

## PLANNING COMMITTEE AGENDA - 10th April 2024

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>23/01870/MOUT - Hybrid application for a change of use of land to allow the siting of 10 safari tents; conversion of existing barns to provide space for administration, grounds keeping, housekeeping facilities and visitors reception; extension to existing marquee; creation of vehicular access ways; the construction of 24 car parking spaces and natural swimming pool and associated landscaping; and Outline application (All Matters Reserved) for a change of use of land to allow the siting of up to 15 safari tents and cabins; demolition of existing barn and construction of wellness centre; improvements to existing vehicular access and the provision of car parking; the creation of track ways and associated access and landscaping works at Loyton LLP, Loyton Lodge, Morebath.</p> <p><b>RECOMMENDATION</b> Grant subject to conditions</p>
02.	<p>23/00511/FULL - Erection of 5 affordable dwellings following demolition of existing garages with associated parking, landscaping and works at Land and Garages at NGR 313963 113447, Eastlands, Hemyock.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
03.	<p>23/00126/FULL - Erection of 8 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works at 2 - 8 Beech Road, Tiverton, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
04.	<p>23/01351/MFUL - Construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements at Land at NGR 304444 114510, North of A361, Junction 27, Westleigh.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>



## **APPLICATION NO: 23/01870/MOUT**

**Site Visit: Yes     Date of Site Visit: 23 May & 25 July 2023.**

### **Advertisement of Application:**

This planning application has been advertised by means of a site notice erected by the Case Officer, 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.

### **Decision Delayed Reason:**

An Extension of Time was agreed to allow for further assessment of flood, drainage and waste issues, the submission of additional information including structural reports as well as the application being required to go to Planning Committee.

### **MEMBER CALL-IN:**

Yes for reasons of impact on the highway, public disturbance by way of noise, design and appearance, impact on protected species, loss of high grade farmland and flood issues.

### **RECOMMENDATION**

Grant permission subject to conditions

### **SITE DESCRIPTION**

The application site comprises 20ha of a wider land holding. There are a number of existing buildings located towards the centre of the land holding with the outlying areas comprising a mix of open grassland and woodland.

The nearest settlement of Morebath is 2.09km (1.3 miles) to the north west of the application site.

Existing buildings comprise a number of modern existing barns and offices which are used to provide storage, welfare and administrative facilities. To the north of them lies Loyton Lodge; a substantial two storey building used to provide overnight accommodation as well as dining and bar facilities for an established pheasant shoot that operates from the application site.

The other land within the site is undulating but generally rises to the north and comprises a mixture of open grassland interspersed with large areas of woodland, hedges and individual trees; some identified as priority habitat. The site has a strong agricultural character.

A number of fields within the application area are used for game bird rearing. Part of the site extends to the west, separated from the larger part by a single track public highway.

The greatest part of the site comprises Grade 3 best and most versatile agricultural land (classified as good to moderate land quality) with the most westerly portion of the site being typically Grade 4 (poor quality agricultural land). It is farmed for grazing with game bird rearing sheds in localised positions. Natural England have been consulted as required by an application of 20ha or more.

There is an existing Public Rights of Way (PRoW) crossing the land east to west.

There is one statutory listed heritage assets adjacent to the Site boundary; Loyton Farmhouse (Grade 2). All others, in a direct line, are between 575m / 0.3mile (Rill Cottages), 660m / 0.4 mile (Morebath Manor) and 1.02km / 0.6 (Eastwood Farmhouse).

The Site is situated near the designated Exmoor National Park and lies within a SSSI Risk Impact Zone associated with South Exmoor SSSI at Haddon Hill. No statutory designated sites are present within 2km of the site the County Wildlife sites of Ben Brook (unimproved neutral and marshy grassland) is located 500m to the northwest of the application site and East Timewell Wood (a large block of ancient woodland) is located 650m to the north west of the application site. 12 unidentified Wildlife sites are within 2km of the site the nearest being Court Wood (150m to the north east of the site) and Loyton 150m south west of the site.

Part of the site lies within Flood Zone 2 and 3 but is not directly associated with the areas of proposed development. A stream flows east – west through the site with associated 1 in a 1000yr flood risk.

A number of residential properties are located towards the boundary of the application area including the (2) holiday cabins of Oak Park Lodges.

An Environmental Impact Assessment Screening Matrix has been completed as required for an application area of or exceeding 20ha. The application does not require an EIA.

## **PROPOSED DEVELOPMENT**

This application is presented in hybrid form (part outline, part full) seeking the construction of up to 25 safari tents and cabins (sui generis use) which would be supported by a mixture of facilities that will allow the applicants to diversify their business away from game bird shooting. Hybrid applications are a commonly accepted form of application and may seek outline planning permission for one part of a site and full planning for another part, under a single application. Although not defined in statute and as such are open to the discretion of Local Planning Authorities, they are not uncommon and regularly accepted amongst all Local Planning Authorities. The details forming the outline part of this hybrid application will require a Reserved Matters planning application at a future date.

As a hybrid application full planning consent for 10 safari tents, the conversion of existing barns for administration, grounds keeping, housekeeping and visitors reception, an extension to the existing marquee, creation of vehicular access, the construction of 24 car parking spaces and a natural swimming pool and associated landscaping is sought. In addition, as a hybrid application, outline planning consent (all matters reserved) is also sought for up to 15 safari tents and cabins, demolition of the existing barn and construction of a wellness centre, improvements to existing vehicular access and car parking, the creation of track ways and associated access and landscaping works.

The application site currently operates as a game bird shooting estate. Due to the impact of avian flu and to changing sentiments it is anticipated that game shooting will decline. A Marketing and Business Plan has been submitted in support of the application detailing the proposed change in the applicants' current business model.

High end safari tents, cabins and bothys are proposed. Whilst set apart they will be grouped in 4 small groupings. All will be serviced by a centralised Club House, with heated and natural

swimming ponds. All meals will be purchased from The Lodge with no food deliveries for personal consumption being permitted on site. No formal kitchen facilities will be available in any of the proposed accommodation.

Whilst the cabins will be available during the game shooting season (1<sup>st</sup> Sept – 31<sup>st</sup> Jan) it is anticipated that the highest occupation will be during the summer season (Easter to October). Strict codes of conduct, health and safety are required to operate a game shoot. These will remain in force. There is no intention to actively shoot on land where the cabins are located. The Operational Management Plan submitted in support of the application provides some further detail.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form; Business plan / marketing strategy; Climate Emergency checklist; D&A Statement; Heritage Statement; Wildlife Survey; Tree Assessment Parts 1 & 2); Foul Drainage Assessment; Travel Assessment Parts 1 to 3; Tree Assessment (Advanced); Foul Drainage Assessment (Tents); LVIA; Structural Report (Barns 1,2 & 3); Operational Management Plan; Marquee Tents Plan x2; Barns Plan; Plans Yard Barns; Shepherd Hut Plans; Landscape Masterplan; Landscape Details Masterplan; Planting Plan; Lighting Strategy; Guest Tents Plans 1 & 2; Wellness Barn; Office Plans; Phased Access Plans 1 & 2; SLP; Community Engagement Report;

## **RELEVANT PLANNING HISTORY**

87/00429/FULL - PERMIT date 6th April 1987 Conversion of agricultural building to office and extension

4/36/92/1014 for the conversion of part of hayloft into single bedroom flat

92/01014/FULL - PERMIT date 11th August 1992 Conversion of part of hayloft into single bedroom flat

97/01009/FULL - PERMIT date 5th September 1997 Renewal of planning permission

01/00061/FULL - PERMIT date 31st July 2001 Conversion of agricultural buildings to dwelling (Revised Proposal)

01/01119/FULL - PERMIT date 10th June 2002 Demolition of existing agricultural buildings, erection of building for shooting lodge accommodation, conversion of barn to manager's flat and shooting lodge accommodation and alterations to access

03/01292/FULL - PERMIT date 28th August 2003 Change of use of barn to manager's flat and shooting accommodation to include partial demolition and rebuilding (revised scheme to 4/36/01/1119)

03/01503/FULL - PERMIT date 15th August 2003 Erection of boiler room, fuel store and oil tank to serve the shooting lodge

08/01172/FULL - PERMIT date 28th August 2008 Erection of an extension

10/01666/PE - DELETE date 28th October 2010 Request for screening/scoping opinion for proposed solar park (DELETED - DUPLICATE OF 10/01673/PE)

10/01673/PE - CLOSED date 17th November 2010 Request for screening/scoping opinion for proposed solar energy development

11/00144/PE - CLOSED date 9th February 2011 Request for screening and scoping opinion in respect of a proposed Solar PV development

12/01101/MFUL - WDN date 4th September 2012 Temporary Change of Use of land from agriculture to the rearing of game birds from 01 April to 31 August each year

12/01195/MFUL - WDN date 18th January 2013 Installation of PV solar farm to provide up to 5 megawatts of renewable electricity, and associated infrastructure

13/01004/PNCOU - SPLIT date 6th September 2013 Prior notification for the change of use from agricultural buildings to additional entertainment space / service area / cloakrooms / dining room / shop / meeting rooms for Loyton Lodge.  
13/01277/MFUL - PERMIT date 18th December 2013 Change of use of land from agriculture to the rearing of game birds  
15/01497/FULL - PERMIT date 10th November 2015 Erection of single storey function room extension  
18/01735/FULL - PERMIT date 14th December 2018 Erection of single storey function room extension

21/01480/PNCOU - APA date 28th September 2021 Prior notification for the change of use of offices (Class B1(a)) to 2 residential dwellings (Class C3) under Class O  
23/01864/FULL - PERCON date 13th February 2024 Erection of 3 dwellings following demolition of existing bungalow, associated access and landscaping works  
23/01870/MOUT - PCO date Hybrid application for a change of use of land to allow the siting of 10 safari tents; conversion of existing barns to provide space for administration, grounds keeping, housekeeping facilities and visitors reception; extension to existing marquee; creation of vehicular access ways; the construction of 24 car parking spaces and natural swimming pool and associated landscaping; and Outline application (All Matters Reserved) for a change of use of land to allow the siting of up to 15 safari tents and cabins; demolition of existing barn and construction of wellness centre; improvements to existing vehicular access and the provision of car parking; the creation of track ways and associated access and landscaping works

## **OTHER HISTORY**

23/01035/PREAPP - CLO date 28th September 2023  
OFFICIAL/SENSITIVE - Creation of visitor accommodation facilities including overnight accommodation

## **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable Development Policies  
S6 Employment  
S9 Environment  
S14 Countryside  
DM1 High Quality Design  
DM3 Transport and Air Quality  
DM4 Pollution  
DM5 Parking  
DM9 Conversion of Rural Buildings  
DM18 Rural Employment Development  
DM22 Tourism and Leisure Development  
DM25 Development Effecting Heritage Assets  
DM27 Protected Landscapes  
DM28 Other Protected Sites

National Planning Policy Framework  
National Planning Practice Guidance

Parking SPD  
Non-Statutory Interim Planning Policy Statement: Climate Emergency

## CONSULTATIONS

### Environment Agency: 19 January 2024

No objection subject to a flood condition.

#### **Flood risk:**

A small part of the red line site falls within the flood zone to the far south of the site. As the change of use of land covers this area also, we request the condition below is added to any permission please to protect life and property on site and prevent displacement of flood waters elsewhere.

#### **Non-mains drainage:**

The information submitted with the application indicates that foul drainage will be disposed of to a non-mains foul drainage system.

Government guidance within the National Planning Practice Guidance (paragraph 020 in the section on water supply, wastewater and water quality – Reference ID: 34 -020- 20140306) stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered.

Paragraph 20 also states that 'applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment'. Any planning application for a non-mains system should therefore be accompanied by a Foul Drainage Assessment (FDA) form including a justification for why connection to the mains sewerage system is not feasible and sufficient information to demonstrate that the proposed system will be viable in this location and will not be detrimental to the environment. Sufficient information would normally include the provision of the following (it should be noted by the LPA that in the case of this application although FDA forms are included, no percolation tests have been provided at this stage for the system intended to discharge to ground):

- Full details of the proposed flows (based on Flows and Loads 4);
- A plan showing the location of the proposed treatment plant and appropriately sized soakaway field/discharge point; and
- Percolation test results to demonstrate the viability of soakaways in this location.

The non-mains foul drainage system associated with this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010 (as we consider it will not fall under the general binding rules). The system will require a permit irrelevant of whether it discharges to ground or a watercourse.

The applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted, particularly if the discharge is located within an area served by a mains sewer.

Additional 'Environmental Permitting Guidance' can be accessed online at

<https://www.gov.uk/permits-you-need-for-septic-tanks>.

#### CONDITION:

- 1) There shall be no siting of tents or cabins, erection of boundary treatments or any other structures, nor any raising of land level or storage of excavated material within any areas of the site identified as being in flood zones 2 or 3.

Reason: In the interests of the protection of life, property and the environment.

## Environment Agency: 14 December 2023

Non mains drainage – objection on the basis of insufficient clarity and information

**Reason:** Please can the following be clarified in order that we can fully assess the implications of the proposal please;

- It is unclear from the differences in the descriptions between the application form and the above application title as to whether the overall proposed total of tents is 35 – with 10 in full now and 25 in outline, or whether the 10 in full are the first phase of a total of 25 please?
- The title would also suggest that an outline permission is being sought for change of use which is not possible, such applications cannot be granted for material change of use of land or buildings.
- There is a discrepancy between the application form and FDA forms, the application form states that the foul drainage is going to an existing system whereas both FDA forms state that the systems to serve both elements are new and not existing.
- The FRA whilst comprehensive also contains some ambiguity regarding whether the water from the package treatment units will be discharged to ground or the watercourse (the FDA forms state watercourse), and also which watercourse as there is one to the south of the site but also one through the centre please?
- The FRA also suggests that each tent will have a package treatment unit but then goes on to say that they may be grouped together, this has implications for permits and the general binding rules so for the full element of this proposal this needs to be clarified please.
- There is no clear combined litreage for the proposal in terms of discharge and as above, this is important with regards to the environmental implications, binding rules and permits.
- The FDA form states future maintenance will be undertaken by the installer, whereas the FRA states it will be the landlord or a management company. Please can this be clarified as correct future management of any non mains system is crucial in ensuring no environmental impacts and would need to be secured at planning stage.
- It is unclear whether the natural swimming pool proposed is to be filled from, and discharges to, the watercourse.

Flood risk –

- No objection subject to conditions

### **Reason**

A small part of the application site red line encompasses the flood zone, however no development is indicatively shown in this area, however as the red line includes it should the above areas of objection be overcome to our satisfaction, then regarding flood risk we would advise a condition on any permission ensures no ground level changes, tents or built structures (including ponds) are placed within the flood zone.

- **Advice to applicant**

Any non-mains foul drainage system associated with this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010, unless it satisfies the General Binding Rules for small sewage discharges in England. The General Binding Rules can be found online at <https://www.gov.uk/government/publications/small-sewage-discharges-in-englandgeneral-binding-rules>.

If the proposed foul discharge will not satisfy the General Binding Rules the applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted, particularly if the discharge is located within an area served by a mains sewer. Additional 'Environmental Permitting Guidance' can be accessed online at <https://www.gov.uk/permits-you-need-for-septic-tanks>.



### **Highway Authority: 19 December 2024**

The site is accessed off a C Classified County Route which is restricted to 60 MPH although observed traffic speeds are considerably lower.

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none.

The applicant has provided a Transport Statement which is a robust report showing how this proposal would not have a severe impact on the highway network.

The accesses proposed all have visibility splays which meet the requirements of a safe and suitable access.

The number of parking spaces meet the DM5 LPA Policy.

Therefore the County Highway Authority has no objections to this application.

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

### **Economic Development: 20 December 2023**

Observations:

- The estate is currently managed for commercial game shooting with supporting onsite accommodation and hospitality facilities.
- The applicant seeks to diversify the visitor offer, it is not clear if the commercial game shooting operation will continue in some smaller scale capacity on the wider site.
- The accommodation proposals (in the first instance) are for semi-permanent 'glamping' type structures (safari tents) – designed for short terms recreational visitor use.
- The proposal suggests an occupancy rate of 90% in the longer term.
- The proposed visitor offer links to 'slow tourism': proximity to nature and wellness including natural swimming.
- The proposed development is outside defined settlement limit boundaries.
- It is proposed that the development will secure existing employment and create additional jobs.
- The application has been accompanied by a Marketing Strategy and Business Plan.
- The existing enterprises have supply links with local producers.

The Mid Devon Local Plan Policy DM22 - Tourism and leisure development states that:

*Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:*

- a) Respect the character and appearance of the location;*
- b) Where appropriate, involve conversion or replacement of existing buildings; and*
- c) Demonstrate that the need is not met by existing provision within nearby settlements.*

Paragraph 4.68 states that: *Applications for tourism and leisure development in the countryside will need to be justified by the applicant. The Council will require a marketing strategy and business plan to be submitted, to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network. Tourism and leisure development should benefit local businesses, the environment, communities and visitors in the long-term, so the Council will seek the right form of development in the right location, with evidence that the need is not already being met by existing provision. In demonstrating unmet need for tourism proposals outside settlement limits, applicants should have regard to the Council's Tourism Study, available on the Mid Devon District Council website.*

Mid Devon District Council Economic Development Team provide guidance and a business plan template for planning applications in relation to Holiday Lets.

The basic areas that need to be addressed and evidenced in the supporting business case for all planning applications are:

- That the proposal represents a sustainable rural tourism development
- That the business idea is commercially and financially viable (which is defined as the ability to compete effectively with your competitors and to make a profit)
- That you can demonstrate a need for this development on this particular site

The Mid Devon Local Plan Policy DM18 - Rural employment development in countryside locations states that: 'planning permission will be granted for new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and
- c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

4.56 The Council recognises the importance of retaining and providing rural employment opportunities outside settlement limits as a means of ensuring a diverse and healthy rural economy. There is a range of employment activities, particularly those associated with tourism, recreation and rural diversification that can be accommodated in countryside locations, without any adverse effects upon the character of Mid Devon's rural areas or existing development. It is important that the various indirect consequences of employment development such as security fencing, lighting, advertising material, open storage and vehicle parking and manoeuvring provisions do not harm the visual environment. It is also important that development outside settlement limits only occurs where there are insufficient alternatives available otherwise such development would not be sustainable.

This is an ambitious development proposal in a location that already offers Leisure / accommodation and hospitality. It has the potential to provide a significant new high quality visitor offer with strong links to the local economy. Normally, we would expect occupancy of between 60-70% after three years and perhaps slightly lower given the proposal is for safari tents and their potential seasonality. It is important to ensure that the proposal is viable against a range of occupancy levels. It is noted however, that as an existing venue, there is already a potential market / client base. The natural swimming pool would offer a unique leisure opportunity in Mid Devon. Economic Development support the proposed development and the phased approach to growth.

If approved, we would be happy to work with the applicant to promote their business through channels such as Visit Mid Devon. If the applicant has any questions or support needs relating to their business, we would be happy to deal with these directly.

#### **Natural England: 21 December 2023**

**NO OBJECTION.** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. Natural England's generic advice on other natural environment issues is set out at Annex A.

**Landscape Advice:** The proposed development is for a site within or close to a nationally designated landscape namely Exmoor National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies. The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

**Priority Habitats and Species:** Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on [Gov.uk](https://www.gov.uk).

Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

**Sites of Special Scientific Interest Impact Risk Zones:** The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to consult Natural England on 'Development in or likely to affect a Site of Scientific Interest' (Schedule 4,w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

### **South West Water: 28 December 2023**

Our records show no public assets within the boundary of the proposed site.

We note the foul flows are to be dealt via a private package plant and surface water via soakaways. As both of these solutions are private, South West Water have no comments to offer. The application is unclear if they are seeking to connect this proposal to the public clean water network in the area. We would ask the applicant to advise South West Water if they are hoping to connect to the clean water network and if so the number of supplies they would be looking to connect. When South West Water have this information we will be able to confirm if we can support the proposal and if network reinforcement would be required.

#### **Public Health: 12 January 2024**

I have had some clarification on the proposed wood burners on the above site from the agent. I therefore have the following updated comment:

" Since the initial PH comments the applicant has clarified that wood burners are likely to be used occasionally because the proposed tents are also provided with electric heating. We therefore consider it unlikely that all 25 tents would be using wood burners regularly at the same time or for long periods. As this is the case we would not anticipate an unacceptable deterioration in local air quality in this area and have no further concerns in this regard."

#### **Public Health: 4 January 2024**

We have considered this application for a holiday complex which will ultimately accommodate 25 safari style tents. We have the following comments:

1. We note that each of these tents will be provided with wood burning stoves and some have their own cooking facilities. This could see as many as 40 wood burning stoves being operated within this valley. There is potential for this to impact on the local air quality and therefore we would request that an air quality statement is submitted which would outline how emissions from these appliances would be managed and kept to an acceptable level.

2. In the design and access statement the applicant states that each of the 25 tents would be served by their own package treatment plant. There would then be a large plant serving the new and existing buildings. The occupancy of the tents, in terms of annual percentage and numbers of people using them, is unlikely to be sufficient to ensure that individual plants will work effectively. There would also be a need for many individual drainage fields. The FDA1 forms submitted are contradicting the design and access statement. We have seen the comments from the Environment Agency and the applicant's response but this still does not clarify that a suitable and sufficient means of foul waste treatment and disposal will be provided. Compost toilets or cess pits will not be acceptable. We recommend that the applicant provide a specialist report which will clarify workable arrangements for all residential accommodation. We would recommend that this is provided prior to determination.

3. The applicant does not mention water supplies, although South West Water indicate that connection to the mains supply will be possible. If any private supplies are provided, the Private Water Supply Regulations 2016 will apply and the applicant must contact the Public Health team at Mid Devon DC for guidance on treatment, risk assessments and water testing.

4. There are plans for shepherd's huts included in the document list but these are not mentioned in the description or design and access statement. Please can this be clarified.

5. The marquee proposed will provide bar and eating facilities. There is no mention of entertainment or music, which might be attractive to larger parties using the facilities. In view of the location of this site, we would recommend that a condition is included which restricts live and amplified music, for the benefit of local residents and for non-participating guests. The following condition would be suitable: " There shall be no amplified live or recorded music played within the site. Reason: to protect the amenity of nearby residents."

#### **Local Lead Flood Authority: 8 February 2024**

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

Observations:

Whilst the applicant has noted that some of the site already manages surface water, this could be improved. If possible, the applicant could assess improvement of the existing drainage across the entire site.

Informal features (such as swales) could be incorporated downstream of the proposed cabins. Maintenance of surface water drainage features needs to be considered.

#### **Local Lead Flood Authority: 4 January 2024**

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

Observations:

Whilst the applicant has noted that some of the site already manages surface water, this could be improved. If possible, the applicant could assess improvement of the existing drainage across the entire site.

Informal features (such as swales) could be incorporated downstream of the proposed cabins. Maintenance of surface water drainage features needs to be considered.

#### **Morebath Parish Council: 5 January 2024**

Morebath Parish Council recommends refusal of this application on the following grounds:

- Increased volume of traffic involving cars and delivery vehicles
- Noise pollution
- Light pollution
- Ecological impact
- The Parish Council wish to support residents who have contacted it either before the meeting and during the public session at a meeting on 4/1/24 convened to consider this and other applications.

#### **Exmoor National Park: 24 January 2024**

Exmoor National Park Authority's attention has been drawn to the above referenced planning application. We would respectfully draw attention to the Local Planning Authority that under paragraph 182 of the National Planning Policy Framework (Framework) it states when considering: '...development within their setting (of 'National Parks' our emphasis) should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.'

The National Parks Vision and Circular also sets out national policy for English National Parks and for all those whose decisions or actions might affect them National Parks Circular ([publishing.service.gov.uk](http://publishing.service.gov.uk)). The Vision and Circular is also cross referred to in footnote 63 of page 53 of the Framework.

Additionally, while the adopted Exmoor National Park Local Plan 2011-31 Part 4 Conserving and Enhancing Exmoor ([exmoor-nationalpark.gov.uk](http://exmoor-nationalpark.gov.uk)) is for the area inside the National Park boundary, it may be helpful to be aware that it refers to development close to / in the setting of the National Park. For example, paragraph 4.28 says:

Development pressures close to the National Park, including those arising from large scale renewable energy technologies, are a cause for concern particularly in relation to Exmoor's setting within surrounding local planning authority areas. The National Park Authority will work with partners, neighbouring planning authorities and the Marine Management Organisation (through the Duty to Cooperate) to help protect the character and visual amenity of the landscape and seascape that has an important role as the setting to Exmoor National Park. The Authority has liaised with both highway authorities (Devon and Somerset County Councils) to develop a more sensitive approach to signage and road management on Exmoor (AC-S2 Transport Infrastructure). The Authority has also worked with infrastructure organisations to facilitate undergrounding of overhead power and telecommunication lines for certain areas...

The Local Plan also recognises the importance of surrounding areas in helping conserve Exmoor, paragraph 1.6 says:

Exmoor National Park Authority plays a prominent role in the protection of the natural environment not only in the National Park area itself but in the wider context of the South West with associated ecosystem services and biodiversity benefits being unconstrained by administrative boundaries. Conversely, activity outside the National Park can have both beneficial and detrimental impacts on Exmoor. The National Park Authority is dependent on the support of surrounding areas in helping

conserve Exmoor's special qualities and features and engages with neighbouring authorities on cross-boundary strategic matters through the Duty to Co-operate.

In addition, the Levelling Up and Regeneration Act that passed into law in October 2023 strengthened the duty on public bodies carrying out functions in or affecting National Parks or National Landscapes. They must now seek to further the statutory protected landscape purposes, which for National Parks are:

To conserve and enhance the natural beauty, wildlife and cultural heritage of National Parks.

To promote opportunities for the public understanding and enjoyment of the special qualities of the National Park by the public.

Exmoor National Park has been an International Dark Sky Reserve since 2011. We would like to draw attention to the need to minimise light pollution both at a local level for dark skies and wildlife and also to minimise the cumulative effects poor lighting can have on the quality of the night sky within the dark sky reserve. All external lighting should be directed downwards with no light spill above the horizontal (shielded), switched off when not needed, be no brighter than necessary and have a warm light colour of 2700K or less. Guidance on dark sky friendly lighting can be found here: [Layout 1 \(exmoor-nationalpark.gov.uk\)](https://www.exmoor-nationalpark.gov.uk)

#### **Devon, Cornwall and Dorset Police: 26 February 2024**

I have no objections in principle from a designing out crime and anti-social behaviour perspective. However, as the applicant has not provided any details of proposed security or crime prevention measures per se, it is not known if these key matters have been considered for the scheme or where they have been implemented. Therefore, please find the following brief information, advice and recommendations.

Lighting in and around the site must balance the needs of both visitors and staff, enabling safe movement around, whilst also giving due consideration to any ecology requirements. For example, the lighting indicated on the Lighting Strategy Plan would be suitable for wayfinding but serves no crime reduction or security purpose.

Whilst I would not expect to see CCTV site wide, if not in use, I would suggest consideration is given to its use to cover the proposed barn conversions, public areas reception area, associated offices and any storage units and compounds.

Consideration should also be given to the inclusion of a monitored intruder alarm for offices and store/plant rooms.

In terms of actual construction/renovation, the strong advice is that all doors and windows should be to an independently nationally recognised security standard such as PAS 24:2022.

Consideration should be given to the installation a lockable barrier/gates or possibly drop down bollards at the main entrance to the site and at the entrance to the road giving further access onto the site for the lodges and glamping pods etc. These, if required could be secured when the park is closed/out of season and prevent unwanted access across the site.

There is the potential for an increase in the amount of cash held on site and whilst I would not expect detailed handling and storage process and policy to be discussed on this public forum, it must be considered and included in any security management plan for an expanded site.

As briefly discussed, I have sought the guidance from colleagues at the Police Firearms Licensing team, I can confirm they have no concerns or objections to the proposal.

### **CPRE: 15 January 2024**

Devon CPRE are concerned that the proposed development is not supported by sufficient evidence to justify this scale of development in this countryside location, contrary to Local Plan Policy DM22.

It is understood that questions have been raised regarding drainage via the statutory consultee, the Environment Agency, and the community have highlighted a significant number of concerns including: highway safety; noise nuisance; impact upon the character of the area including landscape and heritage assets; and overall, query whether this proposal qualifies as sustainable development in accordance with national and local planning policy.

In addition to these points, Devon CPRE would like to raise the following concerns in objection to the application:

#### Redline boundary and description

The redline boundary appears excessive e.g. including land which is potentially being used to offset ecological mitigation. For reference and in accordance with national planning policy guidance: "The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. (Paragraph: 024 Reference ID: 14-024-20140306 Revision date: 06 03 2014)"

The description refers to an outline application for a change of use - a full application is normally needed for a change of use. Clarity is needed here to ensure that the application is accurately described and the red line boundary is correct.

#### Environmental Impact Assessment

Given the scale of development, has a screening opinion been sought to determine whether an Environmental Impact Assessment is required, in circumstances set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017? The site measures in excess of 20 hectares and reference should be made to Schedule 2, 12 (c) and (e) of the Regulations, and the sensitive countryside location.

#### Robust assessment of viability and need

An independent assessment of the submitted material is needed. The Marketing Strategy and Business Plan has been prepared by the Planning Consultant, and the Economic Development Team's response raises questions about viability (see below):

"This is an ambitious development proposal in a location that already offers leisure / accommodation and hospitality. It has the potential to provide a significant new high quality visitor offer with strong links to the local economy. Normally, we would expect occupancy of between 60-70% after three years and perhaps slightly lower given the proposal is for safari tents and their potential seasonality. It is important to ensure that the proposal is viable against a range of occupancy levels." (Devon CPRE emphasis in 'bold').

Does the business proposal and financial forecast support the phasing programme and timescales of a planning application in this hybrid form? For example within the outline element, the proposed guest cabins appear isolated from the main enterprise, necessitating access through a poplar plantation, where there is a badger set requiring a 20m buffer zone? Is this element deliverable, viable and necessary?

#### Overall

Further information is required to justify this scale of development in this countryside location, to satisfy the sustainable development objectives of both national and local planning policy. Without this essential information, the application should be refused.

## REPRESENTATIONS

100 objections from 51 individuals. The main points including:

- No detail / analysis of the water usage for the wellness centre or shepherd huts. The wellness centre with hot tubs / showers / WCs / 2x swimming pools will generate significant water usage and discharge. How much flow will be into the sub soil?
- Lockable barriers and / or drop down bollards for security will be visually intrusive on the public highway. A lockable gate will not prevent intrusion through hedge boundaries.
- Community Engagement has been too little too late.
- This application will destroy the one thing it purports to promote - it will represent an outrageous destruction of the natural countryside as well as to an abundance of wildlife.
- The scale (number of tents / cabins) is excessive – changing the rural appearance and character of the area. If approved the land and its purpose will be irreversibly changed. The proposal is out of scale and out of keeping with the area.
- There are no guarantees that the game shooting business will be wound down.
- Excess number of wood burners with 40 identified. Does this not warrant an Air Quality Assessment?
- Inconsistent and contradictory details in the supporting information including flood risk, number of employees, occupancy, views into the site and within the independently established web site.
- No robust evidence for the need for the development;
- The Transport Statement and Travel Plan does not provide independent advice. By its nature, the consultant has been employed by the applicant. Consultants do not know the local roads.
- The results of the Traffic Impact Assessment is on the basis that the game shoot will cease and therefore not generate a traffic impact. The traffic assessment needs to take proper account of the game shooting side of the business continuing as an operation.
- The record of collisions (with / without injury) will not be a full record as all are not recorded.
- With no or very little public transport the proposal will result in an increase in traffic in narrow lanes with no passing places, over grown hedges, roads with numerous potholes. All travel is likely to be private vehicles.
- Construction traffic for the proposed accommodation and deliveries of stone for the car parks will require suitable escort.
- If this application is implemented concurrently with application 23/01864/FULL it would result in a massive aggregate of construction vehicles.
- Devon County Council are inconsistent in their advice – recommending refusal on previous applications with a similar level of traffic generation.
- The cabins are not in-keeping with the natural landscape of Devon.
- The development will not integrate with the existing woodland / landscape until the phased planting has matured.
- Tranquil guest experience but not so for locals. The development will result in noise and light pollution.
- Excess number of parking spaces for number of cabins and occupants.
- Submission of the planning application just prior to Christmas was intentional to keep its visibility as low as possible.
- The Landscape Visual Impact Assessment was uploaded late.



- A lack of attendance to the 'Wild Farm Open day' is not a sign of support from the local residents.
- This application will generate up to 88 guests, children and their dogs on the site and using the paths between facilities for 90% of the year. This will have an adverse visual impact on the wider landscape and from Public Footpaths.
- 90% occupancy as set out in the business plan is unattainable.
- The Business Plan should include a robust and detailed financial summary with expected breakeven and profit goals within 5 years. There is no evidence to suggest the application is commercially viable;
- The shepherd huts are not mentioned in the description of the planning application. How many are proposed and would they have showers / WC etc?
- Poor capacity and condition of the roads.
- No consultee comment from Western Power and the additional power requirements it will generate.
- An attenuation pond (Flood Zone 3) and tents T21-T24 (Flood Zone 1) are proposed towards the most southerly part of the site. Both will be susceptible to an increase in flood risk due to the proposed development up stream.
- Individual Sewage Treatment Plants and the inability to use conventional soakaways (due to soil conditions) will result in an increase in pollution into the existing water course that discharges beyond the site.
- Trees removed from the southern boundary of the site that have never been replaced will result in 2 tents being in full view of neighbouring properties.
- Ash die back will result in greater visibility of the cabins and tents.
- Please confirm if the cement based roofing sheets on the barns are asbestos.
- What are the drainage details for the barns?
- Guests will arrive and leave the site in all manner of directions. To think they will follow set routes is nonsense.
- If all consumables are purchased on site this will not support local businesses.
- The permanent appearance of the tents (clad walls, crittal windows and doors) will give the appearance of park homes not glamping. They should be considered as permanent structures.
- The marquee being used for events (weddings / music etc) will produce excessive noise pollution.
- The natural swimming pool represents an unlit, unsupervised, unfenced, unsanitary health and safety issue.
- The existing wedding licence allows weddings to take place anywhere on the farm. This application in reality could become a wedding venue with associated noise pollution.
- Supporting documentation says more tents might be provided.
- The avenue of horse chestnuts are in poor health and the screening they provide will soon be lost as will the ash trees, Sitka and Poplar plantations. New planting will take years to provide adequate screening.
- Photos and the LViA were undertaken when tree / hedge cover is at its peak and obscures views.
- Devon, Cornwall and Dorset Police do not appear to have been consulted.
- No helicopter landings.
- No petrol or diesel vehicles to transport the guests around due to noise, light and exhaust pollution.
- No other structures other than that consented.
- No gas bottles or other potentially explosive or flammable materials.
- If the wood burners are a 'nice to have' what is the heating for the accommodation?

- No barbeques or other fires anywhere on site except for in a certain distance of the Club House and no fireworks.
- This application is the equivalent of a housing estate but without the same planning and building control requirements.
- The current landowners have not actively farmed the land having rented it to tenants. It is a shooting business wanting to expand that business.
- The affluent client market is no longer available. The employment opportunities generated will be low skilled generating a disparity against high house prices in the area.
- Remove permitted development rights to ensure temporary structures aren't replaced by caravans and park homes.
- Condition the application to ensure no overnight tents / camping;
- Considered limiting the season of operation due to its impact on local community.
- Plant evergreen trees and hedges to shield the development from view.
- Provide one Package Treatment Sewage Plant not multiple.
- There is a danger of foul waste entering the water course;
- An independent assessment is required in respect of landscape, ecology, highway and climate impact which should be available to the public.
- Car park will impede water absorption.
- 24/7 security is required.
- Game shooting cannot operate in proximity to guests, their accommodation and outdoor pursuits. What risk assessments have been undertaken for future guests?
- The development will be near existing neighbours with sight lines and associated loss of privacy.
- Each safari tent is larger than an average home.
- The marquee will be double in size to that existing.
- This is the equivalent of Butlins!
- The proposal does not form part of the Local Plan and does not comply with policies S1, DM4, DM13, DM18 and DM22 that requires rural leisure development to have minimal environmental impact.
- Tracks lit every 10m and pathways lit every 4m with 600 lumen lamps along with deck light and festoons will have a devastating impact on the Exmoor Dark Sky Reserve
- No motion sensor lighting;
- How would site activity (rowdiness, noise, fires etc) be managed / enforced?
- Get the Landscape Visual Impact Assessment independently accessed;
- As a 'tent' structure the accommodation will not be acoustically or thermally efficient.
- Ensure no drones to be used by guests.
- The application includes deliberately misleading information and lacks other information to allow the Committee to make an informed decision.

12 letters of support. The main points including:

- The proposal would provide year round employment which is financially and emotionally beneficial for those employed from the local community.
- The scheme has been designed to be sensitive to the land, views into the site, to the local community and guests.
- The proposal is entrepreneurial and forward thinking that will help to make Mid Devon vibrant.
- The proposal will enhance the Estate's economic sustainability supporting the local community and near businesses / suppliers through year round employment, opportunity to invest into the ecological health of the land, opportunity to host community events.
- Farms need to diversify in this new subsidy free era. The proposal will have a positive ripple effect.

- The proposal represents an opportunity to maintain agricultural and environmental heritage.
- Occupancy has been kept low deliberately.
- No over-riding evidence to confirm that the road network would not be able to support the traffic arising.
- Natural England confirm that there will be no significant adverse impacts. Biodiversity net gains are achievable.

3 general comments. The main points including:

- Should this application be approved please ensure construction traffic for both this and application 23/01864/FULL are managed jointly.
- As it is such a large application site - what is stopping the whole area from being developed?
- Can we be assured that Council Members have not received hospitality from the applicant?
- Seek restoration to agricultural land should the proposal prove unsuccessful.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

1. Policy and procedure
2. Business case
3. Highway safety
4. Landscape and visual impact
5. Biodiversity
6. Design and layout
7. Climate change, drainage and flood risk
8. Air quality, pollution and waste management
9. Heritage
10. Other matters
11. Planning balance

### 1.0 Policy and Procedure

1.1 Section 38(6) of the Town and Country Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the Development Plan unless material planning considerations indicate otherwise.

1.2 The National Planning Policy Framework (NPPF) is a material consideration in planning decisions and places a key emphasis on achieving sustainable development. Paragraph 8 identifies the three overarching objectives in the achievement of it:

- **an economic objective** – to help build a strong, responsive and competitive economy;
- **a social objective** – to support strong, vibrant and healthy communities; &
- **an environmental objective** – to protect and enhance our natural, built and historic environment.

The NPPF confirms (Para 10) that to ensure that sustainable development is pursued in a positive way, at the heart of the Framework (the NPPF) is a presumption in favour of sustainable development. In so doing, planning policies and decisions should play an active role in guiding development towards sustainable solutions. The Adopted Mid Devon Local Plan 2013-2033 (Adopted Local Plan) sets out the sustainable strategy for growth across the District, to achieve positive social, environmental and economic objectives.

1.3 This hybrid planning application seeks to establish:

Full Planning Consent for:	10 safari tents Conversion of existing barns to provide administration / grounds keeping / housekeeping facilities and visitors reception Extension to existing marquee Creation of vehicular access & construction of 24 car parking spaces Natural swimming pool Associated landscaping.
Outline Planning Consent for:	15 safari tents and cabins Demolition of an existing barn Construction of a wellness centre Improvements to existing vehicular access & car parking Track ways, associated access & landscaping

There are a number of local plan policies that are relevant to the consideration of this application. These are: Policies S1, S6, S9, S14, DM1, DM3, DM4, DM5, DM9, DM18, DM22, DM25, DM27 and DM28 of the Adopted Local Plan. A detailed review of them, under topic headings, will be undertaken later in this report, but as a principle of development, policies S1 (Sustainable Development Priorities), S6 (Employment), S14 (Countryside), DM18 (Rural Employment Development), and DM22 (Tourism and Leisure development) are of particular relevance.

- 1.4 Policy S1 (Sustainable Development Priorities) confirms an intention of: *‘Meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources’*. And to: *‘Encourage the effective use of land, taking into account the economic and other benefits of the best and most versatile agricultural land’*.
- 1.5 Policy S6 (Employment) states that: *‘The employment needs of the community will be met through ... a range of employment-generating uses, including:*
- *retail, leisure and tourism; and*
  - *other forms of sustainable employment-generating uses.*
- 1.6 S14 (Countryside) states that: *‘Development outside settlement limits (promote) sustainable diversification of the rural economy. Detailed development management policies will permit agricultural and other rural uses, subject to the following criteria:*
- *Appropriately scaled .... employment, farm diversification, tourism and leisure related development (including appropriate conversion of existing buildings); and*
  - *Appropriately scaled and designed extensions and other physical alterations to existing buildings.*
- 1.7 DM18 (Rural Employment Development) states that: *‘In countryside locations, planning permission will be granted for new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:*
- a) *The development would not lead to an unacceptable impact on the local road network;*
  - b) *There would not be an unacceptable adverse impact to the character and appearance of the countryside; and*
  - c) *There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.*

- 1.8 DM22 (Tourism and Leisure development) states that: *'Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:*
- a) Respect the character and appearance of the location;*
  - b) Where appropriate, involve conversion or replacement of existing buildings; and*
  - c) Demonstrate that the need is not met by existing provision within nearby settlements'.*
- 1.9 The application site is proposed in a rural location defined by agricultural activity. Exmoor National Park is located approximately 3km (2 miles) away. The application site would not typically be defined as a sustainable location for development – having a low level of access to public transport and the nearest shopping centre (Bampton) being 4 km (2.5 miles) away. However, the proposal is for tourism – for short term recreational visitor use with the visitor offer being focused towards 'slow tourism' – proximity to nature and wellness.
- 1.10 This is an ambitious development proposal in a location that already offers leisure / accommodation and hospitality on site. The intention is that the proposal will have a phased delivery as the existing game shooting business is phased out. On this basis, the proposal represents the diversification of an existing rural business use in accordance with Policies S6, S14 and DM22. The proposal has the potential to provide a significant new high quality visitor offer with strong links to the local economy. It is not a provision clearly met by existing facilities in nearby settlements. As a diversification from an existing business, that in its self is not unsuccessful, it also has a potential client base to draw across from the existing business, supporting its longer term viability.
- 1.11 Game shooting is seasonal (September to January). Highest occupation of the proposed accommodation is expected during the summer season (April to October). However, heating (wood burner and electric) supports occupation for 12 months of the year supporting the viability of the scheme. The on-site Clubhouse for dining supports a unique offer. Whilst the character and appearance, environmental and traffic impact of the proposal will be dealt with in detail later in the report the principle of a tourism and leisure based development in this rural location is in accordance with Policies S6 and DM22 of the Local Plan and is accepted.
- 1.12 The greatest part of this application site comprises Grade 3 agricultural land; good to moderate land. The preference would be to retain Grade 3 land for agricultural purposes. However, the application proposal is very focused to specific locations allowing the remaining area of land to continue in agricultural use. The loss of agricultural land to the footprint of development proposed would be minimal. Farming practices are capable of continuing around the proposed use. In this respect the requirements of Policy S1 that seeks the effective use of land, taking into account the economic and other benefits of the best and most versatile agricultural land is accepted in principle. It must also be recognised that this is a phased development with Phase 2 (for the 15 tents and cabins) requiring detailed planning consent. Until that time, the land can remain in agricultural use.
- 1.13 Paragraph 11dii of the NPPF requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.
- 1.14 Whilst an in-principle support is accepted, it has to be weighed against environmental and other impacts of the proposal in a balancing exercise. The balancing exercise is a matter of planning judgement.

- 1.15 The balancing exercise is undertaken later in this report, but before doing so a wider assessment of the proposal has been undertaken against all relevant considerations to determine if there are impacts before moving to consider if these impacts are adverse and would 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance.
- 1.16 The main issues for consideration are as follows:
- Business case
  - Highway safety
  - Landscape and Visual Impact
  - Biodiversity
  - Design and Layout
  - Climate Change, Drainage and Flood Risk
  - Air Quality, Pollution and Waste Management
  - Heritage
  - Other Matters
  - Planning balance

## **2.0 Business Case**

- 2.1 The NPPF (para 88) requires planning decisions to enable:
- a) The sustainable growth and expansion of all types of business in rural areas;
  - b) The development and diversification of agricultural and other land-based rural businesses; and
  - c) Sustainable rural tourism and leisure developments which respect the character of the countryside.
- Paragraph 89 goes on to say that 'planning ... decisions should recognise that sites to meet local business ... needs in rural areas may have to be found ... beyond existing settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)'.
- 2.2 On this basis, the NPPF is supported by Policy DM18 (Rural Employment Development) and Policy DM22 (Tourism and Leisure Development) that requires applications for tourism and leisure in the countryside to be supported by a marketing strategy and business plan to explain;
- a) how the development will achieve a high quality tourism product that meets demand;
  - b) how the benefits of the development will outweigh any harm;
  - c) how the development will not cause an unacceptable impact to traffic on the local road network;
  - d) how the development will benefit local businesses, the environment, communities and visitors in the long term; and
  - e) how the need is not already being met.
- 2.3 An Operational Management Plan and Business Plan and Marketing Strategy has been submitted in support of the application. Together they set out the philosophy of the proposal for secluded 'high end' accommodation, with heated and natural swimming ponds and serviced by a centralised Club House. The Club House is the unique selling point, with the Business Plan and Marketing Strategy suggesting that there are few similar offerings in the south west. The Club House forms part of the first phase of development.

- 2.4 The change-over of accommodation is expected to reflect the target audience of affluent couples or small groups looking for fully catered short breaks (2-7 days). The quality of offer is expected to be attractive to those looking to mark a special occasion. As such, there is expected to be year round demand with the accommodation format and prospective occupants not considered to be especially sensitive to weather or school holidays. On this basis, the Business Plan and Marketing Strategy identifies an occupancy of up to 90%. This represents a very high level of occupancy. Officers have sought additional information identifying viability against a range of occupancies. This will be available as a verbal update at Committee. However, as set out in the Business Plan and Marketing Strategy this application seeks to support the diversification of an existing long established high end hospitality business with a club membership in excess of 15,000 people, built up over numerous years. An existing multi-disciplinary staffing structure is already in place including catering, housekeeping, grounds maintenance, hospitality, marketing and business expertise. On this basis, the proposed scheme is not a fledgling venture with associated concerns around viability. Further, the proposal is submitted as a phased development allowing a considered response to market conditions.
- 2.5 In summary, the Mid Devon Tourism Strategy supports the principle of the proposed development acknowledging support for sustainable rural tourism where needs are already not met (para 1.8) and where there are opportunities to increase provision for younger and more diverse groups (para 3.32). It also identifies a need for the growth of glamping and slow tourism. This is supported by Policies DM18 and DM22 of the Adopted Local Plan and NPPF. On this basis, the proposal is considered acceptable.

### **3.0 Highway Safety**

- 3.1 Policy S1 seeks sustainable design that respects local character and creates safe and accessible environments. Policy S8 requires development and transport planning to be coordinated to improve accessibility for the whole community and to promote the use of sustainable modes of transport. Policy DM1 requires high quality design demonstrating a clear understanding of the characteristics of the site including safe and accessible places. Policy DM3 requires safe access to the transport network.
- 3.2 The Transport Statement & Travel Plan (TSTP, November 2023) reviews the Estate's current traffic generation (Section 2.2). During the September to February shooting season approximately 40 guest vehicles, 10-12 staff vehicles, in addition to 5-20 servicing vehicles in any given day can be expected. In addition, Loyton Lodge on occasion hosts ad hoc functions that will add to the traffic generation. Whilst the game shoot and holiday accommodation have the capability of operating at the same time it is anticipated that the traffic associated with the game shooting will decline over time (TSTP, para 2.2.5).
- 3.3 Section 5 of the TSTP provides predicted traffic generation and trip rate forecasts arising solely from this application. The predicted combined impact of Phase 1 and 2 would generate no more than seven vehicle movements in the AM/PM peak hours (11am – 12pm & 5pm – 6pm). Further assessment is undertaken with the Clubhouse and Wellness Centre concluding that the overall traffic impact of the whole development on the local highway network would not be 'severe' (reference to the NPPF). Whilst it is acknowledged that the forecasting does not give consideration with the game shoot and holiday accommodation combined, Tables 1 and 2 of the TPTS confirm that in the worse-case scenario Phase 1 of this application is likely to generate just one vehicular movement in the normal AM peak hour (11am – 12pm) and three in the PM peak hour (5pm – 6pm). The second phase of development is likely to create two vehicular movements during the AM peak hour and four

during the PM peak hour. Whilst acknowledging that the assessment has not formally considered with game shoot and holiday traffic combined, Officers nonetheless would advise that the cumulative impact of the proposal does not remain 'severe'. Officers from the Highway Authority will have also given this consideration in their assessment of the proposal when concluding that, subject to conditions, the proposal will not have an unacceptable impact on the local highway network. A conclusion also of the TSTP (para 2.4.5) that the development '*would generate largely car traffic (and) there is no over-riding evidence to suggest that granting permission ....would have any material effect on the safe operation of the road network or result in any significant highway safety issues*'.

- 3.4 Concerns have been raised through the application process with regard to the Highway Authorities' advice when they previously found reason to objection in 2001 to proposals for a similar scale of tourism at the application site. The Highway Authority have subsequently confirmed that the advice on the 2001 application reflected former National and County policy guidance. Further, the Highway Authority have confirmed that the Transport Assessment submitted in support of this application confirms that safe and suitable access is available and there would not be a severe impact on the local highway network. The Highway Authority confirm that whilst it is accepted that the development might increase traffic on the nearby rural roads, Planning Inspectors are looking for "substantive evidence" to support reasons for refusal, and it is clear from the supporting information that this is not available. Following a direct approach from the case officer, Devon, Cornwall and Dorset Police have no objection to the impact of the proposal on the public highway network.
- 3.5 Additional concerns have been raised relating to the new vehicular access and 24 car parking spaces related to phase 1 of the development. Drawing No. P\_03 P1 sets out the general arrangement and visibility splays for Phase 1 of the development. It shows the extent of hedge lowered (to 600m) to accommodation sight lines and new hedgerow to be planted. Drawing No. P\_02 Rev P2 sets out similar arrangements for Phase 2 of the development each being acceptable to the Highway Authority subject to condition. Representations have been submitted concerned that the total number of car parking spaces is excessive. Current provision is identified as 10 with a total proposed (including spaces retained) as 95. This is a significant increase with Policy DM5 requiring 1 parking space per bedroom. However, the existing business can generate the need for as many as 72 parking spaces a day (40 guest vehicles, 12 staff vehicles and up to 20 deliveries) although the need will be rotating throughout the day. The proposed parking is identified in two locations, discretely located, including around existing buildings, with direct access to the public highway. The Landscape Masterplan provides assurance that the car parks will provide percolation of surface water through the gravel surfacing but a condition of planning consent will confirm that assurance. Similarly, the paths and trackways are proposed to have limited impact through the choice of surface material on surface water discharge. Three EV charging points are proposed as part of Phase 1 and 4 as part of Phase 2. A condition of planning consent will assure no guest vehicles go beyond the identified car parks.
- 3.6 It is expected that every planning application should be considered on its merits and on the prevailing policies at the relevant time. The fear of precedent has a limited role to play. On this basis, the proposal is considered acceptable and in accordance with Policies S1, S8, DM1 and DM3 of the Adopted Local Plan and NPPF.



## 4.0 Landscape and Visual Impact

- 4.1 Para.180 of the NPPF states that 'policies and decisions should contribute to and enhance the natural and local environment by ... protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, and preventing new and existing development from contributing to an unacceptable risk on natural capital and ecosystem services including the economic and other benefits of the best and most versatile agricultural land'. Para 182 confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. National guidance is supportive of high quality, well designed, beautiful places. This is reflected in development plan polices. Policy S1 seeks good sustainable design that respects local character, heritage and surroundings and creates safe and accessible environments. Policy S9 requires 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. Policy DM1 requires high quality design demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area.
- 4.2 The site does not form part of a designated landscape but is located in close proximity to the designated Exmoor National Park and lies within a SSSI Risk Impact Zone associated with South Exmoor SSSI at Haddon Hill. The NPPF requires the intrinsic character and beauty of the countryside to be recognised when assessing development proposals.
- 4.3 The Landscape Character Assessment for Mid Devon (2011) identifies the site as falling within LCT3E Lowland Plains making it sensitive to diversification and an increase in the number of non-farming activities, increase in visitor traffic requiring traffic management and increase in domestic tourism with associated demands for new facilities, infrastructure, farm conversions, camping and caravan sites.
- 4.4 Whilst the proposal would retain all field patterns, woodland and hedgerows in situ, bolstered by additional planting, Officers accept that there would be a change to the landscape; by way of an all year increase in non-agricultural related activity. Nonetheless, the underlying land would not change and should the short term lets cease, its former character could broadly return.
- 4.5 The Landscape and Visual Impact Assessment (LVIA, November 2023) has given some consideration to the visual impact of the development both in short and long distance views and from the existing Public Right of Way. Tourism related development can have a negative impact on the rural environment, particularly in an undulating landscapes. However, the visual impact can be properly addressed within the landscape if planned sensitively with effective screening and land topography taken into consideration to limit the zone of visual influence.
- 4.6 The LVIA describes the baseline qualities and current condition of local landscape character. It identifies several locations (visual receptor viewpoints) from which the site can be viewed. It also identifies steps, with the support of the Landscape Masterplan and Planting Plan that will be taken to mitigate against any harm that may arise from the implementation of the development. These include the planting of 1,000 new trees the creation of a new orchard

including 200 orchard trees, 750m of new hedgerow and 1,000sqm of new pond and wetland.

- 4.7 The LVIA confirms that part of a group of willow and cherry trees would be removed to provide vehicular access to the Wellness Centre, some tree removal within the Poplar Plantation to create access to the new guest cabins and the removal of a beech hedge to facilitate the new guest car park north of Loyton Cottages. This hedgerow will be replaced with a new length of mixed native hedgerow.
- 4.8 An Arboricultural Impact Assessment (November 2023) has also been submitted, which together with the Landscape Masterplan and Planting Plan outlines tree protection, proposed planting and ongoing maintenance and management of the existing trees and proposed landscaping. The Arboricultural Impact Assessment confirms the felling of 2x Ash trees (T125 & T209) and a small roadside group of ash and one Horse Chestnut (G106), required for felling irrespective of development.
- 4.9 Concerns relating to the visual impact of the development on near neighbours have been submitted. The nearest safari tent (T8) would be obliquely sited approx. 223m from Willow Coign with a field and hedgerow separating them. The guest car park would be approx. 310m. Hoopers Cottage would be approx. 124m from T21 separated by woodland and T25 would be approx. 214m from Station House separated by a field and hedgerow.
- 4.10 The Landscape Character Assessment for Mid Devon (2011) identifies the landscape as mixed farmland with hedgerows and hedgebanks forming spines along rolling hills. Copses and discrete woodlands are characteristic. The proposal would introduce some change in character. However, with the retention and of the existing hedgerows, trees, proposed landscaping and topography the development would be screened from most views.
- 4.11 From a landscape and visual perspective, taking the baseline conditions and proposed landscaping into consideration, Officers would advise that the proposal is sited in a manner that weighs in favour of the proposed development as regards to the visual impact and cumulative effect of the development. Officers would advise that the 25 holiday tents and cabins whilst having the ability to cause some visual impact, have been sited to ensure that there is a minimal influence. Overall, views of the proposed development would be restricted to partial views from public footpaths and country lanes. On this basis, the proposed development is considered acceptable and in accordance with policies S1, S9 and DM1 of the Adopted Local Plan.

## **5.0 Biodiversity**

- 5.1 Policy S9 seeks the preservation and enhancement of the natural landscape. Policy DM1 requires development to make a positive contribution to local character including any biodiversity assets. Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site for biodiversity mitigation, resulting in a net gain in biodiversity, for flood and water resource management, and to provide green corridors to link the site to the wider Green Infrastructure network.

- 5.2 This application, on submission, was accompanied by an Ecological Impact Assessment (November 2023). The application predated the need for the submission of a Biodiversity Net Gain Matrix but both the EIA and LViA provide evidence that the development will achieve net gain in biodiversity at all Phases of the proposed development.
- 5.3 The EIA (para 3.2) confirms that the site has a structural diversity of negligible importance. However, the site has a high ecological value supporting a range of protected species including bats, dormice, otter and nesting birds.
- 5.4 The proposed development is of a relatively low density in the context of the wider site. Evidence suggests that it is unlikely to impact on the key ecological features of the site provided the mitigation and compensation measures provided within the EIA, and supporting documents are conditional upon planning consent. The EIA confirms that the Spring species survey will be completed in April 2024. Whilst DCC Ecology suggest that the results are unlikely to change the conclusions or mitigations within the EIA, Officers can confirm that the results of the Spring survey will be available prior to Committee at which a verbal update will be provided by Officers.
- 5.5 The planting plan (Phase 1) submitted in support of the application sets out a strategy to support biodiversity with additional mixed native hedging, meadow grassland, marginal planting, specimen tree planting (varying standards of maturity) and native under storey planting. All existing woodland, trees and hedgerows will be retained with new hedgerow at selected locations (Planting Plan Phase 1). The Ecological Impact Assessment and Planting Design Plan provide clear recommendations for avoidance, compensation and enhancement for the habitats / species on site.
- 5.6 There is also scope for landscape, ecological and biodiversity benefits through the installation of bird nesting boxes, beehives, log piles, dormouse boxes and other hibernacula such as small buried rubble piles suitable for reptile species, amphibians and insect life. As set out in the EIA five tree mounted bird boxes and five tree mounted bat boxes are proposed and will be conditional upon planning consent.
- 5.7 The proposal as set out indicates, on completion, an enhanced range of habitats which will benefit existing local species through:
- Improved vegetation structure, richness and abundance across the site;
  - Improved quality and quantity of roosting, foraging and nesting habitats across the site; and
  - Enhanced connectivity across the site / landscape.
- The BNG Metric calculations collaborate this - attributed to the planned habitat creation and to the management and monitoring of the existing and newly created habitats to ensure targets are met.
- 5.8 The EIA concludes that subject to the proposed enhancement and mitigation Phase 1 of the development would achieve a net gain of 21.41 (65.16%) habitat units and 0.5 (2.57%) hedgerow units. Whilst legislation now requires 10% biodiversity net gains to be achieved for both habitat and hedgerow units this application was submitted prior to the change in legislation. On this basis, the net gains proposed are acceptable, conditional upon planning consent. Conditional upon planning consent will be the delivery of 10% new gain in all biodiversity units at Phase 2 of the development.
- 5.9 Additional concerns have been raised from DCC Ecology relating to internal light spill from the proposed accommodation. The proposed accommodation has been deliberately set

slightly distanced from the woodlands to reduce any impact in terms of RPAs, disturbance to ecology and light spill. Front elevations of the accommodation, which has the most glazing, is orientated away from the woodlands – with rear elevations having only one glazed unit that in Guest Tent (Type 1) serves a bathroom which by its nature is less frequently used. Heavy drapes that will also function for heat insulation will also minimise light spill. Concerns have also been raised relating to the loss of woodland habitat to create the tracks. Para. 7.44 of the Planning Statement confirms that the woodland track (Four Acre Copse) is a pre-existing track that will be formalised as part of the proposal. For those elsewhere (within Phase 2) the routes, their methodology will be a requirement of the Reserved Matters application.

- 5.10 In conclusion the proposed development is considered to be in accordance with Local Plan Policies S9 and DM26. In acknowledgment of this and with the support of planning conditions associated with the Construction Environmental Management Plan and the Landscape and Ecological Management Plan the proposed development is considered acceptable.

## **6.0 Design and Layout**

- 6.1 The NPPF states (para 131) that the creation of high quality, beautiful and sustainable places is fundamental to the achievements of the planning and the development process. Being clear about design expectations, and how these will be tested, is essential to the achievement of this. New places should be visually attractive, sympathetic to local character and landscape setting. Policies S9, DM1 and DM25 of the Adopted Local Plan support the NPPF in seeking high quality sustainable design that mitigates and adapts to climate change. Development should make a positive contribution to local character including any heritage or biodiversity assets, and create safe and accessible places that encourage sustainable modes of travel such as walking and cycling. It should be well integrated with surrounding buildings and the landscape without adverse impact on privacy or amenity for proposed or existing properties.
- 6.2 A 'Landscape Masterplan' has been submitted in support of this application. It shows the extent of development at full planning application stage (Phase 1) and outline planning application stage (Phase 2). Phase 2 does not confirm the layout of the development should planning permission be forthcoming; this being subject to a Reserved Matters application at a future date. The function of the Phase 2 layout is to illustrate how the 15 tents and cabins can be satisfactorily accommodated within the site with those proposed for full planning permission. On the basis of the information provided Officers are satisfied that 25 tents and cabins can be satisfactorily accommodated on the site without undue landscape or visual impact or detrimental impact on highway safety.
- 6.3 However, a detailed analysis of individual elements of both the Phase 1 and Phase 2 submission will now be considered:
- 6.4 Phase 1: full planning  
Phase 1 seeks full planning consent for 10 safari tents, conversion of the existing barns, an extension to the existing marquee and construction of a natural swimming pool and associated shepherds hut. (New and revised car parking and access ways have been addressed at Part 2 of this report). Each are addressed in turn:
- 6.5 Phase 1: 10 safari tents

The proposal includes two styles of safari tent. Type 1 (Guest Tent, Dwg No. 796 MP1 03) provides accommodation for 2 guests including dining and lounge area with wood burner, 1 double bedroom with wood burner and a bathroom. Elevated off the ground it provides a GIA of 72.5sqm with additional timber decking to the front and rear. External walls will be constructed of matt black timber clad with crittal style metal framed windows. The roof will be olive canvas sheet. Eight, Type 1 tents are proposed located at T1, T4, T5, T6, T7, T8, T9 & T10.

6.6 Type 2 (Guest Tent, Dwg No. 796 MP1 04) provides accommodation for 2 guests including a sleeping, dining and free standing bath with wood burner and separate toilet. Elevated off the ground by it provides a GIA of 31sqm with additional timber decking to the front and side. External walls will be constructed of matt back timber clad with crittal style metal framed windows. The roof will be olive canvas sheet. Two, Type 2 tents are proposed located at sites T2 & T3 (Landscape Masterplan Rev H).

6.7 The Phase 1 tents are located in two groupings; 5 adjacent to Four Acre Copse and 5 adjacent to Elbow Wood. Each are discreetly distanced from each other and set within existing and proposed landscape planting that is accepted in principle.

#### 6.8 Phase 1: Conversion of Existing Barns

Phase 1 seeks to convert the existing barns to provide administration, grounds keeping, housekeeping facilities and visitors reception. The Yard Barns Plan (Dwg No. 796 MP2 03) provides detail of the existing structures. The Structural Report (Barn 1) dated February 2024 confirms that the primary structure is capable of conversion without major structural alterations or re build. Similarly, the Structural Reports (Barn 2: Kitchen Barn & 3: Laundry Barn) dated February 2024. Barn 2 may require a central post to support the structural roof frame depending on the final architectural scheme but the barn would not require significant structural changes or replacement to enable conversion. In summary the barns are capable of conversion and their change of use as ancillary accommodation to the proposed holiday use is accepted in principle.

#### 6.9 Phase 1: Extension to Existing Marquee

Marquee Tent Plan (Dwg No. 796 MP1 01) provides detail of the existing marquee and ancillary shed used for private functions. It is located north east of Loyton Lodge separated by an existing group of mature trees. The principal hospitality area of the existing marquee is constructed of PVC fabric (with clear PVC windows and doors) supported off timber posts. An attached entrance hall, wc and kitchen is constructed of timber clad sections on an aluminium framework. The whole structure is roofed with a PVC marquee sheet. It has a GIA of 130sqm. The ancillary shed is a block built permanent structure of no historic or visual interest.

6.10 The proposed marquee extension is for all-intents-and-purposes a replacement being sizeably larger in all aspects. With the addition of two wings attached to the main bar and function area (that will be greater in width and length) it will provide a GIA of 356sqm. A kitchen, pantry and store will be accommodated within an attached permanent structure to the rear of the main function space. The existing shed will be repurposed as a toilet block to serve the marquee.

6.11 The walls of the proposed marquee will be constructed of timber cladding. The gable end and east elevation of the west wing and the gable end and east and west elevations of the east wing will have removable canvas sheets (with PVC windows) to allow them to be fully open sided, yet covered. The west elevation of the west wing will be timber clad panelling. The entire structure will have an olive double skinned canvas sheet (for enhanced

insulation). The entire space will be heated by two wood burners. Whilst noticeably larger in size than the existing marquee tent, it will be well screened by existing planting and in close proximity to the existing Loyton Lodge. On this basis, its design and location is accepted

#### 6.12 Phase 1: Construction of Natural Swimming Pool

A natural spring water fed swimming pool is proposed east of the marquee. Set amongst re-profiled landscaped terraces with planting it seeks to form a principal element of proposals unique offer. A Shepherds hut will provide changing facilities. Concerns have been raised associated with hygiene of the water. This will be monitored by Public Health.

#### 6.13 Phase 1: Parking & Trackways

The Operational Management Plan indicates that no guest parking will be permitted adjacent to the safari tents. A 24 space car park will be constructed in Phase 1 of the development and a further 71 at Phase 2 (38 guest spaces, 24 staff parking, 5 for deliveries and 4 for visitors). Guests will be transported to their accommodation via electric golf style buggies. Guests may then access the clubhouse or the countryside on road legal eBikes provided. Trackways (compacted gravel with central grass strip) will connect each tent to the guest car park. Mown pathways will be provided within the site providing access to the marquee, swimming pool facilities. It is intention that they will be functional but as low impact as possible.

#### 6.14 Vehicular access from the public highway will be provided via an existing field opening which would need widening. A short length of existing beech hedge would be reduced in height to achieve required visibility splays with a new hedge, set to the back of the visibility splay. The 24 space car park (with three electric charging stations and one disabled parking space) will be connected to the accommodation by new and/or improved gravel trackways that are accepted in principle.

#### 6.15 Phase 2: outline planning

Phase 2 seeks outline planning consent for up to 15 safari tents and cabins, demolition of existing barn and construction of a wellness centre. Outline planning consent is sought for all details including access. Nonetheless, some details are available as follows:

#### 6.16 Phase 2: 15 safari tents and cabins

Details of the tent type(s) and cabins are not included within the outline part of this application. The detailed site layout will be the subject of a future reserved matters application. However, a broad location is presented for nine tents at locations T17 to T25. The tents are proposed to be in 3 groupings; 1 east of Four Acre Copse, 4 north of the public footpath and the proposed orchard and 4 west of Gratton Copse. All tents are proposed to be discreetly distanced from one another and within existing and proposed landscape planting. All are accessed by new or existing trackways.

#### 6.17 It is noted that the operational management plan makes reference to 30 cabins / tents in the future. Should an increase in the number of units be required this would be subject to a future planning application.

#### 6.18 Vehicular access is proposed via existing points of access off the highway and using existing field openings within the site. Car parking for guests (38) is planned to the rear (north) of Barns 1 – 3. Staff and estate vehicles (24) is proposed to the east of the barns with servicing and deliveries (5) to the south of them. Four visitor spaces are proposed. A total of 71 car parking spaces are identified.

#### 6.19 Phase 2: demolition of existing barn and construction of a wellness centre

Phase 2 includes the demolition of an existing barn and its replacement with a new building to be used as a 'wellness centre'. Details are not submitted at this outline application stage but the development intends to include two small swimming pools (one indoor and one outdoor), hot tubs, café and changing rooms. The location of the wellness centre is identified, but will be subject to detailed planning.

- 6.20 There is potential for conflict between the development and adjoining dwellings as acknowledged by representations concerned by a loss of privacy. A key feature will be to ensure that the proposed development is carefully designed to avoid unacceptable impact on the amenity of adjoining residents by way of overlooking, loss of light, scale and massing. The delivery of development that respects local character in accordance with Policy S1(h) of the Adopted Local Plan will be required and will be considered in detail at Reserved Matters stage.
- 6.21 In conclusion your officers consider overall, that the design and layout of the proposed scheme is acceptable and accords with the NPPF, Policies S9, DM1, DM22 and DM27 of the Adopted Local Plan.

## **7.0 Climate Change, Drainage and Flood Risk**

- 7.1 The NPPF requires the planning system (para 157) to support the transition to a low carbon future, taking full account of flood risk. Proposals should take into account the long term implications for flood risk and provide appropriate mitigating measures. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (para 173). Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 7.2 The NPPF (para 167) requires a sequential, risk based assessment to the location of development. A sequential test is required if the development falls within Flood Zone 2 or 3. This site is primarily within Flood Zone 1 with a small section adjacent to Ben Brook on the western boundary classed as Flood Zone 2 and 3. The proposed development is all located within the area of Flood Zone 1. Development closest to Flood Zone 2 and 3 forms part of the outline application and will be subject to detailed design at a later date. On the basis that the proposed development is located within Flood Zone 1 the proposal is considered to pass the Sequential Test and therefore appropriate for development on flood risk grounds. All development requiring a Reserved Matters application at a future date will be required to be located outside the Flood Zones 2 and 3. If, in the unlikely event that, development is proposed within Flood Zones 2 and 3 at the Reserved Matters stage, satisfactory compensatory measures will be required to the satisfaction of the Environment Agency, Local Lead Flood Authority and Local Planning Authority, at that stage.
- 7.3 The Flood Risk Assessment (November 2023) confirms that SUDs in the form of an infiltration system, pervious trackways and detention basins will be employed. The FRA is supported by a Climate Emergency Checklist & Foul Drainage Assessment (Tents and Guest Facilities). The Local Lead Flood Authority have no in-principle objection to the proposal although identifying improvements to the existing drainage including informal features such as swales downstream of the cabins and maintenance of the surface drainage

features. These requests have been included as an 'informative' to the application. The Environment Agency have also confirmed that there is no objection subject to condition.

- 7.4 Public Health raised concerns associated with Package Sewerage Treatment Plant (PSTP) if not in continual use. That has since been discussed further and Public Health have withdrawn any outstanding concerns relating to the application. The FRA also confirms that based on the expected flows that a formal permit will likely will be required from the Environment Agency for the PSTP.
- 7.6 A number of representations have been received relating to downstream flood risk including to immediate neighbouring properties as a result of the development. Conditional upon planning consent will be the FRA submitted in support of this application. Also will be the requirement for an updated surface water management plan at Reserved Matters stage.
- 7.7 In accordance with the NPPF, Policies S1, S9 and DM4 of the Adopted Local Plan this development proposal incorporates flood and water resource management including mitigation measures that provide assurance that the development will not increase the risk of flooding elsewhere. A Flood Risk Assessment (November 2023), Climate Emergency Checklist and Foul Drainage Assessments have been submitted in support of this application. The applicant is proposing to manage surface water through SUDs including three attenuation ponds located through the development. Provision for an updated surface water management plan at Phase 2 of the development is proposed as a condition of planning consent. DCC Flood Authority have no objection.

On this basis, the proposal is considered to accord with the NPPF and Policies S1, S9 and DM4 of the Adopted Mid Devon Local Plan.

## **8.0 Air Quality, Pollution and Waste Management**

- 8.1 The NPPF (para 180) requires development proposals to specifically identify opportunities to improve air and water quality and mitigate soil, air, water or noise pollution. This is supported by Policies DM3 and DM4 of the Adopted Local Plan that requires pollution impact assessment and mitigation schemes where necessary; confirming that development will be permitted where direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.
- 8.2 This application is supported by an Operational Management Plan providing detail on waste management. Waste is currently collected under a commercial waste management contract that will remain in place. All recycling opportunities will be provided.
- 8.3 A review of the traffic generation arising through the proposal has been undertaken at Part 2 above, as set out in the Transport Statement & Travel Plan (TSTP, November 2023). It is generally accepted that there would not be air quality issues arising.
- 8.4 Public Health have provided specific comment following representations received relating to the air pollution resulting from the installation of the wood burners. Phase 1 proposes a total of 22 wood burners (18 associated with Guest Tent Type 1, 2 associated with Guest Tent Type 2 and 2 associated with the Marquee tent). Phase 2 will be subject to a detailed Reserved Matters application. The number of wood burners associated with that Phase will be confirmed at the Reserved Matters stage. Public Health have confirmed that based on the understanding that the proposed accommodation will also be provided with electric heating and that the wood burners are unlikely to be used regularly at the same time for long periods and unacceptable deterioration in the local air quality is not anticipated.



- 8.5 Construction activities associated with any new development will inevitably cause some disturbance. However, based on the nature of the scheme these are predicted to be modest during the implementation stage. Nonetheless, conditional upon planning consent will be a Construction Management Plan.
- 8.6 Representations have been received particularly concerned with noise pollution once in operation. Conditional upon planning consent is proposed no amplified, live or recorded music played within the Site other than inside the Loyton Lodge building that has an existing wedding licence. Such a condition will support the philosophy of the proposed scheme, as set out in the Operational Management Plan, as one inspired by nature. On this basis, conditional upon planning consent will be a lighting condition. All external lighting should be directed downwards with no light spill above the horizontal (shielded), switched off when not needed, be no brighter than necessary and have a warm colour. Ensuring that the lumen is restricted to the minimum required for health and safety the condition is to acknowledge the Exmoor 'dark skies' reserve.
- 8.7 A review of the lighting strategy is proposed at reserved matters stage to provide a more accurate indication of need and provide greater comfort to those submitting representations concerning light pollution.
- 8.8 Overall, your Officers consider that the application is acceptable, conditional upon planning consent. Public Health have confirmed the findings of the Air Quality Assessment and do not anticipate any concerns with air quality. For these reasons, your Officers consider that the proposed development accords with the NPPF, Policies DM3 and DM4 of the Adopted Local Plan.

## **9.0 Heritage**

- 9.1 The NPPF (para 195) requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Policy DM25 of the Adopted Local Plan requires design solutions to respect the character and setting of heritage assets within and adjoining the site.
- 9.2 The listed property of Loyton Farmhouse is approximately 15m in a direct line from the application boundary. However, it is anticipated that the proposed scheme will have little direct impact on the setting of the listed building. The nearest part of the development seeking full planning permission (Marquee) is approximately 103m away in a direct line separated by existing buildings and mature landscape. The nearest part forming the outline application is approximately 100m away (Wellness Centre) and Cabin C16 (200m away). The intervening topography, mature trees, existing buildings and hedgerows result in limited impact on the Grade 2 listed property.
- 9.3 Officers advise that the proposal will not have a significant impact, within the definition of policy DM25, upon any heritage asset. For this reason, the application is considered acceptable and in accordance with policies DM25 of the Adopted Local Plan and the NPPF.

## **10.0 Other Matters**

- 10.1 Concerns have been raised relating to the operation of the game shoot in conjunction with the proposed holiday accommodation. The Police Firearms Licensing team have been consulted and it is confirmed that Devon, Cornwall and Dorset Police have no objection to

the proposal in this respect. The game shoot will be required to operate to the highest levels of health and safety.

- 10.2 Representations have been raised concerned that there are no guarantees that the game shoot will be wound down. No evidence suggests that the two operations cannot operate concurrently either in terms of health and safety or road traffic impact. On this basis, Officers advise that the proposal is acceptable.
- 10.3 Concern has been raised that the shepherd's huts have not been mentioned in the description title. One hut is proposed within Phase 1 of the development as a changing facility associated with the natural swimming pool. All others are associated with Phase 2 of the development and will require detailed planning consent at that stage.
- 10.4 A representation identifies that the existing wedding licence allows weddings to take place anywhere on the farm. Conditional upon planning consent is proposed no amplified, live or recorded music to be played anywhere on the site, other than inside the Loyton Lodge building. The purpose of this condition is to limit disturbance across the wider site area.
- 10.5 An Environmental Impact Assessment Screening report has been completed and concludes that the development is unlikely to lead to significant effects during construction, operation or cumulatively with other development requiring the submission of an Environmental Statement. It is considered that localised effects can be to be dealt with during the planning application process.
- 10.6 On this basis, Officers advise that the proposal is acceptable.

## **11.0 Planning balance**

- 11.1 This report has made an assessment of each of the main issues to determine if there are impacts. On the basis of statutory and other consultee planning policy advice and guidance it has generally been concluded that each main issue, singularly, will not have a significant impact. However, it is necessary to assess if these impacts cumulatively would 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance.
- 11.2 The compelling evidence that is provided by the development is as follows:
- a) The site is largely screened from public views minimising its visual impact;
  - b) There are no built heritage setting impacts;
  - c) Large scale hedgerow and tree planting will screen the site and provide BNG.
  - d) The proposal will have a short construction period with minor to moderate impact on the highway network;
  - e) The built footprint of the proposal will result in a modest loss of BMV land with the remaining land having opportunity to stay in agricultural use;
  - f) The proposal seeks to create a unique visitor experience based upon good design and quality hospitality;
  - g) The proposal provides long term employment and economic benefits and associated security based on the existing declining use; and
  - h) The proposal in operation has the ability to meet the strict requirements of the Environment Agency, the Local lead Flood Authority, Public Health and the Highway Authority.
- 11.3 However, of significance is whether the proposal meets the NPPF and policy requirements

for a sustainable use located in a countryside. On this basis the compelling evidence comes through the NPPF that confirms that whilst it supports a sustainable growth and expansion of all types of business in rural areas including diversification of agricultural and other land-based rural businesses for rural tourism and leisure developments, locations that are not well served by public transport may still be permissible if they are sensitive to their surroundings, do not have an unacceptable impact on local roads and exploit opportunities to make a location more sustainable. Whilst it is acknowledged that the proposal has limited opportunity to improve access on foot, by cycling or by public transport Officers would advise that based on the compelling evidence set out at para 11.2 above that the proposal seeks to mitigate its impact on the wider environment through design, location and planting. The proposal would also deliver benefits in support of other elements of the Council's development plan and to the content of the NPPF. On this basis, your Officers consider that the reasons amount to 'compelling evidence' and tip the balance in favour of granting approval for this application.

11.4 Officers recommend approval of this application which is considered to be in accordance with local and national planning policy.

## **CONDITIONS**

### **FULL**

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.

### **OUTLINE**

3. Details of the access, appearance, landscaping, parking, layout and scale (herein after called the "reserved matters") in relation to the siting of up to 15 safari tents and cabins; demolition of existing barn and construction of wellness centre; improvements to existing vehicular access and the provision of car parking; the creation of track ways and associated access and landscaping works shall be submitted to and approved in writing by the local planning authority before any development begins and before the expiration of six years from the date of this permission. The development shall be carried out as approved.
4. The following information shall be submitted to and approved in writing by the Local Planning Authority as part of the Reserved Matters:
  - (a) detailed drawings to an appropriate scale for the layout of the site, the scale, height and appearance of the buildings including materials, the hard and soft landscaping details,
  - (b) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy;
  - (c) a Construction Environmental Management Plan including environmental protection throughout the construction phase and access arrangements,
  - (d) a surface water management plan,
  - (e) An Ecological Impact Assessment including mitigation and compensation measures and repeat surveys for bats, dormice and otters
  - (f) An Arboricultural Impact Assessment;

- (g) A Biodiversity Net Gain Matrix showing evidence of a minimum of 10% Biodiversity Net Gain;
  - (h) Planting strategy;
  - (i) Lighting Strategy;
  - (j) Transport Statement & Travel Plan showing evidence of impact on the public highway;
5. The barn conversions hereby approved shall remain ancillary to the holiday use and shall not be occupied as holiday accommodation or occupied as a person's sole, or main, place of residence.

## GENERAL

6. There shall be no siting of tents or cabins, erection of boundary treatments or any other structures, nor any raising of land level or storage of excavated material within any areas of the site identified as being in flood zones 2 or 3.
7. There shall be no amplified, live or recorded music played within the site, other than inside the Loyton Lodge building (Sitewide Landscape Masterplan, Dwg No. 1804 L.1H).
8. No external lighting shall be installed on any building or within the application site unless, prior to its installation, a 'lighting design strategy' has been submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their resting places, foraging habitat and commuting routes;
  - b) show how and where external lighting will be installed (for example through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent protected species using their territory or having access to their resting places;
  - c) provide details of all external lighting, including the position(s) on the building/site, design, orientation and level of illumination; and
  - d) demonstrate how the areas to be lit will not impact on the Exmoor Dark Sky reserve.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and shall be operated and maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

9. The accommodation to be provided within the holiday units hereby approved shall be occupied for holiday purposes only, and shall not be occupied as a person's sole, or main, place of residence.
10. No safari tent or cabin, hereby approved, shall include facilities for the cooking or heating of food. No food deliveries (hot or cold) will be permitted into the application site than beyond the identified car parks (Sitewide Landscape Masterplan, Dwg No. 1804 L.1H).

11. A register shall be kept of persons occupying the holiday units hereby approved for holiday purposes, which shall include their name, the address of their main residence and the period(s) of their occupation of the unit for such purposes (i.e. the dates of commencement and the end of each period of occupation), and the said register shall be made available for inspection by an authorised officer of the Local Planning Authority at all reasonable times.
12. The development hereby permitted shall be restricted to no more than 25 units of holiday accommodation that shall be provided in accordance with the details submitted within the approved plans.
13. No unit of holiday accommodation, hereby permitted, shall be occupied until the Foul Package Treatment Plant associated with it, shall have first been installed and made available for use, and shall thereafter be retained and maintained.
14. No overnight tents or camping to be permitted other than those permitted by this planning permission.
15. No vehicles privately owned by the guests shall be permitted any further into the application site than beyond the identified car parks (Sitewide Landscape Masterplan, Dwg No. 1804 L.1H).
16. Works to all trees and the construction of paths adjacent to woodland W104 and area A103 shall be completed under the guidance of a qualified arboriculturalist, in accordance with the recommendations set out in the submitted Arboricultural Assessment Parts 1 and 2, dated November 2023.
17. All development hereby approved shall be carried out in accordance with the recommendations and mitigation measures set out in the Ecological Impact Assessment (produced by GE Consulting, November 2023) and the Arboricultural Impact Assessment Parts 1 and 2 (dated November 2023). This condition shall be discharged when the consultant ecologist confirms in writing to the Local Planning Authority that the recommendations have been satisfactorily implemented and those details have been approved in writing by the Local Planning Authority. The recommendations in the reports shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within the approved documents.
18. All development hereby approved shall be developed in accordance with the recommendations in the Flood Risk Assessment and Drainage Strategy (November 2023) and the Foul Drainage Assessment.
19. No development shall take place including any ground works or demolition until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved CMP shall be adhered to throughout the construction period. The CMP shall provide for:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 5pm Mondays to Fridays inc.; 9.00am to 12.00pm Saturdays, and no such vehicular movements taking

place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;

(k) details of wheel washing facilities and obligations;

(l) The proposed route of all construction traffic exceeding 7.5 tonnes;

(m) Details of the amount and location of construction worker parking;

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

20. No development shall take place including demolition, ground works or vegetation clearance until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall accord with BS42020 and shall also include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following:

a) A Risk assessment of potentially damaging construction activities;

b) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during the construction stage (may be provided as a set of method statements) upon biodiversity features;

c) The location and timing of sensitive works to avoid harm to biodiversity features;

d) Responsible persons and lines of communication;

e) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

21. Prior to the commencement of the proposed development, the site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with drawings P-03 Rev P1 (Phase 1) and P-02 Rev P2 (Phase 2). The site access roads shall be drained to prevent any surface water entering onto the public highway. The site access roads shall be hardened, surfaced, drained, maintained and retained thereafter.

22. The three (3) electric vehicle charging points identified at parking spaces 10-15 of the Sitewide Landscape Masterplan, Dwg No. 1804 L.1H shall have been installed prior to first

occupation of any unit of holiday accommodation and the remainder shall be provided at Reserved Matters application stage.

23. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of ten 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.
24. Prior to first occupation a 30 year management and monitoring plan shall have been previously submitted to and approved in writing by the Local Planning Authority demonstrating how the biodiversity net gain is progressing towards achieving the objectives for habitat creation as set out in the approved Ecological Impact Assessment (November 2023).
25. The works shall take place outside of the bird nesting season (which runs from 1 March to 31 August) in any year unless a breeding bird check has been undertaken by a suitably qualified ecologist no more than 48 hours, prior to the works starting. Written confirmation from the qualified ecologist shall be provided to the Local Planning Authority, within five days, confirming that no active bird nests are present.
26. Prior to commencement and notwithstanding the details contained within the Ecological Impact Assessment a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority setting out all existing and proposed habitats and how they will be managed and/or maintained. Subsequently the works shall be carried out as approved or in the first available planting season following the commencement of development and will be permanently retained and maintained in accordance with the approved scheme. The details to be submitted shall include: Hard surfacing including pathways and driveways other hard landscape features and materials; existing trees, hedges or other soft features to be retained, planting plans including specification of species, trees, planting centres, number and percentage mix; details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife and how they will be managed over the lifetime of the development.
27. An updated badger survey shall be undertaken by a suitably qualified ecologist 28 days prior to the start of construction to confirm the absence of setts in the build area given the presence of a sett within the Outline Application area and the mobile nature of the species. Should the updated badger survey reveal the presence of badgers within 30m of any proposed construction an action and mitigation plan will be submitted to and approved in writing by the Local Planning Authority.
28. Prior to first occupation details of bird and bat boxes (one on each building of each relevant phase of development) shall have been provided, in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Once installed, the approved measures shall be retained indefinitely.

## **REASONS FOR CONDITIONS**

### **FULL**

1. To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

### **OUTLINE**

3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To ensure that adequate information is available for the proper consideration of the detailed proposals, in accordance with policy DM1, whilst ensuring a timely delivery in the interests of proper planning.
5. The site is outside of defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy, however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033.

### **GENERAL**

6. In the interests of the protection of life, property and the environment.
7. To protect the amenity of nearby residents from unacceptable music noise and to protect the tranquility of the area.
8. In order to secure, the 'strict protection' of European protected species in accordance with the Conservation of Habitats and Species Regulations 2017 and to protect Exmoor's dark night sky in accordance with Policies S1, DM1 and DM27 of the Adopted Local Plan.
9. The site is outside of defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy, however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033.
10. To ensure a proper understanding of the detailed proposals for the avoidance of doubt and in the interests of proper planning.
11. The site is outside of defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy, however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033.
12. For the avoidance of doubt as to the extent of the development hereby permitted.



13. For the avoidance of doubt and in the interests of proper planning.
14. For the avoidance of doubt and in the interest of residential amenity.
15. For the avoidance of doubt and in the interest of residential amenity and the conservation of protected species.
16. For the avoidance of doubt and in the interest of the conservation of protected species.
17. In order to protect wildlife habitats and biodiversity net gains in accordance with policies S1, S9, DM27 and DM28 of the Adopted Local Plan and the National Planning Policy Framework for the lifetime of the proposal.
18. In the interest of health and safety and the protection of water courses in accordance with policies S1, S8, S9, DM1 and DM4 of the Adopted Local Plan and the National Planning Policy Framework for the lifetime of the proposal.
19. Information is required prior to the commencement of the development to ensure that adequate on-site facilities and protections are provided during the construction period, in the interest of safety of all users of the adjoining public highway and to protect the environment and the amenities of the adjoining residents. The condition should be pre-commencement since it is essential that the facilities and protections are in place before works begin.
20. The information is required prior to the commencement of the development to ensure that ecological receptors are adequately protected as part of the development. To also mitigate noise and dust impacts in particular to receptor locations during the construction phase.
21. Information is required prior to the commencement of the development to provide a satisfactory access to the site, to provide adequate visibility from and of emerging vehicles and to prevent surface water discharging on to the public highway in the interests of highway safety.
22. To provide opportunities for the reduction of carbon emissions to help combat climate change in accordance with policy DM5 of the Adopted Mid Devon Local Plan 2013-2033.
23. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of the Adopted Mid Devon Local Plan 2013 - 2033.
24. REASON In order to protect wildlife habitats and biodiversity net gains in accordance with policies S1, S9, DM27 and DM28 of the Adopted Local Plan and the National Planning Policy Framework for the lifetime of the proposal.
25. In order to protect wildlife habitats and biodiversity net gains in accordance with policies S1, S9, DM27 and DM28 of the Adopted Local Plan and the National Planning Policy Framework.
26. The information is required prior to the commencement of the development to ensure that ecological receptors are adequately protected as part of the development.
27. In order to secure, the 'strict protection' of European protected species in accordance with the Conservation of Habitats and Species Regulations 2017 and policies S1 and DM1.

28. For the adequate protection of protected species in accordance with Policy S9 of the Adopted Mid Devon Local Plan 2013-2033.

## **INFORMATIVES**

If any private water supplies are provided, the Private Water Supply Regulations 2016 will apply and the applicant must contact the Public Health team at Mid Devon DC for guidance on treatment, risk assessments and water testing.

It is advised that if the applicant is hoping to connect to the clean water network that they advise South West Water and if so the number of supplies they would be looking to connect. When South West Water have this information they will be able to confirm if they can support the proposal and if network reinforcement would be required.

Consider the incorporation of informal features (such as swales) downstream of the proposed cabins that form part of Phase 2 of the development. Maintenance of such features will need consideration.

Consideration should be given to the installation a lockable barrier/gates or possibly drop down bollards at the main entrance to the site for reasons of security.

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

Subject to conditions, the proposed development is able to be supported by Local Plan Policy. It is considered that from a landscape and visual perspective the proposal is sited in a manner that weighs in favour of the proposed development. Whilst the proposal has the ability to cause some visual impact it has been sited to ensure that there is a minimal influence with views of it restricted to partial views from public footpaths and country lanes. The proposed development will be screened further as areas of proposed planting mature. The proposal is also considered to result in a less than substantial impact on the setting of heritage assets. Whilst a number of representations have been received relating to the size of development, loss of farmland, impact on landscape setting (site specific and cumulative), ecology, flooding and the highway network it has generally been concluded that each (either alone or cumulatively) will not 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance. On this basis, Public Health, the Environment Agency, DCC Ecology, DCC Flood Authority and DCC Highway Authority have no objections.

Compelling evidence within the NPPF confirms that whilst it supports a sustainable growth and diversification for rural tourism and leisure developments, not well served by public transport, it may still be permissible if they are sensitive to their surroundings, do not have an unacceptable impact on local roads and exploit opportunities to make a location more sustainable. Whilst it is acknowledged that the proposal has limited opportunity to improve access by sustainable modes of transport Officers would advise that the proposal seeks to mitigate its impact on the wider environment through design, location and planting. The proposal would also deliver benefits in support of other elements of the Council's development plan and the NPPF. On this basis, your Officers consider that the proposal accord with policies S1, S8, S9, DM1, DM3, DM4, DM18,

DM22, DM25, DM26 and DM27 of the Adopted Mid Devon Local Plan (2013-2033) and with 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.

Application No. 23/00511/FULL

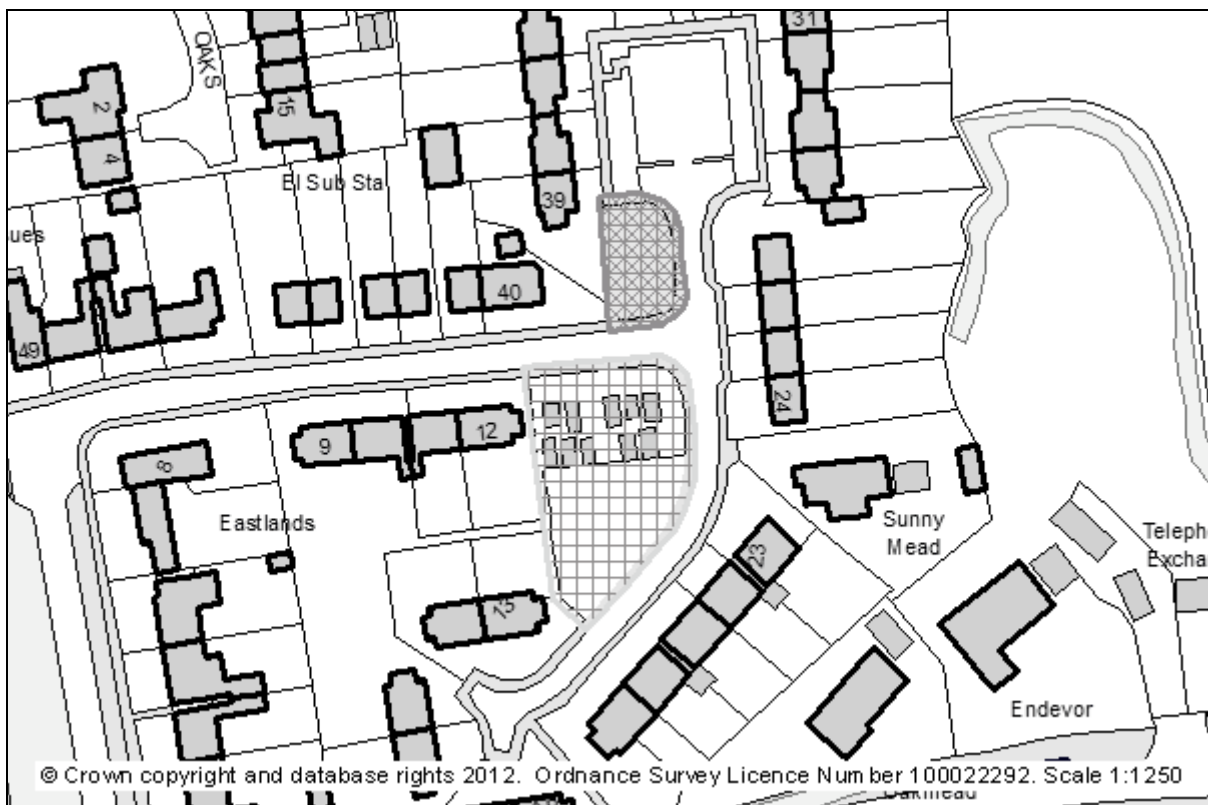
Grid Ref: Easting 313961 : Northing 113446

Applicant: Zed Pods Limited

Location: Land and Garages at NGR 313963 113447  
Eastlands  
Hemyock  
Devon

Proposal: Erection of 5 affordable dwellings following demolition of existing garages with associated parking, landscaping and works

Date Valid: 12<sup>th</sup> December 2023



## **Application No. 23/00511/FULL**

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

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the landowner and the houses will form part of the Council's affordable housing stock.

### **RECOMMENDATION**

Grant permission subject to:

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

- a) Secure a contribution of £17,655 towards secondary education;
- b) Secure a contribution of £2,059 towards secondary school transport costs;

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

### **PROPOSED DEVELOPMENT**

The application relates to the proposed erection of five affordable dwellings following demolition of existing garages with associated parking, landscaping and works at Land and Garages at NGR 313963 113447, Eastlands, Hemyock.

The site lies within the development boundary of Hemyock. It is not within a flood risk area but lies wholly within the Blackdown Hills National Landscape.

The submitted documents indicate that the new dwellings will form part of the Council's housing stock providing social rented housing.

The site lies to the north east of Hemyock Recreation Ground forming part of the Eastlands residential estate and adjacent to the existing public highway. The site is split into two areas separated by the existing highway. The site to the south of the highway is currently a partially hard surfaced parking area with eight marked parking spaces and a partially grassed over area with eleven garage buildings and five areas of non-permeable paving. Several occupiers of the houses in Eastlands pay a yearly rent to for the garages/parking.

The site to the north of the public highway is currently a grassed area with a low metal barrier around its boundary. It is seemingly used as an informal playing area for the residents of Eastlands.

The application seeks the erection of 5 terraced two storey dwellings (3x2-bed and 2x3-bed) together with seven parking spaces to the front of the dwellings, and a dedicated bin store/recycling area to the front of each property and a total of fourteen secured cycle storage spaces to the rear of the proposed dwellings.

The proposed application also seeks the provision of nine parking spaces on land to the north of the proposed dwellings.

There is an existing cycle path route from the south west of the site to the main road and in turn the recreation ground.

## **APPLICANT'S SUPPORTING INFORMATION**

- Application Form
- Design and Access Statement
- Preliminary Ecological Appraisal and Roost Assessment
- Bat Emergence Survey
- Transport Statement
- Flood Risk Assessment
- Underground utilities scan and desktop survey
- Phase 1 Ground Investigation Report
- Climate Emergency Checklist
- Sustainability Technical Note
- Existing and Proposed Landscaping Plans
- Site location plan
- Topographical Survey
- Existing and Proposed Site plan
- Existing and Proposed floor plan
- Proposed Roof Plan
- Proposed Unit Plan
- Topographical and Utilities Survey
- Existing and Proposed Elevations
- Existing and Proposed Ground Floor Plans
- Proposed First Floor Plan
- Proposed Roof Plan
- Proposed Unit Plan
- Proposed Sections

## **RELEVANT PLANNING HISTORY**

**89/00284/FULL** - DEMCON date 31st March 1989  
DEEMED CONSENT for the provision of permanent surface car park

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities  
Policy S2 Amount and distribution of development  
Policy S3 - Meeting housing needs  
Policy S9 – Environment  
Policy S13 – Rural Areas  
Policy DM1 - High quality design  
Policy DM2 – Renewable and Low Carbon Energy  
Policy DM3 - Transport and air quality  
Policy DM4 – Pollution  
Policy DM5 – Parking  
Policy DM27 - Protected Landscapes

## **National Planning Policy Framework**

## **National Planning Practice Guidance**

### **CONSULTATIONS**

#### **HEMYOCK PARISH COUNCIL - 15.02.2024**

23/00511/FULL

Proposal: Erection of 5 affordable dwellings following demolition of existing garages with associated parking, landscaping and works

Location: Land and Garages at NGR 313963 113447 Eastlands Hemyock Devon

Grid Ref: 313961 : 113446

Parish: Hemyock 26

At its meeting on 7 February 2024, Hemyock Parish Council RESOLVED that they were not content with this application, albeit that it was compliant with all planning policies, for the following material planning considerations:

#### 1. Layout and density of building

Whilst the Parish Council welcomes affordable housing to the village, the inability in the current design to provide the additional car parking spaces requested is detrimental.

#### 2. Parking and Highway Safety

The lack of additional parking has resulted in an overall loss of parking and may raise Highway Safety issues.

The Parish Council had made the following comments on the original application which did not appear to have been addressed to date:

##### Condition 1

The allocation of affordable housing is weighted towards those who have a local connection to the village of Hemyock and its immediate surrounds.

The Parish Council would welcome a social media campaign from Devon Housing Choice to advertise the upcoming properties and the need to register with DHC to be considered for such housing.

##### Condition 2

The proposed public parking of 9 parking spaces is completed and open for use by existing residents prior to the commencement of any works with respect to the building of the 5 affordable dwellings and the allocated 7 parking spaces.

The Parish Council would welcome the applicant considering the provision of a further 2 parking spaces taking the total to 18 parking spaces. This would mean that there was no overall loss of public parking in the area.

##### Condition 3

That on site provision is made for workers and that neither the road nor the public spaces are utilised for this purpose.

##### Condition 4

The transport of building material to/from the site takes place between the hours of 9.30am and 2.30pm to avoid key school times.

The actual delivery of the modular units will require MDDC to request a 'no parking order' on several roads into and out of Hemyock from DCC. These dates should be widely publicised in advance so that residents are made aware.

#### Condition 5

The applicant seeks to provide a storage facility within the village of Hemyock to replace the storage facilities lost due to the demolition of the garages.

#### Condition 6

That a rear pathway be provided along the length of the back of the development to allow for the gardens to be accessed from the rear.

#### Condition 7

The footway on the western side of the road opposite the bungalows is removed.

The Parish Council believes Condition 6 would alleviate the need for a pavement in front of the parking spaces at the development and the green area given there is a pathway between the parking spaces and the properties shown on the drawings.

The road is narrow at this point and on-road parking could prevent the passage of emergency vehicles to the bungalows which are occupied by elderly residents and improve safety for the residents of the new homes.

#### Condition 8

The applicant uses their best endeavours to complete the project within a six-month period to reduce disruption to residents.

### **South West Water**

#### **SOUTH WEST WATER - 24.01.2024**

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

#### Surface Water Services

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

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.



It is noted from the Flood Risk Assessment and Drainage Strategy that soakaway testing has not been completed in full. South West Water would request that this is investigated fully, as well as further evidence to confirm that the other points on the hierarchy have been proven unfeasible before a connection to the public combined system can be considered. Please contact us to discuss further.

For Highway run off please contact the Highway Authority to agree disposal method.

<https://eur01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.southwestwater.co.uk%2Fbuilding-and-development%2Fservices%2Fpre-development-services&data=05%7C02%7Cdevcon%40middevon.gov.uk%7C446016d376f34a05503008dc1ce318bc%7C8ddf22c7b00e442982f6108505d03118%7C0%7C0%7C638417008901808168%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=MxB32queaFlcHOKO%2FQoEILQOy2CIIA%2Ffctghh54pfcl%3D&reserved=0>

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team

#### **SOUTH WEST WATER - 28.12.2023**

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

#### **Asset Protection**

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

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant.

[www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/)

Further information regarding the options to divert a public water main can be found on our website via the link below:

[www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/](http://www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/)

Should you require any further information, please contact the Pre Development Team via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

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

#### **Surface Water Services**

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

1. Water re-use (smart water butts, rain water harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal. As the Flood Risk Assessment states the option to soakaways has not been fully investigated. Discharge to the watercourse will also need to be investigated further as the applicant can use South West Water's statutory powers to cross 3rd party land.

In the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant South West Water cannot permit and discharge to the combined sewer.

For Highway run off please contact the Highway Authority to agree disposal method

#### Clean Potable Water

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

#### Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

[www.southwestwater.co.uk/building-and-development/services/pre-development-services](http://www.southwestwater.co.uk/building-and-development/services/pre-development-services)

I trust this clarifies the water and drainage material planning considerations for your LPA, however, if you have any questions or queries, please contact me either on direct line

Alternatively, you can contact the Planning Team

#### **Highway Authority**

Highway Authority - Observations: 19 December 2023

The site is accessed off an unclassified County Road which is restricted to 30 MPH

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none.

This number of dwellings would not create a severe impact on the highway network.

The number of parking spaces proposed meets with the DM5 LPA Policy and has provided more to off set the number of parking spaces that would be lost.

Therefore the County Highway Authority has no objection to this proposal.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

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

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

Officer authorised to  
sign on behalf of the County Council 19 December 2023

### **Public Health**

We have considered the application and the issues raised by local residents, and do not anticipate any environmental health concerns once constructed. We do recommend that the standard CEMP condition is included on any approval in order that the impact of building works on the local community is well managed.

## **Blackdown Hills National Landscape**

Thank you for requesting comments from the Blackdown Hills National Landscape Partnership on this application. Given the location within settlement limits and scale of development, I can confirm that we do not wish to submit any further detailed comments on this occasion in respect of landscape and the AONB. We are content for the planning authority to apply national planning policy and its own development plan policies to the consideration of this proposal.

### **DCC - EDUCATION - 14.02.2024**

Regarding the above planning application, Devon County Council has identified that the proposed increase of 5 family type dwellings would generate an additional 1.25 primary pupil and 0.75 secondary pupils which would have a direct impact on the primary schools within Hemyock and Uffculme School.

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

Uffculme School is not forecast to have capacity for the pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution directly towards additional secondary education infrastructure at the local secondary school. The contribution sought towards secondary is £17,655 (based on the DfE extension rate of £23,540 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

We will also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme School. The costs required are as follows: -

0.75 Secondary pupil

£2.89 per day x 0.75 pupils x 190 academic days x 5 years = £2,059

All education infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to these contributions should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the planning officer, 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 July 2020.

Fourteen public letters of objection have been received, with two from the same property.

The objections raised in the fourteen letters include:

- The existing parking space in Eastlands is inadequate. The current capacity is already insufficient for the needs of the residents, and the addition of further dwellings without the

provision of adequate additional parking will exacerbate the issue, leading to increased congestion and potentially hazardous situations for vehicular and pedestrian traffic alike.

- The current configuration of the area presents significant challenges to emergency services access. The addition of more dwellings would likely impede the prompt and safe access of ambulances, fire engines, and essential nursing support or carers for our considerable elderly population. The health and safety of the residents should be a paramount consideration in any planning decision.
- While I understand and support the need for affordable housing, it is imperative that such development does not compromise the welfare and safety of existing residents. I urge the Planning Committee to reconsider the proposal with these critical concerns in mind.
- Taking away a large grassed area that children play on.
- Spoiling our view out the bedroom window towards the hills
- Whilst I recognise that more housing is required as the population increases, the infrastructure also has to increase and as a rural village, Hemyock is already too large for the roads and services to cope.
- 10 of the 12 garages are occupied and lack of parking has been an issue for a few years now, therefore removing the garages and the existing car park is only going to exacerbate the problem.
- I suspect that Mid Devon Council will go ahead with this plan regardless of the objections but it would be reasonable to give the existing garage tenants alternative options.
- The area of amenity ground opposite the garages which is being proposed as extra parking is not something I object too as it is too wet in the winter to even walk across and children rarely use it.
- The proposed layout of the extra parking has not been thought about. Leaving the existing pavement around the outside of a car park is quite frankly dangerous. The pavement needs to be continued along the fence line of no 39 as during the summer everyone cuts across the grass anyway.
- Also the current turning 'T' is never used for turning, it's used for parking so I would suggest removal of the curbs that create the current car park entrance and have a continuous line of parking spaces all facing the same direction.
- I would also like to make you aware of the covenant/tenancy rules on these properties that relate to the parking of vehicles on front gardens. Many of the houses have a car sized space at the front that is perfect for parking but due to the rules, cannot currently use for parking. Lifting the covenants and allowing tenants/homeowners to put a parking space in place at their own cost would also ease up the parking issues. I fail to see any logical reason why the properties that have the space are not allowed to do this.
- At the previous online consultation, we were repeatedly told that the garages were 'underutilised' and the truth was falling on deaf ears. 10 out of 12 are occupied and we, the tenants of those garages have not had our question answered, 'Where do we put all the possessions we have in our garages when you decide to demolish them?'
- No thank you to a play area opposite the OAP bungalows, they have plenty of room for that
- Take down the garages and extend the car park
- There were suggestions of the current houses having parking added alongside their houses but this has not been taken into consideration and we have seen no progress on this.
- There is nowhere to park outside of Eastlands as the main road is such a long way away and a really busy route for traffic so you cannot force people to park out there. I have a medical condition and I find walking long distances, particularly in the cold, extremely problematic so I will be disappointed if these additional houses mean I can no longer park near my home.
- From discussing this with my neighbours, the residents are not happy with this suggestion. However, I do fear that quite a few people will not be able to adequately voice their opinion

as these must all be submitted digitally. This site is extremely difficult to navigate, a lot of the residents of Eastlands are elderly (there are quite a few bungalows) and they struggle with computers or are not at all computer literate so I am not sure you will get an honest picture of just how upset everyone is by this.

- At the moment it is a welcoming community of friendly neighbours however I worry these plans will lead to multiple petty disputes over parking and dangerous risks to the local children as cars try and navigate out of additional parking spots they have created on pavements.
- The comments from the Highways agency regarding parking are incorrect on 2 counts. Residents will have less parking spaces not more, also Eastlands is accessed from a road restricted to 20mph not 30mph as stated.
- The drainage in this area is also an issue with several drains being completely blocked, some drains are not even visible any more as they have become full and completely covered with mud and all the grass areas become completely water logged extremely quickly with anything more than the lightest rain.
- There are Hedgehogs living in the proposed development area. Hedgehogs are a protected animal under schedule 6 of the wildlife and countryside act 1981.
- There are a number of residents in the immediate vicinity who suffer with mental health issues, if this development is allowed to go ahead it will have long term negative effects on their mental health due to the disruption caused/loss of parking etc.
- The infrastructure of the village can barely cope with the amount of people currently living here. The addition of the new "estate" off Culmbridge road by the cemetery has already brought a large number of new families to the village. The local doctor's surgery is difficult enough to get an appointment with as it is, without bringing even more families into the village. The school is at bursting point and Public transport is virtually non existent.
- Access to the village is via narrow country roads in all directions. These roads are already struggling to cope with the constant stream of cars and articulated heavy good vehicles attempting to access Dunkeswell and Brookridge timber (where vehicles have to travel past the end of Eastlands onto an unclassified country road). Further additions to the traffic on these roads will have a negative effect on accessing the village, especially the emergency services.
- The proposal aims to offset this reduction of parking by converting the existing greenspace into parking - therefore revoking a field currently used frequently by children for play, as well as for walking their dogs as there is no other open greenspace near the area allowing both children and pets. The removal of this greenspace will not only mean the children of the road will have no where left to play, it will also greatly reduce the greenspace in the area. This is likely to lead to a reduction in mental health due to less exposure to green space, as is supported here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5663018/>.
- Furthermore the traffic and noise impact of the building of the houses is likely to be significant, especially as someone who works from home and will have my ability to conduct work calls impacted by this noise. Additionally to people along the road who work from home and will have their ability to work reduced by the noise.
- There are also neurodivergent children who are likely to struggle with the extended periods of construction noise, which may therefore cause negative health impacts for them.
- The road leading to Eastlands is already in a very poor state, constantly having reappearing potholes and causing damage to cars - this is likely to get worse, both due to construction traffic and increased sustained traffic due to additional housing.
- In addition to this the majority of the garages planned for demolition are currently in use - it is unclear what the council proposes the current habitants of the garages do with their belongings and vehicles once that space is destroyed.
- While I understand the need for additional reasonably priced housing, Eastlands is not an appropriate location for these, we are already suffering from a lack of parking, and the

building and existence of the houses would significantly detriment the existing residents of the road, as well as increasing risk to children through potential health impacts of construction, and sustained increased traffic in the area.

- Furthermore I have two neurodivergent children who would negatively impact the loud noise from all the construction right outside their safe haven. I also very much rely on the green area outside of my home as a safety net for my children as due to their disabilities they have no hazard awareness and will run out of our garden and if you take away the green area my children will then be running out into a car park instead of a safety zone they are comfortable and safe with.
- Having to empty the garage means more buildings in gardens
- Why don't you let people park in gardens
- Also concerned with house prices too
- Losing parking spaces and gaining more cars will have a knock on affect with cars be parked in Southview, parish Hall car park and even probably Culmbridge Road. It's just a matter of time before there would be accidents on this road.
- No reference has been made to the flooding of the carpark and this development will add to this already intolerable problem. The land drains in the carpark are full up with silt any rain causes flooding
- The footpaths which are safe for young children under your new plans now children have to walk in front of parked cars putting them in danger again this was brought up at the meeting you agreed it was a good idea at the time but have failed to implement it please revise your plans placing footpaths behind parked cars as asked for.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Principle of development**
- 2. Design and amenity**
- 3. Impact on protected species and habitats/biodiversity**
- 4. Highways and parking**
- 5. Blackdown Hills National Landscape**
- 6. Flood risk and Drainage**
- 7. Climate Change**
- 8. Other matters**
- 9. Conclusion**

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

- 1.1 S.38 [6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.
- 1.2 In 2020 the Council adopted the Mid Devon Local Plan 2013-2033 and this takes priority in decision making.
- 1.3 Policies S1 and S2 of the Mid Devon Local Plan 2013-2033 seeks to deliver sustainable development including through meeting the housing needs of all sectors of the community and delivering development of an appropriate density for the location.

- 1.4 Policy S13 Rural Areas states that Hemyock will be designated as a village suitable for limited development. Development will be limited to proposals within their defined settlement limits and to allocations for a) small scale housing. The explanatory text indicates that Hemyock is considered to be appropriate for a limited level of development, based on its physical characteristics, and the availability of three identified essential services including educational facility, convenience store and transport service.
- 1.5 Policy S9 requires 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.
- 1.6 The proposed development seeks to erect five two storey dwellings (2 x 3-bed and 3x2-bed) to add to the Council's affordable housing stock on land at Eastlands, Hemyock and is therefore acceptable in principle subject to other material planning considerations.

## **2. Design and Amenity.**

- 2.1 The proposed dwellings are sited approximately 7m east of No 12 Eastlands, approximately 13m south of No 40 Eastlands and approximately 23m west of No 24 Eastlands. The proposed dwellings would be two storey and would have a ridge height of approximately 7.3m.
- 2.2 The proposed two storey building would measure approximately 30.1m by 9.3m, totalling 256.5m<sup>2</sup> at each floor. The proposed building will provide five separate dwellings (3 x 2-bed and 2 x 3-bed). The two 3-bed dwellings would provide a total floor area of approximately 94.4m<sup>2</sup> (47.2m<sup>2</sup> per floor). The three 2-bed dwellings would provide a total floor area of approximately 82.2m<sup>2</sup> (41.1m<sup>2</sup> per floor). The ground floor provides a kitchen, a lounge/diner, an entrance hall and a downstairs toilet. The first floor provides either two bedrooms and a bathroom or three bedrooms and a bathroom.
- 2.3 The proposed dwellings meet the Nationally Described Space Standards as required by Policy DM1 of the Local Plan. There is stepped access to the properties due to the topography of the site.
- 2.4 The proposed west elevation (front) has one window and a single door at ground floor, two windows at first floor and 12 solar panels on the roof slope of each dwelling. The east elevation has a window and double doors at ground floor, two windows at first floor and 10 solar panels on the roof slope of each dwelling. The proposed north and south elevations (side) are blank.
- 2.5 The proposal also includes the erection of a 1.8m high timber fence with vertical featheredge board and flat top tall wooden gates around the boundaries of the site. Additionally, the proposal includes the provision of secure cycle shelters to the rear of each property and an area to the front of the properties for the storage of waste/recycling bins.
- 2.6 The proposal also includes the demolition of the eleven garage buildings and removal of five surfaced areas.
- 2.7 Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution



to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

- 2.8 The proposed materials for the new dwelling will match those of the surrounding properties through the use of painted render on the elevations. The roof will be constructed with a metal standing seam roof range and the windows and doors will be anthracite grey in colour. The windows will be triple glazed and the entrance door will be obscure glazed.
- 2.9 It is considered that the proposed development demonstrates a clear understanding of the characteristics of the site, its wider context and the surrounding area in accordance with policy DM1 of the Local Plan.
- 2.10 Policy DM2 of the local plan relates to renewable energy development such as solar arrays and is supportive of such development subject to proposals demonstrating that impacts are or can be made acceptable in relation to:
- a) Landscape character and the character and setting of heritage assets;
  - b) Environmental amenity of nearby properties and the wider locality;
  - c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and
  - d) Biodiversity (avoiding habitat fragmentation).
- 2.11 A summary assessment has been carried out below:
- a) The site lies within the Hemyock settlement boundary and within the Blackdown Hills National Landscape. The panels are proposed on the front and rear facing roof slopes of the new dwellings and would be seen in context with the urban nature of the surrounding area.  
  
The impacts on landscape character and heritage assets have been carefully considered. The proposed works would not cause any unacceptable adverse harm to landscape character or Blackdown Hills National Landscape. Given its relatively small scale and its siting within a residential estate, the visual impact is considered to be acceptable.
  - b) Given the small scale nature of the development, there are no concerns in terms of impact on the environmental amenity of the wider locality or on the amenity of nearby properties. The panels are considered to result in a positive impact in terms of renewable energy.
  - c) The solar panels will be sited on the roof of the dwellings and as such does not result in the loss of agricultural land.
  - d) The panels are sited on the roof of the dwellings and it is not considered that there would be any loss of biodiversity. The new dwellings would be erected on an area of compacted land that has grown over with grass in places. The area of land lost is minor and it is considered that any biodiversity loss would be minimal. To ensure policy compliancy in terms of an overall net gain a condition will be added requiring the proposed development to be carried out in accordance with the recommendations set out in the submitted ecology reports and biodiversity net gain report.
- 2.12 It is considered that the impacts of the installation of the proposed solar panels are acceptable and therefore the proposal accords with policy DM2 of the Local Plan.

- 2.13 Clause (e) of Policy DM1 of the Local Plan states that new development should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.
- 2.14 The proposed site forms part of a residential estate (Eastlands) and has neighbouring properties on all sides. The east and west elevations have windows at both first and ground floor. The proposed east and west elevations face towards other properties in Eastlands however, the existing surrounding properties have windows at ground and first floor and it is not considered that the addition of five dwellings would have an adverse effect on the privacy and amenity of neighbouring properties above that as existing. The proposal therefore accords with policy DM1 of the Local Plan.
- 2.15 Overall, it is considered that the provision of five affordable dwellings within Hemyock is acceptable in principle. The proposed development demonstrates a clear understanding of the characteristics of the site, its wider context and the surrounding area, would have an acceptable impact on landscape character, environmental amenity, the setting of heritage assets and would not include the loss of any agricultural land. Additionally, the proposed development would not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties. The proposal therefore accords with policies S1, S2, S3, S13, DM1 and DM2 of the Local Plan.

### **3. Impact on protected species and habitats/biodiversity**

- 3.1 Policy S9 of the Local Plan relates to the environment and clause f) states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through 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. Policy DM1 Clause c) requires new development to demonstrate a positive contribution to local character including biodiversity assets.
- 3.2 The application includes the demolition of the eleven garage buildings.
- 3.3 A preliminary ecological appraisal and preliminary roost assessment has been submitted alongside the application and indicates that:
- 3.4 The proposed development will result in the demolition of the garages. No evidence of bats were within the preliminary ecological assessment, however three units were valued as having a "reasonable" likelihood for the presence of bats, the following has been recommended: One bat emergence or re-entry survey is required during the active bat season (optimal May to August, suboptimal September) to confirm presence or likely absence of a bat roost in the buildings. This will be a dusk emergence survey.
- 3.5 A bat emergence survey was carried out by Western Ecology which states that a single precautionary bat emergence survey was carried out on 27<sup>th</sup> June 2023 during which time no bats emerged from the buildings. It is reasonable to conclude that it is extremely unlikely that bats are roosting in association with these structures. Works can proceed with negligible risk to bats and does not require a method statement for bats or a European Protected Species licence.
- 3.6 No mitigation is required for bats. However, it should be noted that in any building individual bats could occasionally roost or move in at any time, and recommendations are made within Section 5 of the report.

- 3.7 The report also sets out that a small area of modified grassland will be removed during construction and that the loss of such habitats is likely to be inconsequential to local badger and hedgehog populations owing to its small area and low value and the presence of more extensive habitat locally. No evidence of badgers or hedgehogs have been found on site. Precautionary working methods are recommended to be implemented for the avoidance of harm during construction.
- 3.8 The report sets out recommendations and enhancements including additional precautionary working methods in relation to works being undertaken outside the bird-nesting period (1<sup>st</sup> March to 31<sup>st</sup> August inclusive).
- 3.9 Biodiversity Net Gain (BNG) will be achieved by the proposed development and is set out within the separate BNG documentation prepared by Arbtech Consulting Ltd.
- 3.10 It is considered that a condition could be added to any grant of planning permission requiring the proposed development to be carried out in accordance with the recommendations of the PEA/PRA, Emergence Survey Report and Biodiversity Net Gain Assessment.
- 3.11 Subject to the imposition of conditions it is considered that the proposed development seeks to protect, enhance and positively contribute to biodiversity in accordance with policies S9 and DM1 of the Local Plan.

#### **4. Highway Safety**

- 4.1 The proposal must not adversely affect the safe functioning of the highway and provide appropriate parking facilities in line with PolicyDM5 of the Local Plan 2013-2033 which sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling but allows for some variation on a case by case basis dependent upon the accessibility of the site and the type, mix and use of a site.
- 4.2 Policy DM3 of the Local Plan relates to transport and air quality and states that development must ensure safe access to the transport network.

The County Highway Authority have commented on the application and state “The site is accessed off an unclassified County Road which is restricted to 30 MPH.

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none.

This number of dwellings would not create a severe impact on the highway network.

The number of parking spaces proposed meets with the DM5 LPA Policy and has provided more to offset the number of parking spaces that would be lost.

Therefore the County Highway Authority has no objection to this proposal”.

- 4.3 The Highways Authority have no objections to the proposed development as submitted but have recommended the imposition of a prior to commencement condition for the submission of a construction management plan. This will be added to any grant of planning permission.

- 4.4 Several public letters of representation have been received from the residents of properties at Eastlands and from those who currently rent the existing garages/informal parking spaces objecting to the proposed development specifically in relation to the parking arrangements.
- 4.5 Part of the existing site is a formalised parking area with eight designated vehicle parking spaces.
- 4.6 The proposed development would provide seven parking spaces in front of the dwellings and nine parking spaces within a parking area. The parking would be available to the residents of both the new dwellings and Eastlands replacing those designated eight spaces lost and providing eight more.
- 4.7 Representations have been submitted in relation to covenants on the existing properties at Eastlands relating to no parking of vehicles in front gardens.
- 4.8 The Council could consider providing additional parking and/or lifting restrictive covenants at Eastlands to alleviate parking issues and residents' concerns. This is not however a material planning consideration.
- 4.9 A transport statement has been submitted alongside the application. The statement indicates that "the proposed parking provision will not be restricted to future occupants of the dwellings".
- 4.10 The statement also indicates that the "garages are no longer used to store cars (given their age, condition and size).
- 4.11 The traffic generated by the proposed site will be no more than a worst-case scenario of 5 departures in the AM peak and 5 arrivals in the PM peak and will not result in any highways capacity concerns. The site currently has approx. 9 parking spaces plus garages and as such will currently generate a level of traffic.
- 4.12 Traffic generated by the site is well within the normal daily fluctuations in traffic flows that could be expected on the surrounding local highway network. The impact of the traffic generated by the site is therefore considered to be negligible and immaterial".
- 4.13 The report concludes that the proposal consists of five dwellings with associated parking plus additional parking areas for both future and existing residents.
- 4.14 This Transport Statement considers the existing highway conditions in terms of the road layout, walking and cycling access, public transport facilities. The development site complies with the transport policies due to the sustainable location of the site with good quality facilities for travel by modes other than the single occupancy private car trips.
- 4.15 In conclusion the Transport Statement considers, it has been demonstrated that the proposed development is considered to be acceptable in terms of transport sustainability, highway safety and traffic impact, and that there are no reasons why planning consent for the proposed development should not be granted".
- 4.16 Overall, the existing site provides 8 formalised parking spaces. These are to be replaced with 16 new unallocated parking spaces to serve both the new houses and to off-set the loss of the existing parking.

- 4.17 Policy DM5 which requires 1.7 parking spaces (rounded up to two) per dwelling equating to a total of 8.5 parking spaces rounded up to 9 spaces. This leaves a surplus of 7 parking spaces which will replace the existing parking. This would lead to the provision of 1 less parking space than existing, however, the proposed dwellings are sited in a sustainable location with access to public transport options, are within walking distance of a range of facilities, amenities and services. The reduction of 1 parking space in this location is not considered to be reasonable grounds for refusal. It is also noted that the Highway Authority have no objection to the proposed development. On that basis, it is considered that the proposed development satisfactorily accords with policies DM3 and DM5 of the local plan.
- 4.18 Overall the proposed development results in a loss of up to 6 parking spaces including the informal spaces in front of the existing.

## **5. Blackdown Hills National Landscape**

- 5.1 Policy DM27 of the Local Plan relates to protected landscapes and states that development proposals affecting the Blackdown Hills National Landscape must demonstrate that a) cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and b) biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation.
- 5.2 Paragraph 182 of the National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Landscape's.
- 5.3 The application proposal relates to the erection of 5 two-storey terraced dwellings to add to the Council's affordable housing stock. The dwellings would form part of an existing residential estate.
- 5.4 The Blackdown Hills National Landscape Partnership has commented on the application and states "Thank you for requesting comments from the Blackdown Hills National Landscape Partnership on this application. Given the location within settlement limits and scale of development, I can confirm that we do not wish to submit any further detailed comments on this occasion in respect of landscape and the AONB. We are content for the planning authority to apply national planning policy and its own development plan policies to the consideration of this proposal".
- 5.5 It is considered that the proposal would conserve the existing character and appearance of the National Landscape through its use of some matching materials and its siting would be seen in context with the surrounding land use. It is considered that the proposed development will not have an adverse impact on the National Landscape or its setting and the National Landscape is conserved in line with national policy and local plan policy DM27.

## **6. Flood Risk and Drainage**

- 6.1 A flood risk assessment (FRA) and drainage strategy report has been submitted alongside the application.

- 6.2 The report concludes that the proposed development site lies wholly within Flood Zone 1 and that the FRA demonstrates that the proposed development is at a negligible to low risk of flooding from all sources.
- 6.3 The report also states that all methods of surface water discharge have been assessed and where soakaways are not possible, discharge of surface water to the public sewer at a rate of 1.9 l/s subject to agreement with the LLFA and SWW.
- 6.4 The report sets out recommendations in relation to finished floor levels and a drainage strategy including undertaking infiltration testing. These recommendations will be conditioned to any grant of planning permission.
- 6.5 South West Water have commented on the application and state that “Having reviewed the applicant’s current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal. As the Flood Risk Assessment states the option to soakaways has not been fully investigated. Discharge to the watercourse will also need to be investigated further as the applicant can use South West Water’s statutory powers to cross 3rd party land.
- 6.6 In the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant South West Water cannot permit and discharge to the combined sewer”.
- 6.7 Officers raised this with the agent who has indicated that they do understand that further evidence of soakaway testing has been advised by SWW. The agent has suggested that a condition requesting this information would be best on the basis that this would be most appropriately conducted once the sites are fully vacant.
- 6.8 It is considered that this approach is acceptable and a prior to construction condition, requiring the agent/applicant to submit a final drainage scheme informed by percolation testing as required by SWW will be added to any grant of planning permission.

## **7. Climate Change**

- 7.1 Policy S9 requires 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.
- 7.2 The application submission includes a climate emergency checklist and sustainability technical note. The statement considers that the proposed dwellings are constructed in line with the applicants zero carbon strategy including measures that incorporate renewable energy technology.
- 7.3 The siting of the proposed dwellings is conducive to providing a more energy efficient and sustainably constructed dwelling, the proposal includes solar panels to maximise solar gain alongside triple glazed windows for heat efficiency.
- 7.4 The proposal includes secure cycle storage space to encourage the reduction in the number of vehicle movements generated.
- 7.5 The sustainability technical note provides calculations in relation to the energy provision of the solar panels and the energy consumption of both 2 bed and 3 bed properties. It indicates

that the calculations demonstrate that the proposed energy production will be met by the installation of solar photovoltaic panels atop each roof which will generate a total of **21,863 kWh/Year** according to Calculations performed using the PVGIS tool. This will produce more energy than is consumed on site, resulting in both an energy surplus/ export to the grid of **4,553 kWh/Year** and providing an offset of the remaining energy demands ensuring the proposed development is Net Zero Operational Carbon.

- 7.6 The proposed landscaping plan seeks to increase the biodiversity of the site by providing a mix of amenity grassland, planted borders with mix of native perennial flowering shrubs and plants, wildlife friendly planting of Specimen shrubs to attract bee and bug populations, hedgerows and six trees as a biodiversity net gain to ensure there is no adverse environmental impact created.
- 7.7 The biodiversity net gain assessment submitted alongside the application indicates that there would be 18.28% net gain in areas of habitat and a 100% net gain in hedgerows through the proposed development.
- 7.8 Paragraph 157 of the National Planning Policy Framework requires that “the planning system should support the transition to a low carbon future in a changing climate taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
- 7.9 There would be an impact on the climate from the construction process and sourcing of construction materials. However, the proposal is of a relatively small scale nature and would provide new dwellings with a high level of thermal efficiency. The proposal also includes the provision of solar panels to off-set reliance on less environmentally friendly energy sources.

## **8. Other Matters**

- 8.1 Hemyock Parish Council have commented on the application and have stated that they have noted comments from residents on the Council’s website and those given verbally to Parish Councillors and with those in mind ask that we consider the list of conditions proposed in their response.

- 8.2 The conditions set out by the Parish Council are:

### Condition 1

The allocation of affordable housing is weighted towards those who have a local connection to the village of Hemyock and its immediate surrounds.

The Parish Council would welcome a social media campaign from Devon Housing Choice to advertise the upcoming properties and the need to register with DHC to be considered for such housing.

### Condition 2

The proposed public parking of 9 parking spaces is completed and open for use by existing residents prior to the commencement of any works with respect to the building of the 5 affordable dwellings and the allocated 7 parking spaces.

The Parish Council would welcome the applicant considering the provision of a further 2 parking spaces taking the total to 18 parking spaces. This would mean that there was no overall loss of public parking in the area.

Condition 3

That on site provision is made for workers and that neither the road nor the public spaces are utilised for this purpose.

Condition 4

The transport of building material to/from the site takes place between the hours of 9.30am and 2.30pm to avoid key school times.

The actual delivery of the modular units will require MDDC to request a 'no parking order' on several roads into and out of Hemyock from DCC. These dates should be widely publicised in advance so that residents are made aware.

Condition 5

The applicant seeks to provide a storage facility within the village of Hemyock to replace the storage facilities lost due to the demolition of the garages.

Condition 6

That a rear pathway be provided along the length of the back of the development to allow for the gardens to be accessed from the rear.

Condition 7

The footway on the western side of the road opposite the bungalows is removed.

The Parish Council believes Condition 6 would alleviate the need for a pavement in front of the parking spaces at the development and the green area given there is a pathway between the parking spaces and the properties shown on the drawings.

The road is narrow at this point and on-road parking could prevent the passage of emergency vehicles to the bungalows which are occupied by elderly residents and improve safety for the residents of the new homes.

Condition 8

The applicant uses their best endeavours to complete the project within a six-month period to reduce disruption to residents.

8.3 Following discussions with the agent the following comments are made in respect of the suggested conditions:

Condition 1 - a condition has been added requiring the housing to be affordable in nature and requires demonstration of eligibility to occupy.

Condition 2 – a condition will be added requiring the new 9 proposed parking spaces to be completed prior to works commencing on the construction of the dwellings.

Condition 3 – It is considered unreasonable to add this condition. The CEMP condition will allow parking arrangements for construction workers and contractors.



Condition 4 – operating hours will be considered as part of the CEMP condition. No additional condition required.

Condition 5 – a condition will not be added requiring the applicant to provide additional storage facilities. The agent indicates that there are two alternative garage sites operated by MDDC within Hemyock which are available for local residents to register onto a waiting list.

Condition 6 – a condition will not be added requiring the provision of a rear pathway

Condition 7 – a condition will not be added requiring the provision of a pathway between the parking spaces and the properties shown on the drawings.

Condition 8 – a condition will not be added requiring the project to be completed within a six-month period. A standard time limit condition allows the applicant 3 years to commence the permission once granted and this would be the case with this application. Additionally, a CEMP will manage and mitigate construction impacts on residents.

#### 8.4 DCC Education contributions:

##### DCC - EDUCATION - 14.02.2024

Regarding the above planning application, Devon County Council has identified that the proposed increase of 5 family type dwellings would generate an additional 1.25 primary pupil and 0.75 secondary pupils which would have a direct impact on the primary schools within Hemyock and Uffculme School.

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

Uffculme School is not forecast to have capacity for the pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution directly towards additional secondary education infrastructure at the local secondary school. The contribution sought towards secondary is £17,655 (based on the DfE extension rate of £23,540 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

We will also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme School. The costs required are as follows: -

0.75 Secondary pupil

£2.89 per day x 0.75 pupils x 190 academic days x 5 years = £2,059

All education infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to these contributions should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

- 8.5 The agent has confirmed that the education contributions sought by the County Council are acceptable to the Applicant.
- 8.6 A scheme of this size would require a S106 planning obligation to be secured and include the above agreed contributions.

## **9. Conclusion**

- 9.1 The proposal is acceptable in principle as the site is considered to be a sustainable location and will be within the defined settlement limit of Hemyock, where residential development is supported in accordance with policies S1, S2, S3 and S13 of the Local Plan. Whilst the site sits within a relatively close residential context, it is considered that five dwellings could be accommodated on the site.
- 9.2 The proposal respects the character, scale, setting and design of the existing adjacent dwellings. The proposed development will not significantly impact on any neighbouring properties or adversely affect ecological interests, highway safety interests, flood risk or surface water management subject to the imposition of conditions.

Additionally, the proposed development would conserve the existing character and appearance of the National Landscape through its use of some matching materials and its siting would be seen in context with the surrounding land use in accordance with national policy and local plan policy DM27.

- 9.3 The proposed development is acceptable in principle subject to the imposition of conditions under Local Plan policies S1, S3, S9, S13 DM1, DM2, DM3, DM5 and DM27.
- 9.4 Summary reason for approval:

The proposal is acceptable in principle as the site is considered to be a sustainable location and will be within the defined settlement limit of Hemyock, where residential development is supported.

The proposal respects the character, scale, setting and design of the existing adjacent dwellings. The proposed development will not significantly impact on any neighbouring properties or adversely affect ecological interests, highway safety interests flood risk or surface water management subject to the imposition of conditions.

Additionally, the proposed development would conserve the existing character and appearance of the National Landscape. The proposed development is acceptable in principle under Local Plan policies S1, S3, S9, S13 DM1, DM2, DM3, DM5 and DM27.

## **CONDITIONS**

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

3. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and
  - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (k) details of wheel washing facilities and obligations
  - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (m) Details of the amount and location of construction worker parking.
  - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
  
4. Prior to the construction of the new dwellings taking place, the proposed nine (9) parking spaces located to the north, as indicated on the approved Site Plan 'Z34-ZP-A1-XX-DR-A-010- S1- P05', shall be completed and made available for the use of residents of Eastlands.
  
5. The development, hereby approved, shall be carried out in accordance with Section 4.0 Conclusions, Impacts and Recommendations of the Preliminary Ecological Appraisal and Preliminary Roost Assessment carried out by Arbtech and dated 02/12/2022. The development should be carried out in accordance with Section 5 Recommendation and mitigation of the Bat Emergence Survey carried out Western Ecology dated 27<sup>th</sup> June 2023. The development shall also be carried out in accordance with the Biodiversity Net Gain Assessment carried out by arbtech dated 14/01/2024.
  
6. The development, hereby approved, shall be for affordable housing and retained as such. The development shall not be occupied until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the NPPF (2023) as set out in Annex 2 or any future guidance that replaces it. The scheme shall include: i. the numbers, type and tenure of the affordable housing provision to be made; ii. The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved); iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and PEFULZ

- iv. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
7. Prior to the dwellings hereby permitted being first occupied, final detailed design for surface water drainage, including measures to prevent the discharge of surface water onto the highway, shall be installed in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such detailed drainage scheme shall be designed in accordance with the recommendations in Section 7.2 of the Flood Risk Assessment and Drainage Strategy carried out by DeltaSimons for Land adjacent to 12 Eastlands, Hemyock dated December 2022. Such detailed drainage scheme shall also be supported by clear evidence to demonstrate that the surface water run-off will discharge as high up the drainage options listed within the South West Water Run-off Destination Hierarchy as is reasonably practicable. Following its installation, the approved drainage scheme shall be permanently retained and maintained thereafter.

## **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 and to safeguard the character of the listed building in accordance with Policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
3. To ensure that the proposed development does not adversely affect highway safety or its users in accordance with Policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033. This is required to be agreed prior to commencement of development to ensure that appropriate measures are in place to avoid adverse impacts on highway safety or its users, during demolition and construction.
4. To ensure that there are parking spaces available to the residents of Eastlands following the re-development of the formal parking area.
5. To enable biodiversity net gain within development in accordance with Mid Devon Local Plan 2013-2033: Policy S9 Environment and national policy.
6. To retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework, as an open market scheme would require a financial contribution towards other infrastructure requirements.
7. To ensure the proposed development does not increase risk of flooding or surface water on site without adequate mitigation and to ensure the proposed development disposes of surface water as high up the run-off destination hierarchy as possible in accordance with Mid Devon Local Plan 2013-2033: Policy S9 Environment

## **INFORMATIVES**

The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).

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

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant 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".

Application No. 23/00126/FULL

Grid Ref: 296353 : 113441

Applicant: Zed Pods Limited

Location: 2 - 8 Beech Road  
Tiverton  
Devon

Proposal: Erection of 8 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works

Date Valid: 29th November 2023



## **APPLICATION NO: 23/00126/FULL**

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

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the land owner and the houses will form part of the Council's affordable housing stock.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

This application is for the erection of 8 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works at 2 - 8 Beech Road, Tiverton.

The block of dwellings is sited close to the junction of Beech Road with Moorhayes Bungalows, and has a grassed area of informal open space containing parking spaces and a small tree between it and the road junction. Moorhayes Bungalows comprises a row of terraced and semi-detached, single storey brick and tile roofed dwellings set back from the road with enclosed front gardens. The road serving the Moorhayes Bungalows also provides vehicular and pedestrian access to the neighbouring single storey Kingdom Hall of Jehovah's Witnesses. To the south on the opposite side of Beech Road is the junction with Sycamore Road and the 'One-Stop' convenience store and attendant parking area. The site comprises level ground with the surroundings mainly being residential. The site lies within the settlement boundary for Tiverton.

The proposal is for the demolition of the existing block of 4 dwellings and the erection of a block of 8 No. dwellings in a 2-storey block comprising 4 No. 1-bed/2person units of 50m<sup>2</sup> Gross Internal Floor Area (GIFA); and, 4 No. 2-bed/4person units of 70m<sup>2</sup> GIFA; and, the provision of 9 No. car parking spaces accessed from the rear off the Moorhayes Bungalows road. In addition, a small area of public open space on the corner of the junction of Beech Road and Moorhayes Bungalows would be retained. All of the units are built to be national space standard compliant and are intended for social rent as part of the HRA portfolio. Solar PV panels would be installed on the roof slope of the building.

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

Completed application form, Plans, Design and Access Statement, Arboricultural Survey, Flood Risk Assessment and Drainage Strategy, Ground Investigation Desk Study, Groundwise Utility Report, Wildlife Trigger Table, Preliminary Ecological Appraisal and Preliminary Roost Assessment, Sustainability Technical Note, Bat emergence survey, Transport Statement, Biodiversity Net Gain Assessment, Biodiversity Metric, Climate Emergency Check List.

### **RELEVANT PLANNING HISTORY**

There is no relevant planning history on this site

## **DEVELOPMENT PLAN POLICIES**

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

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

### **Tiverton Neighbourhood Plan 2020 to 2033**

T1 - Location and scale of development in Tiverton  
T2 - Meeting local housing needs  
T3 - Providing lifetime affordable housing  
T4 - Character of development  
T5 - Design of development  
T6 - Energy efficiency and design  
T7 - Minimising the risk of flooding  
T9 - Network of green and blue infrastructure  
T16 - Encouraging safe and sustainable movement

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

### **Tiverton Town Council** – 19<sup>th</sup> March 2024

Not in keeping with the area. The plans for these dwellings show rooms that are below the minimum size, and are therefore not in line with the Tiverton Neighbourhood plan. Whilst agreeing that we need small affordable housing, they do need to be to a standard. Tiverton Town Council therefore is unable to support this application.

### **Tiverton Town Council** – 19th December 2023

Not in keeping with DM1. Access problems. Would increase traffic on an already busy road. Over development. Unable to support.

### **Local Highway Authority** – 19th March 2024

The County Highway Authority has no objections to the revised drawings



**Local Highway Authority** – 8th February 2024

Having reviewed this site and situation including the availability for informal parking within the vicinity and the now proposal to provide effectively 1 parking space and 1 visitor space per dwelling would now be resolved with the proposal and would have no objection to this application.

**Local Highway Authority** -18th December 2023

Observations:

The site is accessed off an unclassified County Route which is restricted to 30 MPH

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none.

The proposal for 8 dwellings would not have a severe impact on the highway network or a highway safety concern.

I do have concerns with the proposed car parking is not in line with the DM5 policy and also there will be a loss of communal parking in the area and the proposal does not show these parking spaces are replaced. Parking looks to be a premium here and therefore this could cause a more parking on the highway.

Therefore the County Highway would recommend refusal for lack of parking.

Recommendation:

The Director of Climate Change, Environment and Transport, on behalf of Devon County Council, as Local Highway Authority, recommends that permission be refused for the following reasons:

The proposal would result in the loss of vehicle parking facilities and would therefore encourage parking on the highway, with consequent risk of additional danger to all users of the road contrary to the National Planning Policy Framework.

**Public Health** – 16th December 2023

We have considered the application and have the following comments:

1. The applicant has submitted a phase 1 contaminated land report which recommends that a phase 2 report is required. We therefore recommend that the standard CL condition is included on any approval.
2. This site will involve demolition and rebuilding in an area with multiple residential properties and accessed via residential roads. We therefore recommend that the standard CMP condition is included on any approval.

**South West Water** – 6th March 2024

Thank you for the consultation request. Please note that our correspondence of 04/12/23 still applies.

**South West Water** – 4th December 2023

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

### Asset Protection

Please find attached a plan showing the approximate location of a public 4 inch water main in the vicinity of the above proposed development. Please note that no development will be permitted within 3 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant.

Further information regarding the options to divert a public water main can be found on our website

Should you require any further information, please contact the Pre Development Team

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

### Surface Water Services

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

1. Water re-use (smart water butts, rain water harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

For Highway run off please contact the Highway Authority to agree disposal method.

### Clean Potable Water

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

### Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website.

I trust this clarifies the water and drainage material planning considerations for your LPA, however, if you have any questions or queries, please contact the Planning Team.

**D.C.C – Education** – 14th February 2024

DCC will not request a contribution toward education provision in relation to the above planning application because the site will deliver less than 4 family type dwellings (2+ bedrooms) in total. This is based on the understanding that the 4 dwellings which are to be demolished includes 1 or more family type dwellings (2+ bedrooms).

**Council's Arboriculture Officer** – 12th March 2024

In looking at the revised landscape plan I note the addition of 2-3 parking bay by the native meadows that has 7 trees in total on it. The vehicle parking, is noted as using a cellular reinforced concrete system. It is unclear is this system will be suitable for tree root growth. A cell web system will be required within this area of parking in order allow root growth within the parking area whilst avoiding conflict and compaction of the rooting soil environment.

As raised previously, further details on tree species type, planting design and aftercare should be out as an outline condition. There is also further opportunity tree planting along the southern boundary that would provide beneficial screening of the proposal as well as provide further ecosystem services benefits too.

**Council's Arboriculture Officer** – 22th January 2024

There are no significant trees onsite that would be viewed as a constraint to the proposal. Two of the trees are likely self-seeded and previously cut to ground level producing re-growth. Prudent management would be to remove trees even if land/gardens were to remain unchanged.

The two significant trees offsite will not be impacted by the proposal.

Tree planting is proposed as part of the Proposed Landscape Strategy. Further details on tree species type, planting design and aftercare should be conditioned where possible. There is also further opportunity tree planting along the southern boundary that would provide beneficial screening of the proposal as well as provide further ecosystem services benefits too. However, these would need to be small trees at maturity in order to avoid conflict with proposed dwelling and use of garden space.

## **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 July 2020.

One letter of representation was received from a neighbouring property which was of general comment rather than objection. The comments are summarised as follows:

- When the building is erected, there should be no walkway between the property of 10 Beach Road and the new building (running from Beech Road to Moorhaynes bungalows). The area should be fenced off.
- Request to be kept inform when the existing buildings are to be demolished.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Principle of development/planning policy**
- 2. Highways and highway safety**
- 3. Design of development and impact on landscape**
- 4. Living conditions of the occupiers of nearby residential properties**
- 5. Green infrastructure (GI) and public open space**
- 6. Drainage and Flood Risk**
- 7. Climate Change**
- 8. Ecology and Biodiversity Net Gain**
- 9. Other matters**
- 10. Planning balance**

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

- 1.1 S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.
- 1.2 The National Planning Policy Framework (2023) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The Mid Devon Local Plan 2013-2033 was adopted in 2020 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and Cridton. Policy S10 (Tiverton) which recognises proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable.
- 1.3 The National Planning Policy Framework (NPPF) seeks to make the most efficient use of land with the assessment to be made as to whether the layout and density of the residential development is appropriate and fits into the context of the site and surrounding area.
- 1.4 With respect to other relevant policies within the saved Development Plan, Policy S1 (Sustainable development priorities) of the Mid Devon Local Plan 2013-2033 seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy S3 (Meeting housing needs) seeks to meet the diverse housing needs of the community, including the provision of affordable dwellings across the District. It is noted that the 8 apartments proposed will be for social rent, a recognised form of affordable housing.
- 1.5 Policy T1 (location and scale of development) of the Tiverton Neighbourhood Plan states that development in the neighbourhood area will be focused within the settlement boundary, established through Local Plan policy and shown on the Policies Map. Policy T2 (meeting

local housing need) outlines that other than in development designed to meet an identified specialist housing need, the mix of housing sizes, types and tenures in proposed development should, in so far as is reasonably practicable and subject to viability considerations, assist in meeting needs identified in the most recently available Strategic Housing Market Assessment and/or the Tiverton Local Housing Needs Assessment.

- 1.6 Policy S9 of the Mid Devon Local Plan requires 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. The layout plan submitted shows how the layout for the residential development of 8 residential units would be achieved which has been considered to be acceptable and below the planning matters of the development are considered further.

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

- 2.1 Policy DM1 of the Mid Devon Local Plan states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided. In addition to these policies, any proposal must not adversely affect the safe functioning of the highway in line with policies S8 (Infrastructure) and DM3 (Transport and air quality) of the Mid Devon Local Plan 2013-2033.
- 2.2 The existing site access from Moorhayes Bungalows would be retained for vehicle access and pedestrian access to units and would also serve as Refuse Vehicle access. Orientation of parking allows for the widening of Moorhayes Bungalows introducing a vehicle turning point. There is one new pedestrian access point proposed running parallel to Moorhayes Bungalows and reconnecting with a reinstated existing informal footpath leading towards Beech Road. Cycle store is located off Moorhayes Bungalows allowing for a secured out-of-sight cycle store with easy access for residents.
- 2.3 The original submission was to provide 7 parking spaces for the development. The consultee response received initially from the Highway Authority at Devon County Council was that there would no severe impact on the highway network or any highway safety concerns as a result of the 8-dwelling proposal. However they did raise concerns and an objection on the basis that the proposed car parking provision is not in line with Policy DM5 and due to potential concerns around the loss of communal parking.
- 2.4 ZedPods reviewed the layout of the scheme in line with the comments received from the Local Highway Authority and sought to maximise further parking on-site whilst balancing this with other key considerations including to maintain new communal spaces and achieve a biodiversity net gain. The proposed development was revised so that it will now provide 2no. additional parking spaces and accommodates a total of 9no. spaces (for the 8 new homes proposed). This equates to 1 space per dwelling with one visitor parking space. Policy DM5 (Parking) of Mid Devon Local Plan 2013-2033 sets a residential parking standard of 1.7 spaces per unit. Therefore the proposal would represent a shortfall of 5 parking spaces. However, it has been taken into consideration that 4 of the units are one bedroom and that the site is close to local facilities, located within the built-up area of Tiverton and is on a bus route (Beech Road), as such there is the opportunity to minimise car parking.
- 2.5 With regards to the site's accessibility, it is in close proximity to local facilities (20m from a local convenience store, and within 4-minute walk from Two Moors Primary School and

Tiverton Adventure Playground). The site is surrounded by an established pedestrian network and is within the vicinity of the National Cycle Way (which adjoins Sycamore Road), the use of which will be encouraged through the provision of 2 cycle parking spaces per unit (which is parking standard compliant). The bus stops located along Sycamore Road connect to bus services 348 and 349 providing a connection into the centre of Tiverton and other residential areas. There are clearly opportunities to maximise sustainable travel movements to and from this site. Policy T16 (encouraging safe and sustainable movement) of the Tiverton Neighbourhood Plan states that Development proposals to improve cycling and walking opportunities will be supported.

2.6 The proposals at Beech Road form part of the Council's Housing Services wider regeneration of the local area, which is being delivered through their partnership with ZedPods to improve the quality and sustainability of, and to increase the number of affordable homes in the area. There are currently two housing schemes proposed to come forward in very close proximity (located at Sycamore Road within 100m of the site and Watery Lane within 300m of the site). Similar to Beech Road, these sites will also provide affordable homes for those identified as in need on the local housing register and they will be retained as part of the Council's Housing Stock in perpetuity. The proposed provision of parking at these sites exceeds the parking standards at Policy DM5 (Parking). This equates to the following:

- Sycamore Road (Planning Ref. 23/00129/MFUL): 13 Homes and 28 spaces. 22 allocated and 6 unallocated.
- Watery Lane: 10 Homes and 19 Spaces. 17 allocated and 2 unallocated (this scheme has been subject to pre-application consultation and a planning application is due to be submitted imminently).

2.7 As can be seen from the above, the wider regeneration proposals in the area will introduce new unallocated parking that will be open to use for those local residents within the area. At the current time, there are four dwellings on site and an area of hardstanding which does provide approx. 3 informal parking spaces. The proposals will make best and most efficient use of the site through doubling the number of affordable dwellings (net increase of 4) and providing higher quality, more sustainable homes. It is considered that any perceived harm caused by the loss of the existing informal parking is significantly outweighed by the benefits of providing new homes for Tiverton, which will be served by 9 new on-site parking spaces. Following further consultation on the revisions made to increase parking, no objection has been received from the Local Highway Authority.

2.8 Notwithstanding concerns raised by the Town Council on highway grounds, on balance, given that the Local Highway Authority have not raised an objection to the proposal on highway safety grounds with the Council's Public Health Team recommending a condition for a Construction Management Plan and taking into account the sustainable location of the site, the development is considered to comply with the above policies of the Mid Devon Local Plan 2013-2033.

### **3. Design of development and impact on landscape**

3.1 The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing

coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

- 3.2 The site is not located within a designated landscape and is on level land, but it will be viewed from a number of public vantage points. Policy DM1 (High quality design) outlines:

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

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

*b) Efficient and effective use of the site, having regard to criterion (a);*

*c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*

*d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;*

*e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:*

*i) Architecture*

*ii) Siting, layout, scale and massing*

*iii) Orientation and fenestration*

*iv) Materials, landscaping and green infrastructure*

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

*g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*

*h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*

*i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

- 3.3 Details of the appearance of the development have been provided which show a two storey building to be constructed which is lower in height to the neighbouring two storey properties to the east. The scheme proposes a mixture of 1 and 2 bedroom units to serve a range of housing needs with accessible units located on the ground floor. The bedrooms are shown as being a minimum of 11.5sqm which is in line with national space standards. Each unit has a generous private amenity space provided by garden space and external balconies. In terms of materials, the first floor walls and roof will be Metal Standing Seam, with the colour being Oxidised (RAL 0502010), which is a brown colour. The ground floor walls would be Silicone Thin Coat Render 1.5mm with colour being Marble White. The windows and door would be Anthracite Grey (RAL7016) with black steel staircase and railings.

- 3.4 The massing of the development maintains the same footprint as previous demolished structures, as well as using the existing distance between neighbouring building as a buffer. The existing building line created by the streetscape informs the positioning of the mass as it sits back further from the public road as to not to appear dominating of the current streetscape. Retention of existing informal footpath improves access to the site and connects to the wider context. The proposed massing has been set back from the road line

with access to units and parking located to the rear of the site improving access and increasing parking.

- 3.5 Referring to the comments made by Tiverton Town Council on the perceived overdevelopment, the proposals are informed by National Planning Policy which encourages the effective use of land to meet the identified affordable housing needs that will make better use of the land replacing existing poor-quality housing and doubling the number of homes on-site. The proposals will be restricted to two-storey in height (in line with the local character and immediate neighbouring properties) and will in fact result in a slight reduction in the ridge height. The proposed dwellings meet the Nationally Described Space Standards as required by Policy DM1 of the Local Plan.
- 3.6 It is considered that the proposed development demonstrates a clear understanding of the characteristics of the site, its wider context and the surrounding area in accordance with policy DM1 of the Local Plan. The proposals have responded directly to the character of the site as set out above and through the use of materials including white/cream render at lower floors and the use of darker material at the upper floor in response to the appearance of the typical mansard roof character seen locally.
- 3.7 Policy DM2 of the local plan relates to renewable energy development such as solar arrays and is supportive of such development subject to proposals demonstrating that impacts are or can be made acceptable in relation to: a) Landscape character and the character and setting of heritage assets; b) Environmental amenity of nearby properties and the wider locality; c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and d) Biodiversity (avoiding habitat fragmentation).
- 3.8 A summary assessment has been carried out as follows: a) The site lies within the Tiverton settlement boundary and does not lie within any protected landscape areas such as Conservation Areas. The site is not and does not lie within the boundary of a heritage asset. The panels are proposed on the south facing roof slope of the new dwellings and would be seen in context with the urban nature of the surrounding area. The impacts on landscape character have been carefully considered. The proposed works would not cause any unacceptable adverse harm to landscape character or heritage assets. Given its relatively small scale, the visual impact is considered to be acceptable. b) Given the small scale nature of the development, there are no concerns in terms of impact on the environmental amenity of the wider locality or on the amenity of nearby properties. The panels are considered to result in a positive impact in terms of renewable energy. c) The solar panels will be sited on the roof of the dwellings and as such does not result in the loss of agricultural land. d) The panels are sited on the roof of the dwellings and it is not considered that there would be any loss of biodiversity. The new dwellings would be erected on an area of land where 4 existing dwellings exist. The area of land lost is minor and it is considered that any biodiversity loss would be minimal. To ensure policy compliancy in terms of an overall net gain a condition will be added requiring the proposed development to be carried out in accordance with the recommendations set out in the submitted ecology reports and biodiversity net gain report.
- 3.9 It is considered that the impacts of the installation of the proposed solar panels are acceptable and therefore the proposal accords with policy DM2 of the Local Plan.

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

- 4.1 Paragraph 135 of the NPPF outlines that planning policies and decisions should ensure that developments:



a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

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

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

4.2 This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the residential block and orientation of windows is such that it is considered that a residential development has been designed to be in accordance with these two policies, with adequate separation.

4.3 The proposals will ensure that the residential amenity for neighbours and future tenants will not be harmed. The siting of balconies outwards along Beech Road follows the existing street pattern and given their position over the road and set back from other homes, would avoid overlooking. Whilst there is a first floor window proposed serving a bedroom in the east gable end it is noted that there are first floor windows on the side elevations of the existing properties which face each other. The Design and Access Statement comments that *'Habitable room spaces have all been designed with primary windows and balconies facing towards the front of the property onto public road with amenity grassland and defensive planting acting as a buffer. The gable end windows have views onto tree planting and frosted glass ensuring there are no views into the adjacent property'*. In any event, the distance between number 10 and the new units will increase from 4.02m to 5.28m, which will improve the relationship between the neighbouring properties.

4.4 Overall, it is considered that the provision of 8 affordable dwellings within Tiverton is acceptable in principle. The proposed development demonstrates a clear understanding of the characteristics of the site, its wider context and the surrounding area, would have an acceptable impact on landscape character and environmental amenity. Additionally, the proposed development would not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties. The proposal therefore accords with policies S1, S2, S3, S10, DM1 and DM2 of the Local Plan and Neighbourhood Plan Policies T4 (Character of the Development) and Policy T5 (Design of Development).

## **5. Green infrastructure (GI) and public open space**

- 5.1 The case has been outlined within the application submission that the existing landscaping is of poor quality, comprising primarily amenity grassland and hard surfaces of concrete and tarmac. Existing structures on site do not contain any biodiversity enhancement measures such as green roofs or bird boxes.
- 5.2 The proposed landscaping seeks to increase the biodiversity of the site by providing a mix of amenity grassland, planted borders with mix of native perennial flowering shrubs and plants, wildlife friendly planting of Specimen shrubs to attract bee and bug populations, hedgerows and trees. This will be maintained on a seasonal basis through clearing and seeding. Bird boxes can be attached to the proposed buildings providing nesting sites, and will be located on the advice of the ecological surveys and reports provided.
- 5.3 No objections are raised by the Council's Arboriculture Officer and he confirms there are no significant trees on-site that would be affected by the proposals. As noted above, the proposals currently achieve a significant biodiversity net gain. The Officer has requested further information on the details of the proposed trees which can be secured via a suitably worded planning condition for planting details. It should be noted that with regard to the request for further tree planting opportunities to be provided, this was explored but found to be unachievable given the issues further screening could have on amenity.
- 5.4 The addition of 2 parking spaces resulted in minor changes to the proposed landscaping. In line with the ecology recommendation, landscaping has been updated to maintain the same quantum of new trees, in an alternative arrangement, ensuring that at least a 10% biodiversity net gain is achieved. The BNG matrix/documents were amended to take into account the updated landscaping proposals and the additional parking spaces provided. The scheme has been outlined to achieve a Biodiversity Net Gain of 50.63% in habitat units and 145.31% in hedgerow units.
- 5.5 Policy S5 (Public Open Space) states that within Tiverton, public open space is required from residential development of 11 or more dwellings. Therefore as this development is below that figure no public open space is required and it should be noted that the development is for solely affordable housing, no financial contribution would be required. Notwithstanding this a small area of public open space will be retained on site with further shrub planting to improve the amenity of the area.

## **6. Drainage and flood risk**

- 6.1 The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Policy S9 of the Mid Devon Local Plan 2013-2033 guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. Whilst the site is within flood zone 1 which is the lowest zone, the applicant has still submitted a Flood Risk Assessment (FRA) and Drainage Strategy.
- 6.2 The report concludes that the proposed development site lies wholly within Flood Zone 1 and that the FRA demonstrates that the proposed development is at a negligible to low risk of flooding from all sources. The report also states that the proposed development will result in an overall hardstanding area of 615 m<sup>2</sup>. Surface water runoff generated by the development will be restricted to 1.2 l/s. This is a 50% betterment over the 1 in 1 year return

brownfield runoff rate for the Site. In order to achieve this restriction, attenuation will be provided within permeable paving and grasscrete. Foul flows are proposed to discharge to a 150 mm public foul sewer approximately 10m to the north of the Site within Moorhayes Bungalows. Recommendations set out in the report are to set finished floor levels a minimum of 300 mm above the surrounding ground levels, undertake BRE Digest 365 infiltration testing to determine the suitability of infiltration techniques; verify the attenuation volumes included in this report when undertaking detailed drainage design and undertake a survey of the nearby sewers to confirm the suitability of proposed discharge locations.

- 6.3 A consultation response has been received from South West Water (SWW) noting that discharging surface water to the public sewerage network meets the run-off destination hierarchy (albeit seeking further evidence to formally confirm this). The current drainage design includes on-site storage in the form of permeable paving and require some discharge to an existing public combined sewer within the proximity of the site and would not factor in any on-site attenuation features such as ponds or swales due to the small-scale nature of the development and limited opportunities on-site.
- 6.4 SWW requests further evidence to ascertain opportunities for on-site infiltration (as dictated by the drainage hierarchy). Due to the site currently being at least in part occupied, it is considered that it would be most appropriate for infiltration testing to be carried out as comprehensively as possible on the site once vacated. The applicant is in discussions with the drainage consultant and seeking to schedule these tests as soon as possible. As such a condition is recommended to secure infiltration testing on-site, the results of which will then inform whether infiltration is possible. The Drainage Condition can also then allow for any updated drainage proposals to be submitted in detail and to be agreed with the Council.
- 6.5 The Public Health Department has raised no objection on drainage grounds. Policy DM1 of the Local Plan requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. It is considered that a condition requiring the applicant to demonstrate that surface water cannot be disposed of higher up the Run-Off Destination Hierarchy as required by SWW is acceptable and can be added to any grant of planning permission.

## **7. Climate Change**

- 7.1 Policy S9 requires 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. The application submission includes a climate emergency checklist and sustainability technical note. The statement considers that the proposed dwellings are constructed in line with the applicants zero carbon strategy including measures that incorporate renewable energy technology.
- 7.2 The siting of the proposed building containing 8 residential units is conducive to providing a more energy efficient and sustainably constructed dwellings, the proposal includes solar panels to maximise solar gain alongside triple glazed windows for heat efficiency. The proposal includes secure cycle storage space to encourage the reduction in the number of vehicle movements generated.
- 7.3 The sustainability technical note provides calculations in relation to the energy provision of the solar panels and the energy consumption of a 1 bed and 2 bed properties. It indicates that the calculations demonstrate that the proposed energy production will be met by the installation of solar photovoltaic panels atop the roof which will generate a total of

26,086kWh/Year according to Calculations performed using the PVGIS tool. This will produce more energy than is consumed on site, resulting in both an energy surplus/ export to the grid of 6,886kWh/Year and providing an offset of the remaining energy demands ensuring the proposed development is Net Zero Operational Carbon.

- 7.4 The proposal also includes a landscape strategy which results in the provision of new native trees together with the provision of mixed native hedges as a biodiversity net gain to ensure there is no adverse environmental impact created.
- 7.5 Paragraph 157 of the National Planning Policy Framework requires that “the planning system should support the transition to a low carbon future in a changing climate taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure”.
- 7.6 There would be an impact on the climate from the construction process and sourcing of construction materials. However, the proposal is of a relatively small scale nature and would provide new dwellings with a high level of thermal efficiency. The proposal also includes the provision of solar panels to off-set reliance on less environmentally friendly energy sources. This would be supported by policy DM2 (Renewable and low carbon energy) of the Mid Devon Local Plan 2013-2033.

## **8. Ecology and Biodiversity Net Gain**

- 8.1 Policy S9 of the Local Plan relates to the environment and clause f) states that development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets through 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. Policy DM1 Clause c) requires new development to demonstrate a positive contribution to local character including biodiversity assets.
- 8.2 The application includes the demolition of four existing properties on site. With regards to protected species and habitats a Preliminary Ecological Appraisal and Preliminary Roost Assessment carried out by Arbtech and dated 28th November 2022 and a Bat Emergence Survey carried out by Western Ecology dated June 2023 has been submitted. In addition, a Biodiversity Net Gain Assessment was carried out by Arbtech dated 7th March 2024 and findings submitted.
- 8.3 The preliminary roost assessment of the flats found the buildings to have low suitability to support roosting bats. In addition, no impacts are anticipated on badgers as a result of the proposed development and due to the amenity grassland, hardstanding and shrub vegetation of the site, the ecologist noted that the loss of such habitats is likely to be inconsequential to local hedgehog populations owing to their low value and the presence of more extensive habitat locally.
- 8.4 The existing buildings will be demolished, and 8 new affordable homes will be provided alongside other ancillary works. A single precautionary bat emergence survey of the flats was carried out by Western Ecology on the 5th June 2023 during which time no bats emerged from the building. The conclusion being that it is extremely unlikely that bats are

roosting in association with this structure. Works can proceed with negligible risk to bats and does not require a method statement for bats or a European Protected Species licence. No mitigation is required for bats. However, it should be noted that in any building individual bats could occasionally roost or move in at any time, and recommendations are made within Section 5 of the report.

- 8.5 Biodiversity Net Gain (BNG) will be achieved by the proposed development and is set out within the separate BNG documentation prepared by Arbtech Consulting Ltd. It is considered that a condition could be added to any grant of planning permission requiring the proposed development to be carried out in accordance with the recommendations of the PEA/PRA, Emergence Survey Report and Biodiversity Net Gain Assessment.
- 8.6 Subject to the imposition of conditions it is considered that the proposed development seeks to protect, enhance and positively contribute to biodiversity in accordance with policies S9 and DM1 of the Local Plan and the provisions of the NPPF.

## **9. Other matters:**

- 9.1 A scheme of this size would not require any S106 planning obligations to be secured in the way of Public Open Space, Air Quality mitigation, highway works etc. DCC Education have confirmed that a contribution towards education provision will not be sought on the basis that the proposals will not deliver any additional family homes as the four family homes removed on site will be replaced with four 2 bed units and there would be four 1 bedroom units provided.

## **10. Planning balance**

- 10.1 The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. The application is in full and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. Impacts on biodiversity and landscape can be adequately mitigated through the design, layout and landscaping plans submitted. The proposal respects the character, scale, setting and design of the existing adjacent dwellings and will not result in over-development of the site. The proposed development will not significantly impact on any neighbouring properties or adversely affect ecological interests, highway safety interests, flood risk or surface water management. It is noted that there is a shortfall in parking provision but the site is within walking distance of public transport and other services and facilities.
- 10.2 The delivery of 4 additional affordable homes for social rent (taking into account the four existing properties to be demolished), weighs in favour of approval of the application. Taking all the above into consideration, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited. The proposed development is acceptable in principle subject to the imposition of conditions under Local Plan policies S1, S3, S9, S10 DM1, DM2, DM3 and DM5.

*Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do*

*not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.*

## **CONDITIONS**

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

The development shall be carried out in accordance with the approved CMP at all times.

4. Notwithstanding the landscape strategy submitted, prior to above ground works of the development hereby approved, a final scheme of landscaping and planting shall be submitted to and approved in writing by the Local Planning Authority. This shall include details on tree species type, planting design and aftercare and for a cell web system within this area of parking in order allow root growth within the parking area whilst avoiding conflict and compaction of the rooting soil environment. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or

diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

5. The development, hereby approved, shall be carried out in accordance with Section 4.0 'Conclusions, Impacts and Recommendations' of the Preliminary Ecological Appraisal and Preliminary Roost Assessment carried out by Arbtech and dated 28th November 2022 and Section 5 'Recommendation and mitigation' of the Bat Emergence Survey carried out by Western Ecology dated June 2023. The development shall also be carried out in accordance with the Biodiversity Net Gain Assessment carried out by Arbtech dated 7th March 2024.

6. The development, hereby approved, shall be for affordable housing and retained as such. The development shall not be occupied until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the NPPF (2023) as set out in Annex 2 or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type and tenure of the affordable housing provision to be made;
- ii. The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

7. Prior to the dwellings hereby permitted being first occupied, final detailed design for surface water drainage, including measures to prevent the discharge of surface water onto the highway, shall be installed in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such detailed drainage scheme shall demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable). Infiltration testing shall be carried out as comprehensively as possible on the site once the existing buildings are vacated. Following its installation the approved drainage scheme shall be permanently retained and maintained thereafter.

8. The materials to be used for all the external surfaces of the building shall be in accordance with the details outlined within the Design and Access Statement. Details for any proposed changes to the materials outlined would need to be submitted to and approved in writing by the Local Planning Authority, with the development carried out in accordance with the approved materials and shall be so retained.

9. The proposed development may be on land affected by land contamination resulting from previous or current land use(s) on or adjacent to the development site given the findings of Desk Study produced by Structa, report ref: 6472-GE006 dated 19<sup>th</sup> December 2022. As such prior to development commencing, the applicant shall carry out an intrusive investigation and risk assessment aimed at identifying the extent and type of any land contamination present and the measures to be taken to ensure that no significant pollutant linkages will exist on the site. A phased approach to the investigation and risk assessment may be appropriate. A report of the investigation and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required). If required, a site remediation statement shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required). Following completion of any required remediation works, a validation report shall be submitted to

the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

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

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning and to safeguard the character of the listed building in accordance with Policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
3. To ensure that the proposed development does not adversely affect highway safety or its users in accordance with Policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033. This is required to be agreed prior to commencement of development to ensure that appropriate measures are in place to avoid adverse impacts on highway safety or its users, during demolition and construction.
4. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of Mid Devon Local Plan 2013-2033
5. To enable biodiversity net gain within development in accordance with Mid Devon Local Plan 2013-2033: Policy S9 Environment and national policy and to ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with Policy DM1 of Mid Devon Local Plan 2013-2033.
6. To retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework.
7. To ensure that the proposed development implements an appropriate drainage system, to avoid any increase risk of surface water flooding on and off site and to ensure the proposed development disposes of surface water as high up the run-off destination hierarchy as possible in accordance with Mid Devon Local Plan 2013-2033: Policy S9 Environment.
8. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Local Plan 2013-2033 Policies S9 and DM1.
9. In the interests of building integrity and public safety to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

This is a pre-commencement condition as any issues found following the intrusive investigation and risk assessment would need to be addressed prior to construction of the development.



## **INFORMATIVES**

1. The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements. Please note that no development will be permitted within 3 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant.
2. The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).
3. 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 to enable the grant of planning permission.

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

The site is located within the defined settlement limit of Tiverton, therefore the principle of residential development on this site is accepted. The access into the site to serve a development of 8 dwellings is considered acceptable and on balance, the overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. There are no technical reasons why the application should not be approved subject to appropriate mitigation secured through condition, whereby drainage measures, biodiversity and landscape can be adequately mitigated and enhanced. Whilst four existing homes would be replaced, the net delivery of 4 additional new homes, of which would be affordable dwellings weighs in favour of approval of the application providing public benefits and notwithstanding the shortfall in parking provision, the site is considered to be a sustainable location within walking distance of service and facilities. Taking all the above into consideration, the application is considered to be acceptable meeting the requirements of Policies S1, S2, S3, S4, S8, S9, S11, DM1 and DM2 of the Mid Devon Local Plan 2013-2033 and Policies T1, T2, T3, T4, T5, T6, T9 and T16 of 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. 23/01351/MFUL

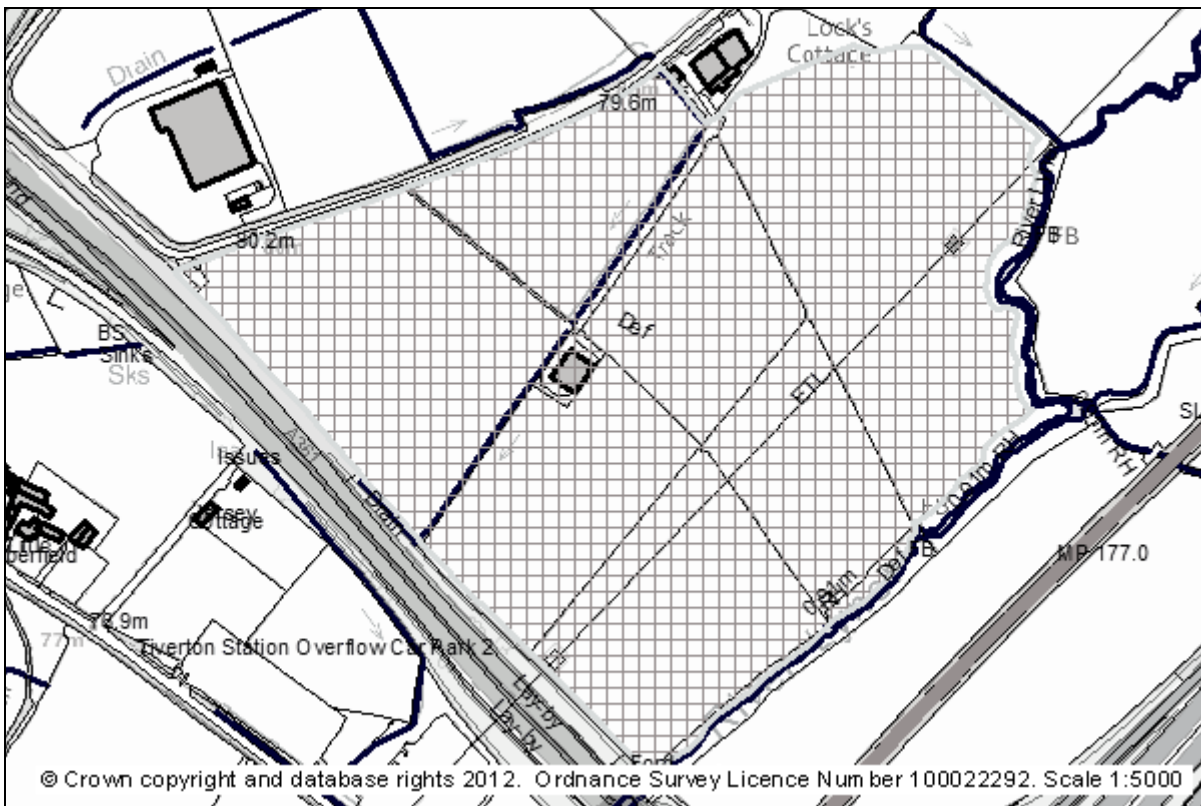
Grid Ref: 304444 : 114510

Applicant: Rachel Ness, Clearstone Energy

Location: Land at NGR 304444 114510  
North of A361, Junction 27  
Westleigh  
Devon

Proposal: Construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements

Date Valid: 12th September 2023



**APPLICATION NO: 23/01351/MFUL**

## **RECOMMENDATION**

Grant permission subject to conditions

## **PROPOSED DEVELOPMENT**

Construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements. The application seeks a temporary planning permission for a period of 40 years.

The application proposes 4.8 hectares of battery storage and substation (reduced from an initial 6 hectares), and 11.2 hectares of landscaping and biodiversity enhancements. The area for development would be set under this application, as would the landscaping.

If the application is approved, the final type of battery units, substation details, the layout of the site and levels would be conditioned for later approval as a supplier has not yet been identified and it is not known at this stage what the battery type, enclosures, and final layout would look like.

The original proposal has been amended to remove one field from the area to contain the batteries and infrastructure, increasing the distance from nearby properties and increasing the landscaped area. Additional screening is also now proposed to try to address concerns of nearby residents.

## **APPLICANT'S SUPPORTING INFORMATION**

Design and access statement  
Outline traffic management plan  
Landscape and visual impact assessment, photomontage technical notes  
Ecological impact assessment  
Biodiversity net gain calculator  
Heritage assessment  
Flood risk assessment  
Noise assessment  
Arboricultural impact assessment  
Statement of community involvement  
Battery safety standards  
Outline landscape and ecological management plan  
Agricultural land classification survey  
Waste audit statement  
Air quality assessment

## **RELEVANT PLANNING HISTORY**

00/01718/FULL - REFUSE date 15th February 2001  
Siting of a shipping container for fireworks storage and construction of access track  
06/01364/FULL - PERMIT date 1st August 2006  
Erection of agricultural building for livestock  
06/02264/FULL - PERMIT date 23rd November 2006  
Variation of condition 3 of planning permission 06/01364/FULL to allow agricultural use in connection with other agricultural holdings as a livestock collection centre

10/00287/FULL - PERMIT date 28th April 2010

Erection of an agricultural livestock building to be used as livestock collection centre (Revised Scheme)

13/00404/FULL - PERMIT date 21st June 2013

Application to replace extant planning permission 10/00287/FULL (to extend time limit) Erection of an agricultural livestock building to be used as livestock collection centre (Revised Scheme)

15/01599/FULL - PERCON date 28th January 2016

Variation of condition (2) and removal of conditions (3) and (5) of planning permission

13/00404/FULL to allow the substitution of previously approved plans

16/01847/DCC - DCCREF date 27th February 2017 DCC/3894/2016

County Matter Application for recycling and soil screening/storage facility

17/00482/DCC - DCCREF date 5th June 2017 DCC/3963/2017

County Matter application for recycling and soil screening/storage facility (APPEAL DISMISSED 27.04.18)

22/00478/FULL - PERCON date 19th May 2022

Erection of 1 building to provide up to 6 flexible units for Class E (g) (i)/B2 and B8 business use

## **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable development priorities

S9 Environment

S14 Countryside

DM1 High quality design

DM2 Renewable and low carbon energy

DM3 Transport and air quality

DM4 Pollution

DM25 Development affecting heritage assets

DM26 Green infrastructure in major developments

National Planning Policy Framework

Planning Practice Guidance

## **CONSULTATIONS**

### **SAMPFORD PEVERELL PARISH COUNCIL – 7 March 2024**

Having reviewed the updated information on MDDCs planning portal, Sampford Peverell Parish Council, at its meeting on 26 February 2024, resolved to continue its strong objection to the application for a Battery Energy Storage System.

The Parish Council do not believe that sufficient information has been given:

The majority of documents in the document register version R002 state for information only and thus the reviewer is confused what to review of the final development. For approval are documents:

a. J27P3.0 Rev 11

b. J27P2.0 Rev 03

c. Figure 1313/10 Rev G

The lack of a Visual Impact (CAD) highlighting multi-direction view of the proposed site.

It appears from the plan that the power switching and transformer/rectifier units are huge. But there is no plan providing a visual of the side elevations.

The plans now under consideration are significantly different to those presented at community meetings including the introduction of two large water tanks and thus could be considered to render the Statement of Community Involvement (R011) void. In addition, the plan now states that due to the increased flood protection, 50 plus Battery Sea container type units will sit on concrete plinths (a side elevation plan does not accompany this statement).

No Carbon offset calculations have been produced nor is the Parish Council satisfied that the BESS is carbon neutral. Conversion of AC power into DC power and then back again is very inefficient, with most power losses being converted into heat.

If MDDC is mindful to approve the application, then the Parish Council would request that the Ward Councillors call the application in on the following material planning considerations: Proposals in the Local Development Plan.

To the best of the Parish Councils knowledge, the proposed area falls outside the Local Development Plan.

#### Past planning applications

As stated in the Parish Council's previous comments, the Parish Council believes that past planning applications have been refused on the use of agricultural land for development.

#### Impact on the character and appearance of the area

The area is a rural area, and the proposed development is on agricultural land. It also represents the doorway to mid and north Devon and could have an impact on tourism, if Junction 27 becomes one large industrial unit. Brown-field locations are available along the power lines (e.g. at Wellington) and these would be a more appropriate location for such a construction. The Parish Council has noted Devon CPRE (campaigning to protect Devon's Countryside) comments and its strong opposition to this scheme.

#### Scale and dominance

The size of the proposed battery storage facility will dominate the surrounding area.

#### Effect on a conservation area

The possibility exists that the site will be visible from the Grand Western Canal and the noise from the site could affect residents enjoyment of the facility.

#### Noise

The Parish Council's original comments regarding the noise from the units have not been addressed in the revised information and noise remains a matter of concern.

#### Drainage and flood risk

By the Environmental Agency's own admission, the EA does not have a detailed model of flooding in this area. Clearstone has utilised the EAs generalised flood model. Clearly this is a huge risk for a BESS.

#### Health and Safety

##### a. Battery Energy Safety Standards

The Parish Council notes that Network Rail have not commented on how the Electrical Magnetic compatibility (EMC) risk assessment has concluded. It is also noted that Clearstone has not carried out an initial EMC assessment. Therefore, this being a BESS would it not be prudent to ask

whether the safety of the railway compromised? Signalling equipment in this area may be compromised by spike energy?

b. Technical statements by Clearstone

Several technical statements appear to be inaccurate.

c. Fire risk

The Parish Council has noted that there have been instances of such batteries catching fire. Given the site's location close to key transport infrastructures, are sufficient safeguards being put in place?

Finally, if MDDC was mindful to accept this proposal, then the applicant must fulfil its stated aim to provide a community benefit fund and such funding be made available concurrently with the decision notice.

Previous response - 11 October 2023

At its meeting on 9 October 2023, Sampford Peverell Parish Council resolved to object to the application for a Battery Energy Storage system.

The Parish Council considered the following material planning considerations:

Proposals in the Local Development Plan

To the best of the Parish Council's knowledge, the proposed area falls outside the Local Development Plan.

Past planning applications

Soil and rock quarry planning application states that the site comprises Grade 3a agricultural land, and therefore falls within the category of 'best and most versatile land'. It is not considered that the loss of this agricultural land would be outweighed by the benefits of the development, and the proposal would therefore be contrary to Policy W16 of Devon planning rules.

Business Park

The site is on a site which has planning permission for a business park. There is an unimplemented planning permission (MDDC Ref: 22/00478/FULL), granted in May 2022, for a Business Park on land in the north-west corner of the Site. If planning permission is granted for the Proposed Development, the consented Business Park would not be constructed. However, the Screening Tool seems to contradict that should the development go ahead the business park would not be developed, as case reference 23/00659/SCR states any other future planning would not be affected.

Could MDCC clarify where past refused planning applications rules also have paralleled rules on this proposal?

Impact on the character and appearance of the area

The area is a rural area and the proposed development is on agricultural land.

Statement of Community Involvement. (R011)

Clearstone stated from their meeting with SPCC that they still do not know how many battery units will impact the visual aspect of the green rural land. No visual impact CAD has been submitted in any documents including the Indicative Battery Pack Elevations Plan. Councillors could only find an indicative plan view and a view of partial Palisade fencing and gate. Therefore, as no public meeting will be held by Clearstone it is important that a Visual Impact view is provided from many viewing directions. This could then be published online by SPPC for the residents of SP.

Could MDDC request that a Visual Impact (CAD) multi direction views is submitted?

Scale and dominance

The size of the proposed battery storage facility will dominate the surrounding area.

Effect on a conservation area

The possibility exists that the site will be visible from the Grand Western Canal and the noise from the site could affect residents' enjoyment of the facility.

Noise

Noise Impact Assessment (R009 August 2023)

As Clearstone do not understand how many Battery units are required utilising Air Condition units. Then they do not understand the noise impact from air condition noise. Haven't found any description to back up power such as a Diesel Generator that would add to NOX output and noise.

Could MDDC request that Clearstone update its overall system documents?

Drainage and flood risk

Flood Risk Assessment (R008 Aug 2023)

The land is mainly classified as Zone 1 for flooding however did the assessment mitigate for natural disasters such as Global Warming rain fall and canal bursting its bank? There is no impact assessment for this catastrophic disaster on a high energy battery bank supplied from the National energy grid.

A statement that 33% weighting impact for flooding was within the modelling but what does that mean?

The Grand Western Canal is located approximately 300 m north-west of the Site. The SFRA provides mapping of the canal breach impact zones which indicates that the Site is located within a low to medium risk zone. There are no locks on the canal and therefore in the event of a canal breach, large volumes of water could be released. This document states:

'Canals do not generally pose a direct flood risk as they are regulated water bodies. The residual risk from canals tends to be associated with lower probability events such as overtopping and embankment failure'.

'At present canals do not have a level of service for flood recurrence (i.e. there is no requirement for canals to be used in flood mitigation), although the Canal and River Trust, as part of its function, will endeavour to maintain water levels to control the risk of flooding from canals to adjacent properties.'

But this canal does have history of embankment failure and Clearstone have failed to take this into consideration. Clearstone clearly have placed the risk on others and have missed the point on what would happen should a flooding disaster of this magnitude actually happen?

Could MDDC request a conclusive outline risk assessment with design solutions be produced in order to convince this site is low risk?

Drainage Assessment (R008 Aug 2023)

Run-off water:

A Soakaway Test was undertaken by Ruddlesden Geotechnical in November 2022 (refer to Appendix D). Soakaway testing was conducted within four trial pits and groundwater was monitored observed in two observation pits. The results indicated that water levels rose by up to 0.12 m during the testing and therefore all the tests failed to reach 25% of the effective depth. Therefore, there is negligible potential for the disposal of runoff by means of infiltration.

The proposed solution:

"It is therefore proposed to attenuate runoff via voids of aggregate and discharge surface water to the River Lyner to the south of the Site within the land ownership boundary."

However, no assessments have been made for the River Lyner in times of flood with this extra run of water being taken directly to it.

Again an outline risk assent could mitigate extra flood water on the River Liner?

Health and Safety

Battery Energy Safety Standards (R012 Sept 2023)

Clearstone state under BESS procurement and testing that they meet ESS BS for EMC but haven't supplied any reports that this site is suitable. At this stage in any energy project an outline EMC strategy should have been produced that supports the selection of the site. The Parish Council also noted that back in 1983 the National Grid development of pylons at this site no supporting assents were also made. Therefore, how do Clearstone know that they are EMC compliant even though they show a huge list of standards they meet? Any development of this magnitude must demonstrate outline compliance to its neighbours. In this case residents, roadways (A361 layby-by) and more importantly the railway.

Could MDDC request that a full EMC impact strategy is carried out and that evidence is provided that Clearstone have contacted Network Rail and has been able to assure them that there will be no interference with communications systems along the rail network?

Fire risk

The Parish Council has noted that there have been instances of such batteries catching fire. Given the sites location to key transport infrastructures are sufficient safeguards being put in place?

Sampfurd Peverell Parish Council would request that if MDDC were mindful to accept this proposal then the applicant fulfils its stated aim to provide a community benefit fund and such funding be made available concurrently with the decision notice.

## **HALBERTON PARISH COUNCIL – 15 March 2024**

At its meeting on 10 October 2023, Halberton Parish Council RESOLVED to object to this application for a Battery Energy Storage system at Junction 27 alongside the railway and M5.

The Parish Council considered the following material planning considerations applied:

Proposals in the Local Development Plan

To the best of the Parish Council's knowledge, the proposed area falls outside the Local Development Plan and is on prime agricultural land (Policy W16 applies).

Impact on the character and appearance of the area

The area is a rural area and the proposed development would have a significant impact on the vista. A Visual Impact view from all directions needs to be provided.

Scale and dominance



The size of the proposed battery storage facility will dominate the surrounding area.

#### Effect on a conservation area

The possibility exists that the site will be visible from the Grand Western Canal is situated 300m north west of the site and the noise from the could affect the enjoyment of the facility.

#### Noise

The Noise Impact Assessment (R009 August 2023) is limited given that the actual number of batteries and air conditioning until has not been stated. The Parish Council notes the comments from the Public Health Officer.

#### Drainage and flood risk

The Parish Council notes the comments from the Flood and Coastal Risk Management Team. The area is known to flood and surface drainage into the River Lyner could result in additional flooding downstream.

#### Health and Safety

There is two potential risks a) fire and the subsequent impact of smoke going across the M5 and railway and affecting local properties and b) whether the electromagnetic components will affect local communications.

#### Previous response - 12 October 2023

At its meeting on 10 October 2023, Halberton Parish Council resolved to object to this application for a Battery Energy Storage system at Junction 27 alongside the railway and M5.

While the Parish Council appreciates the need for a Battery Energy Storage System (BESS) facility we believe this is not the most appropriate location.

The Parish Council considered the following material planning considerations applied:

#### Proposals in the Local Development Plan

To the best of the Parish Council's knowledge, the proposed area falls outside the Local Development Plan and is on prime agricultural land (Policy W16 applies).

#### Impact on the character and appearance of the area

The area is a rural area and the proposed development would have a significant impact on the vista. A Visual Impact view from all directions needs to be provided such as photomontages or 3D models.

#### Scale and dominance

The size of the proposed battery storage facility will dominate the surrounding area.

#### Effect on a conservation area

The possibility exists that the site will be visible from the Grand Western Canal is situated 300m north west of the site and the noise from the could affect the enjoyment of the facility.

#### Noise

The Noise Impact Assessment (R009 August 2023) is limited given that the actual number of batteries and air conditioning units has not been stated. The Parish Council notes the comments from the Public Health Officer and recommends that additional documentation is provided on how the noise from cooling fans and the continuous humming noise from transformers will be mitigated.

#### Drainage and flood risk

The Parish Council notes the comments from the Flood and Coastal Risk Management Team. The area is known to flood and surface drainage into the River Lyner could result in additional flooding downstream. Part of the area is documented as a flood plain in the MDDC Local Plan [https://www.middevon.gov.uk/media/350593/j27\\_adopted-july-2020.pdf](https://www.middevon.gov.uk/media/350593/j27_adopted-july-2020.pdf)

#### Health and Safety

There is two potential risks a) fire and the subsequent impact of smoke going across the M5 and railway and affecting local properties and b) whether the electromagnetic components will affect local communications. The Parish Council suggests that additional documentation should be provided to address these risks.

#### **UFFCULME PARISH COUNCIL – 11 October 2023**

The Parish Council objects to this planning application. The proposed location causes concern in regards to the proximity to both local residents and key transport links (road and train) in the event of fire, explosion or vapour emissions.

The Parish Council also endorses the concerns raised as part of the in depth comments submitted by Devon CPRE.

#### **WILLAND PARISH COUNCIL – 13 October 2023**

Willand Parish Council has no observations to make on this application.

#### **BURLESCOMBE PARISH COUNCIL – 6 October 2023**

The Burlescombe Parish Council has received representations and objections, and it aligns itself with and supports these objections.

#### **FORWARD PLANNING – 23 October 2023**

The proposal is an application for the construction of a Battery Energy Storage System (BESS) facility with associated infrastructure and works, including highway access, landscaping and biodiversity enhancements. The proposal seeks to develop a facility to assist in controlling the flow of electricity within the grid, balancing production with supply. This would involve direct connection only to existing high voltage electricity infrastructure. The proposed lifespan for operation and maintenance of the facility is 40 years.

#### Policy Context

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

#### Overarching National Policy Statement for Energy (EN-1) July 2011

The National Policy Statement (NPS) recognises the use of electrical energy storage to enable energy production to be decoupled from its supply, providing a contribution to meeting peak demand. A revised draft of the NPS was consulted on during 2023, and adoption is currently pending. However, the draft acknowledges the continuing role of electricity storage in providing flexibility to the energy system and achieving net zero ambitions, at both local and national levels.

#### Department for Business, Energy & Industrial Strategy (BEIS) Policy Paper

##### Transitioning to a net zero energy system: smart systems and flexibility plan 2021

The Policy Paper sets out a vision for electricity storage and interconnection which commits to deploying electricity storage at all scales and in the most optimal locations by 2030.

#### British Energy Security Strategy (BESS) 2022

The Strategy establishes an approach for delivery of an affordable, secure, and clean flow of energy that includes encouraging electricity storage to match supply and demand, reducing energy wastage.

#### National Planning Policy Framework (NPPF) September 2023

The NPPF does not make specific reference to energy storage but supports the transition to low carbon energy. National policy sets out that the planning system should support renewable and low carbon energy and associated infrastructure (paragraph 152), and encourages opportunities to achieve net environmental gains (paragraph 120). Paragraph 155 asserts that plans for renewable and low carbon energy should ensure that adverse landscape and visual impacts are addressed appropriately.

Paragraph 84 sets out that planning policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses. While paragraph 174 states that planning policies and decisions should recognise the economic and other benefits of the best and most versatile agricultural land (Grades 1, 2 and 3a).

Paragraph 185 states that new development should be appropriate for its location. While paragraph 130 maintains that developments should be visually attractive as a result of appropriate and effective landscaping, sympathetic to local character and history, and add to the overall quality of the area. Paragraph 195 decrees that the impact of a proposal on a heritage asset, or its setting, should be identified and assessed.

Paragraph 174 stipulates that developments should contribute to and enhance the natural and local environment, while providing net gains for biodiversity. This is supported by paragraph 180, which sets out the principles for achieving this.

The NPPF underpins Planning Practice Guidance (032 Reference ID: 5-032-20230814) which specifically supports the use of electricity storage infrastructure in decarbonising the energy system.

#### The Adopted Local Plan 2013-2033

The Local Plan was adopted on 29th July 2020. In accordance with paragraph 47 of the NPPF, planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Policy S14 'Countryside' stipulates that development outside of the settlements defined by Policies S10-S13 will be required to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Clause b) promotes development through farm diversification, whilst criterion f) supports renewable energy development, and by inference supports the infrastructure necessary for that development.

The Local Plan does not contain a specific policy regarding energy storage, but the proposed application could be considered in the context of national policy requirements for transition to a low carbon society, focussing on the need to minimise vulnerability and improve resilience through support of low carbon energy and its associated infrastructure.

Policy DM2 'Renewable and low carbon energy' stipulates that the benefits of renewable and low carbon energy development will be weighed against its impact. Proposals will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of such developments within the parish or adjoining parishes. Proposals must demonstrate that impacts are or can be made acceptable in relation to:

a) Landscape character and the character and setting of heritage assets;

- b) Environmental amenity of nearby properties and the wider locality;
- c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and
- d) Biodiversity (avoiding habitat fragmentation).

The proposal site is not allocated for development within the current Local Plan. Policies S1 Sustainable development, DM1 High quality design, and DM25 Development affecting heritage assets, along with other relevant policies of the adopted Local Plan are applicable in assessing this planning application.

The Non-Statutory Interim Planning Policy Statement: Climate Emergency  
The Interim Planning Policy Statement was adopted on 7th March 2023 and is a material consideration when determining applications. The Statement makes specific reference to the use of battery storage as a means to improving energy efficiency (Principle CP.3).

The Regulation 18 Issues Paper for Plan Mid Devon

The emerging Local Plan, Plan Mid Devon embeds responding to the climate emergency and moving to a net zero carbon future as an overarching principle. This includes increasing the use and supply of low carbon energy to improve resilience.

#### Assessment

The application proposes the construction of a temporary battery energy storage system facility, with associated infrastructure and works, on land which is outside of any of the settlements defined under Policies S10 to S13 of the Local Plan. The site is therefore defined as 'countryside' under S14, where development is permitted subject to appropriate criteria, as applied through detailed development management policies. The appropriate criteria in this instance are defined within Policy S1 criterion d) which supports the diversification of agricultural and other land-based businesses. Criterion j) sets out the need to address climate change by supporting energy efficiency, and encourages the effective use of land, whilst having regard to the benefits of the best and most versatile agricultural land.

Policy DM2 'Renewable and low carbon energy' states that proposals must demonstrate that impacts on agricultural land, environmental amenity, biodiversity, landscape and heritage are, or can be made, acceptable. Criterion a) concerns protection of the landscape character and the character and setting of heritage assets. Policy DM1, criterion c) strengthens this by stipulating that new development must be well integrated with landscapes and contribute positively to local character including any heritage or biodiversity assets and the setting of heritage assets. Policy DM25, criterion b) reinforces this by requiring development proposals likely to affect the significance of heritage assets to consider their significance, character, and setting (including views to or from heritage asset).

The development site is situated within a wide, flat-bottomed river valley surrounded by a low, gently undulating landform. The surrounding landscape is characterised by a quintessential 'Devon' patchwork of fields, surrounded by thick hedgerows with mature hedgerow trees. However, the sensitivity of the site to development is reduced due to its position adjacent to the A361, proximity to the M5, and presence of electricity pylons. The site lies beyond the setting of Knightshayes Court but is visible from sections of the Grand Western Canal Conservation Area.

The applicant has submitted a Heritage Desk Based Assessment, Landscape and Visual Impact Assessment (LVIA), and a Landscape & Ecological Mitigation and Enhancement Strategy. Whilst the Heritage Assessment states that no harm would be caused to the setting of the Grand Western Canal, the LVIA suggests otherwise and proposes mitigation in the form of screening through additional hedgerow planting.

The case officer's site visit should establish whether the proposed height, appearance and massing of the scheme is likely to be unacceptable in its rural context. The case officer is best placed to determine whether the landscaping proposals meet relevant guidelines within the Mid Devon Landscape Character Assessment (2011), or would have an adverse impact on the surrounding countryside. Conservation officers will be able to advise if harm to the setting of the Grand Western Canal can be effectively mitigated.

Criterion b) of Policy DM2 addresses the effect on amenity of nearby properties and the wider locality. The site is not publicly accessible and is located at a distance from residential settlements. However, the curtilage of an isolated dwelling, Lock's Cottage, adjoins the site to the north, with the proposed placement of battery units within visual and audible range of the cottage.

The applicant has submitted a Noise Impact Assessment, along with plans proposing that a 2.5m high earth bund with hedgerow planting is created, in order to reduce the visual and auditory impact of the scheme on the occupants of Lock's Cottage. The Noise Assessment includes a suggestion to impose a planning condition to limit cumulative operational noise levels. The submitted Design and Access Statement indicates that potential light pollution would be mitigated through use of manually operated or passive infrared sensor lighting during the scheme's operation.

The case officer's site visit should establish whether the scale of the earthworks proposed would have an adverse visual impact or cause harm to the character of the landscape. The effects of the proposed noise levels and lighting scheme would need to be considered by Public Health officers.

Criterion c) concerns the quality and productivity of agricultural land, seeking to preserve the highest grades. Part of the proposed development involves the construction of an access road and installation of battery storage units on Grade 3a agricultural land, which is included within the category of the best and most versatile agricultural land. The applicant has submitted an Agricultural Land Classification Survey which details the extent, positioning and quality of the site's agricultural land. The case officer will need to weigh the benefits of the scheme against the loss of Grade 3a agricultural land.

Criterion d) addresses the impact of development on biodiversity, with specific regard to avoiding habitat fragmentation. The applicant has submitted an Ecological Impact Assessment which includes a biodiversity net gain assessment, a Landscape & Ecological Mitigation and Enhancement Strategy, and an Outline Landscape and Ecological Management Plan. Biodiversity enhancements are proposed at notably higher levels than the forthcoming mandatory 10% minimum net gain requirement for new development.

The proximity to both the M5 and A361 should be taken into consideration when creating habitat attractive to nocturnal and/or roaming species. As set out above, the location, and impact of the proposed lighting scheme, would need to be considered by Ecology officers. The case officer will need to weigh up the benefits of biodiversity gain against the loss of Grade 3a agricultural land.

## Conclusion

National energy policies are supportive of battery storage, which are a material to consideration of the application, but the principle of whether a battery energy storage scheme would be appropriate in this location is contingent on demonstrating that the requirements of Policy DM2, Policy DM1 c), and Policy DM25 b) have been met.

The case officer will need to establish whether the visual, landscape, and heritage impact is acceptable, and to weigh the loss of Grade 3a agricultural land against the merits of the scheme,

having regard to the significant weight attributed by national policy to improving energy efficiency and achieving decarbonisation of the electricity grid.

### **PUBLIC HEALTH – 12 February 2023**

We are pleased to see that the applicant has been able to consider and address the various concerns that we have raised during this process, particularly with regards to providing a 100m buffer between the battery storage units and the nearest residential property of Lock Cottage. We therefore have no outstanding specific concerns and recommend that the buffer of 100m from any residential property is conditioned in perpetuity. We also recommend that the standard CMP condition is included in any approval to ensure that local communities are not adversely impacted upon during what will be a major and long term project. We also recommend a CEMP condition along the following lines:

A Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site. This shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters of site management:

1. Air quality and dust control;
2. Water quality;
3. Site lighting;
4. Control of noise and vibration;
5. Pollution Prevention, Control and Monitoring Arrangements;
6. Confirmation that construction working hours and delivery times will be between 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays;
7. A prohibition of burning on site;
8. Confirmation that there will be no high frequency audible reversing alarms on site based vehicles.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from unacceptable environmental impacts during construction.

### **Previous response – 12 January 2023**

The additional technical responses are helpful and have addressed our concerns as far as we can anticipate. These are our updated comments:

We have now reviewed the additional information provided by the applicant, and are grateful for it. We recognise the significance of schemes such as this to assist with the climate change agenda. However it is still important to consider the potential impacts of any proposal on the amenity of existing communities. The public health team have been justified in raising additional queries regarding noise and safety, queries which mirror concerns of local residents and the parish councils. There has been understandable anxiety about this scheme because in this area this is new technology on a very large scale. On the matter of health and safety and fire safety, the queries have been addressed and both the HSE and Fire Service are fully aware of what is proposed. In the event of any safety and fire concerns, affected parties should contact those authorities directly. With regards to noise, the applicant has provided the requested additional information and this has addressed our outstanding queries. It is the BESS industry itself which recommends the 100m minimum separation distance from residences (easily found online) but unfortunately there is no current formal guidance.

In conclusion, as far as we can anticipate, we have no outstanding queries regarding this application and recommend that the following conditions are included on any approval:

#### Noise -

"The rating level arising from the Development shall not exceed the typical background noise level, at any frequency, during the day (07:00 – 23:00) and night-time (07:00 – 23:00) periods at the closest residential receptors to the site. The rating level shall be assessed in accordance with the methodology and principles set out in "BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound". Reason: to protect the amenity of existing residents from unacceptable noise, including low frequency noise."

NB. The wording of the proposed noise condition has been amended by the EHO but the basis is as proposed by the applicant.

#### Construction management -

The standard CMP condition should be included in order to ensure that the construction process is managed in such a way that local communities are not adversely affected.

#### Previous response - 2 October 2023

We have considered the application and have the following initial comments regarding potential impacts on public health and well-being:

1. Separation distance - although these are relatively new schemes it is widely recommended that the battery units themselves should be at least 100m away from the any residential property. In this case this separation distance would not be achieved and therefore it is understandable that local residents have concerns about noise and safety. We would wish to see this separation distance achieved.

2. Safety - the applicant has submitted a Battery Safety Standards document that sets out various safety issues including fire safety. It is stated that the units have an inherent system for dealing with fires without need for the Fire and Rescue Service involvement, but the author does describe in some detail the liaison with the local service. The standards specify a wide perimeter road around the units and this is indicated. However it appears that several sites have been affected by serious fires which have been difficult to bring under control and the location of the site close to a main road and motorway, as well as the residences, is an understandable concern. Further detail should be provided regarding this risk because it is a fundamental consideration for the location, layout and size of this kind of operation.

3. Noise - a comprehensive noise report has been submitted and concludes that most of the time fan noise would be exceeded by road noise, although this would not be the case in every wind and weather condition. Separation distance is also a mitigation consideration and the specific location of noisy plant should be clarified. We note that a bund is proposed on the northern boundary and this will help in this regard. No mention is made of noise frequencies and low frequency noise and therefore we would request a report addendum which specifically looks at low frequencies because these noises may not be masked by traffic noise.

4. Air Quality - an assessment has been provided in line with the MDDC SPD on air quality. This concludes that once constructed the site would fall into the small potential impact category and we would agree with this. During construction dust levels would need to be controlled using standard mitigation measures and this would be required in the standard CEMP condition.

5. Lighting - it appears that the site does not need to be routinely lit and only emergency lighting would be required. We would request that this is clarified as there is potential for excessive lighting on such a large site to be intrusive.

We would be pleased to comment further once further information has been provided; our main concern being the absence of a suitable and safe separation distance from the nearest residents.

#### **DEVON & SOMERSET FIRE & RESCUE SERVICE – 6 March 2024**

Having reviewed the relevant information contained in the documents and plans uploaded onto the planning portal on 8 February 2024, and in addition those included in the revised Battery Safety Standards Addendum (22/02/24), DSFRS can confirm that we have no further observations to add to those already issued on 18 December 2023.

The plans and information would suggest that the applicant has incorporated our previous comments and the relevant guidance issued by the NFCC. Any departures from the NFCC guidance appear to be fully justified by incorporating the requirements of recognised safety standards such as NFPA 855 and UL9540A.

Previous response - 20 December 2023

These comments are in response to the additional information the applicant has provided in the following documents:

- Addendum to Battery Safety Standards
- Response to Consultation Comments
- Compliance with NFCC Design Guidance
- Overhead Power Line Relocation Plan
- Visibility Splay and Swept PA of Fire Appliance Rev A
- Visibility Splay and Swept PA of Fire Appliance Rev B

Having reviewed the information within the above documents, DSFRS have no concerns to raise or additional comments to make. The information and responses indicate that the applicant has taken note of DSFRS's previous comments and that generally the application has incorporated the recommendations found in the NFCC design guidance.

DSFRS also supports the applicant's suggested that a condition be applied to the granting of permission, requiring the submission and approval of a Battery Safety Management Plan (BSMP). This approach allows for the design flexibility necessary to incorporate any future advancements in battery unit design whilst supporting ongoing consultation between the applicant and regulatory authorities.

Previous response - 21 November 2023

The NFCC guidance that has recently been released recommends a minimum separation distance of 25 metres. This distance was based on research of incident reports and recommendations from previous BESS incidents, and it was at this distance that projectiles / materials / and the structure of the container cease to represent a hazard following an explosion.

According to NFCC, they are already revising this guidance so I would suggest 30.5 metres (the minimum distance that NFPA 855 classes as "remote") should be adopted. In the absence of a specific British Standard for BESS, as most BESS providers appear to be adopting NFPA 855, I think this would be reasonable. Especially since NFPA 855 also requires deflagration and explosion prevention too.

This distance only covers the explosion risk and does not consider the distance that a fire plume may cease to become hazardous. Unfortunately, I'm not able to predict this distance due to so many environmental factors. An obvious mitigation strategy here is to site BESS units downwind of



neighbouring properties or it may be possible to carry out computational fluid dynamics (CFD modelling) to predict a safe plume distance.

Previous response - 23 October 2023

Whilst the Service is not a statutory consultee in relation to this project, we welcome opportunities to work and engage with developers to ensure projects are delivered safely and that operators meet the statutory responsibilities that we enforce. The Service recognises that Battery Energy Storage Sites (BESS) pose specific hazards in the event of fire that are still not fully understood or researched. As a result, regulations, enforcement and best practice to mitigate the risk from BESS is still in development.

The Fire Service's own powers of enforcement under the Regulatory Reform (Fire Safety) Order 2005 require the Responsible Person to carry out and regularly review fire risk assessments to protect relevant persons by identifying fire risks and removing or reducing them to as low as possible. It also requires the Responsible Person to mitigate against those fire risks that remain.

The applicant has submitted a 'Battery Safety Standards' (BSS) document outlining some of the safety measures to be employed in the proposed scheme and confirms a commitment to incorporate the outcomes of consultation into the design of the facility.

The National Fire Chiefs Council (NFCC) has recently released guidance entitled *Grid Scale Battery Energy Storage System Planning - Guidance for FRS*. The Service supports this guidance and has taken it into consideration whilst making the following specific comments.

System design, construction, testing and decommissioning

The BSS document confirms that the applicant will adopt the recommendations of NFPA 855 in the design, spacing and layout of the site and with the employment of mitigation strategies to reduce fire risk. It also confirms that the battery cells the applicant will use in the development will be certified to UL9540: 2023 standards. Furthermore, the BSS confirms that the battery cells will be tested to UL9540A at unit or installation level. Since UL9540A is a testing method for evaluating fire propagation during thermal runaway, the applicant should ideally ensure the battery technology to be used in the proposed development is tested at installation level or provide robust evidence to support a degree of testing to a lower level.

Reviewing the BSS document, there is little information provided regarding what battery technology will be used in the development and what systems and/or protocols will be adopted to prevent a thermal runaway event from occurring. The document makes reference to features such as internal fuses, liquid cooling, active thermal management, overcharge safety devices, internal passive protection, venting systems and gas channels and monitoring devices. However, there is no explanation as to how these features will be incorporated into an overall mitigation strategy. The limited information on these aspects of the design may be partly due to the applicant not having chosen a specific supplier. However, the Service would appreciate further detail and consultation on these matters as soon as possible.

Detection, monitoring and suppression systems

The BSS confirms that fire and gas detection systems will be installed to the recommendations of NFPA 855. However, there is limited information within the document to explain how the information received from these devices will be used. Apart from a confirmation that the gas detection will link to an external beacon and audible alert facility, there is limited detail stating that the BESS facilities will be 'preferably' monitored and managed closely by a remote facility.

Further information is necessary to detail how the detection systems will inform the battery management system and what protocols will be used in terms of battery cell temperature management and shutdown procedures. Furthermore, information should be provided to confirm the method of activation of the suppression systems and/or gas ventilation and at what trigger points activation occurs.

Whilst these details are absent from the BSS, at this stage of the planning process, the Service does note the positive commitment from the applicant to validate fire protection systems with an independent Fire Engineer and seek approval from the Fire Service at a later stage.

#### Site access and water supplies

The Service recommends that as a minimum, fire service vehicle access should align with the guidance under B5 of Approved Document B of the Building Regulations. The site masterplan confirms that this appears to have largely been met with turning facilities provided where necessary. The detail on the site masterplan is insufficient to determine road and access widths, however the BSS document confirms a minimum road width of 4m. It should be confirmed that minimum gateway (and similar pinch points) will have a minimum width of 3.1m.

The site masterplan does not show any detail regarding water provision. The BSS document does not confirm whether the applicant will meet the recommendations of the NFCC guidance (stated above) on firefighting water provision. Rather, there is a commitment to validate the final water supply requirements with an independent fire engineer.

The NFCC guidance confirms that in their responses, Fire and Rescue Services should not be limited to the content of that guidance. That being said, based on the statement made in the BSS, it is not possible at this stage to comment on whether adequate firefighting water will be provided on the proposed site.

#### Emergency plans and information

The BSS confirms that once planning approval is granted, a detailed site-specific Battery Safety Management Plan (BSMP) will be prepared. The indicative information suggested in the BSS document appears to include all the relevant risk information to inform the development of emergency plans. It has also been noted positively that the applicant will consult with the Service further on the development of such plans and support our risk information gathering should the proposed development be permitted.

#### **HEALTH & SAFETY EXECUTIVE – 5 October 2023**

HSE is a statutory consultee for certain developments within the Consultation Zones of major hazard sites and major accident hazard pipelines.

HSE has developed a Web App (<https://pa.hsl.gov.uk/>) to provide planning authorities and developers with HSE's Land Use Planning advice for new developments.

In this case, we can confirm that the proposed development does not lie within the Consultation Zone of any of the major hazard sites or major accident hazard pipelines considered by HSE. Therefore, based on the information provided there is no need to consult HSE's Land Use Planning advice team on this application, and we have no comments to make.

#### **DEVON, CORNWALL & DORSET POLICE – 9 February 2024**

Having reviewed the revised details and drawings I have no additional comments from a designing out crime and anti-social behaviour perspective.

Previous response - 22 September 2023

There are no objections in principle from a designing out crime and anti-social behaviour perspective to the application.

Given the location and relative lack of legitimate natural surveillance, having robust physical security measures is imperative, therefore, the proposed inclusion of security fencing and CCTV, including during the construction phase, is noted and supported.

I would advise that the proposed fencing should meet an appropriate, independently certificated security standard such as those under LPS 1175 Issue 8 or similar. Any gates should match the fencing and be of a similar standard and bolstered by a shroud around the locking point to further delay any attack attempt. If not in place, I would also advise that a robust lockable gate (field gate) is installed at the start of the access track directly off the highway.

Care must be taken that the proposed landscaping/planting buffer does not potentially create an easier opportunity to climb over the fencing. Any planting must not reduce surveillance opportunities in the long term be these natural or by CCTV, therefore, an ongoing maintenance programme must also be implemented.

I note the proposed CCTV is a monitored system, consideration should be given to including live voice warnings from the monitoring centre. Will the immediate exterior of the boundary and access track be included in the CCTV?

I would also advise that a perimeter detection system (PIDS) is linked with the CCTV to provide a real time alert to any intrusion, this would be essential if the proposed site-wide security fence is not to be to a tested/certificated standard. The threat of immediate response to any criminal/unauthorised intrusion, combined with the CCTV recording, is often more likely to deter criminals from pursuing any further action.

A passport for compliance document previously known as an Operational Requirement (OR) should be drawn up prior to installation to ensure any system will be fit for purpose.. This site may not need that many cameras but would advise that any system has the capacity to install more cameras at a later stage if desired. Cameras, wiring and recording or monitoring equipment should be secured.

CCTV should be designed in co-ordination with external lighting and landscaping. The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended for prosecution. Any CCTV is advised to be installed to BS EN 50132-7: CCTV surveillance systems for use in security applications. CCTV systems may have to be registered with the Information Commissioners Office (IOC) and be compliant with guidelines in respect to Data Protection and Human Rights legislation. Further information is available via [www.ico.gov.uk](http://www.ico.gov.uk). For guidance on the use of CCTV images as legal evidence see also BS 7958:2005 CCTV Management and Operation Code of Practice.

Where appropriate, individual buildings/containers within the site, for example storage facilities, should also be protected by an intruder alarm. This should be monitored and compliant with National Police Chiefs Councils current guidance. Again where appropriate or practical any external doors and windows are advised to meet an independently accredited security standard such as those under LPS 1175 Issue 8 or similar.

**HIGHWAY AUTHORITY** – 11 October 2023

The site is accessed off a C Classified County Route which is restricted to 60 MPH although observed traffic speeds are considerably lower. The number of personal injury collisions which

have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none. The access they have proposed on Drawing Number SK01 rev C shows the access on the inside of the bend with full visibility for the speeds in the area.

The County Highway Authority has no objections to this proposal and recommends the following condition:

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

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

#### **NATIONAL HIGHWAYS – 9 February 2024**

We were originally consulted on application 23/01351/MFUL in October 2023 and offered no objections subject to the submission of a full Construction Traffic Management Plan to be secured by pre- commencement planning condition, as set out in our response dated 2 November 2023. The revisions comprise changes to site design/layout, an updated Ecological Impact Assessment and Flood Risk Assessment and an Addendum to the Landscape and Visual Impact Assessment.

We are satisfied the revised proposals will not result in an unacceptable impact on the safe operation of the strategic road network and on this basis continue to recommend conditions be applied to any permission the Local Planning Authority may be minded to grant, as set out in our response.

Previous response - 2 November 2023

Notice is hereby given that National Highways' formal recommendation is that we recommend that conditions should be attached to any planning permission that may be granted (see Annex A - National Highways recommended planning conditions & reasons).

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence. Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development National Highways Planning Response (NHPR 22-12) December 2022 Affecting Trunk Roads) Direction 2018, via [transportplanning@dft.gov.uk](mailto:transportplanning@dft.gov.uk) and may not determine the application until the consultation process is complete. The Local Planning Authority must also copy any consultation under the 2018 Direction to [PlanningSW@nationalhighways.co.uk](mailto:PlanningSW@nationalhighways.co.uk).

#### Annex A National Highways recommended Planning Conditions

We have undertaken a review of the relevant documents supporting the planning application to ensure compliance with the current policies of the Secretary of State as set out in DfT and the National Planning Policy Framework (NPPF). This response represents our formal recommendations with regards to planning application 23/01351/MFUL.

The application seeks full permission for the construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements, at land north of A361, M5 Junction 27, Westleigh.

The southern boundary of the 16ha site is located approximately 100m north of M5 Junction 27, separated by the Exeter-Waterloo railway line. The BESS facility is proposed to be located approximately 350m north of the M5 boundary. Access to the site will be taken via an existing agricultural access located on an unclassified road that connects Holbrook Lane to the village of Ayshford.

#### Impact on Strategic Road Network

An outline Construction Traffic Management Plan (CTMP) dated July 2023 has been submitted in support of the application by TPA Ltd.

#### Abnormal Loads

Section 2.4 of the outline CTMP confirms there will be two Abnormal Indivisible Load (AIL) deliveries to site. No AIL movements are permitted to route via the SRN without the necessary advance approvals and/or Orders from National Highways, which must be submitted for agreement prior to commencement of the development.

#### Operational Phase

Once constructed the proposed substation would be unstaffed and accessed only by authorised maintenance personnel. The site is anticipated to require approximately two maintenance visits per month undertaken by transit van or similar. Based on this trip generation National Highways is satisfied the operation of the development will not result in an adverse traffic impact on safe operation of the strategic road network.

#### Construction Phase

It is proposed that all construction vehicle trips will route from the M5 via Junction 27. The construction phase is programmed to last for approximately 12-15 months and include the following construction traffic:

Construction deliveries 663 HGV deliveries or 1,326 HGV movements across the construction phase  
Abnormal Indivisible Loads - two deliveries or four AIL vehicular movements across the construction phase

Construction workers 30 staff or 60 daily vehicular movements

Sub-contractors 10 LGV or 20 daily vehicular movements

Section 5.1 of the outline CTMP states that where possible construction deliveries will be coordinated to avoid the AM (0800-0900) and PM (1700-1800) network peak hours. To limit the impact of construction traffic during the network peak hours National Highways requests that construction delivery times and construction worker shift times are formalised and detailed in a full CTMP and secured by an appropriate planning condition.

Section 1.11 of the outline CTMP confirms that should permission be granted, a full CTMP will be submitted to the Local Planning Authority for agreement prior to commencement, to be secured via condition. To ensure the construction phase will not result in an adverse impact on the safe operation of the strategic road network National Highways requires the submission of a full CTMP for our review prior to the commencement of the development. This must include, as a minimum:

1. Detailed construction programme including daily working hours, and anticipated periods of traffic movements to the site for contractors, plant and deliveries.
2. Construction worker travel to be restricted outside the AM (0800-0900) and PM (1700-1800) network peak periods wherever possible, to be secured by an appropriate planning condition.
3. Full details of construction traffic types, volumes and routing to the site including contractors, plant and deliveries.
4. Full details of any proposed road closures and associated diversions.
5. Full details of any temporary traffic control to the site.
6. A full signage strategy for the works, to include signage for any advance notice of the works, construction traffic routing and any proposed road closures.
7. Confirmation of any abnormal loads.

Full details must be submitted to National Highways for agreement in advance of any scheduled movements. This may be provided in a separate AIL report if preferred.

#### Recommendation

National Highways has no objection in principle to application 23/01351/MFUL subject to planning conditions being attached to any consent the planning authority is minded to grant to the effect that:

1. Prior to the commencement of the development hereby permitted, a full Construction Traffic Management Plan shall be submitted to and agreed in writing by the Local Planning Authority (in consultation with National Highways). The measures contained within the agreed Construction Traffic Management Plan will be implemented in full unless otherwise agreed in writing by the local planning authority (in consultation with National Highways). The Construction Traffic Management Plan shall remain in place for the duration of the construction phase.  
Reason: in the interest of the safe and efficient operation of the strategic road network.

#### **NETWORK RAIL – 20 September 2023**

Network Rail has no objection in principle to the above proposals.

Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent

surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels - if altered, to be such that water flows away from the railway. Drainage does not show up on buried service checks.

#### **ENVIRONMENT AGENCY – 5 March 2024**

We note the amendments to the proposed development layout as shown on drawing CST002- J27P4.0' Rev 17 'Junction 27 Energy Hub Proposed Indicative Site Layout' and the revision to the Flood Risk Assessment (RMA-RC2471 Revision 7 dated 26 January 2024 'Revised Final' by RMA Environmental). We have reviewed the changes in the context of our previous comments and confirm that our position is unchanged from our previous consultation response dated the 20th November 2023.

#### **Previous response - 20 November 2023**

As you will be aware, we previously responded to a consultation for this application advising that we would have no objections based on the assumption that there was no development, or changing levels proposed in the wildlife enhancement area which sits within flood zone 2 (medium risk) and 3 (high risk). You had since received some photographs taken during recent a flood event and sought clarification on the extent of the proposed development in relation to the flood zones.

We confirm that we have no objections to the proposed development as submitted.

We have reviewed the submitted Flood Risk Assessment (FRA) ref.: RMA-RC2471 revision 3 dated 2nd August 2023 by RMA Environmental (cover page reference: R008). It adequately assesses the flood risks in line with the requirements of site- specific FRAs as set out in paragraphs 20 and 21 of the Flood Risk and Coastal Change planning practice guidance. The submitted FRA confirms that any infrastructure lies outside of the flood zone 3 extent which is the "1 per cent Annual exceedance probability" plus an allowance of climate change.

We would recommend that, should permission be granted, a condition is placed on the decision notice which secures the implementation of the FRA and the mitigation measures it proposes. We have provided suggested wording as follows:

#### **Condition - Implementation of the FRA**

The development shall be carried out in accordance with the submitted flood risk assessment (ref.: ref.: RMA-RC2471 revision 3 dated 2nd August 2023 by RMA Environmental (cover page reference: R008) and the following mitigation measures it details:

All electrical equipment adjacent to the flood zones will be raised a minimum of 300 mm above the existing ground level.

Where post-development ground levels are above 77.4 mAOD (i.e. 300 mm above the highest flood level) equipment will be raised 150 mm above ground level.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - To reduce the risk of flooding to the proposed development.

#### **Previous response - 18 September 2023**

We have no objections to this proposal based on the information submitted with the planning application.

Whilst the flood map indicates that flood zone 3 encroaches within the red line boundary there does not appear to be any development taking place within that area. The Planning, Design and Access Statement states "The eastern and southern parts of the site are located within Flood Zones 2 and 3 (medium and high risk) which are the areas at lower elevation and also closest to the River Lyner. These areas will be used for wildlife enhancements only." However, if there is to be any development or land raising within the area at risk of flooding please re-consult us for further comment.

## **FLOOD and COASTAL RISK MANAGEMENT TEAM – 16 February 2024**

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

1. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report No.R008, Rev.7 dated 26th Jan. 2024).
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

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

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

The applicant has proposed to divide the site into 3 areas and attenuate runoff within the voids of a surface finish, before discharge to the River Lyner. The surface water drainage system has been designed up to the 1 in 100 year (+45% allowance for climate change) rainfall event. The applicant has confirmed that they can deepen the sub-base to provide additional surface water storage to achieve the higher climate change allowance (45%).

The applicant has also confirmed that they have accounted for groundwater, to prevent it from negatively impacting on their surface water drainage system. Details of the proposed swales will be required at the detailed design stage.

Previous response - 15 December 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/01351/2023; dated 9th Oct. 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 has indicated that the area in the Surface Water Drainage Strategy (Drawing No.DR-001, Rev. C, dated 20 Nov. 2023) is contributing areas. The areas in the model outputs are the proposed area of the drainage blanket, which is 80% of the total contributing area. However, the applicant should demonstrate the total required storage volume for the site.

The applicant has indicated that the battery containers and equipment will sit on concrete plinths above the ground level of the drainage blanket. The applicant has indicated that the operational company of the proposed development to maintain the surface water drainage system for the lifetime of the development.

The applicant has proposed to use 30% climate change allowance. However, the applicant will be required to use the new climate change uplift value of 45% when sizing the proposed surface water drainage management system for this development.

The applicant has submitted the outline Landscape and Ecological Mitigation and Enhancement Strategy (Drawing No.1313/10, Rev. E, dated 13rd Nov. 2023).

Previous response – 9 October 2023

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The applicant has submitted the Flood Risk Assessment and Drainage Strategy (Report No. RMA-RC2471, Rev. 3, dated 2nd August 2023) to demonstrate the surface water management proposals for the site. The applicant has proposed to divide the site into 4 areas and attenuate runoff within the voids of aggregate used as a surface finish, before discharge to the River Lyner. However, the areas of drainage blanket proposed on the Surface Water Drainage Strategy (drawing No. DR-001; Rev. A; dated 28th June 2023) do not fit the porous car park areas within the Micro Drainage Model Outputs.

The applicant should describe how the Battery Pack will be constructed. Will the battery units be constructed on concrete pads with no drainage blanket connection beneath?

A maintenance schedule has been submitted. However, the applicant must also confirm who shall be responsible for maintaining the entire surface water drainage system.

Following the update of the Flood Risk Assessments: Climate Change Allowances document in May 2022 by central government, the applicant will be required to use the new climate change uplift value when sizing the proposed surface water drainage management system for this development.

The applicant might be interested in implementing Natural Flood Management (NFM) features within the remainder of their land ownership.

**SOUTH WEST WATER – 23 October 2023**

Please find enclosed a plan showing the approximate location of a public water main in the vicinity. Please note that no development will be permitted within 3 metres of the water main, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

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

1. Water re-use (smart water butts/rainwater harvesting etc.)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer.( Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

#### **DCC ECOLOGY – 20 November 2023**

##### Phase 1 walkover survey

An initial extended Phase 1 habitat survey was undertaken on the 26 October 2022 and a further extended Phase 1 habitat survey on the 14 April 2023.

##### Non-statutory designated sites

One designated site within 2 km, Grand Western Canal Country Park which is 0.23 km offsite. A total of 13 non-statutory sites were noted within 2 km of the Site. The closest Grand Western Canal, which is 0.23 km offsite to the North.

The river running south of the site creates a potential impact pathway from the development site which required mitigation against potential negative impacts – pollution and soil entering the stream.

Mitigation during construction to prevent soil and pollutants entering the small ephemeral stream to the south – storage of soil, temporary swales if necessary. Details of mitigation are to be included in the conditioned CEMP document.

Condition: A Construction and Environmental Management Plan will be submitted prior to construction which will include details of environmental protection throughout the construction phase. This will need to be agreed with the LPA.

##### Priority habitats

###### Hedges

A small length of hedgerow (approximately 11 m in total) and two trees (located in the northern section of the line of trees - see Arboricultural Impact Assessment Barton Hyett Associates, 2023) is likely to be lost to allow for access road to be constructed into and within the development area. There will be some negative impacts to hedgerow habitat due to the loss of hedgebank for proposed access.

Retained hedgerows will be enhanced through planting, and new hedgerows will be created across the site. These measures are deemed suitable and sufficient to compensate for the loss of hedgerow and to enhance hedgerow habitats on site.

Condition: Development shall be carried out in accordance with the actions set out in the Ecological Impact Assessment and Biodiversity Net Gain Plan (BSG Ecology, July 2023). This

condition shall be discharged when the consultant ecologist confirms in writing to the LPA that the recommendations have been implemented.

#### River Lyner

The River Lyner runs to the south of the Site. An approximate length of 250 m lies within 10m of the Site boundary with approximately 300 m upstream lying outside of a 10 m buffer.

Bank side vegetation will be enhanced to more natural habitats as well as creating greater structure and diverse habitats for a multitude of species. These measures are deemed suitable and sufficient to enhance the riparian corridor next to the river.

Condition: CEMP Condition as above.

#### Other habitats

Improved and semi-improved agricultural grassland

Development site compromises of ecologically poor improved and semi improved grassland. Approximately 7.23ha of this habitat will be removed to facilitate development.

The creation and enhancement of new and retained habitats will enhance the site for biodiversity and compensate for the loss of improved and semi-improved grassland. See Net Gain section below.

Condition: Development shall be carried out in accordance with the actions set out in the Outline Landscape and Ecological Management Plan (dated July 2023).

#### Bat commuting / foraging

Hedgerows provide opportunities for foraging and commuting bats and local surroundings are unlit and well-connected. Potential to devalue and degrade boundary habitats through light spill. Commuting/foraging bats may be negatively impacted due to increased lighting.

Only security lighting is to be added to site which will be activated by movement sensor with time limit switch. These measures are deemed suitable and sufficient to mitigate against potential negative impacts from light spill.

Condition: No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority.

#### Bat roosts

A single building was noted on Site as well trees on and adjacent to the Site. A Preliminary Roost Assessment (PRA) of the building within the Site was undertaken as well as a ground level tree assessment during the Phase 1 habitat survey on 14 April 2023.

The Building on Site was assessed as having low suitability to support roosting bats. A single tree located in the south corner adjacent to the Site (dead ash *Fraxinus excelsior* tree) contained low potential to support roosting bats. Both the building and the tree are to be retained. Roosting bats are unlikely to be negatively impacted by this development. No mitigation required.

#### Dormice

No evidence of dormice but potential for dormice to be present within taller hedgerows. Current proposals to impact species poor hedgerow, with limited impacts to dormice. Removal of 11m of hedgerow may disturb dormice. Dormice may be negatively impacted through disturbance associated with this development.

Removal of hedgerows associated with construction phase should be completed in late autumn/winter. This is deemed suitable and sufficient to mitigate against potential negative impacts on dormice. The creation of new hedgerows will enhance the site for dormice. See Net Gain below.

Condition: CEMP Condition as above. LEMP Condition as above.

#### Otter

There is suitable habitat along the River Lyner which runs along the south end of the Site for otters to utilise, including foraging commuting and possible resting sites. However, due to the nature of the Proposed Development, it is unlikely that negative long term impacts on otter are likely to occur given the development is taking place in the north of the Site approximately 100 m from the river Otter are unlikely to be negatively impacted by this development. No mitigation required.

#### Great Crested Newts

The development site lies within a great crested newt consultation zone. Pond 1 was subject to a Habitat Suitability Index (HSI) survey on 14 April 2023. eDNA survey was then undertaken on 4th May 2023. The eDNA survey was negative. GCNs are unlikely to be negatively impacted by this development. No mitigation required.

#### Nesting birds

Hedgerow and scrub habitats support range of nesting bird species. Nesting birds may be negatively impacted by this development during habitat clearance.

Cutting of suitable nesting habitat should be completed during September to February inclusive, outside of the bird nesting season. Alternatively, thorough inspection by a qualified ecologist prior to disturbance/removal. This is deemed suitable and sufficient to mitigate against potential impacts on nesting birds. The creation of new hedgerow and scrub habitats will enhance the site for nesting birds. See Net Gain below.

Condition: No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

#### Reptiles

The Site contains some limited potential to support reptiles specifically the field margins which consist of hedgerow. There is no potential for slow worm *Anguis fragilis* given the nature of the low-cut grazed grassland across the rest of the Site. Grass snake are assumed to likely be present on the Site Reptiles may be negatively impacted during site clearance.

Destructive habitat search under guidance from experienced ecology when works in those areas are due to start, including hedgebank removal along the access. This is deemed suitable and sufficient to mitigate against potential negative impacts on reptiles. The creation of scrub habitats will enhance the site for reptiles. See Net Gain below.

Condition: CEMP Condition as above.

#### Badgers

No setts or evidence of badger activity on site. Likely that badgers use the site for foraging and commuting. Potential negative impacts during construction and operational phases of entrapment. Badgers may be negatively impacted, particularly during the construction phase of development.

Open trenches should have means of escape for badgers. Any security fences should have a gap at each corner for entry and exit points. These measures are to be included in the conditioned CEMP document. These measures are deemed suitable and sufficient to mitigate against potential negative impacts on badgers.

Condition: CEMP Condition as above.

Condition: No more than one month prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority.

Net gain

Baseline habitats:

0.08ha mixed scrub

15.28ha modified grassland

0.018ha pond

1.763km of various hedgerows

Proposed habitat creation and creation:

1.73 ha mixed broadleaved woodland

7.74ha enhancement of modified grassland to other neutral grassland

0.313km hedgerow creation

0.587km hedgerow enhancement

0.7km watercourse enhancement

The LPA ecologist believes the habitat creation and enhancement measures put forward are appropriate and sufficient in securing a net gain in biodiversity.

Using Biodiversity Net Gain 4.0 metric, 14.96% net gain in habitat units, 25.61% net gain in hedgerow units and 14.90% river units. This exceeds the 10% net gain requirement, thus enhancing the site for wider biodiversity.

Condition: LEMP Condition as above.

### **HISTORIC ENVIRONMENT TEAM – 27 February 2024**

I have now received an interim report on the results of the archaeological field evaluation. This has indicated that a large part of the proposed development site has low archaeological potential and no further archaeological mitigation is required for much of the development area. However, these investigations did identify two areas where archaeological deposits are present - in the vicinity of trenches 37 and 45 - in the form of two ditched enclosures as well as evidence of iron working on or nearby the site. The archaeological features are as yet undated, but I have been assured that funds and resources are available for the outstanding post-excavation tasks to be undertaken, so dating may become available in the near future, and for the production of and full detailed report on the results of these investigations.

In the light of the results of these investigations I would like to withdraw the Historic Environment Team's previous comments and instead offer the following comments to the Planning Authority:

The impact of development in areas shown by the archaeological field evaluation to contain archaeological deposits should be mitigated by a programme of archaeological work that will

investigate, record and analyse the archaeological evidence that will otherwise be affected by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 211 of the National Planning Policy Framework (2023) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM25 (2020), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

Reason: 'To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.'

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

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be brought into its intended use until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason: 'To comply with Paragraph 211 of the NPPF (2023), which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of the archaeological excavation of those areas affected by the proposed development previously shown to contain archaeological or artefactual deposits to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice on the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further

information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management>.

Previous response - 30 November 2023

I refer to the geophysical survey undertaken of the proposed Battery Energy Storage System development site. This survey has identified anomalies that are indicative of prehistoric or Romano-British settlement within the application area. The survey has also identified the below-ground alignment of the medieval parish boundary crossing the site.

However, despite identifying anomalies that are indicative of archaeological deposits and features a geophysical survey alone cannot determine the significance of these putative heritage assets.

In the absence of the results of a programme of intrusive field evaluation to test the anomalies identified by the geophysical survey and determine their significance as well as the efficacy of the survey itself the Historic Environment Team reiterates its objection on the basis of the application being supported by insufficient heritage information.

The requirement for this information is set out in para 194 of the NPPF (2023):

"Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

This is reflected in para (e) in Mid Devon Local Plan Policy DM25 (e) where the council will:

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

Supporting text in para 4.79 of the Local Plan states:

"Where proposed development will have the potential to impact upon a heritage asset or its setting, the Council will require the applicant to submit sufficient information to enable a description of a heritage asset affected and a consideration of the impact of the development upon it. This may take the form of an appropriately detailed desk-based assessment and, where necessary, a field evaluation. The level of detail required should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on its significance."

In the absence of the results of a programme of intrusive field evaluation the significance of any heritage assets within the application area is unknown.

Previous response - 20 September 2023

The proposed site of the Battery Energy Storage System lies in an area where prehistoric and Romano-British activity is recorded in the Historic Environment Record in the wider landscape. It is situated on the edge of the flood plain for the River Lyner and may have been an attractive site for early settlement and agricultural activity. There are two ditched enclosures, identified through aerial photography within 1.2km of the development site. A polished Neolithic axe was found during construction of the North Devon Link Road which may indicate human activity in this landscape from this period. The site is also bisected by the parish boundary between Burlescombe and Sampford Peverell, which the desk-based assessment notes as "possibly originating from a 10th-century Saxon estate boundary, recorded by a charter dated 958".

Given the absence of any archaeological field evaluation, such as a geophysical survey or a programme of intrusive trial trenching, it is not possible to determine whether the site contains

below-ground archaeological deposits associated with the known prehistoric and Romano-British activity recorded in the wider landscape, or the significance of any such deposits. Indeed, the desk-based assessment states: "Any archaeological site visit has inherent limitations, primarily because archaeological remains below ground level may have no surface indicators." This would be particularly true of more ancient archaeological sites that have been subject to centuries of agricultural activity which would have removed any surface expression.

As such, I do not consider that the information submitted in support of this application is sufficient to enable an understanding of the significance of any heritage assets with archaeological interest within the application area or of the impact of the proposed development upon any such assets that may be present.

Given the unknown potential for survival and significance of any below ground archaeological deposits associated with the known prehistoric and Romano-British activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with guidance in paragraph 5.3 in the supporting text for Mid Devon Local Plan Policy DM25 (2020) and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

The additional information required to be provided by the applicant would be the results of:

- i) An archaeological geophysical survey followed - if required by
- ii) A programme of intrusive archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

#### **MDDC CONSERVATION OFFICER - 13 March 2024**

The desk based heritage assessment is detailed and clearly draws on the Historic Environment Record as a resource, including many non-designated heritage assets that would often be overlooked. This is much appreciated, although it does lean more on archaeology than the wider built historic environment.

However, there is very little consideration of the setting of the Grand Western Canal Conservation Area and the visual impact of the battery storage when viewed from it. While the GWCCA's primary significance is the historic transport network, it was designated at a time when it was (and still is) being used as a leisure facility, mainly cutting through rural countryside. This, too, is part of its significance. I therefore disagree with paras 7.1.5 and 7.1.5 of the Heritage Assessment in that the setting of the CA shares no relationship with the development area and does not require further consideration.

Photomontage 1 shows that the initial visual impact on the view from the GWCCA would be detrimentally impacted, with considerable erosion of the rural and agricultural landscape. This should be weighed in the planning balance by officers.



## REPRESENTATIONS

9 public objections were received, summarised as follows:

1. The acoustic and visual mitigation does not go far enough to protect Ayshford residents. The bund and planting should be extended along the entire northern boundary.
2. Noise condition should be added as suggested by residents' noise consultant.
3. More detail should be provided in the Landscape and Ecological Management Plan, which contains little detail. It should not be left to be conditioned as it becomes difficult to enforce once the development is sold on.
4. Unconvinced this is the right location for a battery energy storage facility.
5. The scale of the substation is not shown: drawing shows it could be up to 23m high and extend over a large area in the corner of the site.
6. The substation is not considered in the LVIA, and the LVIA does not mention the 2018 appeal decision for a recycling and soil screening/storage facility that was dismissed on landscape harm, particularly landscape character and the site being a 'gateway' to Devon. Current proposal is far more damaging to the character and appearance of the area.
7. Appeal decision also concluded the loss of best and most versatile agricultural land is not outweighed by social and economic benefits.
8. 30% of the site is best and most versatile agricultural land (grade 3a), and not compliant with policies S1 and S9 of the Local Plan.
9. Negative impact on habitats, e.g. feeding ground for bats, and proposed fencing restricting wildlife movement.
10. The visual impact would detract from the setting of the canal conservation area.
11. None of the appeal Inspector's conclusions have been addressed in the submission. The applicant should demonstrate that there are no alternative sites with less visual impact and less exposed in the landscape.
12. The site is reasonably flat and visible from road and rail to people coming to the area for tourism. When added to the nearby solar array, it will make a large scar on the landscape.
13. This is a greenfield site that is being turned into an industrial site for no reason. It is not renewable energy as it takes electricity from the grid and feeds it back into the grid.
14. Safety concerns relating to the mains water pipe that crosses the site.
15. Concern regarding access for emergency vehicles.
16. Concern regarding significant damage in the event of a fire or explosion.
17. The site is in full sun in the summer and climate change is causing increasing summer temperatures. An article in Science Direct (extract submitted) states that overheating, overcharging or mechanical abuse can cause thermal runaway in lithium ion batteries where large amounts of flammable and possibly toxic gases are produced which can cause an explosive atmosphere. Several incidents have resulted in fire, explosions and first responder hospitalisations.
18. Climate change has the potential to increase flooding. The battery storage facilities are squeezed into flood zone 1, but landscaping/biodiversity enhancement in flood zones 2 and 3. Significant areas of hardstanding could increase run-off and in times of heavy rainfall increase flooding in flood zones 2 and 3, affecting wildlife, and possibly encroaching on flood zone 1.
19. The amended proposal shows battery storage units closer to flood zones 2 and 3. Photographs show recent flooding.
20. The road is signposted as unsuitable for heavy vehicles and the section beside the development is single track with passing places and overhead telephone lines. In the event of fire, explosion or gas seeping it is difficult to imagine how emergency services would access the site.
21. A fire protection officer's report (extract submitted) states that risks of vapour, fire or explosion are real and becoming more common as the number of BESS facilities increase.

The Fire Service has two options: let it burn out or use significant amounts of water for a protracted period. There would be damage to hedges, telephone lines, overhead power lines and the water main and disruption to the community.

22. A major incident at the site would result in the closing of the M5, A361 and railway line. No contingency plans appear to be in place.
23. Use of considerable amounts of water should there be a fire. Water run-off is likely to be heavily polluted and would enter the Lyner, then Splatford Stream and river Culm.
24. Increased noise: from construction and early operation when screening is immature; during operation a constant hum would affect nearby properties, at night and in the summer when windows are open and traffic is reduced, and would become invasive. Noise and light pollution would increase if the Police recommendations of security lighting, audible alarms and keeping screening to a low level are implemented.
25. The battery units are too close to residential properties in terms of noise, safety, and possible external lighting. The units closest to these properties should be removed. Relocating them would potentially put them in flood zones 2 and 3. The units on the east facing side of the next field should also be removed to allow for better access for emergency vehicles and maintenance of local water supply.
26. The submission states that noise will be no greater than noise from the M5 and link road. Noise will double and this will be 24 hours a day, 365 days a year. Noise travels a lot further than is shown on the diagram, even when buffered by trees, hedges and banks. The applicants need to commit to greater assurances on noise levels.
27. Use of this land is not in the Local Plan. The proposal conflicts with the Local Plan and the NPPF.
28. The applicant has not recognised that there are two properties close to the site: Swallows and Locks Cottage. This could have affected consultee responses.

CPRE Devon objection, summarised as follows.

1. The company does not appear to understand the complexity of the proposal. The submission states that it would be storing and exporting 400MW of electricity. 400MW would appear to be the power capacity. It would be storing energy not power. The statement that 400MW would be sufficient to power all 82,000 houses in Mid Devon is questionable as one would need to know the energy stored and how often it was used and the energy consumption of all the homes. Energy storage capacity and frequency are not given.
2. The statement that the BESS would store excess electricity when supply outstrips demand is false. When BESS charges, the increase in demand can only be met by gas fired power stations. Renewable energy generation is not turned off when its generation exceeds supply.
3. There a lack of information about the BESS, e.g. type of battery, total number of battery cells. This should not be left to be dealt with by condition. The Energy Institute, London, planning guidance states that states that the specific chemistry of the batteries is important for the planning process. It is not sufficient to state lithium ion batteries as each type has different characteristics with regard to fire resistance, fire and explosion propagation, performance, efficiency and resilience of ambient conditions. A fire safety plan should include a means for containment of water, or other materials used for extinguishing the fire, but avoid run-off into the local environment.
4. The BESS store energy but not generate it so is not a renewable energy scheme. When charging the BESS would be a consumer of electricity so additional electricity would need to be generated. This could only come from a gas fired power station. Emissions would be high because the energy stored would come from fossil fuels. It would have a high carbon footprint because of the energy required to mine and refine the materials, manufacture the batteries and transport them to the site. Batteries last 8-10 years but there is no mention of battery replacement which would add to carbon emissions.

5. The statement that the BESS would displace 11,000 tonnes of carbon has no basis. The applicant has not carried out a carbon assessment (greenhouse gas assessment) as required by Overarching Policy Statement for Energy (EN-1).
6. There is no need for the BESS to be located on a greenfield site. It can be located anywhere with access to the grid. There is no benefit to the community from the security of supply perspective. A report from the National Renewable Energy Laboratory states that BESS should be located near a load centre, i.e. not in a rural area.
7. The submission states that an outline Battery Safety Management Plan would be submitted with the application. None has been submitted and should be provided before the application is determined.
8. There have been many recorded fires/explosion from BESS facilities, and thermal runaway is an identified risk. This can lead to high temperatures, gas build up and explosive rupture of the battery cell resulting in fire and/or explosion. Battery fires are often intense and difficult to control and can take weeks to extinguish properly. They can also lead to exposure to toxic fumes and hazardous materials. Copious amounts of water are needed which will be heavily contaminated. The Fire Service should be fully aware of the facility so risks are reduced.
9. There appears to be no water supply, no blast walls between containers, and no bunding to contain contaminated water. There appear to be no 'dead pipes' that allow the containers to be flooded with water and the fire fighters to step away.
10. Any BESS facility in excess of 50MW required a Hazardous Substances Consent assessment and the HSE consulted. The proposal should be registered as a COMAH site (Control of Major Accidents Hazard). There is no evidence that the applicant has applied for Hazardous Substance Consent.
11. There is no consideration of the effect of an explosion and no assessment of the risk.
12. The Transport Assessment fails to mention transport associated with battery replacement or decommissioning. No consideration is given to the proximity of the motorway or railway line.
13. The proposal would neither protect nor enhance the landscape and is contrary to policy S9 of the Local Plan.
14. No information is given as to what would happen to the equipment after it is removed. Most of it cannot be recycled and would go to landfill. This is not sustainable development.
15. 30% of the land is grade 3a (best and most versatile). This is contrary to S1 and S9 of the Local Plan.

14 supporting comments were received, summarised as follows:

1. Important to move as much generation to renewables as quickly as we can. This proposal supports that.
2. The more we can do to support green solutions is amazing and the only solution for our planet.
3. BESS are an essential component of renewable energy systems essential to achieve net zero. The site is adjacent to busy roads and can hardly be described as being of natural beauty.
4. The site has been designated for development by MDDC.
5. Any noise will be swamped by noise from adjacent roads.
6. Supporting the energy drive is important.
7. We need to do as much as we can for our grandchildren to help with climate change.
8. Battery storage is critical to ensuring sustainable energy is used effectively. The infrastructure to support intermittent wind and solar needs to be in place as soon as possible.
9. The fact it may be visible to motorists should not detract from the proposition.
10. MDDC should do more to encourage these projects.
11. With climate change being the biggest issue, support for any project like this.

12. Half the project has been set aside to enhance nature and wildlife.
13. 5,043 households in Mid Devon in fuel poverty. The project offers a financial contribution to help those households implement measures to reduce their energy consumption.
14. Energy storage is critical to the greener generation of power. The proposed energy storage will be a crucial addition to Devon's power future-proofing programme, along with wind and solar.
15. A great green project that will help the neighbourhood.
16. Battery storage is a critically important component of the UK's future energy reliability. Batteries help even the load and are critical to a reliable power network as we move to renewable electricity.
17. Important step towards sustainable energy.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Principle of development**
- 2. Layout**
- 3. Access**
- 4. Landscape**
- 5. Best and most versatile agricultural land**
- 6. Ecology**
- 7. Impact on heritage assets**
- 8. Impacts on neighbouring residents**
- 9. Fire safety**
- 10. Flood risk and drainage**
- 11. Other**
- 12. Planning balance**

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

The Infrastructure Planning (Electricity Storage Facilities) Order 2020 removes electricity storage, except pumped hydro storage, from the need to seek planning consent in accordance with the national planning regime (Nationally Significant Infrastructure Projects (NSIP) regime) under the Planning Act 2008 in England and Wales. Instead, planning consent for these types of development may be sought from the relevant Local Planning Authority under the Town and Country Planning Act 1990.

Policy S1 of the Mid Devon Local Plan seeks to meet the challenge climate change by supporting a low carbon future, energy efficiency and increasing the use and supply of renewable and low carbon energy. Policy S9 supports renewable energy development (and by inference supports the infrastructure necessary for that 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. Policy S14 permits renewable energy development in the countryside.

The Local Plan does not contain a specific policy regarding energy storage, but the proposed application could be considered in the context of national policy requirements for transition to a low carbon society, focussing on the need to minimise vulnerability and improve resilience through support of low carbon energy and its associated infrastructure.

Mid Devon has declared a climate emergency and its Interim Planning Policy Statement on Climate Change was adopted on 7 March 2023 and is a material consideration when determining applications. The Statement makes specific reference to the use of battery storage as a means to improving energy efficiency.

The National Planning Policy Framework (NPPF) does not make specific reference to energy storage but supports the transition to low carbon energy. National policy sets out that the planning system should support renewable and low carbon energy and associated infrastructure, and encourages opportunities to achieve net environmental gains. Paragraph 163 states that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and approve the application if its impacts are (or can be made) acceptable.

Planning Practice Guidance states that electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.

The Overarching National Policy Statement for Energy (EN-1) November 2023 (in force on 17 January 2024) recognises that storage has a key role to play in achieving net zero and providing flexibility to the energy system. It states that storage is needed to reduce the costs of the electricity system and increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher. Storage can provide various services that include maximising the usable output from intermittent low carbon generation (e.g. solar and wind), reducing the total amount of generation capacity needed on the system, providing a range of balancing services to help operate the system, and reducing constraints on the networks, helping to defer or avoid the need for costly network upgrades as demand increases.

There are a number of other national policy documents supporting energy storage as set out in the Forward Planning consultation response.

Policy DM2 of the Mid Devon Local Plan stipulates that the benefits of renewable and low carbon energy development will be weighed against its impact. Proposals will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of such developments within the parish or adjoining parishes. These impacts are set out later in this report.

National energy policies are supportive of battery storage, but the principle of whether a battery energy storage scheme would be appropriate in this location is contingent on demonstrating that the requirements of the relevant policies have been met, in particular whether the visual, landscape, and heritage impact is acceptable. The loss of Grade 3a agricultural land must be weighed against the merits of the scheme, having regard to the significant weight attributed by national policy to improving energy efficiency and achieving decarbonisation of the electricity grid.

## **2. Layout and design**

An indicative layout has been provided that shows how the battery units, substation, supporting infrastructure and roads may be laid out, and indicative elevations of each element of the site have been submitted. As a supplier has not yet been identified, the battery technology cannot be confirmed yet and so the actual final layout cannot be confirmed. There is therefore the need to include a condition that requires the final layout, including changes in ground levels, location and details of battery units, substation, roads and other equipment including inverters, transformers,

CCTV columns and security fencing, water tanks and pumps, to be submitted for approval, in consultation with the Devon & Somerset Fire & Rescue Service.

However, to ensure that the area proposed for the battery units and associated infrastructure, substation and roads is not altered, a Development Zone Plan has been submitted and this plan would need to be conditioned to ensure compliance. The Development Zone Plan also shows areas for landscaping and biodiversity enhancements.

### **3. Access**

Policy DM3 states that development must ensure safe access to the transport network. The proposal is to provide an access into the north western corner of the site from a Class III road, and a secondary emergency access in the north eastern corner of the site. Concern has been raised about the suitability of the road network on the approach to the site, however, operational traffic would be sporadic and the majority of traffic movements associated with the construction phase.

The Highway Authority states that the proposed access is shown on the inside of the bend with full visibility for the speeds in the area, and has no objections to the proposal, subject to a condition requiring approval of a Construction Management Plan prior to commencement.

An outline Construction Traffic Management Plan (CTMP) has been submitted in support of the application. It is proposed that all construction vehicle trips will route from the M5 via Junction 27, the construction phase programmed to last for approximately 12-15 months. There would be approximately 663 construction deliveries (1,326 HGV movements) across the construction phase, including 2 abnormal indivisible loads. In addition, there would be approximately 80 daily vehicular movements from construction workers/staff and sub-contractors. Where possible construction deliveries will be coordinated to avoid the AM (0800-0900) and PM (1700-1800) network peak hours.

National Highways has no objection in principle to application subject to planning conditions being attached to any consent. To limit the impact of construction traffic, National Highways requires the submission of a full CTMP for review prior to the commencement of the development.

Once constructed the site would be unstaffed and accessed only by authorised maintenance personnel. The site is anticipated to require approximately two maintenance visits per month undertaken by transit van or similar.

Subject to a condition requiring approval of a full Construction Environment Management Plan, the proposal is considered to comply with the relevant policies to provide safe access onto the transport network.

### **4. Landscape**

Policy DM2 states that renewable energy proposals must demonstrate that impacts on landscape are, or can be made, acceptable. Policy S9 permits renewable energy development in locations where there is an acceptable local impact, including visual and on landscape character, balanced with the wider sustainability benefits of renewable energy.

The site lies within Mid Devon Landscape Character Area LCT 3C Sparsely Settled Farmed Valley Floors. Key characteristics of this landscape type include low lying flood plains of the broader parts of river valleys and a medium to small scale landscape characterised by gently sloping or level land. It is a pastoral landscape with varying levels of enclosure from hedges and trees, with southern areas having a more open and exposed character with increased levels of visibility.

There are a number of prominent land uses close to the rivers such as mills and factories and transport routes through this landscape are highly visible. The landscape type is often tranquil and interesting, however, the report notes that the high voltage pylons present within the Grand Western Canal Corridor are highly visible adding visual discordancy, and the M5 and mainline railway disrupt the tranquillity and inherent characteristics of the landscape.

The site consists of pasture fields and is bounded to the north-west steeply sloping valley sides and to the south by gently sloping landform. The site includes several short clipped hedgerows and lines of immature trees to the eastern and northern boundaries, and there are scattered groups of shrubs and vegetation to the south-east and south-west. There is a livestock haulage yard directly to the north, a solar farm to the north-east and pylons cross the site. The M5 motorway and railway line run to the south-east of the site and the A361 North Devon Link Road runs to the south-west.

The submitted Landscape and Visual Impact Assessment assess the value of the landscape as medium to low, bearing in mind the disrupted nature of the landscape and low level of tranquillity. At completion of the development, the effect on the landscape at site scale has been assessed to be moderate adverse, reducing to minor adverse as the screening matures. At landscape scale, the development would increase the influence of energy infrastructure in this part of the landscape character area, but in the long term the effect has been assessed as being negligible, once the screening has been established.

The site is visible in middle to long range views from various viewpoints and from the main transport routes, with more limited visibility from the north, including from the Grand Western Canal Conservation Area (discussed below in section 4). The site is not visible beyond the A361 to the west and intermittently visible from the west.

A number of representative viewpoints were included within the submitted Landscape and Visual Impact Assessment. The visual assessment was based on battery storage units (batteries, transformers, inverters) of up to 3 metres in height, a substation measuring up to 13 metres at its highest point, a perimeter fence of up to 2.4 metres in height, CCTV cameras mounted on columns around the perimeter of the site, the site access and up to 5m wide aggregate tracks within the site for access to the equipment.

The site would be enhanced by increasing planting and landscaping including: enhancing existing hedgerows to a height of 3-4 metres, planting new hedgerows with trees, planting screening shrubs and trees and creating ponds and grassland. The existing hedge to the north would be gapped up and reinforced with new planting and maintained at a height of 3-4 metres, with a new hedgebank immediately in front to increase screening, again maintained at a height of 3-4 metres. Two new areas of woodland would be planted, one to the south of the substation area and one to the east between the development zone and the nearest residential properties. The hedges and shrubs would take approximately 8 years to reach the specified height for screening purposes and the trees would take approximately 15 years.

The visual effects of the development have been assessed at a number of nearby receptors. Nearby residential properties would experience glimpsed views of the development assessed as minor adverse that would reduce as the screening matures. Views from Ayshford, Holbrook Farm and Higher Houndaller Farm have been assessed as moderate/ minor adverse on completion of the development, reducing to minor adverse/negligible as the screening matures.

There would also be partial views from the Grand Western Canal Conservation Area (discussed in section 4 below) and from three public footpaths. The effects from the public footpaths have been

assessed as moderate/minor adverse to negligible on completion of the development, reducing to minor/negligible as the screening matures.

Visual effects from users of M5, A361 and railway would be brief and seen in the context of road and rail infrastructure, large scale barns and pylons crossing the site. The effects have been assessed minor to negligible. Views from the local lane to the north have been assessed as moderate to minor adverse, reducing to minor to negligible as the screening matures. Views from other local roads have been assessed as minor to negligible.

The development would increase the concentration of energy infrastructure in the immediate area and would be briefly viewed with the Ayshford solar farm in views from the A361, with sequential views of both developments from the M5 and railway line. The visual effects have been assessed as minor adverse/negligible to negligible significance in the longer term.

A 2.5 metre high bund on the western edge of the developed area is also proposed which will be planted as part of a larger screening area of trees and shrubs. This will act as both a noise bund and a visual screen. In addition, a new hedgerow would be planted to screen the development from the south, to be maintained at a height of 3-4 metres, as well as gapping up existing hedgerows, again to be maintained at a height of 3-4 metres, and a new hedgebank along the northern boundary of the site managed to a height of 3-4 metres.

Photomontages have been submitted showing the proposed development from a number of viewpoints, including from the Grand Western Canal. The photomontages show that whilst the development will be clearly visible at year 1, once the screening has matured by year 15, only a small part of the development would be visible. Most battery units are either white or light grey. There is a possibility that some elevations could be painted moss green, although not all battery suppliers are able to confirm this is something they could definitely do. As at this stage, the battery supplier and type of battery units are not known, the photomontages show the battery units as light grey. Concern has been raised that the concrete plinths are not shown in the assessments of landscape impacts and there are not full elevations of all elements of the proposal. The concrete plinths would be a maximum of 300mm high and would be screened by boundary vegetation. As mentioned elsewhere in this report, the actual elevations of the containers and other equipment are not submitted for approval at this stage, as the final details of these are not known until a supplier is chosen. The drawings submitted are indicative of what may be installed, and final details will be submitted as required by the recommended conditions.

Concern has been raised that the substation is not shown in the LVIA or on the photomontages, and this could be up to 23 metres high. The applicant has confirmed that the substation is included in the photomontages, but it is well screened and is not visible in the selected views. The Design and Access Statement and the drawing of the substation show that this would be a maximum of 13 metres at its highest point. A condition is recommended requiring full details of the type and colour of the containers and associated infrastructure to be submitted for approval.

An objection has been received that compares the visual and landscape impacts of the current application with a Devon County Council application for a recycling and soil screening/storage facilities. The DCC application was dismissed at appeal partly due to harm to the character and appearance of the area. The application included large stockpiles of materials up to 5 metres high. The DCC reason for refusal was not in relation to the buildings proposed, but in respect of the landscape and visual impacts of the proposed waste operation as a whole, including the stockpiles of building materials, mobile crushing plant and associated activity, that would not be screened by proposed planting. The impact of the development on the area was considered to be moderate to high, whereas the assessment of the current application is assessed as moderate to minor which reduces to minor/negligible as screening matures.



The current proposal is considered to have less of an impact on the character and appearance of the area, which can be largely screened. Any negative impact needs to be weighed against the benefits of the proposal.

There would be some harm to landscape character and visual amenities as a result of the proposed development which would reduce as the screening matures. The development would provide public benefits in terms of battery storage to help balance the grid and support future development of renewable energy. The benefits of the scheme are considered to outweigh the identified harm to the landscape, when assessed in accordance with national and local planning policy.

## **5. Best and most versatile agricultural land**

Policy DM2 seeks to preserve the highest grades of agricultural land. Proposals must demonstrate that impacts are or can be made acceptable in relation to loss of best and most versatile agricultural land (grades 1, 2 and 3a). The policy requires the benefits of the scheme to be weighed against the loss of the best grades of agricultural land.

Part of the proposed development involves the construction of an access road and installation of battery storage units on Grade 3a agricultural land, which is included within the category of the best and most versatile agricultural land. The applicant has submitted an Agricultural Land Classification Survey which details the extent, positioning and quality of the site's agricultural land.

The Survey shows that 4.8 hectares of Grade 3a agricultural land would be required for the development. This includes the principal access, battery storage areas and substation area. The remainder of the site is classified as 3b and 4 and these areas would be used for landscaping and biodiversity enhancements. The site could not be reconfigured to site the development areas on lower quality agricultural land as these areas are either prone to flooding or closer to residential properties. The Grade 3a land within the site is on the southern edge of a much larger swathe of Grade 3 land to the north and east, and is separated from that land by roads, including the A361 and the lane to the north. As such, it does not form part of a coherent parcel of best and most versatile land and it is not considered that its loss to development would have a significant impact on the availability of best and most versatile land in the area. There is also an extant planning permission for a business park on the area identified as best and most versatile agricultural land, which could be implemented if this proposal was not implemented.

There would be some loss of best and most versatile agricultural land for a period of 40 years as a result of the proposed development. On decommissioning, the land would be brought back into agricultural use. The development would provide public benefits in terms of battery storage to help balance the grid and support future development of renewable energy. The benefits of the scheme are considered to outweigh the loss of best and most versatile agricultural land, when assessed in accordance with national and local planning policy.

## **6. Ecology**

Policy S9 states that renewable energy development is permitted in locations where there is an acceptable local impact, including on wildlife, balanced with the wider sustainability benefits of renewable energy. Policy DM2 states that proposals must demonstrate that impacts on biodiversity are, or can be made, acceptable. Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site to include biodiversity mitigation, resulting in a net gain in biodiversity.

The site comprises pasture fields covering approximately 16 hectares, with 11.2 hectares set aside for ecological enhancement. Existing grassland will be managed to increase species diversity and allow a greater structure to develop, including areas of tussocky grassland along the river Lyner to provide benefits for wildlife for food and shelter. A mosaic habitats would be formed along the river bank including ox-bow ponds and scrapes and there would be new woodland and shrub planting. Existing hedgerows would be enhanced and new hedgerows would be planted to reinforce the existing field pattern.

The existing agricultural land is currently of limited value to wildlife. The landscaping proposals would create new and enhanced habitats nesting birds, reptiles, invertebrates and bat foraging opportunities. The river corridor would be enhanced to provide otter habitat.

There would be a biodiversity net gain of 21% for site habitats and 29% for hedgerows. The watercourse biodiversity value would be increased by 17%. This exceeds the 10% net gain requirement, thus enhancing the site for wider biodiversity.

An outline Landscape and Ecological Management Plan has been submitted that details the habitat creation proposed and its ongoing maintenance. A more detailed Plan based on the outline Plan will be required to be submitted for approval and it is recommended that this is conditioned.

The Devon County Council ecologist has assessed the proposals and has recommended conditions to protect habitats and species during the construction phase including the approval of a Construction Environment Management Plan and securing appropriate habitat creation and ongoing maintenance through a Landscape and Ecological Management Plan), limiting lighting and a repeat badger survey prior to development.

The proposal is considered to provide additional ecological benefits and a net gain in biodiversity in accordance with policies S9, DM2 and DM26.

## **7. Impact on heritage assets**

Policy DM2 requires the benefits of renewable and low carbon energy development to be weighed against its impact. Proposals will be permitted where they do not have significant adverse impacts. Proposals must demonstrate that impacts on heritage assets are or can be made acceptable. Policy DM25 requires development proposals to consider the significance of heritage assets. 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. Developers are required to make a proportionate but systematic assessment of any impact on the significance of heritage assets.

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (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. 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. The effect of an application on the significance of a non-designated heritage asset (for example archaeological remains) should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The submitted Landscape and Visual Impact Assessment has assessed the visual effects experienced from the Grand Western Canal. There would be partial middle distance views from a 400 metre stretch of the canal towpath, and from a further 200 metre stretch of the towpath. These would be glimpsed and partial views seen in the context of views towards existing barns and the M5 motorway. The effects have been assessed as moderate adverse on completion of the development reducing to minor adverse in the long term as screening matures.

A Heritage Assessment has been submitted which assesses the potential impacts of the development on heritage assets.

Within 1 km of the site one Grade I, two Grade II\* and six Grade II Listed Buildings are recorded. The Heritage Assessment states that it is not anticipated that impacts on the setting of heritage assets in the area within and surrounding the site would occur as a result of visual or other sensory changes (such as noise, light and movement) within their settings, such that the ability to appreciate the significance of the asset is affected. Significant screening of the development from the surrounding landscape is provided as a result of road embankments for the M5 and A361, as well as due to the relief of the landscape and residential development. The report concludes that no adverse impacts are anticipated on the settings of designated and non-designated heritage assets in the study area.

Archaeological investigation has been carried out to support the application. The Historic Environment Team has commented the submitted report indicates that a large part of the proposed development site has low archaeological potential and no further archaeological mitigation is required for much of the development area. However, these investigations did identify two areas where archaeological deposits are present in the form of two ditched enclosures as well as evidence of iron working on or nearby the site. The Historic Environment Team have recommended conditions relating to the submission of a Written Scheme of Investigation in respect of further targeted archaeological investigation and reporting of the findings.

The conservation officer has assessed the proposal and whilst she has identified that there is little assessment of the impact on the Grand Western Canal Conservation Area in the Heritage Report, she has identified harm to the setting of the Canal from the submitted photomontage. It is considered that the proposal would lead to less than substantial harm to the setting of the conservation area, and this harm needs to be weighed against the benefits of the proposal. In response to the conservation officer's comments, the applicant is preparing an additional statement further assessing the GWC Conservation Areas and Members will be updated with this information before committee.

Overall, in terms of impacts on heritage assets, no harm has been identified to nearby listed buildings and any harm to non-designated heritage assets (archaeology) can be mitigated sufficiently through conditions, in compliance with conditions relating to heritage assets set out above. Less than substantial harm is identified to heritage assets which needs to be weighed against the benefits. This is set out in the planning balance section of this report.

## **8. Impacts on neighbouring residents**

Policy DM2 states that the benefits of renewable and low carbon energy development will be weighed against its impact. Proposals will be permitted where they do not have significant adverse impacts on the environmental amenity of nearby properties and the wider locality. Policy DM4 states development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where

the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

The proposal has the potential to affect neighbouring residents in terms of noise from the equipment, fire safety and lighting. Noise and fire safety reports have been submitted and considered by Public Health who recommended a minimum separation distance of 100 metres from the boundaries of neighbouring properties.

Concern has been raised that the submitted noise impact assessment is limited given that the actual number of batteries and air conditioning units has not been stated and there is no information on any necessary back-up diesel generators. The applicant states that the Noise Impact Assessment has assessed the maximum amount of batteries it is possible to fit within the battery unit zone once the need for other ancillary infrastructure, planting, buffer distances etc. has been designed in. Public Health are satisfied with the noise assessments submitted in support of the application. No back-up diesel generators are required.

As originally submitted, the proposal would have been less than the distance from neighbouring properties specified by Public Health, however, the scheme has been amended to remove the batteries from the field closest to neighbouring properties to achieve the recommended separation distance. The only lighting required is that which is manually operated or provided by passive infrared sensor lighting systems in the event of a night-time incident with maintenance being required. A condition is recommended that no lighting is installed on site unless approved in writing by the Local Planning Authority.

A 2.5 metre high bund is also proposed which will be planted as part of a larger screening area of trees and shrubs. This will act as both a noise bund and a visual screen.

Public Health have confirmed that their concerns have been addressed and have recommended conditions relating to securing the buffer between the site and nearby properties and a Construction Environmental Management Plan to control pollution during the construction phase. It is recommended that the submitted parameter plan showing designated areas for battery equipment, substation and green space is conditioned to secure the buffer area.

Fire safety issues are set out in the next section below, and potential water pollution issues are set out in section 9 below.

Subject to conditions, the proposal is considered to comply with policies DM2 and DM4 of the Mid Devon Local Plan.

## **9. Fire safety**

Planning Practice Guidance (PPG) sets out fire safety guidance. It states that where planning permission is being sought for development of battery energy storage systems of 1 MWh or over, applicants are encouraged to engage with the relevant local fire and rescue service before submitting an application to the local planning authority. This is so matters relating to the siting and location of battery energy storage systems, in particular in the event of an incident, prevention of the impact of thermal runaway, and emergency services access can be considered before an application is made.

Thermal runaway is one of the primary risks related to lithium-ion batteries. It is a phenomenon in which the lithium-ion cell enters an uncontrollable, self-heating state.

Thermal runaway can result in ejection of gas, shrapnel and/or particulates, extremely high temperatures, smoke and fire. This can be triggered by a fault in the battery such as a short circuit, or very high temperatures.

The PPG states that local planning authorities are encouraged to consult the local fire and rescue service on planning applications for the development of battery energy storage systems of 1 MWh or over. This is to ensure that the fire and rescue service are given the opportunity to provide their views on the application to identify the potential mitigations which could be put in place in the event of an incident, and so these views can be taken into account when determining the application. Local planning authorities are also encouraged to consider guidance produced by the National Fire Chiefs Council when preparing determining the application.

The guidance sets out a number of principles that the fire service will consider in their response and also gives a list of information required to be provided. This includes a requirement for an automatic system for early detection of faults and automatic shutdown if faults are detected. The guidance also sets out requirements for the applicant to detail appropriate access for emergency vehicles, separation distances between battery units and from vegetation and buildings, water storage and hydrants for firefighting, signage, systems for containing water run-off, and emergency plans.

The applicant has provided information on battery safety standards which has been updated and supplemented following the initial response from the Devon & Somerset & Fire Rescue Service. The proposal has also been amended to increase separation distances to all boundaries and remove battery units from the field closest to the nearest residential properties. The fire service guidance gives the separation distance to the boundary of the nearest property as 25 metres, but acknowledges that this is just in relation to explosion and does not take account of how far a plume might travel. Public Health have advised a 100 metre separation distance based on industry guidance which has been adopted in the current proposal.

Concern has been raised that the BESS units will overheat in the higher summer temperatures to be expected with climate change. The BESS units will be fitted with conditioning units that maintain both the level of humidity and temperature within the containers providing the optimal operating temperature for the batteries. The specification of the BESS will be compatible with that for the UK with additional capacity to compensate for climate change temperature increase expectations.

It is recommended that a condition is attached to any planning permission requiring the submission of a Battery Safety Management Plan for approval, in consultation with the Devon & Somerset & Fire Rescue Service. This plan would be based on the final layout and battery type proposed.

Concern has been raised about the potential for fire and/or smoke affecting the M5 or the railway line. Both Network Rail and National Highways have been consulted and no objections have been received from either organisation. The applicant is required to prepare an Emergency Response Plan to accompany the Battery Safety Management Plan to be agreed with the Devon & Somerset Fire & Rescue Service.

Overall, subject to conditions, the application is considered to meet the guidance on safety standards given to officers from the relevant consultees.

## 10. Flood risk and drainage

Policy S1 of the Mid Devon Local Plan seeks to manage flood risk. Policy S9 requires the provision of measures to reduce the risk of flooding, requiring sustainable drainage systems including provisions for future maintenance, and avoiding an increase in flood risk elsewhere. Policy DM1 requires appropriate drainage including sustainable drainage systems and arrangements for future maintenance.

The site lies within Flood Zone 1, 2 and 3. However, the battery units, equipment, substation and roads are all restricted to Flood Zone 1 (lowest flood risk) and as a precaution the units nearest Flood Zone 2 would be on 300mm concrete plinths. The areas of the site in Flood Zones 2 and 3 are to be used only for landscaping, screening and ecology enhancements. An above average allowance for future climate change has been incorporated into the flood risk assessment. The uses are appropriate to each flood zone and are considered to be acceptable. The Environment Agency has confirmed it has no objections, provided a condition is placed on the decision notice which secures the implementation of the Flood Risk Assessment and the mitigation measures it proposes. Concern has been raised that following the redesign to move battery units away from residential properties, battery units have been located closer to Flood Zones 2 and 3 and photographs were submitted showing flooding on the site. These units are still within Flood Zone 1 and the photographs show flooding in Flood Zones 2 and 3. The Environment Agency has considered the revised plans and their comments remain the same.

The submitted Flood Risk Assessment considers potential breaches of the Grand Western Canal banks. It refers to the Strategic Flood Risk Assessment (SFRA) prepared for the Mid Devon Local Plan which identified that a breach occurred along the Grand Western Canal during the winter of 2012 near Halberton. The Grand Western Canal is located approximately 300 metres north-west of the site. The SFRA provides mapping of the canal breach impact zones which indicates that the site is located within a low to medium risk zone. There are no locks on the canal and therefore in the event of a canal breach, large volumes of water could be released. The SFRA further states that canals do not generally pose a direct flood risk as they are regulated water bodies. The residual risk from canals tends to be associated with lower probability events such as overtopping and embankment failure. Given that the site is located 300 metres from the canal and any risk is residual, it is concluded that the risk from canal flooding is low.

The submitted Flood Risk Assessment specifies that run-off would be attenuated in voids of aggregate in the form of cascading terraces to accommodate various changes in ground levels across the site. The outflow from each attenuation void would flow through swales with flow controls and would overflow into the River Lyner at existing greenfield run-off rates. The applicant has also indicated that the battery containers and equipment will sit on concrete plinths above the ground level of the proposed drainage blanket.

To prevent the discharge of run-off that might be contaminated as a result of extinguishing a battery fire, penstocks (water control features) would be provided on the outlets and an impermeable membrane is specified beneath the attenuation features. The membrane would be capable of resisting the chemical concentrations and temperatures advised by the fire consultant at the detailed design stage. In the event of a fire, the penstocks would be closed until any contaminated water has been removed and appropriately disposed of. The location of and instructions to close the penstocks would be included in the Emergency Response Plan.

The Lead Local Flood Authority has considered the application and is satisfied that surface water drainage system is acceptable, subject to conditions relating to provision of a detailed surface water management plan once the layout has been confirmed.

The proposal is considered to comply with the relevant policies on flood risk and surface water drainage.

## 11. Other

It has been raised that the proposed development is on a site which has an unimplemented planning permission for a business park. If planning permission for the current proposal is granted and implemented, the consented business park could not also be constructed as it is on the same land and it would only be possible to implement one of the planning permissions, not both.

Concern has been raised that the development could cause damage to overhead powerline and a water main that cross the site. The applicant intends to divert both the powerline and the water main.

Concern has been raised that no electromagnetic compatibility (EMC) impact strategy has been carried out in connection with interference with communications systems along the rail network. The applicant has confirmed that lithium-ion and other types of batteries do not give off electromagnetic radiation therefore an EMC strategy is not required.

In terms of potential electromagnetic interference from inverters, the applicant states that all inverters for utility scale battery storage sites in the UK must conform to the Electromagnetic Compatibility Regulations 2016. The 2016 Regulations set out the requirements that must be met before products can be placed on the UK market, and apply to all electrical and electronic equipment which is liable to generate electromagnetic disturbance. Equipment must be designed and manufactured to ensure that the electromagnetic disturbance generated does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended. Network Rail has been consulted and has raised no objection.

A request has been made that should planning permission be granted, the applicant stands by its commitment to a community fund. Any payment into a community fund by the applicant cannot be considered as part of the determination of a planning application and is entirely outside of the planning process.

CPRE Devon set out a number of objections, some of which are dealt with in the report above. The objection makes the distinction between the storage of energy and power and questions the statement that the storage capacity would be sufficient to power all 82,000 houses in Mid Devon. The applicant has confirmed that it is not seeking consent for a particular level of power storage, although the proposed development has been designed to import and export up to 400MW of power. The applicant has provided an explanation of its calculation that the storage capacity would be sufficient to power all 82,000 houses in Mid Devon, however this is to provide context and is not the basis on which a recommendation would be made.

CPRE challenge the statement that the BESS would store excess electricity when supply outstrips demand. They state that when BESS charges, the increase in demand can only be met by gas fired power stations. Renewable energy generation is not turned off when its generation exceeds supply. It is not a renewable energy scheme.

The applicant has responded that:

*The rationale is that when the energy demand is low the standard output of the supplier is stored, and this may not be necessarily from a gas-fired power station, it could equally be surplus energy from a renewable or nuclear source. As the UK advances towards Net Zero 2050 and a decarbonised electricity network by 2035, the generation of power from gas-fired power stations*

*will give way to solar / wind which is subject to variation and not always available when demand is high. Therefore, to state that a gas-fired power station will have to increase output is incorrect and not the basis on which the BESS operates.*

*As renewable energy supply increases providing growing amounts of intermittent electricity, it is critical that it is complemented by technologies which balance the electricity network. The Government's energy strategy supports the storage and flexibility provided by batteries. Batteries would provide necessary balancing for an electricity grid underpinned by renewable energy. The National Policy Statement EN-1 highlights that storage has a key role to play in achieving net zero, and that it is needed to reduce costs and increase the reliability of the electricity system by storing surplus energy in times of low demand and supplying electricity when demand is higher. The British Energy Security Strategy (2022) states that as part of accelerating the shift to low carbon electricity, the Government is encouraging all forms of flexibility with sufficient large-scale, long duration, electricity storage to balance the overall system.*

CPRE also state that there a lack of information about the BESS, e.g. the type of battery and total number of battery cells and this should not be left to be dealt with by condition. Each type of battery has different characteristics with regard to fire resistance, fire and explosion propagation, performance, efficiency and resilience of ambient conditions. As mentioned above, the battery supplier is not known as this stage so the exact type of battery, numbers and layout of the site is not yet known. To specify this at this stage, would also mean that newer technologies coming in before the development goes ahead, could not be used. As well as a condition requiring these details to be submitted, there would also be a condition requiring a Battery Safety Management Plan. All of these details would be subject to consultation with the Devon & Somerset Fire & Rescue Service. The applicant has provided extracts from appeal decisions on other BESS sites where Inspectors stated that it would not be appropriate to limit the choice of systems that an applicant might wish to deploy, as technology is evolving and flexibility is required.

CPRE challenge the statement in the application as to carbon savings and states the calculations do not take into account the need to replace batteries. The applicant has provided further information on these calculations and agreed that the batteries will need to be replaced, the timescale for replacement dependent on the type of battery and the levels of use, but could be between 3 to 8 years. The key function of the battery storage facility is to balance the grid and is recognised by national policy as being necessary in order to move to a low carbon future.

CPRE states that the applicant has not provided a GHG (greenhouse gas) assessment as required by the Overarching National Policy Statement for Energy (EN-1). Whilst the Policy Statement does provide guidance for Local Planning Authorities, the specific requirements for supporting information applies specifically to energy projects that need to be decided by the Secretary of State - energy developments that are nationally significant under the Planning Act 2008. The Infrastructure Planning (Electricity Storage Facilities) Order 2020 removes electricity storage, except pumped hydro storage, from the need to seek planning consent in accordance with the Nationally Significant Infrastructure Projects regime.

CPRE also state that there is no need for the BESS to be located on a greenfield site as it can be located anywhere with access to the grid. The application must be determined in accordance with national and local policy. Policy S14 of the Mid Devon Local Plan permits in principle renewable energy proposals in the countryside, and by inference infrastructure to support renewable energy. There is no requirement for the applicant to undertake assessment of alternative sites.

CPRE state that any BESS facility in excess of 50MW requires a Hazardous Substances Consent assessment and the HSE consulted. The proposal should be registered as a COMAH site (Control of Major Accidents Hazard). Lithium-ion batteries are outside the scope of COMAH. A



BESS is not a hazardous facility as classified under the Planning (Hazardous Substances) Regulations 2015. The Health & Safety Executive has been consulted and has responded that they do not wish to comment on the application.

CPRE state that no information is given as to what would happen to the equipment after it is removed. Most of it cannot be recycled and would go to landfill. This information is not required for determination of the planning application. A condition requiring a decommissioning plan would cover decommissioning on site, by which time there may be more possibilities for recycling of materials.

## **12. Planning balance**

The proposal would lead to some harm to landscape character and the visual amenities of the area, although the landscape character is already disrupted by the present of high voltage powerlines, a solar farm and major road infrastructure, and can be reduced by additional screening. Some harm has also been identified to designated and non-designated heritage assets. Harm to listed buildings and non-designated assets (archaeology) can be mitigated by conditions in relation to screening and archaeological investigation. The less than substantial harm identified to the setting of the Grand Western Canal Conservation Area is partially mitigated by screening, but some harm remains which must be weighed against the benefits of the proposal. Some harm would also occur as a result of the temporary (40 year) loss of some best and most versatile agricultural land. The harm identified is considered to weigh against the proposal.

Impacts on designated and undesignated heritage assets can be mitigated by conditions, and proposals to mitigate against flood risk are considered to be adequate. Impacts on neighbouring residents have been mitigated through scheme redesign, screening with trees and hedges, and a noise bund and noise condition.

Safety risks can be mitigated through scheme design and the submission of a Battery Safety Management Plan and Emergency Response Plan to be agreed with the local Fire & Rescue Service.

The scheme would provide biodiversity net gain well in excess of the 10% national requirement which weighs in favour of the proposal. The development would provide public benefits in terms of a significant amount of battery storage to help balance the grid and support future development of renewable energy, which is supported by national energy policy and Planning Practice Guidance.

Most of the harm identified can be mitigated by conditions. There remains some harm to the landscape and visual amenities of the area including the setting of the Grand Western Canal Conservation Area, and the temporary loss of best and most versatile agricultural land. This harm must be weighed against the benefits of the scheme in terms of balancing the grid thus supporting the future development of renewable energy, and biodiversity net gain. On balance, your officers' judgement is that the harm identified is outweighed by the public benefits of the scheme and approval is therefore recommended.

## **CONDITIONS**

1. The development hereby permitted shall begin before the expiration of eight 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 the following information has been submitted to and approved in writing by the Local Planning Authority:
- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy (Report No.R008, Rev.7 dated 26th January 2024).
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.

No construction or other works shall begin until the drainage works approved under (b) above have been implemented and are operational, and the development shall not be brought into its approved use until the permanent drainage works have been implemented in accordance with the details under (a), (c) and (d) above.

4. No development shall begin until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. CEMP shall include at least the following matters of site management:
- (a) The timetable for the works
  - (b) Air quality and dust control
  - (c) Water quality
  - (d) Site lighting
  - (e) Control of noise and vibration
  - (f) Confirmation that there will be no high frequency audible reversing alarms on vehicles on site
  - (g) Pollution prevention, control and monitoring arrangements
  - (h) A prohibition of burning on site
  - (i) The compound/location where all materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the construction phase
  - (j) Areas on site where delivery vehicles and construction traffic will load or unload with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes
  - (k) Detailed construction programme including daily working hours, and anticipated periods of traffic movements to the site for contractors, plant and deliveries
  - (l) Confirmation that construction working hours, times construction traffic will travel to and from the site and delivery times will be between 8am to 6pm Monday to Friday and 9am to 1pm on Saturdays, with no working on Sundays or Bank Holidays
  - (m) Hours during which no construction traffic will be present at the site
  - (n) The number and size of vehicles visiting the site in connection with the development and the frequency of their visits and the proposed route of all construction traffic exceeding 7.5 tonnes and confirmation of any abnormal loads
  - (o) Details of the amount and location of construction worker parking and details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicle parking and confirmation that construction worker travel shall be restricted to outside the AM (0800-0900) and PM (1700-1800) network peak periods wherever possible
  - (p) Any road closures and associated diversions and any temporary traffic control
  - (q) A full signage strategy for the works, to include signage for any advance notice of the works, construction traffic routing and any proposed road closures.
  - (r) The means of enclosure of the site during construction works

- (s) Details of wheel washing facilities and obligations
- (t) Photographic evidence of the condition of adjacent public highway prior to commencement of any work
- (u) Full details of protection of existing hedges, trees, habitats, watercourses and species throughout the construction period
- (v) Mitigation during construction to prevent soil and pollutants entering the small ephemeral stream to the south to include storage of soil and temporary swales if necessary
- (w) Confirmation of areas of temporary storage of soils and other materials.

The development shall be carried out in accordance with the approved CEMP.

5. The development shall be carried out strictly in accordance with the submitted Development Zone Plan reference J27P3.0 Rev 11. There shall be no development in the areas hatched green and indicated as screen planting and biodiversity enhancements and pasture farmland on the Development Zone Plan, except for the landscaping and habitat enhancements approved under condition 9, any surface water drainage features (swales) approved under condition 3, and the provision of the acoustic bund.
6. No development shall begin until the following details have been submitted to and approved in writing by the Local Planning Authority:
  - (a) Final layout of the Development Zone shown on the Development Zone Plan reference J27P3.0 Rev 11 showing all internal roads and hardstandings, locations of battery containers and all associated infrastructure including transformers, inverters, switchroom, hydrants and water storage and any other ancillary buildings, containers and equipment, all enclosures and fencing, and locations of CCTV cameras.
  - (b) Details, including elevations, materials, colour and finish, of the battery containers and associated infrastructure listed in (a) above.
  - (c) Types and total numbers of batteries and type of containers.
  - (d) Full details of security measures including CCTV systems and voice warning systems.
  - (e) Details of any changes in ground levels, including sections.
  - (f) Final details of all landscaping and biodiversity enhancements, to be based on the submitted Landscape Strategy 1313/10 Rev F and Ecological Impact Assessment and Biodiversity Net Gain Plan by BSG Ecology dated February 2024.

Once approved, the development shall be carried out in accordance with the approved details.

7. No development shall begin until a detailed Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority in consultation with the Devon & Somerset Fire & Rescue Service. The BSMP shall be based on the submitted Battery Safety Standards document by AECOM dated September 2023 and the Addendum to this document dated November 2023. The development shall be carried out and operated strictly in accordance with the approved BSMP.
8. No other part of the development shall begin until the access has been provided in accordance with drawing number SK01 Rev C.
9. No development shall begin until a final Landscape and Ecological Management Plan (LEMP) based on the submitted Outline LEMP R013 dated March 2024 has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall cover a minimum of 40 years management and shall include the details set out in the Outline LEMP, as well as

a timescale for delivery of each element of landscaping and habitat enhancements and ongoing management and monitoring. The development shall be carried out, monitored and maintained in accordance with the approved details. On completion of the provision of the landscaping and habitat enhancements in accordance with the approved LEMP, written confirmation of completion shall be submitted to the Local Planning Authority for approval.

10. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme.
11. The development shall not be brought into its intended use until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation to be approved under condition 10. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.
12. No more than one month prior to the commencement of any site works, but before any works are carried out on site, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the Local Planning Authority.
13. No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.
14. The development shall be carried out in accordance with the submitted flood risk assessment Report No. R008, Rev.7 dated 26th January 2024 by RMA Environmental and the following mitigation measures it details:
  - (a) All electrical equipment adjacent to the flood zones shall be raised a minimum of 300 mm above the existing ground level.
  - (b) Where post-development ground levels are above 77.4 m AOD (i.e. 300 mm above the highest flood level) equipment will be raised 150 mm above ground level.

These mitigation measures shall be fully implemented prior to the development first being brought into use. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

15. The development shall not be brought into its approved use until the 2.5 metre high acoustic earth bund indicated on the indicative layout drawing number J27P4.0 Rev 17 has been provided. Once provided, the bund shall be retained and maintained for the lifetime of the development.
16. The rating level arising from the Development shall not exceed the typical background noise level, at any frequency, during the day (07:00 – 23:00) and night-time (07:00 – 23:00) periods at the closest residential receptors to the site. The rating level shall be assessed in accordance with the methodology and principles set out in "BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound".

17. No external lighting shall be installed at any time at the application site without the prior written approval of the Local Planning Authority.
18. The development hereby permitted is granted for a period of 40 years from the first export of electricity from the site. The development shall cease on or before expiry of this period and the site shall be decommissioned and restored in accordance with a previously submitted and approved scheme of decommissioning work (a Decommissioning Scheme) which shall include the details set out in condition 19. Written confirmation of date of first electricity export to the National Grid shall be provided to the Local Planning Authority within one month of the date of this taking place.
19. In the event that the site is no longer required for the purposes of electricity storage, or ceases to operate for a continuous period of 12 months prior to the expiry of the 40 year period, a Decommissioning Scheme shall be submitted to and approved in writing by the District Planning Authority no later than 6 months from the end of the 12 month cessation period. The Decommissioning Scheme shall include the following:
  - (a) The removal of the battery storage, ancillary equipment and structures.
  - (b) Works for the restoration of the site (including retention of landscape and ecological features).
  - (c) A traffic management plan.
  - (d) Decommissioning management plan including a programme of implementation.
  - (e) An environmental and ecological management plan to incorporate measures for protecting habitats and wildlife during decommissioning works.

The decommissioning works shall be implemented in accordance with the approved scheme.

## **REASONS FOR CONDITIONS**

1. A longer commencement period is required to ensure a grid connection can be established within the timeframe of the planning permission.
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The condition must be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
4. To protect the amenities of existing residents and the environment in the vicinity from unacceptable environmental impacts during construction, and to ensure proper traffic management. The condition must be pre-commencement since it is essential that the construction process is managed appropriately and the information is required before construction starts.
5. To set parameters for the development area and landscape and biodiversity areas as the development impacts have been assessed on the basis of a defined development zone, appropriate buffer zones, screening and biodiversity enhancements, to protect the amenities of nearby residents, ensure acceptable landscape impacts, protect the environment and

ensure biodiversity net gain, in accordance with Policies S9, DM2 and DM9 of the Mid Devon Local Plan 2013-2033, and Planning Practice Guidance.

6. To ensure that the development has an acceptable impact on the character and visual quality of the area and amenities of neighbouring residents and to ensure the development meeting fire safety standards in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013-2033, and Planning Practice Guidance. The condition must be pre-commencement to ensure that the development proceeds in accordance with approved details that are not available before grant of planning permission.
7. To ensure the development meets fire safety standards in accordance with Planning Practice Guidance. This condition must be pre-commencement to ensure the development proceeds in accordance with appropriate fire safety standards.
8. To ensure safe access to and egress from the development in accordance with Policy DM3 of the Mid Devon Local Plan 2013-2033.
9. To ensure landscaping and habitat enhancements are appropriately managed for the lifetime of the development and to secure biodiversity net gain in accordance with Policies S9 and DM2 of the Mid Devon Local Plan 2013-2033. This development must be pre-commencement to ensure that the appropriate mitigation and management arrangements are in place before construction begins.
10. To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.
11. To comply with Paragraph 211 of the National Planning Policy Framework (2023), which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.
12. In the interests of protecting badgers on and around the site. This condition must be pre-commencement to ensure construction works do not adversely affect badgers.
13. In the interests of protecting nesting birds during the nesting season.
14. To reduce the risk of flooding to the proposed development in accordance with Policies S1 and S9 of the Mid Devon Local Plan 2013-2033.
15. To protect the amenity of existing residents from unacceptable noise, including low frequency noise, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
16. To protect the amenity of existing residents from unacceptable noise, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
17. In the interest of residential amenity, the character and visual amenities of the area and protected species and habitats within and around the site, in accordance with Policies S9, DM2 and DM4 of the Mid Devon Local Plan 2013-2033.

18. The development is granted for temporary period and to ensure appropriate decommissioning of the site at the end of the operation of the facility, in the interests of the visual amenity and landscape character of the area and to facilitate the return of the land to productive agricultural use.
19. The development is granted for temporary period and to ensure appropriate decommissioning of the site at the end of the operation of the facility, in the interests of the visual amenity and landscape character of the area and to facilitate the return of the land to productive agricultural use.

## **REASON FOR APPROVAL OF PERMISSION**

The proposal is acceptable in that the development would provide public benefits in terms of a significant amount of battery storage to help balance the grid and support future development of renewable energy and on site biodiversity net gain, which would not be outweighed by the harm identified to the landscape and visual amenities of the area including the setting of the Grand Western Canal Conservation Area, and the temporary loss of best and most versatile agricultural land. Impacts on other heritage assets, general landscape and visual amenity, flood risk, and the amenities of neighbouring residents can be mitigated, subject to conditions. Fire safety risks can be mitigated through the implementation of a battery energy management plan. Subject to conditions, the proposal is considered to comply with the relevant Policies: S1, S9, S14, DM1, DM2, DM3, DM4, DM25 and DM26 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework and Planning Practice Guidance.

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.