

PLANNING COMMITTEE AGENDA - 27th September 2023

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>22/02339/MFUL - Erection of extensions and improvement works to existing Church and presbytery at St James Church, Old Road, Tiverton.</p> <p>RECOMMENDATION</p> <p>Grant permission subject to conditions.</p>
02.	<p>22/02272/FULL - Erection of 2 dwellings following demolition of agricultural buildings utilising the Class Q fallback position (21/01146/PNCOU and 21/01148/PNCOU) at Land and Buildings at NGR 303765 110338, (Culm Park), Willand.</p> <p>RECOMMENDATION</p> <p>Grant permission subject to conditions.</p>
03.	<p>23/00228/FULL - Siting of a temporary rural workers dwelling with access track and erection of an agricultural building with yard at Land at NGR 288859 112585 (Park Meadow), Pennymoor, Devon.</p> <p>RECOMMENDATION</p> <p>Grant permission subject to conditions.</p>
04.	<p>22/00907/FULL - Retention of disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus.</p> <p>RECOMMENDATION</p> <p>Grant permission subject to conditions.</p>

Application No. 22/02339/MFUL

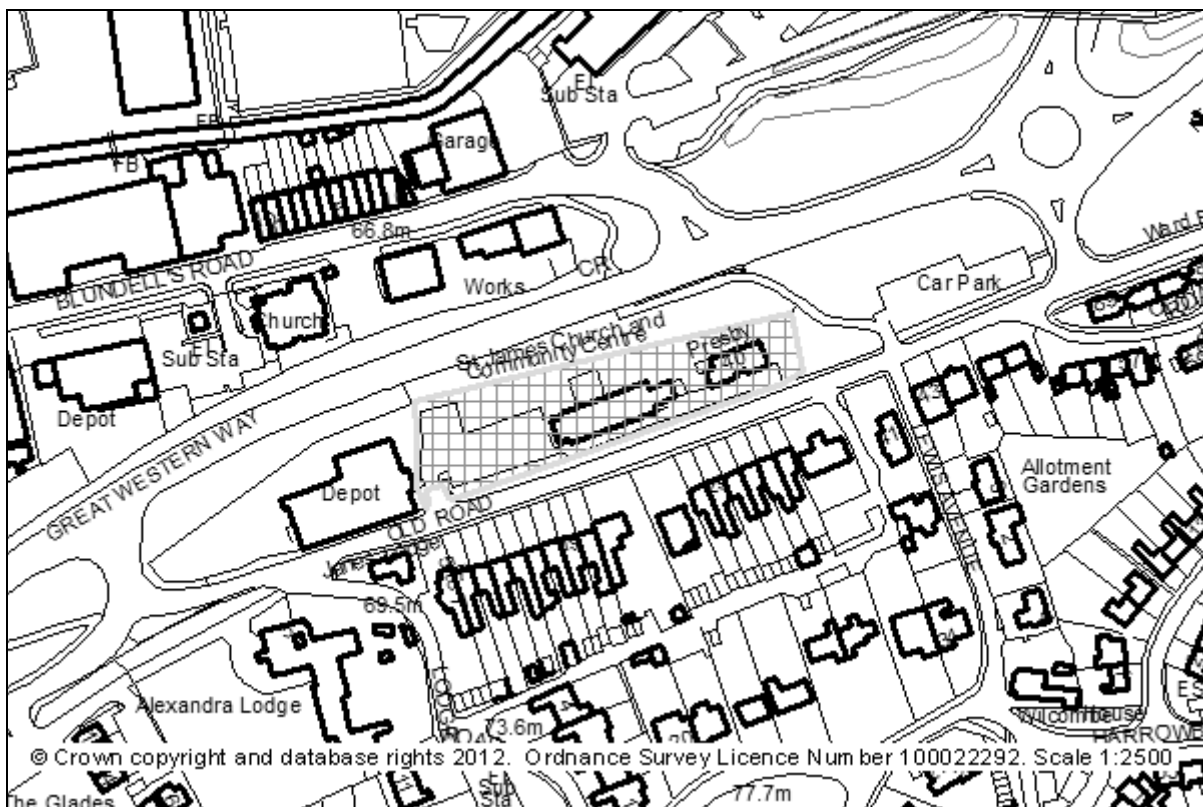
Grid Ref: 296297: 112650

Applicant: C/o Keri Parkinson, Plymouth Roman Catholic Diocese

Location: St James Church
Old Road
Tiverton
Devon

Proposal: Erection of extensions and improvement works to existing Church and presbytery

Date Valid: 27th March 2023



APPLICATION NO: 22/02339/MFUL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of extensions and improvement works to existing church and presbytery. The site is the location of an existing church building and presbytery and there is an existing parking area on site and existing trees and hedges to the site boundaries.

The proposal is to significantly extend the building to the front, rear and both sides, including joining the building to the presbytery at the eastern side. The floor area would increase from approximately 400 square metres to 904 square metres. A church spire and bell tower would be added to the roof. In addition, the proposal includes an extension to the presbytery above an existing first floor garage of approximately 51 square metres. The parking area would remain. The proposal would include removing a section of hedge along the road frontage and replacing this with shrub and tree planting. Additional shrub and tree planting would be extended along the road frontage where there is currently a low grass bank.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Carbon reduction statement
Flood risk assessment
Foul drainage assessment
Drainage strategy
Statement of community involvement
Waste audit statement
Ecology report

RELEVANT PLANNING HISTORY

09/00207/FULL - PERMIT date 7th April 2009
Erection of lobby extension
11/01346/FULL - PERMIT date 3rd November 2011
Replacement of roof covering

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable development priorities
S9 Environment
S10 Tiverton
DM1 High quality design
DM3 Transport and air quality
DM4 Pollution
DM5 Parking
DM23 Community facilities
DM26 Green infrastructure in major developments

Tiverton Neighbourhood Plan 2020 to 2033

T4 Character of development

T5 Design of development

T6 Energy efficiency and design

T7 Minimising the risk of flooding

T9 Green and blue infrastructure and delivering biodiversity net gain

T14 Cultural and community venues

National Planning Policy Framework

CONSULTATIONS

HIGHWAY AUTHORITY – 18 April 2023

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.

HISTORIC ENVIRONMENT TEAM – 29 March 2023

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

DEVON, CORNWALL & DORSET POLICE - 3 April 2023

From a designing out crime and anti-social behaviour perspective, I have no objections in principle to proposals. However, as there appears to be no mention within the Design & Access Statement of security or crime prevention principles and measures per se, it is not known if these key matters have been considered for the scheme and if so, where they have been implemented.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, the following information is to inform the applicant.

It is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company. The requirements of SBD are that doors and windows are not only tested to meet PAS 24 2022 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing the provenance of non SBD approved products.

Secured by Design (SBD) is a police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places to live and visit. The above should be considered in conjunction with the following attributes of Crime Prevention through Environmental Design.

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 2023 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.

Doors to private areas such as staff offices, safe, store and plant rooms should have a form of enhanced access control.

In addition to the above, it is recommended all ground floor and easily accessible glazing incorporate glass successfully tested to BS EN 356:2000Glass in building. Security glazing 'resistance to manual attack to category P1A. Any roof lights should also be independently security tested to an appropriate standard such as LPS 1175: Issue 8, Security Rating 1 as a minimum.

The provision and use of CCTV should be considered as this fits well within the overall framework of a security management plan, however it should not be relied upon as a panacea to all criminal and anti-social behaviour, as even the best CCTV and lighting can easily be undermined by an offender concealing their identity by wearing a hood, hat, mask etc. Any proposed lighting scheme should be co-ordinated with any CCTV installation. Consideration should also be given to the inclusion of a monitored intruder alarm with a zoning capability and to include panic buttons in offices and meeting rooms. Gates to shared public/private spaces, for example the rear garden, must be lockable.

All keys to the church should be kept in the personal custody of a responsible official or in a secure place away from the church. Any duplicates should be kept to a minimum. It is important safe keys are never kept at the Church. It is good practice to maintain a register of all who holds a key to the church and this should be reviewed on an annual basis. Key holders should be required to sign the register and ensure no duplicate keys are produced or any keys loaned to other persons. Whilst it may be preferable for the church to be left open during the day, it should be locked during the hours of darkness other than for services or planned events.

A complete, up-to-date and good quality inventory is of the utmost importance, as it will help the police investigate a crime and recover stolen treasures. In addition, you should also identify the objects that are particularly vulnerable to theft and have good photographs (preferably in digital format) available for quick circulation.

PUBLIC HEALTH – 13 April 2023 and 12 July 2023

We have considered the application and some clarification is needed regarding foul drainage. The application form states that the foul drainage arrangements are unknown, which does seem unlikely for an existing building. The church is in town and therefore is most likely connected to the main public sewer. Please can this be clarified because the applicant has also submitted an FDA1 form which is only needed if there is no main foul sewer nearby? Should the applicant be able to confirm that the property is, or will be, connected to the main foul public sewer then, to avoid future confusion, the FDA1 form should be removed from the application documents.

We do not anticipate any other concerns relating to environmental health, although would suggest that the applicant contact the commercial team within the Mid Devon DC public health team for advice regarding kitchen facilities.

We would not anticipate any concerns in relation to the installation of a single bell. Bells have been used on churches for many years in order to announce services and sometimes in association with a clock. They are only used for very short periods and therefore we have no concerns regarding this.

FLOOD and COASTAL RISK MANAGEMENT TEAM – 18 August 2023

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

Following my previous consultation response (FRM/MD/02339/2023; dated 19th July 2023), 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 should submit the following information to the Local Planning Authority for their review:

The applicant has confirmed that the proposed soakaway will not be located within Made Ground. The applicant should use 45% climate change for sizing the proposed surface water drainage system.

The applicant should monitor their surface water management during the construction stage. If required, the applicant should make amendments. During the demolition of the existing building, the applicant should take care during the demolition and ensure that they do not damage any existing drainage pipework. They should also ensure that debris from the demolition does not end up within drainage features and pipework.

Previous response - 19 July 2023

At this stage, I am unable to withdraw our objection, but would be happy to provide a further substantive response when the applicant has formally submitted the additional information requested below to the Local Planning Authority.

Following my previous consultation response (FRM/MD/02339/2023; dated 19th April 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

A location plan should be submitted to demonstrate where the soakaway tests were completed. The trial pit logs should be submitted if they exist. The applicant has used a climate change allowance of 40% for this site. However, the climate change allowance for this site is 45%. Micro Drainage model outputs (all similar) are required to demonstrate that the surface water drainage system has been designed up to the 1 in 100 year (+45% allowance for climate change) rainfall event.

The Surface Water Drainage Layout Drawing appears to be redacted, the applicant should resubmit this plan with a clear picture of the surface water drainage system and features.

Previous response - 19 April 2023

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 surveyed the existing surface water drainage system. Unfortunately, it seems as though the eventual outfall has not been identified. The Location Plan and Proposed Site Plan (drawing No S: 983-01; Rev. A; dated 29th September 2022) depicts a rainwater harvesting tank as well as a soakaway.

Further details of the surface water drainage system are required at this stage. Whilst this is a brownfield site, the applicant should attempt to mimic the theoretical greenfield conditions if possible. If surface water will be managed by a soakaway, then infiltration tests should be submitted to demonstrate the viability of this. If infiltration is not viable, then the applicant will need to assess a suitable alternative method of managing surface water.

Maintenance details for the proposed surface water drainage system are required at this stage.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing 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** was received, summarised as follows:

1. Support the improvements to the church building and although have some concerns:

- a) 7m of tall hedging being cut down (which is full of wildlife), happy to see that additional trees will be planted on other areas of the site.
- b) Volume of traffic with approximately 220 people attending services. Old Road gets very busy at times with people driving in both directions and the parking is extremely limited. Would like to see some traffic calming measures put in and even a one-way system, starting from the presbytery, and the lane which goes behind the houses, to the end of the road direction towards Canal Hill.

Two **general comments** were received, summarised as follows:

- 1. Tree and hedge management should be addressed.
- 2. Removal of foliage on northern boundary has increased noise from Western Way.
- 3. Noise protection from trees should be considered further.
- 4. Hedges and trees on northern and southern boundaries are bird habitats. As much habitat as possible should be retained.
- 5. Increase of traffic on Old Road which is busy and in some places is limited to one car only passing. Consideration should be given to improve safety aspects.
- 6. The increase in capacity to 220 church goers, most of whom will arrive by private car, will increase traffic on Old Road which has become a rat run to avoid a difficult right turn onto Great Western Way. If approved, there should be traffic calming (e.g. speed bumps) along Old Road.
- 6. Bells are not suitable on a residential road. Sunday is the quietest time from traffic and other noise and may be intrusive on the only quiet time of the week.
- 7. The inclusion of the bells may cause friction between local residents and the church community.
- 8. The bellcote will not serve its traditional purpose of call to prayer as it will only be visible on entering the church and the congregation would come from a large area, not just the immediate vicinity.

One **objection** was received, summarised as follows:

1. The Environmental Health response states: "We would not anticipate any concerns in relation to the installation of a single bell". This is wrong. Bells are not suitable on a residential road, bearing in mind the houses have been there far longer than the church. The applicant's response states that the sound will be 70db at street level (the level of traffic noise). The houses are not at street level and some will be opposite the bell. What will the level of noise be there?
2. On days of worship it is mayhem along Old Road with cars parking, dropping off and picking up. The increase to 220 people with only 28 parking spaces will make matters worse.
3. The increase in capacity will increase traffic on Old Road which is used as a short cut and this is an accident waiting to happen. If approved, traffic calming measures should be introduced, ideally a one-way system and residents only parking.
4. Lighting should not impact on residents' quality of life. Existing security lights in the car park shine directly at the houses.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **Principle of development**
2. **Design**
3. **Access and parking**
4. **Flood risk and drainage**
5. **Energy efficiency and biodiversity**
6. **Impacts on neighbouring residents**
7. **Summary**

1. Principle of development

Policy S1 of the Mid Devon Local Plan focuses development on the main towns including Tiverton and seeks to promote healthy communities through the delivery of social, educational, recreational and cultural facilities and services. Policy S10 seeks to improve access to services for Tiverton and surrounding rural areas.

Policy DM23 states that development of new community facilities providing a local community benefit will be permitted where they are easily accessible by the local community and well related to a settlement. Proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported.

Policy T14 supports in principle proposals for new or improved community facilities

The proposed church enlargement and improvement will provide a better facility for church goers in Tiverton and the surrounding area. The development proposed would comply with the policy focus on providing services within the town for its residents and those in surrounding areas, and would allow the church to modernise and improve its offer.

2. Design

Policy S1 of the Mid Devon Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. Policy S9 requires high quality

sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment and creates attractive places.

Policy DM1 states that designs of new development must be of high quality, 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 should make a positive contribution to local character including the setting of heritage assets, and create safe and accessible places that also encourage sustainable modes of travel such as walking and cycling. Development should create visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

Policy T4 of the Tiverton Neighbourhood Plan requires the design of new development to take account of the local context and reflect the character and vernacular of the area, using architectural variety in form and materials. Policy T5 requires development to incorporate a high quality of design, which responds and integrates well with its surroundings and meets the changing needs of local residents, and requires that development proposals should minimise the impact on the historic environment.

The existing church is a concrete portal frame building with concrete and brick infill and a metal roof. The presbytery is a mix of render, stone cladding and tile hanging with a tile roof. Neither building has any particular architectural merit.

The proposal is to significantly extend the building to the front, rear and both sides, including joining the building to the presbytery at the eastern side, increasing the floor area to approximately 900 square metres. The ridge height of the central pitched roof would remain the same, with flat roofs to the side extensions and a lower pitched roof to the extension joining the church to the presbytery. Materials would be render to the external walls, aluminium windows, a new metal roof over the main building and pitched roof extension, with Sarnafil roofing to flat roofed areas. A church spire and bell tower would be added to the roof. Internally, the building would be configured to a more useable layout.

In addition, the proposal includes an extension to the presbytery above an existing first floor garage of approximately 51 square metres, with a pitched roof at the same level as the existing roof. Materials would match existing.

Although the extensions represent a significant increase in floor area, the design of the building would improve with a more traditional church appearance allowing the building to be better identified as a church. The extensions would fit comfortably within the existing site and make better use of the site area. The enlarged church and presbytery would integrate well within the street scene, creating a better sense of place, and improve the facilities available for the community.

The Police have no objections from a designing out crime perspective, although have recommended a number of security measures that could be incorporated into the redesign.

Overall, the design of the enlarged church and presbytery is considered to comply with the relevant design policies set out above.

There are no heritage assets likely to be adversely affected by the proposals, the nearest listed building (Grade 2) being some 120 metres to the west with intervening buildings.

3. Access and parking

Policy DM3 of the Mid Devon Local Plan requires that development must ensure safe access to the transport network. Policy DM5 requires non-residential institutions to provide parking at the standard of 1 space per 40 square metres of floor space, equalling 23 spaces. Cycle parking provision should be at a level of 1 per 400 square metres, equalling 3 cycle parking spaces. There should be provision of 2 EV charging points per 200 square metres of floor space. For the increased floor space being provided, this would equal 5 charging points.

Policy T5 of the Tiverton Neighbourhood Plan requires development to provide off-road parking for residents, visitors and service vehicles, in accordance with Mid Devon's adopted Parking Provision in New Development SPD (2013). The layout and design of parking provision should not adversely affect vehicular and pedestrian access and safety.

There would be no change to the access from Old Road which is considered to be adequate for the enlarged building. There will be no increase to the area set aside for parking. Parking provision would be 27 spaces, including 5 EV charging point spaces, 3 disabled parking spaces, covered cycle parking for 3 cycles, plus space for mobility parking. Overall, the parking provision meets the requirements set out in policy DM3. The layout and design would not adversely affect access for vehicles. There would be a separate pedestrian access directly from the pavement along Old Road providing level access to the church entrance, meeting the requirements of policy T5.

Concern has been raised with regard to the increase in traffic along Old Road which can be used as a short cut. The applicant has responded that although the capacity of the church would increase, the congregation is unlikely to be growing significantly in numbers. The extension will provide more and better facilities for the church community. Residents have suggested that traffic calming be installed. Although the Highway Authority have not commented formally on the proposal, recommending that standing advice is followed, your officers have spoken to the Highway Authority who have confirmed that they have no concerns about the proposal in terms of highway safety. They have confirmed there were no reported accidents on Old Road on their records (which run from January 2018 to December 2022), and there is no requirement for traffic calming to be installed. Existing on street parking already acts to calm traffic along Old Road.

Taking all comments into consideration, and bearing in mind that no new access or increased parking provision would be made, the proposal is considered to comply with the relevant policies in respect of highway safety and parking.

4. Flood risk and drainage

Policy S9 of the Mid Devon Local Plan 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 by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere.

Policy T7 of the Tiverton Neighbourhood Plan states that where the development of a site requires Sustainable Drainage Systems (SuDS), such systems should be delivered within the development site unless technical reasons make this approach impracticable. SuDS should demonstrate the use of a wide range of creative SuDS solutions, for example: green spaces, green roofs, permeable surfaces and rain gardens. Where practicable, SuDS provision should demonstrate how its design will enhance wildlife and biodiversity as well as minimise the impacts of flooding. Development proposals should be supported by a drainage scheme maintenance plan.

The majority of the site is within Flood Zone 2 (medium risk of flooding) with a strip of land along the road frontage in Flood Zone 1 (lowest risk of flooding), and the landscaped area to the north of the site within Flood Zone 3 (highest risk of flooding).

The National Planning Policy Framework (NPPF) requires a sequential test to steer new development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential test is not required for minor development, including small extensions to non-residential buildings (less than 250 square metres), or for development where a Flood Risk Assessment demonstrates that the site is in an area at low risk from all sources of flooding.

The extension is greater than 250 square metres, however, the submitted Flood Risk Assessment (FRA) states that the last time the site flooded was shallow flooding in 1966, with the next worst event in 1984 showing the building 1 metre above reported flood levels. The FRA identifies the site as having a low risk of flooding and concludes that the sequential test is not required. Even if the sequential test was applied, an alternative site with a lower risk of flooding to accommodate the additional facilities would not be appropriate as it would not be possible to separate the additional space from the church as it is integral to achieving the improved community facilities on one site.

The NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied. For the exception test to be passed, it should be demonstrated that: a) development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The need for the exception test depends on the potential vulnerability of the site and the nature of the development proposed. The Flood Risk Vulnerability Classification sets out which uses are appropriate in which flood risk areas and states whether the exception test is required. The use as a church is not changing and this use falls within the 'less vulnerable' category which is compatible development within Flood Zone 2. The exception test therefore does not apply to this development.

The NPPF also states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Development should only be allowed in areas at risk of flooding where it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed; and
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The building itself is entirely within Flood Zones 1 and 2. The building will use hard surfacing for the floors and water resistant plaster where appropriate, and electrics will be set at least 0.6 metres above floor level. The FRA includes measures to ensure safety, including signing up to the

Environment Agency flood warning scheme and evacuation procedures. However, the FRA states that the likelihood of the building, car park, and pedestrian access points flooding is very low as they are all set above the extreme flooding level. The FRA also confirms that there will be no displacement of flood water from the extended building and no increase in flood risk elsewhere.

The proposal incorporates a drainage system where surface water from the building and hard surfaces drains into an infiltration unit under the car park. There would also be a rainwater harvesting tank to the north west of the lobby.

Following an initial objection from the Lead Local Flood Authority (LLFA), additional information in relation to surface water drainage was submitted and approved by the LLFA. The LLFA has asked for confirmation that the proposed soakaway will not be located within made ground and an allowance of 45% for climate change used for sizing the proposed surface water drainage system. Both these points were confirmed in a revised drainage strategy.

The LLFA has also specified that during the demolition of the existing building, the applicant should ensure that the demolition works do not damage any existing drainage pipework, and also ensure that debris from the demolition does not end up within drainage features and pipework. The applicant has confirmed that these measures will be included within the Construction Management Plan.

The existing foul drainage discharges into a septic tank and it was originally proposed to use the same system for the extended building. However, a mains drainage connection is achievable and the scheme has been amended so that foul water discharges into the mains sewer.

5. Biodiversity and energy efficiency

Policy S9 of the Mid Devon Local Plan supports opportunities for protecting and enhancing species populations and linking habitats. If significant harm resulting from development cannot be avoided impacts should be adequately mitigated.

Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site to provide biodiversity mitigation, resulting in a net gain in biodiversity, flood and water resource management, green corridors and public rights of way to link the site to the wider GI network, provide walking and cycling opportunities and avoid habitat fragmentation, and new green infrastructure such as the creation of native woodland where possible.

Policy T5 of the Tiverton Neighbourhood Plan states that development proposals should minimise the impact on the natural environment. Policy T9 requires development proposals to be designed to create, conserve, enhance and manage green spaces and connective chains of green infrastructure. Proposals should include biodiversity net gain. In particular proposals that seek to improve the connectivity between wildlife areas and green spaces will be supported. Proposals for development must be supported by a biodiversity appraisal, which must demonstrate how negative impacts would be minimised and biodiversity net gain achieved.

The submitted Ecology Report identifies that the site in general has low habitat value, although there is a strip of woodland on the northern boundary between the site and the main road. The proposal will not extended into the woodland area, although some scrub will be lost and there may be minor impacts on tree roots. As this may be a bat flight path, lighting should be directed away from the wooded area. On the southern boundary, there is grass bank and hedging that will be partially removed and partly replaced with new shrubs and trees.

The presbytery roof is a confirmed bat roost. However, the existing roof will be retained and any impacts on bats are stated to be negligible.

Overall, the proposal as set out is considered to have negligible impacts on habitats and protected species, provided the recommendations set out in the ecology report are followed. The proposal will provide new native hedges, trees and wildflower areas. Overall, there will be a biodiversity net gain on the site.

Due to the nature of the site, the sustainable urban drainage proposals do not include above ground attenuation features that could provide additional habitats. The proposal would not provide additional green infrastructure or habitat linkages, however, as this is an existing urban site with little scope for the introduction of these features, on balance, as existing green infrastructure such as the woodland area to the north has been retained, this is not considered to warrant refusal of the application.

Policy T6 of the Tiverton Neighbourhood Plan supports sustainable design features including the siting and orientation of new buildings to optimise passive solar gain, the use of high quality, thermally efficient building materials, on-site energy generation from renewable sources, reducing water consumption through the use of grey water systems, and providing low carbon sustainable design such as insulation and low energy heating systems. Alterations to existing buildings are encouraged to demonstrate how energy reduction has been incorporated into the design and construction.

The existing building frame would be retained to reduce the carbon footprint when assessed against demolition and rebuilding. The fabric of the building would either meet or in some places exceed Building Regulations u-values. Solar gain would be achieved through full height windows and shading would be provided to smaller south facing rooms. The use of an air or ground source heat pump combined with underfloor heating is being explored, and solar panels would be provided. EV charging points would be provided in the car park. A rainwater harvesting system would be provided.

6. Impacts on neighbouring residents

Policy DM1 of the Mid Devon Local Plan requires that developments do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses. Policy DM4 states that 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.

Concern has been raised that the introduction of a bell tower would have an unacceptable impact on the living conditions of neighbouring residents, particularly as the bell would be level with some of the houses. Mid Devon's Public Health officer does not anticipate any concerns in relation to the installation of a single bell. Bells have been used on churches for many years in order to announce services. They are only used for very short periods and therefore the officer has no concerns regarding this.

In addition, the applicant has confirmed that one bell will only be rung at times of services (Monday and Wednesday 10am, Tuesday and Friday 11:30am, Saturday 6pm and Sunday 9am). One bell will toll for service for 15 minutes broken into three sections, with an Angelus bell tolling three strikes twice during the blessing of the host in mass. The only exception to this is the possibility of 2 bells ringing together at the end of a wedding. The bell tower would be located on the northern side of the building, furthest away from residential properties, and with the church roof between the bells and the houses. The bells have been designed to swing from east to west to ensure that

they do not 'shout' towards the residential properties, reducing the noise levels reaching the south side of Old Road. The decibel level of the bells 42 metres away from the bells in the directions the bells 'shout' has been calculated to be 57.5 (Db(A)). The nearest residential frontages are approximately 42 metres from the bells and the sound will be less than at the calculated levels at 42 metres (the actual levels cannot be calculated in directions in which the bells do not 'shout', but will be lower in those directions). This is equivalent to light traffic noise.

Concern has also been raised with regard to lighting shining towards the nearby houses. The applicant has confirmed that bat friendly dark-sky lighting is already proposed to reduce the amount of unwanted light spill into the trees to the north. In addition, light shields will be used within the car park to help reduce light spill, and building mounted lights with only downward directed light will be utilised around the perimeter of the building. A condition specifying the use of appropriate lighting is recommended.

In addition, a condition requiring the submission of a Construction Environmental Management Plan for approval before work starts is recommended to minimise impacts on neighbouring uses and the environment.

The proposal is not considered to have an unacceptable impact on the living conditions of nearby residents and is considered to comply with policies DM1 and DM4 in this regard.

CONDITIONS

1. The development hereby permitted shall begin 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 development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - a) measures to minimise impacts of demolition and construction on neighbouring residents including noise, lighting, dust and mud on the road;
 - b) details of contractor parking, loading and unloading areas;
 - c) measures to minimise impacts of demolition and construction and on the environment, including tree protection fencing, materials storage areas and lighting; and
 - d) measures to manage surface water run-off and silt during demolition and construction.

The development shall proceed only in accordance with such approved details.

4. The development shall be carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal Report by Orbis Ecology dated 20 October 2022.
5. The development shall be carried out in accordance with the revised surface water drainage strategy by Harcombe Environmental Services Ltd dated 4 August 2023.
6. The electric vehicle charging points and secure cycle parking as shown on the approved plans shall be provided and available for use before the extensions are first brought into use.
7. No external lighting shall be installed on the site except:

- a) bat friendly dark-sky lighting to avoid light spill onto the trees on the northern boundary of the site;
 - b) lighting with light shields within the car park to avoid light spill onto residential properties on the southern side of Old Road;
 - c) building mounted lights with downward directed light to avoid light spill onto habitats or residential properties;
- unless otherwise agreed in advance by the Local Planning Authority.

8. The bells shall only be rung at times when services are taking place.

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 minimise construction impacts on nearby residents, road users, habitats and species. This pre-commencement condition is required to ensure that all impacts can be mitigated adequately during the construction period.
4. To minimise impacts on habitats and species S9 of the Mid Devon Local Plan 2003-2013 and T9 of the Tiverton Neighbourhood Plan 2020 to 2033
5. To ensure adequate surface water drainage facilities are provided to manage all surface water from the site and prevent an increase in flood risk elsewhere, in accordance with policies S9 of the Mid Devon Local Plan 2003-2013 and T7 of the Tiverton Neighbourhood Plan 2020 to 2033
6. To ensure there are adequate facilities on site to encourage sustainable travel methods in accordance with policy DM5 of the Mid Devon Local Plan 2003-2013.
7. To minimise impacts on habitats and species and on the living conditions of nearby residents in accordance with policies S9 and DM4 of the Mid Devon Local Plan 2003-2013.
8. To minimise impacts on the living conditions of nearby residents in accordance with policy DM4 of the Mid Devon Local Plan 2003-2013.

REASON FOR APPROVAL OF PERMISSION

The site is in an accessible location for the provision of enhanced community facilities. Although the extensions represent a significant increase in floor area, the design of the building would improve with a more traditional church appearance allowing the building to be better identified as a church. The extensions would fit comfortably within the existing site and make better use of the site area. The enlarged church and presbytery would integrate well within the street scene, creating a better sense of place, and improve the facilities available for the community. The existing access and reconfigured parking area are considered to be adequate and to meet policy standards. There would be no increase in flood risk to the area and the proposal would provide sustainable urban drainage and connection to the mains sewer, as well as rainwater harvesting and some renewable energy provision. Impacts on the living conditions of neighbouring residents are considered to be acceptable, subject to a lighting condition and a limitation on the use of bells with services only. Impacts on habitats and species can be mitigated and there will be an overall

biodiversity net gain. Whilst there is no provision of additional green infrastructure as required by policy DM26 of the Mid Devon Local Plan, the site is such that it would not be possible to provide this. The proposal is otherwise in compliance with the relevant policies: S1, S9, S10, DM1, DM3, DM4, DM5 and DM23 of the Mid Devon Local Plan 2013-2033 and T4, T5, T6, T7, T9 and T14 of the Tiverton Neighbourhood Plan 2020-2033.

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. 22/02272/FULL

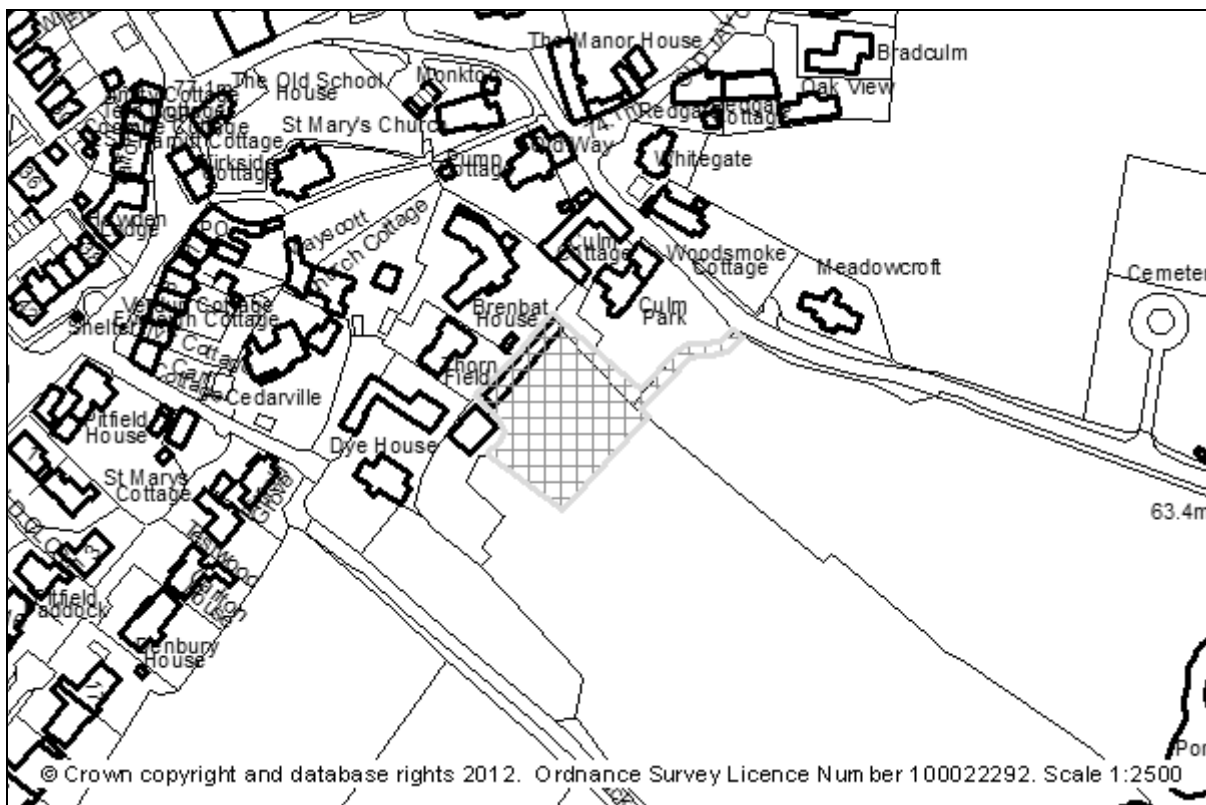
Grid Ref: 303762: 110366

Applicant: Mr H Wilson

Location: Land and Buildings at NGR 303765 110338
(Culm Park)
Willand
Devon

Proposal: Erection of 2 dwellings following demolition of agricultural buildings utilising the Class Q fallback position (21/01146/PNCOU and 21/01148/PNCOU)

Date Valid: 2nd December 2022



APPLICATION NO: 22/02272/FULL

Site Visit: Yes. **Date of Site Visit:** 18.01.2023

Decision Delayed Reason:

Negotiations/amended scheme.

MEMBER CALL-IN

Initially, the application was called in by Cllrs Warren, Evans and Chesterton with the reasons summarised as follows:

- Development outside of settlement limits
- Impact on Conservation Area
- Design compared to existing agricultural buildings

Following the local elections of May 2023, Cllrs Connor, Poynton and Glover replaced the above members. Cllr Glover confirmed that she would still like the application determined by the Planning Committee, also citing Public Health concerns.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development is for the erection of 2 dwellings following demolition of agricultural buildings utilising the Class Q fallback position (21/01146/PNCOU and 21/01148/PNCOU).

The site is adjacent to but outside of the Willand Settlement Boundary and is therefore classified as being in the open countryside by the Mid Devon Local Plan (2013-2033). The site is also adjacent to the Willand Conservation Area and Dye House to the south west of the site is Grade II listed. The site is not within a flood risk area and does not fall within any other specifically relevant landscape designations.

The application comes following the approval of application references 21/01146/PNCOU and 21/01148/PNCOU which allowed the conversion of the existing buildings on the site to a total of 3 dwellings under Schedule 2, Part 3 Class Q(a) and (b), of The Town and Country Planning (General Permitted Development) (England) Order 2015. The application therefore uses this principle of residential development as a fallback position.

APPLICANT'S SUPPORTING INFORMATION

In support of the application, the submission includes:

- Foul drainage assessment
- Planning statement
- Heritage statement
- Ecology survey
- Site location plan and topographical survey
- Existing plans and proposed plans

RELEVANT PLANNING HISTORY

21/01146/PNCOU - APA date 15th October 2021 Prior notification for the change of use of an agricultural building to 2 dwellings under Class Q

21/01148/PNCOU - APA date 15th October 2021 Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable development priorities

S9 Environment

S14 Countryside

DM1 High quality design

DM3 Transport and air quality

DM5 Parking

DM25 Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

Town and Country Planning (General Permitted Development) (England) Order 2015

Schedule 2, Part 3 Class Q (a) and (b)

CONSULTATIONS

Public Health, 14th December 2022

We have considered the application and the proposal to install package treatment plants. These will discharge to a drainage field but it is not clear where this will be sited - it needs to be on land in the ownership of the applicant, and comply with the guidance on the FDA1 form. One plant will be close to a neighbouring boundary so the applicant must ensure that this would not be compromised. This drainage field must be separate to the smaller soakaways provided to take surface water. We would be pleased to comment again when this situation is clarified.

We note the comment of one neighbour regarding concerns regarding external lighting. However for this kind of development this would not be a planning matter and if lighting does become a concern in the future the resident can contact the environmental health team for advice.

Public Health, 19th December 2022:

We have considered the amended site plan which shows the siting of the package treatment plants and associated drainage fields. This answers our queries and we have no outstanding concerns.

Public Health, 19th May 2023:

We have considered the amended plans and have the following comments:

The sites do seem very constrained now and the layout shows package treatment plants and drainage fields very close to the dwellings themselves. The requirements in the FDA1 form are clear on this in that PTPs must be at least 7m from dwellings, and the drainage field must be at least 15m away. It appears that now neither of these criteria are being met in respect of either dwelling. If the applicant can confirm that these distances will be met we would have no further objection, but in the absence of this clarification this could become a reason for refusal of the application as it is now presented.

Further, we have noted the general mention of air source heat pumps. No details have been submitted, if the applicant can provide these, we will be able to comment on whether the pumps are likely to be acceptable in terms of potential for unreasonable off-site noise.

Public Health, 7th September 2023:

Thank you for reconsulting on the amended plans. I can confirm that I have no concerns regarding the altered relative positions of the dwellings and package treatment plants/drainage fields.

If details of the proposed ASHPs have not been provided I recommend that the following condition is included on any approval in order to ensure that noise from the plants does not affect either beneficial or nearby residents. This is written in such a way that it will not require further consideration:

"The air source heat pump shall be selected, installed and operated so that the residual noise level from the pumps does not exceed the measured background noise level (day or night) by any more than 5dBA measured as Laeq, 15 min at the boundary of the application site. In this location the night time background noise level can be taken as 25dBA 1hour. Reason: to protect the amenity of existing and future residents from unacceptable noise levels."

DCC Historic Environment Team, 20th January 2023:

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

Willand Parish Council, 25th July 2023:

(previous comments viewable on the public portal)

1. Willand Parish Council are responding to the third variation of consultation request for this application. They have taken account of the revised third site layout as set out in drawing 200_06 Rev C together with the revised drawings of floor plans and elevations. There is no revised Design and Access or Planning Statement. The changes have been noted but do not change the views of members.

2. Willand Parish Council still strongly objects to this application as set out in their responses which were placed on the portal on 23 December 2022 and on 18 May 2023. All should be read in order and in conjunction with each other. The Parish Council repeat their request to our Ward Councillors to retain the call in of this application if officers are minded to approve the application in its latest layout and design. It would appear from the email to the agent from the Planning Officer dated the 10th July 2023 where he says "If I am able to determine under delegated authority....." he is minded to approve in spite of objections and observations of Public Health and the Conservation Officer or even considering any further objections or observations from consultees.

3. It is noted that the plans now move the properties a few yards more away from Dye House. The properties are slightly smaller, the possible garage sites have been removed and the parking and turning areas condensed. The buildings do not, in the strongest stretch of the imagination, represent the building that are currently there. They are a total new build and totally different from those in the nearby adjoining conservation area.

4. Attention is drawn to the earlier Parish Council response in May 2023.

The comments in paragraph 3.1 are still relevant.

The comments in relation to the Ha Ha are still relevant and have not been addressed.

The comments in paragraph 4 are still relevant in that there is still no comment from the conservation officer to the second version of site layout let alone this latest version. The Parish Council would expect to be able to respond to such a report when available but one wonders if there is any purpose to be served when it appears the officer is indicating approval may be given if the application is not called in.

5. It appears that Public Health have reservations in relation to sewage and potential noise from air sources heat pumps. It cannot be seen that either of these points have been addressed. Now that

the site has been 'condensed' and new layouts have been indicated for foul and surface water treatment but no measurements are given and no set size is given as it will be dependent on percolation tests which have not been done. There is also a note on the drawings of surface water going to a pond. Where is this pond and how will the water get to it? There are no drawings or other information to assist with or clarify this point. What are committee going to be approving?

6. The application should be refused for some or all of the following reasons set out in accord with the MDDC Local Plan Review 2013 - 2033.

6.1 Willand is a designated village under policy S13. This application site is just outside of the designated Settlement Area and also 'just over the hedge' from the Conservation Area of the village. The policy S13 therefore does not apply.

6.2 The site does not meet any of the criteria of Policy DM6 Rural Exception sites as the proposed houses are for market sale and not affordable or low cost housing.

6.3 This proposed development of two market houses is outside of the Settlement Area and therefore in Countryside and therefore Policy S14 is applicable. It is submitted that the development will not enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The proposed development does not fall into one of the permitted reasons for development under Policy S14. The application is to build two market houses in an open field together with an access road and other domestic infrastructure.

6.4 The proposed houses are not replacement dwellings in a rural area and therefore Policy DM10 will not apply.

7. Although the NPPF gives guidance it is the up to date Local Plan which should be considered for policy guidance. Policy DM9 Conversion of rural buildings is the most appropriate guide. Two buildings, a pigs house/store is one of the buildings which could be considered as falling into the criteria. The other building is a very low elevation Nissen hut which is in a poor state of maintenance. It is very questionable as to how this ever received approval under 21/01146/PNCOU. When this approval was given it was clear from the decision notice that "The applicant is advised that this decision has been made reflecting on the information submitted. It does not allow for the complete demolition of the existing building and/or the implementation of a totally new build project." The application now intends to move the location of these two buildings under 'fall back' and now wants to completely disregard the original plans under the 'betterment' argument to build two totally new and different houses in a green field away from the 'footprint' of the existing buildings. The Parish Council offer the following comments to substantiate their reasons for objection and argument for refusal of the application.

7.1 Policy DM9 states:

The conversion of redundant or disused rural buildings of substantial and permanent construction which positively contribute to an area's rural character for residential, tourism or employment uses will be permitted where:

- a) A suitable access to the building is in place or can be created without damaging the surrounding area's rural character and the road network can support the proposed use;
- b) The building can be converted without significant alteration, extension or rebuilding;
- c) The design will retain the original character of the building and its surroundings; and
- d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible.

7.2 The conversion of redundant or disused rural buildings of substantial and permanent construction which positively contribute to an area's rural character... This will not be a conversion of existing buildings but the building of two new houses. It is submitted that the current buildings do not contribute to the area's rural character.

7.3 a) A suitable access to the building is in place or can be created without damaging the surrounding area's rural character. No access is in place. A new access road will have to be built around the field edge from the public road together with turning and parking hard standing.

7.4 b) The building can be converted without significant alteration, extension or rebuilding;

There is no compliance with this or attempt to comply with it. In paragraph 4.37 of the policy notes it states: The Council will require a structural survey to be submitted to demonstrate that the building can be converted without significant alteration, extension or rebuilding, a structural survey does not appear on the file and so it is submitted that there was never an intention to convert the existing buildings.

7.5 c) The design will retain the original character of the building and its surroundings. The design of the applied for buildings bear no resemblance to the buildings which they seek to replace.

7.6 d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible. The current building have been in position and unused for so long that they are potentially a haven for diverse wildlife species. The surrounding field and the hedgerows which will be disturbed to put in the road. There is no sustainable evidence that there will be any biodiversity gain. Paragraph 4.36 of the policy notes states: Specifically in relation to residential conversions national policy states that they should lead to an enhancement to the immediate setting. What is proposed will not lead to enhancement in the view of the Parish Council. It will be two market houses with domestic infrastructure in the countryside - an agricultural field.

8. Policy DM 1 also has some relevant requirements to be considered. The relevant sections state: 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;

f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;

These policy requirements and the failure to meet them in some areas is covered elsewhere in this objection response.

9. The Wildlife Survey concludes as follows:

The proposal would result in the destruction of up to 1,250 m² of semi-improved neutral grassland with patches of ruderal plant species, and up to 100 m² of bramble scrub. The proposals include the removal of five trees from the site to allow for access. Clearance of the site and the proposed development has the potential to adversely impact bats, nesting birds, dormice, reptiles, amphibians, badger and hedgehogs.

It is considered that with the mitigation and enhancement measures recommended, potential impacts would be minimised to acceptable levels and would maintain the favourable conservation status of the protected species.

The development has the potential to improve the overall biodiversity of the site, achieving over 10% net gain in biodiversity units using the DEFRA Biodiversity Metric

What is evident from this is that the destruction is a fact. Mitigation will minimise potential impacts but not prevent them and then there could be an overall 10% net gain for biodiversity. This will need to be conditioned and complied with but who will monitor? It is noted that this report is now somewhat dated and does not take account of the latest two variations.

10. Argument is made that by using the 'betterment' provision to build two new unrelated building to what exists on site and the surrounding area should result in approval. [Earlier in the process an intention to refuse was indicated to Ward Councillors.] This needs to evidence that the benefits will outweigh the harm. The Planning Officer email of 7 March 2023 does clearly state: "there is an increase in height compared with the existing low level and benign buildings. In addition, the proposal also includes extensive driveways and significant curtilage areas which add to the overall domestication of the area. This is considered to have an adverse impact on the settings, particularly compared with what could be achieved by the previously approved conversions. As such, the proposal is not considered to be a betterment." There has been some reduction in areas

of driveway and overall domestication area but it is submitted not enough to make a convincing betterment argument.

11. Willand Parish Council objects to the application and recommends refusal in the light of all the arguments. It is their view that the application is in breach of Policies S14, DM1 and DM9 and that the application proposal, in spite of the various 'tweaks', does not amount to 'betterment'.

Willand Parish Council, 22nd August 2023:

Willand Parish Council wishes to express extreme concern as to the way this application is being dealt with as it notes that yet another site plan has been added to the Public Access site on 2 August 2023. This is the fourth site plan and there is no explanation as to why it has been submitted or what changes have been made and to what purpose.

It is further noted that issues raised in the Public Health responses dated the 19th May 2023 do not appear to have been addressed nor are there any updated reports from that department as to any changes which have been made to the application. There is no evidence as to the distances involved with regard to the package treatment plant, drainage fields or removal of surface water. The information requested with regard to noise and the air source heat pumps is also not available for public scrutiny.

The only Conservation Officer report in the public domain is the report dated 27th February 2023. There is no report available on any of the subsequent updated amended plans although reference in exchanges seem to suggest there has been more involvement by a Conservation Officer. This updated report must be of relevance and significance and should be made public.

As things stand there is a clear statement that the proposal presents harm and there is no betterment which leads to Willand Parish Council repeating its recommendation for refusal.

Highway Authority, 5th December 2022:

My comments will remain the same as the previous application 21/01148/PNCOU.

The County Highway Authority has no objections to the proposal of 2 dwellings at this location.

Environment Agency:

Operational development less than 1 ha within Flood Zone 1 - no EA consultation required - see surface water management good practice advice - see standard comment.

Natural England:

No comments received.

Conservation Officer, 3rd March 2023:

(Summarised for this report. Full comment available on the public portal)

You will recall that there are previous approvals at this site for the conversion of agricultural buildings on this land. These appear to be mid-20th buildings designed for agriculture. Whilst they are utilitarian in design, they sit quietly and their impact is quite benign, by reason of their position, low heights, materials and design. The consents allow for very little change of the character of these buildings.

Much of Willand conservation area, in common with many conservation areas, has been surrounded by modern 20th C development. The south east side is unusual as the conservation area boundary is intimate with the farmland beyond it which historically is the setting of the historic core of the village. The farming history of the historic buildings here is obvious: the important unlisted farm buildings at Culm Cottage/Culm Park and the altered linhay (also an important unlisted Building in the CAA but is part of the protected listed

buildings) at Dye House. It should be noted that the garden to Dye house runs to the south west of the application site.

It is highly significant to the understanding and experience of the conservation area, the important unlisted buildings and the listed farmhouse and its buildings that there is farmland adjacent and associated with it. The character of the setting of the conservation area here for me is the farmland running up to the historic boundary with the two farm houses, Dye House and the pair of Culm Cottage/Park and shows a lack of change over time which is significant. There is a sense of tranquillity and openness.

The proposal is for two comparatively large new buildings which are in squared off garden plots. Both are two storey houses and have no pretensions at any thought or echo of any agricultural theme either in terms of their design, materials, or position in what appears to be a rather arbitrarily drawn plot subdivided by a 2m high fence. The whole is an entirely alien feature in this farmland landscape and it clearly harmful to the setting and significance of the heritage assets. I do not see a betterment in terms of impact on heritage, but I do see harm to heritage assets.

Conservation Officer (following latest revised plans), 7th September 2023:

The alterations made are acceptable, however I would ask that the glazed panels to the balconies be changed for railings. Glass offers no privacy and is highly reflective, which given the angles and visual connection to the listed building, would be detrimental to the setting. Overall, railings would improve the appearance of both buildings.

I suggest materials and windows/doors are conditioned.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing 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.

The following properties were written to as part of this consultation:

Nonsuch Willand Old Village Willand Cullompton Devon EX15 2RL

Thornfield Willand Old Village Willand Cullompton Devon EX15 2RL

Dye House Willand Old Village Willand Cullompton Devon EX15 2RL

Ayshford House Westleigh Tiverton Devon EX16 7HL

13 Liberia Road London N5 1JP

A total of 9 letters of objection sent from 4 individuals have been received at the time of writing this report. The considerations raised are summarised below:

- Impact on village amenities
- Impact on power lines
- Overlooking
- Land not totally in applicant's ownership
- Impact of external lighting (amenity)
- Impact on TPO and Conservation Area trees
- Noise impacts

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development
2. Design and amenity
3. Impact upon heritage assets
4. Ecology/biodiversity
5. Highway safety and parking
6. Other matters
7. Planning balance

1. Principle of development

1.1 The site is adjacent to but outside of the Willand Settlement Boundary and is therefore classified as being in the open countryside by the Mid Devon Local Plan (2013-2033). Policy S14 therefore applies which seeks to enhance the character of the countryside and does not ordinarily permit new-build, open-market dwellings in rural locations. However, in this case, the application seeks to demolish two existing agricultural buildings and replace them with two new dwellings. This is on the basis that the buildings can be converted to dwellings under a Class Q permitted development conversion that has previously been granted.

1.2 In considering this proposal, it is noted that recent case law and appeals, namely *Mansell V Tonbridge* 2017, establish that permission for a residential conversion gained through Class Q can establish a fall-back position for a replacement dwelling in general terms. The case law does not make it clear how much weight should be applied, as it is clearly a matter for the decision maker to interpret on a case-by-case basis. The case law merely establishes the general principle that such a fall-back position can be given weight.

1.3 Given that Class Q approval has already been granted on the site to convert the existing buildings to a total of 3 dwellings, it can be considered that there is a real prospect of a Class Q scheme being brought forward so a fall-back position has been established. On this basis, consideration for this application will be given to the overall impact of the proposed development, with appropriate weight given to the fall-back position.

1.4 Generally, it is expected that the proposed replacement development should represent a real and positive enhancement, or betterment, to the original scheme allowed under Class Q. Overall, the principle of the development is considered to be broadly acceptable subject to consideration of the details in line with other relevant local and national policy discussed throughout this report.

2. Design and amenity

2.1 Policy DM1 of the Local Plan refers to high quality design and seeks to ensure this according to a number of principles including creating visually attractive places, meeting nationally described space standards and protecting neighbourhood amenity.

2.2 Following negotiations and the receipt of revised plans, the proposed dwellings represent two barn-like buildings which are considered to respond positively to the rural vernacular. The thoughtful use of materials including stone and timber cladding and zinc roofing give a high quality appearance whilst being respectful to the rural location.

Internally, the dwellings meet nationally described space standards and the rooms benefit from good levels of natural light. Prospective occupants will benefit from a balcony, terrace and large garden area resulting in good levels of amenity. It is notable that whilst the dwellings have a lower floor area than the Class Q proposals, the level of amenity for prospective occupants will be greatly increased.

2.3 With regard to neighbourhood amenity, Plot 1 is over 15m from the site boundary whilst Plot 2 is approximately 20m from the boundary. The overall heights are similar to the existing dwellings to the west and it is therefore not expected that there will be significant adverse impacts in terms of overlooking, loss of light or overbearingness. The comments relating to noise from the heat pumps have been noted and a condition has been included to control the final details of these as per Public Health guidance. Similarly, whilst Public Health do not raise concerns in terms of lighting, a condition has also been used to control the type and position of any external lighting in order to further protect amenity. Such conditions could not have been used as part of the Class Q schemes. The dwellings are also well separated from one another with the balconies facing towards the open countryside, however, a condition has been used to ensure a privacy screen is installed.

2.4 Solar panels and heat pumps are incorporated into the design which will provide a clear renewable energy benefit which otherwise could not be achieved under Class Q development.

2.5 Overall, whilst the existing buildings are benign rural buildings that have sat in the landscape for some years, there are clear design benefits to the proposed scheme. There will be greater levels of amenity for prospective occupants and neighbours as well as clear renewable energy enhancements in accordance with DM1 of the Local Plan.

3. Impact upon heritage assets

3.1 In coming to this decision the council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.

3.2 Similarly, in coming to this decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

3.3 The site is not within but adjacent to the Willand Conservation Area. Dye House which is sited approximately 27m south west of the site is Grade II listed. As such, the settings of both heritage assets have been carefully considered. Policy DM25 of the Local Plan seeks to preserve and, where possible, enhance heritage assets and their settings.

3.4 Given all of the above, the Council's Conservation Officer has been consulted on the proposal. Initially, the Conservation Officer raised concerns regarding the impact of the development on the setting of the heritage assets owing to its scale and

domestic/modern design which they state was not overcome by a public benefit. A number of subsequent design alterations were submitted with the scale, position and design of the proposed dwellings altered. The Council's Conservation Officer is satisfied with the revised proposals subject to the balcony material changing from glass to railings and external material conditions. The conditions have been used and revised plans modifying the balcony have since been received.

3.5 Whilst a recent appeal decision (Reference 3316553) indicated that the removal of permitted development rights should not be used as a blanket approach for Class Q fall-back applications, given the proximity to the Conservation Area and listed building, it has been decided to use the condition in this instance to further protect the heritage assets.

3.6 Given the revised design and use of conditions, the Conservation Officer raises no objection to the application. Planning Officers have no reason to dispute this view and therefore it is considered that the development complies with DM25 of the Mid Devon Local Plan.

4. Ecology/biodiversity

4.1 An ecological impact assessment has been submitted to support the application. The report concludes that the buildings to be removed have a negligible suitability for roosting bats although the wider site was found to support a low population of slow worm and grass snakes with potential nesting for other wildlife. The report therefore recommends a number of mitigation and enhanced measures relating to planting, the timing of the works and installation of excavations for wildlife. It also recommends that a requirement for an Ecological Mitigation and Enhancement Strategy is secured by a planning condition. Conditions have been added to ensure development accords with the survey and that an EMES is submitted. Similarly, a condition has been used to ensure the proposed planting is also secured. These are conditions which would not have been possible under the Class Q scheme and therefore the enhancement and mitigation measures can be considered a betterment.

4.2 The comments relating to the loss of TPO trees and trees in the Conservation Area are noted. There are no TPO trees on the site and the site is not within a Conservation Area – any works to such trees would require the relevant permissions.

5. Highways and parking

5.1 The County Highway Authority have confirmed that they have no objection to residential development on the site. Permission was previously granted for 3 dwellings so the impact on the local road network will be less than the Class Q proposals.

5.2 DM3 of the local plan requires safe access onto the highway network and as such a condition has to ensure these details are submitted prior the development being brought into its been added to ensure details of visibility splays are submitted to and approved by the Local Planning Authority. The County Highway Authority point to application reference 21/01148/PNCOU in their comments which demonstrates that the splays can be achieved but details need to be submitted under this application so a condition has been used approved. The development is therefore considered to comply with DM3 of the Local Plan.

5.3 Policy DM5 requires 1.7 parking spaces per residential dwelling and the submitted plans clearly show enough area to accord with this.

6. Other matters

6.1 In addition to the matters discussed above, public concern has also been raised in relation to ownership of the site, overhead power-lines and impact on village amenities. Firstly, in terms of the latter, two dwellings are proposed where there is approval for three so there will be less of an impact on local services. With regards to ownership, the applicants have followed the correct notice procedure and therefore this will be a civil matter as opposed to a material planning consideration. Finally, it is not expected that works to the overhead lines will be required and whilst this does not impact the planning application, any other relevant permissions would need to be followed.

7. Planning balance

7.1 Owing to the historic Class Q applications, there is clearly a real prospect of residential development on the site and the fall-back position is therefore established. The proposal seeks to erect two dwellings rather than the three approved which will result in a betterment in terms of impacts on the local road network and local services. The design will result in greatly improved levels of amenity for prospective occupants as well as renewable energy enhancements. It has been found that, with the use of conditions, there will be no significant adverse impacts upon neighbourhood amenity, ecology or the setting of nearby heritage assets. As such, officers consider the proposal a planning betterment compared to the Class Q proposals and approval is recommended.

REASON FOR APPROVAL

The proposed erection of 2 dwellings following demolition of agricultural buildings utilising the Class Q fallback position (21/01146/PNCOU and 21/01148/PNCOU) at Land and Buildings at NGR 303765 110338 (Culm Park), Willand is considered acceptable as a matter of policy. The principle of residential on the site was established by the Class Q approval and the proposed development, by virtue of its, design, amenity and renewable energy enhancements is considered to be a planning betterment compared with what could be achieved via a permitted development, Class Q conversion. It is considered that it would cause no significant harm to the character and appearance of the surrounding area including the setting of heritage assets and would have no adverse impact on highway safety. As such, the scheme complies with policies S1, S9, S14, DM1, DM3, DM5 and DM25 of the Mid Devon District Council Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to commencement of development on the site, a detailed Ecological Mitigation and Enhancement Strategy (EMES) which includes a detailed planting scheme and ecological management plan shall be submitted to and approved in writing by the Local Planning Authority. The management scheme will provide details on how the site will be managed and maintained for the lifetime of the development. The development shall proceed in accordance with the approved EMES, ecological management plan and planting scheme.

4. The planting scheme approved under Condition 3 shall be carried out in the first planting season, following the occupation of the first dwelling hereby permitted or substantial completion of the development, 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. The landscaping scheme shall be so retained for the lifetime of the development.
5. The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements of the ecological survey report undertaken by Richard Green Ecology dated November 2022.
6. Prior to the installation of any exterior lighting on the buildings or elsewhere on the site, full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.
7. The air source heat pump shall be selected, installed and operated so that the residual noise level from the pumps does not exceed the measured background noise level (day or night) by any more than 5dBa measured as Laeq, 15 min at the boundary of the application site. In this location the night time background noise level can be taken as 25dBa 1hour.
8. The dwellings hereby approved shall only be occupied once the air source heat pump and solar panels have been installed. The LPA shall be notified of their installation in writing, including full details of the air source heat pump and solar panels that have been used.
9. Before use of the balcony hereby approved a 1.7m high privacy screen shall be erected on either side of the balcony area in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The privacy screen shall thereafter be permanently retained. For the avoidance of doubt, the privacy screens shall be the form of a solid barrier which is opaque.
10. When the existing buildings are demolished all materials shall be recycled or safely removed from the site.
11. Prior to the erection of the external materials (cladding, stone, roofing) as shown on the approved plans, details of the colour and finish of the materials to be used (including samples where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall be so used and retained.
12. Prior to the installation of the windows and doors as shown on the approved plans, details of the colour and finish of the windows/doors to be used (including samples where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall be so used and retained.
13. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C, D and E of Part 1 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, enlargement by construction of an additional storey, addition or alteration to the roof, provision of a porch and provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

14. Prior to the development being first brought into its approved use, an access plan shall be submitted to and approved by the local planning authority to demonstrate sufficient visibility splays. There shall be no obstruction to visibility greater than one metre above adjoining road level forward of the visibility splays. Such visibility shall be fully provided before occupation of the first dwelling and be retained for the lifetime of the development.
15. Where the height of the boundary wall immediately north-west of the access is required to be reduced in order to comply with Condition 14, above, details of the capping materials and finish shall be submitted to and approved by the Local planning Authority prior to the work being carried out. The works shall be carried out in complete accordance with the approved details.

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 safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
4. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with DM1 of the Local Plan.
5. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
6. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) and to protect neighbourhood amenity in accordance with DM1 of the Local Plan.
7. To protect the amenity of existing and future residents from unacceptable noise levels in accordance with DM1 of the Local Plan.
8. To ensure the renewable energy enhancements are brought forward to ensure a planning betterment.
9. To protect neighbourhood amenity in accordance with DM1 of the Local Plan.
10. To protect neighbourhood amenity in accordance with DM1 of the Local Plan.
11. To protect neighbourhood amenity in accordance with DM1 of the Local Plan.
12. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with DM1 of the Local Plan.
13. To ensure that the development makes a positive contribution to the character and amenity of the area and does not harm the setting of the heritage assets in accordance with DM1 and DM25 of the Local Plan.
14. In the interests of highway safety.
15. To protect the character and appearance of the Conservation Area.

INFORMATIVES

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 utilised planning conditions to the application 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.

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. 23/00228/FULL

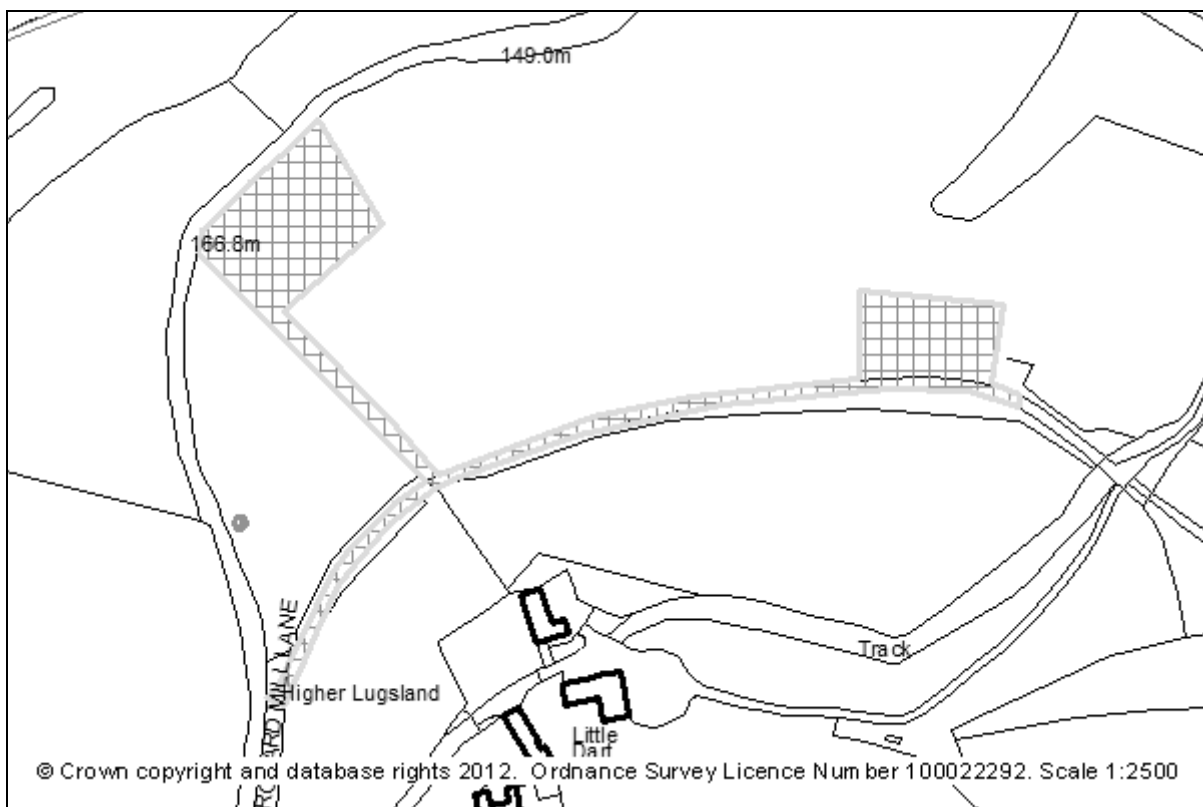
Grid Ref: Easting 289014: Northing 112571

Applicant: Mr & Mrs J Holland

Location: Land at NGR 288859 112585 (Park Meadow)
Pennymoor
Devon

Proposal: Siting of a temporary rural workers dwelling with access track and erection of an agricultural building with yard

Date Valid: 28th July 2022



APPLICATION NO: 23/00228/FULL

Site Visit: Yes

Date of Site Visit: 09/06/2023 and 22/06/2023

Decision Delayed Reason:

Third party assessment of submitted Agricultural Appraisal required, which was delayed.

MEMBER CALL-IN

The application was called in to The Planning Committee by Cllr Colthorpe, following significant local objection, which related to:

- Visual Impact
- Highways impact
- Amenity impact
- Environmental impact

RECOMMENDATION

Grant planning permission, subject to conditions.

SITE DESCRIPTION

The application site comprises a plot of agricultural land extending to approximately 5.6ha. It is within the Parish of Cruwys Morchard, in open countryside/outside of settlement, circa 5km to the west of Tiverton. The site is not subject to any special designations. It is not within an area of special protection and is not nearby any listed buildings or heritage assets.

The site is delineated by trees and hedgerows on the north, east and western sides, which are bound by the Cruwys Morchard Mill Lane (Class III highway) to the north west and by the B3137 (Class II highway) to the north east. On the southern side, a semi-circular access track separates the site from a separate plot of agricultural land which is not under the ownership of the applicant. Beyond this to the south, is a single dwelling and associated ancillary outbuildings, with an agricultural storage building to its west.

Important to the consideration of this application is topography of the site. The site slopes steeply downward from south west to north east. The eastern and southern edge of the site effectively comprise narrow plateaus, whereby the site then slopes steeply downwards to the B3137.

PROPOSED DEVELOPMENT

The application seeks planning permission for the siting of a temporary rural workers dwelling with access track and for the erection of a permanent agricultural storage building. Specifically the following is proposed:

Temporary rural workers dwelling

A temporary 2 bedroom timber cabin/caravan upon a concrete plinth, 75.6m², located on the west of the site (as per drawing JH-JH-03 dwelling)

Agricultural storage building

The erection of a permanent agricultural storage barn along the southern boundary of the site, to be used for the storage of feed, machinery and the occasional housing of alpaca during inclement weather or during vets visits. It would occupy a footprint of approximately 288m², and would be of pitched roof design measuring 3.5 metres to eaves and 4.5 metres to the ridgeline. The barn would be externally clad with concrete panels, with timber boarding above and would comprise grey profiled fibre cement sheet roofing with rooflights (as per drawing JH-JH-04B).

Ancillary development

Ancillary to the above main developments it is proposed that (as per drawing number JH-JH-02C);

- A crushed stone access track would be installed, which spurs off the existing semi-circular track to provide access to the dwelling.
- A timber shed/garage would be erected adjacent to the proposed cabin/caravan for the storage of tools and plant (primarily a generator).
- 2no ground mounted solar panels would be sited on the north eastern edge of the site.
- New hedgerow planting would be installed to partially screen the proposed buildings.
- Part of the site would be laid to wildflower.
- Owl boxes would be installed in mature trees.
- Bat/bird boxes would be installed on the proposed barn.

The site is already served by an existing gated access off Cruwys Morchard Mill Lane, to the west of the site. Access would continue to be served from this access and the site would not be accessed from any other points.

It is proposed that the site, in conjunction with the proposed development, would be used for the keeping, breeding and rearing of alpacas and the occasional husbandry class. The applicant has been keeping alpacas since 2005 within a paddock at their home, outside of the District; which has been operating as a hobby/below commercial level for many years. The applicant now seeks to expand the business to commercial level, in this new location.

RELEVANT UPDATE

The development has partly commenced in that (at the time of writing) the temporary cabin/caravan has been moved onto the site, the additional section of track has already been constructed, a borehole has been dug and works to construct the ancillary tool/generator storage shed have begun. Of particular concern to residents is that a historical access onto the B3137 was opened in order for the cabin/caravan to be brought onto the site.

During the course of the determination of this application it became apparent that the agricultural land to the south of the semi-circular access track was no longer available for rent. This has been removed from the proposal.

The proposal has been revised to address objections and concerns in the following manner:

- The proposed agricultural barn has been reduced in size (detail to follow in the ensuing sections of this report).
- The applicant has explored alternative locations for the proposed agricultural barn and has provided justification for why an alternative location is not possible.

- The applicant has removed the originally proposed solar panels on the proposed storage barn roof and has reverted to proposing ground mounted solar panels.
- Additional information has been provided justifying the footprint of the proposed storage barn.
- Hedgerows have been additionally proposed to partially screen the proposed development.
- The applicant has clarified that use of the historical access onto the B road was temporary only, for the purpose of bringing the cabin/caravan on site and has confirmed agreement to a planning condition that it shall be closed off and not used in conjunction with the proposed development.
- A specification of the proposed generator has been provided.
- The applicant has clarified the proposed stocking rate.
- The applicant has secured additional agricultural land off site, to be used in conjunction with the site/proposed business, (detail to follow in ensuing sections of this report).

As part of this application, the agricultural appraisal submitted has been independently assessed. Landscape Land and Property Ltd (LLP) are a third party Agricultural and Property Consultant. At the request of the Local Planning Authority, LLP have undertaken an assessment of the Agricultural Appraisal submitted in support of this application. In summary form, LLP find that:

There is an essential need for a rural worker to reside on the site for the proper functioning of the business.

Given the site based need, it is unlikely that dwellings in nearby settlements would be able to meet the need.

The proposed temporary cabin/caravan is not of an inappropriate size and scale for a rural worker.

That the business is based on sound experience and financial planning, partly demonstrated by the running of the business as a hobby/just under commercial level elsewhere.

The proposed storage barn is reasonably necessary for the proper functioning of the business.

The calculations provided with regard to justifying the size of the propose barn are acceptable, but at the far end of the requirements [*Barn since reduced in size*].

The land is relatively small for the numbers of stock proposed. It would likely need to rely to some extent on additional rented land. [*Additional land since secured*].

APPLICANT'S SUPPORTING INFORMATION

The following information has been submitted in support of the application:

- Site Location Plan (revised)
- Proposed Site Plan (revised)
- Proposed Dwelling Plan and Elevations
- Proposed Barn Plan and Elevations (revised)
- Design and Access Statement (revised)

- Agricultural Appraisal (revised)
- Preliminary Ecological Appraisal
- South West Water Searches
- Foul Drainage Assessment Form
- Storage Calculations for the Proposed Barn
- Generator Specification
- Information on Alpaca Stocking Rates
- Indicative Example of Ground Mounted Solar Panel

RELEVANT PLANNING HISTORY

None applicable.

DEVELOPMENT PLAN POLICIES

Section.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. The Development Plan this case comprises the following:

National Planning Policy Framework

National Planning Practice Guidance

Mid Devon Local Plan 2013 – 2033:

- Policy S1 - Sustainable development priorities
- Policy S9 – Environment
- Policy S14 – Countryside
- Policy DM1 - High quality design
- Policy DM3 – Transport and Air Quality
- Policy DM5 – Parking
- Policy DM8 - Rural workers' dwellings
- Policy DM20 – Agricultural Development

CONSULTATIONS

Devon County Council Highways Authority

The County Highway Authority recommends that standing advice issued to Mid Devon District Council is used to assess the highway impacts of this development.

Mid Devon District Council Public Health Team

MDDC Public Health team have considered this application and do not anticipate any environmental health concerns. The applicant proposes to install a new package treatment plant discharging to land within their ownership and there are no concerns regarding this. A borehole would be used for the supply of drinking and ablution water and therefore the Private Water Supply Regulations 2016 will apply. The applicant is advised to contact MDDC Public Health Team for separate advice regarding this.

Cruwys Morchard Bishop Parish Council (16/03/2023)

The Parish Council objects to the proposal for the following reasons:

- The entrance to the proposed site on Cruwys Morchard Mill Lane is a very narrow lane with no proper passing places. This proposal would bring larger vehicle traffic to the lane.
- There appears to be a lack of information with regards to waste management.
- It appears that work has already started despite no planning permission.
- The site is small to keep livestock and does not warrant a dwelling.
- The applicant has stated that additional land adjacent to the site has been agreed for rent, but this land belongs to someone else which has not rented the land.

Cruwys Morchard Bishop Parish Council (23/08/2023)

The Parish Council maintains their objection to the proposal. (An identical objection to the revised scheme that was received on 16/03/2023 was received).

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing 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.

The following properties were written to:

- The Elms Morchard Bishop Crediton Devon EX17 6PL
- Gulmoor Farm Upplowman Tiverton Devon EX16 7DR
- Gandria, Lower Green Galleywood Chelmsford CM2 8QS
- Luccombe Cottage Luccombe Lane Exeter Devon EX2 8GL
- 18 Birchy Barton Hill Exeter Devon EX1 3ET
- Timewells House Holcombe Rogus TA21 0PR
- Morchard Mill Templeton Tiverton Devon EX16 8LB
- Little Dart House Pennymoor Tiverton Devon EX16 8LB
- Cruwys Morchard House Cruwys Morchard Pennymoor Tiverton EX16 8LD
- Vulscombe Farm Withleigh Tiverton Devon EX16 8NB
- Eveleighs Pennymoor Tiverton Devon EX16 8LB
- Swallows Lower Bradley Withleigh Tiverton Devon EX16 8LA
- Mill Lane Farm Pennymoor Tiverton Devon EX16 8NF
- Lower Lugsland Withleigh Tiverton Devon EX16 8LB
- Mobile 2 Mill Lane Farm Pennymoor Tiverton Devon EX16 8NF
- The Flat Mill Lane Farm Pennymoor Tiverton Devon EX16 8NF
- Mill Lane Farm Pennymoor Tiverton Devon EX16 8NF
- Little Dart House Pennymoor Tiverton Devon EX16 8LB

Following the initial round of consultation: A total of 23no letters of objection were received, from 20no separate objectors. Objections raised the following points (other points were raised but are not referenced in this report as they refer to non-planning issues but can be seen/viewed on the public portal).

It is noted that 5no objections were identical, appearing to be received from separate objectors not living in the area. No addresses were given. One objection was received purported to be on behalf of the residents of Lower Bradley but no address or name was given.

In principle issues: The size and nature of the enterprise does not justify a dwelling. The parcel of land is too small for an agricultural business. Questions regarding whether or not the breeding of alpacas is actually an agricultural use. This is not a new venture, it is the relocation of an existing and well-established business. So why not assess the previous three years of trading accounts? It is questioned whether the development which is the subject of this application meets the appropriate tests for need, especially the temporary dwelling. Insufficient consideration has been given to alternative local housing.

Visual impact: The development will not preserve or enhance the characteristics and special qualities of the countryside. The proposed agricultural building will represent a significant visual intrusion into the landscape and neighbouring property. It is questioned why it needs to be of such significant size and scale and the impact of this building is to be exacerbated with the provision of solar panels on the southern roof slope. The two buildings are set far apart and should be grouped together.

Amenity impacts: Noise pollution, namely from proposed generator. It is not clear whether or not any external illumination or floodlighting is proposed. The proximity of the barn to the nearest property would give rise to unacceptable levels of noise, odour and disturbance.

Ecological impacts: Structures are set too close to hedgerows. Proposed owl box would conflict with proposed lighting on the barn.

Highways impacts: Access is unsatisfactory, with poor visibility. Poor road infrastructure and relatively few passing places. Increased traffic in a rural area. The proposed alpaca husbandry courses will only serve to exacerbate traffic issues. Reduction in pedestrian safety.

Development already carried out: Extensive works have already been carried out. Elements of this application appear to now be retrospective.

Other issues:

- If animal welfare is so important. Why is the agricultural building so far away from the dwelling? This application has two clear settlements clearly setting out the applicant's intention of developing two sites on this small parcel of land which in time could be sold off.
- The application mentions a number of ancillary activities which generate revenue; It is suggested that these income streams form an important part of the revenue of the applicant's business, but do they conform with the definition of a 'rural business'? It is questioned whether there should be separate planning application for running an educational business on this site, as arguably, this constitutes a 'change of use' from agriculture.

Following receipt of a third party assessment of the Agricultural Appraisal submitted in support of this application and receipt of revised plans and information; the Parish Council and neighbouring properties were again written to (allowing a further 21 days to comment).

In lieu of the revised submission a total of 4no letters of objection were received. In each case these were from persons that had objected to the original submission. A summary of new issues raised within the objections are as follows:

Further inaccuracies and omissions within the submission documents were pointed out.

Concerns with regards to the size of the site comparative to the stocking rate were raised and how this has been calculated.

It was suggested that alternative locations for the proposed barn has not been properly considered

It was not considered that the reduced barn size alleviates previous visual concerns/impacts which were originally raised.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- Principle of development/sustainability
- Impact upon the character and visual amenity of the area/countryside
- Impact on residential amenity of surrounding properties
- Impact on ecology/biodiversity
- Land drainage/flood risk
- Impact upon the highway
- Other matters (including issues raised in representations and consultations that have not already been covered above)

1. Principle of development

1.1 Under the provisions of S.55 (2)(e) of the Town and Country Planning Act 1990 the use of the land for the purposes of agriculture is established, so the act of farming alpaca on this land per se is not development forming part of the consideration of this application. The application considers the siting of a temporary dwelling on the site; the erection of an agricultural building on the site; and associated access and ancillary works.

Rural Worker Dwelling

1.2 Para 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply. This is reflected in Policy S1 and S14 of the Mid Devon Local Plan which seeks to concentrate residential development principally within Mid Devon's three main towns (Tiverton, Cullompton and Crediton), whereby residential development outside the main town areas are to be limited. So, dwellings in open countryside/outside of settlement are generally (save for specific exceptions) not supported in the District.

1.3 The application site, as defined in the Local Plan policies map, is located in open countryside/outside of settlement. So, residential development of this site would generally not be supported at this site, save for specific exceptions.

1.4 One such specific exception is for rural workers dwellings whereby there is an essential need for a rural worker to live permanently at their place of work in the countryside. This is detailed in Policy DM8 of the Mid Devon Local Plan, which is broadly in line with the aims set out within para 80a of the NPPF, which states:

'Applications for rural workers' dwellings will be permitted where:

- a) It can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work so they are available at most times;*
- b) The need cannot be met within a nearby settlement, or by existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site;*

- c) *The size and scale of rural workers dwellings will be commensurate with the scale of the operation and designed to reflect the location and setting of the proposed site; and*
- d) *The rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so.*

Where a rural business is not yet established a mobile home may be permitted for a temporary period, on the basis of criteria b) and c) above, and evidence of:

- I. An essential need for one or more workers to be readily available at most times*
- II. A firm intention and ability to develop the enterprise*
- III. (iii) Sound financial planning*

Permissions for rural workers dwellings will be subject to an occupancy condition. Removal of such a condition will only be permitted where there is clear evidence that there is no need for the condition to remain in place'.

1.5 The initial consideration is therefore whether there is an identified need for a rural worker's dwelling sufficient to outweigh the aims of local and national planning policies which seek to restrict isolated development outside of established settlements. In consideration thereof:

1.6 Is there an essential need for a full time worker to be permanently resident at or near their place of work so they are available at most times?

1.7 The farming of livestock commercially are governed by legal requirements such as the Animal Welfare Act 2006. Under the legislation, livestock should enjoy 5 basic freedoms (freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury or disease and freedom from fear or distress). In this case it is submitted that there is a need to be readily available at most times to provide for the required welfare needs of the Alpacas for:

- Birthing - Due to the unique welfare needs of Alpacas, there is often a need for human intervention in the birthing process. Alpacas have a unique gestation period insofar as there is no closely defined time period and gestation periods can vary significantly. Such timings make it difficult to predict timing of births; so close observation is required for monitoring throughout the gestation period.
- Rearing – Following birth it is not uncommon to require artificial rearing to ensure adequate levels of milk and colostrum. This can necessitate 2 hourly feeds day and night; thereafter 3 hourly feeds; thereafter 3 feed daily.
- Mating – Mating of Alpaca is a managed process, not as conventional as other farm animals. It is required to pen one male and one female, separately, observe for interest and assist in some cases to ensure fertilisation.
- Abortions and stillbirths – monitoring for abortions and stillbirths
- Day to day management – regular monitoring to ensure freedom from illness. As alpaca are prey animals they seldom show signs of distress so therefore close monitoring is required.

1.8 The applicant references planning appeals where the farming of alpaca were similarly deemed to necessitate an essential need for a worker on site for these same reasons; so there is a precedent set in this regard and the submission is not disagreed with. The above reasoning behind the essential need for a rural worker to reside on the site has also been fact checked by a third party Agricultural Consultant (LLP) and is not disputed.

1.9 With respect to the amount of care that would be required to be provided: the agricultural appraisal submitted in support of this application indicates that the level of responsibility and daily work is sufficient for at least one full time worker to reside on site. It states that with the 30 alpaca system proposed under the business plan (circa 30 breeding females and circa 30 other alpacas) that work equating to 325 standard man days would be needed. 275 standard man days is generally considered to be equivalent to one full time worker. The figures used to calculate this have been taken from the John Nix farming Pocketbook which is generally considered as standard method for calculating man hours and the figures have been fact checked by a third party agricultural consultant (LLP) and are not disputed.

1.10 It is therefore considered to be demonstrated that there is an essential need for a full time worker to be permanently resident at the site for the proper functioning of the proposed business and for the welfare needs of the numbers of alpaca projected.

1.11 Can the need be met within a nearby settlement, or by existing housing at or near the site through the conversion of suitable redundant or disused rural buildings at the site?

1.12 By virtue of the reasons above it is considered that there is a need for a rural worker to reside directly on site. It is unlikely that the need can be met in nearby settlements and there are no redundant or disused rural buildings at the site for conversion.

1.13 Is the size and scale of the rural workers dwelling commensurate with the scale of the operation and is it designed to reflect the location and setting of the proposed site?

1.14 A temporary two bedroom timber caravan of 75.6m² internal floorspace, is proposed. This is considered to be of a size and scale commensurate with a single rural worker and his or her dependants and is not excessive in scale.

1.15 Has the rural enterprise been established for at least three years, is it currently financially sound, and does it have a clear prospect of remaining so?

1.16 Policy DM8 states that 'Where a rural business is not yet established a mobile home may be permitted for a temporary period, on the basis of criteria b) and c) above, and evidence of:

- I. An essential need for one or more workers to be readily available at most times*
- II. A firm intention and ability to develop the enterprise*
- III. (iii) Sound financial planning*

1.17 Whilst there is history of the applicant operating outside of the district; the rural business has not been established for three years in this location. But it is considered to be demonstrated, for reason identified above, that there is an essential need for a worker to be readily available at most times. By virtue of the applicants significant experience and sound business plan (as fact checked by our third party agricultural consultant); it is considered that there is a firm intention and ability to develop the enterprise and that the proposal is based on sound financial planning. So in this case a temporary dwelling only, for a trial period, would be appropriate.

1.18 It is therefore considered necessary to attach a planning condition to any permission that permits the use of the temporary workers mobile home for three years only. i.e. that it shall be discontinued on or before three years of the date of any permission. Prior to its

discontinuance, a scheme for the restoration of the site should be submitted to and approved in writing by the Local Planning Authority.

1.19 If after three years the applicant is able to demonstrate that the rural enterprise been established on the site for at least three years successfully, that it is at that point financially sound, and that there is a clear prospect of remaining so. The applicant could in future apply for a permanent dwelling on the site. This does not form part of the consideration of this application, but should a forthcoming application be submitted in future for a permanent dwelling, then this would be duly considered at the time.

1.20 In summary, having assessed the proposed temporary rural workers dwelling against the appropriate national and local planning policies and guidance, it has been demonstrated that broad principal of a temporary workers dwelling in this location would meet the functional requirements and that there is appropriate justification for the essential need for a full time worker to reside on the application site (subject to consideration against other relevant policies heron in). This is sufficient to outweigh the aims of local and national planning policies that seek to restrict isolated development outside of established settlements.

Agricultural Storage Barn

1.21 In respect to the proposed agricultural barn, Policy DM20 of the Mid Devon Local Plan states:

'Agricultural development will be permitted where:

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

1.22 In respect to point a) It is considered that the proposed agricultural building is reasonably necessary to support the proposed farming activity on this site. It is proposed that the building would be used for the storage of feed, machinery and the occasional housing of alpaca during inclement weather or during vet's visits. This is considered to be an integral to the proper running of the proposed enterprise. The applicant has provided detailed calculations of how the storage building would be used and details of what feed and machinery would be required to be stored inside it; justifying the proposed footprint.

1.23 Notwithstanding the planning merits to the temporary agricultural workers dwelling on site, the agricultural storage building has been assessed in line with Policy DM20 of the Mid Devon Local Plan. The need for the agricultural storage building as outlined within the planning submission is justified in its own right, with the design and scale of the building not resulting in a detrimental impact on the character and appearance of the area, the wider environment or having an unacceptable traffic impact on the local road network. As such, the agricultural storage building would be in accordance with Policy DM20 being acceptable with no further planning condition relating to this building being required.

2. Impact upon the character and visual amenity of the area/countryside

2.1 Para 130 of the NPPF advises that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. This is reflected in Policy DM1 of the Local Plan seeks to ensure high quality design, which demonstrates a clear understanding of the characteristics of the site and surrounding areas. It identifies architecture, siting, layout, scale, massing, orientation, fenestration and materials as features contributing to high quality design.

2.2 The site is not subject to any special designations. It is not within an area of special protection and is not nearby any listed buildings or heritage assets.

2.3 On visits to the site the Planning Officer observed a rural landscape characterised by sloping valleys, often seclude in part by greenery and hedgerows. Whilst the lack of significant development in the area positively contributed to the rural character; there were numerous examples of agricultural buildings in the vicinity. Indeed, from the site it could be seen that there were a number of large agricultural buildings dotted around the landscape; with no less than three clearly visible atop the brows of hills to the north and west of the site.

2.4 Views into the site are not apparent from the immediate surroundings, but when viewing the site from public vantages across immediate wooded area to the north of the slope across the B3137; the site could be viewed transiently between breaks in trees. If specifically looking to see the cabin/caravan from these vantages, it can be seen fleetingly; but by virtue of its small scale, positioning and timber finish, it does not appear as discordant feature in the landscape. Further the proposal to add native hedgerow aside the more prominent elevation of the caravan would help further its assimilation into setting.

2.5 With respect the proposed agricultural storage building: The applicant has reduced the buildings height significantly to take in account local objections. The originally proposed building measured 4.8metres to eaves height at 8metres to ridge height. The revised building measures 3.5metres to eaves height and 4.5metres to ridge height. Alternative locations were also considered for the siting of the building, but due to the steep gradient of the site, there is very limited scope for placing the building elsewhere than is proposed. Given the context of the surrounding areas, where there are already large agricultural buildings dotted around the landscape; the concessions in size that have been made by the applicant; and the final design and positioning; it is not considered that the proposed storage building would result in significant harm to the landscape. The proposed materials and design are of a typical modern agricultural building, consistent with similar agricultural development in the locality and the District. The building would be partly cut into the slope of the ground (approx. 2 metres on the southern side) thus minimising any impact. The originally proposed rooflights to the building's roof have been removed and native hedgerow planting is now proposed to in part screen the more prominent elevation.

2.6 In accordance with the NPPF and Policy DM1 of the Mid Devon Local Plan, it is not considered that the proposal would significantly impact upon the character and visual amenity of the area/countryside and that there would not be significant adverse visual harm.

3. Impact upon the residential amenity of surrounding properties

3.1 Para 130 of the NPPF seeks promote health and well-being, with a high standard of amenity for existing and future users and aims to ensure that development does not have a

significant adverse impact upon living conditions. This is reflected in Policies S1 and DM1 of the Mid Devon Local Plan.

3.2 The only residential property within relative proximity to the proposed development that could reasonably be considered to be impacted, would be located circa 130 away from the cabin/caravan and circa 140 metres proposed storage barn for and is separated by dense greenery. There would therefore not be any impact in respect of overshadowing, loss of light or overlooking etc.

3.3 Due to the distance apart and the fact that the residential property is sited on higher ground; the cabin/caravan would be unlikely to be able to be seen from the residential property and whilst the ridgeline of the proposed barn may be able to be seen fleetingly; it has been lowered in height to take account of the objections and by virtue of the sloping ground would be set circa 2metres into the ground in any case; so the impact upon outlook would not be considerable.

3.4In respect of noise impacts; the land could already be used to farm livestock/alpaca; so in doing so as part of this development there would be neutral impact. In terms of the use of the proposed generator; this would be located circa 130metres away from the residential property. It would be a specification as such that it would generate 68db (akin to a normal conversation) and would be located within the storage shed further dampening the sound.

4. Impact upon ecology/biodiversity

4.1 The NPPF set outs an overarching objective for conserving and enhancing the natural environment. It states that planning decisions should contribute to and enhance the natural and local environment by [among other things] minimising impacts on and providing net gains for biodiversity. This is reflected in Policy S9 of the Local Plan, which seeks to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, through the conservation, protection and enhancement of species local populations and linking habitats

4.2 A Preliminary Ecological Appraisal (PEA), written by a suitably qualified Ecologist, has been submitted in support of this application. The PEA set outs that the site mainly comprises open agricultural pasture of little moderate ecological value and that the main areas of value are in the surrounding hedgerows. The proposal would not require the removal of any valued habitat or hedgerows, so would not result in any identified ecological harm.

4.3 Notwithstanding the above, the policies as set out, require that all development in Mid Devon contributes positively toward biodiversity net gain and that enhancement of local species populations/habitats is sought. For the purposes of enhancing local ecology and biodiversity the PEA recommends:

- New hedgerow planting
- An area of the site left aside as a wildflower meadow.
- Owl boxes would be installed in existing mature trees.
- Bat/bird boxes would be installed on the proposed barn

4.4 It is considered that the recommendations above would proportionality contribute positively toward biodiversity net gain and the enhancement of local species populations/habitats.

Subject to planning a condition being attached to any permission to secure the enhancements; the development would be in accordance with the aforementioned policies and guidance and adds weight to the case for planning permission.

4.5 Notwithstanding the above, in order to minimise the impact of any external lighting on foraging bats and other wildlife, a planning condition should be attached to any permission to secure details of any external lighting prior to their installation.

5 Impact upon the highway

5.1 Devon County Council Highways Authority recommends that standing advice issued to Mid Devon District Council is also used to assess the highways impacts of the proposed development.

5.2 Para 111 of the NPPF requires that states that *'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'*. This is reflected in Policies DM3 and DM5 of the Local Plan states that development must ensure safe access to the transport network and that adequate off road parking should be provided.

5.3 The site is already served by an existing gated access off Cruwys Morchard Mill Lane, to the west of the site. The layby to the access gate is shared amongst two other properties (a separate agricultural field and what appears to be secondary access for the dwelling and associated building the south of the site).

5.4 It is proposed that access would continue to be served from this point and the site would not be accessed from any other points. (There is an alternative separate existing access on the eastern edge of the site, but the applicant does not benefit from right of way.

5.5 Firstly; being on a straight section of the lane with a sizeable layby, allowing for fair visibility in either direction, the Planning Officer considers that the access currently in place is good and does not raise significant highway concerns. There would be also adequate space within the side for vehicles to be able to turn and exit the site in a forward gear and for at least 2 no vehicles to be parked on the site; not resulting in overspill onto the roadside.

5.6 Secondly; the access that is proposed to be used in conjunction with the proposal is already in place and as existing could already be used to access the site for the purpose of farming the land (irrespective of any planning permission). The question is therefore would the proposal severely increase intensity of the use of the access above and beyond the use which could currently be carried out? It is reasonable to expect that the comings and goings of an individual worker and his or dependants would not result in a significant increase in the use of the access beyond the use which could currently be carried out. Indeed if the rural worker would be both living and working on the site then comings and goings may even be reduced, comparative to say, a worker not living on the site that may need to make multiple visits per day to farm the land.

5.7 Summarily, it is not considered that there would be an unacceptable impact on highway safety, or that residual cumulative impacts on the road network would be increased severely because of this proposal. It would be unreasonable for the application to be prevented or refused on highways grounds

6 Land drainage/flood risk

The application site is located on flood zone one (lowest risk of flooding) and the Councils Public Health Team have considered this application and do not anticipate any environmental health concerns. The applicant proposes to install a new package treatment plant discharging to land within their ownership and there are no concerns regarding this. A borehole would be used for the supply of drinking and ablution water which would be controlled outside of any planning permissions separately by the Private Water Supply Regulations 2016 will apply. There are therefore no land drainage or flood risk concerns.

7 Other matters (including issues raised in representations and that have not already been covered above)

7.1 A number of issues were raised during public consultation that have not been addressed above. These primarily relate to: the start to works; the opening of an historical access onto the B3137 to bring the cabin/caravan on site; and the size of the land comparative to the proposed stocking rate.

7.2 During the course of the determination of this planning application development has partly commenced, so this application is therefore partly retrospective. This does not affect the outcome of the determination of this application and all elements of the proposal whether retrospective or not, are required to duly be assessed against the relevant policy within the development plan. During the determination of planning applications, enforcement action is usually out into abeyance. But should there be a need to, this can action can be taken against retrospective development that is not approved.

7.3 One of the main concerns from local residents was that during the course of the determination of this application, an historical access onto the B3137 was opened in order for the temporary cabin/caravan to be brought onto the site. This was done as the other access points to the site were not suitable to get the structure onto site. It is clear that the long term use of this access in conjunction with the enterprise would not be sustainable in that it would raise highway safety issues. The applicant has since closed up the access and has agreed to a planning condition being attached to any permission, stating that it shall not be used in conjunction with the enterprise. The condition shall state that upon the removal of the caravan the trees and greenery removed shall be reinstated.

7.4 During the course of the determination of this application it became apparent that the agricultural land to the south of the semi-circular access track was no longer available for rent. So this has been removed from the proposal. Following that, concerns were raised that the site was too small to accommodate the proposed number of alpacas. This was posed to the Council's third party Agricultural Consultant (LLP) who confirmed that the application land is relatively small for the numbers of stock proposed and that it would likely need to rely to some extent on additional rented land. The applicant has since secured additional rented land (3 miles from the site) to alleviate this concern and has provided a copy of the Grazing License in support of this. It is the intention for the breeding alpacas to be kept on the application site and for the non-breeding alpacas which require on site care, to be kept in the additional land outside of the application site.

7.5 Concerns were raised with regards to the ancillary activities that are proposed to be carried out in conjunction with the main farming activity of the enterprise. The applicant has clarified that it is envisioned that the applicant will run husbandry courses a maximum of four

times a year, with a normal attendance of 4 to 6 people running from broadly 10am to 4pm. This is clearly an ancillary activity that in its own right is not tantamount to development and it is not considered that this raises any planning issues. In the modern the economic climate lots of rural business need to diversify and make some extra income streams and this is one such case.

SUMMARY/ REASON FOR APPROVAL

The proposal for the temporary siting of a dwelling (meeting the definition of a caravan) for occupation by an agricultural worker has been assessed against the appropriate national and local planning policies and guidance, it has been demonstrated that proposal would meet the functional requirements, and that there is appropriate justification for the essential need for a full time worker on site. The proposed agricultural storage building is considered reasonably necessary to support the applicants proposed enterprise on site. The development will be provided in a manner that's is acceptable from a landscape perspective, absent of any unacceptable impact upon nearby residents, local ecology/biodiversity or the highway. On this basis the proposal accords with the NPPF and Policies S1, S9, S14, DM1, DM3, DM5, DM8 and DM20 of the Mid Devon Local Plan 2013-2033.

RECOMMENDED 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 use of the temporary workers mobile home hereby permitted shall be discontinued on or before three years of the date of this permission and, prior to its discontinuance, a scheme for the restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved restoration scheme shall be fully implemented within 6 months of the use discontinuing.
4. The occupation of the temporary mobile home hereby approved shall be limited to a person solely employed in agriculture related to the land on which the mobile home would be sited and any agricultural enterprise of which that land is a component part. This may include a dependent or such a person(s) residing with him or her.
5. The accommodation hereby approved shall meet the definition of a caravan as detailed within the Caravan Sites and Control Act 1960 and Caravan Sites Act 1968 (as amended).
6. The development hereby permitted shall be carried out in accordance with the recommendations contained within the submitted 'HEA Ecology Preliminary Ecological Assessment referenced HEA655a2002' Prior to the use of the hereby permitted the ecological enhancements as set out in the report shall be installed and shall thereafter be retained for the lifetime the development.
7. Prior to the installation of any exterior lighting on the buildings or elsewhere on the site full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.

8. The access point that has been opened up onto the B3137 for the purposes of bringing the cabin/caravan on site, shall remain closed for the duration that the temporary dwelling remains on site and shall not be used for vehicle access in conjunction with the enterprise hereby approved. Following the removal of the caravan from the site, a scheme for the restoration of the trees and greenery that have been removed at the access point, shall be submitted to and approved in writing by the Local Planning Authority. The approved restoration scheme shall be fully implemented within 6 months of the caravan being removed.

REASONS FOR RECOMMENDED 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 reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity in accordance the NPPF and Policy DM8 of the Mid Devon Local Plan 2013-2033.
4. To ensure that the dwelling is only occupied to meet the exceptional need that has been demonstrated, bearing in mind the location of the site in open countryside where planning permission would not normally be forthcoming for residential development, in accordance with the NPPF and Policy DM8 of the Mid Devon Local Plan 2013-2033.
5. To ensure that the dwelling is only occupied to meet the exceptional need that has been demonstrated, bearing in mind the location of the site in open countryside where planning permission would not normally be forthcoming for residential development, in accordance with the NPPF and Policy DM8 of the Mid Devon Local Plan 2013-2033.
6. In the interests of protecting and enhancing biodiversity/ecology in accordance with the NPPF and Policy S9 of the Mid Devon Local Plan 2013-2033.
7. In the interests of protecting and enhancing biodiversity/ecology and to safeguard foraging paths for legally protected bats, in accordance with the NPPF and Policy S9 of the Mid Devon Local Plan 2013-2033.
8. In the interests of highways safety in accordance with the NPPF and Policies S1 and DM3 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

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 utilised 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.

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. 22/00907/FULL

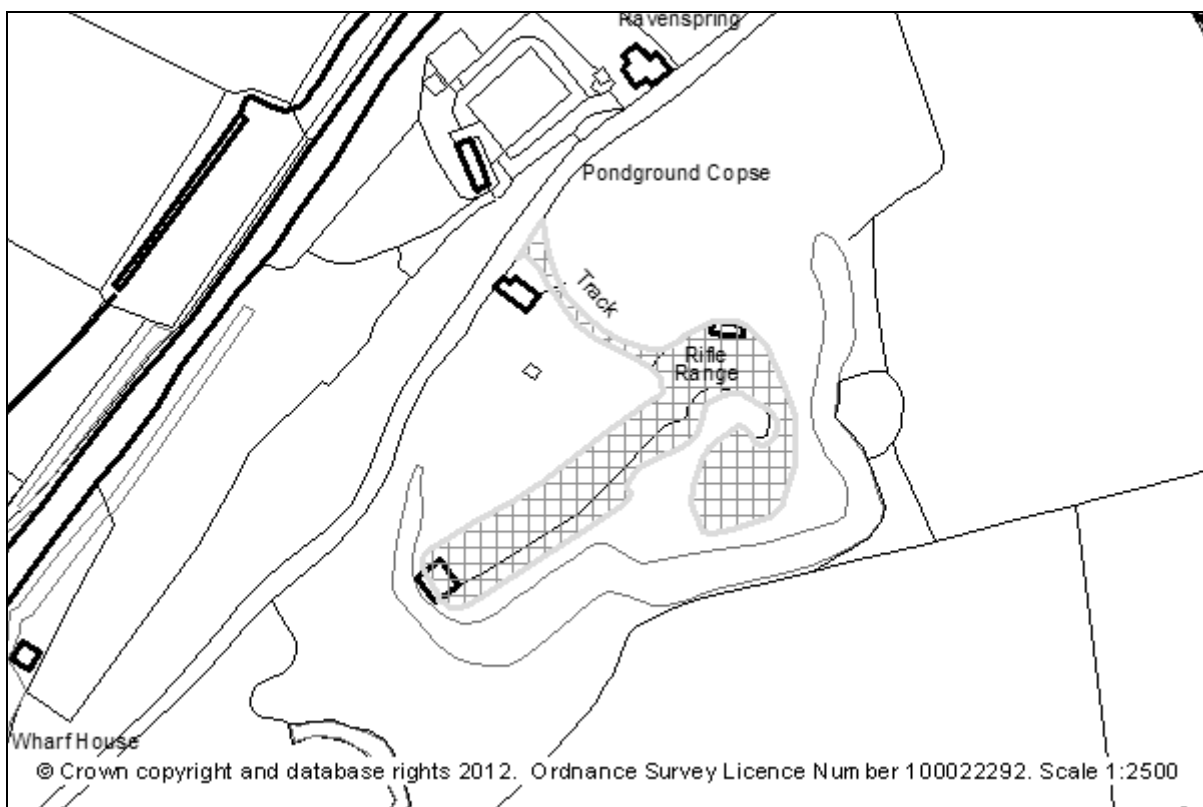
Grid Ref: 307243: 119264

Applicant: Mr David White, Devon and Cornwall Police

Location: Devon & Cornwall Constabulary
Pondground Quarry
Holcombe Rogus
Devon

Proposal: Retention of disused quarry for use as two firing ranges

Date Valid: 20th May 2022



APPLICATION NO: 22/00907/FULL

MEMBER CALL-IN

This application has been called in by the previous Ward Members, Councillor Collis and Councillor Norton for the following reasons:

I have received a large amount of emails and messages containing concerns from local residents regarding this application in the past week. The following needs to be considered, frequency of use of the range and times during the days of use, noise management from the guns which will need a noise attenuation fence and security of the site to include the open woodland which surrounds it.

MEMBER SITE VISIT

Devon and Cornwall Police were requested to organise an extraordinary day's shooting at Pondground Quarry on 5th September 2023. This was at the request of MDDC so that Members of the Planning Committee could visit the site and hear the shooting from various areas surrounding the site in order to help in their assessment of this proposal. A Public Health Officer was in attendance with another within the locality (primarily at the school and along the canal) noting firing noise. Members first heard the shooting within Pondground Quarry before being taken to the neighbouring property of Eden where holiday accommodation is located, followed by Lowdwells Lock where Members walked along the canal and stopped opposite the other side of Pondground Cottage. The next visit was to Greenham Reach before finally going to Webbers School in Holcombe Rogus.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The application is for the retention of disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus, Devon. It is an application made by Devon and Cornwall Police to continue using the quarry site for two firing ranges. There has been a history of shooting from two firing ranges on site dating back from 1978.

The planning application originally submitted sought planning permission to fire between 9.00 and 17.00 on Mondays to Friday for an average of 3 days per week over 47 weeks a year; amounting to shooting across 141 days. However, following objections received and consultee comments, this has now been reduced down to shooting for 70 days of the year.

Whereas the earlier permissions did not have any stipulations/controls in term of the shooting and when it could take place, the proposed shooting would be restricted as follows:

- 70 days shooting per annum.
- Firing only taking place up to 47 weeks of the year (no firing during 2 weeks over Christmas and none for the first 3 weeks of August)
- A maximum of 2.5 days shooting in any given week
- Shooting only being allowed on a Tuesday, Wednesday and half day on a Thursday between the hours of 0900 and 1700, except for Thursdays when it will be between the hours of 0900 and 1300.

The firing range is located in a former quarry known as Pondground located approximately 1 mile to the east of the village of Holcombe Rogus and the site area measures approximately 0.41ha. The site is in a rural area and comprises two firing ranges and associated welfare buildings. The longer of the two ranges is orientated approximately North-East to South-West and the shorter range North to South. The site is surrounded by the quarry walls on all sides with access to an unclassified road to the North. There are two small welfare buildings to the North East of the site.

The site it is within a regionally important geological site for aggregates, and as such is within an adopted minerals safeguarding zone. The site is a quarry within a Mineral Safeguarding Area, defined to protect the important limestone deposit, part of which is currently being extracted at the nearby Westleigh Quarry. To the west of the site is the Grand Union Conservation Area designated in October 1994, and there are a small number of listed buildings in the wider vicinity of the site.

POST SITE VISIT UPDATE

The site visit to Pondground Quarry was undertaken by Members of the Planning Committee on the 5th September 2023 where Members were able to set the operations within the quarry with firing taking place on the two firing ranges. The lower range being restricted to four shooters and the upper range having a maximum of six shooters where the quietest of the three weapons was used. The police arranged for combination of shooting to take place from both ranges at the same time to produce a genuine shooting experience for Members at the loudest it would ever be. Members were then able to travel to a number of sites around the surrounding area to experience the shooting take place and what impact this has on amenity.

APPLICANT'S SUPPORTING INFORMATION

Application Forms, Plans and Drawings, Planning Statement, Noise Management Plan, Heritage Statement, Traffic Statement, Wildlife Trigger Table, Supporting Statement, Letter from Acoustic Consultants Limited, Peregrine Survey and Preliminary Ecological Appraisal.

RELEVANT PLANNING HISTORY

The planning history of the site is listed below and is a material consideration in the consideration of this application. As members will note, the site has extensive history of being a firing range.

78/01508/FULL - PERMIT date 7th November 1978 (temporary permission for 5 years)
Construction and temporary use of two firing ranges by Devon and Cornwall Police Authority

81/01413/FULL - PERMIT date 9th September 1981 (temporary permission for 5 years) Renewal
for the change of use from disused quarry to two firing ranges

86/01651/FULL - PERMIT date 11th November 1986 (temporary permission for 5 years) Renewal
for the change of use from disused quarry to two firing ranges

96/01226/FULL - PERMIT date 14th October 1996 (temporary permission for 5 years) Renewal of
temporary planning permission reference number 4/29/86/1651R for the change of use from
disused quarry to two firing ranges

04/02000/FULL - PERMIT date 3rd December 2004 (temporary permission for 10 years) Renewal of conditional planning permission 4/29/96/1226/R for the change of use from disused quarry to 2 no. firing ranges

04/02001/FULL - PERMIT date 8th December 2004

Erection of a steel purpose built portable building approx. 9.2 x 3.05 m to provide welfare facilities

07/00577/FULL - WDN date 14th May 2007 Variation of condition 2 of planning permission 04/02000/FULL to include use of the land by Taunton Deane Shooting Association

14/00220/FULL - WDN date 4th April 2014 Erection of a 3 sided building

14/00546/FULL - PERMIT date 22nd May 2014 Erection of a 3 sided building (Revised Scheme)

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

Policy S1 - Sustainable development priorities

Policy S8 – Infrastructure

Policy S9 – Environment

Policy S14 – Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM4 – Pollution

Policy DM5 – Parking

Policy DM25 – Development Affecting Heritage Assets

National Planning Policy Framework

National Planning Practice Guidance

Devon Minerals Plan - Policy M2

CONSULTATIONS

Holcombe Rogus Parish Council – 14th June 2023

Holcombe Rogus Parish Council notes the recent Peregrine Survey submitted by the Applicant. While the Survey concludes that it is unlikely that there will be any disturbance to Peregrine nesting since none were observed in the quarry, it also noted that many other bird types are likely to be disturbed and displaced by the proposed firearms training. This appears to act against planning policies that call for Developments to protect or enhance biodiversity at and around their sites.

Consequently, the Council's existing Objection to this Application stands.

Should permission be granted, our Council supports the recommendation that shooting should not start until after 1st August in 2023 to avoid disturbing nesting buzzards and suggests that there should be a Condition calling for the cessation of shooting during the nesting seasons in future years.

Holcombe Rogus Parish Council – 6th April 2023

RESPONSE TO MDDC IN RESPONSE TO THE ADDITIONAL INFORMATION PRELIMINARY ECOLOGICAL APPRAISAL

Holcombe Rogus Parish Council have had an initial review of the Preliminary Ecological Appraisal at Pondground Quarry Shooting Ranges but feel unable to comment on this preliminary appraisal when the document itself (see below) recommends a full survey should be carried out. The Council are also aware that the survey would need to be carried out before the end of May, so trust that Mid Devon Planning Authority will request Devon & Cornwall Constabulary to carry out this survey immediately.

It is recommended that further effort is made to determine if any schedule 1 part 1 bird species are nesting in the quarry, or within potential disturbance range of shooting activities, and if so the whereabouts of any nest site to assess whether shooting during the nesting season is likely to cause a disturbance offence. To this end we recommend that a survey is undertaken check for the presence of peregrine falcon which is generally known to nest on cliff faces including in quarries where these are suitable. At first impression the quarry faces appear to be suboptimal nesting habitat but we advise consultation with the local raptor monitoring group/persons as a starting point. If this approach cannot offer conclusive assessment, then a period of survey is recommended to be undertaken by an ornithologist experienced with peregrine nesting behaviour.

Such a survey would be needed with immediate effect between March and May (the breeding season) if it were to happen this year. Given the seasonal constraints to the survey it would be prudent to start survey at the earliest opportunity in case there is no background information available from a raptor specialist or in case of a delay in contacting the right persons who might have information

Leslie Findlay

Parish Clerk

On behalf of Holcombe Rogus Parish Council

Holcombe Rogus Parish Council – 2nd March 2023

RETENTION OF DISUSED QUARRY FOR USE AS TWO FIRING RANGES APPLICATION NUMBER 22/00907/FULL

These are the further comments of Holcombe Rogus Parish Council (the Council) following a Meeting of the Council held on Thursday 23rd February 2023

The meeting considered a report dated 1st February 2023 prepared by Acoustic Consultants Ltd (ACL) on behalf of the Devon and Cornwall Police (Police Authority)

1. The author of the ACL Report states that the Report considers the impact of noise through measurement and comparison with guidance which the author believes is relevant. This being so, why have ACL not done this, given that they have measured and are clearly aware of the guidelines, if they believe it's relevant?

2. The ACL report states that there have not been any substantiated noise complaints due to the operation of the Pondground Quarry. This is not correct. Ample evidence of unacceptable noise levels has been provided by the independent Acoustic reports of Parker Jones Acoustics dated 23rd June 2022, and 14th of June 2022 as supported by the report by LF Acoustics 22nd October 2022. The noise levels recorded were clearly at a level that have a substantial adverse impact on those living nearby and indeed further afield.

3. Moreover, the Police Authority acknowledged in December 2020 that there had been complaints about the unacceptable noise level and that there had been an increase in use

The Police Authority's email of 11th of December 2020 acknowledged;

- a. The awareness of complaints
- b. That the use of the quarry had been on the increase.
- c. That the use will regretfully increase further through 2021.
- d. That the new training calendar from April 2021 had not yet for being formulated, but is likely to be impactful.

(See email from Sergeant Jon Bunt 11th December 2020)

4. As to the usage of Pondground Quarry, ACL state that usage has been variable with no obvious trend and peaking out at about 70 days in 2017. The Council is advised that this is incorrect. The Council understands that peak usage occurred in 2021, which was 59 days and not circa 70 days in 2017. In 2020 the usage level was only 28 days and still gave rise to further complaints to the Police Authority.

5. The ACL report further states that there will be no adverse effect on the acoustic character of the area. This is an extraordinary claim to make given the clear and lucid independent acoustic reports submitted on behalf of the local community.

Clearly there is a significant observed adverse effect level of noise as referred to in the Noise Policy Statement of England and such impact should therefore be avoided.

6. If the ACL report is designed to support a claim that the planning application is simply seeking to regularise an existing historic use, this has no merit. The proposed usage of 70 days is, as the Council understands it, is considerably in excess of the amount of historic usage.

7. Firing ranges (of the kind previously in use at Pondground Quarry) should follow CIEH guidance. ACL on behalf of the Police Authority refuse to accept that it is relevant notwithstanding that the guidance has, we are advised, been adopted by the MOD and police and local authorities across the country as the appropriate guidance to follow for the type of use proposed for Pondground Quarry. This is no doubt because the Police Authority would not be able to meet those standards and would need to move operations elsewhere. The answer is not to ignore the human cost and disregard the pain and suffering of those living nearby.

8. The ACL report suggests that there is a differing approach to noise measurement depending on whether the firing range is a new one or an existing one. There is no basis for such an approach. What matters is the intensification of use and the impact on those living nearby.

9. The ACL report says that MDDC are of the view that noise from historic or previous use of the firing range is not unacceptable. Given that MDDC does not, as the Council understands it, have any acoustic expertise in-house and has refused to obtain any independent acoustic advice, it is unclear how MDDC could have reached this view.

10. Based on what is said above, it is difficult not to form the view that MDDC have already made up their minds in respect of the Planning Application even before consideration by planning committee.

11. In our Council's opinion, there is nothing in the ACL report that justifies the grant of planning permission. Furthermore and in conclusion, MDDC should be aware that our Council has been advised that it would be unlawful for MDDC to take any further action in considering this planning application on account of the apparent failure of MDDC to discharge its legal obligations to obtain independent reports on the impact of the proposed development on ecology, wildlife, the Canal

Conservation Area and other land nearby. The Council is also advised that this may lead to an application to stay further consideration of the current Planning Application so as to enable MDDC to discharge its legal obligations.

LJ Findlay
Parish Clerk

Holcombe Rogus Parish Council – 7th February 2023

These are the further comments of Holcombe Rogus Parish Council ('Council') following a meeting of the Council held on Thursday 26th January 2023 to consider the above application and further submissions on behalf of Devon & Cornwall Police ('Police Authority'). For ease of reference there is attached to this letter a copy of the Council's letter to MDDC dated 21st October 2022 - see Appendix to this letter.

1. Failure to follow guidance appropriate to firing range

1.1. It is considered that there are serious failings on the part of MDDC in its consideration of this planning application.

1.2. MDDC has been sent copies of reports from acoustics consultant Parker Jones Acoustics dated 23rd June 2022 and 14th July 2022 and L F Acoustics dated 22nd October 2022.

1.3. These reports clearly show that shooting at Pondground Quarry has caused a significant adverse impact on the local community.

1.4. Although there are no specific guidelines in relation to noise levels for firing ranges, it is necessary to utilise the most appropriate guidance when assessing potential noise impacts.

1.5. It is clear that the most appropriate guidance to be considered is that of the Chartered Institute of Environmental Health ('CIEH'). Their clay target shooting guidance should be followed. This is because the type of noise from firing ranges is very similar to clay shooting. It is worth noting that the CIEH guidance has been adopted by the MOD (including for its training grounds) and many local planning authorities.

1.6. Nevertheless, MDDC Environmental Health Officer ('EHO'), who is not an acoustics expert, has refused to consider CIEH guidance. It has not been possible for Parker Jones Acoustics (and LF Acoustics) to engage in a meaningful dialogue with the EHO. This Council is advised that the EHO does not have a proper understanding of the assessment of noise. Comments by the EHO, such as reference to 'distant pops and bangs', indicates a complete lack of appreciation of the seriousness of the issues. In this context, MDDC is referred to particulars of further EHO comments set out in a letter dated 2nd September 2022 from Ruston Planning to MDDC. The EHO is unwilling to instruct an independent noise consultant to assist MDDC in carrying out a proper assessment of noise issues in order to evaluate the potential for adverse impacts.

1.7. The failure of the Police Authority and EHO to follow appropriate guidance means that the due diligence process being undertaken by MDDC is flawed.

1.8. The shooting noise level at Pondground Cottage as measured by Parker Jones Associates reached 85dB. This is 30dB above the recommended noise level limit of 55dB. The 55dB noise level limit has been widely accepted by planners and regulators and is the standard against which acoustic reports for firing ranges should be judged.

1.9. It should also be noted that complaints about the use of Pondground Quarry have escalated because the Police Authority have doubled the use of the quarry and, it is understood, are using noisier weapons.

2. Planning statement of CL Planning Limited dated 4th January 2023 submitted on behalf of the Police Authority

2.1. Clearly the noise impact arising from the use of Pondground Quarry is the key issue and there is, in the opinion of the Council, nothing in the NPPF which could possibly justify the grant of planning permission for activities that would continue to inflict the level of harm that has been clearly demonstrated by the report[s] of Parker Jones Acoustics and LF Acoustics.

2.2. Paragraph 7.4 of the Planning Statement of CL Planning Limited purports to show that the noise readings reported are similar to those in the Parker Jones Acoustics report and LF Acoustics report. This is not the case and should not be relied upon. An hourly average methodology is not an appropriate way to measure noise in this case and is unreliable.

2.3. In view of the Council's comments in this letter, it is not agreed that the advice of the EHO is a significant material consideration in favour of the grant of planning permission.

2.4. It is worth noting that Policy DM4 of the NPPF (Pollution) indicates that planning permission will only be granted if there is no negative impact on health, natural environment, and general amenity.

2.5. CL Planning highlight paragraph 97 of the NPPF (which is a general statement about the need to recognise and support development required for operational and defence purpose). Whilst the Council recognise the importance of the Police Authority's work, this is outweighed by the substantial negative impacts that have been identified.

3. Ecology and natural environment and comments of CL Planning on behalf of the Police Authority

3.1 As indicated by the NPPF, planning policy has an environmental objective namely to protect and enhance the natural, built, and historic environment including helping to improve biodiversity and combat pollution.

3.2 Pondground Quarry overlooks the Grand Western Canal which is a Conservation Area

3.3 The activities at Pondground Quarry will clearly have a significant impact on the Conservation Area and surrounding land. There is a need for an ecology report both in relation to the quarry itself, the canal Conservation Area and adjoining land. The comments of the Grand Western Canal Advisory Committee dated 30th August 2022 have simply been ignored. Pondground quarry is itself designated as a 'priority habitat' by the BAP (biodiversity action plan).

3.4 In The Wildlife Trigger table statement submitted by the applicant has been incorrectly completed since the firing ranges are in a Quarry of more than 0.1 hectare within woodland. It is acknowledged on behalf of the Police Authority in the recent Planning Statement that the area of the ranges is 0.4 of a hectare. A Wildlife Report needs to be conducted on this site prior to consideration by the MDDC Planning Committee.

3.5 In relation to protected sites and areas and protected species and development there is clear guidance to planning authorities on the Government website as to how local planning authorities should review planning applications and discharge their obligations.

3.6 It is not apparent to the Council that any steps have been taken by MDDC/EHO to carry out a proper assessment of these important matters in accordance with Government guidance and obtain independent reports.

3.7 Furthermore, it should not be forgotten that, given that the past use of the quarry, the issue of the leaching of contaminated water into the Canal and other watercourses creates a significant environmental risk.

4. Historic Significance Statement submitted by Daniel J Metcalf on behalf of the Police Authority.

4.1. The historical information provided about the surrounding area over many years and the changes that have taken place is interesting but is considered to be largely irrelevant.

4.2. This does not address the key issues arising from the planning application, namely the health and well-being of the local community arising from the intolerable noise over many hours, together with substantial adverse environmental and ecology impacts on the Grand Western Canal Conservation Area and other land.

4.3. The exclusion of consideration of adverse impacts on Greenham Barton and Cothay Manor are not understood; these are exceptional properties of historic significance (Grade 1 Listed), and have the potential to be adversely affected by the current development proposals.

5. Conclusions

5.1 Pondground Quarry firing range is no longer suitable for a modern police force: it is not fit for purpose. The Police Authority needs a site that has modern facilities that can achieve the noise limit of 55dB (as per the CIEH recommendations) which has been adopted throughout the country by the police authorities, the MOD and local planning authorities. Given the size of Devon and Cornwall there will be ample space to have modern facilities that can comply with the recommended noise level of 55dB as clearly articulated in the acoustic reports of Parker Jones Acoustics and LF Acoustics Limited. Pondground Quarry has not been used since 24th May 2022 and this should continue to be the case.

5.2 The acoustic data provided by the Police Authority has not been fully explained and does not follow the correct guidelines for assessing noise for firing ranges and the EHO has refused to obtain an independent noise assessment.

5.3 Clearly, the recommended noise limit of 55dB cannot be adhered to, and the Police Authority will need to find alternative facilities elsewhere.

5.4 There has been a complete failure of the Police Authority and MDDC planning even to recognise the seriousness of the adverse impact of a firing range on ecology, the Grand Western Canal Conservation Area and Country Park, and wildlife. These matters have been dismissed out of hand.

5.5 Such due diligence as has been carried out by MDDC planning is, in the Council's opinion, not credible. In these circumstances, the Council considers that no reasonable planning authority should approve the requested planning permission for the continuance of the use by the Police Authority.

5.6 Accordingly, planning permission must be refused.

Holcombe Rogus Parish Council – 24th October 2022

Further to the Council's submissions to MDDC dated 15th June 2022 and 6th September 2022 a further meeting of our planning committee was held on the 13th October 2022. The meeting was attended by members of our local community as well as residents in nearby Greenham who are seriously affected by the firing range activities and the proposals being put forward by Devon and Cornwall Police ('the Police Authority')

These are the further comments of the Council

1. Addendum to Police Authority Noise Management Plan dated 7th October 2022

In relation to the Addendum to the Noise Management PI dated 7th October 2022 provided on behalf of the Police Authority (including data provided by Acoustics Consultants Ltd), it appears that the Addendum was not based on a typical day's shooting but nevertheless it is our understanding that the noise levels shown by the Addendum are not materially different in many respects from the readings taken by Parker Jones Acoustics as set out in the Report dated 21st April 2021. However, no analysis of the findings of Acoustics Consultants Ltd has been provided and they do not dispute the noise assessment of Parker Jones Acoustics.

Moreover, the Addendum states that the Police Authority can in circumstances that it determines to be exceptional increase the amount and intensity of use of the firing range even though it is already at an unacceptable level. This provides no protection at all for the local community and is unacceptable.

2. Intolerable noise impact. The noise from the operation of the firing range is making life intolerable for those living nearby and adversely affecting their health and wellbeing. It would in the Council's opinion be unconscionable to continue to inflict so much pain and suffering on the community.

3. 55dB benchmark. The submissions made to MDDC clearly show that a noise benchmark of 55dB has been widely accepted as an appropriate benchmark for firing range uses. Considering that the unchallenged Noise Impact Assessment carried out by Parker Jones Acoustics (see below) shows readings of up to 78dB it is not surprising that the local community is up in arms.

3. Due diligence by MDDC

Our Council is concerned by the failure of MDDC itself to require or to carry out a robust and objective noise assessment. In the event, the Noise Impact Assessment carried by Parker Jones Acoustics has been provided and its conclusions are not disputed by the Police Authority or MDDC. There has been a failure to carry out an ecology assessment including consideration of any adverse impact on the Grand Western Canal (a Local Nature Reserve /Country Park and Conservation Area), wildlife, other protected habitats, and sites, including heritage assets. Given the level of noise caused by the firing range activities, it seems inconceivable that there are no material adverse impacts.

4. Planning Policy

MDDC are referred to the letter to MDDC dated 7th June 2022 from Andy & Alison Hill with an analysis of applicable planning policy.

Conclusions

1. After having considered the numerous objections to the Planning Application submitted by the Police Authority and the responses made by officers of MDDC, it is very difficult not to take the view that MDDC has so far in this case abandoned the high standard of due diligence that our Council has come to expect. This needs to be rectified.

2. It has been clearly demonstrated by the large number of objections from the local community and the comprehensive and lucid Noise Impact Assessment dated 21st April 2021 (and subsequent Addenda) prepared by Parker Jones Acoustics that the noise levels arising from the use of the Poundground Quarry are far in excess of those that any reasonable person can be expected to endure. The Police Authority has not disputed the findings of Parker Jones Acoustics.

3. On the one hand, it has been clearly demonstrated by submissions made to MDDC that there is a widely accepted benchmark of 50dB by which to assess the acceptability or otherwise of noise levels relating to firing range activities. On the other hand, the Police Authority is, it would appear, seeking planning permission without any effective and enforceable controls on the noise levels arising the firing range activities. This is totally unacceptable.

4. Unless the Police Authority agrees in unequivocal terms and in legally binding form to restrict its use of the Pondground Quarry to accord with the 50dB benchmark, this inevitably means that the Police Authority will need to move its operations to an alternative site that does not have the damaging effects being experienced in our community.

5. It is not an option for the Police Authority to continue to subject our community and those living nearby to the level of harm currently being suffered.

6. As matters currently stand planning permission should be refused.

Holcombe Rogus Parish Council – 6th September 2022

Holcombe Rogus Parish Council's comments supporting its Objection to Application 22/00907/FULL following the noise assessment on 2nd August 2022

Representatives of the Parish Council attended a demonstration firearms session on 2nd August 2022 at Pondground Quarry, Holcombe Rogus hosted by Devon and Cornwall Constabulary.

Members of the public were present, notably those who lived in nearby properties. Representatives of Mid Devon District Council's Environmental Health Department and Planning Officers also attended.

All present were asked to wear appropriate ear protection during firing to protect their hearing. Even with these worn the firing was loud. After the initial demonstrations, it was suggested that guests dispersed to locations of their choice in the neighbourhood to assess the noise away from the quarry.

It was disappointing to learn that the Environmental Health Team were very reluctant to accept an invitation to go into the Eden Lodge property to listen from a location that claims to be badly affected by the increased firing in the past couple of years. Eventually, they were persuaded to visit. (It was noted that Councillor Collis was noticeably startled by the sound at Eden Lodge when firing was resumed.) This reluctance suggested that the team did not want to gain first-hand experience of the sort of noise experienced by the residents at Eden Lodge.

Some residents had commissioned a Sound Assessment by Parker Jones Acoustics. This professional firm points out that there is no standard for assessing acceptable and unacceptable noise from the type of firing from the Police training. He draws on standards used in other types of firearms use. After drawing conclusions from this exercise, he felt that the noise he had measured at various locations around the quarry was likely to have exceeded acceptable levels mentioned in BS 8233:2014. While this relates to noise experienced at new builds it seems most unfortunate that the new Application for firearms training may inflict noise levels considered unacceptable for new properties on existing dwellings.

The Environmental Health Officer has dismissed the conclusions out of hand because there is no specific standard for firearms training; failing to acknowledge the professional attempt to rationalise this shortfall in the British Standards.

She has resisted calling for a Noise Impact Assessment for this Application which I understand often accompanies Applications with the potential to cause noise nuisance in a locality.

I hope that members of the Planning Committee will take notice of the follow-up letter submitted by Parker Jones Acoustics, published on 15th July 2002, which carefully argues that the Environmental Health Officer's Report may be considerably flawed.

Should members agree with Parker Jones Acoustics conclusions they should refuse this Application in its present form.

Holcombe Rogus Parish Council – 15th June 2022

Holcombe Rogus Parish Council (the Council) objects to this Application in its present form.

The Council understands that Devon and Cornwall Police have training obligations set by the Government and that this contributes to the safety of communities.

Since the last Permission to use Pondground Quarry as a Police Firearms' training site expired in 2014, this Application should be considered as a new Application to be decided on its current Planning attributes.

Approximately one third of 35 local residents attending a Holcombe Rogus Parish Council Planning Committee meeting on 9th June expressed a desire for the cessation of the unauthorised firearms training at Pondground Quarry. This appeared to be a reaction to the current, increased firearms activity.

It has been noted that the intensified firing has created significant distress amongst school pupils in Holcombe Rogus and behavioural disturbance to animal stock nearer to the quarry.

In spite of what the Police Officers present on 9th June said, residents felt that there was more firing taking place at Pondground in the past two or three years of the unauthorised use of the site. A resident presented a note of the frequency of firing since 2019 to support this view.

The Application asks for permission to fire between 9.00 and 17.00 on Mondays to Friday for an average of 3 days per week over 47 weeks a year; 141 days.

Paragraph 8 of the Applicant's submitted Noise Management Plan refers to "Exceptional Circumstances" when "Devon and Cornwall Police may have to, from time to time, increase the frequency and duration of shooting, and indeed the type and number of weapons that are fired at Pondground Quarry."

In the absence of a definition of "exceptional circumstances" this is unacceptable and has the potential to negate the requested duration and frequency stated in the Application.

The Application does not include a Noise Impact Assessment without which the effect on neighbouring properties can't be judged.

Some nearby residents commissioned a professionally executed Noise Impact Assessment which has been included in the Application's Associated Documents. When determining this Application the Council urges Mid Devon District Council to take note of its conclusion; "...that the noise from the Police's firearms' training at Pondground has a significant adverse impact on local residents. The usual action to this in the NPPF would be to "avoid"; refuse permission if not mitigated."

Pondground Quarry is within 200 metres of the Grand Western Canal; a Conservation Area and Local Nature Reserve. The effects of firearms' training in the quarry may well have a deleterious influence on this sensitive area. Before determining this Application consideration should be given to calling for an Environmental Impact Assessment to be submitted by the Applicant.

The Council also questions the need for using a site that necessitates such long journeys for many Police Officers being trained. A site nearer the centre of the Devon and Cornwall Constabulary's area would be more logical. Could the Police explore the possibility of finding a more central site to improve their carbon footprint?

The Council objects to this Application in its present form since it fails to address the impact on the locality.

Council's Public Health Team – 30th March 2023

Further to the consultation on the Preliminary Ecological Appraisal submitted, the response from the Public Health Team was that it does not need to comment on the ecology appraisal.

Council's Public Health Team – 13th February 2023

We have reviewed the noise report submitted by the noise consultant engaged by Devon and Cornwall Police. EHOs were on site during the monitoring and shooting exercise in August 2022 and are satisfied that the shooting carried out was in line with what is usually carried out. Each of the 3 types of weapons was used at the maximum number of shooting positions. EHOs also listened to the noise off site as previously reported. We have no concerns regarding the report and its findings.

We have also reviewed the latest comments submitted by the Parish Council and some residents. In the EHO submission in October 2022, and previous comments, we clearly set out our role and the basis on which our comments and recommendations are made. Noise level readings were similar in all the reports (both those commissioned by residents and D and C Police) and the EHO has clearly stated why the noise standards quoted by the residents noise consultant are not appropriate in this situation. Similar comments have been made by the D and C Police noise consultant. However, even if they were appropriate, noise in excess of guidelines is not a justification for refusal of planning applications; but it does suggest that control will be required. Where this occurs, the next step is for the EHO to review the mitigation and control measures suggested by the applicant, and then advise the planning officers which we have done.

From the outset the EHO suggested that a Noise Management Plan is appropriate, and this is typical in many situations where sporadic noise is clearly audible off-site. It was the EHO who requested that the number of shooting days was halved to a number in line with previous years (140 to 70), the days of the week were halved (to 2.5 from 5, giving a minimum of 4.5 clear days of respite each week), and the days of the week and hours of the day were specified. Several residents have stated that the level of previous usage was not unacceptable, and this is demonstrated by the absence of any complaints about noise in the past. Respite time is a very important consideration in applications such as this, and the comments of October 2022 clearly set this out.

We therefore have no additional comments in relation to the noise report submitted by Devon and Cornwall Police.

Council's Public Health Team – 27th October 2022

We have considered the Addendum to the Noise Management Plan submitted on 7th October 2022. Devon and Cornwall Police have continued to liaise with the council officers, parish council and residents and more information along with compromises have resulted from this. We have the following comments regarding the additional information contained in the addendum:

1. Over the last 4 years the number of days of actual shooting varied between 29 and 60 per year, that means there were between 336 and 305 days with no shooting. The applicant has stated that the 60 days during 2020/21 was influenced by covid when more training outside was necessary. As this was the maximum in 4 years, and some flexibility might be needed at times, we would recommend that a maximum of 70 days per annum is permitted, a reduction in the number of days requested by D and C Police. Should D and C Police require, and have justification for, this to be amended in the future then an application to vary the condition could be made.

2. Noise measurements were taken by a consultant appointed by D and C Police in August 2022 in order to determine the average hourly noise levels at the nearest residences during a shooting training day, and the "on-time" of the shooting noise. The measurements showed that wind direction was a significant factor with the shooting noise being loud only at properties downwind at the time. The highest average noise level (described as the Leq 1 hour) was 57dBa. This is very close to the 55dBa (1 Hour) figure that the parish council mention; in fact the difference of 2dB is not discernible to the human ear. The noise consultant employed by residents did not use the

correct measurement periods as explained in our previous comments. Individual maximum levels were higher, but it is the hourly average which is the appropriate criteria because this takes into account the long periods of quiet.

3. The measurements showed that the "on-time" of shooting noise, which occurred in short bursts lasting 10-30 seconds, was around 5 minutes in each hour. Therefore there were 55 minutes in each hour when background noise of birds and leaves rustling was dominant, with no shooting noise. On site during these quiet periods officers are undergoing verbal instructions and changeovers; the verbal instruction being the majority element of this training.

4. It is significant in these types of applications to consider the respite time. This contrasts with other shooting uses such as a clay pigeon shoot when firing noise might occur as almost continuous shooting bursts for several hours at a time. There is no accepted guidance for this specific type of use and therefore it is more appropriate to use the Noise Management Plan approach to meet the requirements of the relevant policies, and provide clarity for both members of the public and users of the site.

5. In order to further assist the community with respect to certainty, the Police have now committed to specific shooting days. These would be Tuesdays, Wednesdays and Thursday morning. Shooting might take place over a maximum of 6 hours (during the normal working day) - this represents a total of 30 minutes of shooting within each 360 minute training day.

In conclusion, we have taken into account the regional need for the facility for a vital emergency service, the 40 year history of the site which has somewhat characterised this area, the absence of complaints regarding noise from the community over these years, and the significant periods of time (both during shooting days and the rest of the year) when no shooting of this type takes place in this location. We therefore have no outstanding concerns regarding the noise management of this site, but recommend that a condition along the following lines is included on any approval:

"Subject to the following specific requirements, the Devon and Cornwall Police Pondground Quarry Noise Management Plan Addendum dated October 2022 shall be implemented and remain in place throughout the life of this consent. The specific requirements are

- (i) Shooting shall take place only on Tuesdays and Wednesdays, and Thursday mornings.
- (ii) Shooting shall take place on a maximum of 70 days in any calendar year.
- (iii) Shooting shall take place over a maximum of 6 hours per shooting day (3 hours on Thursdays)."

Council's Public Health Team – 15th August 2022

Further to the noise demonstration exercise, we have the following final comments regarding this application.

I, with colleagues, attended a noise demonstration exercise on 2nd August 2022. The purpose of this was so that the applicant could demonstrate to officers, the planning officer, the local district council and members of the parish council and public the way in which shooting training is carried out within the quarry. There were sufficient police officers on site to use the two, four bay firing ranges both together and separately. The pattern of short periods of shooting (1-2 minutes) interspersed with longer periods of quiet (5-20 minutes) was similar to that which we observed in 2020. The noise was loud on site, and everyone wore ear defenders.

The noise was also clearly audible off-site at the nearest residences downwind. It will also have been audible to a lesser degree in the gardens of other residents further away. In the

residents' gardens the noise sounded like a burst of exploding fireworks. Whilst in the residents' gardens I observed the reactions of a child and also a pony. Neither reacted negatively to the noise, and we could all talk at normal volumes over the noise without having to raise our voices or stop. On each occasion the noise occurred for no more than 2 minutes each burst.

We then went to a location upwind of the shooting ground, about the same distance away. As with our previous observations the firing noise was very distant and a lot less audible; in fact we had to stop talking to hear it. This shows that on any particular day the noise is audible at only some residences, depending on the weather conditions and wind direction. Therefore, other than the cottage near the entrance to the quarry, no specific residence would be affected on every shooting day. A critical factor for us is the times and days of shooting (i.e. during the normal working day when many homes are not occupied) and the history of shooting (it has been located here for more than 30 years) because this sporadic noise has characterised this area. This would explain why our records show that the public health team have not received any complaints regarding excessive shooting noise from this location (records are kept for 7 years). The loudness of the noise on any particular occasion is not a good reference point because this varies so much depending on conditions. For ease of reference I have attached below our earlier comments of 24th June and they should be read in conjunction with our initial comments dated 6th June 2022.

"Our original comments stand but I have been asked to consider a noise report submitted by a resident who lives around 200m away from the quarry. We had previously mentioned our subjective assessment of the noise that could actually be heard at a number of locations around the locality; noise that varies greatly with weather conditions and shooter numbers. A noise survey was carried out on behalf of a local resident by Parker Jones Acoustics in April 2021. The survey was based on a single day's attended monitoring at two residential locations. The writer has referred to various noise standards which exist, none of which can be specifically applied to this kind of shooting ground. My observations on the report are as follows:

1. The objector suggests that it is mandatory for an applicant to submit a noise report. This is not the case; the requirement is for noise impact to be assessed appropriately and this has been done, in consultation with the planning and environmental health officers.
2. There is no accepted or adopted guideline or code of practice for assessing shooting ground noise.
3. Any maximum noise levels are sporadic and not continuous; a burst of firing followed by a longer period of silence. Therefore maximum noise levels alone are not meaningful - the writer refers to 30 second averages of loud noises reaching 80dBa or so, this is similar to a human shouting or a car revving close by, i.e. a loud noise but for a very short period of time.
4. The writer suggests that the noise has a "significant adverse impact on local residents". This is a very specific term quoted in various guidelines but can only be used if the standard measurement parameters are used. A critical parameter is the period over which the noise is measured or averaged over, and this is 1 hour. The guidance cannot be applied if the correct parameters are not used. For example a loud noise occurring for a total of 1 minute in 1 hour, interspersed with 59 minutes when that noise does not occur is regarded completely differently to a noise of the same loudness occurring continuously for that 1 hour period.
5. Time of day, frequency of occurrence, history of use, need for the noise, and potential for mitigation and suggested control measures are all very important in relation to this kind of application. The writer has not considered any of these parameters.

Conversely the applicant has considered all of these in their proposed Noise Management Plan.

6. The Noise Policy Statement for England is specific guidance with prescribed requirements and descriptors. These have not been followed and therefore this guidance cannot be used.

7. There is guidance regarding clay pigeon shoots, mainly for operators to use when designing and managing their site. This was published by the Chartered Institute of Environmental Health. It refers to a shooting noise level and the criteria for assessing it. Again this has not been exactly complied with, and the monitoring was only done on one day. However, even taking this into consideration the results show that this guidance is not breached.

8. The WHO criteria is often misquoted and misused, as in this case. It applies only to steady continuous noise, such as a nearby major road or airport. This is not a steady continuous noise and therefore this criteria cannot be applied. Again the relevant period is 1 hour and the writer has not used 1 hour data.

9. BS8233:2014 is a standard used for new housing. It is used to determine whether new residents might be affected by unacceptable existing noise and to calculate what mitigation measures could be included, primarily in the new houses. The measurement period in this standard is 16 hours and therefore the writer cannot reference this standard. 10. The PPG Minerals noise guidance referred to cannot be applied because this is not a minerals operation. This is a disused quarry, similar to many others, which has no current or recent minerals use. Of course, siting the firing range within a quarry is in itself a very good noise control measure.

If any of these points need further clarification please contact me again."

We recommend that D and C Police take the opportunity to review the proposed Noise Management Plan since the demonstration exercise took place, in order to determine whether any suggestions made by local residents can be accommodated. We also recommend that, for clarity, the applicant provide data showing usage records of the last 4 years of shooting in Pondground quarry

Council's Public Health Team – 24th June 2022

Thank you for consulting Environmental Health again on the above application. Our original comments stand but I have been asked to consider a noise report submitted by a resident who lives around 200m away from the quarry. We had previously mentioned our objective assessment of the noise that could actually be heard at a number of locations around the locality; noise that varies greatly with weather conditions and shooter numbers.

A noise survey was carried out on behalf of a local resident by Parker Jones Acoustics in April 2021. The survey was based on a single day's attended monitoring at two residential locations. The writer has referred to various noise standards which exist, none of which can be specifically applied to this kind of shooting ground. My observations on the report are as follows:

1. The objector suggests that it is mandatory for an applicant to submit a noise report. This is not the case; the requirement is for noise impact to be assessed appropriately and this has been done, in consultation with the planning and environmental health officers.

2. There is no accepted or adopted guideline or code of practice for assessing shooting ground noise.

3. Any maximum noise levels are sporadic and not continuous; a burst of firing followed by a longer period of silence. Therefore maximum noise levels alone are not meaningful - the writer refers to 30 second averages of loud noises reaching 80dBa or so, this is similar to a human shouting or a car revving close by, i.e. a loud noise but for a very short period of time.

4. The writer suggests that the noise has a "significant adverse impact on local residents". This is

a very specific term quoted in various guidelines but can only be used if the standard measurement parameters are used. A critical parameter is the period over which the noise is measured or averaged over, and this is 1 hour. The guidance cannot be applied if the correct parameters are not used. For example a loud noise occurring for a total of 1 minute in 1 hour, interspersed with 59 minutes when that noise does not occur is regarded completely differently to a noise of the same loudness occurring continuously for that 1 hour period.

5. Time of day, frequency of occurrence, history of use, need for the noise, and potential for mitigation and suggested control measures are all very important in relation to this kind of application. The writer has not considered any of these parameters. Conversely the applicant has considered all of these in their proposed Noise Management Plan.

6. The Noise Policy Statement for England is specific guidance with prescribed requirements and descriptors. These have not been followed and therefore this guidance cannot be used.

7. There is guidance regarding clay pigeon shoots, mainly for operators to use when designing and managing their site. This was published by the Chartered Institute of Environmental Health. It refers to a shooting noise level and the criteria for assessing it. Again this has not been exactly complied with, and the monitoring was only done on one day. However, even taking this into consideration the results show that this guidance is not breached.

8. The WHO criteria is often misquoted and misused, as in this case. It applies only to steady continuous noise, such as a nearby major road or airport. This is not a steady continuous noise and therefore this criteria cannot be applied. Again the relevant period is 1 hour and the writer has not used 1 hour data.

9. BS8233:2014 is a standard used for new housing. It is used to determine whether new residents might be affected by unacceptable existing noise and to calculate what mitigation measures could be included, primarily in the new houses. The measurement period in this standard is 16 hours and therefore the writer cannot reference this standard.

10. The PPG Minerals noise guidance referred to cannot be applied because this is not a minerals operation. This is a disused quarry, similar to many others, which has no current or recent minerals use. Of course, siting the firing range within a quarry is in itself a very good noise control measure.

If any of these points need further clarification please contact me again.

Council's Public Health Team – 6th June 2022

Officers from Devon and Cornwall Police have worked closely with ourselves in Environmental Health and the MDDC planning officers in putting together the noise management plan. We are aware that some local residents are concerned about a perceived increase in use of the quarry for shooting practice and we needed to understand the reasons for this. We attended a routine shooting training exercise where both ranges were being used and a large number of officers were in attendance. Wherever possible officers are trained in groups in order to minimise the number of days on which the quarry needs to be used. During the day I observed the noise adjacent to all the residences in the vicinity and some further away where residents had expressed concern. The weather on the day was dry with a light wind from the south west. At all locations, other than near the house close to the main gates, we observed long periods of silence interspersed with single shots and sometimes multiple. Each "shooting event" took about 20 - 30 seconds at the most, with a silence gap in between. The noise sounded like distant "pops" rather than loud bangs. We also observed the noise within the quarry and only some guns produced noise that needed ear defenders or noise that interrupted speech. There were up to 10 officers shooting in any group and this exercise was operated as any usual training exercise. Importantly, although some shooting noise was loud and might record high levels, the duration was so short that they would hardly register on any averaged out noise readings (the usual time periods are 15 minutes or 1 hour). One objector refers to the loud noise and planning controls, but these only apply where that loud noise occurs continuously for long periods of time, such as near some industrial processes. This is

not the case here.

In terms of noise control and mitigation, we have set out the aspects that we would like to see specified in the report, aspects such as days, times, "on time", etc. A draft was provided to us before being submitted and we have taken into account concerns of residents, most of whom wanted to see clarity in terms of what might happen and when. In summary these are:

- Shooting only between the hours of 9am and 5pm Monday to Friday.
- Noise "on-time" would be a maximum of 4 hours per day in intermittent short bursts.
- Only a maximum of 3 days per week.
- No more than 10 guns in any group.
- Use of low noise ammunition where possible
- Shooting days to be signed, including personal notification of the resident close to the main gate.

The applicant has included all the agreed recommendations and we have no outstanding concerns regarding this application. We recommend that the commitments made within the noise report should be required to be put in place and maintained throughout the life of any permission by way of reference to the noise report in a specific planning condition. A suitable condition would be along the following lines:

"The noise mitigation and control measures outlined in the Noise Management Report submitted by Devon and Cornwall Police and dated April 2022 must be implemented and maintained throughout the life of this planning consent. Reason: to provide clarity to, and to protect the amenities of, local residents.

Devon Stone Federation - 8th June 2023

Thank you for informing the Devon Stone Federation that further information has been submitted in connection with this application. The DSF has nothing to add to the comments made in our initial response of 11/6/22 which are set out below.

Devon Stone Federation – 14th April 2023

Thank you for informing the Devon Stone Federation (DSF) that further information has been submitted in connection with this application. The DSF has nothing to add to the comments made in our initial response.

Devon Stone Federation – 17th February 2023

The Devon Stone Federation has no further comments to add to our original consultation response of 11 June 2022. In short the DSF has no objection, provided the use is limited to 20 years to prevent sterilisation of the underlying aggregate mineral as per Policy M2 of the Devon Minerals Plan.

Devon Stone Federation – 3rd February 2023

Thank you for informing the Devon Stone Federation that further information has been submitted in connection with this application. The DSF has nothing to add to the comments made in our initial response.

Devon Stone Federation – 11th October 2022

Thank you for this consultation request. The DSF was consulted about this application back in June and our response was as set out below. We do not wish to alter our response now.

Devon Stone Federation - 11th June 2022

Details of this application have been passed to the Devon Stone Federation (DSF) by Andy Hill, the Devon Minerals Officer. The DSF represents aggregate mineral operators in Devon and is a consultee for planning proposals within Mineral Safeguarding Areas and Mineral Consultation Areas defined in the adopted Devon Minerals Plan. In commenting on applications, the DSF considers whether the proposals are consistent with Policy M2 of the Devon Minerals Plan, which seeks to prevent mineral resources from being sterilised by incompatible surface development.

In this case, the site is a quarry with an extent permission for mineral extraction and also lies within a Mineral Safeguarding Area, defined to protect the important limestone deposit, part of which is currently being extracted at the nearby Westleigh Quarry. However, the temporary use of the site is not considered to represent a constraint in the short term.

Therefore the DSF requests that if permission is granted, the permission is subject to a condition limiting the duration of the permission to 20 years. On this basis the DSF has no objection. We would be grateful if the above could be taken into consideration when the application is determined.

Devon County Council – Minerals & Waste – 23rd January 2023

In response to the attached letter, I confirm that Devon County Council has no further comments in response to the additional information, and that the comments made in my email of 7 June 2022 still apply.

Devon County Council – Minerals & Waste – 7th June 2022

Thank you for the consultation.

The application site benefits from an extant planning permission for mineral extraction and is located within a Mineral Safeguarding Area for the limestone resource. Policy M2 of the Devon Minerals Plan seeks to safeguard such resources from sterilisation or constraint by new development.

As the operational limestone quarry at Westleigh has an anticipated remaining life in excess of 20 years, the mineral resource at Pondground Quarry and surrounding land is viewed as a long term resource. Policy M2 includes criterion (c) which allows for temporary development that does not inhibit longer term extraction, and Devon County Council, in its role of mineral planning authority, does not object to continuation of the use as a firing range subject to imposition limiting the duration of that use to a period not exceeding 20 years.

Local Highway Authority – 12th June 2023

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.

Local Highway Authority - 13th February 2023

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

Local Highway Authority – 12th October 2022

The County Highway Authority has no further comments to make.

Local Highway Authority – 21st June 2022

Observations:

The County Highway Authority had been contacted prior to the application being submitted. This proposal does not create a severe effect on the highway network and the access into the disused quarry meets the requirements for the speeds in this area. Therefore the County Highway Authority has no objections.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, has no objection to the proposed development

Environment Agency - 09 February 2023

Environment Agency position:
No objection

Given this proposal is a continuation of an existing use and no operational development is proposed we have no comments to make at this time.

Environment Agency – 12th May 2022

Change of use within Flood Zone 1 - No EA consultation required.

The Grand Western Canal Joint Advisory Committee - 6th February 2023

The Grand Western Canal Joint Advisory Committee has noted the Applicant's submission of the Additional Planning and Heritage Statements published on 20th January 2023. Members object to the Applicant's suggestion in the Heritage Statement that the noises from industrial activity in the late 19th Century on the adjacent canal in the Holcombe Rogus area create a precedent for the canal corridor's being a noisy environment thereby making the proposed firearms' noise a normal, acceptable part of the canal's environment.

Members would like the Planning Committee to note that industrial transport on the canal ceased at least one hundred years ago. Consequently, the canal has been a quiet corridor for a century. This historical tranquillity undoubtedly was a factor in its becoming a Country Park in 1971 and subsequently a Local Nature Reserve. Firearms training noise must be considered as a new intrusion and appropriate mitigation must be implemented if the Application is a permitted.

Members have now reflected on the possible impact of this noise in the canal's wildlife and have reviewed the entries in the Wildlife Trigger Table. They were surprised that the answers did not trigger a Wildlife Report.

However, it was soon noticed that there were some incorrect entries in the Wildlife Trigger Table; Part A 1a was incorrectly completed since the Applicant has entered that the Application site is less than 0.1.

A cursory examination of a map shows that the site is significantly larger and the Applicant's own Additional Planning Statement published on 20th January 2023 contains the following in Section 2; 2.1 The application site measures circa 0.41 ha and is located in a rural location circa 1 mile east of Holcombe Rogus.....

Clearly, Part A, 1a should have been entered as "Yes".

Additionally, 1b viii should have been entered as "Yes" since the Application site is in woodland and could have an effect on hydrology. Surface water from the site could drain down to the adjacent Grand Western Canal carrying accumulated contaminants from the discharge of the training firearms. Members therefore insist that a Wildlife Report should follow the Wildlife Trigger Table when it is re-completed correctly. Determination of the Application should not take place until the results of the Wildlife Report are available for the Planning Committee's consideration. The Grand Western Canal Joint Advisory Committee continues to object to this Application

The Grand Western Canal Joint Advisory Committee – 31st August 2022

I write on behalf of the Grand Western Canal Joint Advisory Committee (GWCJAC)

Application 22/00907/FULL

The GWCJAC Objects to this Application.

Devon and Cornwall Police is applying for permission to use Pondground Quarry in Holcombe Rogus for firearms training.

A temporary permission for this purpose expired in 2014.

MDDC apparently reminded the Police of this expiration at the time. For reasons unknown neither the Police nor MDDC followed-up so that there was no new Application nor Enforcement by MDDC.

Firearms training continued at the site without permission until increased firearms activity caused the quarry's neighbours to question this a couple of years ago. The Police were then prompted to submit this Application for permission to continue using the quarry.

The current Application refers to a "continuation" of the use of the quarry. The GWCJAC considers that this should be treated as a new Application and that the Planning Committee should not take into account the unauthorised use since 2014.

This Application calls for freedom to fire at the quarry for an expected 141 days a year during Monday to Friday 9.00am to 5.00pm. However, the Application mentions that undefined "exceptional circumstances" could result in firing outside these dates and times.

It should be noted that the Grand Western Canal in Devon is in a Conservation Area, is a Country Park and also a Linear Nature Reserve.

The possibility of increased use will create quite disturbing conditions in the general locality and the prospect of considerable disruption to the tranquillity of the canal corridor from Lowdwells to well beyond Whipcott.

Members are worried that the peaceful, nature-rich environment of the Country Park in the Conservation Area will be destroyed by the increased frequency of firearms training at Pondground Quarry. A member of the GWCJAC visited the towpath north of Waytown Tunnel

during a demonstration firing session on 2nd August 2022. Obviously the impression gained was subjective but the sound of firing in the canal's cutting there was very loud and, for example, drowned-out any hope of hearing bird-song.

The GWCJAC has received a message from a near neighbour of the Pondground Quarry expressing concern about the welfare of the environment caused by the impact of the firearms training adjacent to the canal.

Members consider that he voices this well in his message which follows;

I am writing to voice my concerns of the impact from a planning application at pond ground quarry on the western end of the Grand Western Canal.

As a local resident that lives very close to the canal I have noticed a massive drop in the number bats flying around at dusk and owls heard at night. This seemed to happen when the police massively increased the use of the quarry as a firing range back in 2020. Since then it has come to light that there temporary planning permission expired in 2014. There recent application asks for a further increase to 141 days per year with even further increases in 'exceptional circumstances'. I am extremely concerned that the current increase has caused the drop in those species that are particularly sound sensitive, so further increases would compound things further. I believe this is demonstrated by the visible drop in bats and owls but am sure there are many other species negatively impacted. In my view the application should at the very least include an environmental survey to look into the potential impact on the current wildlife population and if this is lower than expected then why?

In addition to the environmental impact the planning process has brought to light how the firing has effected many of those who use the canal on a regular basis. This seems to especially apply to dog walkers who's animals are sufficiently frighten to persuade them to go elsewhere on firing days. This is clearly documented in many of the 75 objections listed on the application. Is this in the committees view acceptable?

The GWCJAC accepts that Devon and Cornwall Police has to undertake firearms training but questions whether it should be carried out adjacent to such a valuable green corridor as the Grand Western Canal.

If the Planning Committee feels that this Application should be permitted we urge it to ensure that the frequency of normal firing is well defined, restricted to the pre-2014 levels and that the "exceptional circumstances" when firing times may be extended is also given a definition that prevents its being abused.

Adam Pilgrim - on behalf of the GWCJAC.

Council's Conservation Officer – 22nd June 2023 (Following receipt and consideration of a Heritage Statement)

I do not consider that the continued use of the quarry as a firing range would detrimentally affect the settings of the listed buildings and conservation areas in the vicinity.

The quarry has been used continuously since 1978 as a firing range. All the listed buildings and conservation areas listed within the heritage statement were listed or designated post 1978 (the earliest in 1988, after a period of 10 years use as a firing range). Therefore, the ambience created by the firing would have been in existence at the time of listing and designation, and would likely have been taken into consideration.

While it is true that the area historically would have been industrial in character, creating large amounts of noise, the more important factor here is that the character of the area has not changed since the listing and designation of the nearby heritage assets, nor is it proposed to be. Therefore, I conclude that no harm would occur to the significance (including settings) of these heritage assets by the continued use of the quarry as a firing range.

Council's Conservation Officer – 25th October 2022 – (before Heritage Statement received)

You have asked me for a view on this proposal.

You will be aware that the Grand Western Canal is close by, and that there are several listed buildings within 500m - Higher Brinscott Farmhouse; Burrow Farmhouse and adjoining cottage, the stables, barn and cow house at Burrow Farm; Pine Croft; Waytown Tunnel and Waytown Lime Kilns.

The setting of listed buildings is a statutory duty where we must 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66 of the Listed Building Act). This is to be given considerable importance and weight. This is supported by the NPPF which is a material consideration and the local plan policy which again has statutory weight through section 38(6) of the Planning Act.

The setting of the canal is not a statutory duty in terms of section 72 of the Listed Building Act as it is not inside the conservation area, but is to be considered as required though the NPPF and local plan.

The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should be consulted and the building assessed using appropriate expertise where necessary.

When considering the impact of development, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where the proposal will lead to less than substantial harm, the harm should be judged against the public benefit, of the proposal including, where appropriate, securing its optimum viable use.

The NPPF also requires 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.

Policy DM25 of the Local Plan Review 2013-2033 states

Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all heritage assets and their settings;
- b) Require development proposals likely to affect the significance of heritage assets, including new

buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;

c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or the requirements of the National Planning Policy Framework are met;

d) 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, including securing its optimum viable use; and

e) Require developers to make a proportionate but systematic assessment of the impact on the setting and thereby the significance of heritage asset(s)

There is no heritage assessment with this application.

Whilst this proposal is away from the listed buildings and is outside the conservation area, it has the potential to impact on the experience.

Planning Practice Guidance states

What is the setting of a heritage asset and how can it be taken into account?

The setting of a heritage asset is defined in the Glossary of the National Planning Policy Framework.

All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent.

The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time.

When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.

Advice on how to assess the setting of heritage assets is given in Historic Environment Good Practice Advice in Planning: 3 (2nd Edition) - The Setting of Heritage assets. This advises on page 11 that the experience of the asset is to be considered which would include noise and the tranquillity of the heritage assets amongst a list of others that should be considered.

I am not a noise expert, and I have not looked into the planning history of the site, and to that extent cannot give a view on whether the proposal would detrimentally impact on the significance

of the conservation area. What I can say is that the impact of noise from a proposal is a matter which we should consider with regard to the listed buildings and the conservation area, and then weigh any harm to the heritage assets in the balance against the public benefit of the proposal. We cannot strike the balance until we understand the level of harm.

At his time we do not have a heritage statement with the application and given that it has the potential to impact on the heritage assets the applicant should be invited to submit a setting assessment of the heritage assets, as required by the PPG, NPPF and policy DM25. As you are aware the level of detail should be proportionate to the assets importance and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage assets.

Devon Wildlife Trust – 14th June 2023

Further to receipt of your letter dated 5th June, I have reviewed the latest information submitted as part of Planning Application Ref: 22/00907/FULL. Unfortunately, the comments provided in my letter dated 16th March do not appear to have been addressed. My comments and objection (attached) therefore remain extant.

(In respect of this response, since the original response from Devon Wildlife Trust on the 16th March 2023, it should be noted that the applicant has submitted both a Peregrine Survey and Preliminary Ecological Appraisal and as such it is considered that the assessments required to assess ecological matters on site have been received and as discussed within the report below, there is no requirement to provide a 20% net gain in biodiversity).

Devon Wildlife Trust – 16th March 2023

We object to the planning application because we consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 174d and 175d of the National Planning Policy Framework or the requirements of paragraph 99 of ODPM Circular 06/2005 Biodiversity and Geological Conservation. Furthermore, the Environment Act 2021 and National Planning Practice Guidance requirements relating to biodiversity net gain have not been addressed. These requirements are reproduced at the end of this letter.

The comments provided below are based on a Desk Study Appraisal produced by Richard Green ecology (March 2023). We consider that insufficient evidence has been provided because:

1. The application does not include an Ecological Impact Assessment. The Desk Study produced for the site recommends a Preliminary Ecology Appraisal is undertaken for the site. This should be carried out, followed by any protected species surveys which are required. A full Ecological Impact Assessment of the scheme must then be carried out which assesses the impact of the proposal on habitats and protected species. This must include an assessment of the impact of noise on existing wildlife present within the site and zone of influence of the proposals, and must be carried out by an ecologist with experience of noise impact assessment.
2. The report produced for the site does not include an assessment of net gain (or loss) of biodiversity. The most recent DEFRA Biodiversity Metric should be utilised to calculate loss/gain. Biodiversity net gain calculations for the site must be produced using a detailed landscaping plan and must show net gain. In light of the biodiversity crisis, DWT recommends all developments achieve a 20% net gain. For the reasons given above, we object to the planning application and recommend that it is refused.

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). Two site visits have also been undertaken, the first on the 2nd August 2022 to allow the case officer, MP for the constituency of Tiverton and Honiton, Ward Members and Members of the Parish Council, the ability to hear the shooting and the second site visit on the 5th September 2023 to allow Members of the Planning Committee the ability to hear the shooting.

At the time of writing, 94 letters of representation have been received, 88 letters of which are of objection, one letter of general comment and 5 were letters of support. Letters of representation can be viewed in full on the council's website. The grounds of objection have been summarised as follows:

- Impact on neighbouring amenity through noise disturbance of the shooting. This can be loud and without warning.
- Noise levels of the shooting are excessive based on the most appropriate guidance which is that of the Chartered Institute of Environmental Health ('CIEH').
- MDDC has been sent copies of reports from acoustics consultant Parker Jones Acoustics dated 23rd June 2022 and 14th July 2022 and L F Acoustics dated 22nd October 2022. These reports clearly show that shooting at Pondground Quarry has caused a significant adverse impact on the local community.
- Whilst shooting has taken place in past, the noise and intensity of the shooting has increased through types of weapons now fired and number of times shooting occurs
- Previous shooting was around the permitted development level of 28 days and not to the higher figures quoted by the Police. The police would need to show evidence to demonstrate their figures
- The development has a detrimental impact on holiday businesses surrounding the site.
- The development has a detrimental impact on heritage assets such as the Great Western Canal Conservation Area and nearby listed buildings
- The shooting has a harmful impact on the environment through lead contamination from shooting activity
- The shooting has a harmful impact on wildlife including the County Wildlife Park Site of the Great Western Canal.
- The shooting impacts the Primary School in Holcombe Rogus which impacts pupils and their ability to learn
- The site is above 0.1ha in size and therefore a wildlife report is required.
- There would be other sites available which would be better located to serve Devon and Cornwall Police.
- The site is designated as a priority habitat by The Biodiversity Action Plan, located directly adjacent to the Grand Western Canal country park and designated nature reserve.
- Highways implications through the impact on local road network. The access to the site is via a very narrow single track lane in poor condition that is also part of the national cycle network. During previous shooting days the number of vehicles counted (and recorded) on site has been around 10 cars and vans. This equates to approximately 60 additional journeys per week.
- It seems the issue of pollution caused by human waste has not been addressed.
- There have been previous complaints made to Environmental Health about the noise pollution prior to this application.

- The Devon and Cornwall Police state that they need to be fully trained with firearms to keep the public safe. However, no data is supplied justifying this position.
- Safety - Pondground quarry is easily accessible and some sections are not fenced at all.
- Concerns for local children who play in the woods and what could happen with live bullets being fired.
- Using the data supplied by the DCP through a FOI request it is now indisputable just how much that the police have increased the usage of the site as a firing range. In 2012 the police used the site for two days, totalling 5.25 hours on site with 400 rounds fired. This can now be compared to their figures for 2021. The total number of days on site increased to 58 days, totalling 319.25 hours on site and a massive 113,730 rounds fired. So it is now clear that the historic use is not comparable to the more recent activity.
- In 2004, when they were last granted temporary permission to use the site the planning officer clearly states that "an increase in use is likely to be unacceptable". This permission expired in 2014, something they were made aware of, and instead of re applying the DCP decided to exponentially increase the use of the site regardless.
- Using data from DCP, their usage increased in 2014 to 37 days, totalling 178.5 hours on site with 28,623 rounds fired. That is an increase of 35 days, 172.25 hours and 28,223 rounds over two years. Even though fully aware that their temporary permission had expired they continued to use the site increasing exponentially for a further seven years.
- The condition that Devon and Cornwall police were to have exclusive use of the site was flagrantly ignored with DCP inviting other forces on to the site along with the Marines on several occasions.
- No statement of community involvement has been submitted.
- Should there be a Mineral Resource Assessment to demonstrate that DCP can comply with Policy M2: section c) the non-mineral development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction or operation within the timescale that the mineral resource or infrastructure is likely to be needed?
- No clear and convincing justification has been provided as to why this increased use needs to occur at Pondground Quarry given the impact it causes.
- No assessment of alternative sites has been provided. Where have DCP been carrying out their firearms training since May 2022?
- Wouldn't their firearms training be better implemented if it were spread out across the counties they serve or held in a purpose-built facility that has been commissioned with the same planning rigour and consideration for neighbours as per other Police forces?

The grounds of support have been summarised as follows:

- This facility has been in use for many years and helps to provide vital training to Police officers, who are prepared to put themselves in harm's way. They do this to try and protect the public of Devon and Cornwall and anywhere else, when required.
- They deserve the support of the local and wider community, to retain this training facility.
- It seems there is a proposal to reduce the number of firing days at Pondground
- From a public safety viewpoint it is vital the police firearms officers are not only fully trained but maintain their extremely high levels of expertise set by the Home Office. After all, it is they we will call upon to respond and deal with the worst possible scenario
- These officers need to train for a huge range of scenarios, hence the need to replicate them in an outdoor environment.
- Disagree with objections that suggest that there is some "environmental harm" implicit in the noise experienced on the limited number of days in the year that the range is in use for firearms training and practice.

- It is almost inconceivable that the abundance of wildlife - in particular on the nearby canal - would be evident if there was any serious threat or disturbance from the use of the range. I have seen swans, ducks and water hens all raise successful, thriving broods from nests only yards away from the range. I have seen kingfishers; woodpeckers and even an otter on, or in the immediate environs of, the canal between Pondground and Lowdwells - hardly an environmental disaster area.
- If we are to seriously consider reducing persistent noise pollution then we will need to include consideration of measures such as :-
 - stopping or even reducing noise pollution locally by setting up noise monitors on any local road during the long summer harvesting season when bellowing, 10 tonne tractors towing huge trailers full of grain or silage or, worse yet, slurry thunder up and down our narrow lanes between dawn and dusk;
 - limit the number of trucks going to and from the local quarries;
 - stop or limit the use of blasting at the local quarries;
 - limit or ban the use of bird scarers by local farmers;
 - limit or ban game hunting seasons and organised shoots;
 - stop or limit all late night or early morning pest hunting.
- The fact that Pondground has safely enabled the provision of that capability for more than forty years is a worthy testament to the economic and environmental suitability and practicality of the range.
- The reality is that the range is a vitally important asset that needs to be used and maintained. It's in a safe and suitable location and the limited impact it has is mitigated so there is little benefit to be gained by imposing additional cost and inconvenience through limitations on its current use.
- I support the Police living close by for over 50 years and have never had an issue with the noise although I have always been able to hear it.
- In terms of nuisance the police firing is only during working days and during the day, and our subjective assessment would rank sixth behind the following that happen all hours and days of the week in this locality:
 - Low flying military planes,
 - The rookery in the Grand Western Canal nature reserve,
 - Tractor traffic (particularly the new mayhem that occurs during the bio fuel harvest),
 - Quarry traffic hitting the bicycle killing potholes on the Whipcott road,
 - Licenced game shooting,
 - The whinnying horse across the canal.

I note the noise complaints and would point out that in 1976 the police were using a model 19 S&W revolver. My particular weapon was 2.5" barrel producing in the range of 175 decibels at close range. The modern semi-automatic weapons with enclosed breach and firing pin produce in the range of 160 decibels.
- After 45 years any immediate impact on wildlife will have occurred many years ago and will now be an occasional background noise. Recent losses of wildlife are more likely, in my opinion, due to natural causes such as bird flu, which from personal experience, living on the Grand Western Canal, were 6 signets last year and the failure to hatch a further 6 or 7 this year, after firing was suspended.
- With regard to the GWCJAC objections they were taken before myself and others joined the committee and may not necessarily reflect the views of current members.
- As a former police firearms officer for 16 years I cannot stress the importance of what is limited training on the ranges in question, causing noise for a few minutes in the hour as stated in recent tests.
- Note more often and in both rural and close proximity to residential areas the use of gas powered bird scaring devices which operate at and above 160dB. Designed to scare birds of all breed for longer periods of days not minutes in the hour occasionally.

- Having been in situations where the high level of training within the Devon and Cornwall police proved invaluable including on one occasion the split second decision to fire or not.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application is for the retention of a disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus. The site has been used for the purposes of firing at two ranges by Devon and Cornwall Police for over 40 years but the last planning permission lapsed in 2014 although the police have continued to shoot on site. Therefore this application seeks to partly retrospective apply for the permission whilst also seeing consent to continue shooting for a temporary period of 20 years as recommended by planning condition.

The main issues in the determination of this application are:

1. Principle of the development including the planning history of the site
2. Impact on amenity, predominantly through noise intrusion
3. Impact on heritage assets
4. Impact on the wider environment
5. Impact on wildlife
6. Highway Implications
7. Site security
8. Other matters - temporary use for 20 years given the minerals

1. Principle of the development including the planning history of the site.

- 1.1 The site is in a countryside location where Policy S14 (Countryside) is supportive of agricultural and other appropriate rural uses requiring new development to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. As demonstrated by the planning history, the use of shooting from two ranges at Pondground Quarry has occurred since the late 1970's and has benefited from a number of permissions where the LPA have, in granting permission, confirmed that the principle of the use was acceptable. Planning history is a material consideration, and must be taken into account in the decision making process. Planning permission was also approved in 2014 for the erection of a 3 sided building associated with the firing range.
- 1.2 Planning Permission for use as a firing range at Pondground Quarry has been granted on the basis of temporary permission in the past, and is sought again now, but this is related to the safeguarded mineral allocation of the site. On application 04/02000/FULL, the officer report advised that there were no third party representations or parish council comments to the application at the time and that *'the site is removed from settlements + passer-by's hence is a reasonably safe location'*. The officer site visit notes also advised that *'seems like a good location for a firing range, as is an out of the way location, is well enclosed by quarry walls, has reasonable highway access and space for parking, noise would not result in nuisance to a village or other more densely populated area'*. It is not considered that there has been any significant change since this decision that would lead your officers to have a different opinion.
- 1.3 The National Planning Policy Framework (NPPF) at paragraph 97(b) advises that *'decisions should promote public safety and take into account wider security and defence requirements by supporting development required for operational defence and security purposes'*. The site is used by Devon and Cornwall Police for the training of firearms officers to supplement their main shooting range in Exeter. Since 1978 the site has been used as two firing ranges to

fulfil the police service's obligation to adequately train officers in the use of firearms. So far as can be determined, this use has continued without interruption, with the renewal of temporary permissions from that date until 2014; when the last formal temporary consent lapsed. However, the use of the land as a training firing range has continued to the present day when Devon and Cornwall Police were alerted to the need to renew the consent. Hence, the submission of the current application.

- 1.4 It has been outlined by the applicant that the use of the former quarry as two live firing ranges is critical to Devon and Cornwall Police's ability to carry out its legal policing duties in Devon and Cornwall and the Isles of Scilly. Devon and Cornwall Police exists to detect and prevent harm, to protect the vulnerable and to reduce crime. Devon and Cornwall Police has an indoor live firing range at its headquarters in Middlemoor in Exeter and the outside live firing range at Pondground Quarry. Both ranges are used by all of the Police's firearms officers who travel to the ranges for the necessary training and accreditation. Whilst the vast majority of Devon and Cornwall Police's firearms training takes place at Middlemoor, this is only a single indoor firing range. Due to the capacity of the indoor range it is absolutely imperative that the Police undertakes concurrent training for most of the year, and this requires the use of Pondground Quarry.
- 1.5 The applicant states that their tactical training is run at a number of other non-firing range venues across the South West. Unfortunately their military colleagues are at full capacity with the use of their own facilities and the Police are unable to use their firing ranges. As such the Police are not able to rely on the military facilities as their availability is minimal. The accreditation for armed officers is carried out yearly. Their training is spread over 12 months, meaning that a firearms officer will attend one week of training every 6 weeks. Furthermore, officers must qualify every 6 months in each firearm (pistol, carbine and shotgun). This is non-negotiable and will result in officers losing their accreditation if they do not meet this requirement. As such this facility is required and there are no alternative sites available to undertake outdoor shooting. At the Member Site Visit, it was noted that there is a requirement to train up to 150 shooters but currently they are only able to achieve between 110 and 120, therefore indicating the shortfall and the need for this facility.
- 1.6 It is also worth noting that Class B, Part 4 of Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 (as amended) outlines permitted development rights for temporary use of land. *Class B* allows for ***the use of any land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any moveable structure for the purposes of the permitted use.*** Therefore notwithstanding the historic use of the site for shooting by Devon and Cornwall Police, the fallback position is that shooting could take place on site for 28 days of the year with any additional days requiring planning permission. Shooting has taken place on site since the initial planning approval in 1978 with shooting still continuing on site, only recently ceasing given the determination of this planning application.
- 1.7 The Application originally submitted sought planning permission to fire between 9.00 and 17.00 on Mondays to Friday for an average of 3 days per week over 47 weeks a year; 141 days. However, following objections received and consultee comments, this has now been reduced down to shooting for 70 days of the year which is considered to be acceptable.
- 1.8 Therefore in light of the above, the principle of shooting from two firing ranges on site has been accepted previously on this site and it is noted that there were no conditions imposed on earlier planning permissions restricting the shooting; therefore meaning at the time shooting could have taken place on site as required. The application before members today therefore, provides more control. As part of this application, a Noise Management Plan has been

submitted which could be conditioned through the planning permission, outlining shooting would be restricted as follows:

- 70 days shooting per annum.
- Firing only taking place up to 47 weeks of the year (no firing during 2 weeks over Christmas and none for the first 3 weeks of August)
- A maximum of 2.5 days shooting in any given week
- Shooting only being allowed on a Tuesday, Wednesday and half day on a Thursday between the hours of 0900 and 1700, except for Thursdays when it will be between the hours of 0900 and 1300.

1.9 In light of the above, it is considered that the use of the site for two firing ranges can be supported, subject to the development not resulting in a detrimental impact where the harm outweighs the need for the use. This assessment on impact is considered further below.

2. Impact on amenity, predominantly through noise intrusion

2.1 Policy DM1 requires that development is of a high quality and does not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties and uses. The potential noise impacts of the proposal have generated concern from a number of third parties and the Parish Council. This includes neighbouring tourist businesses, most notably to the property Eden, to the north east of the site. Having viewed the planning history at this property, it was noted that planning permission was approved under 17/01085/FULL for the retention of existing holiday lodge and erection of an additional holiday lodge on the 15th September 2017. The boundary of Eden has been measured as being over 180m from where the shooting takes place at Pondground Quarry.

2.2 Residents instructed ParkerJones Acoustics to produce a Noise Impact Assessment whereby noise readings were taken on the 21st April 2021. Noise readings were taken from Pondground Quarry and Eden where the conclusions were that noise levels reached between 70dB and 85dB LAFmax and therefore represented a significant adverse impact on local residents due to noise from the shooting range. As such the acoustic consultant was of the view that the planning permission should be refused. ParkerJones Acoustics produced a further response on the 8th June 2022 to the Noise Management Plan submitted by the applicant based on shooting across 141 days, again with the conclusion to refuse permission.

2.3 An initial site visit was arranged on the 2nd August 2022 to allow the case officer, MP for the constituency of Tiverton and Honiton, Ward Members and Members of the Parish Council, the ability to hear the shooting. Acoustic Consultants Ltd. instructed by the applicant also carried out a Site Noise Monitoring Report. The readings were taken at the Shooting Ground, Pondground Cottage and Eden Cottage. Readings were taken from a fourth site but gun noise was not distinguishable on the day. The Typical dB LAeq(1 hour) readings were stated as 57.1 at Pondground and 57.3 at Eden Cottage with Typical dB LADmax being 78 at Pondground and 76 at Eden Cottage. Following this visit and report, the Noise Management Plan was revised to the timings now before members, which includes being limited to 70 days shooting which could take place over 2.5 days per week across 47 weeks. It should be noted that 2.5 days per week over 47 weeks equates to 117.5 days per year but the shooting would be limited to 70 days.

2.4 ParkerJones Acoustics did not provide any further response following the changes proposed, rather a resident instructed LFAcoustics who provided a response on the 27th October 2023. The conclusion of this acoustic consultant was that whilst measures within the Noise

Management Plan will go some way to reduce the duration of the exposure to noise during the year, whilst operating, the potential for significant adverse impacts remains. The limit of shooting days to 70 days per annum were noted but in the opinion of LFAcoustics the limit should be set no higher than the days usage pre-pandemic and should be set at a maximum of 30 days per annum.

- 2.5 With respect to noise concerns, the applicant has seriously considered the issue by engaging the services of Acoustic Consultants Limited, who are well established and respected independent acoustic engineers. As noted above these engineers have provided a noise management plan and associated addendum, which seeks to address the issue of noise. Acoustic Consultants Ltd. also provided a letter dated 29th September 2022 providing details of the Site Noise Monitoring Visit that was undertaken by them in 2nd August 2022.
- 2.6 The Council's Public Health Team have reviewed the D & C Police noise assessment as outlined within their consultee response on the 13th February 2023 and has also seen the comments and letter submitted by the parish council and other residents. The Environmental Health Officer noted that some perhaps are still not sure how noise readings are used, despite their explanations. Downwind close by the shooting bursts are very loud as were heard on the arranged site visit in August 2022, but further away they fall off to the "popping" noise, and upwind it was barely audible at all. The Environmental Health Officer commented that *'All shooting noise does this and each burst is very short with long periods of silence in between.'*
- 2.7 The response from the Public Health Officer is that *"We have reviewed the noise report submitted by the noise consultant engaged by Devon and Cornwall Police. EHOs were on site during the monitoring and shooting exercise in August 2022 and are satisfied that the shooting carried out was in line with what is usually carried out. Each of the 3 types of weapons was used at the maximum number of shooting positions. EHOs also listened to the noise off site as previously reported. We have no concerns regarding the report and its findings."*

We have also reviewed the latest comments submitted by the Parish Council and some residents. In the EHO submission in October 2022, and previous comments, we clearly set out our role and the basis on which our comments and recommendations are made. Noise level readings were similar in all the reports (both those commissioned by residents and D and C Police) and the EHO has clearly stated why the noise standards quoted by the resident's noise consultant are not appropriate in this situation. Similar comments have been made by the D and C Police noise consultant. However, even if they were appropriate, noise in excess of guidelines is not a justification for refusal of planning applications; but it does suggest that control will be required. Where this occurs, the next step is for the EHO to review the mitigation and control measures suggested by the applicant, and then advise the planning officers which we have done.

From the outset the EHO suggested that a Noise Management Plan is appropriate, and this is typical in many situations where sporadic noise is clearly audible off-site. It was the EHO who requested that the number of shooting days was halved to a number in line with previous years (140 to 70), the days of the week were halved (to 2.5 from 5, giving a minimum of 4.5 clear days of respite each week), and the days of the week and hours of the day were specified. Several residents have stated that the level of previous usage was not unacceptable, and this is demonstrated by the absence of any complaints about noise in the past. Respite time is a very important consideration in applications such as this, and the comments of October 2022 clearly set this out.

We therefore have no additional comments in relation to the noise report submitted by Devon and Cornwall Police."

- 2.8 It is understood that third parties debate the readings taken and from their own readings could be higher with their noise consultant experts advising that the amount of days for shooting should be more in line with those allowed under permitted development limits. A recent complaint is that further trees have been cut down on site which could result in more noise intruding into the surrounding area. On the matter of tree cutting, the applicant confirmed that the owners of the application site which are not Devon and Cornwall Police commissioned tree surgeons to carry out some maintenance works relating to ash dieback. This work and any associated tree felling does not relate to this planning application which seeks planning permission for the retention of this site for two firing ranges by use only by the police.
- 2.9 Within the Noise Management Plan Addendum October 2022 the case is made that with regard to the shooting hours per day, each training day is 8 hours long (albeit shorted on Thursdays) but yields 6 hours of contact time; the period when the student is actually being trained. This accounts for travelling and breaks. This is a nationally accepted formula. This further results in typically four hours per day of actual shooting (less on Thursdays). This takes account of breaks, explanations of shooting practices and patching of targets and such like.
- 2.10 In light of the above, notwithstanding concerns raised by third parties, the noise levels associated with the shooting based on 70 days in any calendar year, only on Tuesday, Wednesday and Thursday which can be conditioned is considered to be acceptable. As commented earlier in this report, the permitted development rights allow for shooting over 28 days a year so this represents a further 42 days of shooting across the year.
- 2.11 Notwithstanding the matter of noise generated from the use of site where different acoustic consultants acting for either the applicant or third parties disagree on readings and level of harm, the concern raised by residents is to the intensity of the use and that there has been a significant increase in the amount of firing taking place within the Quarry over the last few years.
- 2.12 Devon and Cornwall Police note that the planning consent in 2004 did not limit the number of days that live firing could take place at Pondground Quarry. As such, they have been able to use the two firing ranges at Pondground Quarry without planning limitation. Without such restrictions, they comment that they have used the firing ranges between 29 and 60 days per year over the last four years, as the table below shows:

Training Year	Both Ranges Used	Top Range Only	Bottom Range Only	Total Days Firing
2018/19	18	9	2	29
2019/20	20	7	4	31
2020/21	49	3	8	60
2021/22	33	15	5	53

2.13 Further figures have been provided by residents which it is stated is received through an FOI request which outlines:

Year	Total DCP days on site	Total Hours on Site	Total Rounds Fired
2012	2	5.25	400
2013	20	80.75	14971
2014	37	178.50	28623
2015	30	124.25	31372
2016	68	332.00	83642
2017	29	181.75	27964
2018	17	92.50	12194
2019	32	171.25	46553
2020	51	194.25	46628
2021	58	319.25	113730

2.14 Residents have outlined within their submissions that on 11th December 2020 Devon and Cornwall Police acknowledged via email, noise complaints received from MDDC and on the 11th January 2021. A further noise complaint was raised by Pondground Cottage. The applicant has been requested to comment on the differences between the two sets of figures provided and the response was 'I am aware that a number of FOI requests have been submitted and that information regarding the use of the ranges has been obtained. The information obtained via the FOI Act (the second of the two tables in your email) does not accord with the information that I have. For instance, the number of days shooting, according to my data, states (figures per financial year, e.g. April to March):

2011/12 – 27 days shooting

2012/13 – 14 days

2013/14 – 16 days

2014/15 – 44 days

2015/16 – 45 days

2016/17 – 71 days

2017/18 – 14 days (range was effectively closed due to canopy build)

2018/19 – 29 days

2019/20 – 30 days

2020/21 – 59 days (the outdoor firing range – as opposed to the indoor firing range - was used more during the pandemic to limit the spread of the coronavirus)

2021/22 – 53 days (the outdoor firing range – as opposed to the indoor firing range - was used more the during the pandemic to limit the spread of the coronavirus)

2022/23 – 11 days (the range was closed after public opposition)'

2.15 In light of the above, it could just be a case of a calendar year reading against that of a financial calendar year reading to explain the differences in totals, but in any event it is clear that from either set of figures taken, shooting has taken place continuously on site from 2012/13 up to 2022, ranging from around 14 days up to 71 days. In terms of complaints

received to the Council, these appear to have been from the end of 2020 but interestingly not in 2016 when the reading appears to have been at its highest.

- 2.16 With respect to the rounds shot, based on the 2021 figures supplied by residents, this would average 1960 rounds across a day, and it should be noted that the site visit arranged with Members on the 5th September 2023, the Police confirmed that 1250 rounds had been shot with the shooting taking place between 10.15am and 12.45am on the day with both firing ranges being used, which allows 4 shooters on the lower range with the louder weapons and 6 shooters on the top range using pistols. As such it could be argued that the shooting on the day is representative of a normal shooting day whereby there are breaks between shooting and the firing was at its loudest.
- 2.17 Whilst the visit was arranged for members only, and was not a public meeting, some residents were present as had heard of the visit taking place. Residents commented to Members that they were of the view that the intensity had significantly increased and that circumstances appear to have changed since 1978 when the first permission was issued. In response, it should be noted that Devon and Cornwall is the largest force area in England, and that in 2023 the population for the area covered by Devon and Cornwall is stated as being 1.76 million residents, living in 722,300 households. The force announced it had 3,716 officers in May 2023; an increase of 6% since austerity cuts in 2010. However, there are fewer officers per member of the public than in 2012, due to an 8% population increase, with the Police Federation warning there was a "significant demand" for officers. In May 2023, there were 225 more officers in the two counties than when the austerity cuts began. But the latest Office of National Statistics (ONS) figures show the number of people living in Devon and Cornwall increased by 131,000 between 2010 and 2021.
- 2.18 In terms of gun crime and the need for this facility, reported figures released from the Home Office identified that there were seven firearm offences for every 100,000 people in the Devon and Cornwall policing area in 2020-21 – up from six the year before. The data covers crimes involving lethal firearms like shotguns and handguns and non-lethal weapons such as stun guns, but excludes offences involving air weapons. In 2020 Home Office figures show Devon and Cornwall recorded 124 crimes involving firearms and has dealt with 1,420 since police force records began in 2007-08. The backdrop is therefore that the population has significantly increased over the last 10 years, that firearm offences have increased but whilst the number of police has increased, it has not kept up pace with the population increase in general. Devon and Cornwall Police advised Members on site that there was a need to train 150 officers across the year but that they were only able to meet a figure between 110 and 120. Also that whilst they were just about getting by, this was through doubling up exercises at Middlemoor with requests made for MOD sites although there were challenges as the MOD could stop their exercises at any or bad weather could stop shooting time meaning training experiences would have to be planned out again (you could not pick up from where left off). Therefore underlining the case for the need to shoot at Pondground Quarry.
- 2.19 Paragraphs 92 – 103 of the NPPF make it very clear that officers should give consideration to promoting healthy and safe communities. Part of this is inevitably ensuring that there are sites provided to the police to enable them to carry out their duties of protecting the public and keeping people safe. Given the extensive work that has been undertaken in relation to the sound testing and the weight placed on the planning history of the site and how it has always been used for this purpose; it is considered that the use is acceptable.

3. Impact on heritage assets

- 3.1 The entrance to Pondground Quarry is located adjacent to the Grand Western Canal Conservation Area whereby the canal and tow path within the Conservation Area are located approximately 70m away from the entrance to the application site. There are a number of listed buildings in the area, most notably the Grade II listed property of Brinscott located to the north east, approximately 280m from the firing range and the Grade II Waytown Tunnel to the southwest, approximately 230m from the firing range. There are a number of further listed buildings but located further away.
- 3.2 In coming to a decision the council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. In addition, in coming to a decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.
- 3.3 The proposals have the potential to affect the setting of listed buildings and the conservation area. Both are protected by the Planning (Listed Buildings and Conservation Areas) Act 1990 (s 66 and 72). The NPPF establishes that the decision-maker must establish whether the proposal causes “substantial” or “less than substantial” harm to the heritage asset. If the latter is the case, the harm must be weighed against the public benefits. The harm must, however, be given considerable importance and weight to ensure that the statutory duties in s 66 and 72 are met. See in this regard e.g. *City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 320.
- 3.4 Policy DM25 (Development affecting heritage assets) of the Mid Devon Local Plan 2013-2033 is also relevant. This policy states:

Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;*
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;*
- d) 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, including securing its optimum viable use; and*
- e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).*

- 3.5 Following concerns raised to the impact of noise from the proposed use of the site and how this could impact on the significance of nearby heritage assets and how they would be experienced as a result of the proposed use on site, a Heritage Statement was requested by the Council’s Conservation Officer. A Heritage Statement was subsequently submitted for considerations.

3.6 The Heritage Statement makes a case that although the area may well be quiet and tranquil at this time, the area would previously have been noisier due to the commercial use of the canal, the limekilns and the quarries. The Tiverton Canal website indicates that this section of the canal from Lodwells to Tiverton was to be completed in 1824 with the section to Taunton being opened later. This northern section was the first to close with the first section of canal between Tiverton and Lowdells remaining open. The Canal was profitable mostly carrying coal and limestone horse drawn tub boats from the quarries to the kilns at Tiverton. This continued until 1924 when commercial stone and coal conveying was finally stopped.

3.7 Whilst the previously uses at the quarry and surrounding area may have been noisy, the quarrying use ceased with the main material consideration being that the quarry has been used as two firing ranges by the Police since 1978 and this appears to have been a continuous use, whereby the temporary planning permission was not renewed in 2014 although the use continued. This is a period of time of over 44 years and the heritage assets and how they would be experienced would have included firing from this site.

3.8 The Council's Conservation Officer has viewed the planning file and Heritage Statement and has commented:

'I do not consider that the continued use of the quarry as a firing range would detrimentally affect the settings of the listed buildings and conservation areas in the vicinity. The quarry has been used continuously since 1978 as a firing range. All the listed buildings and conservation areas listed within the heritage statement were listed or designated post 1978 (the earliest in 1988, after a period of 10 years use as a firing range). Therefore, the ambience created by the firing would have been in existence at the time of listing and designation, and would likely have been taken into consideration.'

While it is true that the area historically would have been industrial in character, creating large amounts of noise, the more important factor here is that the character of the area has not changed since the listing and designation of the nearby heritage assets, nor is it proposed to be. Therefore, I conclude that no harm would occur to the significance (including settings) of these heritage assets by the continued use of the quarry as a firing range.'

3.9 The Council's Conservation Officer has not found harm to the proposed use. It is noted that the Heritage Consultant who wrote the Heritage Statement concluded that the heritage impact of the proposal to cause 'less than substantial harm' with it being suggested that the harm is in fact negligible and relates only to Brinscott. It was noted that the buildings and settings surrounding this quarry have historically been subjected to noise in one form or another. If it is concluded that the harm is less than substantial, it is considered that the wider benefits of the use of the site for open air shooting practice by Devon and Cornwall Police for this much needed service outweighs the negligible harm to heritage assets. As such the development is considered to accord with Local Plan Policy DM25.

4. Impact on the wider environment

4.1 Another issue raised by objectors relates to the impact of the shooting on the wider environment including wildlife and land contamination considerations. Ecology is considered later within this report but below is an assessment of the use on the landscape and environmental considerations.

4.2 As noted the site has historically been used as two firing ranges within two open areas on site. There are already a number of buildings and structures on site which have previously approved planning permission. The site is well contained by existing vegetation and topography such that there are no views from outside of the site to the firing ranges. The main impact being a result of noise intrusion which has been considered earlier in this report.

4.3 Policy S9 (Environment) of the Mid Devon Local Plan 2013-2033 outlines 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:

- a) High quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive places;*
- b) The efficient use and conservation of natural resources of land, water and energy, minimising pollution and preserving the quality and productivity of the best and most versatile agricultural land wherever possible;*
- c) 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 by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere;*
- 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;*
- e) The preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas. Within the Blackdown Hills Area of Outstanding Natural Beauty, and within the setting of the Blackdown Hills Area of Outstanding Natural Beauty, and Exmoor and Dartmoor National Parks, the primary objective will be to protect the special qualities of that landscape and its setting;*
- f) The protection and enhancement of designated sites of international, national and local biodiversity and geodiversity importance. On both designated and undesignated sites, development will support opportunities for protecting and enhancing species populations and linking habitats. If significant harm resulting from development cannot be avoided impacts should be adequately mitigated. Compensation measures will only be considered where appropriate as a last resort; and*
- g) 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.*

4.4 With respect to the above criterion, it is noted that the use on site is historic, it is contained within this wooded site taking place within the open areas where the shooting takes place. The site is within flood zone 1 which is the lowest level of flooding and as considered earlier in the report, whilst located close to heritage assets, it is outside of any landscape designation and any harm is not considered to be significant.

4.5 Objectors have raised the concern of possible ground contamination through the historic use of the site. Policy DM4 (Pollution) outlines 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.'*

4.6 As part of this application we have received and considered noise impact assessment and ecological assessments which deals with a number of the matters raised through this policy. In terms of contamination, the Environment Agency has raised no objections to the proposals or identified contamination of being of concern. The Council's Public Health Officer has stated that *'With regards to the contamination question, the Environment Agency comments are sufficient. The concern regarding potential contamination of the ground relates to the groundwater and therefore the EA comment covers this. Shots, as you have seen, are towards close range targets (unlike clay pigeon shooting where cartridges explode high in the air and can scatter shot over a wide area). Furthermore the procedures used by the Police include clearing the area at the end of each session within the quarry boundary. In my opinion, in this instance, this would not be a material planning consideration for this particular application. Incidentally, should, in the future, any of the area involved be considered to be contaminated then the owners already have responsibilities under the Environmental Protection Act 1990 which is the more appropriate legislation to deal with this kind of situation.'*

4.7 Therefore the use of the development is not considered to result in a detrimental impact on the wider environment being in accordance with policies S9 and DM4 of the Mid Devon Local Plan 2013-2033.

5. Impact on wildlife

5.1 When this planning application was initially submitted no ecology reports were provided. This was due to the applicant incorrectly noting the size of the application site which outlined one would not be required. It is noted that given the location within a former quarry, there might be the potential for disturbing some wildlife e.g. breeding birds such as peregrine which are often found in quarries. The applicant therefore commissioned and submitted first a Preliminary Ecological Appraisal and then following the recommendations of this appraisal, undertook a Peregrine Survey which was subsequently submitted.

5.2 It is noted that an objection has been received from Devon Wildlife Trust on two grounds, the first being the need for surveys and secondly the requirement to provide a biodiversity net gain of 20%. It should be noted that ecology reports have now been submitted which do not identify any protected species being present which would prevent the use on site. The reports also outline recommendations addressing mitigation and biodiversity enhancements.

5.3 Within the Preliminary Ecological Appraisal Final Report, dated March 2023 and prepared by Simon Geary Ecology Services Limited, there is a section on Biodiversity Net Gain. As stated within the report, 'Biodiversity net gain is described as "...an approach to development that leaves biodiversity in a better state than before. Where a development has an impact on biodiversity it encourages developers to provide an increase in appropriate natural habitat and ecological features over and above that being affected" (Baker et al. 2019). Biodiversity net gain is included in planning policy and will become mandatory for some developments during November 2023 onwards. The current national target is to achieve a minimum 10% biodiversity net gain within a development. However, biodiversity net gain should be proportionate and relative to the scale of a development.

5.4 On this point of biodiversity net gain, for this minor planning application there is no requirement to provide biodiversity net gain of 10%, let alone 20% as requested by the Devon Wildlife Trust. Policies within the Mid Devon Local Plan only require biodiversity net gain to occur. The ecologist has highlighted that biodiversity net gain can be incorporated into the proposed development. This would be achieved by installing artificial dwelling places for some species, such as hazel dormouse boxes (6no.), bat boxes (6no.) and bird boxes (6no.) to suitable perimeter trees on the land holding but which are at the maximum distance achievable from

the shooting ranges to mitigate noise disturbance effects. These biodiversity enhancement measures have been conditioned.

5.5 The Peregrine Survey has not identified any peregrines on site, only a nesting common buzzard. It noted that birds of prey such as common buzzard are typically wary and are particularly sensitive to disturbance close to nest sites. It therefore recommended that if consent was given to continue shooting on site in 2023, then the actual firing should not begin until 1 August 2023 to allow enough time for the common buzzards to finish nesting and thus avoid significant disturbance. This was why there was a delay to the Member site visit with the day of 5th September 2023 chosen, to allow time for the common buzzards to finish nesting.

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

- The development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'
- 'There is no satisfactory alternative'
- The development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'

5.7 In assessing these the first two of these tests, it is considered that the proposal satisfies them in that the use for two firing ranges is historic with the need of the development being to train firearms officers within Devon and Cornwall Police to carry out this necessary function. Additionally, there are no other satisfactory alternatives as whilst there are indoor training facilities close to Exeter, this is the only open air training site within their control. Objectors have enquired whether the use could take place elsewhere but the application has been made for this site, historically used for such purposes with no alternative locations identified within the control of the applicant.

5.8 Against the third test, it is considered that the proposal will not be detrimental to the maintenance of the species as appropriate mitigation/enhancements will be provided to achieve a biodiversity net gain. Subject to a planning condition securing these details, the development would comply with the aforementioned legislation and Policy S9 of the Local Plan, which seeks to protect and enhance species populations.

6. Highway Implications

6.1 Policy DM3 requires that development must ensure safe access to the transport network. The proposal would utilise the existing access from the highway with no alterations proposed. The access has good visibility and it is considered suitable to serve the proposed use having regard to the likely number of traffic movements associated with the proposed use.

6.2 The Local Highway Authority has raised no objection to the use of the site on highway grounds. As commented earlier in this report, the site has a history of planning permissions for the use of the site for two shooting ranges by the police, and it should be noted that the site was originally a quarry which could be the use put forward in the future which could result in more traffic movements and by larger vehicles.

6.3 There is ample space on site for parking and vehicles have the ability to enter and leave the site in a forward gear. As such the development is considered to comply with Policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033 which requires a safe access from the highway and the requisite number of parking spaces for the use carried out.

7. Site security

7.1 Concerns have been raised to site security and the ability of members of the public to walk onto site. Members will have noted from the site visit undertaken, the existing fencing at the site entrance and signs and the enclosed nature of the site through topography and existing woodlands. However, in light of the concerns raised, the applicant has confirmed that they would be happy to install further security fencing to prevent members of the public from entering the site. Details of the fencing would need to be secured through a planning condition and this has been recommended.

8. Other matters

8.1 As noted earlier on within this report, given the sites location, Policy M2 of the Devon Minerals Plan seeks to safeguard such resources from sterilisation or constraint by new development. As such the consultee advice is that any planning permission should be limited to a period of 20 years to prevent sterilisation of the site. Therefore this is recommended by planning condition as is a condition limiting the shooting use to only Devon and Cornwall Constabulary which would prevent any other individual or group from using the site as a shooting range.

8.2 On the Members site visit on the 5th September 2023, the Police noted other 'soft touches' they could offer which go outside of the planning system such as going to speak to children at the primary school or creating a liaison officer with the school to improve communication. This would go some way to reducing impacts experienced by young children when firing noises were heard in the distance.

9. Summary

9.1 In summary, Devon and Cornwall Police have used the two firing ranges at Pondground Quarry continuously since 1978 without any restrictions and are able to shoot on site for 28 days of the year under permitted development rights. It would be a temporary planning permission for a period of 20 years in light of the requirement to prevent sterilisation of the underlying aggregate mineral at the quarry site. The initial submission was to allow shooting for 141 days of the year but this was reduced down to 70 days with a Noise Management Plan submitted outlining shooting would only take place Tuesdays, Wednesday and half day Thursday being between the hours of 0900 and 1700, except for Thursdays when it will be between the hours of 0900 and 1300. Shooting would also be limited to 47 weeks of the year. A refusal on the basis that no shooting on site would not be warranted especially in light of the fact that no planning permission is required by Devon and Cornwall Police to shoot for 28 days of the year.

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 use hereby permitted shall be discontinued and the land restored to its former condition on or before 20 years from the date of this decision.
2. The permission hereby granted shall only allow for the use of the land by Devon and Cornwall Constabulary, and not for the benefit of shooting on site by other organisations/individuals.
3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
4. The use of the site hereby permitted, shall only take place in accordance with the Devon and Cornwall Police Pondground Quarry Noise Management Plan Addendum dated October 2022 and the following restrictions:
 - (i) Shooting shall take place only on Tuesdays and Wednesdays, and Thursday mornings.
 - (ii) Shooting shall take place on a maximum of 70 days in any calendar year.
 - (iii) Shooting shall take place over a maximum of 6 hours per shooting day (3 hours on Thursdays).

The use of the site in accordance with these details and restrictions shall be implemented and remain in place throughout the life of this consent.

5. The biodiversity net gain measures as proposed in the Preliminary Ecological Appraisal Final Report, dated March 2023 and prepared by Simon Geary Ecology Services Limited shall be implemented, completed and retained in accordance with the requirements of that report. For the avoidance of doubt, this includes the installation of hazel dormouse boxes (6no.), bat boxes (6no.) and bird boxes (6no.) to suitable perimeter trees on the land holding but which are at the maximum distance achievable from the shooting ranges to mitigate noise disturbance effects. Within three months of the date of this planning permission, these boxes shall be installed in accordance with a scheme which shall previously have first been submitted to and approved in writing by the Local Planning Authority. Once installed, the approved measures shall be retained indefinitely.
6. Within three months of the date of this planning permission details for the design of a security fence to deter access to the site shall be submitted to and approved in writing by the Local Planning Authority. A timeframe shall be set out and agreed for the procurement and installation of the security fence on site. Once provided, the agreed security fencing shall be retained for the life of the development.
7. Within three months of the date of this planning permission details shall be submitted to and approved in writing by the Local Planning Authority for a notification system to the community, including Webber's Primary School, to inform of the intended shooting days. Details shall confirm the point of contact and means of notification.

REASONS FOR CONDITIONS

1. To enable the Local Planning Authority to review the matter at the end of the limited period and to prevent sterilisation of the underlying aggregate mineral as per Policy M2 of the Devon Minerals Plan.

2. Permission is granted in view of the special circumstances and to enable the Local Planning Authority to maintain control over the development.
3. For the avoidance of doubt and in the interests of proper planning.
4. To protect amenity of occupiers of neighbouring properties and the wider area in general in accordance with Local Plan Policy DM1 and DM4.
5. In the interests of nature conservation and to provide Biodiversity Net Gain in accordance with the guidance contained in the National Planning Policy Framework and Policy S1 of the Mid Devon Local Plan 2013-2033.
6. In the interests of site safety in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
7. To protect amenity of occupiers of neighbouring properties and the wider area in general in accordance with Local Plan Policy DM1 and DM4.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

It is considered that the retention of the disused quarry for use as two firing ranges subject to conditions is supportable by Local Plan Policy. It is considered that the open areas used within the site is visually unobtrusive in its setting, is of an appropriate size suitable for its purpose, and will not detract from the nearby county Wildlife Site of the Great Western Canal. The site has been used for the purposes of two firing ranges for in excess of 40 years and permitted development rights allow for a maximum of 28 days per year for the uses carried out. The proposals are considered to result in a less than substantial impact on the setting of heritage assets whereby the public benefits arriving from the open air training of the Police Service are considered to outweigh this harm. Whilst a number of representations have been made with issues raised such as noise pollution, land contamination and impact on the wider environment, the Councils Public Health Team have raised no objections nor have statutory consultees such as the Environment Agency. The proposal therefore complies with Policies S1, S9, S14, DM1, DM3, DM4 and DM25 of the Mid Devon Local Plan 2013-2033 and Government advice in the National Planning Policy Framework. (NPPF).

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