

PLANNING COMMITTEE AGENDA - 12th March 2025

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	24/00840/FULL - Erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, Crediton, Devon. RECOMMENDATION Grant permission subject to conditions
02.	24/01618/FULL - Variation of Condition 3 of Planning Permission 22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage at Land at NGR 306758 113093, Clay Lane, Uffculme. RECOMMENDATION Grant permission subject to conditions
03.	25/00205/NMA - Non-Material Amendment for 23/00129/MFUL to allow alterations to the site plan, including cycle storage arrangements, landscaping and addition of footpath; amendments of internal layouts, including relocation of external doors and windows at Dwelling Block 2 - 8 Holly Road and, Garage Blocks Sycamore Road, Tiverton. RECOMMENDATION Grant permission.
04.	25/00076/TPO - Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO at 38 Redvers Way, Tiverton, Devon. RECOMMENDATION Grant consent.

Application No. 24/00840/FULL

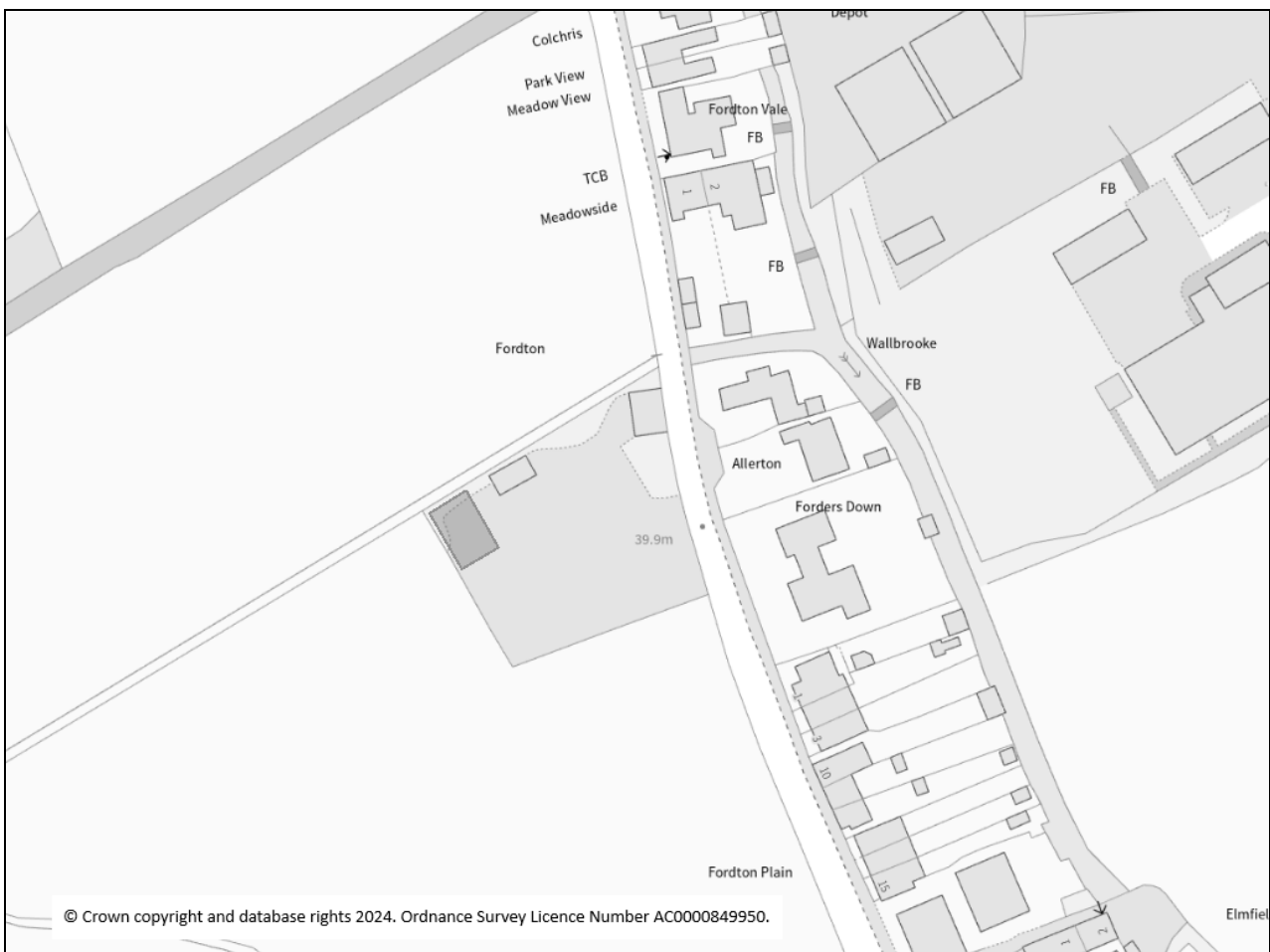
Grid Ref: 283908 : 99256

Applicant: Mr Julian Hooper

Location: Hooper Services (South West) Ltd
Crediton
Devon
EX17 3DH

Proposal: Erection of a building for machinery and equipment storage

Date Valid: 6th June 2024



APPLICATION NO: 24/00840/FULL

Site Visit: Yes Date of Site Visit: 23/08/2024

REASON FOR REFERRAL TO COMMITTEE

The application has been called in by the Ward Councillor for the following reasons:

Overdevelopment of site, possible illegal use of site, development in a floodplain and environmental impact.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

This application seeks planning permission for the erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, located off of Station Road, Fordton, Crediton.

The site is a contained square plot location in what was previously the corner of an agricultural field. Two buildings are currently located within the site. Residential properties can be found nearby on Station Road on the opposite side of the road. Fordton Trading Estate can be found approximately 48m to the north-east of the site, and the Crediton Milling Company can be found approximately 210m to the south-east of the site off of Station Road. The site is not located within any Conservation Area, with the nearest listed building being the Grade II Listed Fordton Cottage which is located approximately 160m to the south-east of the proposed building. The site is located within flood zone 3, which represents the highest probability of flooding and a leat is also noted to the north of the site. The site falls just outside of the defined settlement boundary of Crediton, and therefore it is considered to sit within the countryside in policy terms. The site does fall within the boundary for The Crediton Neighbourhood Plan area.

The supporting design and access statement outlines that a further building is required to ensure machinery is kept dry to ensure it has a longer operating lifespan. This will also ensure that equipment and machinery currently stored externally within the site is kept safe from theft, and will result in the yard space being kept tidier noting the site location near residential uses.

The proposed storage building would be located within the north-west corner of the site, against an established treeline to the north. Following minor amendments to the buildings location in response to comments from the LPAs Arboricultural Officer, the building would be located 1.5m from this boundary. To the west of the building, the site is contained by an earth bund covered in low level vegetation. The building would measure approximately 9m x 13.7m, covering an area of 123.3sqm. The building features a dual-pitch roof which measures 4.8m to the eaves and 6.4m to the ridge. The east elevation which faces into the site would feature 3 large grey roller shutter doors, with a single pedestrian door proposed to the south elevation. The north and west elevations would be fully enclosed, with the external walling and roof of the building clad in green box profile metal sheets. No roof lights are proposed.

As shown within the relevant planning history, it is noted that a Certificate of lawfulness for the existing use of agricultural land and buildings for use as grounds maintenance storage and depot for a period in excess of 10 years was granted in October 2024 in relation to this site.

APPLICANT'S SUPPORTING INFORMATION

- Application form
- Amended Ownership Certificate
- Site location and block plan (revised)
- Proposed plans and elevations
- Design and access statement
- Initial air quality assessment
- Wildlife trigger list
- Devon BNG statement for validation
- Flood risk assessment (revised)
- Arboricultural Impact Assessment
- Landscaping plan

RELEVANT PLANNING HISTORY

80/00028/OUT - REFUSE date 7th March 1980
Outline for the erection of house

04/00325/FULL - PERMIT date 21st May 2004
Erection of an Agricultural Building to replace existing

24/01120/CLU - PERMIT date 10th October 2024
Certificate of lawfulness for the existing use of agricultural land and buildings for use as grounds maintenance storage and depot for a period in excess of 10 years

OTHER HISTORY

None

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable development priorities
S2 Amount and distribution of development
S9 Environment
S12 Crediton
DM1 High quality design
DM3 Transport and air quality
DM5 Parking
DM18 Rural employment development

Crediton Neighbourhood Plan 2018 to 2033

D1 Development Principles
D5 Design
T4 Off Street Parking
En2 Trees
En3 Flood Plains

CONSULTATIONS

Crediton Town Council -18.07.2024

On behalf of Crediton Town Council

Gradual change of use

The appearance and use of the site has changed since 2009 when a track entrance lead to a couple of smallish sheds in the North West corner and a larger one and a greenhouse in the north east corner. The plot was edged by trees, bushes and with hedgerow along the road. By 2022, the hedge was replaced by a metal fence, much of the site has been cleared. It is evidently a busy storage yard for wood and vehicles of various kinds.

As far as can be seen from the documents supplied, some these changes have been made without planning applications. The Flood Risk Assessment document mentions an application for a shed in the north east corner made in 2004. If any applications have been made and approved these appear not to be recorded by the LPA. The use of the land has gone from a small wood cutting and land maintenance business to a small industrial site with 14 employees and a lot of plant such that a third much larger building is now required to house the additional machinery and vehicles that the business now uses, as well as providing parking for employees.

Once a development is established in practice as a light industrial site, it is difficult to object to further expansion but this site appears not to have had planning permission for a business of its current scale and its suitability for this location has not been agreed.

Suitability of the location

The design and access statement refers to policy DM15, Development outside Town Centres, for justification. However, this policy is designed to protect town centres from edge of town competition in retail, leisure and business. This policy is irrelevant to the application as this kind of business would not be expected to locate in a town centre.

Policy DM18, Rural employment development, might be relevant to this site: 'In countryside locations, planning permission will be granted for new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location.' The policy goes on to mention three conditions:

- Must not have unacceptable impact on the road network
- Must not have unacceptable adverse appearance to the character and appearance of the countryside
- There are insufficient suitable sites to meet the needs of the proposal

The applications does not fulfil these, even if this policy were to be used in justification.

Road network

The expansion of the business to a much larger scale than it originally had, has already contributed to the unacceptable level of traffic along Station Road. Residents park on the pavement, not only to avoid their vehicles being hit/scraped by HGVs and agricultural vehicles, but just to allow two cars to pass. Larger vehicles require the width of the road, leading to much manoeuvring by other road users and increasing congestion particularly towards the level crossing where HGVs, vans and lorries queue up with cars on either side and there is some difficulty in getting the traffic moving once the crossing reopens. The point about residents parking on the pavement is that some pedestrians would find it difficult or even impossible to pass along it. All the residents in Fordton now suffer from an increased level of heavy traffic and it could increase still

further given the businesses located in Fordton. It's a narrow road and there are no clear or simple solutions. However, the LPA should be looking at this because it's a residential area and residents are badly affected.

Adverse appearance

The site stores machinery, trailers and vehicles and is already more industrialised than it was. It is located in the flood plain and does not fulfil all parts of Crediton NP En3 which seeks to protect the flood plains from development and requires proposals to demonstrate how the development will protect and mitigate damage to the flood plain landscape and should include a planting scheme to help blend the development into the existing landscape.

Insufficient suitable sites

This type of business would be better located in an industrial area such as Lords Meadow. It is not acceptable for new industrial sites to be developed outside of existing plans for locating such businesses, whether or not the LPA has failed to deliver suitable sites for light industrial enterprises. The applicant does not say whether alternative sites have been investigated.

Biodiversity

The applicant asserts that there are no trees or hedges on or adjacent to the site that might be important as part of the local landscape character. This is not the case. There are significant trees along the North West boundary next to the agricultural field and leat, which are typical of the floodplain landscape.

Residents say that there are bats present in these trees but there has been no assessment.

Floorspace

The application states that there is no existing non-residential floorspace but there are two large sheds already on site.

Hours of Opening

The application states that these are not relevant to the proposal but nearby residents are already disturbed by early morning operations on the site.

Crediton Town Council - 23.08.2024

The application appears to have been resubmitted with no changes, other than regarding the ownership certificate. All of Crediton Town Council's comments are still relevant and it is noted that no further reports, including tree and wildlife assessments, have been undertaken. We have also considered the comments made by Public Health and support their recommendation to impose a condition. Previous applications submitted for this site have been called in by Cllr J Downes. If this isn't already called in, we request that Cllr Downes requests so.

Crediton Town Council - 13.11.2024

It was resolved to OBJECT due to the excessively large size of the building for the site and the following comments were made:

'Crediton Town Council's previous objections, regarding this application and the certificate of lawfulness, still stand

'The application does not mention the nearby water course (the leat), nor is it mentioned in the flood risk assessment. If approved, Crediton Town Council recommends users make sure electricity cannot be compromised (anything that could be damaged by floodwater should be above 60cm) - the Flood Risk Assessment mentions on pages 16 & 25 that the building is at

40.2m, but the majority of the proposed building will be at 40.0m or less thereby increasing the risk to the structure, contents and life should flooding arise, especially in the north west corner.

'Crediton Town Council requests clarification as to whether a soak away or water butt will be used to manage the roof water

'Crediton Town Council supports the comments made by Public Health at MDDC that no machinery shall be operated in or in association with the new building except between the hours of 7.30am and 7pm Monday to Friday, or 8am to 1pm on Saturdays, and not at all on Sundays or Bank Holidays. Reason: To protect the amenities of local residents from noise

Crediton Town Council - 10.02.2025

It was resolved to make the following comments:

'The landscaping plan should completely screen the activities and buildings on the site, with substantial tree planting along the existing tree lines which surround the site on two sides. Good screening along the front of the site is necessary, with hedging to take carbon and trees to give height, providing a screen between the site and upper residential windows.

'Further clarification is requested regarding the use of water butts, as the plans do not include guttering/pipework. Where will the excess water will go if the water butts are full?

Environment Agency - 27.08.2024

Environment Agency position

We object to this proposal on grounds that insufficient information has been submitted to demonstrate that the proposed development is justified in this location and will be safe from flooding over its lifetime without increasing flood risk elsewhere. We recommend that the application is not determined until a satisfactory Flood Risk Assessment (FRA) has been submitted.

Environment Agency - 08.11.2024

Environment Agency position

We have no objection to this proposal provided that the development is built in line with the updated Flood Risk Assessment (Dennis Gedge consulting engineer, dated October 2024) and associated Planning Drawings.

The reason for this position and further advice on flood resilience is set out below.

Reasons - Flood Risk

We are satisfied that the submissions to date demonstrate that the flood risk has been appropriately considered and there will be no increase to flood risk for third parties in this instance. We concur with the submitted Flood Risk Assessment that this area can be considered as Flood Zone 3a for this development proposal. However, we strongly recommend that the applicant considers further flood resilience and mitigation measures to reduce the potential damage to property in a flood event.

Advice - Flood Resilience

In view of the flood risks in this locality, we would recommend that flood resilient construction practices and materials are incorporated in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation. Detailed information on flood proofing and mitigation can be found by referring to the CLG free publication 'Improving the Flood Performance of New Buildings'. Please see the link below:

Flood resilient construction of new buildings - GOV.UK

Protecting your property - National Flood Forum

Property Flood Resilience The Flood Hub

It would also be advisable for the applicant to prepare a flood plan which outlines how the business will respond to a flood. Further advice on this can be found in the following link:

Prepare your business for flooding - GOV.UK

Please contact us again if you require any further advice.

Highway Authority - 18.07.2024

Observations:

The County Highway Authority's first response to this application was for the Planning Authority to use Standing Advice. The Case Officer has since has asked me to look at the proposal and put forward the CHA observations and recommendations.

The site is accessed off a C Classified 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 01/01/2019 and 31/12/2023, is one in October 2023. This was recorded as serious, although the access in this proposal was not a contributing factor.

I have checked the number of trips this storage unit could create using an estimated figure taken from TRICS database which is a nationally accepted database. And this shows there will not be a severe impact on the highway network.

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

Recommendation:

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

South West Water - 21.06.2024

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

Surface Water Services

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

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

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

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.

Yours sincerely

The Pre-Development Team

Public Health - 08.08.2024

We have considered the application and the comments made by local residents who can be affected by activities at this yard. The provision of a new large storage building would be an advantage for the applicant which might lead to further intensification of use of the site. The applicant has indicated that opening/working hours are not relevant to this activity but we disagree with this. This is an opportunity to resolve issues raised by the local community who are affected at times. We appreciate that at times it might be necessary for vehicles to leave the yard early, but it is possible for vehicles to be loaded at the end of the previous day. Residents mention various early morning noise made in the yard at times. We therefore recommend that the following condition is included on any approval:

No machinery shall be operated in or in association with the new building except between the hours of 7.30am and 7pm Monday to Friday, or 8am to 1pm on Saturdays, and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of local residents from noise.

Public Health - 24.01.2025

We have considered the additional information provided by the applicant in which they confirm their agreement to the suggested working hours condition. This will address concerns raised by residents and secure the clarification they need regarding when they can, and cannot, expect to hear activity in the yard. On this basis we have no further concerns and recommend that the hours condition is included on any approval.

MDDC Tree Officer - 30.01.2025

I am happy with the report and content with the low level tree removal required to facilitate the build subject to mitigation planting.

Following Condition:

- Prior to the commencement of the development required tree works to facilitate development shall be undertaken as informed by the Tree Report (ref: jwmb/rpt1/hoopersyard/AIAAMS), Appendix B.
- Erection of tree protection barrier (TPB) on advised line(s) as informed Tree Report (ref: jwmb/rpt1/hoopersyard/AIAAMS), Appendix A.
- Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and relevant other parties to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in

accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

- Within the first planting season post completion new planting on the western flank of the site, on the hedge bank to be undertaken. Planting to be of native species, e.g. hawthorn (*Crataegus monogyna*), guelder rose (*Viburnum opulus*), wayfarer tree (*Viburnum lantana*), hazel (*Corylus Avellana*), rowan (*Sorbus aucuparia*), blackthorn (*Prunus spinosa*).

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, 2 objection comments have been received which were as follows:

(26.06.2024)

For many years the site of the proposal in the planning application was used by Mr K Hooper, father of the applicant for his business of providing firewood. He used axes and chainsaws to prepare the firewood which he delivered to his domestic customers. In the last few years this business has been developed by his heirs. The site is now used for cut timber storage and distribution and garden services. The site is in Fordton, a largely residential district in Crediton, and accesses a road which has become very busy as Crediton Mill has expanded.

Work has frequently started on site as early as 06.00 hrs with noise from mechanical devices and loading equipment, and from preparation and loading of equipment which disturbs sleep of local residents. On frequent occasions traffic along Fordton has been interrupted by arrival and departure of large HGVs to and from the site. It is not clear that the site has ever been designated as suitable for industrial use.

We are aware that the Site is in the flood plain and in the flood in the 1960s at least one cottage on the site was washed down. Further development in this area should be prevented as climate change has increased flood risk.

We hope that planning Committee will recognise that development of the kind proposed should not be allowed on grounds of increasing traffic but most significantly that the Environment Agency will recognise such development should not be allowed in the floodplain.

(03.07.2024)

We have concerns about this application for a number of reasons. Increased traffic flow to the area due to intensification of the business over the years, noise impacting the surrounding residential area, and a lack of consideration of the impacts of these elements on local home owners by the occupants. This is evident in the application where it is suggested by the applicant that the development won't be near a heavily trafficked area, it will be. This proposed construction is also on a flood plain and we have no faith in the suggestion of water butts being used when they currently allow sprinklers to run all weekend. This proposed construction will also be within direct line of sight of our home which is already impacted by the change in use of the land over the last three years and resulting removal of most of the trees and hedges from the land to a ballast floor now within. With a self disclosed workforce of 14 this is already up to 14 vehicles on the land, from 6am daily, without factoring in the lorries, machinery and tractors also being used there. It's noisy, dusty and not appropriate in a residential area. The suggestion that opening hours and the construction will not impact the application is also therefore inaccurate. A Leat lies on this land some 1 metre from the site in which surface run off will collect as well as being in an area where

bats and wildlife nest and feed. In conclusion we strongly object to this application and have also logged our ongoing concerns regarding this site with Councillor John Downes.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

1.1 This application seeks permission for the erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, Crediton, Devon, EX17 3DH.

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

- **Policy and principle of development**
- **Impact of the proposed development on the appearance of the site and the street scene**
- **Impact to the amenities of neighbouring occupiers**
- **Highway impacts and parking**
- **Impact to ecology, trees and Biodiversity Net Gain**
- **Drainage and flood risk**
- **Other matters**

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 intent of the proposals is to provide a building for machinery and equipment storage in relation to the use of the site as a grounds maintenance storage and depot for Hoopers Services. The key relevant Local Plan Policies in respect to the proposed development are considered to be those of policies S1, S9, S12, DM1, DM3, DM5 and DM18.

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 S2 states that the diverse development needs of the community will be met through the provision of a minimum of 7,860 dwellings and 147,000 square metres of commercial floorspace between 1st April 2013 and 31st March 2033. Development will be concentrated at Tiverton, Cullompton and Crediton, to a scale and mix appropriate to their individual infrastructures, economies, characters and constraints. Other settlements will have more limited development which meets local needs and promotes vibrant rural communities. Commercial development in rural areas will come forward on non-allocated sites according to demand, enabled by supportive general policies which will be discussed below.

2.4 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. Policy S12 (Crediton) outlines that Crediton will continue to develop in its role as a small and vibrant market town, serving a rural hinterland in the western part of the district. This policy states in criterion (e) that community and education facilities and

other infrastructure will be supported. Policy DM1 considers high quality design based on a number of principles which are set out in the policy and considered in this application.

- 2.5 Policy DM18 of the plan relates to rural employment development. The development site is located just outside the defined settlement boundary for Crediton, and is therefore considered to be located within the countryside in policy terms, and Policy DM18 is therefore relevant to this application. This policy states that in countryside locations, planning permission will be granted for new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that: a) The development would not lead to an unacceptable impact on the local road network; b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.
- 2.6 In assessing the application against these policy requirements, it is considered that the development would not lead to an unacceptable impact on the local road network. Whilst concerns have been raised regarding the impact on the highway network and highway safety, the County Highway Authority (CHA) have provided site specific advice on this application and have raised no objections. They note that the site is accessed off a C Classified County Route which is restricted to 30 MPH, and the number of personal injury collisions which have been reported to the Police in this area between 01/01/2019 and 31/12/2023, is one in October 2023. This was recorded as serious, although the access to the application site was not a contributing factor. The CHA have checked the number of trips that this storage unit could create using an estimated figure taken from TRICS database which is a nationally accepted database, and this shows there will not be a severe impact on the highway network. Therefore, conformity with criterion a) can be demonstrated.
- 2.7 In regards to criterion b), it is considered that the proposal would not be out of context with the existing buildings on the site, its permitted use or nearby uses including Fordton Trading Estate can be found approximately 48m to the north-east of the site, and the Crediton Milling Company can be found approximately 210m to the south-east of the site off of Station Road. Whilst the site is considered to be within the countryside in policy terms, the proposed building is to be located within the existing well defined site, and will not result in any additional loss of nearby agricultural land to the south and west. The site is well screened by the established boundary to the north, and the adjoining agricultural field to the south-west is well contained by established mature trees, limiting the impact of the building on the wider countryside setting which borders Crediton. The aim of the building to provide secure storage for machinery and equipment currently stored externally on the site will also result in external clutter being removed which would benefit the general appearance of the site. Furthermore no suitable alternative available sites that would meet the needs of the proposal, especially when noting that it relates to the expansion of the existing business on site, have been identified by either the case officer or the Councils Economic Development Team. Therefore compliance with criterion c) can be demonstrated.
- 2.8 The Crediton Neighbourhood Plan 2018-2033 went through a referendum in September 2022 with the result being that it has been adopted. Therefore there are a number of policies which would be relevant to the proposed developments. These are considered to be Policy D1 (Development Principles) which states that development that takes into account the effects of climate change will be supported and Policy D5 (Design) requires the use materials which reflect and complement the development. Policy T4 relates to off-street parking. Policy En2 requires development in part to provide enhancements relating to trees, outlining that proposals should include additional amenity tree and hedgerow planting wherever possible. Policy En3 relates to development in flood plains, stating in part that they must comply with

national and local flood risk policy and guidance and demonstrate that they do not increase flood risk elsewhere.

2.9 It is considered that the scheme is acceptable in principle complying to the policies referred to above, subject to the development not resulting in a detrimental impact on the appearance of site setting and wider landscape, residential amenity, biodiversity and flood risk. This assessment is considered further below.

3. Impact of the proposed development on the appearance of the site and the street scene

3.1 In terms of the design, scale and appearance of the proposals, and the impact on the surrounding area, Policy DM1 (High quality design) is relevant. This policy focuses on the design of new development outlining it must be of a high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area; and the efficient and effective use of the site.

3.2 Policies D1 (Development Principles) and D5 (Design) of the Crediton Neighbourhood Plan 2018-2033 are also relevant. Policy D1 supports sustainable development well connected to the town centre by sustainable transport means, contributes to protecting and enhancing the natural, built and historic environment and where the development makes effective use of land, and delivers biodiversity net gain wherever possible. Policy D5 (Design) states proposals for new development should have regard to the Crediton Design Guide and, subject to the scale and size of the proposal should use materials which reflect and complement existing development.

3.3 The proposed storage building is proposed to be located within the north-west corner of the site, against an established treeline to the north. Following minor amendments to the buildings location in response to comments from the LPAs Arboricultural Officer, the building will be located 1.5m from this boundary. To the west of the building, the site is contained by an earth bund covered in low level vegetation. The building will measure approximately 9m x 13.7m, covering an area of 123.3sqm. The building features a dual-pitch roof which measures 4.8m to the eaves and 6.4m to the ridge. The east elevation which faces into the site will feature 3 large grey roller shutter doors, with a single pedestrian door proposed to the south elevation. The north and west elevations will be fully enclosed, with the external walling and roof of the building clad in green box profile metal sheets. No roof lights are proposed.

3.4 With regard to the materials, the external walling and roof will be box profile metal sheets which are in keeping with this type of development, and this reflects the palette of materials found on the existing buildings on site, and at the nearby Fordton Trading Estate and Crediton Milling Company buildings. The development will be located to the north-western corner of the site, placing the new building as far away as possible within the site from residential uses to the east. Existing and proposed planting against the sites eastern boundary have been noted within the submitted landscaping plan, which aims to partially screen the site and soften the appearance of the development and the wider site. This aims to address the concerns from neighbouring residents regarding the removal of trees within the site over recent years, to provide a visual barrier between the proposed site and neighbouring uses.

3.5 Noting the concerns from the Town Council, the applicant's agent has confirmed that the footprint of the proposed building equates to 6% of the area of the site, and combined with the other two existing buildings on site the total area covered by all buildings will be 11.5%, which is not considered to be excessive. Furthermore the building will be used to securely store

equipment and machinery already stored externally on the site, and storage of these internally will visually improve the general appearance of the site.

- 3.6 It is considered that the general design and layout of the new building will be acceptable, not resulting in a detrimental impact on the surrounding landscape, making best use of the land available whilst noting the extant use of the site. The development would be of an acceptable scale to enable the storage of equipment and machinery. The development is therefore considered to be in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033 and policies D1 and D5 of the Crediton Neighbourhood Plan 2018-2033.

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. Public Health have been consulted on this application, and have noted the concerns from neighbouring residents who can be affected by activities at this yard with concerns regarding the existing use of the site. They have considered that whilst the provision of a new large storage building would be an advantage for the applicant, this might lead to further intensification of use of the site. Therefore it is considered that this application is an opportunity to resolve issues raised by the local community who are affected at times by the existing use of the site. To address concerns regarding various early morning noise made in the yard at times, a condition has been recommended by the Public Health Officer that no machinery shall be operated in or in association with the new building except between the hours of 7.30am and 7pm Monday to Friday, or 8am to 1pm on Saturdays, and not at all on Sundays or Bank Holidays. The applicants agent has confirmed in an email dated 25 November 2024 that the applicant is willing to agree to this condition in order to protect the amenities of local residents from noise.
- 4.2 Public Health have since considered the additional information provided by the applicant in which they confirm their agreement to the suggested working hours condition. This will address concerns raised by residents and secure the clarification they need regarding when they can, and cannot, expect to hear activity in the yard. On this basis they have no further concerns and recommend that the condition is included on any approval.
- 4.3 Having regard to the design, scale and the siting of the development within the furthest corner of the site from nearby residential uses, and noting the existing use of the site and nearby larger scale industrial uses, it is considered on balance unlikely that it would result in any significant adverse impacts on amenities of a neighbouring occupier with these conditions secured. These conditions will also improve the relationship of the site with neighbouring uses compared to existing. Furthermore, the proposed building will be located over 50m from the nearest neighbouring residential use, and it is therefore not considered that the development would result in an unacceptable overshadowing, overlooking impact or loss of privacy to these neighbouring properties.

5. Highway Impacts and Parking

- 5.1 Policy DM3 requires that development must ensure safe access to the transport network. As discussed above in regards to Policy DM18 (a), it is considered that the development would not lead to an unacceptable impact on the local road network. Whilst concerns have been raised regarding the impact on the highway network and highway safety, the County Highway Authority (CHA) have provided site specific advice on this application and have raised no objections. The CHA have checked the number of trips that this storage unit could create using an estimated figure taken from TRICS database which is a nationally accepted

database, and this shows there will not be a severe impact on the highway network. Compliance with Policy DM3 can therefore be demonstrated.

- 5.2 Policy DM5 requires that development must provide an appropriate level of parking, taking into account the accessibility of the site, including the availability of public transport. Policy T4 of the neighbourhood plan also relates to off-street parking. With respect to the development proposed, the proposed building will sit within a generous site with a substantial amount of external yard area remaining available for parking. Whilst formalised parking spaces are not indicated on the proposed plans, it is considered that acceptable levels of parking can be provided within the site. The site is also considered to be located in a sustainable location, sitting just outside of the defined settlement limit of Crediton. As such, it is considered that this level of parking is acceptable for the proposed development.

6. Impact to ecology, trees 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 The submitted wildlife trigger list confirms that the requirement for a wildlife survey has not been triggered by the proposed development. Therefore whilst concerns raised regarding the impact on local biodiversity are noted, there is no requirement for a survey to be submitted in this instance. Taking into account the modest scale of the building and the existing use of the site, the proposal is not considered to have a significant impact on local ecology, with no additional constraints identified that are relevant to this site which is currently used in connection with the applicants business.
- 6.3 Furthermore, it is noted that in this case, a 10% Biodiversity Net Gain is not required on site as the proposal is considered to fall within the 'Biodiversity Net Gain de minimis exemption' under 'The Biodiversity Gain Requirements (Exemptions) Regulations 2024', with the existing site being a stone hardstanding yard. However, in order to secure biodiversity enhancements on site in accordance with local policy and to address the concerns identified above, a condition is recommended to secure the installation of a bat and a bird box nearby within the site within 3 months of substantial completion of the development.
- 6.4 Following receipt of comments from Crediton Town Council which raised concerns regarding the impact of the development on significant trees along the north-west boundary next to the agricultural field and leat, the LPA's Arboricultural Officer has been consulted on this application. The officer advised that an Arboricultural Impact Assessment would be required, due to the proximity of the building to this tree line which may contain significant trees important to the local landscape character. This report is required to assess whether the root protection areas of any of these trees will be impacted upon, or whether the works will require the removal, pruning or crown lifting of any trees.
- 6.5 The officer also advised that the gap to the boundary be increased from 0.5m to at least 1.5m, to allow for a suitable buffer for maintenance of the building and these trees. Following minor amendments to the buildings location in response to these comments, the building is now proposed to be located 1.5m from this boundary, and this amended plans have been re-consulted on.
- 6.6 An 'Arboricultural Impact Assessment & Method Statement Report' produced by Dartforest was subsequently submitted as requested by the LPA. The report found that low-quality trees 1 (a hawthorn) & 6a (a bay) will be removed to facilitate development. The loss of these small

trees is a very low and acceptable impact and is likely to have a minimal amenity impact on the surrounding area. The southern crown of tree 3 will be lifted to 5m to deliver adequate clearance off the new building. The footprint of the proposed building is level and founded on a compacted hoggin of unknown depth. The foundation of the new building will be a shallow concrete raft. Dartforest's supposition is that the great majority of the roots of trees 2-6 & 7 are present within the hedge bank on which these trees stand, and the likelihood of their presence in the location of the proposed building is extremely low. The use of a shallow concrete raft will ensure that if any roots are present, these are likely to be undisturbed.

- 6.7 The LPA's Arboricultural Officer has been further consulted following the submission of this report, confirming that they are happy with the report and content with the low level tree removal required to facilitate the build subject to mitigation planting. Conditions to protect the trees in accordance with the report have been recommended by the officer and agreed with the applicant's agent.
- 6.8 The report also notes that there is good scope for new planting on the western flank of the site, on the hedge bank, which is currently bare of vegetation. Planting can be whips of native species, e.g. hawthorn (*Crataegus monogyna*), guelder rose (*Viburnum opulus*), wayfarer tree (*Viburnum lantana*), hazel (*Corylus Avellana*), rowan (*Sorbus aucuparia*), blackthorn (*Prunus spinosa*), etc. This additional planting will be secured via condition, along with the landscaping proposed within the submitted 'Existing & Proposed Landscaping' plan which identifies existing planting recently carried out by the applicant along the eastern boundary and further proposed planting to this elevation. This additional planting will provide further biodiversity enhancements on site in accordance with policy S9, whilst also providing additional site screening to the eastern boundary as requested by the Town Council.
- 6.9 Policy En2 of the Neighbourhood Plan requires development in part to provide enhancements relating to trees, outlining that proposals should include additional amenity tree and hedgerow planting wherever possible, and the development seeks to provide the addition of new planting surrounding the development site as outlined above.
- 6.10 In summary, on balance the scheme is not considered to have a significant impact on local ecology or nearby trees, with conditions secured to protect nearby assets during the development phase and to provide enhancements post development in accordance with Policies S1 and S9 of the Local Plan and En2 of the Crediton Neighbourhood Plan.

7. Drainage and flood risk

- 7.1 Policy S1 requires that development meets the challenge of climate change including by managing flood risk. Policy S9 requires the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provision for future maintenance, guiding development to locations of lowest floor risk by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere. Policy En3 of the Crediton Neighbourhood Plan relates to flood plains, stating that proposals for development must comply with national and local flood risk policy and guidance and demonstrate that they do not increase flood risk elsewhere. In addition, any proposals for development within the floodplain should be supported by detailed information which demonstrates how the development will protect and mitigate damage to the floodplain landscape, including, but not exclusively, river margins, leats and floodplain grassland and should include an appropriate landscape treatment and planting scheme that will help to blend the development into the existing landscape.

- 7.2 The site is located in flood zone 3, which represents the highest probability of flood risk. The application was originally submitted with a brief flood risk assessment which considered that the site fell within flood zone 3 and that the development would have no impacts in terms of flood risk noting the existing yard area. Noting the concerns raised by neighbouring residents and the Town Council in regards to flood risk and due to the sites location within flood zone 3, the Environment Agency (EA) were consulted on this application. They initially objected to this proposal on grounds that insufficient information had been submitted to demonstrate that the proposed development is justified in this location and would be safe from flooding over its lifetime without increasing flood risk elsewhere. They therefore recommended that the application was not determined until a satisfactory Flood Risk Assessment (FRA) had been submitted.
- 7.3 A revised 'Flood Risk Assessment' (FRA) produced by Dennis Gedge (Consulting Engineer) was subsequently submitted in support of this application. The EA were re-consulted on this revised FRA, and confirmed that they had no objection to the proposal provided that the development is built in line with the updated Flood Risk Assessment (Dennis Gedge consulting engineer, dated October 2024) and associated Planning Drawings. They are satisfied that the submissions to date demonstrate that the flood risk has been appropriately considered and there will be no increase to flood risk for third parties in this instance. They concur with the submitted Flood Risk Assessment that this area can be considered as Flood Zone 3a for this development proposal.
- 7.4 The proposed use is one of 'commercial premises', these are described as being 'less vulnerable'. Planning Practice Guidance indicates that for these circumstances a land use which is "less vulnerable" may be considered for development. However, the development should still comply with the National Planning Policy Framework (NPPF), whereby the proposed development must be considered safe to operate in in all circumstances related to flooding. Taking the precautionary approach of using the 0.1% (i.e. 1 in 1000yr) AEP as indicating the 1.0% (i.e. 1 in 100yr) AEP + climate change event, a flood depth at this probability is shown to be of the order of 0.6m where the ground level by the proposed building 40.2m AOD. This would mean that floodwater would enter the ground floor of the proposed building.
- 7.5 The proposed configuration is that the ground floor of the building should be used for the storage of contractor's equipment for ground maintenance, with the mezzanine proposed for the storage of smaller hand tools, machinery and equipment. No habitable living space is proposed within the building. The FRA confirms that precautions and flood resilience measures should be taken as recommended by the EA, which include that all ground floor construction should be of flood resistant materials, and all electricity power supply cables should be downwards fed, terminating 1m above floor level which would allow reasonable clearance above the predicted potential flood level of 0.6m. No further hardstanding is proposed on site, and it is therefore not considered that there would be an increase of surface water flooding if approved. The FRA also outlines a safe evacuation plan. The details and recommendations of the FRA will be secured via condition, as recommended by the Environment Agency.
- 7.6 As set out in Annex 3 of the NPPF, the development is classified as a land use that is less vulnerable. Referring to Table 2 of the PPG, less vulnerable development is considered appropriate within Flood Zone 3, subject to passing the Sequential Test. Whilst the EA have not objected to the scheme as noted above, the LPA must still require out an assessment against the flood risk sequential test. The LPA's Economic Development team have been consulted in order to identify suitable and readily available alternative sites for the

development, however no suitable sites that could meet the needs of the applicant have been identified.

7.7 To mitigate the increased water from surface run-off it is proposed that water butts are installed to collect the rainwater directly from the roof. This water can be used by the applicant's business, Hooper Services, a grounds maintenance and landscaping company, for the watering of plants. As such these proposals will not increase the flood risk and should be considered acceptable. The Town Council have commented further on the revised FRA, requesting further clarification regarding the use of water butts, noting that the plans do not include guttering/pipework. They have also queried where excess water will go if the water butts are full. The applicant's agent has since confirmed that the intention is as stated for the water from the water butts to be used mainly off-site for the watering of plants, trees at various sites but also for the cleaning of equipment, vehicle tyres etc. onsite. It is therefore considered very unlikely that the water butt, considering the small size of the roof will ever overflow. However, the water butts will be fitted with an overflow that will discharge to the grass bank at the back of the site in the case of this event. Planting schemes are proposed and these have been covered elsewhere in this report, which also respond to the requirements of Policy En3 of the neighbourhood plan.

7.8 Therefore it is considered that the proposed development is in accordance with the requirements of Policy S9 of the local plan, Policy En3 of the neighbourhood plan and the aims and objectives of the NPPF.

8. Other matters

8.1 As shown within the relevant planning history, it is noted that a Certificate of lawfulness for the existing use of agricultural land and buildings for use as grounds maintenance storage and depot for a period in excess of 10 years was granted in October 2024 in relation to this site. This addresses concerns raised during the course of this application regarding the permitted use of the site.

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 the commencement of the development, required tree works to facilitate the development shall be undertaken as informed by the Tree Report (ref: jwmb/rpt1/hoopersyard/AIAAMS), Appendix B.
4. Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and relevant other parties to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

5. The erection of tree protection barrier (TPB) shall be carried out on advised line(s) as informed Tree Report (ref: jwmb/rpt1/hoopersyard/AIAAMS), Appendix A.
6. Within the first planting season post completion of the approved development, new planting on the western flank of the site, on the hedge bank shall be undertaken. Planting to be of native species, e.g. hawthorn (*Crataegus monogyna*), guelder rose (*Viburnum opulus*), wayfarer tree (*Viburnum lantana*), hazel (*Corylus Avellana*), rowan (*Sorbus aucuparia*), blackthorn (*Prunus spinosa*).
7. All planting and seeding comprised in the approved details of landscaping as shown on the approved 'Existing & Proposed Landscaping' plan, drawing number 'A04.01' received on 12th February 2025, shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). All existing and proposed planting to the eastern site boundary shall be retained in perpetuity and maintained to at least 2.5 metres in height as noted within the approved plan. Any trees or plants which, within a period of 5 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.
8. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Flood Risk Assessment report dated October 2024 (Prepared by Dennis Gedge, Consulting Engineer), including flood resilience measures and the safe evacuation plan.
9. The building hereby approved shall at all times be used for storage associated with the use of the site as a grounds maintenance storage and depot only and shall not be used for any other commercial or non-commercial activity.
10. No machinery shall be operated in or in association with the new building except between the hours of 7.30am and 7pm Monday to Friday, or 8am to 1pm on Saturdays, and not at all on Sundays or Bank Holidays.
11. Within three months of the substantial completion of the development hereby approved, the following ecological enhancements shall be installed and shall be thereafter retained:
 - 1 no bat box/brick/tube (Scwegler 1FF bat box or similar) shall be installed on the approved building or nearby within the site at a minimum of 2m above ground level.
 - 1 no house sparrow box shall be installed on the approved building or nearby within the site at a minimum of 2m above ground level.

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 preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

4. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. In the interests of ecological/biodiversity enhancement in accordance with policy S9 of the Mid Devon Local Plan 2013-2033.
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of the Mid Devon Local Plan 2013 – 2033.
8. To minimise flood risk and secure flood resilience measures in accordance with Policy S9 of the Mid Devon Local Plan 2013 – 2033, Policy En3 of the Crediton Neighbourhood Plan 2018-2033 and the guidance with the National Planning Policy Framework.
9. To control future use of the building to safeguard the character and amenities of the area and in the interests of highway safety, in accordance with policies S14 and DM18 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
10. To protect the amenities of local residents from noise in accordance with policies S1 and DM1 of the Mid Devon Local Plan 2013-2033.
11. In the interests of ecological/biodiversity enhancement in accordance with policy S9 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

1. 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.

BNG – Biodiversity Net Gain **Is BNG Required? No**

Subject to the de minimis exemption

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.

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 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).

REASON FOR APPROVAL OF PERMISSION

The erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, Crediton, Devon, EX17 3DH Devon is considered acceptable in policy terms. The development will support the applicant's local business whilst utilising the site to provide a secure building for storage of the businesses equipment and machinery. On balance, it is considered that the development will not adversely impact upon the character and appearance of the area, the local road network or neighbourhood amenity with conditions secured. It is considered that enhancements to biodiversity and measures to protect neighbouring trees can be secured by condition. Additional landscaping to screen the building and the wider site have also been secured. Overall, the proposal is considered to be acceptable on balance and in accordance with policies S1, S2, S9, S14, DM1, DM3, DM5 and DM18 of the Mid Devon Local Plan 2013-2033, policies D1, D5, T4, En2 and En3 of the Crediton Neighbourhood Plan 2018-2033 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. 24/01618/FULL

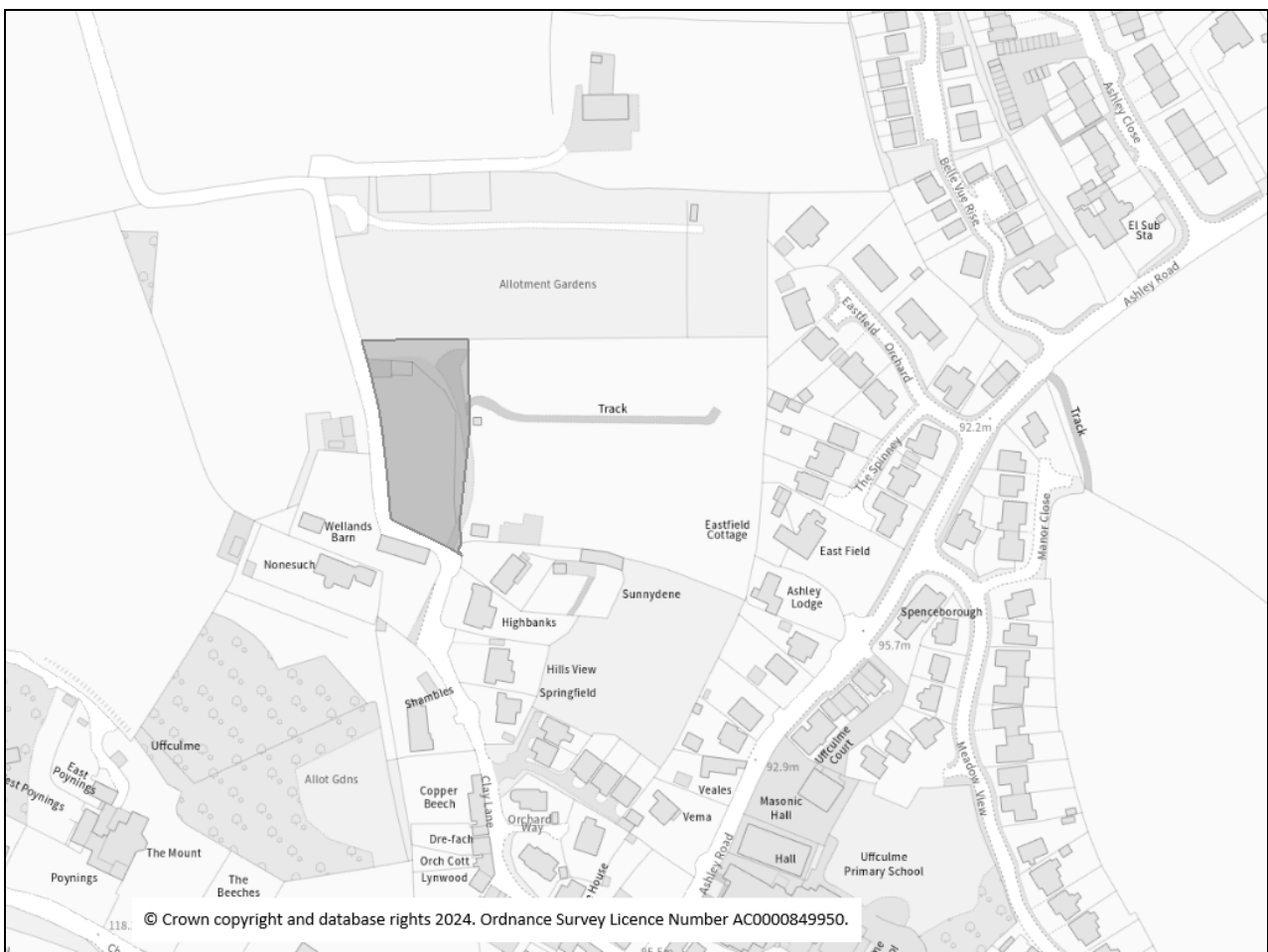
Grid Ref: 306816 : 113087

Applicant: Mr Matt Gould

Location: Land at NGR 306758 113093
Clay Lane
Uffculme
Devon

Proposal: Variation of Condition 3 of Planning Permission 22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage

Date Valid: 31st October 2024



APPLICATION NO: 24/01618/FULL

Site Visit: Yes

Date of Site Visit: 26.11.2024

Decision Delayed Reason:

For additional information and to allow to go before Committee.

MEMBER CALL-IN

Application was called in by Cllr Andrea Glover to assess the impact on neighbourhood amenity, local services, drainage, flood risk and the environment.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development is the variation of Condition 3 of Planning Permission 22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage.

Application reference 22/00432/FULL for the erection of 5 dwellings was approved in October 2022 subject to conditions. Condition 3 stated:

“Drainage shall be carried out in accordance with the approved details in drawing no. 0944.100 unless otherwise agreed with the Local Planning Authority. The approved details shall be so retained.”

The reason for the condition was; *“To prevent increased flood risk in accordance with S9 and DM1 of the Mid Devon Local Plan (2013-2033).”*

Drawing no. 0944.100 (the approved drainage strategy) identified a drainage scheme which retained surface water within the site boundary using an infiltration system and directed foul water to a sewer along Clay Lane immediately south of the site.

This application seeks to vary the condition in order to provide an alternative drainage scheme because testing found that infiltration was not possible on the site. The alternative scheme involves connection to an existing surface water sewer on third party land with excess flows stored in an attenuation basin located within the adjacent development site which also benefits from planning permission for 5 dwellings. An alternative foul water connection is also proposed on land that does not require works to the public highway at Clay Lane, however, this will also require works on third party land to allow connection to the South West Water network.

It should be noted that the site immediately to the east of the proposal site also benefits from planning permission for 5 dwellings under application reference 19/00914/FULL. The drainage schemes for the two sites are interlinked and the surface water drainage scheme proposed under the application before Committee has already been found to be acceptable under application reference 19/00914/FULL. Applicants have been made aware that, should they also wish to amend the foul drainage scheme for application reference 19/00914/FULL, they would need to apply for the necessary permissions.

The application site is within Flood Zone 1 which represents the lowest probability of sea or river flooding as per Environment Agency guidance. It is on the edge of the Uffculme settlement boundary and Conservation Area and falls within the Minerals Consultation Area. The original permission remains extant.

APPLICANT'S SUPPORTING INFORMATION

The information submitted with the application includes:

- Drainage technical notes
- Proposed plans
- Tree protection plan

RELEVANT PLANNING HISTORY

18/00842/OUT - PERCON date 1st November 2018 Outline for the erection of 5 dwellings

19/00914/FULL - PERCON date 28th February 2020 Erection of 5 dwellings - Non Material

Amendment 21/01858/NMA - Granted 10.12.2021

20/01066/ARM - PERMIT date 4th December 2020 Reserved Matters for the erection of 5 dwellings following Outline approval 18/00842/OUT

21/01858/NMA - PERMIT date 10th December 2021 Non Material Amendment for

19/00914/FULL to allow relocation of Plot 6 and alterations to windows and reduction in size of workshop on Plot 6

22/00432/FULL - PERCON date 20th October 2022 Erection of 5 dwellings

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable development

S9 Environment

DM1 High quality design

DM25 Development affecting heritage assets

CONSULTATIONS

Uffculme Parish Council, 14th November 2024:

The Parish Council objects to this planning application. The proposed variation would cause a nuisance to neighbouring properties, as well as distress to the residents within them, and also a loss of hedgerows to an area neighbouring a conservation area. There have been insufficient trial pits in respect of the original plans, and a lack of investigatory work, in order to successfully determine the soil infiltration rate for the site.

The revised single geocellular storage option proposed (9.0 (w) x 21.0 (L) x 1.5 (D)) is excessive for this site, posing a greater risk of flooding and pollution should it fail - with a lack of emergency plan also being in place, for the case of overflow (in the case of poor maintenance). The Parish Council would urge the Planning Officer to request further technical tests be carried out, fully, before considering the variation from the previously approved individual geocellular storage options.

Uffculme Parish Council would like to request this application be called in for a full review by the Mid Devon Planning Committee on the following grounds:

1. Insufficient Information.

This planning application appears to replace a previously approved Drainage Strategy (0944.100) and there is insufficient information to explain why there are changes made to the existing routes for the foul and surface water. Instead of routing across the development to Clay Lane, the variation details a route over Eastfields, the Spinney and neighbouring properties, causing massive negative impact on the properties and existing services.

2. Insufficient information on flooding and sewer capacity.

This latest iteration shows foul and surface water pipes being routed across private properties in Eastfields and the Spinney to meet the main sewer on Ashley Road. There is a history of the mains sewer on Ashley Road not being able to cope with the existing flows, which leads Uffculme Parish Council to have concerns in regards to the management of the additional flows from this new development.

In consideration of the above points, Uffculme Parish Council anticipates this application be called in to ensure it is fully reviewed by the Planning Committee.

Uffculme Parish Council, 13th December 2024:

Please find below the material planning reasons as to why it is requested that this application is called in to the Planning Committee:

- The impact on neighbouring properties
Policy DM1 of the MDDC Local Plan, namely sections e
- Impact of the proposed development on drainage services and the increased strain on infrastructure of sewers
Policy DM1 of the MDDC Local Plan, namely section f ("Appropriate" drainage...)
- Drainage and flood risk
Policy S9 of the MDDC Local Plan, namely sections c, e
- Impact on the environment
destruction of habitats
disruption of wildlife

The original approval for the site, and condition 3, was in order "To prevent increased flood risk in accordance with S9 and DM1 of the Mid Devon Local Plan (2013-2033)." It is not believed that the revised plans would adhere to the same rationale.

Objections have been raised by Public Health, MDDC Arboriculture Officer and members of the public (to date). SWW have stated that it cannot be evidenced that items higher on the hierarchy cannot be met, through incomplete trench testing, as reported by Graeme Pease's review of the developer's report and do not, as such, positively support this (as it would be believed to be the case).

May it also be noted that the edition of a manhole and drain in 2023, in order to allow for the plans detailed in the variation of condition 3, have not been carried out in accordance with the approved 0944.100 Drainage Strategy and the Council would therefore request that the works that have taken place, outside of the permission, be investigated further.

Please do understand that the parish council are not objecting purely for the proposed connections to inappropriate sewers, where a far better and less contentious alternatives are already approved on site, but also in regards to the proposed alterations from individual geocellular infiltration systems to a much larger single geocellular infiltration system for both sites (10 dwellings), which presents a risk of flooding of not only the neighbouring properties but also to areas which are classed as main access routes into the village should a failure occur, which would be catastrophic.

DCC Minerals and Waste, 8th November 2024:

Devon County Council has no comment to make in its role of mineral planning authority as the proposed variation of condition has no implications for mineral safeguarding.

South West Water, 21st November 2024:

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)

SWW Surface Water Sewer

Having reviewed the current information for the proposed surface water disposal for this development (domestic roof and driveway run off only) please note that discharging to the public surface water sewerage network meets with the Run-off Destination Hierarchy. However before South West Water can approve this method of discharge we will require clear evidence to demonstrate why the other higher methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Following infiltration testing, the developer has confirmed the site is not viable for infiltration methods, as previously agreed.

Further to correspondence between the developer and SWW, it has been agreed the developer can connect this development of 5 dwellings (plus 5 dwellings permitted on the adjacent site to the West) to the SWW surface water sewer, in conjunction with an attenuation tank and provision of water butts and rain planters for each property. (Appendix C - Technical Memo Foul and Surface Water Drainage document)

Where third party land is required to achieve connection to SWW infrastructure, SWW are able to requisition the laying of sewers under our statutory powers, where the landowners consent is not forthcoming.

For Highway run off please contact the Highway Authority to agree disposal method South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this development to the South West Water network, they should engage with us separately to see if we can accommodate this. No highway drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

If the applicant is looking to have their sewers adopted (surface and foul), they should design and construction the sewers to the current version of the Design and Construction Guidance. The process for doing this can be found on South West Water's website at Adoption of new sewers | Building & Development | South West Water

www.southwestwater.co.uk/building-and-development/services/pre-development-services

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.

Highway Authority, 2nd December 2024:

I would suggest the Flood Management Team be consulted on this proposal.

DCC Lead Local Flood Authority, 6th January 2025:

Confirmed that they would not be providing comments on this application.

LLFA standing advice states:

"We continually receive a high volume of consultation requests for major planning applications as well as a considerable number of additional minor applications.

Please note that we are not a statutory consultee for minor planning applications. However, where Planning Case Officers have specific concerns with a surface water drainage proposal on a minor planning application, we may be able to provide some advice, depending on our current workload and priorities.

If this is one of these instances, we would be grateful if you could outline your concerns before the consultation request is added to our system. If we have been consulted in error, we would be equally grateful if you could let us know."

Public Health, 19th November 2024:

We have considered the application with regards to the proposed foul drainage provision. Third parties have objected on the basis that the proposed route crosses third party land and the relevant permissions and easements for this have not been obtained. If this remains the case then the proposed route is not viable and the development has not made suitable provision for the disposal of foul water. The parish council and residents are also concerned about the size of the surface water storage tank which is substantial. Whilst we appreciate that this is designed to allow a controlled release of water into the surface water sewer its size and location does appear to put residences at risk in the event of a malfunction. As it stands at this point we would object to this proposed variation, but would review our opinion should the necessary third party issues be resolved.

Public Health, 2nd February 2025:

So long as the consent of the third party has been obtained this plan is much clearer. If they don't have that consent then it won't work.

MDDC Tree Officer, 21st November 2024:

Reviewing the drainage layout plans it appears the foul drainage and surface water drainage appears to be within close proximity to a number of trees. Trenching and contractions works within close proximity to trees would have a detrimental impact.

Currently there is insufficient information in regards to the drainage and the trees. It is requested that a drainage layout is superimposed over the tree constraints plan to establish if there would be conflict in this aspect.

MDDC Tree Officer, 7th January 2025:

Reviewing the TPP with the overlaid drainage layout (red and blue dashed lines) I am satisfied these shall not impede the trees with the development area. I note there is dashed black line on the overlaid on the TPP, which I presume to the mains water service for the 5 plots, please correct me if I am wrong in this assumption? Though it is clear this will not impact on the trees onsite I would expect where this service extends from offsite, where construction is required outside the development area and where it is close to trees, vegetation etc. this would be highlighted?

Overall I am satisfied assuming all trees, vegetation etc. have been highlighted on and off site that could be impacted be the new drainage layout plans and water mains required to service the new plots.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the case officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

The following properties were written to:

Eastfield Cottage 13 Ashley Road Uffculme EX153AY
9 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
8 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
7 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
3 The Spinney Uffculme Cullompton Devon EX15 3PB
2 The Spinney Uffculme Cullompton Devon EX15 3PB
1 The Spinney Uffculme Cullompton Devon EX15 3PB
Eastfield Cottage Ashley Road Uffculme Cullompton Devon EX15 3AY
High Banks Clay Lane Uffculme Cullompton Devon EX15 3AJ
Eastfield Ashley Road Uffculme Cullompton Devon EX15 3AY
Hill View Clay Lane Uffculme Cullompton Devon EX15 3AJ
Shambles Clay Lane Uffculme Cullompton Devon EX15 3AJ
5 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
Ashley Lodge Ashley Road Uffculme Cullompton Devon EX15 3AY
Sunnydene Clay Lane Uffculme Cullompton Devon EX15 3AJ
Springfield Clay Lane Uffculme Cullompton Devon EX15 3AJ
Wellands Barn Clay Lane Uffculme Cullompton Devon EX15 3AJ
Nonesuch Clay Lane Uffculme Cullompton Devon EX15 3AJ
3 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
9 Ashley Road Uffculme Cullompton Devon EX15 3AY

A total of 4 letters of objection have been received at the time of writing this report. The matters raised are summarised below:

- Infiltration testing relates to neighbouring site
- Lack of information relation to foul water element
- Impact on neighbouring properties and neighbourhood amenity
- Impact amounting from potential failure of attenuation tank
- Lack of consultation from developers
- Impact on wildlife
- Flood risk

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Principle of development**
- 2. Drainage and flood risk**
- 3. Neighbourhood amenity**
- 4. Impact on Conservation Area**
- 5. Ecology and trees**
- 6. Other matters**
- 7. Planning balance**

1. Principle of development

- 1.1. Planning permission was granted for 5 dwellings on the site under application reference 22/00432/FULL. A number of conditions have been discharged and the application is required to commence prior to the 20th October 2025 in order for the permission to remain extant. Therefore, the principle of development on the site is considered to be established at this time.
- 1.2. This application is a Section 73 application which seeks to amend Condition 3 of the original approval which stated that the drainage scheme needed to proceed in accordance with the approved drainage plan. The reason for the condition was to prevent an increase in flood risk in accordance with S9 and DM1 of the Mid Devon Local Plan. The alternative drainage schemes proposed are assessed in the next section of this report.
- 1.3. Drainage and flood risk
- 1.4. The alternative surface water drainage scheme is proposed because testing found that infiltration was not possible on the site. Testing was carried out mainly on the adjacent site where ground conditions are similar, but the applicant's drainage consultant has subsequently confirmed that a single trial pit was also undertaken on the application site. Due to the ground conditions on the site, which is understood to be made up largely of stiff clay, infiltration was found not to be possible. This is set out in further detail in the submitted Technical Notes viewable on the public planning portal.
- 1.5. The proposed alternative surface water drainage scheme involves connection to an existing surface water sewer on third party land with excess flows stored in an attenuation basin located within the adjacent development site (application reference 19/00914/FULL) which also benefits from permission for 5 dwellings. Whilst the two adjacent development sites are not within the same ownership, it has been confirmed that there is an agreement between the land owners that the drainage schemes could be interconnected and the two owners have demonstrated a collaborative approach to develop the two adjacent sites. It should also be noted that the surface water drainage

scheme has already been approved for the adjacent site (19/00914/FULL).

- 1.6. The disposal of surface water run-off is required to meet the South West Water Run-off Destination Hierarchy. The hierarchy is summarised as follows:

1. Water re-use (Rainwater harvesting etc.)
2. Infiltration (Discharge into the ground)
3. Discharge to a surface waterbody
4. Discharge to a surface water sewer
5. Discharge to a combined sewer

The previous scheme met the hierarchy by proposing infiltration. However, as set out above, it has been established that infiltration is not possible on the site due to the ground conditions. An alternative surface water drainage scheme is therefore proposed as part of this application. The next solution according to the hierarchy is connection to a surface water body, however, the closest waterbody is over 300m from the site and is therefore not considered to be a practicable solution in this instance. The next option is connection to a surface water sewer. One is located approximately 50m from the site boundary and whilst it is on third party land, does represent a feasible connection option. This is therefore the proposed solution which South West Water have raised no objection to in their consultation comments. The surface water drainage solution is therefore considered to meet the destination hierarchy and is therefore considered acceptable.

- 1.7. An alternative foul water connection is also sought as part of this application. In their initial comments, the Council's Public Health Team queried the reason for this. The reason subsequently given by the applicants is because the alternative scheme will not require works to the public highway at Clay Lane, as opposed to the previously approved scheme which would have required off site highway works. The applicants have cited difficulties reaching an agreement with Devon County Council for these works. Whilst the revised foul water scheme also includes works on third party land, South West Water raise no objection to the scheme itself. Public Health raise concerns about whether there is agreement for works to be undertaken on third party land but do not object to the safety or suitability of the foul drainage solution itself.
- 1.8. Significant public concern has been raised relating to the need for works to be carried out on third party land. As alluded to above, Public Health query whether an agreement has been reached for this to take place. However, in their consultee comments, South West Water confirm that they have requisition powers to undertake works on third party land. Therefore, whilst officers sympathise with the concerns of the neighbours, it is understood that South West Water could undertake the works in any event so this is not considered to be a good reason to refuse an otherwise acceptable drainage scheme. Objectors have been advised that they may have civil powers to prevent work on their land outside of the planning process but this is not a material planning consideration.
- 1.9. The public comments in relation to the attenuation basin failing or overflowing have also been considered. The reason for the basin is so that water can be stored to prevent too much being discharged into the network at one time which could cause safety issues. It will be the applicant's responsibility to maintain the basin as it would be for any other scheme involving attenuation features which are increasingly common drainage solutions. There will be standard industry requirements to prevent failure and it is expected that any issues that arise would be handled outside of the planning system. It

should also be noted that the site is within Flood Zone 1 which represents the lowest probability of sea or river flooding and there are no known surface water drainage issues in the area outside of usual considerations.

- 1.10. Overall, the proposal is for a revised foul water and surface water drainage scheme which meets the necessary hierarchy requirements. Whilst it is unfortunate that this will involve works on third party land, South West Water have requisition powers to undertake this work in any event so it is not considered to be a reason to refuse planning permission. The surface water scheme has already been approved for the adjacent site and no professional consultees have raised concerns with the drainage solutions themselves. There are no known flood risk issues in the area so overall the development is considered to be acceptable in terms of drainage and flood risk.

2. Neighbourhood amenity

- 2.1. Policy DM1 of the Local Plan refers to high quality design and seeks to ensure this according to a number of principles including avoiding adverse amenity impacts. As set out above, the drainage scheme is considered to be suitably safe and acceptable and it is not expected that a below ground drainage scheme will impact the character of the area or neighbourhood amenity. Whilst there will be works on third party land to complete the drainage scheme which may cause temporary disruption to neighbours, these works are outside of the red line for this application and South West Water have powers to undertake the works in any case so it is not considered that they can be controlled as part of the planning process. Overall, DM1 is considered to be complied with.

3. Impact on Conservation Area

- 3.1. In coming to this decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.
- 3.2. Policy DM25 also seeks to protect heritage assets and their settings. The site is immediately adjacent to the Uffculme Conservation Area but the principle of residential development has already been established on the site and this application seeks only to amend the drainage scheme. This relates to beneath ground works and is therefore not expected to harm the character of the Conservation Area. As such, DM25 is considered to be complied with.

4. Ecology and trees

- 4.1. The concerns raised in relation to impact on wildlife and ecology are noted. However, this proposal is for the amendment of a previously approved drainage scheme on a site that already benefits from planning permission so it is not expected that there will be an increased impact on ecology or biodiversity. However, the original consent did include a condition requiring adherence to an Ecological Impact Assessment and the condition is proposed to be carried forward onto this consent to continue to protect ecology and biodiversity.
- 4.2. Given that this application is a S73 application with the original application being submitted before statutory 10% biodiversity net gain came into force, 10% net gain is

not a requirement of this application.

- 4.3. Consideration has been given to the potential impact of the revised drainage scheme on trees. The Council's Tree Officer was consulted on the application and initially asked for a Tree Protection Plan to demonstrate that trees would not be adversely impacted. Following the submission of the Plan, the Tree Officer was satisfied that on-site trees would not be adversely impacted as a result of the proposal. As off-site works are also proposed as part of the drainage scheme, there is the potential that the works could impact off-site trees. However, as these trees would fall out of the red line for the development, it is not considered that the impacts can be given any significant weight as part of this application. It should also be noted that any trees within the Conservation Area or that benefit from a Tree Preservation Order, would have protections in any event. It is therefore relevant to consider that any works undertaken by South West Water, using their powers as a statutory undertaker, would still require any necessary consents to be sought in relation to protected trees. An informative will be added to that effect. The original planning consent also included a condition that stated works that may impact hedgerows, trees or root protection areas would require further information to be submitted to the LPA - it is proposed to carry a re-worded version of the condition forward to this consent. Overall, it is considered that trees and root protection areas are suitably protected.

5. Other matters

- 5.1. In addition to the material considerations discussed above, public comments have been received in relation to property values, local services and a lack of consultation from the developers. Members will be aware that property value is not a material planning consideration. Similarly, the application has been advertised in accordance with the Council's legal requirements and whilst developers are encouraged to undertake additional consultation prior to the submission of applications, the LPA cannot control this. In terms of services, the principle of development has already been established for 5 dwellings and this proposal only seeks to amend the drainage scheme which is not considered to impact local services.
- 5.2. The application site is within the minerals consultation zone but the DCC Minerals and Waste Team raise no objections.
- 5.3. Where necessary, conditions used on the original approval will be brought forward to this Section 73 consent if approval is granted. Conditions have been re-worded where necessary to reflect where they have previously been discharged.

6. Planning balance

- 6.1. Overall, the principle of residential development on the site has been established and remains extant. It has been demonstrated that the revised surface water drainage scheme meets the destination hierarchy and the foul drainage scheme is also considered to be acceptable. Whilst it is unfortunate that the drainage schemes will include works on third party land that may temporarily affect neighbours, South West Water have confirmed that they have requisition powers to undertake these works in any event. Given the extent of the application to alter the drainage scheme, there are no significant impacts in terms of design, amenity, the conservation area, ecology or trees. As such, the development is considered to comply with policies S1, S9, DM1 and

DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework. Officers therefore recommend that approval is granted.

REASON FOR APPROVAL

The proposed Variation of Condition 3 of Planning Permission 22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage at Land at NGR 306758 113093 Clay Lane, Uffculme is considered acceptable as a matter of principle. The principle of residential development has previously been established and the proposed revised drainage scheme is considered acceptable. There will be no significant adverse impacts in terms of design, amenity, the conservation area, ecology or trees. As such, the development is considered to comply with policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the 20th October 2022, being the date of the original permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, being those approved under application reference 22/00432/FULL and as amended on this decision notice.
3. Drainage shall be carried out in accordance with the approved details in drawing no. 0944.400 Rev B unless otherwise agreed with the Local Planning Authority. The approved details shall be so retained.
4. The development shall proceed only in accordance with the Construction and Environmental Management Plan dated October 2022 (revised 25.11.2022) as approved on the 9th December 2022.
5. The development shall proceed only in accordance with the Revised Tree Staking Notes (DFT-GHL-CL-02) and Landscaping Plan (DFT-GHL-CL-02) unless otherwise agreed by the Local Planning Authority. If any additional works to hedgerows, trees or that could impact root protection areas are proposed, further information on species selection and proposed planting design shall be submitted to and approved by the Local Planning Authority.
6. The development shall proceed only in accordance with the Noise Management Plan dated 2nd February 2023 as approved on the 13th of April 2023.
7. All planting comprised in the approved details of landscaping as shown on drawing nos. DFT-GHL-CL-02, 1013,81-03 rev D and CT_6403.22_TPP shall be carried out in the first planting season, following the occupation of the dwelling hereby permitted or substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The landscaping scheme shall be so retained.
8. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall be implemented strictly in accordance with the recommendations

and requirements of the ecological survey report undertaken by South West Ecology and dated 8th July 2022.

9. Only external lighting that was approved by the Local Planning Authority on the 13th April 2023 shall be installed.
10. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, F, G of Part 1, or Classes A, B of Part 2 of Schedule 2, relating to boundary enclosures, sheds and structures, and access shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

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 prevent increased flood risk in accordance with S9 and DM1 of the Mid Devon Local Plan (2013-2033).
4. In the interest of public safety and to avoid damage to the highway.
5. In order to protect existing trees and biodiversity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
6. To protect the amenity of future occupiers in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
8. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
9. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
10. To protect the character and appearance of the area and neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).

INFORMATIVES

1. The developer is reminded that any off-site works undertaken that would impact the health of any trees, including impact on their roots, within the adjoining Conservation Area or that are protected by a Tree Preservation Order, would require any necessary applications for consent to carry out works to those trees (consent for works to trees in conservation areas or protected by a TPO). This would apply to any works carried out by the developer or by South West Water as a statutory undertaker.

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.

BNG – BIODIVERSITY NET GAIN

Is BNG Required? No

Is BNG Offsite only N/A
Onsite only N/A
Offsite and Onsite N/A
Is a S106 agreement required? No

Exempt reason:

S73 application – original permission granted prior to 12th February 2024.

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.

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.
 - i) has an area no larger than 0.5 hectares; and
 - ii) 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).

* “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 permission

Application No. 25/00205/NMA

Grid Ref: 296412 : 113296

Applicant: Mr Mike Lowman, Mid Devon District Council

Location: Dwelling Block 2 - 8 Holly Road and
Garage Blocks Sycamore Road
Tiverton
Devon

Proposal: Non-Material Amendment for 23/00129/MFUL to allow alterations to the site plan,
including cycle storage arrangements, landscaping and addition of footpath;
amendments of internal layouts, including relocation of external doors and windows

Date Valid: 11th February 2025



APPLICATION NO: 25/00205/NMA

REASON FOR REFERRAL TO COMMITTEE

A non-material amendment application for planning permission 23/00129/MFUL to allow alterations to the approved site plan, including cycle storage arrangements, landscaping and addition of footpath; amendments of internal layouts, including relocation of external doors and windows, was received on the 11th February 2025. These proposed changes are to be considered under s96A of the Town and Country Planning Act 1990. As Mid Devon District Council is the applicant and landowner there is a requirement for the application to be determined by the Planning Committee.

RECOMMENDATION

GRANT PERMISSION FOR THE FOLLOWING NON-MATERIAL AMENDMENT:

1. Changes to the internal layouts of the approved dwellings.
2. Changes to the position and placement of external doors and windows.
3. Inclusion of footpath within site to access neighbouring property, no. 10 Holly Road.
4. To revise wording of condition 11 of planning permission 23/00129/MFUL to refer to the revised site layout plan, incorporating the above footpath, and changes to incorporate the approved cycle storage and landscaping details, following the discharge of conditions 8 (landscaping) and 10 (secure cycle storage details).
5. To revise wording of condition 13 of planning permission 23/00129/MFUL to refer to the revised elevations, incorporating the revised position of doors and windows.
6. To revise wording of condition 14 of planning permission 23/00129/MFUL to refer to the revised site layout plan, incorporating the above footpath, and changes to incorporate the approved cycle storage and landscaping details, following the discharge of conditions 8 (landscaping) and 10 (secure cycle storage details).

PROPOSED DEVELOPMENT

Non-Material Amendment for 23/00129/MFUL to allow alterations to the site plan, including cycle storage arrangements, landscaping and addition of footpath; amendments of internal layouts, including relocation of external doors and windows.

This application seeks make a variety of minor changes to the approved development scheme, including the rationalisation of internal layouts of the approved dwellings, making minor changes to the position of some of the internal windows and doors relating to the internal rearrangements, and incorporating a footpath to provide access to a neighbouring property. It is also proposed to amend the wording of conditions 11, 13 and 14, all of which refer to approved plans. As a result of the details submitted to discharge conditions 8 (landscaping) and 10 (secure cycle storage details) of planning permission 23/00129/MFUL, and to reference the amended elevation drawings as a result of the proposed amendments to the window and door placement, the plans referenced in conditions 11, 13 and 14 need to be updated to note the most recent plan numbers.

APPLICANT'S SUPPORTING INFORMATION

Application form, covering letter and amended plans

RELEVANT PLANNING HISTORY

23/00129/MFUL - PERCON date 15th May 2024

Erection of 13 affordable dwellings following demolition of 4 existing dwellings and garage blocks with associated parking, landscaping and works

PLANNING POLICIES

The Town and Country Planning Act 1990

The Town and Country Planning (Development Management Procedure) (England) Order 2015

CONSULTATIONS

None

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

1. BACKGROUND OF THE APPROVED DEVELOPMENT

- 1.1 Application 23/00126/FULL was approved on 14th May 2024 for the erection of 13 affordable dwellings following demolition of 4 existing dwellings and garage blocks with associated parking, landscaping and works at 2 - 8 Holly Road and garage blocks at Sycamore Road, Tiverton. Members may recall that this application was considered at Planning Committee on the 8th May 2024 where it was resolved to approve subject to conditions.
- 1.2 The application site is located on the corner of Holly Road and Sycamore Road, comprising the 4 existing dwellings, which front onto Holly Road, and garaging to the west of the houses, on Sycamore Road, and to the south of the properties, accessed along a track, also off Sycamore Road.
- 1.3 The approved scheme was for the demolition of the block of 4 dwellings and replacement with 13 new homes, comprising a terrace of 3 no. 2 bed/3 person houses, fronting Holly Road, and a larger two-storey of 10 1 bed/2 person flats, 5 at ground level and 5 at first floor level. The block of 10 flats is to run perpendicular to the terrace of 3, fronting Sycamore Road. The terraced properties are to be provided with their own private gardens, while the flats will have access to communal landscaped areas within the former garden of the existing properties. A palette of materials is proposed comprising rendered finish at ground level and external cladding at first floor, with metal standing seam roofs. Solar PV panels were approved to be installed on the roof slopes of the building.
- 1.4 All of the units are to be built to be national space standard compliant, with dedicated storage space. The scheme also provides for the storage of waste and recycling through the provision of external storage space for those properties with direct access to the highway, and the provision of a communal bin store for the other properties. Provision is also made for secure cycle storage.

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 23/00129/MFUL are to allow amendments to internal layout of the approved dwellings, associated changes to the placement of some of the windows and doors to accord with the changes to the internal layout, and changes to the site plan to include an additional footpath, and alterations to accommodate the final landscaping scheme and secure cycle facilities approved in relation to the discharge of conditions 8 and 10.
- 3.2 The changes to the internal layout of the dwellings are proposed to improve the usability of the properties and energy efficiency. The changes to the one bedroom units are very minor with rearrangement of the relationship between the entrance hall, bathroom and bedroom. The two bedroom units have a more significant change internally, with the staircase moved more centrally within the building, the living/dining room and kitchen separated, and the bedrooms altered so the double bedroom increase from 12 sq.m to 14 sq.m, and the single bedroom being reduced from 12 sq.m to 9 sq.m. Notwithstanding these changes, all the bedrooms still accord with the requisite nationally described space standard for each bedroom type.
- 3.3 The provision of an additional footpath within the site, will allow improved access to an adjoining property, and has been agreed between Mid Devon Housing and the tenant of that property. This minor change is accommodated by the change of a small section of land to the eastern side of the site, between the development and 10 Holly Road, being taken out of its approved use as private garden and being used incorporated into the communal landscaping. This change also enables larger expanses of green spaces to be utilised for BNG improvements, with additional wildflower planting and some additional hedges being provided to the site frontage, as part of the approved landscaping scheme.
- 3.4 With respect to the changes to proposed to planning condition 11, this states 'The development hereby permitted shall not be occupied until the parking areas have been provided in accordance with the approved 'Proposed Site Plan', drawing number 'Z29-ZP-A1-XX-DR-A-010-S01- P07'. Following their provision these facilities shall be maintained and retained for the lifetime of the development.'

Following the discharge of condition 8, which required approval of the final landscaping scheme, and condition 10, which required the submission of the final secure cycle storage details, there has been a minor change to the layout to accommodate those approved details. As such, part of this application includes the alteration of this condition to include an updated version of the approved plan to include the minor layout changes, which includes the introduction of the footpath, a slightly enlarged area for the provision of the secure cycle store, and a realigned hedge accordingly. It is proposed to revise the wording of condition 11, as follows:

'The development hereby permitted shall not be occupied until the parking areas have been provided in accordance with the approved 'Proposed Site Plan', drawing number 'Z29-ZP-A1-XX-DRA-010-S01-P08'. Following their provision these facilities shall be maintained and retained for the lifetime of the development.'

- 3.5 Condition 13 is states 'Prior to occupation of the first floor units of the development hereby permitted, a privacy screen shall be installed along the access walkway on the east elevation, in accordance with details indicated on approved 'Proposed Site Elevations 02, drawing number 'Z29-ZP-A1-XXDR-A-021- S01-P07' and in the Design and Access Statement. The privacy screen shall be so retained and maintained thereafter.'

As a result of the changes to the placement of some of the windows and doors, following the internal rearrangement, this elevational drawing has been updated and the wording of the condition is proposed to be revised accordingly. As such, it proposed to revise this wording to:

'Prior to occupation of the first floor units of the development hereby permitted, a privacy screen shall be installed along the access walkway on the east elevation, in accordance with details indicated on approved 'Proposed Site Elevations 02, drawing number 'Z29-ZP-A1-XX-DRA-021-S01-P08' and in the Design and Access Statement. The privacy screen shall be so retained and maintained thereafter.'

- 3.6 Condition 14 states 'The development shall not be occupied until refuse bin/recycling storage areas have been provided in accordance with the details indicated on the approved 'Proposed Site Plan', drawing number 'Z29-ZP-A1-XX-DR-A-010-S01- P07'. The associated bin storage areas for each dwelling shall be provided prior to initial occupation of each dwelling and shall thereafter be retained and maintained.'

For similar reasons to that relating to the revised wording of condition 11, the approved plan has been updated to reflect the site layout changes. As such, the revised wording is proposed as follows:

'The development shall not be occupied until refuse bin/recycling storage areas have been provided in accordance with the details indicated on the approved 'Proposed Site Plan', drawing number 'Z29-ZP-A1-XX-DRA-010-S01-P08'. The associated bin storage areas for each dwelling shall be provided prior to initial occupation of each dwelling and shall thereafter be retained and maintained.'

- 3.7 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 minor changes to the proposed layout and to take into account the need to reference the revised plans, this is considered to be an acceptable amendment that falls within the scope of a non-material amendment.
- 3.8 The Officer recommendation is to accept the changes as being a non-material amendment to Planning Permission 23/00129/MFUL. 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.

APPENDIX 1 - Previous Committee Report for 23/00129/MFUL (8th May 2024)

APPLICATION NO: 23/00129/MFUL

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 13 affordable dwellings following demolition of 4 existing dwellings with associated vehicular and pedestrian access, parking, landscaping and associated works. The proposal also includes the demolition of existing dilapidated garaging, with parking spaces being provided in their place.

The scheme forms part of the Council's 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. As such, the dwellings are intended for social rent.

The site is within the defined settlement limit of Tiverton and is located on the corner of Holly Road and Sycamore Road, comprising the 4 existing dwellings, which front onto Holly Road. These properties have large rear gardens that run alongside Sycamore Road. The garaging is located to the west of the houses, on Sycamore Road, and to the south of the properties, accessed along a track, also off Sycamore Road.

The existing dwellings are two storey units finished with pebble-dashed render at ground floor level and brown tile mansard roofs, which is the prevalent style along Holly Road. It is proposed to demolish this block of 4 dwellings and replace with 13 new homes, comprising a terrace of 3 no. 2 bed/3 person houses, fronting Holly Road, and a larger two-storey of 10 1 bed/2 person flats, 5 at ground level and 5 at first floor level. The block of 10 flats is proposed to run perpendicular to the terrace of 3, fronting Sycamore Road. The terraced properties are to be provided with their own private gardens, while the flats will have access communal landscaped areas within the former garden of the existing properties. A palette of materials is proposed comprising rendered finish at ground level and metal standing seam external cladding at first floor and to the roof. Solar PV panels would be installed on the roof slopes of the building.

All of the units are to be built to be national space standard compliant, with the flats having a floor area of approximately 52 square metres and the 2 bedroom dwellings having a floor area of approximately 72.5 square metres. All bedrooms are proposed have a floor area of 12 square metres and provide dedicated storage space. The scheme also provides for the storage of waste and recycling through the provision of external storage space for those properties with direct access to the highway, and the provision of a communal bin store for the other properties. Provision is also made for secure cycle storage.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, Plans, Planning Statement, Design and Access Statement, Arboricultural Survey, Flood Risk Assessment and Drainage Strategy, Ground Investigation Desk Study, Wildlife Trigger Table, Preliminary Ecological Appraisal and Preliminary Roost Assessment, Bat Emergence Surveys, Energy and Sustainability Statement, Site Waste Audit Statement, 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 - 19.12.2023

Application is contrary to DM1. Over development beside a very busy road. There are a number of access difficulties on this site. Question if affordable, and yet states they are for rent?

Unable to support

HIGHWAY AUTHORITY - 01.02.2024

Observations: I have visited the site and reviewed the planning documents.

The proposal presents a net gain of 9 dwellings. The Transport Statement, utilising TRICS data indicates an Am peak trip rate of 3 and a Pm peak trip rate of 6, therefore I am satisfied that this development will not create an unacceptable trip generation impact upon the local highway network.

Sycamore Road is not an A, B or C classified road and therefore does not require off-carriageway turning for the parking area, indeed the existing garages already facilitate parking in this location.

The secure cycle storage is welcomed to help reduce the impact of local vehicle trip generation and help sustainable travel.

I would recommend the provision of a Construction and Environment Management Plan (CEMP) to help mitigate the impact of construction upon the local highway network.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

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

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

DCC EDUCATION - 13.02.2024

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).

DEVON, CORNWALL & DORSET POLICE - 15.12.23

Thank you for this application, I have no objections in principle to the proposal, the reference to Secured By Design (Design & Access Statement section 5.5) is noted. However, for doors and windows etc. to be SBD compliant, they must be sourced from an SBD approved / accredited supplier, details of which can be found via the attached link below. The requirements of SBD are that doors and windows are not only tested to meet PAS 24:2022 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing the provenance of non SBD approved products.

The proposed layout provides both active frontages and good overlooking of the internal movement areas and off plot parking, with surveillance further enhanced by the proposed inclusion of CCTV.

Bin and bicycle stores should be designed with a lockable door to ensure they are secure and prevent unauthorised access. The locking system must be easily operable from the inner face by use of a thumb turn to ensure that residents are not accidentally locked in by another person. Any bicycle rack should have a minimum foundation of 300mm with a ground anchor.

Bicycle parking access doors should be fitted with thumb turns, or other emergency furniture, on the inside face to facilitate emergency egress and so as to avoid locking people inside the store. Bicycle stands, anchor points, single and two-tier rack systems should be certified to one of the following standards:

SS104 Security Rating Bronze, or
STS 501 Security Rating TR1, or
STS 503 Security Rating TR1, or
STS 205 Issue 6:2021 Security Rating BR1, or
STS 225 Issue 1:2021 Security Rating BR1 (S), or
LPS 1175 Issue 8:2018 Security Rating A (A1), or
LPS 2081 Issue 1.1:2016 Security Rating A

N.B. Careful consideration must be given to cater for sections of the community who may find vertical bicycle racks difficult to use.
(Secure By Design Accredited Product Search - Doors).

MDDC PUBLIC HEALTH - 3.01.2024

We have considered the application and do not anticipate any environmental health concerns. The site is within a large area of existing housing and we would therefore recommend that the standard CMP condition is included on any approval.

DCC HISTORIC ENVIRONMENT TEAM - 18.12.2023

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

SOUTH WEST WATER - 28.12.2023

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

Asset Protection

Please find enclosed a plan showing the approximate location of a public 100mm combined sewer and 225mm surface water in the vicinity. Please note that no development will be permitted within 3 metres of the sewers, and ground cover should not be substantially altered.

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

Please click [here](#) to view the table of distances of buildings/structures from a public sewer.

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

<https://www.southwestwater.co.uk/building-and-development/services/sewer-services-connections/diversion-of-public-sewers>

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.

www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/

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

www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/

Surface Water Services

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

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

Having reviewed the current information for the proposed surface water disposal for this development (domestic roof and driveway run off only). Please note that discharging to the public surface water sewerage network meets with the Run-off Destination Hierarchy. However before South West Water can approve this method of discharge we will require clear evidence to demonstrate why the other higher methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

As the Flood Risk Assessment states the option to soakaways has not been fully investigated, discharge to the watercourse will also need to be investigated further as the applicant can use South West Water's statutory powers to cross 3rd party land.

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

Clean Potable Water

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

Foul Sewerage Services

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

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

www.southwestwater.co.uk/building-and-development/services/pre-development-services

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

FLOOD and COASTAL RISK MANAGEMENT TEAM - 04.01.24

Recommendation:

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant have submitted 6 Sycamore Road, Tiverton, EX16 6JL Flood Risk Assessment and Drainage Strategy (Report Ref. 89427.549873, Rev. 1, dated 22nd November 2022) to support the planning application for the proposed 13 nos of residential development.

The applicant mentioned that the existing hardstanding areas on site is 990m² or 52.8% of the total site area. The current development proposal will comprise 1,355m² or 72.7% of impermeable area. The 10% urban creep shall only be applied to the residential dwelling only. The derivation of greenfield runoff rate shall exclude the 10% urban creep allowance also.

The applicant must note that, in accordance with Chapter 24.2 of CIRIA's SuDS Manual (C753), the runoff areas used in greenfield runoff rate calculations must be consistent. The applicant will therefore be required to revise the proposed offsite discharge rates to accord with the area being positively drained to the proposed surface water drainage management system.

Where brownfield sites are being developed, peak flow control should still be based on the greenfield runoff rate. The applicant must therefore attempt to match this greenfield rate in the first instance, but if this is robustly demonstrated to be unfeasible, the applicant should work backwards to achieve a runoff rate as close to the greenfield conditions as possible. Importantly, the applicant will be required to provide evidence of the calculations undertaken to achieve the proposed runoff rate. The current proposed 4.6l/s (50% betterment compared to the existing brownfield runoff rate) is not acceptable.

The applicant currently consider to discharge the surface water runoff via infiltration means (soakaways and permeable surfaces). In order to determine the viability of infiltration on this site, the applicant must submit the results of infiltration testing, conducted in accordance with Section

3.28 of The Building Regulations (2010) (Drainage and Waste Disposal) (Part H). If this demonstrates that infiltration is viable, the applicant must submit details of a soakaway, designed to the site's measured infiltration rate, which will manage the surface water runoff from the site up to, and including, the 1 in 100 year (+ allowance for climate change) rainfall event. If the above tests demonstrate that infiltration is not viable, the applicant will be required to submit details of an attenuation-based surface water drainage management system, with an off-site discharge point. This system must attenuate all of the surface water runoff generated up to, and including, the 1 in 100 year (+ allowance for climate change) rainfall event, before discharging it off-site at rates and volumes equal to the site's greenfield performance.

The applicant must note that infiltration tests, undertaken in strict accordance with BRE Digest 365 Soakaway Design (2016) must be undertaken in order to demonstrate whether infiltration is a viable means of surface water drainage management on this site. A representative number of tests must be conducted in order to provide adequate coverage of the site, with particular focus placed on the locations and depths of potential infiltration devices.

The applicant currently proposed to attenuate the surface water runoff via porous or permeable paving before discharging into the public sewer system. Underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground SuDS components should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground components can be used in combination where development area is limited.

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

14.03.24

We are happy for them to carry out the infiltration at a later stage but the current attenuation option proposed is not meeting the criteria at all. We need to agree the greenfield runoff rate with them at this stage, the associated storage volume and location of the SuDS features before the layout is fixed. The current proposals are based on the brownfield runoff rate and the area used in one of the proposals is incorrect also.

In light of the above, I am reluctant to agree any pre-commencement conditions with them.

17.04.24

Recommendation:

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

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins.
- (b) A detailed drainage design based upon the approved 6 Sycamore Road, Tiverton, EX16 6JL Flood Risk Assessment and Drainage Strategy (Report Ref. 89427.549873, Rev. 2, dated 14th March 2024) and the results of the information submitted in relation to (a) above.
- (c) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (e) A plan indicating how exceedance flows will be safely managed at the site.
- (f) Evidence there is agreement in principle from SWW/ landowner/DCC Highways to connect into their system.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

The applicant have revised 6 Sycamore Road, Tiverton, EX16 6JL Flood Risk Assessment and Drainage Strategy (Report Ref. 89427.549873, Rev. 2, dated 14th March 2024) to support the planning application for the proposed 13 nos of residential development.

The applicant mentioned that the existing hardstanding areas on site is 990m² or 52.8% of the total site area. The current development proposal will comprise 1,355m² or 72.7% of impermeable area. The derived 1 in 2 year greenfield runoff rate is 0.39l/s but the applicant are proposing to restrict to 1 in 10 year of 0.7l/s.

It is proposed to attenuate the flow via permeable paving or grasscrete within the parking and pavement areas and geocellular crates and a pond in the south east of the site before discharging into the surface water sewer within the site via a HydroBrake or similar flow control device. The attenuation storage volume required is 115m³. A simplified model output results were submitted at this stage.

The applicant are yet to carry out any infiltration testing at this stage.

REPRESENTATIONS

This planning application has been advertised by means of two site notices erected by the Planning Officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

At the time of writing this report, no comments have been received in respect to this planning application.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

1. Principle of development
2. Design and impact on the character and appearance of the surrounding area
3. Flooding and drainage
4. Residential amenity
5. Highways, parking and access
6. Climate change
7. Ecology and Biodiversity Net Gain
8. Planning obligations
9. Other matters
10. Planning balance

1. Principle of Development

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

including the provision of affordable dwellings across the District. It is noted that the 13 dwellings proposed will be for social rent, a recognised form of affordable housing.

- 1.5 Policy T1 (location and scale of development) of the Tiverton Neighbourhood Plan states that development in the neighbourhood area will be focused within the settlement boundary, established through Local Plan policy and shown on the Policies Map. Policy T2 (meeting local housing need) outlines that other than in development designed to meet an identified specialist housing need, the mix of housing sizes, types and tenures in proposed development should, in so far as is reasonably practicable and subject to viability considerations, assist in meeting needs identified in the most recently available Strategic Housing Market Assessment and/or the Tiverton Local Housing Needs Assessment.
- 1.6 Policy S9 of the Mid Devon Local Plan requires that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change. The layout plan submitted shows how the layout for the residential development of 13 residential units would be achieved, which has been considered to be acceptable. The further relevant planning matters of the development are considered further below.

2. Design and impact on the character and appearance of the surrounding area, including landscaping, including heritage impact

- 2.1 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.
- 2.2 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'.*

- 2.3 Details of the appearance of the development have been provided which show two blocks of two storey buildings, one comprising the three 2 bed houses, and the other providing the ten 1 bed flats. The terrace of houses will be located in a similar position to the existing houses to be demolished, although will be 3 metres closer to the neighbouring houses to the east. The block of flats will be located to the west of the new houses, running parallel to Sycamore Road. These properties will be set at a lower height than the existing properties to be demolished, and the remaining neighbouring houses 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 proposed houses and ground floor units will all have level access. All bedrooms are shown as having a floor area of 12 square metres, which exceeds the minimum of 11.5sqm for a double bedroom, as identified within the nationally Described Space Standards. Each unit has access to private amenity space provided by a private garden or external balconies. Those properties without their own garden have access to the wider communal landscaped areas around the properties. 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 render finish 1.5mm in Cream colour. The windows and door would be Anthracite Grey (RAL7016) with black steel staircase and railings. The first floor properties are to be access from external balconies, which in turn are accessed from an enclosed external staircase.
- 2.4 Notwithstanding the use of some materials of a different finish to those used in primarily in the neighbouring properties, the design, form and massing of the proposed dwellings, are considered to be acceptable and adequately respect and relate to the character of development in the immediate vicinity.
- 2.5 The Design and Access Statement includes details of measures to ensure that the proposed development includes measures to comply with Secured by Design guidelines. The Police Designing Out Crime Officer has commented on the proposal, raising no objections in principle. They have commented on some of the measures proposed, clarifying some of the standards required for compliance with Secured By Design, such as the types of lock, doors and windows required. The applicant is aware of these comments and will be able to ensure that they incorporate any recommendations into the finished scheme.
- 2.6 Referring to the comments made by Tiverton Town Council, in respect to potential 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, albeit an increase in floor area and numbers. The overall floor areas of

the proposed dwellings meet the Nationally Described Space Standards as required by Policy DM1 of the Local Plan.

- 2.7 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 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.
- 2.8 Policy DM2 of the local plan relates to renewable energy development such as solar arrays and is supportive of such development subject to proposals demonstrating that impacts are or can be made acceptable in relation to: a) Landscape character and the character and setting of heritage assets; b) Environmental amenity of nearby properties and the wider locality; c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and d) Biodiversity (avoiding habitat fragmentation).
- 2.9 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 the limited sensitivity of the location, and mix of property types in the immediate vicinity, the visual impact is considered to be acceptable. b) 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 do not result in the loss of any 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 currently occupied by existing properties, and their gardens. 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. It is considered that the impacts of the installation of the proposed solar panels are acceptable and therefore the proposal accords with policy DM2 of the Local Plan.
- 2.10 A detailed landscaping scheme has been provided. 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.
- 2.11 The proposed landscaping seeks to increase the biodiversity of the site by providing a mix of amenity grassland, including grasscrete parking areas, wildflower planting, hedges and trees. Bat and bird boxes can be attached to the proposed buildings providing roosting and nesting sites, in addition to bee bricks, and will be located on the advice of the ecological surveys and reports provided.
- 2.12 The application is supported by a tree survey, which identifies that there are no significant trees on-site that would be affected by the proposals. There are trees on adjoining land to

the east and to the west of the garages. Of the trees to the west of the garages, there are two category B, moderate quality trees. While these are not within the site and no development would encroach upon these, the tree survey recommends the provision of a further arboricultural impact assessment, arboricultural method statement and tree protection plan, details which can be conditioned to ensure that adequate tree protection measures are put in place during construction. Otherwise, it is noted the proposals include the planting of 12 new trees, which contribute to significant Biodiversity Net Gain of 13.57% in habitat units and 916.15% in hedgerow units.

- 2.13 Policy DM1 advises that development should provide suitable external spaces for recycling and refuse. Details of storage provision has been indicated on the submitted plans, with some properties with direct access from the public highway having individual storage space for recycling and refuse, and a communal bin store being provided for the remaining residents.
- 2.14 On the basis of the above it is considered that the proposed development is acceptable in respect to its design, appearance and landscaping.

3. Flooding and Drainage

- 3.1 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.
- 3.2 Policy DM1 requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. Foul flows are proposed to discharge to a 100 mm combined sewer that passes through the site.
- 3.3 The applicant has submitted a Flood Risk Assessment (FRA) and Drainage Strategy in support of the proposal. 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 states that the proposed development will result in an overall impermeable area of 1,355 m². Surface water runoff generated by the development will be restricted to 0.7 l/s, which is equivalent to the 1 in 10 year greenfield run off rate, which comprises a 89% betterment over the 1 in 1 year return brownfield runoff rate for the Site. In order to achieve this restriction, the preferred drainage strategy is for attenuation to be provided within permeable paving and grasscrete, geocellular crates and if required, pond in the south east of the site, which will then be restricted by Hydrobrake before being discharged at this controlled rate into the local surface water sewer. The Lead Local Flood Authority (LLFA) have considered the proposal and did initially object to the proposed drainage strategy. However this has since been amended to provide the above scheme, to which the LLFA now have no objections in principle. They do note however that the applicant must still demonstrate that on-site infiltration is no feasible initially, as required by the SuDS hierarchy for disposal of surface water. While the submitted scheme demonstrates that the site can be appropriately drained to avoid additional surface water flooding in the locality, a pre-commencement condition is requested to ensure that the final drainage scheme addresses the SuDS hierarchy, and allows for the disposal on site, if possible. This condition requires the applicant to, undertake BRE Digest 365 infiltration testing to determine the suitability of infiltration techniques; provide details of management during construction, proposals for the adoption of the permanent surface water drainage

system, provide a plan indicating how exceedance flows will be safely managed on site, and evidence of agreement in principle that connection can be made to nearby systems.

- 3.4 A consultation response has also 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). As discussed above, the preferred drainage strategy includes on-site storage and controlled discharge to the public surface water sewer, however as required by the LLFA, a condition will be imposed to ensure that opportunities to discharge of surface water higher up hierarchy in the first instance.
- 3.5 SWW have also provided details of the locations of the nearby combined sewer, surface water sewer and water main, some of which pass through the site. Whilst this is not a constraint to development, it is noted that the development must not encroach within a 3 metre easement, otherwise these assets may need to be diverted at the developer's expense. The applicant is aware of this, however an informative will be added to any decision notice.

4. Residential amenity

- 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 onto Sycamore Road follows the existing street pattern and given their position over the road and set back from other homes, looking towards the parking spaces to the west, would avoid overlooking. During pre-application discussions, some concern was raised about the potential of overlooking neighbouring gardens to the east, as a result of the positioning of the access walkway to the first floor properties. This concern has however been resolved by the inclusion of a privacy screen to the outside of this walkway, restricting views to the east. There is considered to be limited risk of harm from the ground floor properties with windows facing to the east due the degree of separation from the eastern boundary.
- 4.4 Overall, it is considered that the proposed development is appropriately scaled and sited to avoid unacceptable harm to residential amenity, in accordance with Local Plan policy DM1 and the aims and objectives of the NPPF.

5. Highways, parking and access

- 5.1 Policy DM1 of the Local Plan states that new development should be safe and accessible and policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided.
- 5.2 No vehicular access is proposed to the site, with parking spaces to be provided to the west and south east, in the place of existing dilapidated garages, some of which have already been removed due to health and safety concerns. These spaces will be accessible directly off Sycamore Road.
- 5.3 The Highway Authority have commented on the application and raised no objections in principle. It is noted that the increase in trip generation would not have an unacceptable impact on the local highway network. Furthermore, the status of the public highway means that on-site turning provision for parked vehicles is not required, with the parking replicating the existing garage arrangements.
- 5.4 Policy DM5 stipulates that the development must provide an appropriate level of parking, taking into account the accessibility of the site, including the availability of public transport and the type, mix and use of development. In respect of parking provision, Policy DM5 requires an average of 1.7 spaces per dwelling, which in this case will necessitate the provision of 22 parking spaces. The proposed development accords with the requirements for parking provision by providing 28 parking spaces, which will meet the requirements for this development and make additional provision within the local area. Noting that ten of the dwellings will be 1 bed properties, and the location in close proximity to local services, it may be reasonable to assume that the demand for parking associated with this development may be less than that required under DM5, further enhancing the local parking provision.
- 5.5 The proposal also exceeds the DM5 requirement of 1 electric vehicle charging point per 10 dwellings, with 4 charging points proposed.
- 5.6 With regards to the site's accessibility, it is in close proximity to local facilities (a local convenience store on Beech Road, 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.

- 5.7 Space within the site has been indicated for the provision for cycle storage, which is welcomed by the Highway Authority. Final details have not been provided of the design but that will be conditioned to ensure these facilities are provided prior to the occupation of any of the dwellings.
- 5.8 Due to the location within an existing residential area, and to ensure there is no adverse impact on highway safety during construction, both the Highway Authority and the Council's Public Health Team have recommended the inclusion of a condition requiring the submission of a Construction and Environmental Management Plan (CEMP), which is considered appropriate. This condition will need to be a pre-commencement condition.
- 5.9 Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM5 of the Mid Devon Local Plan. It also complies with the accessibility requirements of policy DM1.

6. Climate change

- 6.1 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 energy and sustainability statement. The statement considers that the proposed dwellings are constructed in line with the applicants zero carbon strategy including measures that incorporate renewable energy technology.
- 6.2 The siting and design of the proposed dwellings conducive to providing more energy efficient and sustainably constructed dwellings, with solar panels included 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.
- 6.3 The proposed construction follows a 'fabric first' approach to ensure that loads are reduced and residual energy demand is minimised. The units are fully fitted factory built modules, which contain energy efficiency measures such as super insulated wall build up, high air tightness, mechanical ventilation and heat recovery, inclusion of solar panels and air source heat pumps. With these and other identified measures, the development is estimated to save 9.7 tonnes of carbon per year over the building regulations baseline, providing a net offset of total emissions for the area, helping to reduce overall emissions by 192 tonnes over the next 30 years. On this basis, the development is considered to be an exemplary example of low carbon development.
- 6.4 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.
- 6.5 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”.

- 6.6 There would be an impact on the climate from the construction process and sourcing of construction materials. However, the proposal is of a modest scale 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.

7. Ecology and Biodiversity Net Gain

- 7.1 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.
- 7.2 The application includes the demolition of the existing properties on site, along with the garaging that has not already been removed. 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 report produced by Western Ecology, dated 6th September 2023, for which emergence surveys were carried out on 26th June and 4th August 2024. In addition, a Biodiversity Net Gain Assessment was carried out by Arbtech, dated 4th October 2023, and findings submitted.
- 7.3 The findings of the Preliminary Ecology Appraisal identified a risk of potential destruction of bat roosts due to the required demolition of the existing houses, and the garages to the west, which are located adjacent to a wooded area that could also be used by roosting bats. As such, additional emergence surveys were required. The outcome of these however was that no bat activity was recorded and the buildings to be demolished were considered extremely unlikely to be used by roosting bats. As such, no further mitigation is required, although precautionary measures are proposed to ensure that risk of harm to bats is reduced during demolition and construction, in the event that bats are found at a later date.
- 7.4 In respect to other wildlife, the development will see the loss of amenity grassland, hardstanding and shrub vegetation on site. The ecologist noted that the loss of such habitats is likely to be inconsequential to local amphibian and hedgehog populations owing to their low value and the presence of more extensive habitat locally. Similarly the development site itself has sub-optimal habitat for foraging badgers and negligible suitability for badger setts. It was however noted that the woodland to the west of the garages did have suitability for badger setts, although this was inaccessible so was unable to be surveyed. As such, it is recommended that precautionary pre-commencement checks take place prior to development, with protective fencing being installed around the work areas to prevent encroachment during construction. Furthermore, it is proposed to ensure that any site clearance takes place outside the hibernation season for badgers, hedgehogs and amphibians. Similarly, there is potential to disturb nesting birds during site clearance, in

which case precautionary measures are proposed to limit clearance within the birds nesting season unless inspection has first taken place by a qualified ecologist, immediately prior to works.

- 7.5 On the basis of the above, there are no significant constraints to development identified. In addition to the proposed precautionary measures to avoid committing any offence in relation to protected species, should any be found during construction, and also in relation to breeding birds, mitigation and enhancement measures are proposed. A condition will be imposed requiring that the recommended precautionary measures, mitigation and biodiversity enhancement measures comply with the recommendations of the submitted reports.
- 7.6 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.
- 7.7 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.
- 7.8 As such, there is no identified harm to local ecology and the scheme appropriately accords with policies S9 and DM1 of the Local Plan.

8. Planning obligations

- 8.1 Policy S5 (Public Open Space) states that within Tiverton, public open space is required from residential development of 11 or more dwellings. In this case however, the development is for solely affordable housing, in which no financial contributions would be required.
- 8.2 Devon County Education have commented, however the development does not meet the threshold for contributions due to less than four family (2+ bed) houses being delivered.
- 8.3 Developments of 11 or more open market dwellings in Tiverton, Cullompton and Crediton are expected to provide a target of 28% affordable dwellings. In this case, the scheme is for 100% affordable housing, with the dwellings being incorporated into the Council's portfolio of social rented accommodation. A condition will be imposed on any decision to agree an affordable housing scheme to ensure the accommodation is used for affordable housing, to meet local need, and retained as such.

9. Other matters

- 9.1 As this is a major planning application, the scheme is supported by a Waste Audit Statement, which details the expected waste to be generated during demolition and construction, along with measures to ensure its safe disposal in line with appropriate environmental legislation.
- 9.2 The applicant has included a Statement of Community Involvement within the submitted

Design and Access Statement, in which they have indicated that they have carried out a mailing exercise in the local area, followed by an online consultation, which was attended by representatives from ZedPods, and the Mid Devon Housing Team.

- 9.3 The County Historic Environment Team have responded and indicated that they wish to make no comments on this proposal.

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 an overprovision in parking spaces, and that the site is within walking distance of public transport and other services and facilities.

10.2 The delivery of 9 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, it is considered 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 the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods

Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

- (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. This may include the establishment of a 'wait away' system for all deliveries;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works;
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
- (k) details of wheel washing facilities and obligations;
- (l) the proposed route of all construction traffic exceeding 7.5 tonnes;
- (m) details of the amount and location of construction worker parking; and
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

4. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- (a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins.
 - (b) A detailed drainage design based upon the approved 6 Sycamore Road, Tiverton, EX16 6JL Flood Risk Assessment and Drainage Strategy (Report Ref. 89427.549873, Rev. 2, dated 14th March 2024) and the results of the information submitted in relation to (a) above.
 - (c) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

- (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (e) A plan indicating how exceedance flows will be safely managed at the site.
- (f) Evidence there is agreement in principle from SWW/ landowner/DCC Highways to connect into their system.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

- 5. No development hereby permitted shall commence until an Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) to detail measures to protect any trees to be retained on the site, or adjoining land, which may be affected by the proposed development, has been submitted to, and approved in writing by, the Local Planning Authority. The approved Arboricultural Method Statement and Tree Protection Plan shall be strictly adhered to before and during construction.
- 6. 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-GE002 Revision 2 dated 9th 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.

- 7. 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.

8. 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. 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.
9. 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 29th November 2022 and Section 5 'Recommendation and mitigation' of the Bat Emergence Survey report prepared by Western Ecology, dated 6th September 2023. The development shall also be carried out in accordance with the Biodiversity Net Gain Assessment carried out by Arbtech dated 4th October 2023.
10. Details of secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the approved cycle storage has been provided in accordance with the approved details. Following their provision these facilities shall be maintained and retained for the lifetime of the development.
11. The development hereby permitted shall not be occupied until the parking areas have been provided in accordance with the approved 'Proposed Site Plan', drawing number 'Z29-ZP-A1-XX-DR-A-010- S01- P07'. Following their provision these facilities shall be maintained and retained for the lifetime of the development.
12. 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.
13. Prior to occupation of the first floor units of the development hereby permitted, a privacy screen shall be installed along the access walkway on the east elevation, in accordance with details indicated on approved 'Proposed Site Elevations 02, drawing number 'Z29-ZP-A1-XX-DR-A-021- S01- P07' and in the Design and Access Statement. The privacy screen shall be so retained and maintained thereafter.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. For the avoidance of doubt as the development hereby proposed and in the interests of proper planning.
3. In the interests of public health and highway safety, in accordance with policies S9, DM1, DM3 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the Construction and Environmental Management Plan is agreed prior to any construction works.
4. In order to ensure that the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017), national policies, including NPPF and PPG, and policies S9 and DM1 of the Mid Devon Local Plan 2013-2033. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
5. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the necessary tree protection measures are implemented prior to any commencement of preparatory and/or construction works.
6. 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.
7. To retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework, and in accordance with policy S3 of the Mid Devon Local Plan 2013 - 2033.
8. 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
9. 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.
10. To promote sustainable travel and in the interests of highway safety, in accordance with policies DM3 and DM5 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
11. In the interests of highway safety and to ensure adequate on-site parking facilities are available for traffic attracted to the site, in accordance with policies DM3 and DM5 of the Mid

Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

12. 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.
13. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

1. The applicant/agent is reminded of the comments received from South West Water (SWW), dated 28th December 2023, advising of the presence of a 100mm combined sewer, 225mm surface water sewer and 4 inch public main, in the vicinity of the development, as well as detailing the developer's obligations in respect to development in close proximity to these assets. The developer is advised to contact South West Water if they are unable to comply with their requirements. Should the development encroach on the 3 metre easement, these assets will need to be diverted at the expense of the applicant.
2. The applicant/agent should note the comments of the Police Designing Out Crime Officer, dated, 15th December 2023, in respect to compliance with Secured By Design principles.
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 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 9 additional new homes, of which all would be affordable dwellings weighs in favour of approval of the application providing public benefits and 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, S9, S10, DM1, DM2, DM3, DM4, DM5 and DM25 of the Mid Devon Local Plan 2013-2033, policies T1, T2, T3, T4, T5, T6, T9 and T16 of Tiverton Neighbourhood Plan 2020-2033. 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. 25/00076/TPO

Grid Ref: 296361 : 113685

Applicant: Mr & Mrs P Stone

Location: 38 Redvers Way
Tiverton
Devon
EX16 6XL

Proposal: Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO

Date Valid: 20th January 2025



APPLICATION NO: 25/00076/TPO

Case Officer: Mr Tim Jarratt

Site Visit: Yes

Site Visit Undertaken: Yes

Date of Site Visit: 25/2/25

Site Notice Displayed: Yes

Completed Site Notice Declaration form: Yes

Photograph of Displayed Site Notice: Yes

Date of Overall Expiry: 18th February 2025

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

Permit works subject to conditions

PROPOSED DEVELOPMENT

Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO

APPLICANT'S SUPPORTING INFORMATION

Location plan and previous application letter.

RELEVANT PLANNING HISTORY

06/01438/TPO - PERMIT date 31st July 2006

Application to remove 4 No hawthorn trees protected by tree preservation order

06/01750/TPO - PERMIT date 28th September 2006

Application to carry out works to 1 no. Oak protected by Tree Preservation Order 6/2002

06/02014/TPO - PERMIT date 25th October 2006

Application to fell 2 no. Elm Trees and 1 no. Hawthorn Tree protected by Tree Preservation Order 02/00006/TPO

06/02337/TPO - PERMIT date 14th December 2006

Application to carry out works to 1 Oak tree protected by Tree Preservation Order 6/2002

11/01541/TPO - PERMIT date 2nd December 2011

Application to carry out works to 1 Oak tree protected by Tree Preservation Order 6/2002

16/01618/TPO - PERMIT date 21st December 2016

Application to reduce crown of 1 Oak tree protected by Tree Preservation Order 02/00006/TPO

20/01399/TPO - SPLIT date 16th November 2020

Application to crown reduce 1 Oak tree by 2m and lightly crown thin, protected by Tree Preservation Order 06/00006/TPO

25/00076/TPO - PCO date

Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO

CONSULTATIONS

Tiverton Town Council: The planned works might unbalance the tree. We can see no justification to undertaking this work to a wonderful example of an Oak tree. Unable to support.

REPRESENTATIONS

This 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 applications, and the Council’s Adopted Statement of Community Involvement July 2020.

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Description of the tree(s) and location.

The tree noted in the application is an early mature Oak tree growing within the enclosed rear garden of the applicants’ property. The tree appeared in good health and condition, and is estimated to be approximately 16m in height and located some 12m to the north west of the house at the nearest point. The canopy of the tree is encroaching to within approximately 0.5m of the neighbouring property on the south west side. It is clearly evident that previous pruning has been undertaken to reduce the crown spread/height in order to maintain a more harmonious relationship between the tree and properties. Though the tree predates the surrounding residential area, due to the proximity of the surrounding properties being constructed, some level of ongoing pruning will be necessary.

The tree is visible from numerous points in the surroundings housing development, including short range views from Robin Walk, immediately to the south west, it therefore is considered to make an important contribution to the public amenity of the area.

1.

What is the amenity value of the tree(s)? **please circle/highlight**

None: Can’t be seen	High: i.e. Roadside trees and parks
Low: Seen with difficulty	Very high: i.e. Significant feature tree/s
Medium: i.e. Enclosed rear garden	

Do the trees screen between properties **No/Yes**

2.

What impact will the works have on local amenity? **please circle/highlight**

None: Can't be seen

Medium: Noticeable but limited

Low: Very minor in appearance

High: Major impact

3.

Do the proposed works accord with good arboriculture practice? **No/ Yes/ Not applicable**

4.

Is any damage likely to arise if consent is refused?

No/Yes

5.

Assessment. Give a succinct assessment of the application and appraisal of the proposed works considering the submitted justification.

Key points:

1. The application is to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO. The rationale provided in the application is due to the neighbours complaining that the Oak tree has branches that are too close to their property, and as such, squirrels are entering the roof-space of the adjacent property, by jumping from the branches.
2. The tree is a significant individual which contributes towards the visual amenity of the area and remains worthy of the Tree Preservation Order.
3. The application is not specific as to which side of the crown that requires pruning. However, from a site visit the southwest aspect of the crown is noted to be within 0.5m of the adjacent property on Rope Walk. The remaining crown spreads are adequately clear of surrounding dwellings currently. This aspect of the crown has been subjected previously to the most significant crown reductions resulting in truncation of lateral branches and the production of dense epicormics growth.
4. The issues of squirrels gaining access to the adjacent dwelling from the tree is not supported by a vermin report by the applicant or the affected third party. Where evidenced, the nuisance caused could be classed as a nuisance that would be actionable in law. Due to the proximity of the crown spread to the adjacent dwelling on Rope Walk it would be anticipated within two growing seasons the crown spread of the tree will directly conflict with the adjacent dwelling. Any damage caused from this would be classed as nuisance actionable in law. Informing some level of pruning to maintain or create a more harmonious relationship would be acceptable.
5. A crown reduction of 2m from the adjacent dwelling on Rope Walk would result in branch material be cut back further than previous pruning works and would result in increased truncated branches and a loss of branch budding material on this aspect too. A likely consequence of such pruning on this Oak tree would result in profuse epicormic growth that would detract from the trees contribution to the character and appearance of the

visual landscape. Also, the proposed works will create wounds allowing access for decay causing organisms that could increase the occurrence of branch failures.

6. A sensible crown clearance could be achieved by target pruning of distal and sub-lateral branches on the southwest aspect only by shortening required branches by 1-1.5m. Such pruning would not significantly alter the appearance of the tree and reduce the likelihood of the dense formation of epicormics growth.
7. Tiverton Town Council whom have been consulted on the application have commented "*The planned works might unbalance the tree. We can see no justification to undertaking this work to a wonderful example of an Oak tree. Unable to support*". In response to the comments, some level of crown management works would be acceptable as prescribed above.
8. The application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO is acceptable subject to the condition of lesser works.

SUMMARY

Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO is acceptable subject to the condition of lesser works in order to maintain a harmonious relationship between the tree and adjacent dwelling in Rope Walk. The tree has been subject to previous pruning due to the close proximity to the dwelling

CONDITIONS

1. CTP1 - The works hereby permitted shall be carried out within two years of the date of this consent.
2. CTP2 - 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.
3. CTP3 - The works hereby permitted shall consist solely of the following:
 - The target pruning of distal and sub-lateral branches only by 1-1.5m on the southwest aspect only to achieve a clearance of 2-2.5m from the adjacent dwelling.
 - Maximum pruning wounds not to exceed 50mm in diameter.

REASONS FOR CONDITIONS

1. RTP1 - To ensure the works carried out remain appropriate to the conditions of the tree and in the interests of visual amenity.
2. RTP2 - To ensure the works are carried out in accordance with best Arboricultural practice.
3. RTP3 - To preserve the continued contribution of the tree to the local character and amenity whilst enabling such works as are required to manage the tree in accordance with best Arboricultural practice.

INFORMATIVES

1. WILDLIFE AND THE LAW. The protection afforded to wildlife under UK and EU legislation is irrespective of the planning system and any activity undertaken on the tree(s) must comply with the appropriate wildlife legislation.

BREEDING BIRDS. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

BATS. The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

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

2. 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.

REASON FOR GRANT OF CONSENT

The pruning as outlined in the conditions shall be sympathetic to the current form of the tree, minimise pruning wounds while creating a more harmonious relationship between the tree and adjacent dwelling.