverton Road, it is a dangerous road now and with the school access as well, surely there needs to be more scrutiny here from the Highways Department and MDDC.
35. The construction of the urbanization and accompanying road will increase the traffic to an unsustainable and dangerous level.
36. The spine road needs to be of sufficient width and no cars allowed to park on it. Swallow Way is 6m wide with parked cars and large vehicles cannot get through.
37. What clauses ensure the developers must complete the spine road? The penalty for not undertaking the work must be enough for another developer to complete the work, plus additional monies to be paid to Cullompton Town council as compensation to spend on updating and creating much needed community improvements and facilities, such as the swimming pool and ensure our medieval town centre is restored. It cannot be that the fine for breaching the agreement for not completing the spine road is significantly less than it would be to build the road.
38. The access onto Tiverton Road is essentially a T junction, surely this type of junction for such a busy road is unsuitable. There must be a better direct link onto Langlands Road, or perhaps a roundabout should be considered.
39. Kingfisher Reach development should have helped traffic flow this side of the town, but due to the misguided use of Swallow Way as a residential street this has resulted in additional congestion, and further use of Langlands Road.

#### *Other infrastructure*

40. Cullompton does not have the infrastructure for more housing: schools, banks, shops and amenities and no current railway station.
41. The continuing problems in Kingfisher Reach particularly with sewers/drainage do not give confidence that further development will not exacerbate existing infrastructure issues.

In addition, 3 representations from Cullompton Ward Members were received, as follows:

1. The proposal must comply with the Cullompton Neighbourhood Plan, currently it does not, in particular, policy SD01. Given that this is a material consideration, the application should be rejected on this basis alone.

Mid Devon District Council, the landowners and developers of the Cullompton Northwest extension have chosen to completely ignore representations regarding the Northwest development made by the Town Council and residents over a number of years, in particular the timing of the full Spine Road and the impact that a late delivery will have on the Town and its residents (both existing and those that will move into the new homes). The full spine road linking Willand Road and Tiverton Road needs to be in place before any other work starts. At the very least a road needs to be laid for construction traffic to access the site from Willand Road (via Millennium Way), and then all construction traffic can bypass the residential area, the pedestrians, the school children, the heritage action zone, and an area already severely congested and an area that suffers horrendous air quality. The plan, as presented, will negatively affect everyone in Cullompton for years to come. Infrastructure must come first, the spine road must come first.

Policy CU1 of the Local Plan states:

"3.70 There are severe traffic congestion problems on Cullompton High Street and at its junction with Tiverton Road, having an adverse effect on air quality, living conditions and the attractiveness of the town centre. This development will be required to provide a road linking Tiverton Road to Willand Road, not only diverting traffic from the new development away from the town centre but also providing an alternative route for other vehicles. Traffic management measures on Willand Road and Tiverton Road will also be required."

Waiting until house 140 (or around 3 years) to provide this road is clearly not in accordance with policy CU1 and is simply a perverse interpretation.

Should Mid Devon District Council choose to ignore the Neighbourhood Plan, the Local Plan and the rights of the local people, and to approve this application, the following conditions should be mandated.

1. Traffic management measures to alleviate congestion and pedestrian safety issues at the High Street/Tiverton Road junction be conditioned and that should the construction management plan indicate this junction will be used by construction traffic that these measures are implemented prior to any construction.
2. Provision of a safe signal-controlled pedestrian crossing in the vicinity of the school crossing patrol area on Tiverton Road be conditioned and in place before any construction is started.
3. Parking be removed along Tiverton Road between Fore Street / High Street and the site entrance.
4. The spine road is linked to Tiverton Road by way of roundabout and not a signal controlled junction and in addition, due to their proximity, the junctions of Langlands Road, and the entrance to the Cemetery should also form part of this junction.
5. Tiverton Road swept daily during construction (and more regularly if required)
6. Bank person / supervisor on duty at the site entrance at all times when the site is open.
7. No construction traffic to park or wait on Tiverton Road.
8. CCTV installed around site entrance and along Tiverton Road to monitor compliance.
9. No construction traffic to transit to or from the site between 07:30 and 09:30, 15:00 and 18:00 and overnight between 20:00 and 06:00.
10. All construction work to stop when a funeral is in progress at the cemetery.
11. Dust Control measures are put in place
12. No work to commence in the area there is Japanese Knotweed until treated and contaminated soil / vegetation removed.
13. Goblin Lane to remain open for the duration of work, providing an essential foot link.

2. Whilst of course I do not object to the spine road being built (in fact it already has permission) and wish the entire road to be constructed and in full public use as soon as possible I have serious concerns that this new application appears to be an attempt by the applicant to bypass conditions in relation to the hybrid application 17/01346/MOUT which were approved by planning committee in November 2021 (granting full planning permission for this section of the link road and outline permission for housing on this site.) and to avoid obligations set down in the S106 agreement which the applicant signed in relation that application. The applicant has stated that the S106 does not allow any development to be commenced (including the spine road) until they have entered into Section 38/S278 agreement and claims that would result in a delay to them being able to start development.

I do not consider it acceptable to relinquish the requirement for entering into a Section 38/S278 prior to any development, this is not just some new development estate road, and it

is part of a vital piece of road infrastructure for Cullompton. As such it is essential that the Highways Authority and the community of Cullompton have the control and protection that Section 38 agreements can provide, (for example protections such as: the specifications for construction being agreed with the local highway authority, local authority highways engineers inspecting the work at key phases, requiring a bond between the developer and local highway authority to ensure the proposed works can be satisfactorily completed in the event of any default or unforeseen circumstance.)

Concerns around the road not being built to the required standard, or being left as a 'road to nowhere' for unnecessary time (both scenarios we have experienced in Cullompton) can hopefully be mitigated through the above being entered into in advance.

The developers were aware of the terms when they signed the S106 agreement. The developer of the neighbouring site with the other part of the link road had similar terms. It would be unfair to treat the two developers involved in the link road differently.

Should this application be approved I would ask that the Section 38\S278 agreements in advance of development still form part of the conditions.

The prospect of opening the site from Tiverton Road end is causing great concern amongst residents and local businesses. I share their concerns and their reasons are recognised within the Local Plan.

Policy CU1 of the Local Plan states:

“3.70 There are severe traffic congestion problems on Cullompton High Street and at its junction with Tiverton Road, having an adverse effect on air quality, living conditions and the attractiveness of the town centre. This development will be required to provide a road linking Tiverton Road to Willand Road, not only diverting traffic from the new development away from the town centre but also providing an alternative route for other vehicles. Traffic management measures on Willand Road and Tiverton Road will also be required.”

It had not previously been envisaged that construction would begin from the Tiverton Road end. Large vehicles have difficulty negotiating this junction - frequently mounting pavements, causing other vehicles to need to reverse and hang back to give room. The pavements near the junction are extremely narrow, unpleasant and dangerous to use. The adjacent listed building is on record as having been structurally damaged from the vibrations of heavy vehicles. This is a route used by many young children accessing St Andrews Primary School, who I understand currently do not even have the benefit of a school crossing patrol person. These are well known long standing issues which must now finally be addressed. This junction as it stands is not suitable for construction traffic.

I don't think this application meets the requirements of the traffic management measures on Tiverton Road referred to in the above policy. I had always thought that the "traffic management measures on Tiverton Road" referred to was for measures intended to address the current problems at the High Street end of Tiverton Road. Measures should be considered to address the safety issues for pedestrians around the Tiverton Road/High Street junction and around the school crossing area. For example the pavements could be widened and a one way traffic light system installed such as the A373 junction with Honiton High Street. The school crossing patrol area could be enhanced with a zebra crossing. Such measures would also help encourage future outward bound traffic to use the new link road instead of the town centre.

I also wonder whether the junction of the new link road with Tiverton Road would work better as a roundabout, especially if that is to be the route which outward bound traffic will be 'encouraged' to use.

Should this application be approved I would ask that:

1. Traffic management measures to alleviate congestion and pedestrian safety issues at the High Street/Tiverton Road junction be conditioned and that should the construction management plan indicate this junction will be used by construction traffic that these measures are implemented prior to any construction.
2. Provision of a safe pedestrian crossing (e.g. zebra) in the vicinity of the school crossing patrol area be conditioned.
3. Consideration be given to joining the new link road to Tiverton Road by means of a roundabout.

2.I endorse all the points raised by other Councillors in their submissions. If this new application is permitted, it will have to meet the requirements of the Cullompton Neighbourhood Plan. This applicant cannot be permitted to renege on the financial obligations already agreed and which, importantly, apply to the other developers. This application cannot be permitted to create any further negative impact on congestion in the centre of the Town, nor to increase pollution levels.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. Principle of development
2. Traffic generation
3. Road design and layout
4. Flood risk and drainage
5. Ecology, landscaping and trees
6. Heritage
7. Pollution, air quality and waste management
8. Construction Management
9. Planning balance

### **1. Principle of development**

- 1.1. Policy S1 sets out sustainable development priorities for the District including the need for appropriate infrastructure. Policy S2 directs most development to the main towns and policies S3 and S4 set out the housing requirements and targets for the District. Policy S8 seeks to ensure that new development is served by necessary infrastructure in a predictable, timely and effective fashion. Development and transport planning will be co-ordinated to improve accessibility for the whole community and promote the use of sustainable modes of transport. Policy S11 sees Cullompton as the strategic focus of new development reflecting its accessibility, economic potential and environmental capacity, improving access to housing through urban extensions and expanded employment opportunities.

- 1.2. To support this development requirement, policy CU1 of the Mid Devon Local Plan 2013-2033 allocates a site of 100 hectares to the North West of Cullompton for mixed use development to include provision of a road linking Tiverton Road to Willand Road, and transport provision to ensure appropriate accessibility for all modes. Policy CU2 sets out transport provision policy for NW Cullompton including a requirement for the provision of a network of streets linking up with the existing highway network; and, including a through route linking Tiverton Road to Willand Road suitable for buses and all agricultural vehicles. Policy CU6 requires the occupation of no more than 500 dwellings on the urban extension before the opening of a 'through route' linking Willand Road to Tiverton Road.
- 1.3. The adopted NW Cullompton Urban Extension Masterplan SPD sets out guidance for the delivery of the urban extension, including the type and approximate location of the spine road.
- 1.4. As mentioned above, outline planning permission with all matters reserved, reference 17/01346/MOUT, was granted in 2021 for 200 dwellings including the southern section of the spine road, and full planning permission reference 17/01178/MFUL was granted at the same time for the northern section of the spine road. The principle of a spine road connecting Tiverton Road and Willand Road has therefore been established through these planning permissions.
- 1.5. The current application has been submitted as part of the detailed design process. It was clear that some of the elements needed to construct the link road, such as embankments and drainage features, fell outside the original red line of the outline planning permission. It is not possible to consider a reserved matters application where some of the development falls outside of the red line of an outline planning permission. Therefore, a full application has been submitted to include all the elements required to deliver the southern section of the spine road.
- 1.6. The outline application was subject to Environmental Impact Assessment and the Environmental Statement submitted at the outline application stage has been re-submitted for completeness, and has been updated with further technical reports where necessary.
- 1.7. A signed Section 106 Agreement was secured through outline planning permission 17/01346/MOUT. This includes a trigger for the delivery of the southern section of the spine road before 100 houses are occupied on the southern land parcel. The same trigger has been applied to the northern section of the spine road through the Section 106 Agreement for that planning permission. Therefore the two halves of the road need to be completed and open for use before 100 houses can be occupied on each land parcel. There is also a requirement within each Section 106 Agreement for Section 38/278 legal agreements to be entered into with the Highway Authority before commencement of development, meaning that the technical detail of the on and off-site road and footway provision must be agreed with the Highway Authority and a legal agreement entered into to ensure delivery of the roads and footways in accordance with the approved details.
- 1.8. The principle of the development of a spine road has therefore already been established through adopted planning policy, the Masterplan SPD, and the two planning permissions mentioned above. The only reason a full application is now being considered rather than a

reserved matters application is because some of the elements required to deliver the road fall outside of the original red line boundary. The principle of development has previously been established and is considered to comply with the relevant policies set out in this section.

## **2. Traffic generation**

- 2.1. Much concern has been raised about the proposal increasing traffic generation through the town centre and along Tiverton Road in particular. Objectors consider that the spine road needs to be open before any houses are occupied, and indeed before any construction takes place. Representations cite the text to policy CU1 of the Mid Devon Local Plan and SD01 of the Cullompton Neighbourhood Plan.

*“CU1. There are severe traffic congestion problems on Cullompton High Street and at its junction with Tiverton Road, having an adverse effect on air quality, living conditions and the attractiveness of the town centre. This development will be required to provide a road linking Tiverton Road to Willand Road, not only diverting traffic from the new development away from the town centre but also providing an alternative route for other vehicles. Traffic management measures on Willand Road and Tiverton Road will also be required.”*

*“SD01 Proposals for major development which are required to provide a Traffic Impact Assessment must demonstrate how the proposal will mitigate any negative impacts of the traffic generation associated with the proposed development on Cullompton town centre, including vehicular access/egress and circulation arrangements. Road infrastructure requirements should be in place in good time so as to prevent an unacceptable impact on the existing road network, and the town centre in particular, as a result of the development.”*

- 2.2. Policy CU1 requires the provision of a road linking Tiverton Road to Willand Road, and transport provision to ensure appropriate accessibility for all modes and this application is for that road. As mentioned above, outline planning permission has previously been granted for this section of the road. The principle of development has been established.
- 2.3. Policy CU6 sets out the phasing of infrastructure delivery for the NW Cullompton urban extension and requires occupation of no more than 500 dwellings on the urban extension before the opening of a ‘through route’ linking Willand Road to Tiverton Road.
- 2.4. The road passes through two different land parcels in different ownership. The northern section of the road already has planning permission and is being delivered by Persimmon Homes (17/01178/MFUL). The southern section is the subject of this application, but effectively already has planning permission through the original outline planning permission (17/01346/MOUT), albeit the road in its proposed form is not able to be delivered within the red line boundary of the outline.
- 2.5. The Section 106 Agreements with these planning permissions limit the number of occupations on either site to 100 before the relevant section of the road is completed. There is no policy requirement for the road to be in place before any homes can be occupied, the policy trigger for occupations being 500.

- 2.6. When these planning applications were considered, traffic generation from both developments was considered to be acceptable to the Highway Authority, and this is still the case. Through the traffic capacity work that took place when the planning permissions were granted, the Highway Authority confirmed that the first 600 houses can be delivered at NW Cullompton before the Town Centre Relief Road needs to be open and there is also capacity at Junction 28 of the M5 for this traffic.
- 2.7. The proposed new priority junction with Tiverton Road has capacity to take traffic from the whole development and the Highway Authority is satisfied with the proposal.
- 2.8. Representations have suggested that a Zebra crossing should be installed in Tiverton Road close to St Andrews School, and that parking should be removed in Tiverton Road. Both of these cannot be secured by condition as they would require specific Traffic Orders. The Highway Authority has confirmed that the existing school crossing patrol arrangements are acceptable and that there is no evidence of a need for a Zebra crossing. Construction traffic is no longer accessing the site from Tiverton Road from the east.
- 2.9. Overall, although traffic generation from the development is a contentious issue locally, technical reports submitted when the original outline planning permission was considered, and through the submission of this application, indicate that the level of traffic generation is acceptable to the Highway Authority, subject to the junction prioritisation being completed before any house is occupied that is accessed from this part of the spine road. It is considered that the proposal complies with policies set out in this section.

### **3. Road design and layout**

- 3.1. Policy S1 seeks good sustainable design that respects local character, heritage and surroundings and creates safe and accessible environments. Policy S8 requires that development and transport planning will be coordinated to improve accessibility for the whole community and promote the use of sustainable modes of transport. Policy DM1 requires high quality design demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Policy DM3 seeks to ensure safe access to the transport network. Policy CU2 requires the provision of bus, pedestrian and cycle routes at appropriate locations, creating an attractive, permeable network for non-car modes travelling within, into and out of the area. Policy CU3 requires the protection and enhancement where possible of all existing Public Rights of Way.
- 3.2. Policy EN02 of the Cullompton Neighbourhood Plan supports measures to improve and extend the existing network of public rights of way and bridleways so long as their value as biodiversity corridors is recognised, protected and efforts are made to enhance biodiversity wherever appropriate. Policy HT03 supports proposals that further the development of an accessible network of cycle routes in and around Cullompton. Policy HT04 requires footpaths provided by new development to be a minimum of 2000mm in width, which should link to existing networks to facilitate easy and safe pedestrian access to the town centre and public facilities and services. Policy SD01 requires proposals for major development to mitigate any negative impacts of the traffic generation on Cullompton town centre and requires road infrastructure to be in place in good time to prevent an unacceptable impact on the existing road network, and the town centre in particular. Policy SD02 requires all major

developments to include provision for accessible pedestrian and cycle routes and connections that link safely to the wider network of routes.

- 3.3. The proposed road has a carriageway width of 6.5 metres with a 2 metre wide footway on the eastern side, and a 3 metre wide shared foot and cycle way on the western side, separated from the carriageway by a 2 metre wide grass verge with trees and rain gardens incorporated into the verge. There are build-outs along the length of the road to reduce traffic speeds. The road is designed to be a bus route and to be the main route for pedestrians and cyclists through the urban extension.
- 3.4. The road incorporates two 'Pegasus' crossings which are designed to be suitable for pedestrians, cyclists and horse riders. A section of Bluebell Lane bridleway is to be diverted to allow gradients to be reduced on the approaches to the crossing and to improve visibility. Currently, the bridleway is a sunken lane and very muddy and the diversion and surface improvements secured at outline stage will increase usability of the public right of way. A 100 metre section of road and the Pegasus crossing itself were granted full planning permission through the 'hybrid' outline planning permission reference 17/01346/MOUT.
- 3.5. Where the spine road crosses Goblin Lane, a second 'Pegasus' crossing is to be provided offering a safe route for pedestrians, cyclists and horse riders to cross the spine road. Goblin Lane will be subject to a minor diversion only in the vicinity of the crossing point.
- 3.6. Representations have been made that Goblin Lane should remain open for the duration of work, providing an essential foot link. Devon County Council's Rights of Way Officer has advised that the diversion works to the public right of way would need to be completed prior to the commencement of other work. An application would be needed to divert Goblin Lane. If a temporary closure is required, a Temporary Traffic Regulation Order would be needed, but this should not be an alternative to adequate safety measures to mitigate risk. The grant of planning permission does not grant the right to close, alter or build over a right of way or road, even temporarily.
- 3.7. The road will require embankments along its route to ensure appropriate gradients. Development either side of the road (subject to separate planning applications) will then be built up to the road, with embankments remaining only where there is no development such as where the road crosses St George's Well stream, and at the access from Tiverton Road.
- 3.8. Tiverton Road itself will be prioritised so that the road enters the development from the east, with a new T-junction with Tiverton Road to the east, so that traffic will be encouraged to flow along the spine road rather than continuing along Tiverton Road. On leaving the development, traffic will flow to the west along Tiverton Road, then into Swallow Way, or make a left turn to access Tiverton Road to the east and on to Langlands Road or the town centre. At the outline application stage, the Highway Authority confirmed that no traffic management measures were required in Tiverton Road.
- 3.9. Representations have been made that a roundabout would be more suitable at this junction. A roundabout is not an option that the applicant has put forward and it is understood that this is because a roundabout is not considered to be cycle and pedestrian-friendly and there is not enough land to accommodate one effectively with workable pedestrian and cycle routes.

The Highway Authority is satisfied that the proposed priority junction works for the capacity of the whole development. A stage 1 safety audit has been carried out and approved by the Highway Authority.

- 3.10. The Highway Authority considers that its initial concerns set out in the first consultation response have been addressed satisfactorily and has removed its objection, subject to conditions relating to construction management, estate road details and surface water drainage.
- 3.11. A substantial amount of work has been completed in order for the design and layout of the road to be acceptable to the Highway Authority and to your officers. The proposed road now meets the policy requirements in the Local Plan, highways standards, and the guiding principles set out in the adopted Masterplan SPD, subject to conditions as set out below in the conditions section of this report.

#### **4. Flood risk and drainage**

- 4.1. Policy S9 requires the provision of measures to reduce the risk of flooding to life and property; requiring sustainable drainage systems including provisions for future maintenance; guiding development to locations of lowest flood risk; and, avoiding an increase in flood risk elsewhere. Policy DM1 requires appropriate drainage including Sustainable Drainage Systems (SUDS) and arrangements for future maintenance. Policy CU3 requires provision of a strategically designed, and phased, Sustainable Urban Drainage Scheme to deal with all surface water from the development and to ensure arrangements for future maintenance are put in place.
- 4.2. The spine road is located entirely within Environment Agency Flood Zone 1 (lowest risk of flooding) although there is a risk of flooding from the minor watercourse that runs through St George's Well. Flooding from minor ordinary watercourses is not shown on the Environment Agency flood maps. The road will be on an embankment as it crosses St George's Well and there will be a culvert beneath the road to accommodate the flow from this minor watercourse.
- 4.3. The Environment Agency has confirmed it has no objections to the proposal, but has set out a number of observations and recommendations, and confirmed that arrangements for the culvert and other drainage features should be agreed with Devon County Council as Lead Local Flood Authority as they are responsible for ordinary watercourses. The development is also within the Cullompton Critical Drainage Area where development has more stringent requirements in terms of provision for surface water.
- 4.4. Surface water from the road will be directed to rain gardens along the grass verge in the road then on to a number of attenuation basins. At the Tiverton Road junction where it is not possible to drain into a basin, a cellular tank will be installed.
- 4.5. Following initial objections from the Lead Local Flood Authority, further information has been provided by the applicant and the Lead Local Flood Authority has confirmed that its objection is withdrawn. It has recommended a condition to cover detailed drainage design; the

management of surface water and silt runoff from the site during construction; proposals for adoption and maintenance; and, how exceedance flows will be safely managed.

- 4.6. Subject to conditions, it is considered that the surface water drainage proposals for the road are acceptable and meet the policy requirements set out in this section of the report.

## **5. Ecology, landscaping and trees**

- 5.1. Policy S9 seeks the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape. Policy DM1 requires development to make a positive contribution to local character including any biodiversity assets. Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site for biodiversity mitigation, resulting in a net gain in biodiversity, for flood and water resource management, and to provide green corridors to link the site to the wider GI network. Policy CU3 requires a strategic landscaping and tree planting scheme to protect and enhance trees, hedgerows and other environmental features which contribute to the character and biodiversity, maintaining a wildlife network within the site and linking to the surrounding countryside.
- 5.2. Policy EN01 of the Cullompton Neighbourhood Plan seeks to protect important ecological sites and wildlife corridors and to incorporate enhancements into development wherever possible.
- 5.3. An arboricultural impact assessment has been submitted which has been considered by the Trees Officer. It will be necessary to remove a number of trees and two sections of hedgerow to accommodate the new road. Three category 'A' trees are to be removed, along with 8 small groups of trees and two sections of hedgerow. Tree and hedgerow loss has been minimised as far as possible, but as the road crosses a number of field boundaries and two tree lined bridledways, it has not been possible to avoid the loss of all trees and hedges. The Officer has concluded that there will be a loss of amenity due to tree loss, however, this would be mitigated by additional planting.
- 5.4. It is proposed to replace the lost trees and hedges with new planting, including a number of street trees along the route of the road. The tree report states that two heavy standard Oaks and 1 heavy standard Beech will be planted adjacent to the northern crossing. As not all the replacement planting and new landscaping will be within the red line for this application, and the layouts are still be worked up for the associated housing development, it is recommended that approval of a landscaping scheme is conditioned.
- 5.5. Retained trees and hedges will need to be protected during construction. It is recommended that a tree protection plan and arboricultural method statement are conditioned for approval.
- 5.6. It is also proposed to incorporate rain gardens within the grass verge along the western side of the spine road. These will incorporate planting to act as water treatment and retention facilities, as well providing amenity and biodiversity benefits.
- 5.7. An ecology report has been submitted for the spine road that also covers the associated housing developments that are subject to separate applications. Natural England Licences

will be needed to close one outlier Badger Sett and to remove hedgerows that are suitable for Dormice. The Licences will require comprehensive method statements to be agreed with Natural England, with their terms and conditions subsequently being closely followed.

5.8. To gain an EPS Licence from Natural England, the proposed development must satisfy three criteria:

1. The development must be for reasons of overriding public interest;
2. There is no satisfactory alternative; and,
3. The favourable conservation status of the species concerned will be maintained and/or enhanced i.e. through appropriate mitigation.

5.9. The conclusion of the report is that subject to mitigation, connectivity will be maintained for Dormice across the site. The provision of the new road is considered to be for reasons of overriding public interest, with no alternative that would have less impact on protected species. The above criteria are considered to be met. The proposals would also retain connectivity for bats and use lighting that will minimise light spill. Mitigation in respect of lighting is included within the submitted Construction Environment Management Plan (CEMP), however, a sensitive lighting strategy would be required for the operational phase of the development. As this strategy will need to be developed to take into account the associated housing development, it is recommended that this is conditioned for approval.

5.10. In addition, the ecology report indicates that the development as a whole can provide an overall biodiversity net gain as part of green infrastructure provision for the southern land parcels in the control of the applicant.

5.11. As it is not possible to secure a biodiversity net gain within the narrow red line of the spine road application, it is recommended that a condition be added to secure a biodiversity net gain either on or off-site. The ecology report submitted indicates that a biodiversity net gain is achievable over the spine road, phase 1 and phase 2 applications that have been submitted by the applicant in respect of the southern land parcel.

5.12. Subject to the conditions as set out in the conditions section of this report, it is considered that the proposal is capable of meeting the policy requirements set out in this section of the report with regard to ecology, landscaping and trees.

## **6. Heritage**

6.1. Policy S1 of the Mid Devon Local Plan seeks to conserve and enhance the historic environment through protection of heritage assets and by assessing the impact of new development on historic character. Policy S9 requires the protection of listed buildings, conservation areas, scheduled monuments and local heritage assets. Policy CU3 requires archaeological investigation and measures to record, and where necessary, protect the archaeological interest of the site and seek design solutions which respect the settings of listed buildings. Policy DM25 requires proposals likely to affect the significance of heritage assets to consider their significance, character and setting, and to examine opportunities to enhance them.

- 6.2. Policy TC01 of the Cullompton Neighbourhood Plan requires development proposals affecting designated and non-designated heritage assets to comply with national policy and the development plan.
- 6.3. The National Planning Policy Framework affords great weight to the conservation of heritage assets and requires that any harm arising from development must be clearly justified. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.4. The proposed route of the spine road lies to the west and north of St Andrew's Hill Scheduled Monument and has the potential to adversely affect its setting, including in views out from the Roman forts. However, the road is a policy requirement in the Local Plan being part of the NW Cullompton urban extension, which has also been comprehensively master planned within the Masterplan SPD. The road also has the benefit of outline planning permission, and is acceptable in principle along its proposed route.
- 6.5. In their initial response, although Historic England were satisfied with the findings of the submitted Heritage Report, they raised concerns about the proposals and concluded that the development would represent 'less than substantial harm'. The response received is not limited to the road itself, but also refers to the layout proposed in the associated reserved matters application for 200 dwellings Ref: 22/00735/MARM.
- 6.6. Discussions have been had with Historic England to better understand their concerns and to ensure the design of the road addresses these concerns. Historic England have submitted a revised consultation response that concludes that Historic England has no objection to the application on heritage grounds and they consider that the application meets the requirements of the NPPF.
- 6.7. The response also refers to the implementation of a package of interpretation measures. These were secured by condition under the outline planning permission 17/01346/MOUT and are yet to be submitted for approved.
- 6.8. Historic England also commented on the Scheduled Monument being at risk though its cultivation. The Monument is outside the NW Cullompton Urban Extension and in different land ownership. Members should note that any change to its access and cultivation cannot be secured through this application.
- 6.9. Historic England's comments conclude that they have concerns regarding the application on heritage grounds. They consider that the issues and safeguards outlined in their advice need to be addressed in order for the application to meet the requirements of the NPPF. However, the harm identified in the response relates to the layout of the housing development rather than referring to the road itself. The 'less than substantial harm' identified is focused more on the housing than the road. Introducing a road into the setting of the Monument still represents less than substantial harm and must be weighed against the public benefit. Whilst great weight must be attached to conservation of heritage assets, the provision of a road linking Willand Road to Tiverton Road that is necessary for the delivery of

the NW Cullompton urban extension and that will also benefit existing residents, is considered to outweigh any identified harm.

- 6.10. There are two Grade 2 listed chapels in the cemetery adjoining the road access point with Tiverton Road. The spine road access would be cut into the sloping ground and there will be an embankment leading up to the cemetery at a higher level. A retaining wall is also proposed and details of this feature will be conditioned for approval through the estate roads condition. Details of landscaping will also need to be submitted for approval to ensure an appropriate buffer between the road and the cemetery. No other listed buildings are considered to be affected by the provision of the road.
- 6.11. MDDC's Conservation Officer has not been able to formally comment on this application, however, he has been involved in discussions with Historic England and raised similar concerns. At the outline stage, the Conservation Officer's comments were directed more towards potential issues with the layout, rather than the road itself. A Sensitive Lighting Scheme and appropriate landscaping are considered capable of reducing negative impacts on the cemetery's listed buildings and the Scheduled Monument.
- 6.12. The road is within an area of archaeological potential for pre-historic and Roman activity. Devon County Council's Heritage Environment Records Team require archaeological investigation to be carried out to record any findings, and have recommended a condition requiring a Written Scheme of Investigation to be approved.
- 6.13. The Heritage Team at Devon County Council has had full oversight of the archaeological investigations undertaken so far. Whilst it is not clear from the representation received which land is being referred to, investigations are currently taking place on the northern land parcel rather than on this site.
- 6.14. It is considered that the proposals would have an acceptable impact on heritage assets, when balanced against the public benefit of the proposals as set out in the National Planning Policy Framework, and to otherwise comply with the Local Plan policies set out in this section of this report.

## **7. Pollution, air quality and waste management**

- 7.1. Policy DM3 requires that development proposals that give rise to significant levels of vehicular movement must be accompanied by a Transport Assessment; Traffic Pollution Assessment; and, Low Emission Assessment; and, should propose mitigation measures where appropriate, including impacts on local air quality. Policy DM4 requires development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution to be accompanied by a Pollution Impact Assessment and mitigation scheme where necessary. Policy CU5 requires development to mitigate against impacts on air quality.
- 7.2. The application is accompanied by the Environmental Statement that was submitted with the outline application. This includes a full transport assessment, as well as updated reports on air quality and low emissions, noise and geo-environmental conditions.

- 7.3. The reports have been considered by MDDC's Public Health officers. Officers are satisfied with the geo-environmental report and have recommended a standard unexpected contamination condition should any unexpected contamination be discovered.
- 7.4. The air quality and low emissions report and the noise report indicate that any increases in emissions and noise will be within acceptable levels. MDDC's Public Health Officers have raised no objection to the content of these reports subject to suitable conditions being added to any planning permission that may be granted, with advice on relevant conditions being provided.
- 7.5. Policy W4 of the Devon Waste Plan requires planning applications for major development to include a Waste Audit Statement demonstrating how the demolition, construction and operational phases of the development will minimise the generation of waste and provide for the management of waste. A Waste Management Plan has been submitted that includes information on the policy requirements and is considered to be acceptable. It is recommended that compliance with the Waste Management Plan is conditioned.
- 7.6. Subject to conditions, it is considered that the potential impacts of pollution and waste can be managed acceptably in order to accept the proposals, and the proposals are therefore in accordance with the policies set out in this section of this report.

## **8. Construction management**

- 8.1. Substantial concern has been raised with regard to construction management and in particular the routes for construction traffic. Much of the concern was around the suitability for construction traffic of Tiverton Road and the junction with High Street. Representations were made that the spine road should be constructed from the Willand Road end first, with all construction traffic using the new road.
- 8.2. It is normal practice to condition that a Construction Management Plan be submitted for approval before work starts. However, due to the sensitivity of this issue and the potential impacts on the town centre and Tiverton Road, a draft of the document has been submitted with the application.
- 8.3. The submitted Construction Environment Management Plan (CEMP) excludes construction traffic from using the Tiverton Road/High Street junction and proposes four different routes for construction vehicles: from the M5 via the town centre, the lower part of Swallow Way and Langlands Road; from Willand following the same route; from Exeter on the B3181, Meadow Lane, Swallow Way and Langlands Road, and from Tiverton along Tiverton Road. Your officers have discussed the proposed routes with the Highway Authority who have confirmed that whilst the route from Tiverton in particular is narrow and steep in places, all are acceptable to them, being public highway with no weight restrictions.
- 8.4. Although the CEMP is still in draft at this stage, agreement has been reached with the applicant on amendments with regard to a number of points of clarification. It is therefore recommended that the final CEMP is conditioned for approval, with Cullompton Town Council being consulted when the final document is submitted to discharge the condition.

- 8.5. With regard to construction traffic all coming from the Willand Road end of the new spine road, this is not a policy requirement. It was originally envisaged that the road would be constructed from the north and from the south, with construction traffic for the southern section of the urban extension accessing the site through St George's View. This is the approach set out in the adopted Masterplan SPD, which is currently being revised to exclude this. However, there have been many objections to this, including to the loss of a valued tree covered by a Tree Preservation Order, and it is no longer intended to use St George's View as an access.
- 8.6. The northern section of the spine road is in different ownership to the southern section. There is no obligation on the developer of the northern section to allow construction traffic for a different developer to have access through its construction site.
- 8.7. The Town Council has set out a number of requirements in respect of the CEMP. The draft CEMP contains the following provisions:

Road sweeping: measures will be taken to prevent slurry/spoil on the public highway from vehicles leaving site during the works. Should sediment / mud be tracked onto Tiverton Road, a programme of road sweeping along Tiverton Road will be administered by the site management on an as required basis.

Bank person / supervisor: All delivery traffic is to be banked and guided on and off-site.

No traffic to wait or park on Tiverton Road: No parking / offloading / waiting shall be permitted anywhere off-site e.g. along Tiverton Road and BDW will place appropriate signage near to the entrance of the site along Tiverton Road to enforce no parking / waiting / offloading etc. A compound is to be provided on site for all parking.

No construction traffic to transit to or from the site between 07:30 and 09:30, 15:00 and 18:00 and overnight between 20:00 and 06:00: Construction traffic will enter/leave the site between 09:00 and 18:00 Monday to Friday and 09:00 to 13:00 on Saturday with no Sunday or Bank Holiday working. Delivery vehicles will enter/leave the site between 09:00 and 18:00 Monday to Friday and 09:00 to 13:00 on Saturday with no Sunday or Bank Holiday deliveries. As construction traffic will not be using Tiverton Road, there is no need to restrict construction and delivery traffic during school pick up and drop off times.

Dust Control measures are put in place: To comply with air quality measures damping down loose materials and/or covering loose materials in windy conditions, monitoring / recording of dust levels, as well as making sure all work areas are well ventilated to prevent dust build up, will be carried out. The Site Manager will undertake regular dust monitoring inspections to ensure that dust levels are monitored and controlled and where necessary will ensure that suitable dust suppression methods are employed to deal with any residual issues in areas close to properties.

The applicant is unable to ensure that work will stop when a funeral is in progress at the cemetery due to there being no regular schedule or volume estimate. However, workers will be made aware that funerals may happen and to be respectful of such.

CCTV is not being installed around site entrance and along Tiverton Road to monitor compliance. This is not a highway safety requirement specified by the Highway Authority.

No work to commence in the area where there is Japanese Knotweed until treated and contaminated soil / vegetation removed. This is not part of the CEMP, but is incorporated in the Landscape Management Strategy.

- 8.8. There is no set period for completion of construction but it is estimated that work on the road will be completed within 2-3 years.
- 8.9. Whilst it is inevitable that construction traffic and works will cause some disruption on a development of this size, provided the Construction Environment Management Plan is fit for purpose and is followed, the impacts on the environment, roads and the amenities of residents will be minimised as far as possible. The final CEMP will need to be agreed in consultation with Public Health, the Highway Authority and Cullompton Town Council.

## **9. Planning balance**

- 9.1. The principle of the development of this section of the spine road has already been established through an earlier outline planning permission. Subject to conditions, this proposal is considered to be acceptable in terms of the design and layout of the road; accessibility for pedestrians and cyclists; road safety; flood risk and drainage; (air quality, ground conditions and noise – if required); and, construction management. Landscaping and ecological enhancements will be conditioned to ensure that the road is considered in the wider context of the development of the urban extension, and archaeological investigation will also be required before development starts. Less than substantial harm has been identified by the spine road to the setting of the Scheduled Monument. Whilst great weight must be attached to conservation of heritage assets, the provision of a road linking Willand Road to Tiverton Road, which is necessary for the delivery of the NW Cullompton urban extension and, which will also benefit existing residents, is considered to outweigh any identified harm. Overall, it is considered that any negative impacts of the proposal can be mitigated adequately, or are outweighed by the public benefit of the scheme.

## **CONDITIONS**

- 1. The development hereby permitted shall be begun before the expiration of one year from the date of this permission.
- 2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
- 3. No development 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.

The development shall proceed only in accordance with the approved details, which shall also include a timetable for implementation of each element of the works (a) to (d) above. Once provided, the permanent surface water drainage system shall be maintained in accordance with the approved details for the lifetime of the development.

4. No development shall commence on any part of the site until the Local Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) including:

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

(p) measures to protect habitats and protected species during construction, including a sensitive lighting plan;

(q) soil management measures including areas where no soils will be stockpiled or deposited.

Construction shall be carried out only in accordance with the approved CEMP.

5. The proposed estate road, cycle ways, 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.
6. 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.
7. 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 previously submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
8. No development shall take place until a Tree/Hedge Protection Plan detailing trees and hedges to be removed and to be retained, and an Arboricultural Method Statement detailing how retained trees and hedges will be protected during the construction period, have been submitted to and approved in writing by the Local Planning Authority. The tree and hedge protection shall be in place before development on the site begins and shall remain in place during the entire period of construction on site, and shall only be removed following written confirmation from the Local Planning Authority.
9. No development shall begin until a Landscaping Scheme has been submitted to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include details of all planting and sowing, including size, species and numbers of trees and plants, ground preparation, management and maintenance, as well as methods to eradicate invasive species (Japanese Knotweed). All planting, seeding, and earth works comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following substantial completion of the development (or phase thereof) whichever is the sooner, and any trees or plants which within a period of 10 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.

10. No development shall begin until details of habitat creation to demonstrate a biodiversity net gain (either on or off-site) have been submitted to and approved in writing by the Local Planning Authority. Details shall include full details of planting and other habitat creation works, a habitat balance sheet, timescales for implementation, and details of long term management and maintenance.
11. The development shall proceed in accordance with the submitted Waste Management Plan dated 16 February 2022.
12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of remediation measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
13. No lighting shall be installed on site except in accordance with a Sensitive Lighting Plan which shall have been previously submitted to and approved in writing by the Local Planning Authority. The Sensitive Lighting Plan shall take into account habitats and protected species and the setting of St Andrew's Scheduled Monument. In addition, the Sensitive Lighting Plan shall comply with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.
14. The off-site highway works to provide the junction prioritisation indicated on drawing number PLA-351 Rev AO2 shall be completed and available for use before first occupation of any dwelling accessed from the section of the spine road the subject of this planning permission.
15. The acoustic design statement and recommendations included in the Clarke Saunders noise report dated September 2022 shall be implemented in full throughout the period of construction and during the operational stage of this development.
16. The recommendations in the air quality report, including the low emission statement, prepared by Kairus Ltd and dated September 2022 shall be implemented in full throughout the period of construction and during the operational stage of this development.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of the NPPF and Planning Practice Guidance, to help ensure the road delivered early to release housing development on the site and aid traffic movements.
2. For the avoidance of doubt in the interests of proper planning.

3. The condition is 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, and S9, DM1, CU1 and CU3 of the Adopted Mid Devon Local Plan 2013-2033. The condition should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction.
4. To ensure that adequate on-site facilities and protections are provided on site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the environment and the amenities of the adjoining residents. The condition should be pre-commencement since it is essential that these facilities and protections are in place before works begin.
5. To ensure that adequate information is available for the proper consideration of the detailed proposals.
6. In the interest of public safety and to prevent damage to the highway.
7. To ensure, in accordance with Policy DM25 of the Adopted Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), 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.
8. To ensure trees and hedges are protected on site in the interests of ecology and amenity, in accordance with policies S9, DM1, DM26 and CU3 of the Adopted Mid Devon Local Plan 2013-2033.
9. To ensure that the development provides an attractive environment and compensates for loss of trees, hedges and other habitats, in accordance with policies S9, DM1, DM26 and CU3 of the Adopted Mid Devon Local Plan 2013-2033.
10. To ensure lost habitats are replaced and enhanced to provide net gains in biodiversity in accordance with the provisions of policy CU3 of the Adopted Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.
11. To ensure that waste on site is managed appropriately, in accordance with policy W4 of the Devon Waste Plan 2011 – 2031 (Adopted 2014).

12. In the interests of public health and safety and to accord with the provisions of policy DM4 of the Adopted Mid Devon District Local Plan 2013-2033.
13. In order to protect wildlife habitats from light pollution in accordance with the provisions of the National Planning Policy Framework, and to minimise the impact of the development on the setting of heritage assets and the future surrounding development in accordance with policies DM4 and DM25 of the adopted Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.
14. To ensure that the required junction is available for use when houses on the site are first occupied.
15. To protect the amenities of existing and future residents from unacceptable levels of noise in compliance with the provisions of policy DM4 of the Adopted Mid Devon Local Plan 2013-2033.
16. To protect the amenities of existing and future residents from unacceptable levels of air pollution and to contribute to an overall improvement in air quality in this area in compliance with the provisions of policy DM4 of the Adopted Mid Devon Local Plan 2013-2033.

#### **REASON FOR APPROVAL OF PERMISSION**

The principle of development of a road on the site is already established by the granting of outline planning permission 17/01346/MOUT. Consideration has been given to the design and layout of the road, traffic generation and road safety, surface water drainage, pollution and air quality, landscape and ecology and construction management and, subject to conditions, the proposal is considered to be acceptable in these respects. Less than substantial harm has been identified to the setting of the Schedule Monument. Whilst great weight must be attached to conservation of heritage assets, the provision of a road linking Willand Road to Tiverton Road that is necessary for the delivery of the NW Cullompton urban extension and that will also benefit existing residents, is considered to outweigh the harm identified. The proposal is therefore considered to be in accordance with policies S1, S2, S4, S8, S9, S11, CU1, CU2, CU3, CU5, DM1, DM3, DM4, DM25 and DM26 of the Mid Devon Local Plan 2013-2033 and policies SD02, SD03, SD04, SD05, HT04, HS01, HS02, HS04, EN01, EN02, HD03, HD04, SD01, SD02 and TC01 of the Cullompton Neighbourhood Plan and W4 of the Devon Waste Plan, as well as the National Planning Policy Framework.

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. 22/01255/MFUL

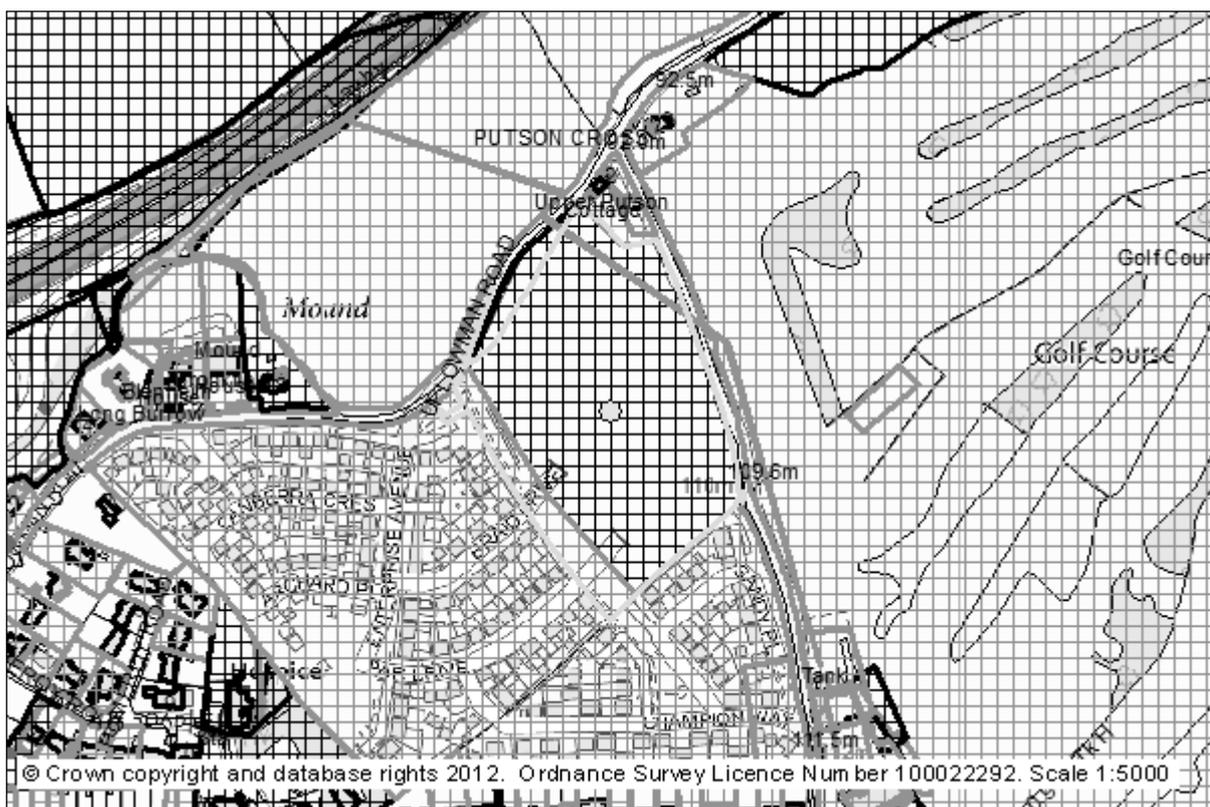
Grid Ref: 298768 : 113600

Applicant: Mr A Busby, MDDC

Location: Land at NGR 298768 113600  
Uplowman Road  
Tiverton  
Devon

Proposal: Erection of 70 affordable dwellings including associated roads, footpaths, landscaping and amenity area

Date Valid: 27th June 2022



## **APPLICATION NO: 22/01255/MFUL**

**Site Visit: Not required    Date of Site Visit: N/A**

**Decision Delayed Reason: N/A**

### **RECOMMENDATION**

Grant permission subject to conditions and the prior signing of a S106 legal agreement to include:

- Education contributions: £15,889.

### **PROPOSED DEVELOPMENT**

This is a full planning application for the construction of 70 affordable dwellings including associated roads, footpaths, landscaping and amenity area.

The application site forms part of the Tiverton Eastern Urban Extension which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033. The application has been subject to pre-application discussions (22/00409/PREAPP) and been presented to a Design Review Panel (3 March 2022 and 9 May 2022).

This application forms part of an earlier outline planning application (13/01616/MOUT) that gave planning consent for 330 dwellings north and south of Uplowman Road.

The applicant was required to deliver 21.5% affordable housing under the requirements of outline planning permission 13/01616/MOUT. The area of land, forming this application, was subsequently transferred to the Local Authority along with the responsibility to deliver the affordable housing.

The site comprises of 1 agricultural field. On the eastern boundary is Putson Lane with Tiverton Golf Course beyond. A mature hedge bank separates the site from Putson Lane. The existing point of access from the site on to Putson Lane has more recently provided access to the Braid Park construction compound. To the south and west is Braid Park. A recent development; largely complete under Reserved Matters Application 18/00133/MARM. The Sustainable Urban Drainage System (SUDs) of Application 18/00133/MARM lies immediately adjacent to this application site on the western boundary. It is characterised as a stepped surface water channel with an adjacent public footpath. The Adopted Masterplan foresaw this serving an important place making function: as a green spinal corridor and recreational route framed around the hedgerow (retained within the Braid Park development: 18/00133/MARM). Directly to the north of the application site is Uplowman Road, separated by a mature Devon hedge bank, and beyond development forming part of the Outline Planning Application (13/01616/MOUT), Reserved Matters Application (18/00133/MARM) and more recent Full Planning Application (21/00128/MFUL) now under construction and known as Fairfax Heath.

A high pressure, trunk water main runs along the eastern boundary of this application site. A 4.5m easement strip is required either side of the water main – thus restricting any form

of development in immediate proximity. The water main is of such size and pressure, that it would be unviable to re-route it. A high voltage electricity cable is located along the western boundary of the site.

In addition to the 70 dwellings, the application proposes an attenuation pond, on-site public open space and green infrastructure and children's play with walking and cycling routes integrated into the wider network of provision.

Surface water drainage will be conveyed through the site generally via a below ground piped system. However, provision is made for rills and water gardens and an attenuation pond within the layout. Discharge rates (that are restricted to a rate, circa 40%, lower than the allowance within the downstream network) will be attenuated on site via a combination of below ground storage features and the attenuation pond. The basin is designed to provide amenity and bio-diversity value. It is the intention that the majority of the network will be passed to the Water Authority for adoption, upon completion. The controlled discharge from this development will pass into the Braid Park SUDs and into the attenuation basins adjacent to the A361. It has been approved by the Lead Local Flood Authority.

Foul drainage will be dealt with by a piped gravity system that will connect to the adjacent Braid Park development. The Braid Park development was designed such that foul water spurs were made available to connect to this proposed development. The foul water system will be passed to the Water Authority for adoption, on completion.

This application will require the signing of a Section 106 Agreement between Devon County Council and the applicant, conditional upon the grant of planning permission. It will make provision for an Education contribution.

In accordance with the requirements of the Environmental Impact Assessment Regulations 2017 (as amended), this application has been accompanied by a design and Access Statement (June 2022) detailing compliance with the Environmental Statement pursuant to Application 13/01616/MOUT.

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

Existing Location Plan: 1816-SBA-XX-XX-DR-A-0900(A)  
Existing Block Plan: 1816-SBA-XX-XX-DR-A-0901(A)  
Constraints and Opportunities Plan: 1816-SBA-XX-XX-DR-A-0503(A)  
Boundary Treatment Plan: 1816-SBA-XX-XX-DR-A-504(A)  
Parking Plan: 1816-SBA-XX-ZZ-DR-A-050A  
Storey Heights Plan: 1816-SBA-XX-XX-DR-A-506(A)  
Building Regs M4 (2) Compliant Homes: 1816-SBA-XX-XX-DR-A-507(A)  
External Areas Plan: 1816-SBA-XX-XX-DR-A-508(A)  
Proposed Refuge Strategy Plan: 1816-SBA-XX-XX-DR-A-510(B)  
Proposed Site Plan –Slab Levels: 1816-SBA-XX-ZZ-DR-A-511(B)  
Proposed Site Plan: 1816-SBA-XX-XX-DR-A-595(G)  
Proposed Site Roof Plan: 1816-SBA-XX-XX-DR-A-596(D)  
Proposed Aerial Views –North East: 1816-SBA-XX-ZZ-DR-A-0530(A)

Proposed Aerial Views –North West: 1816-SBA-XX-ZZ-DR-A-0531(A)  
Proposed Aerial Views –South East: 1816-SBA-XX-ZZ-DR-A-0532(A)  
Proposed Aerial Views –South West: 1816-SBA-XX-ZZ-DR-A-0533(A)  
Street Elevations -A-A, B-B: 1816-SBA-XX-ZZ-DR-A-0520(A)  
Street Elevations -C-C, D-D: 1816-SBA-XX-ZZ-DR-A-0521(A)  
Street Elevation -E-E: 1816-SBA-XX-ZZ-DR-A-0522  
Street Elevation -F-F: 1816-SBA-XX-ZZ-DR-A-0523  
Site Section -01: 1816-SBA-XX-ZZ-DR-A-0525(A)  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0010 (C) Apartment 1B2P  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0011 (C) House 1B2P, Terrace A  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0012 (B) House 1B2P, Terrace B  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0013 (C) House 2B4P, Terrace A  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0014 (C) House 2B4P, Terrace B  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0015 (C) House 2B4P, Terrace C  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0016 (C) House 3B5P, Semi-detached  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0017 (C) House 3B5P, Town House  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0018 (C) House 4B7P, Wide (Plots 53 & 54)  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0019 (C) House 4B7P, Narrow (Plot 25)  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0020 (B) House 4B7P, Wide (Plots 26 & 55)  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0021 (B) House 4B7P, Narrow (Plots 01, 08 & 60)  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0022 (B) House 3B5P, Semi-detached (Plot 66).  
Plans and Elevations: 1816-SBA-XX-ZZ-DR-A-0023 (B) House 3B5P, Town House (Plot 34).  
Bin Enclosure: 1816-SBA-XX-XX-DR-A 0030: 2 bed terrace  
Bin Enclosure: 1816-SBA-XX-XX-DR-A 0031: 2 bed terrace end unit  
Bin Enclosure: 1816-SBA-XX-XX-DR-A 0032: Free standing. Serving 1 property  
Bin Enclosure: 1816-SBA-XX-XX-DR-A 0033: Free standing. Serving 2 properties  
Footway Linkage Plan: 1600-PL01  
Cycle-path visibility

Arboricultural Impact Assessment & Method Statement  
Surface Water Drainage Strategy & Flood Risk Assessment  
SuDs Strategy Plan: 1501 PL01  
Overland Exceedance Plan: 033 1550 PL01  
Contractor's Site Waste Management Plan Statement  
Ecological Appraisal  
BNG Report  
EMEMP Report  
Biodiversity Metric 3.1 Auditing & Accounting for Biodiversity Calc. Tool Macro Enabled  
Drainage Strategy & FRA  
Highways Layout Drawing: 1100 PL02  
Highway Adoption Plan: 1110 PL02  
Highway Longitudinal Section: 1120 PL01 & 1121 PL01  
Footpath Longitudinal Sections: 1122 PL01

Section 38 Drawing  
Tracking & Visibility Splays Drawing  
Construction Phase Surface Water Management Statement  
Statement of Community involvement  
Landscape Character Areas  
Landscape Proposals  
Landscape Management Plan  
Hydrant Locations Plan: 17168-HYD-XX-XX-DR-FP-1000\_PO1\_S5  
Water Meters Locations Plan: 17168-HYD-XX-XX-DR-ME-1000\_PO1\_S5  
Low Emissions Report: 17168-HYD-XX-XX-RP-ME-5000\_PO2\_S5  
ASHP Data Sheet: Econdan\_QUHZ-W40VA\_Monobloc\_Air\_Source\_Heat\_Pump  
Waste Management Plan

## **RELEVANT PLANNING HISTORY**

81/00014/FULL - PERMIT date 27th May 1981  
DEEMED CONSENT for the erection of high voltage overhead lines  
13/00053/SCR - CLOSED date 1st March 2013  
Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 1)  
13/00054/SCR - CLOSED date 1st March 2013  
Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 2b)  
13/00055/SCR - CLOSED date 1st March 2013  
Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 2a)  
13/00056/SCR - CLOSED date 1st March 2013  
Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 3)  
13/01616/MOUT - PERMIT date 18th September 2015  
Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements.  
18/00133/MARM - PERCON date 29th August 2018  
Reserved Matters application, pursuant to Outline application 13/01616/MOUT, for the construction of 248 dwellings, 3 Gypsy and Traveller pitches, public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure - Non Material Amendment 19/00607/NMA - Granted 13/05/2019, Non Material Amendment - granted 26.09.19, 19/01731/NMA - Non Material Amendment Granted 01.11.19, 19/01903/NMA - Granted 18.11.19, 19/02011/NMA - Non-Material Amendment Granted 08/01/20. 20/02024/NMA - Non-Material Amendment - Granted 08/01/2021.  
18/00133/MARM - Non-Material Amendment - Granted 27/04/2021  
19/01002/NMA - PERMIT date 26th September 2019  
Non Material Amendment for 18/00133/MARM to allow changes to the design of the swales  
19/01903/NMA - PERMIT date 18th November 2019  
Non Material Amendment 18/00133/MARM for the revised orientation of the electricity substation

19/02011/NMA - PERMIT date 8th January 2020

Non Material Amendment for 18/00133/MARM to allow raising the levels of plot 11

21/00110/NMA - PERMIT date 27th April 2021 Non-Material Amendment for

18/00133/MARM to allow amendment to construction traffic routes to and from the site, along with entrance points to the site, for each area (North & South)

## **OTHER HISTORY**

17/01007/PREAPP - CLO date 10th July 2017

PROTECT: Proposed Reserved Matters advice for the erection of 259 dwellings, public open space and associated infrastructure following Outline 13/01616/MOUT

22/00409/PREAPP - PCO date

PROTECT: Erection of 70 affordable dwellings

## **INFORMATIVES**

Site allocation under the Adopted Local Plan 2013-2030

Master planned under the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)

Tiverton EUE Design Guide (2016)

Refuse Storage for New Residential Properties SPD

Parking SPD

Meeting Housing Needs SPD

Open Space SPD

National Planning Policy Framework 2021

## **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable Development Priorities

S2 Amount and Distribution of Development

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

TIV15 Tiverton Infrastructure

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  
DM28 Other Protected Sites

## **CONSULTATIONS**

### **DEVON HISTORIC ENVIRONMENT TEAM: 30 June 2022.**

An assessment of the Historic Environment Record (HER), the results of the geophysical survey and subsequent intrusive field evaluation of the site, as well as the details submitted by the applicant does not suggest that the scale and situation of this development will have any impact upon any known significant heritage assets. The Historic Environment Team has no comments to make on this planning application.

### **DEVON, CORNWALL, & DORSET POLICE: 30 June 2022**

From a designing out crime and anti-social behaviour perspective, I have no objections in principle to the proposal.

The applicant's reference to the standards of Secured by Design being considered across the development site (Design & Access Statement - 5.9 Security) is noted and welcomed. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services which aims to improve the security of buildings and their immediate surroundings in order to provide safer places and sustainable communities. When considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPTED), helps provide a safe and sustainable development and community. CPTED:

**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 well managed to prevent creating areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping, littering and dog fouling etc. to go unnoticed.

**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 2019 and ADQ

**Activity:** Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear 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, fear of crime and ASB.

The general layout proposed would appear to offer both active frontages and good overlooking of the new internal streets and open space and the use of back to back gardens where feasible is noted and supported. The boundary and plot separation treatments are noted. If existing hedgerow is likely to form any rear or side garden boundaries, 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. Consideration must also be given to not diminishing the effectiveness of the existing boundaries of neighbouring properties.

The proposed parking strategy is would appear adequate. From a designing out crime and disorder perspective it is vital that the parking provision is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles and designed so it is convenient and practical to use, as this will encourage its use by residents and reduce the level of unplanned / inappropriate parking elsewhere. It is the elsewhere that can introduce a source of conflict and animosity amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

It is recommended communal parking courts be lit to the relevant levels as recommended by BS 5489-1:2020.

All communal bin and bicycle stores should be designed with internal lighting and a lockable door to ensure they are secure and prevent unauthorised access. The locking system must be easily operable from the inner face by use of a thumb turn to ensure that residents are not accidentally locked in by another person.

The bicycle rack/hoops should have a minimum foundation of 300mm with a ground anchor.

#### **TIVERTON TOWN COUNCIL: 8 July 2022**

Tiverton Council would like clarification as to whether this is affordable, as listed, or social housing. The Government policy is for affordable housing to be pepper potted around a development site, and not placed on mass like this proposal is. The site does not comply with the requirements of distance to a primary school, as per Government policy. Tiverton Council are unable to support this application.

#### **PUBLIC HEALTH: 18 July 2022**

Neither objecting to nor supporting the Planning Application. Comments are as follows: We have no concerns regarding house design and are pleased to see enhanced glazing and passivhaus standards. However we have noted that Monobloc air source heat pumps are intended for each property, located on rear patios immediately adjacent to neighbouring properties, and sometimes back to back with a timber fence between. The noise level at 1m is quoted as 43dB in the optimum conditions, suggesting that at times it will be louder. If this is the case then low frequency noise may affect both the occupiers and their neighbours. Please could the applicant provide more information relating to the background noise level, the frequency spectrum and how these units incorporate noise

control measures, particularly against low frequency noise. There is potential for almost all residents to be affected by noise from this equipment if it exceeds the daytime or night time background noise levels by any more than 3dB.

Environmental matters were considered at outline stage and we recommend that the standard CEMP and Unexpected Contamination conditions are included on any approval. We would be pleased to comment on the additional information regarding the ASHPs when it has been received.

#### **PUBLIC HEALTH: 6<sup>th</sup> September 2022**

The public health team have been provided with some additional information about the air source heat pumps. We would prefer if the applicant had obtained real background noise data because they need to demonstrate that the noise from the air source heat pumps will not exceed the background noise level to such an extent that they impact on the beneficial residents or their neighbours. We do feel that this is a good scheme overall, and the passivhaus approach does minimise the potential to open windows. The advice provided to the applicant is that facing the pumps away from the homes and erecting a timber fence between them will attenuate the noise a bit. In this area, with the road close by, we would anticipate that the background noise level is around 30-35dBa during the night and in the daytime, and information from the applicant suggests that the pumps will measure about 43dB at 1m. Therefore the pumps are likely to be audible outside at times, but inside it is unlikely because of the high specification windows. Our conclusion, on receipt of the additional information, is that the pumps are not anticipated to unreasonably impact on close by residents whilst they are in their homes. Therefore we have no ongoing concerns about this proposal. Should the units cause problems once installed the occupiers will need to contact their landlords for assistance in resolving issues.

#### **LEAD LOCAL FLOOD AUTHORITY: 20 July 2022**

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

The applicant has proposed to manage surface water within 2 underground tanks and a detention basin. The system will drain into the Braid Park surface water drainage system at the Qbar rate. This was previously accounted for within the Reserved Matters permission (18/00133/MARM).

The applicant should indicate locations within the site which could be suitable for rain gardens and rills. Freeboard within basins should be at least 300mm. The applicant should confirm whether the management company for the Braid Park site will also maintain this proposed surface water drainage system. The applicant should depict proposed exceedance routes on a site plan.

#### **LEAD LOCAL FLOOD AUTHORITY: 9 September 2022**

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.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) 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/01255/2022; dated 20th July 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 indicated where rills and rain gardens could be located. At the detailed design stage, the applicant will need to confirm the locations of these features. The applicant will also need to confirm whether any planting is proposed for the rills, as well as what type of planting is proposed for the rain gardens. Cross-sections will be required for both features to demonstrate their formation. Inlets and outlets should be depicted for the rain gardens. At the detailed design stage, maintenance responsibilities for the entire surface water drainage system will need to be confirmed. The applicant has confirmed that a freeboard of 300mm will be included for the proposed detention basin.

#### **DCC EDUCATION: 21 July 2022**

Devon County Council has identified that the proposed increase of 50 family type dwellings would generate an additional 12.5 primary pupil and 7.5 secondary pupils which would have a direct impact on the primary schools within Tiverton and Tiverton high school.

It has been forecast that the Primary Schools in Tiverton have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will not seek a contribution towards additional education infrastructure at the local primary school.

However Tiverton High is forecast to have capacity for 91% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 9% of the total number of

pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £15,889 (based on the DfE extension rate of £23,540 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

All contributions would be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to contributions requested should be applied from this date.

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.

**DCC HIGHWAY AUTHORITY: 25<sup>th</sup> July 2022**

The site is accessed off a private road which is yet to be adopted by Devon County Council and is restricted to 30MPH.

The Transport Assessment for this site was carried out under 13/01616/MOUT which assessed the whole area and the impact this site would have on the highway network, and therefore not part of this full application.

As this is a full application the County Highway Authority would like the applicant to put forward the long section drawings showing the footways across the site to ensure the gradients will meet with the guidance's.

The proposal shows three accesses to this site and a number of footway connections to the existing development. It also shows a cycle and pedestrian connection on to Putson Lane although I cannot see the visibility plan for this access to show this has a safe and suitable access. Therefore the County Highway Authority cannot put forward a recommendation until the above have been submitted and assessed.

**DCC HIGHWAY AUTHORITY: 15<sup>th</sup> September 2022**

Further Information Provided

The Applicant has submitted the long section drawing which meet with the guidance's, although concerns were raised with regards the steps which lead to the North and South of the Development. The Applicant has since submitted Drawing Number 1600 PL01 which clearly shows there will be a footway which will connect throughout the site which is suitable for all pedestrians without the need to use the steps.

The Drawing labelled Cycle path Visibility shows the visibility for the cyclist leaving the site onto Putson Lane and is acceptable. Therefore the County Highway Authority has no objection to this application

Recommendation:

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

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

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

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.

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.

### **SOUTH WEST WATER: 27<sup>TH</sup> July 2022**

SWW neither object to nor support the Planning Application. Comments are as follows: Please find attached a plan showing the approximate location of a public 700mm trunk water main in the vicinity of the above proposed development. Please note that no development will be permitted within 4.5 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 4.5 metre easement, the water main will need to be diverted at the expense of the applicant.

#### **Clean Potable Water**

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

#### **Foul Sewerage Services**

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.

#### **Surface Water Services**

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

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

### **SOUTH WEST WATER: 5<sup>TH</sup> September 2022**

Following the submission of additional information, South West Water has no further comment or concern.

### **ROYAL DEVON UNIVERSITY HEALTHCARE NHS: 5 August 2022**

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be

formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

Royal Devon University Healthcare NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. This development will create potentially long term impact on the Trust ability to provide services as required.

The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Furthermore, it is important to note that the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide the services and capacity required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

#### CIL Regulation 122

The Trust considers that the request made is in accordance with Regulation 122:

“(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.”

#### S 106

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £107,933.00 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are available.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

#### **TORBAY & SOUTH DEVON NHS FOUNDATION TRUST: 14 July 2022**

NHS Devon will not seek a contribution as it supports the growth of affordable housing as it creates opportunities for low paid health care workers to own their own homes thus increasing local employment opportunities for the health sector. However should any of these homes be made available for the open market then the developer is advised to make an allowance of £579 per open market home in order to mitigate the additional impacts created on the local GP surgeries.

## **TIVERTON CIVIC SOCIETY: 3 August 2022**

We strongly approve the Passivhaus design which would be used for the design of these 70 affordable dwellings, which is important in achieving both net-zero emissions and high energy efficiency. In general, we also approve of the layout of the development, and we appreciate the fact that the proposals are in keeping with the local vernacular and that it is planned that local materials, including natural stone, will be incorporated in the new houses. We also have no argument with the need to provide more affordable and social rent dwellings in Tiverton.

However, we have strong reservations about several aspects of the proposed scheme:  
1. Concerns about the nature of the application, its site and location.

Although the parcel of land of the present application was included in approved outline application 13/01616/MOUT, and subsequent revisions, which was for a much more extensive area. It was left entirely blank and we consider that the present application should be considered as an outline application. 'As a minimum outline planning applications should include information on:

- The uses proposed for the development and any distinct development zones.
- The amount of development proposed for each use, and the indicative layout.
- An indication of the minimum and maximum height, width and length of proposed buildings.
- Areas in which access points to the site will be located.

Outline planning applications for most developments will require a design and access statement.' (Ref. Department for Communities and Local Government) The Design and Access statement suggests that several issues need to be satisfactorily resolved. For instance, on Page 36 it is stated that 'The parcel of land associated with this application only links into the historic road network on Uplowman Road, with a cycle/pedestrian link through onto the top of Putson Lane.

Opportunities to directly link into or improve the local network are therefore extremely limited under this application'. In addition, it is not clear that some suggestions of the Design Panel have been acted upon.

2. Concerns about the distribution and number of the homes within the overall housing development.

Only two similar Passivhaus developments of this scale have so far been completed in this country. These are the Saffron Acres Passivhaus affordable homes development of 68 houses at Leicester, completed in 2019, and the Primrose Park Passivhaus affordable homes development of 72 houses at Whitleigh, Plymouth, completed in 2018. Both these developments, built on brownfield sites within the boundaries of large cities are on largely level sites, and both have excellent access to public transport, Saffron Acres being very close to two railway stations as well as a wide range of bus services. Saffron Acres is also very close to shops and services and includes a community food project. By comparison, the proposed scheme, which we consider to be flawed and overambitious, would be constructed on a greenfield site, until recently productive farmland, on the edge of a medium-sized rural town. It would be built on a far from ideal steep north western-facing

slope, and, as stated in the Design and Access Statement (6.3) 'As the orientation of the houses has been severely limited by the topography of the site they are not necessarily in the optimal orientation in terms maximising light and minimising solar gain. As such the window sizes, roof overhang, window reveal depth and the incorporation of some brise soleil have all needed to be considered, in order to compensate for the sub-optimal orientation of some houses limiting solar capture'. In addition, on completion this unsatisfactory development is likely to have poor access to services, including infrequent and often unreliable bus services, education and social facilities, and retail outlets:

- Recent estimates suggest that there is sufficient capacity in existing Tiverton Primary Schools for some years ahead, and this is likely to significantly delay construction of the proposed Primary School in the Neighbourhood Centre in the Tiverton Eastern Urban Extension. There is no safe pedestrian access to Tidcombe School, and Wilcombe School is not easily accessible. It is the statutory right for free school transport to be provided in such circumstances, and this should be confirmed before planning consent is granted.
  - Until and unless funding is accessed for completion of the full A361 junction, further residential development in the TEUE will not be possible if the phasing in the TEUE Masterplan is followed and therefore shops and other services in the proposed TEUE Neighbourhood Centre are unlikely to be provided until they become viable.

### 3. Concerns about social inclusion.

The majority of Passivhaus schemes in this country are small, typically no more than about 20 houses, a typical, well-designed, example being the 20- house affordable housing scheme at St Ives in Cornwall.

NPPF 92 states that 'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which... promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other' and most councils now stipulate that affordable housing should be distributed throughout new developments e.g. 'The integration of affordable homes within market housing developments works towards social inclusion and against segregation, in accordance with the Government's aims for balanced, mixed and sustainable communities. Affordable units should not be grouped together in a single cluster but evenly distributed or 'pepper potted' across the entire site. If a cluster of affordable housing is proposed this should be proportionate to the size of the development' (Halton).

An example of current practice can be found in York, where Mikhail Riches, designer of the Stirling Prize winning Grosvenor Square scheme in Norwich, to build 600 Passivhaus dwellings, positioned to create maximum solar gain; the aim being to create mixed and inclusive communities with a minimum 40% of affordable, shared ownership and social rental.

A major aim of the TEUE Design Guide is to reduce individual isolation, a major social problem on many post-war housing developments, with its attendant mental and physical health problems. It is not clear how this will be achieved on this peripheral development with poor road links, especially for those with limited access to private and public transport. We consider the proposed development to be much too large to achieve the aim

of social inclusion within the surrounding development of market housing, and that the proposal, perhaps considered more appropriate at the time of the original outline application in 2013, should be withdrawn and revised to reflect current planning practice, including at least 40% market houses.

#### 4. Other issues.

The proposed development is contrary to the Core to Edge Principle of the Tiverton Eastern Urban Extension Design Guide, the highest density terrace of houses being on the eastern edge. The Design Guide specifies the need for 'low-density residential development feathering into the landscape' at the edge. According to the Department for Transport, new residential homes and buildings are required to include electric car charging points from June 15, 2022, and any new residential buildings with associated parking must have access to electric vehicle charge points. This has not been anticipated in this application and we consider that it should be included.

### **REPRESENTATIONS**

2 letters of objection have been received, the main points including:

- We purchased our property on Braid Park on the understanding that there would be an access road through the affordable housing estate on to Putson Lane. Despite there already being a gate and road surface in place the claim is that the water pipe, which could easily be properly protected from above or moved as part of the build, prevents the roads as originally planned in. We strongly object to the road bringing the affordable housing traffic through Par Drive and Braid Drive as the Braid Park roads are not wide enough. Please close off Par and Braid Drive with access directed between Putson Lane and the bottom of the new estate on to Uplowman Road.
- The brick paving is not sustainable for high levels of traffic as evidenced in Champion Way.
- Access through Par and Braid Drive would result in heavy machinery using these roads for access until 2024, something that goes against the promise that it would stop from summer last year (a promise Barratts have already broken this year).
- During the consultation evening the derogatory comments of the planning team, suggested that those in affordable housing are unlikely to own cars; in an area with limited access to shops and supermarkets. This is incorrect and presumptive, especially given the electrical charging points that are due to be provided to every house.
- We also object to the plans for play areas without play equipment in the new estate. Without the council agreeing to adopt the play area in the Braid Park estate, or as part of the build, provide funding to support this play area to remove/reduce the impact and the responsibility of repair of this from damaged caused by those who do not live on the maintenance charged area of the estate.
- The type of housing will not mix with the established housing that has been there for many years.
- The additional traffic will lead to further congestion on Golf Course Lane / Post Hill junction.

A number of comments have been received and are as follows:

- No objection to the affordable housing being erected or the methods that are due to be used to build the homes.
- Please may dog bins be provided between Uplowman Road & Uplowman Road North. The lack of provision is a health hazard.
- Cars are turning on Pomeroy Road, not realising there is no access to Braid Park from Pomeroy Road. Please may a 'no through road' be provided at the junction of Pomeroy Road with Uplowman Road South.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The area forming this application has previously been subject to an outline planning approval (13/01616/MOUT); it formed part of the larger outline application area. The larger application area (13/01616/MOUT) got outline planning consent for up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian / cycle links and highway improvements. The permission was subject to a standard condition requiring the submission of all Reserved Matters for approval within 3 years. Reserved Matters consent was obtained in 2018 (Application No. 18/00133/MARM), excluding the area of land forming this application.

A decision was made early in the outline application process for the Council to take on the delivery of the affordable housing associated with the outline application. Planning Committee on the 6 July 2016 resolved to discharge the market-housing developer from all affordable housing requirements, upon completion of the Council purchasing the land that forms this application, in order for the Council to be the affordable housing provider. Following the 2016 decision, it was then resolved at Planning Committee on 29 March 2017, that the land for the affordable housing be transferred to the Council and that all affordable houses be constructed by the Council, in order that the provision of affordable housing and their timing could remain within the Council's control. In December 2017, a contract for the sale of this application site was signed between Barrett David Wilson Trading Ltd, Mid Devon District Council and Waddeton Park Ltd. The contract capped development at 70 dwellings. Accordingly, Braid Park (Application No. 18/00133/MARM) and Fairfax Heath (21/00128/MFUL) have been built with no affordable housing provision.

Due to the period of time that has elapsed since the outline planning consent, planning consent via a full planning application is now required for this application area.

This report will provide detail of the proposed scheme, the main issues in its determination being:

1. Policy background and principle of development
2. Transport Infrastructure
3. Design and Layout
4. Parking
5. Public Open Space
6. Housing provision
7. Climate change, drainage and flood risk
8. Ecology, landscape and visual interest
9. Air Quality and Noise

10. Heritage
11. Section 106 and other financial considerations
12. Other Matters
13. 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 (13/01616/MOUT). The Officer's Report for the 2013 application provides detailed consideration.
- 1.2 The Adopted Mid Devon Local Plan 2013-2033 (adopted July 2020) 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 with Policy S10 seeking to maintain Tiverton as the largest urban area.
- 1.3 Policy S1 seeks sustainable communities in which people want to live and work through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport and reducing the need to travel by car whilst conserving and enhancing the natural environment and meeting the challenge of climate change.
- 1.4 Policy S3 sets a target for the provision of new housing, including affordable housing provision. This application supports the housing numbers identified within the Adopted Mid Devon Local Plan 2013-2033 ensuring housing delivery as required by Policy S4.
- 1.5 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.
- 1.6 Policy S9 expects development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change.
- 1.7 Policies TIV1 –TIV 5 set out the site allocation for the Tiverton EUE, of which this application site forms part of. The policies set out the criteria to meet strategic growth requirements. The policies include provisions in respect of transport, environmental protection and green infrastructure, community facilities, carbon reduction and air quality, phasing and master planning.
- 1.8 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 DM5 Parking. Policy DM23 makes provision for local community benefit and environmental enhancement while DM25 seeks to preserve or enhance all

designated heritage assets and their setting. Policy DM26 seeks to ensure that all major development proposals demonstrate the inclusion of green infrastructure in the proposed development. Each of these policies are relevant in the determination of this planning application.

- 1.9 Following allocation of the site under the former adopted AIDPD, the Tiverton EUE Masterplan was adopted as a Supplementary Planning Document in 2014 and again in 2018 with revisions. The Adopted Masterplan SPD is a material consideration in the determination of this planning application.
- 1.10 The adopted masterplan 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 major land uses and infrastructure to be accommodated on the site, to provide consistency of approach. It sets out a number of guiding principles relevant to this application. Guiding Principle:  
A relates to character;  
B to urban design;  
C to Movement and Transport;  
D to Landscape, Open Space and Recreation;  
E to social equality; and  
G energy and resource efficiency.  
It is supported by the Tiverton EUE Design Guide, dated June 2016.
- 1.11 A concern has been raised that this application should be submitted as an outline application. The application area has previously been the subject of an outline application. Whilst an indicative layout was not presented at that time the principle of development was established. The application now submitted provides the required information including the detail on uses, distinct development zones, the amount of development including an indicative layout, the scale and massing of proposed buildings and access points. Officers advise that an outline application is not required.
- 1.12 This application site forms part of the larger Tiverton EUE meaning the principle of development on the site has been established. The 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 Masterplan SPD and Tiverton EUE Design Guide.

## **2.0 Transport Infrastructure**

- 2.1 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; that it will be coordinated to improve accessibility and promote the use of sustainable modes of transport. Policy DM1 of the same Plan requires development to create safe and accessible places.
- 2.2 Policy TIV 2 of the Adopted Mid Devon Local Plan 2013/2033 allocates the urban extension subject to provision of transport infrastructure to ensure appropriate accessibility for all modes and includes provision of a new grade separated junction

on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane including Blundell's Road, a network of streets, pedestrian and cycle routes linking to the public highway to reduce reliance on private vehicles as well as implementation of Travel Plans and bus service enhancements. Policy DM1 of the same Plan requires development to create safe and accessible places.

- 2.3 The NPPF (para 102) states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. 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). All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 2.4 The former outline application 13/01616/MOUT established and secured, by means of a S106 Agreement, the points of access into this application site and the principle of contributions towards a new grade separated junction on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane including Blundells Road as required by Policy TIV2. Contributions were subsequently gathered through Application 13/01616/MOUT and are not required for this site. Reserved Matters application (18/00133/MARM) established the principle of a network of streets, pedestrian and cycle routes including the vehicular links between this application site and Braid Park through Par Drive and Braid Drive. Construction of the full grade separated junction is not a requirement for the delivery of this site or the phased delivery of the EUE. As such, this does not have a bearing on the delivery of the neighbourhood centre or those concerns raised relating to shops and services at the neighbourhood centre not being delivered.
- 2.5 Three points of access from Braid Drive, Par Drive and Uplowman Road North are proposed. Each operate as a cul-de-sac serving 17 dwellings off Uplowman Road, 28 dwellings off Braid Drive and 25 dwellings off Par Drive. This goes some way to limiting the number of traffic movements past existing properties on Braid Drive and Par Drive. Each cul-de-sac follows the contours of the site removing extreme gradients either in street or between the street and the parking spaces and front doors.
- 2.6 Footway provision is on both sides of the street for those streets with access off Uplowman Road and Par Drive; set behind a grass verge &/or rain garden, or behind parking spaces dedicated to the properties they front. Pedestrian and cycle connectivity is maintained throughout the scheme through areas of open space towards the eastern and western boundaries of the site. This allows the gradient

changes to be more suitably integrated into the scheme. Following the submission of additional information (Dwg No. 1600 PL01) relating to levels, and the inclusion of steps the Highway Authority have withdrawn their concerns and confirm that the proposed scheme has their approval.

- 2.7 The housing will front the streets with means of turning (including for refuse) at the end of each cul-de-sac. Details of the parking provision will be provided within the design and layout section of this report. However, gateway features including trees and granite sett thresholds at the entrance of each cul-de-sac are proposed. These are supported by landscape 'build outs' and additional granite sett crossings to inform character, points of pedestrian crossing and subtle means of traffic calming. A block paved square, defined by trees has also be purposefully introduced as an extension to Braid Drive, to enhance and integrate the parking courts within the overall development and pedestrian and cycle connectivity between them.
- 2.8 The Highway Authority considers the proposed access and the design of the road to be acceptable. This including the brick paviour 'thresholds' at the three points of entry into the site.
- 2.9 Mitigation in the form of financial contributions towards off-site highway works including traffic calming and bus service improvements have been secured by way of a Section 106 Agreement at outline application stage. A Travel Plan to reduce reliance on private vehicle use will be a conditional requirement should planning permission be forthcoming.
- 2.10 It is for the reasons outlined above that your officers consider that the development can be accommodated without an unacceptable impact on the highway network. The development proposed will be served by the necessary infrastructure in a predictable, timely and effective fashion whilst promoting the use of sustainable modes of transport. Your officers consider the access arrangements comply with Policies S8 and TIV2 of the Adopted Mid Devon Local Plan 2013-2033 ensuring an integrated and comprehensive approach to development with development both north and south of Uplowman Road and with the wider movement network and with the requirements of the Adopted Masterplan SPD.

### **3.0 Design and Layout**

- 3.1 The NPPF states that the creation of high quality places is fundamental to what the planning and development process should achieve (NPPF, Para 124). Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. New places should be visually attractive, sympathetic to local character and landscape setting and establish a strong sense of place using the arrangement of streets, spaces, building types and materials to create distinctive, inclusive and accessible places.

- 3.2 The NPPF (Para, 129) encourages local planning authorities to make use of tools and processes for assessing and improving the design of development, and to have regard to the outcome from these processes, including any recommendations made by design review panels (DRP). This application was taken to the independent Creating Excellence Design Review Panel. Having also been consulted through the Braid Park and Fairfax Heath planning applications, officers consider that the panel was well-placed to provide input on this application. Following the DRP (3 March 2022) the emerging scheme, was presented at a 3 day exhibition to which Members of Planning Committee, Ward Members and members of the public were invited. Comments received from the Design Review Panel and through the Member / public engagement process influenced a revised scheme which was subsequently presented to the DRP (9 May 2022).
- 3.3 Policy S9 of the Adopted Mid Devon Local Plan 2013-2033 seeks high quality sustainable design that reinforces the character and distinctiveness of Mid Devon's built environment, mitigates and adapts to climate change and creates attractive places. Policy DM1 of the same plan 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 the surrounding area and making efficient and effective use of the site. Development proposals should make a positive contribution to local character including any heritage or biodiversity assets, and create safe and accessible places that encourage sustainable modes of travel such as walking and cycling. Visually attractive places should be well integrated with surrounding buildings, streets and landscapes without adverse impact on privacy or amenity for proposed or existing properties. A key landscape feature of the proposed development is the area of public open space incorporating on seasonally wet attenuation pond and meadow planting on the northern boundary of the site, adjacent to Uplowman Road. This landscape feature supports that within the Braid Park development (the Southern Garden) that was designed as a significant piece of public open space and transition point between development north and south of Uplowman Road. It was considered in depth by the Design Review Panel (at the former Reserved Matters planning application 18/00133/MARM) and was afterward instrumental in shaping the overall design and layout of the reserved matters application. This application supports its role as a key landscape feature. As such, public open space incorporating the attenuation pond, offers opportunities for formal meeting / gathering spaces as well as an informal green space enhanced with planting that seeks to preserve the existing character of Uplowman Road. The strong built frontage on to this space, that includes natural stone, enhances its role.
- 3.4 Tiverton has a mixed character and history which policies of the Adopted Mid Devon Local Plan 2013-2033, including Policies S1, DM1, TIV1 and TIV3 and the Adopted Masterplan SPD, seek to uphold. The layout is organised into a pattern of streets defined by public spaces and well considered tree planting. The areas of public open space are pivotal to the continuity of the development and with its integration with neighbouring development. The proposal has sought to ensure a

strong built frontage on to attenuation public open space and the spinal corridor along the western edge; this by means of a striking design that 'steps down the hillside' and was commended by the DRP. Similarly, the streets and public open space along the eastern boundary are well defined introducing character features and informal surveillance. The net density of development equates to 26.5 dwellings per hectare. This accords with the centre-to-edge principle set out in the Adopted Masterplan SPD. The number of units also dictated by the outline planning consent and subsequent Contract on purchase of the site.

- 3.5 Policy DM1 also requires suitably sized rooms and overall floorspace to Nationally Described Space Standards (NDSS), which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage as well as adequate levels of daylight to amenity spaces and principal windows. All properties are designed to meet NDSS. Officers raised concern regarding the 2bed4person units, that represent 22 of the total number of units (Drwg No.s DR-A-013C; DR-A-014 C & DR-A-015C) and the second 'children's' bedroom shown as a twin room. Officers drew attention to the Housing Act 1985, Section 325 (as amended) relating to children of the opposite sex, over the age of ten, sharing rooms. The applicant considered reducing the occupancy but considered this would only limit the suitability of these units for families. In planning terms the accommodation meets the requirements of the NDSS and provides a varied mix of accommodation to meet Devon Home Choice needs register. For this reason it is considered acceptable. 39 of the total number of dwellings are M4(2) 'Accessible and Adaptable Buildings' compliant. This represents 55.7% of the total number of dwellings; a level of provision in excess of the Policy DM1(i) that requires 20% of the total number to be M4(2) compliant.
- 3.6 The Adopted Masterplan SPD sets out a number of guiding principles in relation to design and layout relevant to this application. Guiding Principle:  
A relates to character;  
B to urban design;  
C to Movement and Transport; and  
D to Landscape, Open Space and Recreation.

A guiding principle to the Adopted Masterplan SPD is the establishment of a garden neighbourhood with landscape integrated into development as a defining feature. The proposal presented introduces groups of trees with wildlife rich meadows and attenuation pond. Formal and informal gathering spaces, children's play and pathways are set within areas of open space with wildlife corridors. Set along the northern and eastern boundary of the site they represent key landscape features that will extend through the development site by means of street tree planting; supporting the principle of a garden neighbourhood. SUDs are integrated into the development, defining both the built and landscape character of the development. Concerns have been raised associated with the walkable distance to the nearest Primary School. The outline application established the principle of development. It confirmed that this is a suitable development site; all elements, including accessibility to schools, taken into consideration. A new primary school is proposed

within the neighbourhood centre of the wider EUE and will be within walking distance. To walk from the centre of this application site to the proposed primary school via Enterprise Way and the stopped-up Uplowman Road is approx. 875m (approx. 60m further than school children walking from the Braid Park development on Champion Way via Fairway to the proposed primary school site (approx. 815m). This is considered an acceptable walking distance.

- 3.7 The Tiverton EUE Design Guide supports the Adopted Masterplan SPD to ensure a seamless, coherent delivery of well-connected routes and buildings across land ownerships regardless if they are built over a phased period of time. Guiding principle G in the Adopted Masterplan seeks energy and resource efficiency. The environmental credentials of this development have been a guiding principle to this application. The design of the individual houses, flats and layout has been shaped by Passivhaus Standards; a high performance building standard to ensure low energy demand and low energy bills. A Passivhaus energy model has been developed and applied across the whole site. Whilst the overall design of the dwellings remains traditional in form the Passivhaus Standards have inevitably had an impact on the detailed design of the dwellings – on window sizes and glazing proportions for example - and on their grouping. Nonetheless, traditional elements such as the thicker external walls permits deeper reveals allowing more traditional elements to be perceptible. Materials have been kept to a simple palette yet providing 8 properties in natural stone (Plots 1, 8, 25, 26, 53, 54, 55 & 60 ) and 12 properties (Plots 2-7, 56 – 59, 65 & 66) including a varying amount of natural stone as a detail. They have been located to enhance the sense of place – particularly along the publically accessible open space along the eastern and northern boundaries of the site whilst simultaneously providing informal surveillance. Remaining units are a mixture of red brick and render. Properties adjacent to the publically accessible spinal corridor on the western boundary of the site are purposefully designed to step down the contours, providing a strong frontage and distinctive roof line that is supported.
- 3.8 For the most part, the dwellings forming this application are orientated northwest / southeast across the site, responding to the site's shape, topography, key landscape features and Passivhaus Standards. In the achievement of sustainable development, the NPPF (para 8) requires the 'effective use' of land. The proposed scheme makes good use of the land available and allows key landscape features to be a distinguishing characteristic. The layout achieves pedestrian and cycle permeability, ensuring an integrated approach to development. Cycle and pedestrian links are accordingly retained with Braid Park to the west as well as to the 'stopped-up' Uplowman Road that provides level pedestrian and cycle access to Blundell's Road and the proposed neighbourhood centre to include a primary school, community centre and local facilities. A new cycle and pedestrian access is proposed on to Putson Lane.
- 3.9 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 requires adequate storage for recycling and refuse. This is supported by the 'Refuse Storage for New Residential Properties' SPD. Due to the topography of the site a range of bin storage solutions have been incorporated into the scheme. These include free

standing bins within gardens (30 plots in total), free standing bin enclosures (18 in total with 8 forward of the front elevation (Plots 26-34) and integrated bin enclosures (22 in total all forward of the front elevation). Details are provided on Drawing No.s DR-A-510(B), DR-A-031, DR-A-032 and DR-A-033. Comprehensive consideration has been given to the overall design and detail of the proposed scheme; ensuring all elements are considered and integrated into the scheme whether they be bin stores with green roofs or finer details such as the location of meter boxes (Drwg No. DR-ME- 1000 P01). Efforts have been made to ensure utility boxes are discreetly located; with electric meter boxes recessed into the side elevation of the main dwelling or recessed into the porch on the front elevation or for terrace properties within the integrated bin store on the front elevation.

- 3.10 Boundary treatments in the public domain will be 1.8m high stone or brick walls (Drwg No. DR-A-504(A)). Close board fencing provides the boundary between private rear gardens whilst the communal space associated with apartment block (Units 67-70) is bounded by 1m high estate railing. The topography is such that there will be the need for terracing within the gardens. Where necessary, the terracing will require a 1.5m high brick wall with 900mm high metal railing on top. The 1.5m brick retaining wall will be set to the rear of a patio area. The height of the retaining wall is considered to be acceptable without loss of amenity value. The proposed approach supports the principle of a garden neighbourhood.
- 3.11 Your officers consider overall that the proposal is acceptable. The design of the scheme has been guided by Passivhaus Standards. Individual properties, whilst shaped by the Passivhaus Standards, integrate with the neighbouring development and wider area, through use of materials and a well-considered landscape framework that includes a central green space with associated attenuation pond and areas of public open space on the eastern and western boundaries. These areas are well fronted by development providing informal surveillance, and provide opportunity for health, fitness and play. On balance, the Design Review Panel supported the principles of development.
- 3.12 For the reasons outlined above, your Officers consider that the proposed development accords with the NPPF, Policies S1, S9, DM1, TIV1 and TIV3 of the Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

#### **4.0 Parking**

- 4.1 The application proposes appropriately sized vehicle parking (Drwg No. DR-A-505(A)). Policy DM5 and the Provision of Parking in New Development SPD requires a minimum of 1.7 spaces per dwelling. For a development of 70 units this equates to 119 spaces. A total of 128 spaces are provided, providing an average of 1.83 spaces per dwelling. No garages are proposed. All dwellings have 2 allocated parking spaces except for the 8, 1 bed, apartments (Plot No.s 21-24 & 67-70) and 6, 1 bed, mid-terrace dwellings (Plot No.s 36, 37, 40, 41, 62, 63) that have one allocated space. All remaining terraced units have 2 parking spaces while Plot No.s 1 and 3 have 3 allocated spaces. Most are appropriately located adjacent to the properties they are serving. The Parking SPD does not stipulate a minimum

number of parking spaces based on dwelling size. Parking provision meets policy requirements, is based on a reasoned provision of parking spaces to unit size, whilst delivering high quality public realm and street design. Parking provision is acceptable.

- 4.2 Parking courts are included within the layout as a parking solution. Whilst the Parking SPD indicates that their use should be minimised, those proposed through this scheme have been well-considered, with measures taken to ensure appropriate landscape setting including rills and tree planting and pedestrian connectivity between them. Most relate to wider landmark features such as the gateway square and nature walk on the eastern boundary. Officer's advice that they are appropriately integrated into the scheme. Devon, Cornwall and Dorset Police have raised no objection.
- 4.3 The Adopted Parking SPD requires 1 visitor parking space for every 10 dwellings. This equates to 7 spaces across the development. 15 are proposed; pepper-potted across the development.
- 4.4 50 of the on-street parking space (adjacent to the two streets off Braid Drive and Par Drive) are proposed as grasscrete. This will enhance the sense of character, supporting the principles of a green garden neighbourhood. The parking spaces within the parking court (Plots 21-24) are also proposed as grasscrete.
- 4.5 Policy DM5 requires 1 charging point per 10 dwellings. This equates to 7 charging points across the scheme. 26 charging points are proposed with 1 (adjacent to Plot 35) serving as a Pay-As-You-Go charging point, available for use by other residents. Details will be a condition of planning consent should it be forthcoming. An objection has been received relating to comments from the planning team implying that residents of affordable housing are unlikely to own cars. Officers can advise that this was not a comment from the MDDC Development Management Team and that the number of parking spaces proposed comply with planning policy.
- 4.6 Policy DM5 also sets a minimum cycle parking provision for 1 & 2 bed units at 2 cycle spaces and for 3+ bed units at 4 cycle spaces per dwelling. This equates to provision for 196 cycles. Drawing No. DR-A-505(A) provides details for cycle storage including an 8 bike lockers for the apartments, 62 sheds, 1 communal cycle shed and 7 cycle lock points. Officers advise that provision is acceptable.

## 5.0 Public Open Space

- 5.1 Policy S5 of the Adopted Mid Devon Local Plan sets out the standards for the provision for high quality public open space. It is supported by the Mid Devon Open Space and Play Area Strategy 2014-2033. Whilst a scheme of 70 units would normally equate to the provision of:

Public Open Space (Type)	Policy requirement (sqm)	Location
Allotments	420	On-site
Amenity green space	1645	On-site

Parks, sport and recreation grounds	2450	Off-site
Children's play space	105	On-site
Youth	35	Off-site

the Mid Devon Open Space and Play Area Strategy 2014-2033 (P90, Table 18) confirms that affordable housing is exemption of all contributions. Whilst, affordable housing clearly continues to generate a need for facilities, Officers can advise that the scheme proposed far exceeds Policy S5 requirements in terms of on-site amenity green space (2379sqm in excess of policy requirements) and children's play space (386sqm in excess of policy requirements); Drawing No. DR-A-508(A). Officers can also advise that the neighbourhood centre, proposed to serve the Eastern Urban Extension, and for which land has been secured, is proposed within a 600m / 12-13 minute walk from this development. It is the intention that the neighbourhood centre will provide sport and youth recreation, complying with Policy requirements. Allotments are also proposed within the wider EUE development in accordance with Policy TIV4 of the Adopted Mid Devon Local Plan 2013-2033.

- 5.2 An objection has been received relating to the lack of detail on the play equipment associated with the play areas. Details are available on Drwg No. 1807 01 & 1807 02. Officers can also advise that the play areas / equipment proposed through this scheme will remain within the management of Mid Devon District Council.

5.3 For the reasons outlined above, Officers advise that the proposal is acceptable and in accordance with Policies S5 and TIV4 of the Adopted Mid Devon Local Plan 2013-2033.

## 6.0 Housing provision

- 6.1 The NPPF (para 61) requires the size, type and tenure of housing needed for different groups in the community to be provided. Where there is a need for affordable housing this should be met on-site.
- 6.2 Policy S3 of the Adopted Mid Devon Local Plan 2013 – 2033 requires open market housing sites, in excess of 11 dwellings, in Tiverton to provide 28% affordable housing, depending on viability. On sites of 20 dwellings or more, developers are required to supply at least 5% of serviced dwelling plots for self-build and custom housing. Policies S3 and TIV 1 require Gypsy and Traveller pitches to be allocated on deliverable sites to ensure that the predicted need for sites will be met. Outline application 13/01616/MOUT made provision for the delivery of 3 Gypsy and Traveller pitches. They have accordingly been granted planning consent in Reserved Matters application 18/00133/MARM. Similarly, Self Build and Custom Housing has been secured through application 21/00128/MFUL, pursuant to application 13/01616/MOUT.
- 6.3 Under the requirements of outline planning permission (13/01616/MOUT) The applicant was required to deliver 21.5% affordable housing. The area of land, to which this application relates, was accordingly transferred to the Local Authority

along with the responsibility to deliver the affordable housing (see earlier paragraphs 'Material Considerations and Observations' for further detail).

- 6.4 The Adopted Masterplan SPD sets out a number of guiding principles relevant to this application. Guiding Principle E relates to social equality; requiring a suitable balance and distribution of housing types and tenures (Guiding principle E5). The Housing Needs SPD (June 2012) requires a mix of dwelling sizes on site (Policy MHN/2). The dwelling types will be a mix of apartments (8 x 1bed / 2person), terraces (12 x 1bedroom / 2 person, 22 x 2bedroom / 4person), semi detached (12 x 3bedroom / 5person), town houses (8 x 3bedroom / 5person) and detached (8 x 4bedroom / 7person). All the proposed houses and apartments will be two storeys in height apart from the townhouses (8 in total) which will be 3 storey. This is associated with the change in levels; the ground floor accommodation will be 'built into the hillside' allowing access from the sitting room directly into the garden. All dwellings are to have private gardens and parking and apartments will have access to communal outdoor space and private parking.
- 6.5 A guiding principle within the Housing Needs SPD is for inclusive design and layout; ensuring that affordable housing is visually indistinguishable from open market housing and not be concentrated on any part of the site. A decision was made early in the outline application process for the Council to take on the delivery of the affordable housing associated with the outline application. This, in order that the provision of the affordable housing and its timing could remain within the Council's control. Mid Devon District Council signed up to the Climate Emergency Declaration in 2019 with the aim to become carbon neutral by 2030. Whilst this application does not meet the aspirations as regards to the 'pepper potting' of tenure types across a development it has presented an opportunity to deliver an ambitious scheme with high environmental credentials; this due in part to the number of units proposed and associated economies of scale. Contrary to concerns raised, Officers would advise that the ambitious nature of this project, responding to the sites' constraints whilst seeking to deliver on the Council's commitment to the Climate Emergency, is to be applauded. The visual appearance of the scheme has been designed to a high quality with clear efforts made to integrate it to the neighbouring development within PassivHaus standards. For these reasons, Officers, on balance, consider the proposal acceptable.
- 6.6 The S106 agreement attached to the outline planning permission (13/01616/MOUT) sets out the housing tenure as affordable rent. Such housing is subject to rent controls that require the rent to be no more than 80% of the local market rent. The Design and Access Statement confirms that it is the applicant's intention to offer 62 of the units as affordable rent and 8 as social rent. Social rented housing is housing provided at 50/60% of local market rent. Both affordable rent and social rent fall within the definition of affordable housing. The inclusion of 8 social rented properties represents a betterment; providing a more affordable option for 8 households.
- 6.7 For the reasons outlined above, your Officers consider that the proposed development accords with the NPPF, Policies S3 and TIV1 of the Adopted Mid

Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD.

## **7.0 Climate change, drainage and flood risk**

- 7.1 The NPPF requires the planning system (para 148) to support the transition to a low carbon future, taking full account of flood risk. Proposals should take into account the long term implications for flood risk and provide appropriate mitigating measures. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (para 163). Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 7.2 Policy S9 the Adopted Mid Devon Local Plan 2013-2033 seeks mitigation measures to ensure development does not increase the risk of flooding elsewhere. Provision for a sustainable urban drainage system to deal with all surface water from the development including provision for future maintenance, is required. The Environmental Statement submitted with Application 13/01616/MOUT contained an assessment of the likely significant effects of flooding for the outline application area and identified mitigation measures including a sustainable urban drainage system (SUDs) and surface water balancing ponds. The development of this site formed part of those considerations.
- 7.3 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 LP3 DMP 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. Whilst Guiding principle G(5) of the Adopted Masterplan SPD requires a water management strategy to be put in place to ensure that SUDS and attenuation ponds are provided reducing flood risk and retaining run off within the site. Principle G(7) promotes opportunities to maximise landscape as a means to provide permeable surfacing.
- 7.4 A Construction Phase Surface Water Drainage Statement (December 2020) and drainage layout has been submitted in support of this application in conjunction with Drwg No. 033 1500 Drainage Layout Plan. Whilst development of the site will increase impermeability and surface water runoff, this will be attenuated on site with below ground features and detention basins, controlled to a discharge rate agreed with the Lead Local Flood Authority. Following the submission of additional information, DCC Flood Authority have withdrawn their objection, subject to customary planning conditions, pursuant on planning consent.
- 7.5 For the reasons outlined above, your Officers consider that the proposed development accords with the NPPF, Policies S9, TIV1, DM1 and DM26 of the

Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD.

## **8.0 Ecology, landscape and visual interest**

- 8.1 The NPPF (Para 170) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, biodiversity or geological value and the wider benefits from natural capital. Development should provide net gains for biodiversity, including establishing coherent ecological networks.
- 8.2 Policy S1 of the Adopted Mid Devon Local Plan 2013-2033 requires net gain in biodiversity. Policy S9 seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's landscape. Policy TIV3 requires measures to protect and enhance trees, hedgerows and other environmental features which contribute to character and biodiversity and measures to maintain a wildlife network within the site, linking to the surrounding countryside.
- 8.3 The Adopted Masterplan SPD sets out a number of guiding principles. Guiding Principle D relates to landscape; requiring the existing character and features of the landscape to shape development to reinforce those qualities to protect and enhance fauna and flora.
- 8.4 This application is supported by an Ecology Report and Appraisal (June 2022) that include surveys for each protected species. The Ecological Mitigation, Enhancement and Management Plan (Para 5.20) confirms wildlife features to be included within the development. This will be an approved document, securing their delivery, should planning consent be forthcoming. Soft landscape proposals plans (Drwg No.s GL1807 01 and 02) provide a diversity of plant species including ecological enhancements for visual and wildlife benefit.
- 8.5 This application is supported by an Arboricultural Assessment (June 2022). It provides an assessment of the impact arising from the proposed development. Tree (T3:C), the eastern boundary of the site with Putson Lane, is proposed for felling. Whilst it is to be removed due to the parking and 'Community Space' (Drwg No. DR-A-508(A)) encroaching into the Root Protection Area beyond an acceptable limit, the tree itself is identified as a category C tree (tree of low quality) including evidence of dead wood in the upper canopy. In addition, a total of circa 32m of partial hedgerow and 16m of full hedgerow are proposed for removal along the northern boundary of the site. This is to facilitate vehicular access and associated visibility splays. This is mitigated, to some extent by, the proposed tree and hedgerow planting (Drwg No.s GL1807 01 & GL1807 02: Soft landscape proposals). For this reason, it is considered acceptable.
- 8.5 In support of the application a Biodiversity Net Gain (BNG) Report has been produced by environmental specialists, dated June 2022. It demonstrates that the development can deliver net gain based on the Defra Biodiversity Metric 3.1 of 11% (habitat units) and 27% (hedgerow units). Officers acknowledge that biodiversity is not a legislative requirement until November 2023.

8.6 The ecological and landscape proposals associated with this application have been designed by a landscape consultant to provide a diversity of plant species for visual and biodiversity gain. The Adopted Masterplan SPD confirms that this site can accommodate change and the consequential landscape effects as a result of development without unacceptable harm to landscape character. For the reasons outlined above, it is considered that the proposal complies with policies S1, S9 and TIV3 of the Adopted Mid Devon Local Plan 2013 – 2033 ensuring the protection and enhancement of valued landscapes.

## **9.0 Air Quality and Noise**

9.1 The NPPF states that planning decisions should sustain and contribute towards limiting pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with local air quality action plans.

9.2 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. Environmental Health Officers are satisfied that measures which include conditions associated with a Construction Management Plan and Unexpected Contamination are satisfactory. Policy DM4 sets out requirements for minimising noise and other forms of pollution. Early concerns associated with noise generated from the Air Source Heat Pumps have been satisfied on the submission of further information.

9.3 Subject to securing the mitigation measures through conditions your officers consider that the proposal complies with policies TIV1 and DM4 of the Adopted Mid Devon Local Plan 2013/2033.

## **10.0 Heritage**

10.1 The NPPF requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Where a proposal would lead to substantial harm (NPPF, Para 195), planning applications should be refused unless substantial public benefits outweigh that harm. Where proposals would lead to less than substantial harm, the harm should be weighed against public benefits (NPPF, para 196). A balanced judgment should be made of the effect of loss of non-designated heritage assets (for example, archaeology), according to the significance of that asset (NPPF, para 198). Developers are required to record and advance understanding of the significance of any heritage assets to be lost and to make this evidence publicly accessible.

10.2 Policy TIV3 of the Adopted Local Plan 2013 – 2033 requires design solutions to respect the character and setting of heritage assets within and adjoining the site. The application site is within the defined setting of Knightshayes Court which is on

the national register of historic parks and gardens. It is required to have appropriate regard to the character and historic setting of Knighthayes Court.

- 10.3 Policy DM25 of the Adopted Local Plan 2013-2033 states that where development is likely to affect heritage assets and their settings, proposals should be assessed to take account of the significance of those assets. A Setting Assessment was undertaken as part of the Outline Application (13/01616/MOUT) and formed part of the Environmental Statement for that application. Acknowledging that report and the detailed proposals of this scheme, Officers advise that this proposal would not be impactful on Knighthayes Court Registered Park and Garden, the nearby Scheduled Long Barrow and Bowl Barrow, Bolham Hill Scheduled Roman Fort or any listed property. Devon Historic Environment Team have raised no objections to the proposed scheme.
- 10.4 This application forms part of the wider development which was approved at outline application stage (13/01616/MOUT). The nature and scale of this proposal is consistent with the Setting Assessment assessed and considered acceptable at the outline application stage. Officers advise that this application does not detrimentally affect the setting of any heritage assets. For this reason, the application is considered to be acceptable and in accordance with policies S9, TIV3 and DM25 of the Adopted Mid Devon Local Plan 2013-2033 and the NPPF.

#### **11.0 Section 106 and other financial considerations**

- 11.1 This application will require the signing of a S106 legal agreement, conditional upon the grant of planning permission. Under usual circumstances this would be between MDDC, Devon County Council and the applicant; managed by MDDC Development Management. However, the applicant is MDDC (Property Services) and so in the interest of transparency the legal agreement will be required between Devon County Council and the applicant. Management of the S106 agreement will not formally sit with Development Management. Many of the usual contributions have been dealt with at outline application stage – traveller pitch provision, community facilities contribution, public transport, cycle and footway enhancement and off-site highway works - whilst the nature of this application as an exclusively affordable housing scheme makes it exempt from others including public open space contributions.

The S106 legal agreement will therefore make provision for:

- Education contributions: £15,889.

- 11.2 Officers acknowledge the Consultation responses received from the NHS; Torbay and South Devon requiring no contribution due this being an affordable housing application and Royal Devon University Health (the Trust) requesting £107,933. The Trust have undertaken an impact assessment formula, based on a development of 70 dwellings, resulting in a S106 financial contribution request for £107,933. The Trust specify that this contribution is to be used directly to provide additional health care services to meet patient demand as a result of the development. Officers have been in discussion with the Trust and remain

concerned about the details of the calculation and compliance with CIL Regulation 122. No evidence has been made available to confirm that those likely to live in the new units are not already living within catchment. Officers remain concerned that there would be double handling in terms of assessing the needs of residents which would have already been taken into account in planning the associated finances needed by the NHS for residents within the catchment area.

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

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

At the current time, it is considered that the requested NHS contribution would not meet the Regulation 122 tests and therefore a S106 agreement has not been requested.

## **12.0 Other Matters**

12.1 A concern has been raised associated with the movement of construction traffic from this site through Braid Park. Officers can advise that this will be addressed within the Construction Management Plan that is conditional upon planning approval.

## **13.0 Planning balance**

13.1 This is a full planning application for the construction of 70 affordable units to include associated roads, footpaths, landscaping and amenity area. The site area lies within the allocated Tiverton EUE and has previously been the subject of an outline planning application (13/01616/MOUT). The principle of development on the site has been established.

13.2 The proposed development provides a net density of 26.5 dwellings per hectare. This accords with the centre-to-edge principle set out in the Adopted Masterplan SPD and the number of units dictated by the outline planning consent and subsequent Contract on purchase of the site.

13.3 The development can be accommodated without an unacceptable impact on the highway network and can be served by necessary infrastructure in a predictable, timely and effective way. Sustainable modes of transport are accommodated.

13.4 The design of individual buildings and the layout of the scheme has been planned to a high quality with clear efforts made to integrate it to the neighbouring development within PassivHaus standards. The public open space forms a key feature of the development, enhancing accessibility. The proposal meets Nationally Described Space Standards and Parking Standards. Drainage and flood risk have been fully considered with financial contributions secured through Application 13/01616/MOUT or to be secured through a S106 agreement.

- 13.5 The proposed scheme is considered to accord with the Adopted Mid Devon Local Plan 2013-2033 as set out in this report and with the Adopted Tiverton EUE Masterplan SPD and Design Guide. For these reasons, the proposal is recommended for approval.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The 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. No part of the development hereby approved shall begin until:
  - A. The access road has 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; and
  - D. A site compound and car park have been constructed in accordance with a Construction Environmental Management Plan to be approved under Condition 20 of this application.
5. First occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been approved in writing by the Local Planning Authority and constructed and made available for use:
  - A. The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B. The spine road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense in any phase have been constructed up to and including base course level;
  - C. The cul-de-sac visibility splays have been laid out in accordance with current approved standards;

D. The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;

E. The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;

F. The verge and service margins and vehicle crossings on the road frontage of the dwelling have been completed with the highway boundary properly defined; and

G. The street nameplates for the spine road and cul-de-sacs have been provided and erected.

6. When constructed and provided in accordance with the approved details, the carriageway, vehicular turning head, footways and footpaths within that phase shall be maintained free of obstruction to the free movement of vehicular traffic pedestrians and street lighting and nameplates maintained.
7. The installation electric vehicle charging points shall be installed in accordance with the approved scheme prior to first occupation of the relevant dwelling.
8. No development shall take place on the site except in accordance with the details set out within the submitted Ecological Mitigation, Enhancement & Management Plan produced by EPR (dated June 2022); the Landscape Management Plan produced by golby+luck (dated June 2022) and the Arboricultural Assessment produced by fpcr (dated June 2022). The recommendations in each document 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.
9. Finished floor levels shall be those specified on Dwg No. 1400 PL01 unless otherwise agreed in writing by the Local Planning Authority.
10. Prior to their use on site, samples of materials to be used for all external surfaces of the buildings shall have been submitted to and approved in writing by the Local planning Authority. Materials will include natural stone. Such approved materials shall be so used and retained.
11. First occupation of any dwelling shall not take place until the boundary treatments for that dwelling have been installed in accordance with Drwg No. SBA-XX-XX-DR-A-504(A). Only such approved boundary treatments shall be installed.
12. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
13. First occupation of any dwelling shall not take place until details of street furniture to be provided within the public areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include lighting, benches or other

seating, dog waste and litter bins and handrails where required, together with a timescale for their delivery.

Following their provision, such facilities shall be permanently retained and maintained for their purpose at all times.

14. The first occupation of any dwelling shall not take place until bin stores have been provided in accordance with the approved details.
15. No external lighting shall be installed on any part of the site unless as part of an external lighting plan that has been previously approved in writing by the Local Planning Authority. The external lighting plan should include all details of external lighting and light levels falling on wildlife habitats and demonstrate how dark corridors will be provided for wildlife.
16. In the event that contamination is found at any time when carrying out the approved development that was not previously been identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

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

17. Prior to the commencement of any part of the site hereby approved, the Planning Authority shall have received and approved in writing a report giving detail on:
  - a) the predicted amount of waste generated during the operational phase of the development, in tonnes;
  - b) Measures taken to avoid waste occurring during the operational phase of the development; and
  - c) Identify the main types of waste generated when development is occupied. The recommendations in the report to avoid waste generation during the operational phases of the development shall be adhered to and the development shall be operated thereafter in accordance with those recommendations.
18. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
19. 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.

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

20. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

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

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

21. Noise from operations conducted at any of the employment premises on the application site shall not at any time exceed a decibel level of LAeq (1hour) 55 dB as measured on any boundary of the site with adjoining residential properties, between the hours of 0700 and 1900 on Mondays to Fridays and 0800 and 1300 on Saturdays, and LAeq (15min) 45 dB(A) during any other time including Bank Holidays.

22. Prior to the construction of any dwelling, in any agreed phase of the development, details of the tree pits and their location shall be submitted to and approved in writing by the Local Planning Authority.
23. No hard landscaping works in the areas shown on the approved plans shall begin until details of surfacing materials to be used in those areas have been submitted to, and approved in writing by, the Local Planning Authority. Such approved works shall then be carried out before the development hereby permitted is first brought into its permitted use (in any phase) and shall be so retained.
24. Prior to the occupation of development a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. It shall set out information on sustainable travel modes to residents of the development.
25. Prior to first occupation of any phase of the development, details including (but not limited to) the capacity of the ducting serving the electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority. Once approved, such details shall be completed and maintained in accordance with the details and timetable agreed.
26. Prior to development all safety measures including (but not restricted to) guarded culverts, appropriate fencing at the head of culverts and life-rings shall have been submitted to and approved in writing by the Local Planning Authority. Such approved safety measures shall then be carried out before the development hereby permitted is first brought into its permitted use (in any phase) and shall be so retained.

### **REASONS FOR CONDITIONS**

1. In accordance with the provisions of the National Planning Policy Framework 2019 and Planning Practice Guidance to help ensure the housing proposal is implemented in a timely manner.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that adequate information is available for the proper consideration of the detailed proposal and in the interest of public safety.
4. 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.
5. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
6. To ensure that the highway provisions remain available

7. To provide opportunities for the reduction of carbon emissions to help combat climate change in accordance with policy DM5 of the Adopted Mid Devon Local Plan 2013-2033.
8. To ensure landscape features and habitats are protected and enhanced to provide net gains in biodiversity on the site and to ensure the development assimilates well into the surrounding landscape, in accordance with the provisions of the National Planning Policy Framework and the guiding principles in the Tiverton Eastern Urban Extension Masterplan SPD.
9. To ensure the development makes a positive contribution to the area and to protect the residential amenity of neighbouring residents.
10. To ensure the use of materials are appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policies S1 and DM1 of the Adopted Mid Devon Local Plan 2013-2033.
11. To ensure a good standard of residential amenity and security for residents.
12. To ensure the proper development of the site
13. To ensure adequate facilities are provided that are usable for all residents of the site in terms of accessibility in accordance with the provisions of the National Planning Policy Framework.
14. To ensure adequate facilities for waste management are provided on site to protect the residential amenity and visual qualities of the area.
15. In order to protect wildlife habitats from light pollution in accordance with the provisions of the National Planning Policy Framework.
16. In the interest of public health and safety.
17. In the interest of waste management and proper planning.
18. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of the Adopted Mid Devon Local Plan 2013 - 2033.
19. 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.

20. In the interest of public safety and to prevent damage to the highway.
21. To ensure that the proposed development does not prejudice the amenity of residents in the locality by reason of noise.
22. To ensure that the development makes a positive contribution to the character and amenity of the area whilst ensuring the long term survival of the proposed trees.
23. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area and in the interest of proper planning.
24. To reduce reliance on private vehicle usage and in accordance with policy in the National Planning Policy Framework.
25. To ensure the development is resilient and sustainable in accordance with Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 and the provisions of the national Planning Policy Framework.
26. To ensure that adequate on-site safety facilities are available for the avoidance of doubt and in the interests of proper planning.

#### **INFORMATIVES**

1. NHS Devon will not seek a contribution as it supports the growth of affordable housing as it creates opportunities for low paid health care workers to own their own homes thus increasing local employment opportunities for the health sector. However should any of these homes be made available for the open market then the developer is advised to make an allowance of £579 per open market home in order to mitigate the additional impacts created on the local GP surgeries.

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

Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme provides well integrated landscape and public open space, providing biodiversity net gain. The development can be accommodated without an unacceptable impact on the highway network with necessary infrastructure able to be delivered in a predictable, timely and effective manner. The design and layout including house types, set within the constraints of PassivHaus Standards, are acceptable, also meeting Nationally Described Space Standards. For these reasons the proposal is considered to comply with the NPPF, the Adopted Mid Devon Local Plan 2013-2033, Policies S1, S3, S5, S8, S9, TIV1, TIV2, TIV3, TIV4, DM1, DM3, DM4, DM5 and DM25 of the Adopted Mid Devon Local Plan 2013-2033 and with the guiding principles of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide.

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.