

## PLANNING COMMITTEE AGENDA - 26th August 2015

### Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	<p>15/00391/MOUT - Outline for the erection of between 15 and 20 dwellings and up to 2500 sq. m. of B1 floor space including landscaping, parking and provision of vehicular access from the B3190 at Land at NGR 295599 122818 (North of Bouchier Close), Bampton, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
2.	<p>15/01133/TPO - Application to pollard to 3m 1 Holm Oak tree protected by Tree Preservation Order 80/00001/TPO at Land at NGR 294835 112898, (Adjacent To Shortridge Mead Flats), Patches Road.</p> <p><b>RECOMMENDATION</b> Grant consent subject to conditions</p>

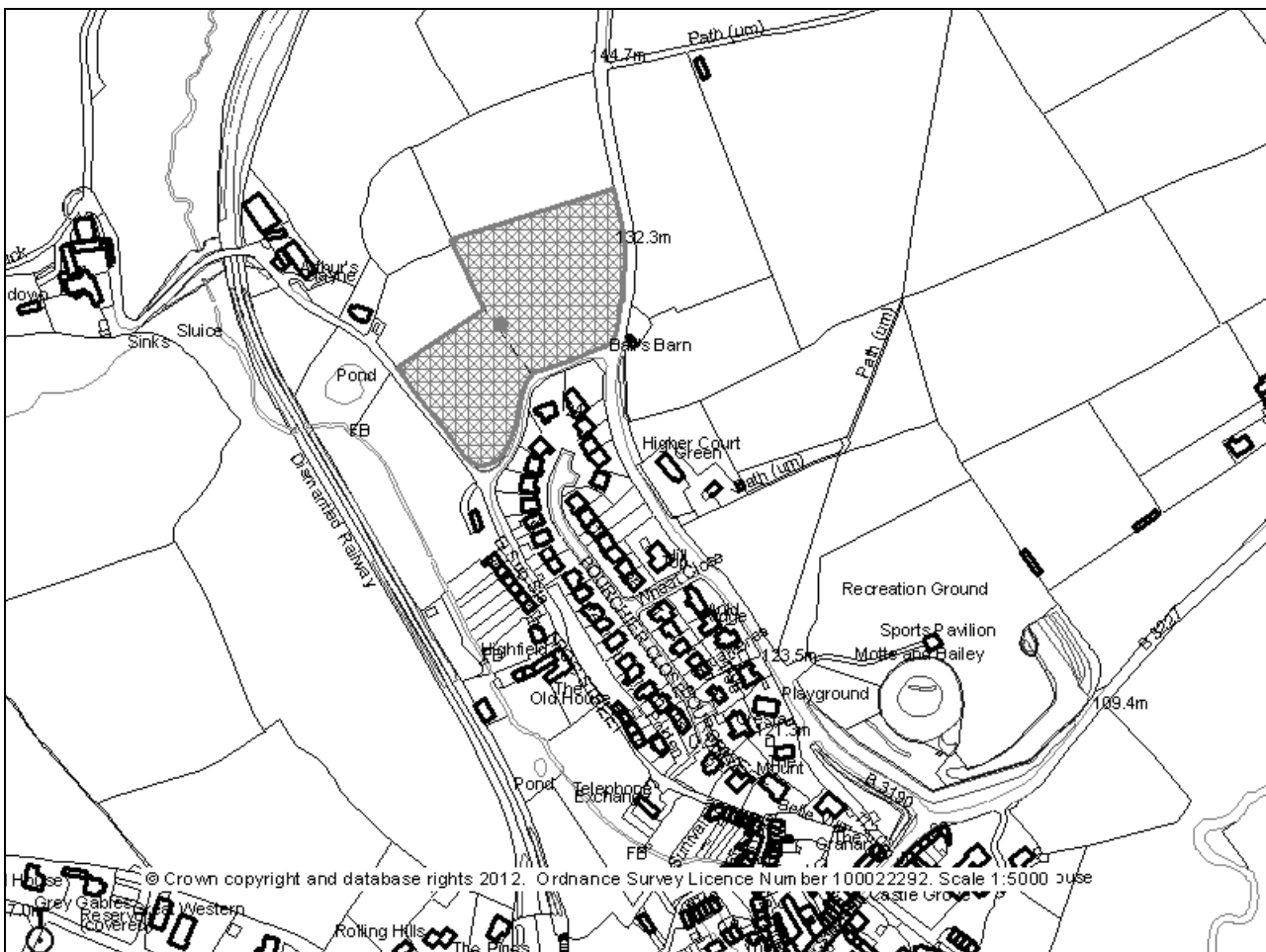
**Grid Ref:** 295599 : 122818

**Applicant:** Summerfield Developments (SW) Ltd

**Location:** Land at NGR 295599 122818 (North of Burchier Close) Bampton Devon

**Proposal:** Outline for the erection of between 15 and 20 dwellings and up to 2500 sq. m. of B1 floor space including landscaping, parking and provision of vehicular access from the B3190

**Date Valid:** 10th March 2015



## **Application No. 15/00391/MOUT**

### **RECOMMENDATION**

Refuse permission.

### **PROPOSED DEVELOPMENT**

The proposal is an outline application for between 15 and 20 dwellings and up to 2500 square metres of B1 floor space on 1.47 hectares of agricultural land on the northern side of the village of Bampton.

All matters are reserved except access. Vehicular access is shown from the B3190 with an additional pedestrian footpath being provided linking the south east corner of the site with Frog Street.

The site comprises two sloping pasture fields and comprises the southern two fields of a larger mixed use allocation. There are strong boundary hedges although the ground rises above these hedges in places and these higher parts of the site are particularly visible from the B3190.

The larger site of 2.4 hectares is currently allocated under policy AL/BA/2 of the Allocations and Infrastructure DPD for 40 dwellings with 35% affordable housing and 4000 square metres of employment floorspace.

The emerging Local Plan Review 2013-2022 Proposed Submission ("Local Plan Review" does not propose to carry this allocation forward.

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

Design and access statement  
Phase 1 land contamination report  
Planning statement  
Landscape and visual assessment  
Flood risk assessment  
Ecological impact assessment  
Transport statement  
Tree constraints plan and report

### **PLANNING HISTORY**

80/01593/OUT Outline for residential development, 5.67 acres - REFUSE

12/01032/MOUT Outline hybrid planning application to redevelop part of the site for 45 dwelling houses (residential development) and part of the site for 4000 square metres of employment floorspace (commercial development). All details (access, appearance, landscape, layout and scale) are proposed for the residential element and all matters are reserved except access for the commercial development - REFUSE

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR3 - Meeting Housing Needs  
COR4 - Meeting Employment Needs  
COR11 - Flooding  
COR16 - Bampton

## **Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)**

AL/DE/3 - Affordable Housing Site Target  
AL/DE/4 - Occupation of Affordable Housing  
AL/DE/5 - Inclusive Design and Layout  
AL/IN/3 - Public Open Space  
AL/IN/5 - Education Provision  
AL/IN/6 - Carbon Footprint Reduction  
AL/BA/2 - Bourchier Close

## **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM3 - Sustainable design  
DM7 - Pollution  
DM8 - Parking  
DM28 - Green infrastructure in major development

## **CONSULTATIONS**

BAMPTON TOWN COUNCIL - 7th May 2015 - Bampton Town Council strongly object to this planning application for the following reasons:-

- This site is to be deleted from the proposed Local Plan, as Bampton has been classified as a village and is now only required to take developments commensurate with its own needs.
- This site has poor access from both the B3227 and the B3190. Roads are narrow and steep, there are no pavements and no room to put pavements in, the area is poorly lit at night.
- The current sewage system is already over-loaded.
- The site is steep and the proposed arrangements to deal with drainage and run-off water are inadequate and likely to cause flooding lower down in the town itself.
- Bampton school and the surrounding schools are over-subscribed already.
- There is no need for more employment land as there is plenty currently available in Bampton at the present time.
- There is considerable local feeling against this proposal, as there was at the previous application in 2012.
- There should be a condition imposed on this site whereby a developer is required to indemnify Bampton residents for flood damage attributable to any future activity on this site.

HIGHWAY AUTHORITY - 9th July 2015 - I am in receipt of drawings 1405-84-SK01 rev C which I am happy with the layout and content and should consent be granted should be conditional of any consent. I am also in receipt of 0540-1002 which does not reflect the internal road network shown on 1405-84-SK01 rev C insofar as the footways shown on the TPA drawing are not included on the Illustrative master plan, and should be for it to be acceptable. Therefore I cannot accept plan 0540-1002. However as the internal development is a reserved matter provided plan 1405-84-Sk01 rev c is conditioned I would raise no more objections to the highway layout. It is for the Flood management Authority to consider the drainage.

22nd June 2015 - The footpath to frog street shows that we have a 1:12 set of enlarged steps and I am ok with this the road itself can be covered by the standard estate road condition so I am ok.

15th April 2015 - The Local Planning Authority will be aware of previous comments made by the Highway Authority in respect of this allocated site in the local plan. The Application before us is for residential use and B1 commercial use applied for in outline with all matters reserved except access. As such the details of the access proposals would be acceptable for the uses applied for.

However the proposal indicates access to the remaining allocation and this is allocated for potential B2 and B8 use classes; such uses would necessitate an arrangement which would require greater radii in the access junction and the indicative layout would need to serve the site with a minimum of 5.5m carriageway, segregated footways either side, and a demonstration of the swept path of an articulated vehicle at all

junctions. It is for the Local Planning Authority to consider the emerging Local plan and changes to the existing allocations as to whether or not the reduced size of the allocation is acceptable without the need to provide for the wider site allocation.

The applicant should also consider the internal layout of the uses. The Highway Authority has concerns for highway safety in locating the B1 use in a part of the site which would necessitate all the commercial traffic conflicting with the residential use and would advise that the B1 use should be located off the initial access to serve this site and the wider allocation, and the majority of the residential use served from lesser residential roads. The Highway Authority would also seek greater details over the infiltration basin in particular a full set of ground water testing results (nominally 12 months of survey data) which should be submitted with any reserve matter application to show that the soak away element of the drainage proposals are acceptable.

Therefore should the application be acceptable without the need to serve the wider allocation then the access from the public highway will be acceptable and the Highway Authority would welcome the opportunity to provide conditions for the delivery of the internal road network. If the further allocation is still to be served as indicated by the illustrative proposals then further information is required in terms of design layout and swept paths analysis and the illustrative layout should be amended to cater for the articulated vehicles. The Highway Authority would seek an amended layout to overcome the concerns of conflict for the current proposals or a suitable condition.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION

Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of

A) access,

B) road layout,

C) surface water drainage, contrary to paragraph 32 of the National Planning Policy Framework.

ENVIRONMENT AGENCY - 7th July 2015 - The proposed strategy for managing surface water, as designed by Gary Gabriel Associates Consulting Structural and Civil Engineers, is to attenuate runoff in an attenuation area, and provide some permeable pavement. If the developer doesn't have the ability to construct the outfall to the Shuttern Brook then an alternative scheme for the management of surface water will have to be put in place which may require the site layout to be altered from that proposed.

The permeable pavements construction proposed is quite shallow in nature, approx 500mm deep being quoted within the applicants flood risk assessment. Problems with seasonal variations in ground water levels are likely to be less of a risk, compared with deeper soakaways for example.

Please note that the Environment Agency is not a formal Suds approval body and our role is to ensure that Suds principles are delivered, as endorsed within the National Planning Policy Framework, rather than formally endorsing whatever measures are ultimately proposed. We can however advise that the current design aligns in broadest terms with current best practice, including 'The SUDS manual 2007 CIRIA c697'. However, as stated earlier, if the proposer doesn't have the ability to construct the outfall to the Shuttern Brook then an alternative scheme for the management of surface water will have to be put in place which may require the site layout to be altered from that proposed.

2nd April 2015 - No objections to the proposal providing development proceeds in accordance with the submitted Flood Risk Assessment.

The drainage strategy, as shown on Drawing 32616 C.01 Rev - by Gary Gabriel Associates, contains much good practice and aligns with sustainable drainage techniques. We advise that you obtain written assurances that the suds features, including the elements of permeable paving, will be adequately maintained for the lifetime of the development prior to determination of the application.

ENVIRONMENTAL HEALTH - 9th July 2015 - The developer should take note of the recommendations regarding Radon protection and possible further investigation, however, other than that I have no further objections to this proposal.

2nd April 2015

Contaminated Land - Phase 1 CL survey will be required

Air Quality - no objections to this proposal

Waste & Sustainability

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - no objections to this proposal

Licensing - Not applicable

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - no objections to this proposal

DEVON COUNTY EDUCATION - 25th March 2015 - A contribution towards education infrastructure via a Section 106 Agreement would be sought.

All developments once approved will be deemed built and therefore affect the forecast pupil numbers at the schools within the area.

The primary school within 1.5 mile radius of this development currently has sufficient capacity for the pupils expected from this development. Therefore no contribution is required at this time, we will however take a fresh look at this situation at the school when planning approval is sought.

The secondary school within the development area is Tiverton High School which currently has very limited capacity for the secondary aged pupils expected to be created by this development, therefore a contribution would likely be sought to the sum of £2736.15 per dwelling which will be used towards providing for Secondary School facilities required as a result of this development.

As this development is outside the recognised safe walking distance to school we will seek the School Transport Costs for the Secondary aged pupils likely to be created by this development to the sum of £8.63 per day

A breakdown of these costs are as follows

#### SECONDARY SCHOOL TRANSPORT

£8.63 per pupil per day x 190 days in academic year x 5 years in secondary school x 3 pupil generated by this development = £24,595.50

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

DEVON & CORNWALL POLICE AUTHORITY - 23rd March 2015 - Although it is acknowledged as an outline application, it may be indicative of the actual proposal. The Police have two concerns:

There are 33 parking spaces serving the B1 aspect, which in its self is obviously acceptable, but to have such a space within a housing development will statistically lead to community conflict in the evenings. This can be "boy racers" finding a new space to meet, show off with the driving skills (doughnuts) loud music and over use of their horns. This car space would have to be gated with a sustainable gating system out of working hours, consideration of strategically placed planters to deter anti social driving.

There is a parking court with 13 spaces (NE aspect) with limited surveillance. 10 spaces if really necessary is the recommended maximum.

HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 16th June 2015 - In terms of Housing Need I have the following information from our Devon Home Choice Waiting List.

1 bed need = 14 in bands A-D (additional 16 in E band)  
2 bed need = 3 in bands A-D (additional 14 in E band)  
3 bed need = 3 in bands A-D (additional 6 in E band)

Therefore I would want to see 35% affordable with a mix that reflected the need above.

NATURAL ENGLAND - 30th March 2015

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Protected species We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application. Biodiversity enhancements. This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

LEAD LOCAL FLOOD AUTHORITY - 28th May 2015 - No comments

## REPRESENTATIONS

45 objections summarised as follows:

1. There is no justification for this development. The site was allocated when Bampton was classified as a "market town" and required to take a share of the District's development. The Local Plan under review has reclassified Bampton as a "village" which is only required to take development to meet its own needs.
2. Increase in likelihood of flooding further downstream; Bampton historically at risk of flood. Provision of SUDS may be sufficient with normal rainfall with Devonshire Homes previous application highlighted difficulties with terrain and these systems; not certain that groundwater will not be

- diverted by groundworks
3. Discharging surface water into the Shuttern Brook will increase flooding downstream which is already a problem.
  4. The Highway Authority has said that the information submitted is inadequate and access, road layouts and surface water drainage plans are unacceptable.
  5. Sewage system would need upgrading which will shortly be at capacity; old sewage pipes back-flow when surface water is high
  6. Lack of infrastructure for increased traffic during and after construction; frequent congestion in Castle Street exacerbated by large service and agricultural vehicles
  7. Any increase in traffic movements will impact on traffic circulation through the town and increase danger to pedestrians
  8. There is no footway between the site and Bampton along the B3190 which is an easier walking route than along Frog Street.
  9. Parking in Bampton is already stretched
  10. No proposal to install a new footway between Frog St and Bouchier Close making access to the recreation ground and children's play area at the castle very dangerous
  11. Frog Street will become a rat run.
  12. Access to the site is steep and people living at the site will of necessity have to have a vehicle; Frog St is narrow, winding and dangerous for pedestrians having no footway
  13. The proposed access is close to a dangerous bend and the blind brow of a hill making it hazardous
  14. There is doubt that the Tiverton-Bampton bus service could cope with the increase in demand; the bus service is hourly and stops early evening.
  15. The Police have said that the layout will attract boy racers.
  16. The development of this site is not sustainable
  17. The development would alter the precious landscape within which Bampton sits which is greatly admired by visitors and forms part of a scenic route through to Haddon Hill, Wimbleball Lake and beyond; historic Bampton castle with motte and bailey nearby; tourism and the employment it brings are integral to Bampton's business viability
  18. The site is in an extremely prominent location visible from miles around and its development would seriously harm views of Bampton from the Morebath Road.
  19. The site is visually detached from the rest of Bampton.
  20. Any development of Bampton should be organic and complement its existing character not be in collision with it.
  21. The development will destroy a lovely greenfield and wildlife corridor visible from the Exe Valley walking route.
  22. The development would result in the removal of trees and habitats for wildlife.
  23. Local Councillors, Bampton Town Council and the residents of Bampton did not support this site as an allocation
  24. The site is outside the natural boundary of Frog Lane - development here will materially alter the town's character and intrude into unspoilt countryside
  25. The site is agricultural land which the Environmental Secretary has said must be protected
  26. The principles of COR16 will not be met.
  27. There is no need for more employment units as there are unused units in the village at Scotts, Station Road and West Street. When employment units are not taken, up the applicant will come in for more housing.
  28. The Secretary of State makes it clear that applications should be refused where the applicant seeks to pre-empt the production of a neighbourhood plan
  29. Applications already passed should provide sufficient housing for the near future; no new housing needed
  30. The school and doctor's surgery are over-subscribed.
  31. There are no jobs in Bampton
  32. Application should be called to planning committee if recommended for approval



## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The key issues in determination of this application are:

- 1. Policy, planning history and principle of development**
- 2. Five year land supply**
- 3. Access and highways issues**
- 4. Design**
- 5. Drainage and flooding**
- 6. Trees and ecology**
- 7. Delivery of employment land and phasing**
- 8. Other Section 106 agreement obligations**
- 9. Other representations**
- 10. Planning balance and recommendation**

### **1. Policy, planning history and principle of development**

A site of 2.4 hectares was allocated for mixed-use development under policy AL/BA/2 of the Allocations and Infrastructure DPD adopted in January 2011, subject to the following:

- a 40 dwellings with 35% affordable housing;
- b 4000 square metres employment floorspace;
- c Measure to discourage additional vehicular use of Frog Street and providing improvements to cycling and pedestrian safety to the town centre along Frog Street;
- d Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- e The occupation of no more than 20 dwellings before all of the employment land is available and serviced;
- f Contributions to improvements in public transport links.

The current application is on part of the allocated site only and proposes 15-20 dwellings and up to 2,500 square metres of B1 employment floorspace. The northern-most field has not been included in the application.

A hybrid application for a mixed use development on the whole site was submitted under reference 12/01032/MOUT (full application in respect of the residential element, outline in respect of the commercial element). This application was refused for a number of reasons, including insufficient certainty that the scheme would be development for mixed uses, lack of provision for financial contributions in respect of public open space and education, lack of affordable housing provision, poor layout and design of the residential element, inadequate access and gradients for the vehicle and pedestrian accesses and inadequate information on potential traffic generation and localised flood risk.

At the time of the allocation, Bampton was classified as a market town and scheduled to take a share of the District's growth, along with the larger towns of Tiverton, Cullompton and Crediton, in order to meet the residential and employment allocation target figures in policies COR3, COR4 and COR16 of the Mid Devon Core Strategy (LP1), adopted in 2007.

In his report on the examination of the Allocations and Infrastructure DPD, the Inspector pointed out a number of disadvantages of allocating the site, such as the visual impact into the countryside outside the existing settlement, an increase in traffic movements, particularly along the already congested Castle Street and problems of steep gradients on and around the site. The Inspector also noted that the development would affect amenity and transport sustainability, along with potential conflict between employment and residential uses and their effect on such interests as local wildlife and flood risk.

He set this against the fact that the site was the only opportunity in Bampton for the kind of co-location and cross-subsidy sought in the Core Strategy. The Inspector accepted that the site was difficult to develop and there was no immediate need for it but placed weight on the longer term employment provision required by the Core Strategy in allocating the site.

The emerging Local Plan Review (currently at the stage of pre-submission draft) re-classifies Bampton as a village so that its development status matches that of other villages in the District. The re-classification follows analysis undertaken to inform the Local Plan Review which identified that Bampton has similar characteristics to other settlements identified as villages, for example in parish population size, whereas Crediton, the smallest of Mid Devon's three market towns, is significantly larger. Bampton does not play a similar strategic role to the three market towns which all provide services, facilities and employment and are well connected to the strategic road network. Bampton is constrained in terms of levels of traffic that can be supported, as well as topographical and flood risk constraints.

Consultation through the Local Plan Review also supported the re-classification of Bampton and the emerging S13 Villages policy in general:

No of responses: 22  
Relevant responses: 5      In support: 4      Objecting: 1

Reponses also supported the deletion of the Bourchier Close allocation:

No of responses 9      In support: 8      Objecting: 1

The extent of unresolved objections has a bearing on the weight that can be attributed to an emerging policy: the less significant the unresolved objections, the greater the weight that may be given.

In general terms there was widespread support for the re-classification of Bampton as a village and the de-allocation of Bourchier Close. However, the one relevant objection to each policy/proposal is from the applicant of this proposal seeking to develop the site. The grounds for objection to the proposals are as follows:

- S13 - objects to reclassification of Bampton, Council provides little justification for reclassification. Accepts role is different from Tiverton and Cullompton
- S13 - considers size and level of services within Bampton to be significantly greater than majority of other settlements
- S13 - as such Bampton should have own specific housing allocation commensurate with level of facilities, particularly given Council proposes artificially low housing requirement
- S13 - development strategy for identifying villages is inconsistent (cites Yeoford example which does not have one of the three essential services)
- Bourchier Close - Council's justification for deletion is that site has not come forward, but this is not born out in light of previous (refused) application on site and current application
- Bourchier Close - overall Local Plan Review housing target too low, Council should address this or plan could be found unsound - should be best met at sustainable locations, including Bampton, and that the Bourchier Close allocation therefore be carried forward into Local Plan Review

The Council does not agree with the assertions made in the objections. The level of services and facilities within Bampton meets the essential criteria in Policy S13, and is not distinctly dissimilar to that at other villages listed within the policy. Furthermore the population of the settlement is similar to other villages, and is considerably smaller than even the smallest town in the district of Crediton. Bampton does not have the same strategic role as the towns in terms of being a focus for services, employment and retail provision, nor is it well connected to the Strategic Road Network. Flood risk and topographical constraints restrict the level of development which can be accommodated within the settlement.

In proposing allocations within Bampton, the Local Plan Review proposes three, two of which have permission but are yet to begin construction. This is the highest number of allocations per village in S13 and commensurate with a settlement of the size of Bampton. Furthermore, the Sustainability Appraisal which accompanied the Local Plan Review weighed up the loss of grade 3 agricultural land at Bourchier Close which contributed to the preference for alternative allocations within the settlement.

Whilst the Council believes there is a strong case to be made to justify the proposals in the Local Plan Review, the objections from the applicant have relevance to the overall soundness of the plan's strategy. The final decision will ultimately have to be taken by the Inspector overseeing the Examination, but until that time these must be considered 'unresolved objections'.

In making their recommendation, your officers have considered the weight which can be attributed to both the existing and emerging Local Plans. This weighing up exercise is undertaken below under "Planning balance and recommendation".

## **2. Five year land supply**

Paragraph 47 of the NPPF sets out the requirement for Local Planning Authorities to maintain a five year supply of land for housing, and stipulates the inclusion of a 5% or 20% buffer dependent on past delivery rates.

The Council's previously published five year land supply calculations were set out in the Housing Land Availability 2014, which is available on the Council's website. The document compares housing supply, based on allocations, planning permissions, sites under construction and completions against delivery targets. The document concludes that the five year land supply stands at 107%, or 5.35 years supply. Local plans cannot be considered to be up to date if the Local Planning Authority cannot demonstrate a five year land supply. Where local plans are out date, planning permission should be granted unless the impacts of doing so would significantly and demonstrably outweigh the benefits.

The applicant has contested the Council's figures and argues that the buffer should be set at 20% and not 5% due to a persistent record of under-delivery and this should be a material consideration in determination of the application. Your officers do not agree with the applicant's assessment and consider that the Council has maintained a five year land supply and should be applying a 5% buffer.

However, since this time the Council has been able to provide an updated calculation based on more recent monitoring data. On 10 August 2015, the Council published its Housing Land Availability summary 2015, which updated the five year land supply calculation with data from the 2014/15 monitoring year. The latest figures show the Council is now able to demonstrate a supply of 129%, or 6.45 years.

The improvement on the previous year's figures reflects a number of positive actions on behalf of the Local Planning Authority to increase the supply of available and deliverable housing land. The number of planning permissions has risen considerably this year, with a number of large allocated sites having gained consent. Subsequently the total number of sites with planning permission or under construction has risen from 1,369 to 1,739. Though not included in this year's planning permission figures, there are now over 1,000 dwellings on the Tiverton Eastern Urban Extension allocation with a resolution to grant planning permission subject to s106. This bodes well for the supply over forthcoming years, particularly now that masterplanning on that site and North West Cullompton are well advanced. Furthermore, the Council has seen over 100 successful prior notification applications for barn conversions following the recent liberalisation of permitted development rights. Being a highly rural district where agriculture was traditionally the principal industry, this form of dwelling creation is likely to provide an ongoing boost to supply.

The Council has also taken the opportunity to bring forward the release of a number of sites proposed as full allocations within the Local Plan Review (in accordance with the NPPF which states that Councils should bring forward supply from later in the plan period in order to provide a buffer). The NPPF states that weight should be given to relevant policies in emerging plans taking account of the significance of unresolved objections. Six sites proposed as allocations in the Local Plan Review received no objections. Given the absence of objections, the allocations can now be given full weight. Planning applications have been invited upon these sites.

In addition, in order to ensure the Council can demonstrate a sufficient supply of housing land, the Allocations and Infrastructure DPD contains a number of contingency sites which can be released to bolster supply. One site, Pedlerspool in Crediton, was proposed to be made a full allocation within the Local Plan Review. In light of the challenge to the Council's five year land supply position, this contingency site has been released early and can now be included within the supply figures. The decision to release the site was

formally made at a meeting of the Council's Cabinet on 7 August 2015. The same meeting confirmed the release of the six sites mentioned above. An application is forthcoming on the Pedlerspool site, and is anticipated to be submitted in the autumn 2015, adding weight to the site's availability and deliverability.

The applicant had also criticised one element of the Council's five year supply calculation methodology which made an assumption about the number of completions within the year immediately following the monitoring period. So for example, with monitoring data available up to 31st March 2015, the start of the five year supply period would previously have been 1st April 2016. The Council agrees with the applicant that this approach, which was based on previous Government guidance, introduced an unnecessary element of uncertainty into the calculation. Accordingly, this approach is no longer to be used, bringing the methodology used in line with that used by the other Council's within the Exeter Housing Market Area. The period of the five year supply used in the Housing Land Availability summary is from 1st April 2015 - 31st March 2020.

The applicant has also contested the windfall allowance used by the Council, arguing there is not a defined trajectory or compelling evidence that such sites have consistently become available. The windfall allowance has been based on historic housing completions since 2002/3 which provide evidence that windfall sites have clearly and consistently formed a significant element of housing completions within the District, account for around 62% of the total delivery since 2002/3. In assessing the windfalls likely to come forward, the Council has assumed the lowest figure in the historic range of windfall sites, which it considers to be a conservative estimate.

Your officers consider that the Council's position in relation to five year land supply is strong. Housing land supply is a material consideration in determination of this application, but it is not considered that it forms a basis for granting this application as the appropriate 5 year housing land supply can be demonstrated.

### **3. Access and highways issues**

Access details are to be determined under this outline application. It is proposed to create a new vehicular access onto the B3190 Morebath Road with a secondary pedestrian access exiting the site at the south western corner of the site to allow pedestrian access onto Frog Street and into Bampton.

The submitted Transport Statement identifies that the development proposals would generate 58 two-way vehicle movements during AM peak hours and 52 during PM peak hours. Overall, there would be an additional 391 two-way vehicle movements per day as a result of the development.

The Highway Authority has considered revised details submitted following their initial consultation response and considers the details shown on drawing number 1405-84-SK01 Rev C in respect of the vehicular and pedestrian accesses onto the public highway to be acceptable and require this drawing to be conditioned should the application be approved. The Highway Authority points out that the access drawing does not accord with the details on the indicative masterplan but recognises that the final layout has been reserved to be determined at reserved matters stage.

The vehicular access would be located approximately half way along the boundary hedge onto the B3190 and would include the provision of a 48.43 metre visibility splay to the north and a 44.3 metre visibility splay to the south of the entrance. This visibility splay was calculated on the assumption that the speed limit would be 30 mph with the 30 mph speed limit boundary being moved to the north of the proposed development. A 2 metre footway would be provided along the frontage with the hedge translocated behind the proposed footway and visibility splays.

Allocation AL/BA/2 requires measures to discourage additional vehicular use of Frog Street and provide improvements to cycling and pedestrian safety to the town centre along Frog Street. No such measures have been included within the application but the Highway Authority has confirmed that, in its opinion, the narrow nature and winding route of Frog Street would be deterrent enough for vehicles. The Highway Authority consider that signing, lining and increased street lighting in Frog Street would be inappropriate as this would detract from its rural feel. The proposed footpath would include steps down from the site to Frog Street which would make it unsuitable for cycling. Cyclists would need to exit the site via the vehicular access onto the B3190 and then turn down into Frog Street or continue along the B3190 to the junction with

Castle Street and turn down into Bampton from there.

Concern has been raised with regard to the lack of footpath provision between the site and Bampton along the B3190 which is considered to be an easier walking route than along Frog Street. The allocation policy specifically refers to a walking route along Frog Street and the application indicates a footpath exiting the site at the Frog Street end to link through into the village. Although the allocation policy specifically refers to improvements to Frog Street, the Highway Authority does not consider these to be appropriate and is happy with the approach proposed. Based on the current plans, there is, however, no cycle route proposed.

Concern has also been raised with regard to the potential hazardous nature of the proposed access. The Highway Authority has negotiated the access details with the applicant and considers the proposal acceptable in highway safety terms. There have been no recorded accidents along this stretch of road within the past five years, as set out in the applicant's Transport Statement.

Concern has been raised with regard to increased traffic on Morebath Road and in particular in Castle Street. The Inspector recognised during the examination of the AIDPD that development of the site would be likely to exacerbate existing congestion, but weighed the advantage of being able to deliver a higher level of employment and residential development on this site to meet Core Strategy targets against the disadvantages, such as increased traffic and congestion, and concluded that the benefits of the potential residential and employment delivery outweighed these concerns.

The Highway Authority is satisfied that the development is acceptable in highway safety terms and the proposal is considered to be in accordance with policy DM2 of the LP3 DMP and the NPPF in this respect.

Policy DM8 of the LP3 DMP requires 1.7 parking spaces to be provided per dwelling and sets a guideline of 1 parking space per 30 square metres of floorspace for B1 uses. The Indicative Masterplan demonstrates this level is achievable but this is not a layout that would be acceptable to the Local Planning Authority. The final design would be for a reserved matters application to consider.

#### **4. Design**

Design is a reserved matter. However, an indicative masterplan has been submitted, along with a design and access statement which the applicant states "sets out the key principles and provides a framework to guide future development proposals for the site at detailed design stage as part of an application for the approved of reserved matters".

Policy DM2 of the LP3 DMP requires that designs of new development must be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and surrounding area, and demonstrating that the development would make a positive contribution to local character, visually integrated with surrounding buildings, streets and landscapes. In the case of the current site, your officers consider that the application needs to demonstrate a clear understanding of the site as a gateway to Bampton and its role in the rural to village transition.

The submitted Landscape and Visual Impact Assessment has identified that views of the site are limited to the immediate area with occasional long distance views. It also identifies this as a "gateway site" to the area and states that the proposal will extend the developed character of the village. Your officers would agree with this analysis but would further stress that a careful and sensitive approach to developing this site is required to ensure that the character of the rural to village transition at this important gateway into the village is not severely compromised. The submitted Landscape and Visual Impact Assessment bases its conclusions on the indicative masterplan layout which is only indicative as layout, design and appearance are reserved matters.

Whilst the current application is outline, nevertheless the application still needs to demonstrate that the development proposed can be accommodated on the site in an appropriate way. Not only does the application need to demonstrate that the application site can be development in an appropriate way, but as part only of the site has been included within the application, it also needs to demonstrate that the site can be developed in a way that would have an acceptable relationship with the rest of the allocation that has not been included within the current proposals.

Your officers do not consider that the applicant has demonstrated a clear understanding of the site in its submitted design and access statement or indicative plans. An appropriate design response to the constraints of a prominent site on approach to the village has not been demonstrated, nor has the relationship with the adjacent existing Bouchier Close development been considered. The development would form a new edge to the village and form a new gateway into the developed area.

The adjacent Bouchier Close development is mostly single storey and sits down within the landscape with only the tops of the roofs visible on approach to Bampton. The relationship with the edge of village setting is softer: houses are set back from the road, at lower levels, with a back garden to road relationship, all bounded by high hedges. The existing Bouchier Close development has a semi-rural character and creates a soft edge approach to the village. The existing development does not announce arrival at Bampton, which is only really evident as Castle Street is approached.

In contrast, the indicative details show two-storey residential development on elevated ground which would sit well above existing hedges and when viewed from the B3190 would appear dominant and visually separated from the rest of Bampton. In addition, the indicative plans show the commercial land located on the steeper land at the Frog Street end of the development and ground levels being built up further with a high retaining wall. Visually, the scheme shown on the indicative plan would be unacceptable as the residential and employment buildings would be elevated significantly above the road causing harm to the character of the gateway approach and rural to village transition and to the visual amenities of the area, contrary to policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP.

In addition, policy COR16 of the Mid Devon Core Strategy (LP1) requires development to retain the green setting provided by the steep open hillsides and the undeveloped Bathern valley. Your officers do not consider that the applicant has demonstrated that the proposed development could be achieved in a manner that would comply with COR16, in particular as the illustrative masterplan shows all two storey development, ground levels having to be built up and the inclusion of a retaining wall to provide additional level ground for the development.

In addition, the indicative plan shows the commercial elements having to be accessed through the residential element (associated commercial traffic having to move through a residential area) and an awkward relationship between the commercial and residential elements and the provision of parking courts that the Police have identified could be a security issue. In addition to this, the indicative layout plan shows the access also having the potential to serve the remainder of the allocation not presently included. Bearing in mind the level of development proposed in the current application, the implication is that the remainder of the allocation will also need to provide mixed residential and commercial uses in order to meet the policy requirements of AL/BA/2. The proposed access would be required to serve both residential and commercial elements in the remainder of the site and as yet it is not clear what type of development the commercial element would be and whether use of the proposed access would have an unacceptable impact on the future residents of the proposed development through the use of that access for large commercial vehicles to serve the remainder of the allocation, and these large vehicles having to move through the proposed residential area, contrary to policy DM2 of the LP3 DMP which requires the provision of safe and accessible places.

The applicant has pointed out that layout and design are reserved matters. That is understood but your officers could equally argue due to the nature of the site there are significant layout implications that potentially would affect the ability to achieve the proposed level of development in a way that addresses the significant constraints of the site and makes the development acceptable. Your officers consider that the outline application needs to demonstrate that the quantum of development proposed can be provided in an appropriate manner and it is not considered that this has been demonstrated in the current application. Should a reserved matters application be submitted along the lines of the indicative scheme and design and access statement, it would be recommended for refusal.

The transport statement confirms that parking standards will be in line with Mid Devon's car parking standards in policy DM8 of the LP3 DMP in that 1.7 parking spaces will be allocated to each dwelling and 1 parking space will be provided for each 30 square metres of B1 commercial floorspace. However, as mentioned, the final layout and development design is a reserved matter.

Similarly, impacts on the privacy and amenity of neighbouring residents would be considered once the final layout and design of the scheme is known. However, the site has scope to be developed without having an unacceptable impact on the privacy of occupiers of neighbouring dwellings, in accordance with policy DM2 of the LP3 DMP.

Policy AL/IN/6 of the AIDPD (LP2) requires major applications for dwellings and non-residential floorspace to make provision for at least 15% of the energy to be used in the development to come from decentralised on-site renewable or low carbon sources. Policy DM3 requires applicants to demonstrate how sustainable design and construction methods will be incorporated to achieve resilience to climate change. The Design and Access Statement considers prioritising energy efficiency measures over renewable energy generation but no Carbon Reduction Strategy has been provided to address the provisions of policy AL/IN/6 of the AIDPD (LP2).

## **5. Drainage and flooding**

Policy COR11 of the Mid Devon Core Strategy (LP1) seeks to direct development to areas with the least possibility of flooding. The site lies outside of the flood zones but Bampton has a general problem with flooding, surface water run-off and a fluctuating water table. Flood risk has been considered in the submitted Flood Risk Assessment and Drainage Strategy.

The allocation policy AL/BA/2 requires the provision of a Sustainable Urban Drainage Scheme on site. A drainage strategy has been submitted based on the indicative masterplan layout. This comprises a mix of infiltration and attenuation with an outfall into the Shuttern Brook which would cross land outside of the control of the applicant. Only limited studies have been undertaken with respect to the water table, which is known to fluctuate considerably in the area, and has caused problems elsewhere where SUDS schemes have been provided.

Devon County Council as Lead Local Flood Authority now consider surface water drainage strategies, however, this application was received before they took over this role, so the submitted drainage strategy has been considered by the Environment Agency.

The Environment Agency's response states that whilst the principle of the drainage strategy is acceptable and the current design aligns in broadest terms with current best practice, if the developer does not have the ability to construct the outfall to the Shuttern Brook then an alternative scheme for the management of surface water will have to be put in place which may require the site layout to be altered from that proposed.

The Environment Agency considers that the shallow permeable pavements construction proposed is less likely to be affected by seasonal variations in ground water levels compared with deeper soakaways, for example.

The applicant has been asked to provide the Local Planning Authority with some comfort that the drainage strategy as proposed, in particular the outfall into the Shuttern Brook, can be achieved, for example through the provision of an agreement with the adjoining landowner. However, the applicant has not provided the necessary assurances.

The applicant has stated that the drainage strategy can be conditioned and, if it is not possible to negotiate the outfall with the neighbouring landowner, the fall-back position would be to requisition a surface water sewer from South West Water. However, the fall-back position is not what policy AL/BA/2 of the AIDPD requires. The policy requires a SUDS scheme to be implemented on the site. It is assumed that the fall-back position would be that the surface water discharges into the combined sewer. As mentioned above, there is already a problem with surface water, fluvial and ground water flooding in the Bampton area and additional water into the combined sewer may exacerbate the existing problem.

In addition, as the current SUDS proposal is based on the layout shown on the indicative plan - which your officers do not consider would not be acceptable should it be submitted at reserved matter stage - it is not considered that the ability to provide a workable SUDS scheme has been demonstrated. The proposal is therefore contrary to policy AL/BA/2 of the AIDPD (LP2). Details of how these provisions would be achieved

could be conditioned via the requirement for a carbon reduction strategy.

## **6. Ecology and trees**

Concern has been raised with regard to the impact of the development on trees and wildlife and to agricultural land being used for development.

The submitted tree report and tree constraints plan has identified that there are several good quality (A and B category) trees on the site boundaries which it is intended to retain. The retention of these trees and compliance with a tree protection plan could be conditioned should the application be recommended for approval. The constraints posed by the trees should inform the proposed layout at reserved matters stage.

The Phase 1 habitat survey identified that the site was potential habitat for protected species on/around the site. Additional surveys were carried out for reptiles, great crested newts, dormice and bats. Mitigation measures are recommended in the report as follows: trees and hedges on the boundaries of the site to be retained and protected, hedgebank realignment and infill planting carried out where necessary, pre-construction hand searches carried out for amphibians and hedgehogs, the site would be cleared and maintained to avoid harm to reptiles and new reptile habitat provided on site, measures would be undertaken (including timing of works) to prevent harm to nesting birds and badgers. Long term mitigation would provide new biodiversity plants, bird and bat boxes and control light-spill onto boundary vegetation to protect bat foraging areas, again to be designed in at reserved matters stage.

Provided the development proceeds in accordance with the tree and ecology recommendations in the submitted report, the development is considered to be in accordance with policies DM2 of the LP3 DMP and the NPPF in respect of trees and protected species.

Policy DM28 of the LP3 DMP requires major developments to incorporate green infrastructure. The proposal is to include retention of existing trees and hedges and new infill planting to provide linkages to the wider countryside.

## **7. Delivery of employment land and phasing**

The site was allocated only on the understanding that the employment land would be provided in step with the housing to reflect the requirements of policy COR1 of the Mid Devon Core Strategy (LP1) which requires growth to be managed so that development meets sustainability objections and results in sustainable communities.

The description of the proposal refers to "up to 2,500 square metres of B1 floorspace" being provided. Your officers have requested an alteration to the description so that it refers to a range of provision, e.g. between 2,000 square metres and 2,500 square metres of B1 floorspace" in the same way that the description refers to between 15 and 20 dwellings. This change to the description has not been agreed by the applicant. This effectively means that the applicant could deliver zero square metres of employment land as the description refers to "up to" 2,500 square metres only. This is not demonstrating compliance with the requirements of policy AL/BA/2 for the provision of employment land.

The phasing strategy set out in the Design and Access Statement sets out that the residential development would be carried out within a single phase with the commercial development being made available within the first year of commencement of development. Your officers have argued that to comply with the allocation policy, no more than 50% of the dwellings to be provided on the site (50% of between 15 and 20 depending on reserved matters) should be occupied until at least 2,000 square metres of employment floorspace (plus associated parking, landscaping, etc) has been serviced and is available. This would be proportionate to the requirement in policy AL/BA/2 for 4,000 square metres of employment floorspace to be serviced and made available before the occupation of no more than 20 dwellings. The applicant has now agreed to this phasing condition, although, again, the applicant would be able to provide, say, 10 dwellings on the site without any requirement to provide serviced and available employment land.

The draft Section 106 agreement includes a clause that the employment land will be marketed in accordance with a marketing strategy to be agreed with the Local Planning Authority. Your officers have



suggested that the marketing period should commence once the employment land has been serviced and is available whereas the applicant has put forward a period of 3 years running from the date of commencement of the development. In practice, the development could commence with the laying out of a road or digging of a trench for a foundation and then lie dormant for whole period of marketing of the employment land, or the period could run whilst the first, say, 10 dwellings are developed and then the rest of the site could lie dormant for the whole of the rest of the marketing period. Your officers consider that this offers little over the standard policy requirement to market an employment site for 18 months, before considering alternative uses. The applicant has not agreed to this suggestion that the marketing period runs from the date the employment land is serviced and available. Without the employment land provision, the proposal would be contrary to the requirements of policy AL/BA/2. As at the date of writing this report, the final terms of the Section 106 Agreement have not been agreed.

## **8. Other Section 106 agreement obligations**

Policies AL/DE/3 and AL/BA/2 of the AIDPD (LP2) require 35% affordable housing to be provided on site. Policy AL/DE/4 seeks to control the occupation of the affordable dwellings in accordance with officially published criteria. AL/DE/5 seeks an inclusive design and layout which would need to be addressed at reserved matters stage.

Policy AL/IN/3 of the AIDPD (LP2) seeks on-site provision of public open space, or, where this is not suitable, an off-site contribution. Policy AL/IN/5 of the AIDPD (LP2) seeks a financial contribution towards additional education facilities to meet the needs of the development.

The applicant has agreed to provide 35% affordable housing on site and agreed financial contributions in respect of off-site public open space (£1,205 per dwelling), education improvements (£2,736.15 per dwelling) and school transport (£24,595.50) and waste and recycling (£50 per dwelling).

The proposed dwellings would be eligible for counting toward the New Homes Bonus. If New Homes Bonus is distributed across the Council Tax bands in the same way as in 2013, the award for each affordable house is estimated to be £1,378 per year including an annual premium of £350 for affordable homes, paid for a period of 6 years. The total would depend on the number of dwellings provided.

## **9. Other representations**

Concern has been raised that the sewage system needs upgrading. No comments have been received from South West Water on this application. However, it should be noted that South West Water has made representations on other applications in Bampton that the sewage system has insufficient capacity for further development. However, it is a requirement under the provisions of the Water Act that South West Water provides any additional capacity required in conjunction with developers when the need arises. The South West Water business plan submission is made on a 5 year basis and identifies investment requirements. However, to date South West Water have been unable to provide Mid Devon with details of the upgrading works required to the sewage treatment plant which would be the basis on which a contribution to costs of the upgrading works could be requested from the developer. If the development goes ahead, South West Water would be obliged to meet the development's sewerage needs.

Concern has also been raised that the school and doctor's surgery are over-subscribed and the bus service does not have sufficient capacity. It would be for the bus, education and medical providers to expand capacity to meet the need. A financial contribution has been agreed towards school improvements and school transport.

## **10. Planning balance and recommendation**

Policy DM1 of the LP3 DMP and the National Planning Policy Framework set out a presumption in favour of sustainable development and require planning applications that accord with the policies in the Local Plan to be approved unless material considerations indicate otherwise.

Your officers consider that from the day of publication of the Local Plan Review 2013-2033 Proposed Submission, the Local Planning Authority can give some weight to relevant policies in the emerging plan - to

reclassify Bampton as a village and remove the Bouchier Close site as an allocation. There is support from Bampton Town Council and local residents in favour this approach.

As mentioned above, there is one unresolved objection from the applicant to the removal of the site from the Local Plan and the reclassification of Bampton as a village under policy S13. This needs to be taken into account when considering the weight to be attributed to the emerging Local Plan Review 2013-2033 Proposed Submission.

As a general rule, a policy in an adopted Local Plan would normally carry more weight than a policy in an emerging plan, although the weight that can be attributed to the emerging plan increases according to the stage towards adoption that has been reached and whether there are unresolved objections. The current allocation policy AL/BA/2 is considered to carry significant weight in determining this application as it is part of the adopted development plan. However, in assessing the weight that can be attributable to the emerging Local Plan Review 2013-2033 Proposed Submission, your officers have considered the following:

1. The emerging Local Plan Review is at the pre-submission stage. There has been only one objection to the re-classification of Bampton as a village and one objection to the removal of the allocation from the Local Plan. Both these objections were submitted by the applicant of the current planning application being considered.
2. The emerging Local Plan Review takes a fundamentally different approach to the status and role of Bampton as it has already been established that Bampton's role is not one of a strategic market town in the same way as Tiverton, Cullompton and Crediton, but is more closely aligned with other villages in the District where only limited development to meet local need is proposed.
3. The reason for allocating this site in the Allocations and Infrastructure DPD was that this site was the only opportunity in Bampton for the kind of co-location and cross-subsidy sought in the Core Strategy. The Inspector accepted that the site was difficult to develop and there was no immediate need for it but placed weight on the longer term employment provision required by the Core Strategy in allocating the site. Through the Local Plan Review process, it is clear that there is no longer this longer term need and the Core Strategy targets are now considered to be out of date.

Taking all this into account, your officers consider that although the current allocation would normally carry more weight, there are strong reasons to attribute sufficient weight to the emerging policy, so that, on balance, refusal is recommended on policy grounds.

In addition to this, as set out above, despite this being an outline application with all matters except access reserved, your officers have very real concerns about the proposed development as put forward in this application.

As detailed above, your officers do not consider that it has been demonstrated that the quantum of development this application proposes can be delivered in an acceptable way to meet the requirements of policies COR2 and COR16 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP. In particular, your officers have concerns over the potential impact of the development on the character of Bampton at this gateway site at the edge of the village and do not consider that the application demonstrates a clear understanding of the site, its wider context and the surrounding area. In addition, your officers do not consider that the layout as proposed is adequate or that the relationship with the remainder of the allocation has been considered. Nor has it been demonstrated that a satisfactory relationship between the two parts of the site could be achieved, taking into account the potential visual impacts of the development and the potentially awkward relationships between the access and the residential and commercial developments.

There is also doubt over the delivery of the employment element of the development - the main reason why this site was allocated in the first instance. The application description refers to "up to 2,500 square metres of B1 employment floorspace" rather than providing a range of floorspace as suggested by your officers that includes a minimum employment floorspace, and there is little additional comfort in the proposed wording in the Section 106 Agreement that refers to marketing the site for 3 years from commencement of development, rather than from the provision of serviced and available land.

Your officers also do not consider that it has been demonstrated that a satisfactory SUDS scheme can be achieved on site, which is requirement of the allocation policy BA/AL/2 and a consideration under policy DM2 of the LP3 DMP. Your officers are concerned that the proposed SUDS scheme has been based on a layout that would not be acceptable should it be submitted at reserved matters stage and it has also not been demonstrated that the proposed outfall to the Shuttern Brook, a key component of the SUDS scheme, can be delivered. Without this, there is the potential to increase flood risk elsewhere in Bampton, contrary to policies COR11 and COR16 of the Mid Devon Core Strategy (LP1).

Your officers are therefore recommending refusal for three reasons: firstly on policy grounds, secondly that it has not been demonstrated that an acceptable scheme can be delivered for the quantum of development proposed, and thirdly that the proposal does not provide sufficient certainty that the employment floorspace will be delivered.

## REASONS FOR REFUSAL

1. The emerging Local Plan Review 2013-2033 Proposed Submission proposes re-classification of Bampton's status a market town and key focus of development, to a village with a limited role and development to meet local needs only and to remove the allocation of which this site forms part. Although the site is currently still allocated under policy AL/BA/2 of the Mid Devon Allocations and Infrastructure DPD, the Local Planning Authority considers on balance that significant weight can be attributed to the emerging Local Plan Review 2013-2033 Proposed Submission to justify a refusal due to three factors:
  - a) there is general support for the re-classification of Bampton as a village and removal of the allocation, with only one unresolved objection (from the applicant) received on each of these proposals during consultation on the Proposed Submission document;
  - b) the emerging Local Plan Review 2013-2033 Proposed Submission takes a fundamentally different strategic approach in relation to Bampton's role within the District which no longer requires the level of residential and employment development required by the Mid Devon Core Strategy (Local Plan 1);
  - c) the site was only allocated under policy AL/BA/2 of the Allocations and Infrastructure DPD as this site was the only opportunity in Bampton for the kind of co-location and cross-subsidy required to meet the (now out of date) targets in the Mid Devon Core Strategy (LP1) in the longer term, despite there being no immediate need and the acknowledged difficulty in developing the site.

The Local Planning Authority considers that, on balance, the policy justification for refusing the application therefore outweighs the policy justification for approving it.

2. In the opinion of the Local Planning Authority, it has not been demonstrated that the quantum of development proposed can be provided in an acceptable form. In particular, the proposal does not demonstrate a clear understanding of the site, its wider context and the surrounding area, taking into account the potential for the development to harm the character of Bampton at this gateway site on the edge of the village, nor does it demonstrate that an acceptable relationship can be achieved between the residential and commercial elements on the site and the remainder of the allocation, nor that a satisfactory Sustainable Urban Drainage Scheme to prevent the risk of flooding elsewhere can be achieved on the site, contrary to policies COR2, COR11 and COR16 of the Mid Devon Core Strategy (Local Plan 1), AL/BA/2 of the Allocations and Infrastructure DPD (Local Plan 2) and DM2 of the Local Plan 3 (Development Management Policies).
3. In the opinion of the Local Planning Authority, the proposal does not present sufficient certainty that the site will be developed as a mixed use scheme or that the economic and sustainability benefits of delivering employment floorspace on the site will be achieved, contrary to policies COR1 and COR16 of the Mid Devon Core Strategy (Local Plan 1) and AL/BA/2 of the Allocations and Infrastructure DPD (Local Plan 2).

Application No. 15/01133/TPO

Plans List No. 2

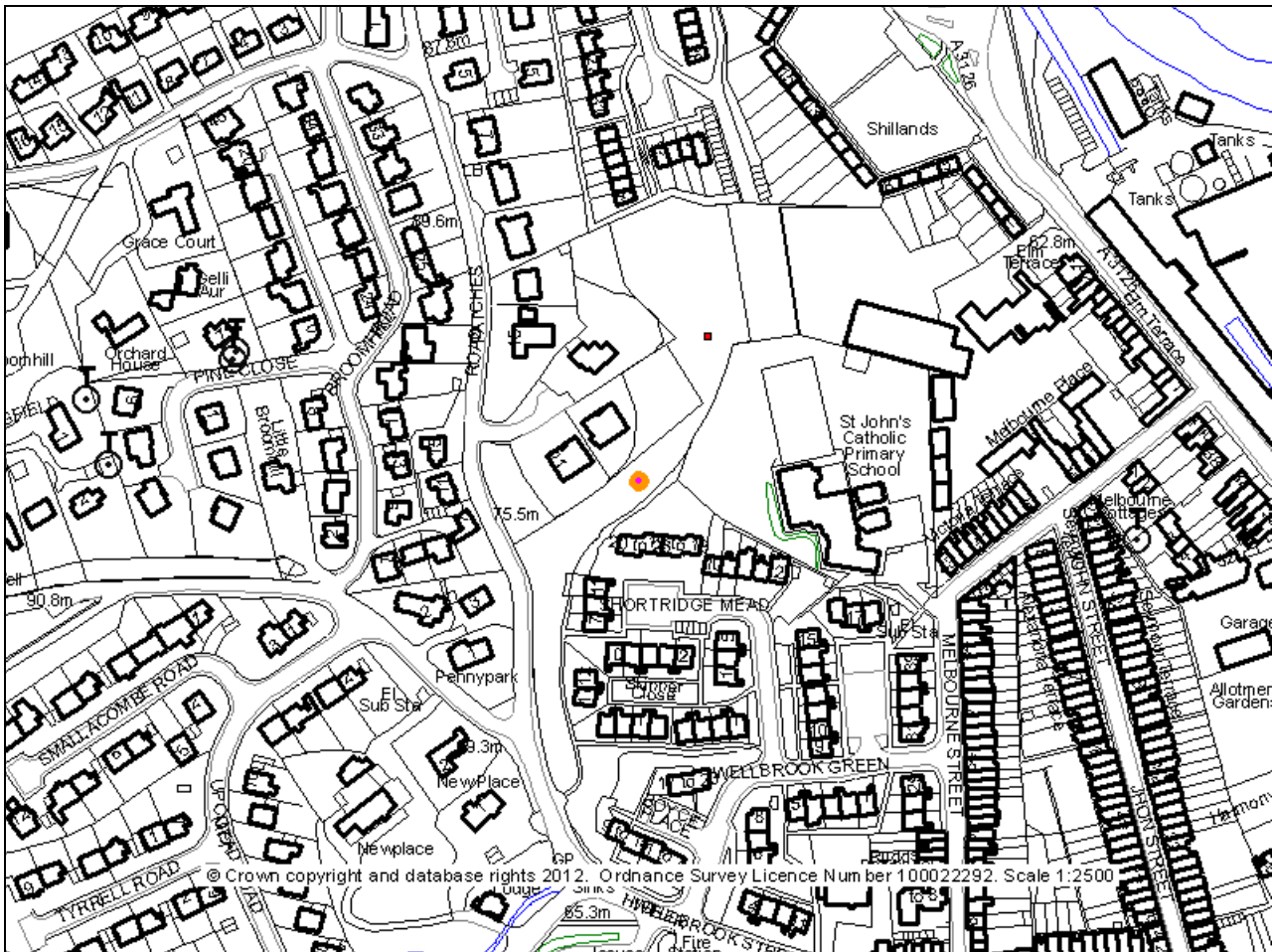
**Grid Ref:** 294835 : 112898

**Applicant:** Lisa Harber

**Location:** Land at NGR 294835 112898 (Adjacent To Shortridge Mead Flats) Patches Road Tiverton

**Proposal:** Application to pollard to 3m 1 Holm Oak tree protected by Tree Preservation Order 80/00001/TPO

**Date Valid:** 15th July 2015



Application No. 15/01133/TPO

## **RECOMMENDATION**

Grant consent.

## **PROPOSED DEVELOPMENT**

This application seeks consent for the pollarding of 1 Holm Oak Tree, on land adjacent to Shortridge Mead Flats, Patches Road, Tiverton. The tree is protected by Tree Preservation Order 80/00001/TPO which is a large group Preservation Order. The tree is sited in the woodland between 20-26 Shortridge Meadow and 19 Patches Road. The works consist of a pollarding of up to 3 metres to remove heavily weighted limbs.

## **APPLICANT'S SUPPORTING INFORMATION**

Supporting Appraisal  
Plan

## **PLANNING HISTORY**

89/01825/TPO Topping and thinning of trees subject to TPO 4.52.80.TP1 - PERMIT  
06/01770/TPO Application to fell trees protected by Tree Preservation Order 1/1980 - REFUSE  
10/01315/TPO Application to fell 1 Sycamore and carry out works to 2 Holm Oak trees protected by Tree Preservation Order 80/00001/TPO - PERMIT

## **CONSULTATIONS**

MID DEVON DISTRICT COUNCIL - TREE OFFICER - 7th August 2015 - Mid Devon Tree Officer has no objection to the proposed tree work.

Suggested conditions

CTP1 TPO Time Limit

The works hereby permitted shall be carried out within two years of the date of this consent.

CTP2 TPO standard work

All works shall be carried out in accordance with BS3998:2010 Tree Work Recommendations and/or European Pruning Guide (AA Guidance Note. 5) by an appropriate experienced and qualified tree surgeon.

TIVERTON TOWN COUNCIL - 5th August 2015 - Support but wish to make comment that it would appear that this tree has had some history of neglect.

## **REPRESENTATIONS**

None received at the time of writing this report

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The Tree is situated within a woodland order and whilst the tree is visible to residents in the immediate locality, its wider amenity value is relatively low, due to obstruction by buildings or other trees on all sides. The rooting zone of the tree appears to be undisturbed and there are no concerns regarding the stability of the root system.

There has been a history of significant limb failure in this tree over the years and recently another fracture in a lower limb has been recorded. The heavily weighted pendulous limbs were pruned in 2010 (10/01315/TPO) but this pruning work is unlikely to have a longer term effect on reducing limb failure. There are several weak fork unions within the canopy of the crown.

More recently, there has been increased use of the adjoining land by residents as a garden and vegetable plot, and therefore the risk from falling branches in this tree has increased with unacceptable risk of harm to health and safety. Whilst pruning may temporarily address this issue, the tree's maturity, heavily end weighted limbs, and limited amenity value signify that a preferred option would be to pollard the tree at 2-3 metres.

The tree will still be an interesting feature in the immediate location and will return with good vigour after which it can more easily be maintained. The Tree Officer has not objected to the works, and it is not deemed to be necessary to provide any additional tree planting, given that this is a well-stocked area of woodland, where the loss of the tree in its current form would not result in harm to the character and amenity of the wider area. Permission is recommended subject to conditions.

### **CONDITIONS**

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. All works shall be carried out in accordance with BS3998:2010 Tree Work Recommendations and/or European Pruning Guide (AA guidance Note No. 5) by an appropriately experienced and qualified tree surgeon.

### **REASONS FOR CONDITIONS**

1. To ensure the works carried out remain appropriate to the condition of the tree(s) and in the interests of visual amenity and having regard to the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
2. To ensure the works are carried out in accordance with best Arboricultural practice.

Mrs Jenny Clifford  
Head of Planning and Regeneration