

## PLANNING COMMITTEE AGENDA - 4th December 2024

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	24/01481/HOUSE - Installation of Air Source Heat Pump to East (rear) elevation at 30 Marshall Close, Tiverton, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.
02.	24/01102/FULL - Creation of 2 parking spaces at Land at NGR 282699 102593, Crofts Estate, Sandford. <b>RECOMMENDATION</b> Grant permission subject to conditions.
03.	24/01370/FULL - Sub-division of a dwelling to form two dwellings at 4 - 5 Higher Ley, Nymet Rowland, Crediton. <b>RECOMMENDATION</b> Grant permission subject to conditions.
04.	24/01596/NMA - Non-Material Amendment for 23/00126/FULL at 2 – 8 Beech Road Tiverton Devon. <b>RECOMMENDATION</b> Grant Permission subject to conditions.

Application No. 24/01481/HOUSE

Grid Ref: 296978 : 112397

Applicant: Mrs R Thompson

Location: 30 Marshall Close  
Tiverton  
Devon  
EX16 4AT

Proposal: Installation of Air Source Heat Pump to East (rear) elevation

Date Valid: 14th October 2024



## **APPLICATION NO: 24/01481/HOUSE**

### **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 the applicant is an employee of Mid Devon District Council.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The proposed development is for the installation of an air source heat pump to the east (rear) elevation of a residential property at No. 30 Marshall Close, Tiverton. The dwelling is a terraced property located within a residential area in the south-eastern area of the town. The air source heat pump will be located on part of an existing rear patio area close to the wooden boundary fence with the adjoining property at no. 32 Marshall Close. The dimensions of the air source heat pump are 1.1m (width) x 0.490m (depth) with a height of 0.765m. The decibel level at the boundary is 42.5dB.

The site is located within the designated settlement limit for Tiverton. The property is not listed nor is it located within the setting of and/or adjacent to any listed buildings. In addition, the property is not located within the Conservation Area.

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

Application form, existing and proposed block plans, proposed elevation plan, wildlife trigger form and Microgeneration Certification Scheme (MCS).

### **RELEVANT PLANNING HISTORY**

None.

### **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable Development Priorities

DM2 – Renewable and Low Carbon Energy.

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

Policy T6 – Energy Efficiency and Design.

#### **National Planning Policy Framework**

### **CONSULTATIONS**

**Tiverton Town Council** – Support.

**DCC Highway Authority** – The County Highway Authority have no comments to make on this application.

South West Water – (Summary) No objection raised but have advised the applicant to contact them prior to any works in regard to safeguarding both foul and surface water sewers that are located to the rear of the property and would be over and/or within 4 metres of the air source heat pump.

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the applicant, neighbour consultation 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).

No comments have been received at the time of writing this report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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 Policy S1 of the Mid Devon Local Plan 2013-2023 covers sustainable development priorities. Criteria (J) of Policy S1 is relevant and states the following:

The following strategic priorities outline what will need to be achieved to deliver the Vision and address the key issues that have been identified in Mid Devon. All development will be expected to support the creation of sustainable communities by:

j) 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. Encourage the effective use of land, taking into account the economic and other benefits of the best and most versatile agricultural land.

1.3 In assessing the proposed development against the above policy, it is considered that the installation of the air source heat pump shall improve energy efficiency in the property and increase the use and supply of renewable and lower carbon energy. It is therefore considered that the proposal would meet Policy S1(J).

1.4 Policy DM2 of the Mid Devon Local Plan 2013-2033 deals with renewable and low carbon energy development. It states as follows:

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).

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

- a) Given that the proposed siting of the air source heat pump is within the rear garden of a dwelling in a residential area, the proposal would not have any adverse landscape character impacts. In addition, the dwelling is not listed nor located within a Conservation Area. Accordingly, the proposal would not lead to any adverse harm to heritage assets.
- b) In regard to the environmental amenity of nearby properties and the wider locality, the noise levels, vibration and siting are key considerations in assessing the neighbouring amenity impacts of the proposal. A briefing note has been produced by the Council's Environmental Health Officer (EHO) in respect of the potential noise and vibration impacts of air source heat pumps.

Background level noise levels in the town are about 35-40dB during the day and 30-35dB at night. The noise level of the heat pump unit at the boundary of the host property should not exceed the background noise level by more than 5dB. The noise level at the boundary as assessed by the agent is 39db. This level is acceptable and would not cause any adverse harm to neighbouring amenity.

- c) The proposal would be located on part of an existing rear residential patio area. It would not result in the loss of any of the best and most versatile agricultural land.
- d) Given the proposed location of the air source heat pump, there would be no adverse harm to biodiversity. The Council's wildlife trigger form was completed and submitted as part of the application. This confirmed no requirement for any wildlife report to be submitted.

1.6 Policy T6 of the Tiverton Neighbourhood Plan deals with energy efficiency and design. Part B of Policy T6 strongly supports the use of sustainable design features including the incorporation of on-site energy generation from renewable sources such as air source heat pumps. It is considered that this proposal accords with Policy T6 of the Tiverton Neighbourhood Plan.

*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.

## **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 and in the interest of proper planning.

## **INFORMATIVES**

1. The applicant is advised to contact South West Water Asset Protection team prior to the commencement of any works to ensure that both the foul and surface water sewers are adequately safeguarded. Email: [DeveloperservicesAssetProtection@southwestwater.co.uk](mailto:DeveloperservicesAssetProtection@southwestwater.co.uk).

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

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **BNG – Biodiversity Net Gain**

As a householder application, the proposed development is exempt from providing BNG.

## **REASON FOR APPROVAL OF PERMISSION**

The proposed development comprising the installation of an air source heat pump at the rear of a residential dwelling within the settlement limit of Tiverton would provide a renewable source of energy, and by reason of its design and siting, would not cause any adverse harm to neighbouring amenity or to the character and appearance of its setting. The proposal is in accord with Policies S1 and DM2 of the adopted Mid Devon Local Plan 2013 and Policy T6 of the Tiverton Neighbourhood Plan. It is therefore recommended for approval.

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. 24/01102/FULL

Grid Ref: Easting 282699 : Northing 102593

Applicant: Mr B Penney

Location: Land at NGR 282699 102593  
Crofts Estate  
Sandford  
Devon

Proposal: Creation of 2 parking spaces

Date Valid: 11<sup>th</sup> September 2024



## **APPLICATION NO: 24/01102/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 the applicant is Mid Devon District Council.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

The application relates to the creation of two car parking spaces within the defined settlement of Sandford. The application site is located within Croft's Estate, situated towards the north west of the village, and comprises an area of grassland measuring 57 square metres. Residential properties surround the site, comprising bungalows to the east and south and two storey terraced dwellings to the north. An application (23/00119/FULL) was approved in April 2023, located to the west of the application site, for the erection of five affordable dwellings following demolition of existing garages. The application seeks permission for the creation of two car parking spaces on this area of grassland which is a part of the Housing Revenue Account, to provide additional parking for Croft's Estate residents. The parking spaces will each measure 4.8m by 2.4m, and a total area of 6m<sup>2</sup> is required for the access, and as such, the total area of grassland to be replaced by the parking spaces will measure 29.04m<sup>2</sup>. The parking spaces are proposed to be constructed of brick pavers.

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

- Application form
- Site Location Plan
- Block Plan
- Existing layout
- Proposed layout

### **RELEVANT PLANNING HISTORY**

No planning history relevant this area of land within the estate

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

S1 Sustainable development priorities  
S9 Environment  
S13 Villages  
DM1 High quality design  
DM3 Transport and air quality  
DM5 Parking  
DM25 Development affecting heritage assets



## CONSULTATIONS

**Sandford Parish Council** – received 7<sup>th</sup> October 2024

No objection

**Updated response** – received 9<sup>th</sup> October 2024

The Council had no objection in principle.

However, it was agreed to point out that these two spaces were nowhere near those in need of these Parking spaces. The spaces were needed outside the properties with a "Disabled" need.

**Re-consultation on updated plan** – no response received at the time of writing this report.

**South West Water** – received 19<sup>th</sup> September 2024

Asset Protection

Please find attached a plan showing the approximate location of a public 150mm sewer in the vicinity. South West Water will need to know about any building work over or within 3 metres of a public sewer or lateral drain.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Further information regarding South West Water's build over of sewers process can be found on our website via the following link:

<https://eur01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.southwestwater.co.uk%2Fbuildover&data=05%7C02%7Cdevcon%40middevon.gov.uk%7C983b9757b16c47a2cd8008dc d89cea49%7C8ddf22c7b00e442982f6108505d03118%7C0%7C0%7C638623415682680792%7C Unknown%7CTWFpbGZsb3d8eyJWIjoic4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjE1haWwiLCJX VCI6Mn0%3D%7C0%7C%7C%7C&sdata=KEvHjNFo9rmZ%2FKxW3Cw16NZV%2BDsAFgc%2B %2FupQ3TgEZxA%3D&reserved=0>

Should you require any further information, please contact our Asset Protection Team via email: [DeveloperServicesAssetProtection@southwestwater.co.uk](mailto:DeveloperServicesAssetProtection@southwestwater.co.uk).

### 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)

No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require 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.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

**Re-consultation** – no response received at the time of writing this report.

**Highway Authority** – received 7<sup>th</sup> October 2024

This application is off a privately owned road and therefore the County Highway Authority has no objections.

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

Officer authorised to  
sign on behalf of the County Council 7 October 2024

**Re-consultation** – no response received at the time of writing this report.

**MDDC Conservation Officer** – verbal response received 15<sup>th</sup> November 2024

No objection to use of the space as car parking but noting this would lead to sub-urbanisation of the area due to the block paving.

## **REPRESENTATIONS**

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

No letters of representation were received at the time of writing this report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. **Policy, procedure and principle of development**
2. **Impact upon character of the area and neighbourhood amenity**
3. **Highway safety and parking**
4. **Flood risk**
5. **Ecology**
6. **Impact upon the conservation area**
7. **Other matters**
8. **Planning balance**

## **1. Policy, procedure and 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. The site is located within the settlement limit of Sandford, and as such, Policy S13 of the Local Plan applies. Policy S13 seeks to support limited development in villages, stating:

*Development will be limited to proposals within their defined settlement limits and to allocations for:*

*Small scale housing, employment, tourism and leisure;  
Services and facilities serving the locality; and  
Development which enhances community vitality or meets a local social or economic need.*

- 1.3 The proposal seeks to create two car parking spaces on an area of grassland which is part of the Housing Revenue Account. The application site is located within Croft's Estate and is situated off of a privately owned road, which is frequently used for car parking for the surrounding estate. The application is before planning committee due to Mid Devon District Council being the applicant for this application.

## **2. Impact upon character of the area and neighbourhood amenity**

- 2.1 Policy DM1 of the Local Plan seeks to ensure high quality design according to a number of principles, including ensuring development makes an efficient use of a site and creates safe, accessible and visually attractive places. The policy also seeks to avoid adverse neighbourhood amenity impacts.
- 2.2 The site falls within a relatively built up residential area, surrounded by residential dwellings comprising bungalows and two storey terraces. The road through the estate, known as Croft's, is dominated by the parking of vehicles, and as such, the application seeks to provide an additional two car parking spaces for residents of the estate. Whilst the proposal will see the removal of a small area of grassland to create the parking spaces, the additional formalised parking spaces will contribute towards the parking issue. In turn, it is considered that this will also contribute towards improving the character and appearance of the area by keeping vehicles to formalised spaces.
- 2.3 Revised plans have been received from the applicant to demonstrate the area of grassland that is remain as part of the development (also discussed in the ecology section below), which will help to provide a positive visual amenity impact to the area. Similarly, it is not expected that the creation of two car parking spaces will result in adverse neighbourhood amenity impacts, and no letters of representation have been received at the time of writing this report. It is noted that concerns were raised by the Parish Council throughout the planning process as to whether the spaces are disabled parking spaces, however it can be confirmed that the proposal is for additional parking on the estate for all residents. It should

be noted that separate to this application, a designated disabled parking space is being provided at the bottom end of the St Swithins car park lay by.

- 2.4 Overall, it is considered that the proposed development complies with Policy DM1 of the Local Plan.

### **3. Highway safety and parking**

- 3.1 The site is accessed from a privately owned road, and therefore, the County Highway Authority has no objections to the proposal. As mentioned above, it is expected that the creation of two formalised car parking spaces will contribute towards preventing excess parking on the road through Croft's and the surrounding area, which is considered to have a positive impact on the local highway network. It is necessary to note that the proposed development will be car parking spaces for use by all residents within the area, and are not specifically as disabled parking spaces.
- 3.2 Policy DM3 of the Local Plan states that development must ensure safe access to the transport network. The revised plans demonstrate that the parking spaces will be accessed by a dropped kerb and a small access area in front of each space due to the site location. Overall, the proposal is considered appropriate and no concerns have arisen relating to highway safety.

### **4. Flood risk**

- 4.1 The application site is located within Flood Zone 1 which represents a low probability of flooding from rivers and other sources. In terms of materials, the plans indicate the use of brick pavers. Taking the small surface area to be created into consideration, it is not considered that the proposal will lead to a significant increase in terms of flood risk in the area, in accordance with Policies S9 and DM1 of the Local Plan. However, a permeable material would be preferred to reduce the risk of surface water flooding to adjacent properties and the local highway. A condition shall be imposed to ensure appropriate materials are used or a drainage system implemented to reduce the risk of flood risk.

### **5. Ecology**

- 5.1 The proposal will see the loss of a grassed area of 29.04m<sup>2</sup>, and therefore, is required to provide a 10% biodiversity net gain (BNG) in line with legislation. The Devon County Council Ecologist has confirmed that overseeding the retained grassland with flowering lawn mix would be appropriate for the site to achieve a 23.26% BNG, and the applicant has confirmed that this would be suitable. As with all applications requiring BNG, it should be noted that a Biodiversity Gain Plan is required to be approved prior to commencement of the development, which will be added as an informative note. Overall, the proposal will provide more than 10% BNG, and complies with Policy S1 of the Local Plan which seeks development to minimise impacts on biodiversity and geodiversity by providing a net gain in biodiversity.

### **6. Impacts upon conservation area**

- 6.1 The application site is located approximately 20 metres north of Sandford Conservation Area. The Conservation Officer has been consulted on the application and raises no objection to the proposed development, and therefore, the proposal is not considered to

impact upon the character and appearance of the conservation area, in accordance with Policy DM25 of the Local Plan.

## **7. Other matters**

- 7.1 A telecommunications pole and lamppost are present along the pavement of the application site. The submitted plans demonstrate that both the telecommunications pole and lamppost will not be impacted by the development, however, the support of the pole will need to be relocated so that it is located further to the east. This matter is not considered to impact upon the site or surrounding area.

## **8. Planning balance**

- 8.1 Overall, it is considered that whilst a small area of grassland will be removed, the overall visual and neighbourhood amenity of the area will be protected, and there will be a betterment in terms of additional parking provision within Croft's Estate which will have a positive impact upon the highway network. Following the provision of suitable materials, no impacts are believed to arise in regard to flood risk, and the additional planting is considered appropriate to mitigate impacts upon biodiversity at the site.
- 8.2 Therefore, officers recommend that the proposal complies with policies within the Local Plan and NPPF, and permission should be granted.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Notwithstanding the approved plans, surface water drainage shall be provided by means of a permeable surface unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to commencement of the development.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure a satisfactory and sustainable surface water drainage system is provided, in accordance with Policy S9 of the Mid Devon Local Plan 2013 – 2033.

## **INFORMATIVE NOTES**

1. The applicant is advised that a Biodiversity Gain Plan must be provided and approved by the Local Planning Authority prior to the commencement of the development. The contents of the Biodiversity Gain Plan required to discharge the statutory BNG condition are set out in the Defra template Biodiversity gain plan - GOV.UK ([www.gov.uk](http://www.gov.uk)). Please see the Devon Planning

Guidance on BNG for more advice. It should include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

2. This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.
3. 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.

## **REASON FOR APPROVAL**

The proposed creation of two car parking spaces at Croft's Estate, Sandford is considered acceptable in policy terms. The proposal will improve parking provision within the estate without adversely impacting the character of the area or local highway network. There will be no significant increase in flood risk, and no impacts are believed to arise in relation to ecology and biodiversity. As such, the proposal is in accordance with Policies S1, S9, S13, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013-2033 and guidance within the National Planning Policy Framework.

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

Application No. 24/01370/FULL

Grid Ref: 271428 : 108120

Applicant: Mr Mitchell Frost, Mid Devon District Council

Location: 4 - 5 Higher Ley  
Nymet Rowland  
Crediton  
Devon

Proposal: Sub-division of a dwelling to form two dwellings

Date Valid: 17th September 2024



## **APPLICATION NO: 24/01370/FULL**

**Site Visit:** Yes    **Date of Site Visit:** 18<sup>th</sup> October 2024

### **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 the applicant is Mid Devon District Council.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

This application seeks planning permission for the sub-division of a dwelling to form two dwellings. The site is located at 4 - 5 Higher Ley, Nymet Rowland, Crediton, Devon, EX17 6AJ. The site sits centrally within Nymet Rowland, and approximately 1.45m from Lapford, the closest defined settlement boundary village. The site falls within flood zone 1, which represents the lowest probability of flooding. Nymet Rowland does not fall within any Conservation Area, and the nearest Listed Building is located approximately 65m to the north-west at Broadgate Cottage.

The site is set back of a Class III, winding, road through the village, being approximately centrally located within this linear, ridge-line settlement. The street scene here is characterised by 4 two storey blocks of such housing, being set back, in an east-west orientation, from the road, with garden areas to the front and south facing to the rear. Elsewhere, the village/street scene is characterised by generally low density development, mostly 2-storey buildings and some bungalows. Houses tend to follow consistent building lines parallel to the narrow road, or are generally well set back from the road.

The property is in Council ownership; the existing dwelling was formerly converted internally from two dwellings into one in order to provide a property large enough for a specific family. With the dwelling no longer required at this size, it is now sought to reverse these works and subdivide the dwelling back into the two dwellings as it formerly stood.

The proposed subdivision will provide a pair of 1 bedroom dwellings, following amendments to the internal floor plans. No external works are required to subdivide the existing dwelling back into two dwellings, other than providing re-establishing a garden boundary to the rear between the two plots to demarcate the two private garden spaces. Internally only some minor alterations are required, with the external appearance of the dwelling remaining as per the existing.

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

- Application form
- Site location plan (revised 21/10/24)
- Existing plans and elevations
- Proposed plans and elevations
- Design and access statement
- Wildlife trigger table
- Initial air quality statement
- Devon BNG statement for validation



## **RELEVANT PLANNING HISTORY**

13/00907/FULL - PERMIT date 14th November 2013  
Conversion of 1 dwelling into 2 dwellings

## **DEVELOPMENT PLAN POLICIES**

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

- Policy S1 Sustainable development priorities
- Policy S3 Meeting housing needs
- Policy S9 Environment
- Policy S14 Countryside
- Policy DM1 High quality design
- Policy DM3 Transport and air quality
- Policy DM5 Parking
- Policy DM9 Conversion of rural buildings

## **CONSULTATIONS**

### **Nymet Rowland Parish Council – 26<sup>th</sup> September 2024**

In line with your request for the council to comment in principal the Parish Council has no objection. However given the narrow width of the single lane road we ask that the applicant insists that the inevitable increase in parked vehicles outside of the dwellings as is a pinch point of the road the occupants must adhere to utilising the village general car parking area, as outlined in blue on the site plan. This is particularly important as there is a regular flow of large agricultural vehicles (eg tractors and forage trailers) using the single access into the village from A377 at Lapford cross and surrounding area.

### **Highway Authority – 23<sup>rd</sup> September 2024**

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

### **Public Health – 10<sup>th</sup> October 2024**

We have considered the application and do not anticipate any environmental health concerns.

### **South West Water – 25<sup>th</sup> September 2024**

South West Water has no comment.

## **REPRESENTATIONS**

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

At the time of writing this report, 1 objection comment has been received making the following summarised points:

- The three parking spaces arrowed are not additional and these spaces are always fully occupied by cars belonging to residents of Higher Ley.
- Nymet Rowland has no public transport. The nearest bus stop is at Lapford Cross Industrial Estate and trains occasionally stop by request at Lapford train station where there is no public parking. Both are a mile or more distant. By foot this is via a narrow lane with few pedestrian refuges from motor traffic, which includes large agricultural vehicles which take up the full width of the road in most places.
- The surface of this car park is in a very poor condition and is often fully occupied in the eastern half. The west side of the car park is largely unusable due to the left behind foundations and remains of demolished garages. MDDC are not interested in taking further responsibility for maintenance of this parking area.
- Should this proposal be permitted, it should be conditional on off road parking space being made available for each dwelling which could be achieved by making spaces in front of the properties at right angles to the road and that additional spaces for visitors etc. in the car park to the west (marked in blue on the site location plan) subject to it being improved to provide sufficient spaces.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

1.1 This application seeks planning permission for the sub-division of a dwelling to form two dwellings at 4 - 5 Higher Ley, Nymet Rowland, Crediton, Devon, EX17 6AJ.

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

- 2. Policy and principle of development**
- 3. Design and impact on the character and appearance of the surrounding area**
- 4. Impact to the amenities of neighbouring occupiers**
- 5. Highway impacts and parking**
- 6. Impact to ecology and Biodiversity Net Gain**
- 7. Drainage and flood risk**

### **2. Policy and principle of development**

- 2.1 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.
- 2.2 In 2020 the Council adopted the Mid Devon Local Plan 2013-2033 and this takes priority in decision making. As outlined earlier on in this report, the key relevant Local Plan Policies in respect to the proposed development are considered to be those of policies S1, S3, S9, S14, DM1, DM3, and DM5.
- 2.3 Policy S1 (Sustainable development priorities) 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 relates to meeting housing need, and sets

targets for housing across the district. Policy S9 (Environment) identifies 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.

2.4 The site is in the countryside outside of any defined settlement boundary where policy S14 seeks to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Development is generally restricted to agricultural and other appropriate rural uses. In this case the application will essentially be creating a new open market dwellinghouse in a countryside location, which is usually restricted outside of the settlement limits of the towns of Tiverton, Cullompton and Crediton, or more sustainable villages identified within policy S13 of the Mid Devon Local Plan 2013-2033.

2.5 Paragraph 84 of the NPPF does however state that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply". The identified criteria include "d) the development would involve the subdivision of an existing residential dwelling". The Mid Devon Local Plan 2013-2033 does not include any specific restrictive policies in respect to this exception to development proposals in countryside locations.

2.6 Policy 84 of the NPPF also supports the principle of the re-use of redundant or disused buildings, where they would enhance the immediate setting. Policy DM9 of the Mid Devon Local Plan 2013-2033 also supports the principal of conversion of existing buildings, however this is generally more relevant to traditional disused buildings, rather than the re-use of modern existing properties. Notwithstanding the above, the proposed subdivision of the existing dwelling to form two separate dwellinghouses is consistent with the aims and objectives of paragraph 84 of the National Planning Policy Framework. On the basis of being supported as an exception to countryside residential development, the proposal would also contribute to meeting the housing needs of the District as set out in policy S3 of the Local Plan.

2.7 As such, subject to assessment of the proposal against other site specific considerations, the development of the site for residential purposes is considered to be acceptable in principle.

### **3. Design and impact on the character and appearance of the surrounding area**

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

3.2 Policy S1 of the Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. The policy seeks to protect landscapes, visual quality and biodiversity.

3.3 In relation to the works required to subdivide the building back in to two dwellings, there will be no change in the general scale and appearance of the building. It is currently rendered with a slate roof. This finish will be retained, with no external works required to subdivide the existing dwelling back into two dwellings, other than providing re-establishing a garden boundary to the rear between the two plots to demarcate the two private garden spaces.

Internally only some minor alterations are required. The proposed works are therefore considered to appropriately respect and relate to the character of the property and its surroundings. The subdivision is not considered to have any adverse impact on local landscape character and the rural context of the locality, given that the site was formerly 2 dwellings as part of a terraced row of houses.

- 3.4 Policy DM1 of the Local Plan also sets standards for new housing, including internal floor space standards by way of the Nationally Described Space Standards. Housing should achieve adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows; and suitably sized rooms and overall floor space which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage. It was noted that the initially proposed 2 bedroom dwellings would not have met the minimum floor space requirements for a 2 bedroom, 3 bed space two storey dwelling. The proposed first floor plan has therefore been amended, with the scheme now providing 2 one-bedroom dwellinghouses with an additional study space instead of a second bedroom. Bedroom 1 is 13.2m<sup>2</sup>, sufficient to meet the standard for a double bedroom (11.5m<sup>2</sup> min). The dwellings have a floor space of 65.3m<sup>2</sup> each, with a minimum requirement of 58m<sup>2</sup> for a 1 bed, 2 person dwellinghouse. Following amendments the scheme is considered to exceed the minimum floor space requirements set out in the 'Technical housing standards – nationally described space standard'. The proposal would also achieve adequate levels of daylight, sunlight and privacy for each dwelling.

#### **4. Impact to the amenities of neighbouring occupiers**

- 4.1 Policy DM1 requires that development is of a high quality and does not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.
- 4.2 The manner of the subdivision, taking into account the existing position and orientation of the building which forms part of a wider terrace, means that there would be no adverse impact on neighbouring amenity as a result of either overshadowing or overlooking. A new boundary treatment will be required to define separate amenity spaces for each dwelling, and it is noted that this could be achieved under permitted development rights. Therefore it is not considered that the development would result in an unacceptable overshadowing, overlooking impact or loss of privacy to neighbouring properties.

#### **5. Highway Impacts and Parking**

- 5.1 Policy DM3 requires that development must ensure safe access to the transport network. No works are proposed to the sites access, with a single parking bay already provided to the front of the properties. It is considered that the local highway network would be capable in dealing with the small scale increase in traffic that would be associated with the addition of a singular dwelling in this location. It is also noted that the site was original 2 separate dwellings prior to their conversion into 1 larger dwelling.
- 5.2 Policy DM5 requires that development must provide an appropriate level of parking. The submitted block plan indicates that 1 parking space is currently provided to the front of the site, and 3 more spaces are to be allocated to the dwellings within the car park area to the west, which sits within the blue edge of the site location plan being council owned land. It is noted that 1 public representation has been received during the consideration of this application, raising concerns regarding the proposed parking arrangements and the impact this may have on existing parking provision within Nymet Rowland.

- 5.3 This matter was discussed further with the agent, and the possibility of providing 4 new spaces within the front garden area on site was explored. Whilst there would be space to the front of each dwelling to provide two off road parking spaces, the agent has clarified that this is unfortunately unviable as the cost to do these works would then mean the letting of the dwelling and subdivision is no longer economically achievable and it would then mean it is better retained as one dwelling. Therefore with the allocation of the spaces to the west and front bay and the benefits of the additional unit this would outweigh any potential harm created with DM5 complied with. It has been confirmed that appropriate signage is to be put up to allocate these spaces strictly to the two properties, to ensure that these spaces are always available to these dwellings to address the concerns raised by the Parish Council.
- 5.4 Furthermore, it is also noted that the scheme previously approved in 2013 under 13/00907/FULL for the sub-division of the dwelling back to two dwellings initially proposed additional parking to the front of each dwelling which was opposed to. This previous proposal to incorporate additional car parking /pull in area within the front garden areas was deemed to be unsatisfactory from a highways safety point of view and was therefore removed from the approved plans for that application. The Highways Officer concurred at the time that the scheme to provide 4 spaces at right angles to the highway did not satisfactorily meet with Standing Advice and would result in potential dangers to users of the highway.
- 5.5 Whilst the parking provision is not located directly on site for each dwelling, in total 4 spaces are to be provided for the 2 dwellings, and this is considered to meet with the requirements for policy DM5, with justification having been made for the particular parking arrangement proposed.

## **6. Impact to ecology and Biodiversity Net Gain**

- 6.1 Policy S1 requires development to minimise impacts on biodiversity and provide a net gain in biodiversity. 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.
- 6.2 A wildfire trigger table has been submitted in support of this application and by virtue of the siting and scale it is not considered that the development has resulted ecological harm or harm to local species populations, and the need for an ecology survey to be submitted has not been triggered.
- 6.3 However, in order to secure proportionate enhancement in line with Policy S9, it is considered appropriate to apply a planning condition to any permission to secure the installation of some small scale hibernacula (such as a bat box and bird nest) that would help contribute to the enhancement of the local natural environment and help support local species populations. It is therefore considered that the proposed development will not have an unacceptable adverse impact on the environment and that enhancements to the site can be secured via condition, and as such the proposal is considered to comply with policy S9.
- 6.4 It is noted that this application was submitted after the 2nd April 2024 when the requirement to provide a 10% Bio-diversity Net Gain came into effect, however the proposal is considered to fall within the 'Biodiversity Net Gain de minimis exemption' under 'The Biodiversity Gain Requirements (Exemptions) Regulations 2024', as it does not affect 25 sqm of vegetated ground (habitat of a biodiversity value), 5m or more of hedgerow, or another straight-line habitat such as a watercourse, any Priority Habitats or any Protected Species.

## **7. Drainage and flood risk**

7.1 The site is located in flood zone 1 (lowest flood risk). Having regard to the nature and scale of the development it is considered that the proposal does not raise any flood risk or drainage concerns. No concerns have been raised by South West Water regarding the method of surface water disposal.

### **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. Within three months of the substantial completion of the development hereby approved, the following ecological enhancements shall be installed and shall be thereafter retained:
  - 1no bat box/brick/tube (Scwegler 1FF bat box or similar) shall be installed on or nearby the site at a minimum of 2m above ground level.
  - 1no house sparrow box shall be shall be installed on trees on or nearby the site at a minimum of 2m above ground level.
4. The dwellings hereby approved shall not be occupied or brought into use until the parking areas detailed on the approved site location plan, drawing number 01/B, have been provided in full including the provision of appropriate signage to allocate these spaces strictly to the two properties hereby approved. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

### **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. In the interests of ecological/biodiversity enhancement in accordance with policy S9 of the Mid Devon Local Plan 2013-2033
4. In the interests of highway safety and amenity in accordance with Policies DM1 and DM5 of the Mid Devon Local Plan 2013 – 2033.

### **INFORMATIVES**

None

## **BNG – Biodiversity Net Gain**

### Is BNG Required? No

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

### Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or
  - (ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of [article 2\(1\) of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)) where:

- i) the application for planning permission was made before 2 April 2024;
- ii) planning permission is granted which has effect before 2 April 2024; or
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

\* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

## **REASON FOR APPROVAL OF PERMISSION**

The sub-division of a dwelling to form two dwellings at 4 - 5 Higher Ley, Nymet Rowland, Crediton, Devon, EX17 6AJ is considered to be acceptable, complying with the aims and objectives of paragraph 84 of the National Planning Policy Framework. Furthermore, the proposed development is considered to appropriately respect the character and appearance of the existing property and its surroundings, and causes no demonstrable harm to residential amenity or highway safety. The proposal therefore accords with policies S1, S9, S14, DM1, DM3 and DM5 of the Mid Devon Local Plan 2013-2033, and the aims and objectives of the National Planning Policy Framework.

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



Application No. 24/01596/NMA

Grid Ref: 296353 : 113441

Applicant: Mr M Lowman

Location: 2 - 8 Beech Road  
Tiverton  
Devon

Proposal: Non-Material Amendment for 23/00126/FULL to allow amendments to site plan, including parking arrangements, refuse/cycle storage and landscaping

Date Valid: 28th October 2024



## **APPLICATION NO: 24/01596/NMA**

### **Non-Material Amendment for 23/00126/FULL to allow amendments to site plan, including parking arrangements, refuse/cycle storage and landscaping at 2 - 8 Beech Road, Tiverton**

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

A Non-material amendment application for planning permission 23/00126/FULL to allow amendments to the approved site plan, including parking arrangements, refuse/cycle storage and landscaping, was received on the 28th October 2024. These proposed changes are to be considered under s96A of the Town and Country Planning Act 1990. As the applicant is Mid Devon District Council there is a requirement for the application to be determined by the Planning Committee.

#### **RECOMMENDATION**

##### **GRANT PERMISSION FOR THE FOLLOWING NON MATERIAL AMENDMENT:**

1. Change to ground floor apartment refuse strategy to allow bins to be directly accessed from Beech road. Bins to be concealed in enclosed store to screen the bins from the street.
2. Amended parking layout to allow increased efficiency of the parking spaces
3. Increased landscaping on the corner of Beech Road and Moorhayes Bungalows due to there only being one parking space within this area and to the eastern side of the site resulting in improved BNG on site.
4. Changes to communal bin store for 1st floor apartments.
5. Changes to visitor cycle parking to the northern side of the development.
6. Provision of a small electric meter store at the base of the staircase to serve the first-floor units
7. To revise wording of Condition 10 of planning permission 23/00126/FULL to refer to corrected parking layout plan.

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

##### Homes

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

##### Environment

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

#### **Financial Implications:**

Costs involved in the delay of delivering the approved development.

#### **Legal Implications:**

None at this stage. If these changes are not accepted as a non material amendment to the previously approved scheme, a Section 73 application would be required to be submitted.

## **Risk Assessment:**

If Committee decide not to accept the changes as a non material amendment to the approved development under planning permission 23/00126/FULL, then there would be the requirement for a Section 73 application to be submitted to consider acceptance of the proposed amendments. The result would be a delay to the delivery of the scheme and provide further uncertainty.

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

- 1.1 Application 23/00126/FULL was approved on 15th April 2024 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. Members may recall that this application was considered at Planning Committee on the 10th April 2024 where it was resolved to approve subject to conditions.
- 1.2 The application site is located close to the junction of Beech Road with Moorhayes Bungalows, and to the side of the existing dwellings to be replaced, there is 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.
- 1.3 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.

### **2.0 PROCESS OF A NON MATERIAL AMENDMENT APPLICATION**

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

### 3.0 PROPOSED CHANGES TO THE APPROVED SCHEME

3.1 The non-material amendments proposed for 23/00126/FULL are to allow amendments to site plan, including parking arrangements, refuse/cycle storage and landscaping. The case has been outlined that the proposals would result in improvements to ground floor apartment refuse strategy with bins to be directly accessed from Beech road (previous proposal had bins located by front doors). Bins would be concealed in enclosed store to screen the bins from the street.

3.2 The provision of bins along Beech Road was queried with the reason outlined that the new location shown was to utilise a position in which a permanent store could be easily accessed by the resident and the refuse operators, mitigating the need for temporary bin store locations for collection day. In addition, the strategy to use smaller stores serving single dwellings enables larger expanses of green spaces to be utilised for BNG improvements.

3.3 The parking layout is to be revised to increase efficiency of the parking spaces with 8 spaces located to the north east side instead of the 7 previously shown on the approved plans. As a result there would be increased landscaping on the corner of Beech Road and Moorhayes Bungalows due to there only being one parking space in that area. There would also be additional landscaping to the eastern side of the site, with the increase in landscaping on site improving Biodiversity New Gain (BNG). This uplift has been outlined as follows:

Mixed Scrub Habitat + 13.2 Sqm

Native Meadow + 4.2 Sqm

Hedgerow + 8.5 linear metres. Depth Increase of 500mm (achievable growth)

Trees + 2

3.3 The changes proposed also include a more appropriate communal bin store for the 1<sup>st</sup> floor apartments with visitor cycle parking proposed adjacent, to the northern side of the development.

3.4 With respect to the changes to parking layout, Planning Condition 10 states that *'The development hereby approved shall not be occupied until the access and parking areas have been provided in accordance with the proposed site plan, drawing number Z28-ZP-A1-XX-DR-A-010 S01-PROPOSED SITE PLAN. Following their provision these facilities shall be maintained for the lifetime of the development. Reason: In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033'*.

3.5 Under Section 96A of the Town and Country Planning Act 1990 it is possible to amend the wording of a planning condition where considered to be non material in nature. In light of the proposed changes to the parking layout and to take into account the need to secure the parking on site through condition 10 of planning permission it is considered to amend condition 10 as follows:

*'The development hereby approved shall not be occupied until the access and parking areas have been provided in accordance with the proposed site plan, drawing number Z28-ZP-A1-XX-DR-A-010 S01-PROPOSED SITE PLAN REV P09. Following their provision these facilities shall be maintained for the lifetime of the development.'*

*Reason:*

*In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.'*

- 3.6 The Officer recommendation is to accept the changes as being a Non Material Amendment to Planning Permission 23/00126/FULL. The reason being that the proposed changes do not result in an increase in the scale of development, nor alter the form significantly and would not result in a significant detrimental impact visually or in terms of amenity compared to the approved scheme. The amendments are not contrary to the development plan. The proposal results in a change to the external appearance of certain elements/areas of the scheme but these changes do not negatively impact the surrounding area nor do they erode the quality of the development originally approved. Having regard to the effect of the changes on the planning permission as originally granted, the Local Planning Authority on balance is satisfied that they are not material.

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.

Contact for any more information

Mr Adrian Devereaux, Area Team Leader

01884 234267

**Background Papers**

Committee Report

**File Reference**

23/00126/FULL

**Circulation of the Report**

Cllr Steven Keable

Members of Planning Committee

Attach previous Committee report for 23/00126/FULL

**COMMITTEE REPORT FROM PLANNING COMMITTEE OF 10<sup>TH</sup> APRIL 2024**

Plans List No. 3

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

- 1.7 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.
- 1.8 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 Crediton. Policy S10 (Tiverton) which recognises proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable.
- 1.9 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.
- 1.10 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.
- 1.11 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.
- 1.12 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 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.