

PLANNING COMMITTEE AGENDA - 30th July 2025

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	25/00541/FULL - Demolition of Cross Hotel main building at Cross Hotel, Copplestone, Crediton. RECOMMENDATION Grant permission subject to conditions.
02.	24/01571/FULL - Change of use of 6 bed house in multiple occupancy (Class C4) to 7 bed house in multiple occupancy (Sui Generis) and associated works at 5 St Paul Street, Tiverton, Devon. RECOMMENDATION Grant permission.
03.	24/01572/LBC - Listed Building Consent for alterations to ground floor, first floor and second floor layouts, replacement of sill/rail and glazing bars on 4 windows, replacement of dormer windows with associated external alterations at 5 St Paul Street, Tiverton, Devon. RECOMMENDATION Grant permission.

Application No. 25/00541/FULL

Grid Ref: 277062 : 102637

Applicant: Mrs Olivia Ambrose

Location: Cross Hotel
Copplestone
Credton
Devon

Proposal: Demolition of Cross Hotel main building

Date Valid: 23rd April 2025



APPLICATION NO: 25/00541/FULL

Site Visit: Yes Date of Site Visit: 25th April 2025

CALL-IN

This application has been called into Planning Committee by the Director of Place & Economy as this applications is of a significant controversial or sensitive nature.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The application seeks planning permission for the demolition of Cross Hotel main building, at the Cross Hotel, Copplestone. The site is located centrally within Copplestone at the junction of Bewsley Hill with the A377, close to Copplestone Cross. The existing public house is a substantial two storey building with its south west elevation fronting the A377 highway. To the rear there are adjoining outbuildings and a two storey barn (former skittle alley). To the front of the skittle alley building, and side of the pub there is an open hardstanding car park area which is enclosed by a short length of stone wall along the frontage and adjacent to the vehicular access point. The site is surrounded by existing residential development, the village shop is located to the north west of the site.

The Cross Inn, Copplestone is currently derelict, being a closed Free House pub. The walls of the building are constructed using a traditional cob (mud and straw) building material with suspended timber floors and a roof constructed using traditional A-frame trusses, purlins and rafters. Through the submission of the previous planning application 21/01413/FULL, it was outlined that the proposed public house ceased regular trading in July 2017 but had since only opened on an occasional ad-hoc basis.

The applicant has outlined that during the discharging of conditions for planning permission 21/01413/FULL during August 2024 they experienced a bulging in the wall between gable end and the left front lower window and from this point in time, the applicant has been working with and complying to requirements from the local highway authority (DCC) and NMD building control. The small partial cob wall fail led to the temporary closure of the A377 for three weeks whilst structural safety scaffolding was put in place and to enable repair works to occur. This work started on 1st September 2024 and firstly involved clearing the unsafe and unstable sections as part of the making safe works, entailing the eventual removal of the south (carpark side) gable end and this extended a further 4 meters on the west elevation (A377 side) because the cob was unstable and weak.

In early October James Reed (JRE Design) acting on behalf of the applicant with the brief to provide a condition report and extent of remedial works visited to ascertain whether the new wall could be 'built up to' to enable the repair works to progress. He conducted an inspection of the property, with a representative from NMD building control on site with the building contractor. It was concluded as evidenced in the report dated 10th October 2024 which has been submitted as part of this application, that the walls were not strong enough to be built up to in the 'step' pattern for joining the old and new walls. In this report there is the recommendation of a partial demolition which is in accordance with the submitted plans as part of this application.

Partial demolition in this situation means the body of the old pub and not the outbuildings which are of later construction, or made of stone and being sound. The representative from NMD building control agreed with the diagnosis and instructed the applicant to make the section 80 application which was submitted on 7th November 2024. In mid-March a further 1.5 x 1.5 metre section of the interior cob wall on the Bewsley Hill side collapsed, this was then safely propped and to date there has been no further movement, however the applicant's representatives and NMD building control all acknowledge that propping is not a suitable long term situation. NMD Building control are of the professional opinion that the building needs to be demolished on health and safety grounds.

APPLICANT'S SUPPORTING INFORMATION

Application Form, Plans, Construction Method Statement Layout Plan, Asbestos Report, Building Control Notice, Condition Report, Demolition Method Statement, Section 77 Letter

RELEVANT PLANNING HISTORY

85/01114/FULL - WDN date 29th January 1986 Alterations to form bar extension and function room

18/01803/FULL - REFUSE date 5th September 2019 Conversion of skittle alley building to public house with separate staff apartment above

18/01804/FULL - REFUSE date 5th September 2019 Conversion of Public House to 5 dwellings

20/00689/FULL - REFUSE date 12th February 2021 Refurbishment of public house including landlord's accommodation and 2 letting rooms and Conversion of outbuildings at rear to 4 dwellings with associated gardens/parking

21/01403/FULL - REFUSE date 26th November 2021 Refurbishment of public house and conversion of outbuildings to the rear to 3 dwellings with associated amenity space, parking and pub garden (Revised Scheme) - APPEAL ALLOWED - PLANNING PERMISSION GRANTED 24.11.22

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities
S9 Environment
S13 Villages
DM1 High quality design
DM23 Community facilities
DM25 Development affecting heritage assets

National Planning Policy Framework
National Planning Practice Guidance

CONSULTATIONS

COPPLESTONE PARISH COUNCIL - 15th May 2025

- a. The Parish Council raise no objection to the above planning application
- b. We ask that it be made a condition that drainage and flood risk is considered. If the property is to be demolished, concern is raised for potential flooding and altered flow of water down Bewsley Hill

with the removal of the wall of The Cross. A wall is required to maintain the status quo that exists now.

c. We ask that some form Public House, Community Space or Café is conditioned post demolition. It is noted that within its planning history, planning ref 21/01403/FULL is still current and valid. Why can't the skittle alley be retained and converted to a Public House?

d. The Parish Council would ask that the land encompassing The Cross Hotel and surrounding land owned as The Cross is reinstated as an asset of community value. We would seek the registration to include all land that encompasses The Cross owned by the applicant.

HIGHWAY AUTHORITY - 15th May 2025

Observations: I have visited the site, which is located adjacent to the A377'a road with a 30mph speed limit. According to the latest validated data (01/01/2020 to 31/12/2024), there have been no recorded collisions at the application site.

The current situation is Devon County Council Highways have been instructed by Building Control to implement a hard road closure on two sides of the building due to concerns regarding to the structural integrity of the proposed building to be demolished.

During my site visit on a weekday at mid-day, I observed a queue of vehicles at the temporary traffic lights installed on the public highway as a result of the road closure. I visited the site again on a weekday at 5pm and witnessed a traffic queue of 0.5km for westbound traffic. Additionally, a pedestrian diversion has been implemented, requiring pedestrians to cross the A377 multiple times depending on their destination. The diversion is approximately 750 metres in length.

Demolishing the building would allow the removal of the current short term traffic management hard closure and significantly reduce the journey distance for pedestrians. There may be some temporary disruption to the highway during demolition however once completed, the site in its demolished state will not have a significant impact on the road network or pose an unacceptable risk to highway safety.

Note: If the application is approved and it becomes necessary to place items or carry out work within the public highway, the applicant and/or contractor must obtain the relevant consents and licenses from the Highway Authority.

Recommendation:

The Director of Climate Change, Environment and Transport, on behalf of Devon County Council, as local highway authority, recommends that the following conditions shall be incorporated in any grant of permission.

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

- (a) the timetable of the works;
- (b) daily hours of demolition;
- (c) any road closure;
- (d) hours during which delivery and demolition 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.

- (g) areas on-site where delivery vehicles and demolition traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no demolition 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 demolition traffic will be present at the site;
- (i) the means of enclosure of the site during demolition works; and
- (j) details of proposals to promote car sharing amongst demolition staff in order to limit demolition staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all demolition traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of demolition worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

SOUTH WEST WATER – 30th April 2025

South West Water has no comment.

PUBLIC HEALTH – 12th May 2025

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

CONSERVATION OFFICER – 14th July 2025

The loss of this building would be highly detrimental to the setting of the nearby listed buildings and scheduled monument (Copplestone Cross). The public house is located on a prominent corner site on a Roman Road and adjacent to the cross roads of the village, making it a key part of the village's development and history.

However, in this instance, there are significant public safety issues to consider. It is very unusual for such a large part of the building to require demolition, and indicates that it has not been maintained. Due to its importance in the village, this will mean that any replacement structure (if and when that is applied for) will need to equal that which has been lost in order not to further harm the setting of the designated heritage assets.

I recommend that no footings/foundations are disturbed, as there is strong likelihood of archaeology in need of recording under the building. I also recommend that hand demolition is used within 2 metres of the attached buildings to minimise disruption and prevent harm radiating to other buildings.

REPRESENTATIONS

This planning application has been advertised by means of a site notice, 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.

12 letters of representation were received, 10 of which were letters of objection and 2 were letters of general comment. The points raised are summarised as follows:

- Copplestone needs a pub to be able to build a thriving community.
- This saga has been going on for too long and has had a very negative impact on the village and villagers.

- The owner has allowed the building to fall into the state, being left open to the elements
- The building is repairable and therefore should be properly fixed.
- Cob is a fantastic material that will and has stood for hundreds of years when property is properly maintained.
- This cob building should be restored without any continuing road closure beyond that needed for demolition.
- By allowing planning permission for demolition, the owner would not the need to restore the pub which is considered a community asset.
- A demolition order encourages people to believe that they can deliberately find ways to flout the planning laws.
- It has been the intention of the applicant to gain consent to demolish.
- The Cross Hotel is a significant historical building to the people of Copplestone and also a beautiful cob building which is also part of our traditional heritage.
- Concern about the whole of the terrace of adjoining cob houses where demolition could seriously undermine the integrity and safety of these buildings.
- Any planning permission should ensure the space is retained to be commercially beneficial to the village, not housing.
- The owner should be made to have a duty of care to the village and ensure the pub space is retained as a pub / cafe/ meeting hall and hub of the village. A community hub would make valued connections.
- A well respected and very experienced engineer has already informed NMD building control of a much quicker and simpler resolution which involves repairing the building rather than demolition which should see the road reopened much quicker.
- A previous planning application submitted by the owner of the Cross hotel stipulates that the pub must remain as a public house in order for the other buildings requested to be converted to residential dwellings.
- The planning application shows no information regarding the long term impact and aesthetics of how the party wall will look if the cross hotel is demolished. There doesn't appear to be any engineering drawings or calculations shown regarding how it will affect the structural integrity of the adjoining cottages.
- The current state of the property has caused the village and surrounding areas stress and upheaval due the temporary traffic lights system in place.
- The owner has had years to fix the Cross Hotel and to look after the building but instead left the place empty and neglected it.
- Why is the planning applicant so focused on demolishing the whole pub instead of finding ways to repair it?
- It makes no sense to demolish a building that can be repaired and would lead to the roads being opened a lot quicker.
- Surely the owner should be made to rebuild the pub or lose the planning approval they already have?
- For safety and drainage, the outside walls especially on or adjacent to road or pathway should be kept as tall as is safe and practical.
- The road was closed to imminent risk of collapse and so far the building is still standing and has been for decades.
- Question the need and viability of demolishing the pub and would suggest that a more adequate and feasible approach has been proposed by the highly respected structural engineer Barry Honeysett. Under his proposals the walls of the pub could be propped to allow repair work to be carried out.
- If Mr Honeysett's approach was put fully into action he believes that the pub could be made safe enough after a few days of work to enable traffic restrictions be removed, while allowing repairs to be fully and properly carried out without impacting traffic flow.

- There is a party wall between Crome Cottage and the Cross Hotel on the Bewsley Hill side. Despite numerous requests for more information no adequate plan for the party wall has been received should demolition take place.
- Plans submitted by the owners of the pub and parties working for the owners do not detail proper weather protections for the party wall, and are in their current form only a temporary plan.
- There is no proper or long-term plan to ensure the stability and long-term future of the party wall nor any acceptable plan for the future longevity of the wall, or future guarantee of the wall once demolition has taken place.
- One of the key conditions for planning to be granted on the skittle alley and outbuildings of the Cross Hotel was for refurbishment of the main body of the pub following strong support from the village for the retaining a village pub.
- If the owners are not able to financially afford to rebuild the pub why have they begun the necessary works to enable the agreed planning permission to take place?
- If the owner is allowed to demolish the pub, the current agreed planning permission on the site must be revoked and it must be stipulated that no further development will be permitted on the site unless the pub is rebuilt to its current size and footing.
- If the owners of the pub are unable or reluctant to restore the pub, the council should mandate that they sell the asset to another party who is able and willing to restore and refurbish a vital community asset.
- Concerns with road closure and how this impacts upon emergency vehicles with queuing traffic at the lights
- Hours of work – Please can neighbours have 3 prior day notice of any out of hours working (noise)?
- Access for skip lorries is a concern, which could block neighbouring accesses
- There could be an increase in surface water flood risk to neighbouring properties.
- Party Walls – It is unclear what agreements have been negotiated.
- Site welfare and office accommodation – Construction Method Layout Plan shows this within the building
- How will foul sewage generated from demolition be dealt with?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy/Principle and procedure**
- 2. Loss of the community facility**
- 3. Highway issues**
- 4. Impact upon setting of listed buildings**
- 5. Impact on amenity**
- 6. Impact on ecology/biodiversity**
- 7. Land drainage/flood risk**
- 8. Other matters**

1. Policy/principle and procedure

- 1.1 This application has been made for planning permission for the demolition of the main building of the Cross Hotel which contains the public house element. A planning application would be required for the demolition of the building due to the fact that it relates to a drinking establishment whereby no permitted development rights for demolition via a prior determination is possible. The relevant section within the Town and Country Planning (General Permitted Development) Order 2015 (as amended) is Class B or Part 11 (Heritage and demolition) which confirms development is not permitted where:

*(c) the building is used, or was last used, for a purpose falling within—
(i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or
(ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order*

1.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Mid Devon Local Plan 2013- 2033 is now adopted and therefore takes primacy for decision making.

1.3 With respect to the policies of the Local Plan, Policy S1 of the Local Plan sets out that all development will be expected to support the creation of sustainable communities by the retention and development of local services and community facilities in villages. Policy S13 goes on to support small scale housing, employment, tourism and leisure; Services and facilities serving the locality; and other limited development which enhances community vitality or meets a local social or economic need within the settlement limit.

1.4 As the part of the property where demolition is sought relates to a public house, Policy DM23 (community facilities) is relevant. This states:

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

Proposals involving the loss of community facilities such as local shops, public houses, allotments, cultural and recreational facilities and other important local services will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.

1.5 Therefore in light of the above, the principle of the demolition works being accepted would only occur where material consideration would outweigh policies within the Local Plan.

2. Loss of the community facility

2.1 A number of the objections received to this proposal relates to the loss of a community facility and that there appears to be no measures put in place requiring the replacement of the public house or other community facility in its place.

2.2 Planning permission 21/01403/FULL was approved on appeal on the 24th November 2022 allowing for the refurbishment of public house and conversion of outbuildings to the rear to 3 dwellings with associated amenity space, parking and pub garden on site. It was during work on discharging associated conditions with this planning permission when walls started to fail requiring work to stabilise the building.

2.3 Policy DM23 states '*proposals involving the loss of community facilities such as local shops, public houses, allotments, cultural and recreational facilities and other important local services will not be permitted where this would damage the settlement's ability to meet its day to day*

needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable'.

2.4 At paragraph 4.71 of the supporting text for Policy DM23 it states;

4.71 The Council will guard against the unnecessary loss of valued community facilities and services. In circumstances where a community facility is proved to be no longer economically viable in a particular location, the Council will consider an alternative use. Assessment of viability will require the submission of detailed evidence relating to trading accounts, valuation considerations and the marketing of the business or property at a reasonable price for a minimum of 12 months.

2.5 In this case, the proposal is not asking us to consider a change of use or is seeking planning permission for a new development on site resulting in the removal of the community facility but rather an application made for demolition following inspections undertaken outlining that the building is no longer safe to work on. Building Control has advised that action under Section 77 of the Building Act overrides the requirement for Planning Consent to be obtained before a building is demolished. That said, it is noted that the planning process is underway and retrospective consent is being sought where conditions could be imposed and enforced. An objection was received stating that a surveyor (Mr Honeysett) working on behalf of the adjoining landowner has outlined that the building could be retained and repaired. The view of Building Control is that it is correct to say that technically it is possible to repair the building and indeed that was their starting position, however, having visited the site and inspected the building and taken the advice of the appropriate professionals (structural engineer, a scaffolding contractor and cob Specialist) it has been concluded with the Council's legal team that it is unsafe to attempt to repair the building and that demolition is the only safe and viable option.

2.6 With respect to the implications of Policy DM23 and securing a replacement community facility, Counsel Opinion was sought on this specific issue in light of the general objectives of Policy DM23 and the unique factors that impact upon this decision. It is noted that a number of objectors feel that the applicant has acted in a manner to allow the building to decline to such an extent where the only option is to allow for the demolition. On this point, the view of the Council Building Surveyor is that in their opinion, the condition of the building was down to the lack of timely maintenance and perhaps the type of render have contributed to the gradual decline of the building fabric. Therefore it could not be concluded that any deliberate actions were undertaken.

2.7 There is an extant planning permission on the site of the Pub, including the rear skittle area for the refurbishment of public house and conversion of outbuildings to the rear to 3 dwellings with associated amenity space, parking and pub garden. Officers have reviewed the planning permission for this development to understand whether there is an intrinsic link between the re-development and any refurbishment of the public house that is secured by planning conditions. There are no planning conditions requiring the housing approved in the outbuilding remain tied to the ongoing operation of the Pub, or are linked to the refurbishment in any way. Therefore, if the Pub is demolished Counsel Opinion is that they do not consider that there would be any restriction available to the planning authority to stop the housing in the skittle alley being built out and occupied irrespective of the public house's future.

2.8 Counsel Opinion was sought given the Council's concern that whilst application 21/01403/FULL ostensibly sought to support the ongoing operation of the Pub through a capital injection arising from conversion of outbuildings into affordable rental accommodation, the appeal decision did not tie the re-development of the outbuildings to the refurbishment of the Pub. There is no S.106

preventing fragmentation of the site. Unless the demolition of the Pub would make it physically impossible to deliver the permitted dwellings to the rear, then the permitted residential development to the rear is not a material consideration in the determination of the application.

- 2.9 A condition could not be attached that requires a replacement building because a replacement building does not form part of the application and is not necessary to make the development acceptable in planning terms. This is because DM23 envisages a further step will exist before a decision on demolition is made or a cleared site is considered to be acceptable, i.e. a viability report that considered the future of an extant business (including its premises) and the scope for an alternative business model to make the establishment a viable proposition. As the policy is drafted on that more familiar basis, it does not require like for like replacements for the demolition of community facilities. So such a condition would fail the legal and policy tests for attaching a condition to a planning permission. The appropriate mechanism to link the delivery of the residential units to the refurbishment of the public house would have been through a condition and/or legal agreement on the permission for those units. No conditions or legal obligation are in place and so the link cannot now be established.
- 2.10 Absent of a viability report that shows the Pub no longer to be viable, then the loss of it would be contrary to Policy DM23. However, the safety of the building is a material consideration in the determination of the Application. The advice of the Building Control Manager would need to be given due weight in the planning balance and, given the strength of that advice, Counsel Opinion is that it would be reasonable to conclude that the breach of DM23 is outweighed by the need to keep the public safe and therefore demolish the Pub.

3. Highway issues

- 3.1 As noted earlier in the report, the condition of the existing building and need for the scaffolding has result in a road closure which is having a knock on affect for traffic users. The current situation is Devon County Council Highways have been instructed by the Council's Building Control to implement a hard road closure on two sides of the building due to concerns regarding to the structural integrity of the proposed building to be demolished. Additionally, a pedestrian diversion has been implemented, requiring pedestrians to cross the A377 multiple times depending on their destination. The diversion is approximately 750 metres in length.
- 3.2 The local highway authority has advised that demolishing the building would allow the removal of the current short term traffic management hard closure and significantly reduce the journey distance for pedestrians. There may be some temporary disruption to the highway during demolition however once completed, the site in its demolished state will not have a significant impact on the road network or pose an unacceptable risk to highway safety. The local highway authority has noted that if the application is approved and it becomes necessary to place items or carry out work within the public highway, the applicant and/or contractor must obtain the relevant consents and licenses from the Highway Authority. A condition has been recommended for the submission and compliance of a [demolition management plan](#) which is a comprehensive document that outlines the procedures and protocols for safely and efficiently demolishing a structure taking into account the surrounding highway network. The applicant is working currently on this DMP having submitted a Demolition Method Statement and providing further information. The requested condition of the local highway authority has been included within the recommended conditions below but there will be an update at committee on scope to amend from a pre-commencement condition to that of a compliance only condition.

4. Impact upon setting of listed buildings

- 4.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 4.2 Policy DM25 relates specifically to development affecting heritage assets and states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:
- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;
 - b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;
 - c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;
 - d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and
 - e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).
- 4.3 The neighbouring property to the west of the site is a grade II listed building and over 20m to the south of the site is the Grade 1 listed Copplestone Cross located in the road junction. As this proposal is for demolition of the Cross Hotel, the outcome would be that of a more open site. Notwithstanding this, the Council's Conservation Officer has advised that the loss of this building would be highly detrimental to the setting of the nearby listed buildings and scheduled monument (Copplestone Cross) in their view as the public house is located on a prominent corner site on a Roman Road and adjacent to the cross roads of the village, making it a key part of the village's development and history.
- 4.4 However, the Conservation Officer has noted that in this instance, there are significant public safety issues to consider. As such, the view of the Conservation Officer is that further assessment would be required where any replacement structure is proposed as it will need to equal that which has been lost in order not to further harm the setting of the designated heritage assets. Therefore the Conservation Officer recommends a condition that no footings/foundations are disturbed, as there is strong likelihood of archaeology in need of recording under the building. In addition to recommend that hand demolition is used within 2 metres of the attached buildings to minimise disruption and prevent harm radiating to other buildings. This condition has been recommended.

5. Impact on amenity

- 5.1 Issues such as the impact of the demolition on the construction or occupation of the residential properties can be addressed through a conditioned demolition management plan. Building Control have advised that they are in receipt of a copy of a proposed Method Statement for demolition works and will attend site prior to demolition taking place to discuss any concerns

with the appropriate professionals with a view to minimising potential risk, but noting ultimately the liability in relation to the demolition process will sit with the owners of the building and the professionals they employ to design and facilitate the demolition. With regard to making the site secure once demolition is complete, this can be enforced by the Council should it be necessary.

- 5.2 The Public Health Team have raised no objections or requested any specific conditions. As part of this application, there is a Demolition method statement and demolition and storage plan and the Local Highway Authority has recommended the condition for the demolition management plan and advised that if this application is approved and it becomes necessary to place items or carry out work within the public highway, the applicant and/or contractor must obtain the relevant consents and licenses from the Highway Authority. It is considered that the demolition of the building would comply with Local Plan Policy DM1.

6. Impact on ecology/biodiversity

- 6.1 Through planning application 21/01403/FULL, the ecological appraisal (dated October 2018) confirms that there was no evidence of current or historic use of the buildings by protected species. An addendum report was provided (dated 8th July 2021) which confirmed that the building continued to show no evidence of use by bats. Evidence was noted of a sparrow using the building for nesting. It was concluded that on the basis that the works were carried out in accordance with the proposed mitigation measures, the proposal was unlikely to result in harm to any biodiversity interest at the site.
- 6.2 When it became clear an application would be made for the demolition of the building, the County Ecologist was consulted where he advised that given the lack of evidence of bats previously in the roof void, the recent re-roofing and lack of access, he concluded that no further updated bat surveys would be required. He also confirmed that the proposed demolition would be exempt from BNG requirements, being de minimus.

7. Land drainage/flood risk

- 7.1 The site is not in a flood risk area but concerns have been received that walls along the highway will need to be removed which would result in an increased surface water runoff from the site directly into the highway and neighbouring properties who are sited lower down. The neighbour has suggested that the applicant retain the building wall along Bewsley Hill to a minimum height of 45cm; to maintain the rainwater drain in the car park so surface water runoff flows down it without obstruction throughout the demolition.
- 7.2 The local highway authority has not requested any condition to deal with surface water drainage and the Building Control Officer has commented that they spoke with the Highways Team about this and they advised there have never been issues at this location and they are not concerned about the potential for flooding risk due to demolition.
- 7.3 Since then, Building Control have informed the case officer that they have requested to the local highway authority that all of the storm drains in the vicinity of the building are jetted at the end of the first stage of demolition, with the local highway authority has agreed to organise. Building Control have also explained to the neighbouring occupiers who raised concerns to drainage that the possibility of leaving a section of cob wall in place to direct the water is not feasible. Ultimately, if it doesn't collapse in the first place, the use of it to direct water is futile and will simply result in it being washed away. Instead Building Control have suggested that the permanent hoarding that is to be installed in the coming weeks be put back up in the area that is causing concern, by sandbags. This should then direct the water suitable to the exiting drain

network without causing any issues. Again, this has been agreed with the local highway authority. The situation will need to be monitored and that the drains will probably have to be jetted again moving forward.

- 7.4 A separate condition hasn't been recommended requiring new arrangements on site for surface water runoff measures from the site given the difficulty with timings and enforcing against. However, through the condition requirement of the demolition management plan which needs to be submitted and approved, details for the measures to be taken to deal with surface water runoff has been included within this document. As such Policy S9 could be complied with.

8. Other matters

- 8.1 Objectors have raised the matter of party wall agreements and detailed plans. The applicant has advised that significant additional scaffolding is being put in place to enable the demolition contractor to start work on Monday 21st July. This would be to remove the front sections of the building to allow the road to reopen. In addition, they are getting a party wall agreement in place so that full planned demolition can take place and both roads can reopen. It should be noted that a party wall agreement is generally considered a civil matter. The Party Wall etc. Act 1996 is designed to address disputes between property owners regarding building work affecting shared or adjacent property boundaries, and these matters are typically resolved through civil law processes, not by local authorities or planning department.
- 8.2 The Council's Building Control have advised the adjoining owner that while the Council are in communication with the owners of the Cross and have been provided with the most recent Party Wall proposal, ultimately it is the owners of the building who are responsible for ensuring adequate measures and protection are in place for the surrounding structures. When works impact the Party Wall, the owners of the Cross are required to give Notice under the Party Wall Act, and it is through this process neighbours have an opportunity to protect their rights and assets in conjunction with their Party Wall Surveyor and Structural Engineer.
- 8.3 The matter of the building or the site in general (should demolition be allowed), to be registered as an asset of community value has been raised by objectors and the Parish Council. It should be noted that this property was confirmed as an Asset of Community Value (ACV) on 11th December 2017 but the entry expired on the 11th December 2022 whereby 17/00003/ACV was removed from the ACV list.
- 8.4 As outlined above, the council's building control team has set out that in their professional opinion, having taken the advice of the Structural Engineer, a scaffolding Contractor and Cob Specialist and having inspected themselves, demolition is outlined as the only viable option on grounds of health and safety. It is not considered that the demolition of the public house would prevent a voluntary or community body with a local connection (for example a Parish Council) from seeking this designation.
- 8.5 Assets of community value can be nominated by parish councils or by groups with a connection with the community. If the nomination is accepted, local groups will be given time to come up with a bid for the asset if and when it is sold. These provisions are also known as the 'community right to bid'. In what would determine the value of an asset, the market value method bases the value of the asset on its market price or its projected price when sold in the open market. In the absence of similar assets in the open market, the replacement value method or the net realizable value method is used.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Demolition Management Plan (DMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of demolition;
 - (c) any road closure;
 - (d) hours during which delivery and demolition 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.
 - (g) areas on-site where delivery vehicles and demolition traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no demolition 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 demolition traffic will be present at the site;
 - (i) the means of enclosure of the site during demolition works; and
 - (j) details of proposals to promote car sharing amongst demolition staff in order to limit demolition staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all demolition traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of demolition worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
 - (o) Details for the measures to be taken to deal with surface water runoff.The development shall be carried out in accordance with the approved DMP.
4. No footings/foundations shall be disturbed during demolition works given the strong likelihood of archaeology being present and the need of recording under the building. Hand demolition shall also be used within 2 metres of the attached buildings to minimise disruption and prevent harm radiating to other buildings.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure that the proposed development does not adversely affect highway safety or its users in accordance with Policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033. This is

required to be agreed prior to commencement of development to ensure that appropriate measures are in place to avoid adverse impacts on highway safety or its users, during demolition.

The condition should be pre-commencement since it is essential that the proposed DMP shall be agreed before works begin to avoid unnecessary delays during demolition.

4. To protect amenity of neighbouring residents and archaeological evidence, in accordance with Policies DM1 and DM25 of the Mid Devon Local Plan and paragraph 218 of the National Planning Policy Framework (2024).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed demolition of Cross Hotel main building at Cross Hotel, Copplestone is considered acceptable as a matter of principle. Whilst the public house is a community facility, the Council's building control team who are the authority to deal with dangerous structures to ensure public safety has set out that demolition is outlined as the only viable option on grounds of health and safety outweighing the policy requirement to seek retention. The demolition of the building is not considered to adversely impact the character of the area or the setting of the nearby listed buildings. Neighbourhood amenity can be protected through the imposition of planning conditions and there are no objections in terms of flood risk or ecological impacts. As such, the development complies with policies S1, S9, S13, DM1 and DM25 of the Mid Devon Local Plan (2013-2033), and guidance in 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.

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. 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 are considered to apply.

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

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

Application No. 24/01571/FULL

Grid Ref: 295204 : 112566

Applicant: Samantha Barnett, Mid Devon District Council

Location: 5 St Paul Street
Tiverton
Devon
EX16 5HT

Proposal: Change of use of 6 bed house in multiple occupancy (Class C4) to 7 bed house in multiple occupancy (Sui Generis) and associated works

Date Valid: 25th October 2024



APPLICATION NO: 24/01571/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the landowner and applicant.

RECOMMENDATION

Grant planning permission

PROPOSED DEVELOPMENT

This application is for the change of use of 6 bed house in multiple occupancy (Class C4) to 7 bed house in multiple occupancy (Sui Generis) and associated works.

The property is a one of nine terraced houses located on the north side of St Pauls Street. It is a grade II listed building, being listed alongside the other properties in the terrace. The property is constructed from brick, with slate roofs, and is also located within the Tiverton Conservation Area. The building has previously been subject to the grant of planning permission to change its use from a single dwelling house to a house of multiple occupation (HMO) to accommodate six residents over two floors within the building.

This application seeks to carry out renovation works both internally and externally, to refurbish the building, which is now in quite poor condition, and to provide 7 bedrooms. This application for planning permission considers the change of use and any external works, which include the refurbishment of existing windows, including the replacement of sill/rail and glazing bars, replacement of attic windows, the introduction of an additional soil vent pipe, boiler flue and vents. Internal alterations, which include the conversion of the attic space into a further two bedrooms, the refitting of a bathroom to form a kitchen, replacement of central heating system, installation of ensuite bathroom pods into the 3 ground floor bedrooms, and installation of 2 bathroom pods into one first floor room with associated new pipes and ventilation runs, will be considered in more detail in relation to a concurrent application for Listed Building Consent.

The application has been amended since submission, with the original plan being to convert the building into an 8 bedroom HMO with all rooms fitted with ensuite bathrooms. The application was amended to its current iteration following objections from the Council's Conservation Officer and Planning Officers.

There is an existing yard to the rear of the property, which will provide space for cycle storage, as well as bin and recycling storage.

APPLICANT'S SUPPORTING INFORMATION

Completed Application Form, Plans, Covering Letters, Design and Access Statement, Heritage Impact Assessment, Initial Air Quality Assessment, Flood Risk Assessment, Flood Emergency Plan, Wildlife Trigger Table, BNG Statement for Validation, BNG Exemption Form

RELEVANT PLANNING HISTORY

08/00919/FULL - Change of use from single dwelling to multiple occupancy accommodation - WITHDRAWN

08/00920/LBC - Listed Building Consent for internal alterations - WITHDRAWN

08/01254/FULL - Change of use from single dwelling to multiple occupancy accommodation (Revised Scheme) - WITHDRAWN

08/01255/LBC - Listed Building Consent for internal alterations (Revised Scheme) - LISTED BUILDING CONSENT GRANTED

09/01601/FULL - Change of use from a single dwelling house to a house in multiple occupation (Revised Scheme) - PLANNING PERMISSION GRANTED

23/01255/LBC - Listed Building Consent for repairs to roof - LISTED BUILDING CONSENT GRANTED

24/01572/LBC - Building Consent for alterations to ground floor, first floor and second floor layouts, replacement of sill/rail and glazing bars on 4 windows, replacement of dormer windows with associated external alterations - PENDING CONSIDERATION

24/01600/LBCDOC - Details pursuant to the Discharge of Condition 4 (insulation details) of Listed Building Consent 23/01255/LBC - REFUSAL OF LISTED BUILDING DISCHARGE OF CONDITIONS

25/00055/LBCDOC - Details pursuant to the Discharge of Condition 4 of Listed Building Consent 23/01255/LBC relating to details of insulation - GRANT OF LISTED BUILDING DISCHARGE OF CONDITIONS

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
S9 - Environment
S10 - Tiverton
DM1 - High quality design
DM3 - Transport and air quality
DM4 - Pollution
DM5 - Parking
DM25 - Development affecting heritage assets

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
T16 - Encouraging safe and sustainable movement

National Planning Policy Framework

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

CONSULTATIONS

TIVERTON TOWN COUNCIL - 05.11.2024

The proposal, in the view of the planning committee, is over development and out of keeping with the street.

15/07/25

Discussed at Planning Committee meeting 14th July. The Committee reflected that there are evident misgivings from the Conservation Officer as to the application change from 6 bed to 8 bed occupancy.

From the Conservation Officers statements, the application appears to change on a regular basis.

The support for the application from CHAT was also noted, and one councillor reflected that should the application proceed, it would reduce the homelessness and use of B&Bs for emergency accommodation.

The Committee voted to not support the application to change from 6 to 8 bed occupancy based on the concerns from the Conservation Officer.

HIGHWAY AUTHORITY - 21.11.2024

The County Highway Authority has no objection to this application

SOUTH WEST WATER - 18.11.2024

South West Water have no observations on this application.

It is noted the applicant proposes to discharge surface water to the mains sewer, as is the current arrangement. SWW would also encourage the applicant to consider the provision of water butts or other attenuation measures to serve the property as part of these improvement works.

PUBLIC HEALTH - 19.11.2024

We have considered the application and do not anticipate any environmental health concerns subject to the development meeting the required Housing Act and Fire Safety standards for houses in multiple occupation. Advice should be taken by the applicant from the housing team within Public Health before commencement of any works in order to ensure that the proposals and works are compliant.

MDDC CONSERVATION OFFICER - 19.11.2024

Recommendation: **REFUSE**

No pre-app has been sought on this proposal.

The building is in need of maintenance, as it clearly has not been maintained in several years. Failure to maintain the building is not justification to replace appropriate or historic features with new ones. The house already functions as an HMO, and two additional rooms could be added to the second floor without alteration to the others. No reason has been given as to why the existing store room on the first floor could not be used as another bathroom or kitchen, rather than affect every other room in the house.

The house functions as an HMO, and while its optimum use would be as a single dwelling, the existing use has had a minimal impact on its plan form and fabric. The heritage assessment states at 7.1 that 'The large proportion of the significance of 5 St Paul Street derives from its architectural value. The house almost entirely retains its original plan form' and due to the loss of most internal fixtures and fittings, this plan form is a key part of its significance.

The insertion of bathroom pods within principal rooms is unacceptable in principle, and must be justified for less significant service rooms. The heritage impact assessment is incorrect at para 8.1 - 'this will not impact the existing historic plan form'. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room.

The proposed pods would obscure and alter the relationship of the fireplaces of bedrooms 2, 4 and 5, and windows to bedrooms 3 and 6. In addition, venting and additional pipework would need to be run through each floor to the rear of the property, removing historic fabric and creating an unacceptable appearance internally. The length of the pipe runs for the proposed toilets in the front bedrooms is significant, and likely not to be achievable in terms of fall. No analysis of the impact of these services has been provided within the DAS or HS.

Proposed DGU windows: the design of the casements is poor. The central mullion with the casements closed is proposed to be 163mm, which is very large for an attic window. There is no need for it to be more than 100mm, even with double glazing. The DGU exacerbates the poor design, and no evidence has been provided as to why it is needed, or why more appropriate forms of glazing cannot be fitted into the property.

The schedule of works only relates to the windows. Acrylic paint and hybrid polymers are unacceptable as these are plasticised substances that prevent breathability.

Conclusion: a large amount of less than substantial harm would be inflicted on this property for the creation of two extra bedrooms, while a reduction in accommodation is proposed for the remainder of the rooms. No heritage benefit would arise from the proposal, as the replacement of the attic windows is largely due to lack of maintenance. There would need to be a large amount of public benefit arising from the implementation to be balanced against the proposed harm, which is a matter for officers to assess.

16.12.2024

Hi Milad,

Comments in red below (***This references comments made by the Conservation Officer in respect to the applicant's responses to questions raised by the Planning Officer. These are added below in full.***)

I am willing to go on a site visit but strongly advise that the applicant consider an alternative location for additional HMO housing as it is unlikely that they will be able to achieve their goals in this property.

We have a pre-application process for a reason, and that is partly to save issues like this arising from people buying the wrong property for their needs. It is unacceptable for the Planning department to accept and approve poor applications and proposals simply because they are made by another Council department. If anything, the standard should be higher for us as we are directly housing our own residents.

Planning Officer Question: The building is in need of maintenance, as it clearly has not been maintained in several years. Failure to maintain the building is not justification to replace appropriate or historic features with new ones.

Applicant Answer: MDDC have recently acquired the building, the application is an intention to repair and maintain the building for the most viable future use for essential housing need to reverse the lack of maintenance in previous years. Design features can be changed by revised plans.

Conservation Officer Comment: The property was purchased by MDDC in December 2022. Since then, an application has been made for works to the roof and inappropriate materials have been put into it without permission or consultation. The Council is now in the position of having to use additional resources to rectify this issue.

Planning Officer Question: The house already functions as an HMO, and two additional rooms could be added to the second floor without alteration to the others. No reason has been given as to why the existing store room on the first floor could not be used as another bathroom or kitchen, rather than affect every other room in the house.

Applicant Answer: The store to the front elevation cannot be used as a kitchen or a bathroom as it is almost impossible to route the drainage to the rear of the building due to the staircase being present. There is also, not enough fall to the pipework to achieve this. There would also need to be extract ventilation provided to these room that would result in a slate vent or wall vent to achieve this.

Conservation Officer Comment: This is good justification, many thanks. This kind of thing needs to be included in a design and access statement to show the narrative of the process so we can understand why the proposal is how it is.

Applicant Answer: All drainage was carefully considered so that the pipework discharges to the rear of the building where the inspection chamber is. All ventilation extract from the bathroom was also carefully considered so that it vents to the rear of the building (wall and roof).

Conservation Officer Comment: Discharging to the rear is suitable, but not taking the pipework and venting through the building in the manner shown. Only proposed bedrooms 3 and 6 are directly adjacent to the rear wall, therefore meaning minimal harm to the fabric of the building. Bedrooms 1, 2, 4, 5, 7, and 8 all propose harmful pipework through the rooms, floors, and roof, with no further information provided. Running pipework through floors often means notching or cutting through joists, which weakens the floors. Boxing in pipework under the ceiling means harming the appearance of the room. Every room has different venting and discharge points, meaning the rear elevation becomes a myriad of different vents and pipes.

Planning Officer Question: The house functions as an HMO, and while its optimum use would be as a single dwelling the existing use has had a minimal impact on its plan form and fabric. The heritage

assessment states at 7.1 that 'The large proportion of the significance of 5 St Paul Street derives from its architectural value. The house almost entirely retains its original plan form' and due to the loss of most internal fixtures and fittings, this plan form is a key part of its significance.

Applicant Answer: The building will not be reverted back to one dwelling, given the size of the building and no parking and very limited external amenity space this would not be appropriate for one family dwelling. The loss of multiple social housing bedrooms to revert to one family home is not a public benefit, this would be very detrimental and not an optimum viable use of the heritage asset, contrary to policy.

Conservation Officer Comment: Turning the building back to a single dwelling has never been suggested. The process of proposing alterations to a listed building is to look at the optimum viable use in the first instance: the optimum use is a single dwelling, but as this is already an HMO, the optimum viable use is to continue that use.

Applicant Answer: For the ground floor room 1) there is the original black marble surround and hearth, the ensuite is located to avoid impinging on this, whilst this does alter the internal layout, these are modern elements which would be removed without loss of historic fabric. There is one cupboard being removed and the heritage statement submitted confirms that this has limited impact on the building.

Conservation Officer Comment: There is a lack of understanding about the significance of the building. The applicant's heritage statement states that the original plan form is almost entirely retained, and yet focuses on the lack of historic internal fixtures and fittings without acknowledging this important plan form as being of significance.

Planning Officer Question: The insertion of bathroom pods within principal rooms is unacceptable in principle, and must be justified for less significant service rooms. The heritage impact assessment is incorrect at para 8.1 – 'this will not impact the existing historic plan form'. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room. The heritage impact assessment is incorrect at para 8.1 – 'this will not impact the existing historic plan form'. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room.

Applicant Answer: The plans could be reconfigured so that there is a communal bathroom space on each floor so bed 3 on the GF becomes the communal bathroom for that floor. The existing bath/shower room is maintained to the first floor and the attic bedrooms retain the en-suites as there is less significant architectural merit within the loft. All the partitions proposed will be demountable studwork, with minimum harm to the existing fabric.

Conservation Officer Comment: The partitions would be removable, but the venting and plumbing would not be reversible, as fabric must be lost in order for them to be inserted. The application process is not the time for fundamental alterations of the scheme, i.e. changing from multiple pods to an alternative bathroom. En-suites to the attic are still inappropriate and not supported.

Planning Officer Question: The proposed pods would obscure and alter the relationship of the fireplaces of bedrooms 2, 4 and 5, and windows to bedrooms 3 and 6. In addition, venting and additional pipework would need to be run through each floor to the rear of the property, removing historic fabric and creating an unacceptable appearance internally. The length of the pipe runs for

the proposed toilets in the front bedrooms is significant, and likely not to be achievable in terms of fall. No analysis of the impact of these services has been provided within the DAS or HS.

Applicant Answer: All of the drainage has been discussed with a plumber and the outlets and pipework are in their optimal positions (shortest route and least impactful).

Conservation Officer Comment: There is no mention in this comment of the appearance within the rooms or the relationship to the fireplaces or windows.

Planning Officer Question: Proposed DGU windows: the design of the casements is poor. The central mullion with the casements closed is proposed to be 163mm, which is very large for an attic window. There is no need for it to be more than 100mm, even with double glazing. The DGU exacerbates the poor design, and no evidence has been provided as to why it is needed, or why more appropriate forms of glazing cannot be fitted into the property.

Applicant Answer: We can improve the design to the DGU/casement windows, however single glazing would be a retrograde step as all the windows will run with condensation in the winter months, double glazing will stop black mould occurring to the inside of the frame this preserving the longevity of the frame.

Conservation Officer Comment: Single glazing was not suggested, but the applicant has a requirement to provide clear and convincing justification for harmful proposals. The design of the windows is harmful, and if part of that poor design has arisen from the insertion of double glazing, then analysis of why it is the only form of glazing that would function in this location is required. It is known that double glazing is less successful in terms of energy, longevity, and acoustics than putting in secondary glazing in breathable buildings, which is why all applicants are required to justify their proposals. Black mould only occurs where there is too much water, not enough heat, and not enough ventilation, and none of that arises from a change of glazing. New windows would be supported if they were appropriate, but this has not been provided.

Planning Officer Question: The schedule of works only relates to the windows. Acrylic paint and hybrid polymers are unacceptable as these are plasticised substances that prevent breathability.

Applicant Answer: These schedule of works were provided by the window audit consultant. We can expand upon the schedule of works to provide/amend the additional details required.

Conservation Officer Comment: This is appreciated, thank you.

05.02.2025

Following our site visit on Wednesday 8 Jan, the statement from the Housing Options Manager on Thursday 9 Jan, the email from the Housing Initiatives Officer on Wednesday 29 Jan (forward to me on Wednesday 05 Feb), and the receipt of revised plans on Thursday 30 Jan, I have the following comments. Apologies for the flow jumping around a bit, but as can be seen from the timeline above, the required information has arrived in stages rather than being submitted for consideration at the application submission stage. There has also been a disconnect between the applicant and their agent as comments given to one has not in every instance been passed to the other for consideration. This was clear on the site visit where housing colleagues had not been made aware of the comments given to the agent, and that the agent did not know the site visit had already been undertaken.

The starting point for any proposed works of alteration to a listed building is to consider whether they would impact on the significance of the property, therefore the significance needs to be assessed

and provided by the applicant (NPPF 2025 207). A basic heritage statement has been supplied, focusing mainly on the area around the house, but with some mention of the individual house.

The use of the house as an HMO has already been established, and has permission to house 6 occupants. Under current housing regulations, the house does not have sufficient kitchen and bathroom space for 6 people, but does have sufficient compliant facilities and space for 5 people. In policy terms, these are 'units', and there is no policy position requiring them to be used for social or private housing. Therefore the public benefit is considering the change from 5 units to 8 units only. Unfortunately this means that the arguments regarding the standards and difficulties of accommodation and the cost to the council are relatively low considerations as they are not a matter of consideration within the local plan.

Given that there is no policy situation, where the Council cannot restrict the use of any units here solely to Council homelessness client, or even to be used solely for social housing, these units must be considered in the same manner as if they are proposed to be units available on the open market. The Council must apply the same legislation and policies when considering the Housing department in the same manner as they would for a private landlord for non-social units. Therefore, the situation is that 6 units are permitted, and 5 are possible. Officers must balance the creation of 2-3 units against the high level of less than substantial harm proposed.

Within this property 5 HMO units with shared facilities can be accommodated without further harm to the building. This should be the starting point, and would house 5 more people than the council can currently support in their existing buildings. The fact that this is not the type of accommodation that the council desires to use it for it a moot point - the council's housing department does not just provide en-suite homelessness accommodation, therefore it has other people that could be housed here.

Considering the purchase of the property, the time and resources that have gone into the works needed at this property could have been avoided by pre-application discussions with the planning department prior to purchase. As the purchase had to go to at least one committee before it happened, there was sufficient time to do this but the opportunity was not taken. Had the planning department been approached, the issues that had arisen at the property could have been taken hold of (e.g. the lack of compliance with the approved plans, the unauthorised occupants, etc.) and the housing department would have been advised of exactly how difficult, lengthy, and expensive the process would be, likely resulting in the council not purchasing the building. I reiterate the point that selling the property would be the best outcome for all and this should be undertaken as soon as possible to enable more appropriate accommodation to be found. Just because there are few houses registered as HMOs does not mean that more cannot be in houses that can accommodate the changes.

In this instance, the optimum viable use has already been secured through the use change from C3 to C4 in 2009 (09/01601/FULL), therefore the change from C4 to sui generis (or from 5 units to 8) is the issue at stake here.

The Council has a statutory requirement to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses', as set out in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset). Local plan policies are material to the consideration of the determination of the application, but do not have the same statutory weight they have in a planning application. To put it bluntly, if the listed building would

be harmed by the proposal, it needs to be changed. If it cannot be changed as it would not secure the optimum viable use, then policy-compliant public benefit must be provided that can be balanced against the harm, i.e. at least as much benefit as harm is proposed. The harm in this instance would be irreversible, therefore that is what the benefit should be. As seen above, due to the policy situation, this cannot be.

The condition of the property and its unauthorised level of occupants at the time of purchase is not a heritage consideration, as anyone purchasing a listed building also buys those liabilities. Therefore there is no heritage benefit arising from the restoration of the property to a habitable state, and this cannot be considered as a benefit in terms of balancing harm.

The harm to the property has been discussed in my previous comments of 19 Nov 2024 and 16 Dec 2024. There is a misunderstanding from both the agent and applicant that the insertion of bathroom pods involves just the insertion of reversible partition walls and would not be harmful; this is not true, as there would be additional venting and soil pipework that would need to go through historic walls and floors. This would be irreversible and constitute harm as the fabric would be lost. In addition, the floor plan would be altered. This is seen in the heritage statement as part of the building's significance, but is not acknowledged or understood by the agent or applicant, and this is understandable, as it seems to be a rather theoretical and unimportant factor when considering the housing of homeless people. It is, but it is part of the listed building's significance and therefore needs great weight applied to it. Although the partitions are theoretically removable, we have seen from the 1960s-80s insertion of bathroom pods throughout the country that this does not often happen, and that it causes high levels of harm to room proportions and fabric which takes considerable resources to rectify. For these reasons, bathroom pods are now rarely permitted in listed buildings, and usually only where there has already been a huge loss of significance/the harm has already occurred.

To conclude, the use of the house as an HMO for 5 people with shared facilities is possible, permitted, and supported. The fact that the housing department does not want to use these facilities is not the 'fault' of the house, and therefore the conclusion is that the department wants to use the house for something it cannot be used for without any benefit to the house. The proposal would not maintain the significance of the property, and would not enhance it. The proposal therefore does not comply with the Act, National Policy, or Local Policy, and should be refused accordingly.

I am aware that this application will need to go to Planning Committee for decision. Please let me know if I am required to attend and when that will be.

09.07.2025

Dear John,

Many thanks for the revised plans for these applications. There is confusion regarding the numbering of the rooms on the plans, therefore for clarity I have used the locations of the rooms looking at them from the street instead. In addition, the description would need to be amended as only 7 bedrooms are proposed in this revised scheme.

Please note that my comments regarding the significance of the property and the objection in principle to bathroom pods still stand and are unchanged by the revised plans.

The harmful bathroom pods have been removed from the front two bedrooms on the first floor, and both rooms on the second floor. However, these harmful pods are still proposed in bedrooms 1-3, and there are two proposed for the rear left room instead, which appears to be contrary to the stated intention for the residents to have self-contained units (excepting kitchen facilities).

If the rear left room on both the first and ground floors were bathrooms instead, this would minimise the harm proposed and still provide 6 bedrooms, one more than is currently usable in the property. That would still be harmful – the pipework, the use of a main room for services - but would be significantly less harm than is proposed with the insertion of pods.

There is still the issue that the significant level of harm proposed would need to be weighed against the public benefit of 1-3 additional units. These units can only be classed as 'units' and not given any social housing weighting as there is no way to guarantee this, whoever the landlord/owner of the property is. There would be no way to reinstate the lost fabric once the harmful interventions were removed by a future owner.

Ultimately, this property cannot accommodate bathroom pods without incurring significant and irreversible harm to fabric and form.

At present, it can provide bedrooms, a kitchen, and a bathroom for 5 tenants as an HMO, compliant with both Planning and Housing legislation and policy, with no additional harm.

It could provide bedrooms, two kitchens, and two bathrooms for up to 6 tenants as an HMO, again compliant with both Planning and Housing legislation and policy, with a low to medium amount of less than substantial harm. This would mean 1 additional unit.

It cannot provide bedrooms, two kitchens, and 5-8 bathroom pods for up to 8 tenants as an HMO and also be compliant with Planning and Housing legislation and policy due to the high amount of less than substantial harm. This would mean 2 additional units (revised scheme) or 3 additional units (original scheme).

It is for officers to balance the less than substantial harm to a nationally designated listed building against the provision of 1-3 additional units.

The application should be refused as it is not compliant with local or national planning policy.

REPRESENTATIONS

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

One letter of support was received from the CEO of CHATs (Churches Housing Action Team), making the following comments:

- CHATs support increasing provision for temporary accommodation in Tiverton.
- There is a growing number of clients needing emergency accommodation. CHATs are pleased to work alongside MDDC Homeless Team in supporting clients while suitable long-term accommodation is sought.
- Individuals that CHATs support often face complex challenges and current reliance on hotel accommodation, often out of town and disconnected from essential services and support networks, does not meet their needs.
- Appropriate temporary accommodation for vulnerable individuals is a vital step to tackling homelessness and creating stability needed to enable clients to rebuild their lives and transition into long-term housing.

- There is an acute shortage of appropriate accommodation for single women, making ensuite facilities particularly essential to ensure their safety and dignity.

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, including Impact upon setting of listed buildings and the character and appearance of the Conservation Area**
- 3. Applicant's case, including public benefits**
- 4. Flooding and drainage**
- 5. Residential amenity**
- 6. Highway safety**
- 7. Biodiversity Net Gain**
- 8. 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.
- 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 The site is within the Tiverton defined settlement boundary where residential development is permitted in principle by policies S1 and S10 of the Mid Devon Local Plan 2013. The change of use of this existing 6 bedroom house in multiple occupancy, from a use falling under Planning Use Class C4 to a house in multiple occupancy (sui generis), providing a 7 bedroom property, would contribute to meeting the housing needs of the District. It is particularly noted that the intended use would be for the temporary housing of at risk people who are homeless or at risk of becoming homeless, while long-term solutions can be sorted out. There is a shortage of such accommodation, which Mid Devon District Council has a duty to provide.

2. Design and impact on the character and appearance of the surrounding area, including Impact upon setting of listed buildings and the character and appearance of the Conservation Area

- 2.1 Policy DM1 of the Local Plan seeks high quality design that demonstrates a clear understanding of its context. This policy also requires that the development does not have an unacceptable impact on the privacy and amenities of neighbouring uses.
- 2.2 The proposed development does not include the extension of the existing building, however does include significant alterations to the ground floor of the property primarily, with internal alterations proposed to accommodate the formation of three ensuite bedrooms at ground floor, the installation of two bathroom pods within one bedroom at first floor level, a second kitchen, and installation of a new central heating system, with accompanying works including the installation of additional services such as water supplies, drainage pipes, and air extraction systems. These additional facilities would also necessitate the installation of several new external vents and soil pipes. Other external works include the repair and replacement of damages and dilapidated windows.
- 2.3 Policy DM1 of the Local Plan sets standards for new housing, including internal floor space standards by way of the Nationally Described Space Standards. Housing should achieve adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows; and suitably sized rooms and overall floor space which allows for adequate storage and movement within the building together with external space for recycling and refuse.
- 2.4 The proposed rooms within this house in multiple occupation would meet the minimum floor space requirements set out in the Nationally Described Space Standards, with external space within an existing courtyard and for the storage of bins, recycling boxes and bicycles.
- 2.5 In addition to the property being a grade II listed building, the site is located within the Tiverton Conservation Area. Paragraph 207 of the NPPF advises that “in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.”

- 2.6 The above requirements in respect to heritage assets are echoed in policy S9 of the Mid Devon Local Plan, which includes the requirement that “development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets through...the preservation and enhancement of Mid Devon’s cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance, such as listed buildings, conservation areas, scheduled monuments and local heritage assets.” Policy DM25 also states that “heritage assets and their setting which are irreplaceable resources accordingly the Council will:
- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
 - b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
 - c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
 - d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and
 - e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”
- 2.7 In considering applications affecting heritage designated heritage assets, the council also has a duty set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest, which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision 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.
- 2.8 In considering the proposals generally, Council’s Conservation Officer originally commented, raising a range of concerns in regard to the proposal, and ultimately recommending refusal. The bulk of these comments, as detailed in the ‘Consultations’ section of this report, revolve around the works proposed to accommodate the additional bedrooms, and in particular the formation of ensuite bathrooms within each of these bedrooms, and the damage that would be done to the historic fabric of the building through introduction of services required to supply water and power to these bathrooms, and to provide drainage and ventilation. Not only will this introduce additional pipework and ventilation to all rooms of the house, these will have long runs to avoid needing to exit the property to its front elevation. These will have to pass through the house floors and walls of the property, not only impacting on the visual appearance of the individual rooms and building as a whole but also removing historic fabric.
- 2.9 In addition to the impact on historic fabric, there was to be a significant loss to the character and significance of the heritage asset by loss of the buildings original plan form. The property is in a dilapidated state and in need of repair and refurbishment, with the submitted heritage assessment identifying that the property has been extensively updated in the late 20th Century, with only a few of its original internal fixtures and fittings remain, which diminishes the building’ architectural value. Nonetheless, the heritage statement also notes that the house almost entirely retains its original plan form, i.e. its original room layout and proportions. The Conservation Officer had highlighted the fact that all rooms within the house, except for one bathroom, are maintained in their original configuration, as undivided rooms. Noting the harm

already done to the building, this emphasises the importance of the plan form, which is a key part of the heritage asset's significance. The initially proposed introduction of ensuite bathrooms to the currently undisrupted rooms would have led to harm to all eight bedrooms by way of distorting their proportions and introducing pipework and venting. The Conservation Officer also noted that the proposed bathroom pods would obscure and alter the relationships of the fireplaces in three of the rooms and the windows in two of the rooms. Overall, almost the entire building would have been harmed by the proposed works required in association with providing the additional living accommodation, and the proposed ensuite bathrooms to each bedroom.

- 2.10 On the basis of these comments, and following further discussions with officers, the application has been revised to its current form, which continues with the significant alteration of the ground floor rooms, by way of installing bathroom pods into each of the existing bedrooms, and associated damage to historic fabric through the need to install new service runs. With the exception of the alteration of one room to form a bathroom area, with two separate bathroom pods installed, and the fitting of a kitchen within an existing bathroom. The remaining four bedrooms, two at first floor and two at second floor level, will retain the existing plan form.
- 2.11 The proposed works also include the changing of the attic windows and repair and restoration of several of the other single glazed sash windows throughout the building. The Conservation Officer did object to the proposed attic window replacements, as well as the method for finishing the windows generally, however amended details have been submitted to the Conservation Officer's satisfaction.
- 2.12 In respect to the impact on the conservation area, the frontage of the property would be largely preserved, with satisfactory repairs and replacement of existing frontage windows being broadly acceptable. Whilst it is considered that the alterations to the rear, which would introduce new soil pipes, openings and vents would cause harm to the significance of the listed building, it is considered that these works would largely preserve the character and appearance of the conservation area.
- 2.13 Noting the harm identified by the proposed development, National Planning Policy Framework paragraphs 212, 213 and 215, are of particular relevance and must be considered. These state the following:
- “212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- 2.14 In addressing levels of harm, it should be noted that even the smallest amount of harm will be considered to be 'less than substantial harm', and will require justification and assessment against the any public benefits. On this basis, the term 'less than substantial harm', will apply to varying levels of harm, from very minor adverse impacts to significant adverse impacts on

the significance of the heritage asset. In their previous comments, the Council's Conservation Officer identified that the levels of less than substantial harm would be significant with loss of historic fabric, and an almost total loss of the plan form of the listed building, that being its primary remaining source of significance. The amendments reduce the amount of harm to the plan form, with the ground floor now primarily affected, however the Conservation Officer still maintains an objection due to the level of harm identified, albeit reduced from the original submission. An assessment of the identified harm against the public benefits will be carried out in the planning balance section towards the end of this considerations section. Ultimately it will be for the decision maker to determine the level of weight given to the public benefits, and to determine whether these outweigh the identified harm.

3. Applicant's case, including public benefits

- 3.1 Noting the requirements of the applicant in respect to justifying works to the heritage asset, and in particular needing to provide clear and convincing justification for any harm to, or loss of, the significance of the designated heritage asset, the applicant has sought to identify why the works are proposed, and to demonstrate that there are sufficient public benefits to outweigh the identified harm.
- 3.2 The applicant firstly notes that the Council has a statutory duty to deliver a homelessness function under Section 182 of the Housing Act 1996, the Homelessness Act 2002 and the Homeless Reduction Act 2017. Other significant areas of legislation are The Equality Act 2010, the Human Rights Act 1998, the Children Act 2004 and the Health & Social Care Act 2012.
- 3.3 The applicant has advised that homelessness is unpredictable, often unavoidable and can be immediate, resulting in the need to access accommodation at short notice for the Council to fulfil its legal duties. To do so, the Council either need to have suitable temporary accommodation in its ownership to accommodate those in need, otherwise there is a need to rely on hotel rooms and B&B bedrooms to meet this need. Amongst the risks to the Council of relying on the latter options is the cost of this type of accommodation, which is not sustainable in the long-term, and also the limited number of hotels/rooms available within Mid Devon District. The limited availability, particularly during peak tourism times can lead to homeless clients having to be accommodated outside of the district, where they can be cut off from support services and networks, as well as incurring additional transport costs. There are also client safety and welfare concerns with this type of accommodation having limited access to cooking facilities, as well as often limited availability of rooms to meet a disabled person's needs.
- 3.4 It is advised that as of 13th December 2024, there were 15 hotel rooms being used by the Housing Options team's clients, who were vulnerable single adults, of which one was disabled. In seeking to better fulfil their statutory function, and provide more suitable accommodation within the Council's ownership, opportunities are sought to purchase properties that can provide for this identified need. In this case, 5 St Paul Street was purchased as a property that already benefited from planning permission for the use as a six bedroom house in multiple occupation. The purchase was completed following Cabinet approval.
- 3.5 The submitted information confirms that the property must, as a minimum, achieve the standards expected by private rented, licensed HMOs under the Housing Act 2004, which it is understood does not require the provision of individual bathrooms, however the applicant has advised that it is the Council's intention is to provide accommodation that achieves a much higher standard and also meets the very specific needs of the most vulnerable users.

- 3.6 The applicant has identified that whilst there may not be a legislative requirement to provide ensuite bedrooms, there are mitigating reasons for doing so. In particular, it is suggested that in the case of the most vulnerable clients that allowing rooms within an HMO to have their own bathroom facilities is vital for the dignity and safety of vulnerable individuals. Additionally there are some people that are unable to share bathrooms for health reasons such as stomas or incontinence. Sharing bathrooms can also cause particular upset in shared households, especially where there are mixed sexes residing within the property. In particular, it is noted that homeless individuals routinely have physical and trauma related conditions. Configuration of the property so that occupants would be required to share a bathroom could lead to a situation where a communal area has to be crossed. Whilst it is suggested that this would be less problematic when needing to access a communal kitchen, the sharing of bathrooms to access a toilet or shower could put an already vulnerable person at risk. It is further argued that Articles 3 and 8 of the Human Rights Act 1998 are directly relevant to the provision of suitable accommodation and the right to 'physical or psychological integrity'. Considering the heritage concerns identified, the proposal has been amended as previously described, however the applicant considers that for the reasons above, the provision of three ground floor rooms that provide ensuite bathrooms should be retained as this will allow them to be accessed by people with reduced mobility, as well as being able to be occupied by more vulnerable people that may be less suited to sharing a bathroom. In contrast the rooms at first and second floor can be occupied by slightly less vulnerable people, or those with restricted mobility, but whom are still in need of temporary accommodation. The provision of two bathroom pods within one room will increase the amount of bathroom space, whilst offering individuals more privacy in the shared areas of the house.
- 3.7 The applicant has highlighted that the Homes PDG (Policy Development Group) recently resolved to enable acquisition and remodelling of temporary accommodation following a Devon Housing Commission Report, which amongst other things, highlighted that Devon homes were under occupied and poor quality. In this case, it is suggested that the proposed works seek to remodel an existing HMO, utilising a building for housing that is unlikely to be used in any other way, and prioritises local need.
- 3.8 It is asserted that the current housing crisis is reducing the availability of private rental placements to relieve the homelessness duty, putting more pressure on temporary accommodation. More private landlords are said to be selling their properties, and less new landlords are buying property to let, leading to a lack of affordable single person accommodation in Mid Devon. It is suggested that the risk to property such as this is that it will remain empty, becoming derelict, resulting in a loss of the asset to neglect, should flexible use of the building not be considered.
- 3.9 Following the initial submission, and associated objections, officers have sought to negotiate with the applicant, seeking alternative layouts and solutions that would reduce the level of harm being caused to the building. These options include extending the building to provide some additional facilities, reducing the amount of accommodation proposed, and providing a reduced number of ensuite bathrooms, allowing some of the plan form to be retained, rather than complete loss. The applicant has considered several options, ultimately concluded that to meet their needs, and those of the Council's homeless clients, their needs to be at least some provision of ensuite bathrooms. As such, there remains less than substantial harm to the significance of the heritage asset, although this is now primarily limited to the ground floor, with less invasive alteration now taking place at first and second floor level. It is suggested that level of harm is not so significant given that there has already been the introduction of some harm by the installation of internal plumbing, modern electrics and fire safety requirements that are inherent with modern living and the property's existing use as an HMO.

- 3.10 Overall, the applicant concludes that there is a public benefit in providing additional, Council owned, temporary accommodation for vulnerable homeless people, in line with the Council's statutory duties. It is also argued that the harm is of reduced significance noting that the introduction of modern living facilities will already harm the heritage asset. The applicant therefore considers that the public benefits arising satisfy the requirements of the NPPF in respect to justifying the proposed works and balancing the identified less than substantial harm against public benefits.

4. Flooding and drainage

- 4.1 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.
- 4.2 In this case, the property is located within Environment Agency designated Flood Risk Zone 3, which is a high risk of flooding. As such, the Environment Agency have been consulted, although have not provided a response. Notwithstanding this, consideration must be given to the proposed use and the risks of flooding, particularly in respect to the safety of residents, should a flood event occur.
- 4.3 Use of a building as a dwelling house is classified as a more vulnerable use, which may be permitted in Flood Risk Zones 3a subject to the application of The Sequential Test and Exception Test. In respect to the Sequential Test though, it is noted that the proposal represents a change to the use of the building within the same level or vulnerability (more vulnerable), in which case the Sequential Test need not be applied.
- 4.4 In respect to the Exception Test, following satisfactory conclusion of the Sequential Test, or in cases where it is not applicable, before granting planning permission, it should be demonstrated that:
- development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
 - the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 4.5 In respect to the second point, whilst there would be an increase in the number of bedrooms, and therefore number of residents that could reside within the property, there is no increase in the number of bedrooms at ground floor level, the part of the property most vulnerable to the impacts of flooding. The Exception Test does need to be considered but in giving this consideration, the lack of increase in living accommodation at ground floor level and agreement of a flood evacuation plan does allow the view to be taken that the development will be safe for its lifetime. Furthermore with consideration given to use of the property in relation to the Council's statutory duty to deliver a homelessness function, and the ability to provide additional accommodation in the Council's own control, it is felt that there are wider sustainability benefits available to the local area as a result of the proposal, meeting the first point.
- 4.6 Having considered the above, the proposed development is not considered to lead to any increase in flood risk in the area, and the accommodation is considered to satisfactorily meet

the requirements of the Exception Test, thereby according with the requirements of the NPPF and Local Plan policies S9 and DM1.

- 4.7 Foul drainage would remain as existing, with discharge direct to the local sewage network. There will also be no additional impact development leading to an increase in surface water runoff.
- 4.8 Overall, there will not be any impact on flood risk or increased pressure on existing surface water drainage provision.

5. Residential amenity

- 5.1 Policy DM1 of the Mid Devon Local Plan 2013 - 2033 sets out that new development should respect the privacy and amenity of neighbouring residents.
- 5.2 In this case, the property is already in use as a house of multiple occupation, and the increase in number of bedrooms proposed, and as such number of residents, is not considered likely to lead to an unacceptable impact on the living conditions of neighbouring properties. The Council's Public Health Team have commented, raising no objections in this regard. They have referenced the need to meet the required Housing Act and Fire Safety standards for houses in multiple occupation, however this is not seen as a constraint in principle to the development proposed, with it recommended that the applicant seek advice from Public Health prior to commencing any work to ensure that the works are compliant.
- 5.3 Overall, it is considered that the proposed development would not lead to unacceptable harm to residential amenity, in accordance with Local Plan policy DM1 and the aims and objectives of the NPPF.

6. Highway safety

- 6.1 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.
- 6.2 At present the building does not have any off street parking and none is proposed.
- 6.3 The Highway Authority have commented on the application, raising no objection. As there is no access to be provided, there will be direct impact on the local highway network, however policy DM5 of the Mid Devon Local Plan 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. While it is acknowledged that the proposal would not be served by any off-street parking, it is noted that this is consistent with the existing situation, with no parking being available when used as a house in multiple occupation. In considering the increase in the number of bedrooms proposed, it is noted that the residents are expected to be vulnerable individuals who are unlikely to have access to a motor vehicle. Furthermore, the site is close to Tiverton town centre, within very close walking distance of shops, facilities and public transport required for day to day living and it would not be essential to use a car in this location. There are also several public car parks in close proximity to the proposed dwellings, should parking be necessary. On this basis, it is therefore considered that a car free development can be justified in this location.

- 6.4 Overall, the proposed development is deemed to be acceptable from a highway safety point of view, and there are no objections to the proposed variation to the standard requirements of policy DM5 of the Mid Devon Local Plan.

7. Biodiversity Net Gain

- 7.1 Due to the scale of development and its siting on existing sealed hard surfaces, with no material impact on any habitat, the development is exempt from mandatory requirements for 10% Biodiversity Net Gain (BNG).

8. Planning balance

- 8.1 As detailed in earlier sections of this report, the proposed development comprising the change of use of a 6 bedroom house in multiple occupation (C4) to a 7 bedroom house in multiple occupation (sui generis), in the manner proposed, would lead to less than substantial harm to the significance of the heritage asset due to erosion of the plan form of parts of the building, by introduction of ensuite bathrooms to ground floor bedrooms, and the associated need for additional services such as pipes and vents, that would harm the historic fabric of the building, as well as harm its external appearance.
- 8.2 In considering this application that will affect designated heritage assets, Members are reminded that the Council has a duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest, which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision 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.
- 8.3 In identifying that there will be harm to the significance of the heritage asset, Members are also reminded that the requirements of the National Planning Policy Framework must be properly considered and satisfied. Paragraphs 212, 213 and 215 state the following:
- “212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- 8.4 Members will note that the Council’s Conservation Officer identified that the less than substantial harm caused by the proposed works are significant, leading to complete loss of the currently preserved plan form of the building at ground floor level, which is a key part of its significance, noting that most of the other features of historic significance have been lost.

- 8.5 The applicant has highlighted public benefits in the provision of in-demand temporary accommodation, a type of which is necessary to meet the Council's statutory duties, and reduce the need to house vulnerable people in hotel accommodation, often outside of the district, distant from support services and networks, and at great cost to the Local Authority. It is also suggested that the works would allow the refurbishment of this listed building, otherwise preventing it falling further into disrepair.
- 8.6 The Conservation Officer has further responded to these suggested public benefits. As a starting point, they suggest that the restoration of the property should not be considered as a benefit, as notwithstanding the condition at the time of buying, purchasers of a listed building also buy the liabilities associated with owning such a property. In respect to the harm to the significance of the heritage asset due to loss of the plan form of the ground floor of the building, and loss of historic fabric as a result of the provision of services associated with the provision of additional bathrooms, they note that the property already has permission for use as a 6 bedroom, albeit it only being compliant to be occupied by 5 persons at present due to the number of bathrooms and kitchens present. Despite the desire of the Housing Options Team to be able to provide enhanced accommodation, well in excess of the requirements for houses in multiple occupation, and to cater for the needs of vulnerable individuals who may benefit from their own bathrooms, the optimum use of the building is in its current state, as a house in multiple occupation with shared facilities that would not require further harm to the building. It is also noted that the use of the building to accommodate just 5 or 6 residents, rather than the proposed 7 would still mean that an additional 5 or 6 vulnerable people can be housed than is currently possible. It is also suggested that this particular property could be used by other people that the Council are required to accommodate, not just those that require individual bathrooms. As such, the Conservation Officer is not of the view that there is appropriate clear and convincing justification for the level of works proposed, or that the public benefits are of sufficient to outweigh the identified less than substantial harm, particularly when there is an optimum viable use that could be secured, which would be significantly less harmful. The Conservation Officer does also consider that despite the intentions of the applicant, there is no formal process available to secure the use of this property for the intended accommodation of vulnerable homeless people, meaning that they should be considered in the same manner as an application for open market housing. On this basis, they are of the view that the proposed use for occupation by homeless people cannot be considered a public benefit due to the inability to secure this use by means of a legal agreement.
- 8.7 In considering the required planning balance, it is the view of officers that there are some public benefits notwithstanding the limited ability to control the accommodation, with the ability to provide temporary homeless housing. It is also noted that whilst the level of harm caused to the significance of the listed building is of concern, the overall impact on the whole of the building has been reduced, thereby reducing the level of harm identified. It is still important to consider however that there is less than substantial harm to the significance of the heritage asset caused. The determination of this application has been delayed while Planning Officers and Members of the Housing Team have discussed ways to reduce the level of harm through omitting the ensuite bathrooms, or even reducing the number of ensuite bathrooms so more of the plan form can be retained, avoiding such a degree of loss. The current submission follows those discussions. Taking into account the views of the Conservation Officer, and noting that there is the opportunity to gain public benefits further consideration has been given to the method of securing those public benefits, allowing them to be considered in the planning balance. Noting the inability of the Council to agree a S106 legal agreement with itself, further information has been sought as to the ability of the accommodation to be disposed of. As a result, the Head of Housing has advised that the property is owned by the GF (General Fund) with the accommodation and users being managed by the GF Housing Options Team. It has been clarified that the original acquisition decision was approved by Cabinet, with the approval

specifying that the property would be used for MDDC temporary accommodation purposes only, effectively setting the Council's adopted policy position for the property. To change this position would require a new Homes PDG (Policy Development Group) decision, followed by Cabinet decision by Members. This procedure would need to be followed for any other change of use to form non-temporary residential accommodation, or disposal of the property. Furthermore any disposal of the property would be required to go through the Capital Strategy Advisory Group (CSAG), which includes the Cabinet Member for Housing, Assets and Property, and the s152 Officer. Whilst this does not give legally binding measures to secure the accommodation, the required procedures do offer a democratic process that could be fed into by interested parties, with an increased level of security that the property will remain in its proposed use for temporary housing of homeless people, and also provide the public benefits required to balance against the relatively high levels of less than substantial harm identified.

- 8.8 On the basis that Members are satisfied that the preventative measures to restrict the future use, or disposal of this property, are appropriately robust, it is considered appropriate to **recommend approval** of the proposed development.
- 8.9 To conclude, it is important to note however that it is for the decision maker to apportion the weight of the public benefits against the identified levels of harm. Whilst the recommendation is a very finely balanced one of approval, it will ultimately be for Members of the Planning Committee to make the final decision on whether the levels of public benefit outweigh the significant levels of less than substantial harm that would be caused to the significance of the heritage asset, as a result of the extent of works proposed, and to ensure that they are satisfied that the public benefits can be robustly secured. Notwithstanding the final decision, in determining this application, it is important for Members to ensure that they fulfil the Council's duty in respect to sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in particular Section 66, in that they have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Similarly it is necessary to ensure that the requirements of the NPPF are afforded the necessary attention, especially those of paragraph 215, which states "*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*"

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

REASON FOR RECOMMENDATION OF APPROVAL

The change of use of the property from a 6 bedroom house in multiple occupancy (Use Class C4) to a 7 bedroom house in multiple occupancy, along with associated alterations would erode the listed building's historic interest and prevent it continuing in its optimum viable use, further harming its significance. Notwithstanding this, public benefits have been identified, and when assessed against the level of harm to the listed building, it is considered that these public benefits outweigh the harm when judged against it. As such, the proposal is considered to accord with policies S9 and DM25 of the Mid Devon Local Plan (2013-2033), T5 of the Tiverton Neighbourhood Plan and the

aims and objectives of the National Planning Policy Framework, particularly paragraphs 212, 213 and 215.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development hereby permitted shall be operated in accordance with the approved Flood Emergency Plan (FEP), (dated 18th October 2024 - prepared by XL Planning Ltd).

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. To ensure that the development is safe for its lifetime, in accordance with policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

POSITIVE WORKING STATEMENT

In accordance with paragraph 39 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

BNG – Biodiversity Net Gain

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.

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

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. 24/01572/LBC

Grid Ref: 295204 : 112566

Applicant: Samantha Barnett, Mid Devon District Council

Location: 5 St Paul Street
Tiverton
Devon
EX16 5HT

Proposal: Listed Building Consent for alterations to ground floor, first floor and second floor layouts, replacement of sill/rail and glazing bars on 4 windows, replacement of dormer windows with associated external alterations

Date Valid: 25th October 2024



APPLICATION NO: 24/01572/LBC

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the landowner and applicant.

RECOMMENDATION

Grant listed building consent

PROPOSED DEVELOPMENT

This application is for works to a listed building in connection with a concurrent planning application for the change of use of 6 bed house in multiple occupancy (Class C4) to 7 bed house in multiple occupancy (Sui Generis).

The property is a one of nine terraced houses located on the north side of St Pauls Street. It is a grade II listed building, being listed alongside the other properties in the terrace. The property is constructed from brick, with slate roofs, and is also located within the Tiverton Conservation Area. The building has previously been subject to the grant of planning permission to change its use from a single dwelling house to a house of multiple occupation (HMO) to accommodate six residents over two floors within the building.

This application seeks to carry out renovation works both internally and externally, to refurbish the building, which is now in quite poor condition, and to provide 7 bedrooms. It is proposed to carry out a variety of internal and external works. The external works include the existing windows, including the replacement of sill/rail and glazing bars, replacement of attic windows, the introduction of an additional soil vent pipe, boiler flue and vents. Internal alterations, which include the conversion of the attic space into a further two bedrooms, the refitting of a bathroom to form a kitchen, replacement of central heating system, installation of ensuite bathroom pods into the 3 ground floor bedrooms, and installation of 2 bathroom pods into one first floor room with associated new pipes and ventilation runs.

APPLICANT'S SUPPORTING INFORMATION

Completed Application Form, Plans, Covering Letters, Design and Access Statement, Heritage Impact Assessment, Initial Air Quality Assessment, Flood Risk Assessment, Flood Emergency Plan, Wildlife Trigger Table, BNG Statement for Validation, BNG Exemption Form.

RELEVANT PLANNING HISTORY

08/00919/FULL - Change of use from single dwelling to multiple occupancy accommodation - WITHDRAWN

08/00920/LBC - Listed Building Consent for internal alterations - WITHDRAWN

08/01254/FULL - Change of use from single dwelling to multiple occupancy accommodation (Revised Scheme) - WITHDRAWN

08/01255/LBC - Listed Building Consent for internal alterations (Revised Scheme) - LISTED BUILDING CONSENT GRANTED

09/01601/FULL - Change of use from a single dwelling house to a house in multiple occupation (Revised Scheme) - PLANNING PERMISSION GRANTED

23/01255/LBC - Listed Building Consent for repairs to roof - LISTED BUILDING CONSENT GRANTED

24/01571/FULL - Change of use of 6 bed house in multiple occupancy (Class C4) to 8 bed house in multiple occupancy (Sui Generis) and associated works - PENDING CONSIDERATION

24/01600/LBCDOC - Details pursuant to the Discharge of Condition 4 (insulation details) of Listed Building Consent 23/01255/LBC - REFUSAL OF LISTED BUILDING DISCHARGE OF CONDITIONS

RELEVANT PLANNING GUIDANCE/POLICY

Mid Devon Local Plan 2013-2033
DM25 - Development affecting heritage assets

National Planning Policy Framework (2023)

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

This application relates to the alteration of a listed building.

The Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory requirement upon the local planning authority to have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses', set out in Sections 16(2) and 66(1). The NPPF states that local planning authority should require an applicant to describe the significance of any heritage assets affected, including contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary (Paragraph 207). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Paragraph 212). Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification, as per Paragraph 213. Paragraph 215 requires that any harm should be judged against the public benefit of the proposal including, where appropriate, securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset).

Local plan policies are material to the consideration of the determination of the application, but do not have the same statutory weight they have in a planning application.

CONSULTATIONS

TIVERTON TOWN COUNCIL - 05.11.2024

The proposal, in the view of the planning committee, is over development and out of keeping with the street.

15/07/25

Discussed at Planning Committee meeting 14th July. The Committee reflected that there are evident misgivings from the Conservation Officer as to the application change from 6 bed to 8 bed occupancy.

From the Conservation Officers statements, the application appears to change on a regular basis.

The support for the application from CHAT was also noted, and one councillor reflected that should the application proceed, it would reduce the homelessness and use of B&Bs for emergency accommodation.

The Committee voted to not support the application to change from 6 to 8 bed occupancy based on the concerns from the Conservation Officer.

MDDC CONSERVATION OFFICER - 19.11.2024

Recommendation: **REFUSE**

No pre-app has been sought on this proposal.

The building is in need of maintenance, as it clearly has not been maintained in several years. Failure to maintain the building is not justification to replace appropriate or historic features with new ones. The house already functions as an HMO, and two additional rooms could be added to the second floor without alteration to the others. No reason has been given as to why the existing store room on the first floor could not be used as another bathroom or kitchen, rather than affect every other room in the house.

The house functions as an HMO, and while its optimum use would be as a single dwelling, the existing use has had a minimal impact on its plan form and fabric. The heritage assessment states at 7.1 that 'The large proportion of the significance of 5 St Paul Street derives from its architectural value. The house almost entirely retains its original plan form' and due to the loss of most internal fixtures and fittings, this plan form is a key part of its significance.

The insertion of bathroom pods within principal rooms is unacceptable in principle, and must be justified for less significant service rooms. The heritage impact assessment is incorrect at para 8.1 - 'this will not impact the existing historic plan form'. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room.

The proposed pods would obscure and alter the relationship of the fireplaces of bedrooms 2, 4 and 5, and windows to bedrooms 3 and 6. In addition, venting and additional pipework would need to be run through each floor to the rear of the property, removing historic fabric and creating an unacceptable appearance internally. The length of the pipe runs for the proposed toilets in the front

bedrooms is significant, and likely not to be achievable in terms of fall. No analysis of the impact of these services has been provided within the DAS or HS.

Proposed DGU windows: the design of the casements is poor. The central mullion with the casements closed is proposed to be 163mm, which is very large for an attic window. There is no need for it to be more than 100mm, even with double glazing. The DGU exacerbates the poor design, and no evidence has been provided as to why it is needed, or why more appropriate forms of glazing cannot be fitted into the property.

The schedule of works only relates to the windows. Acrylic paint and hybrid polymers are unacceptable as these are plasticised substances that prevent breathability.

Conclusion: a large amount of less than substantial harm would be inflicted on this property for the creation of two extra bedrooms, while a reduction in accommodation is proposed for the remainder of the rooms. No heritage benefit would arise from the proposal, as the replacement of the attic windows is largely due to lack of maintenance. There would need to be a large amount of public benefit arising from the implementation to be balanced against the proposed harm, which is a matter for officers to assess.

16.12.2024

Hi Milad,

Comments in red below ***(This references comments made by the Conservation Officer in respect to the applicant's responses to questions raised by the Planning Officer. These are added below in full)***.

I am willing to go on a site visit but strongly advise that the applicant consider an alternative location for additional HMO housing as it is unlikely that they will be able to achieve their goals in this property.

We have a pre-application process for a reason, and that is partly to save issues like this arising from people buying the wrong property for their needs. It is unacceptable for the Planning department to accept and approve poor applications and proposals simply because they are made by another Council department. If anything, the standard should be higher for us as we are directly housing our own residents.

Planning Officer Question: The building is in need of maintenance, as it clearly has not been maintained in several years. Failure to maintain the building is not justification to replace appropriate or historic features with new ones.

Applicant Answer: MDDC have recently acquired the building, the application is an intention to repair and maintain the building for the most viable future use for essential housing need to reverse the lack of maintenance in previous years. Design features can be changed by revised plans.

Conservation Officer Comment: The property was purchased by MDDC in December 2022. Since then, an application has been made for works to the roof and inappropriate materials have been put into it without permission or consultation. The Council is now in the position of having to use additional resources to rectify this issue.

Planning Officer Question: The house already functions as an HMO, and two additional rooms could be added to the second floor without alteration to the others. No reason has been given as to why

the existing store room on the first floor could not be used as another bathroom or kitchen, rather than affect every other room in the house.

Applicant Answer: The store to the front elevation cannot be used as a kitchen or a bathroom as it is almost impossible to route the drainage to the rear of the building due to the staircase being present. There is also, not enough fall to the pipework to achieve this. There would also need to be extract ventilation provided to these room that would result in a slate vent or wall vent to achieve this.

Conservation Officer Comment: This is good justification, many thanks. This kind of thing needs to be included in a design and access statement to show the narrative of the process so we can understand why the proposal is how it is.

Applicant Answer: All drainage was carefully considered so that the pipework discharges to the rear of the building where the inspection chamber is. All ventilation extract from the bathroom was also carefully considered so that it vents to the rear of the building (wall and roof).

Conservation Officer Comment: Discharging to the rear is suitable, but not taking the pipework and venting through the building in the manner shown. Only proposed bedrooms 3 and 6 are directly adjacent to the rear wall, therefore meaning minimal harm to the fabric of the building. Bedrooms 1, 2, 4, 5, 7, and 8 all propose harmful pipework through the rooms, floors, and roof, with no further information provided. Running pipework through floors often means notching or cutting through joists, which weakens the floors. Boxing in pipework under the ceiling means harming the appearance of the room. Every room has different venting and discharge points, meaning the rear elevation becomes a myriad of different vents and pipes.

Planning Officer Question: The house functions as an HMO, and while its optimum use would be as a single dwelling the existing use has had a minimal impact on its plan form and fabric. The heritage assessment states at 7.1 that 'The large proportion of the significance of 5 St Paul Street derives from its architectural value. The house almost entirely retains its original plan form' and due to the loss of most internal fixtures and fittings, this plan form is a key part of its significance.

Applicant Answer: The building will not be reverted back to one dwelling, given the size of the building and no parking and very limited external amenity space this would not be appropriate for one family dwelling. The loss of multiple social housing bedrooms to revert to one family home is not a public benefit, this would be very detrimental and not an optimum viable use of the heritage asset, contrary to policy.

Conservation Officer Comment: Turning the building back to a single dwelling has never been suggested. The process of proposing alterations to a listed building is to look at the optimum viable use in the first instance: the optimum use is a single dwelling, but as this is already an HMO, the optimum viable use is to continue that use.

Applicant Answer: For the ground floor room 1) there is the original black marble surround and hearth, the ensuite is located to avoid impinging on this, whilst this does alter the internal layout, these are modern elements which would be removed without loss of historic fabric. There is one cupboard being removed and the heritage statement submitted confirms that this has limited impact on the building.

Conservation Officer Comment: There is a lack of understanding about the significance of the building. The applicant's heritage statement states that the original plan form is almost entirely retained, and yet focuses on the lack of historic internal fixtures and fittings without acknowledging this important plan form as being of significance.

Planning Officer Question: The insertion of bathroom pods within principal rooms is unacceptable in principle, and must be justified for less significant service rooms. The heritage impact assessment is incorrect at para 8.1 – ‘this will not impact the existing historic plan form’. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room. The heritage impact assessment is incorrect at para 8.1 – ‘this will not impact the existing historic plan form’. At present, all but the bathroom have been maintained in their original configuration, as undivided rooms. The proposal would harm every existing bedroom by distorting the proportions and introducing pipework, venting, and significant amounts of water into each room.

Applicant Answer: The plans could be reconfigured so that there is a communal bathroom space on each floor so bed 3 on the GF becomes the communal bathroom for that floor. The existing bath/shower room is maintained to the first floor and the attic bedrooms retain the en-suites as there is less significant architectural merit within the loft. All the partitions proposed will be demountable studwork, with minimum harm to the existing fabric.

Conservation Officer Comment: The partitions would be removable, but the venting and plumbing would not be reversible, as fabric must be lost in order for them to be inserted. The application process is not the time for fundamental alterations of the scheme, i.e. changing from multiple pods to an alternative bathroom. En-suites to the attic are still inappropriate and not supported.

Planning Officer Question: The proposed pods would obscure and alter the relationship of the fireplaces of bedrooms 2, 4 and 5, and windows to bedrooms 3 and 6. In addition, venting and additional pipework would need to be run through each floor to the rear of the property, removing historic fabric and creating an unacceptable appearance internally. The length of the pipe runs for the proposed toilets in the front bedrooms is significant, and likely not to be achievable in terms of fall. No analysis of the impact of these services has been provided within the DAS or HS.

Applicant Answer: All of the drainage has been discussed with a plumber and the outlets and pipework are in their optimal positions (shortest route and least impactful).

Conservation Officer Comment: There is no mention in this comment of the appearance within the rooms or the relationship to the fireplaces or windows.

Planning Officer Question: Proposed DGU windows: the design of the casements is poor. The central mullion with the casements closed is proposed to be 163mm, which is very large for an attic window. There is no need for it to be more than 100mm, even with double glazing. The DGU exacerbates the poor design, and no evidence has been provided as to why it is needed, or why more appropriate forms of glazing cannot be fitted into the property.

Applicant Answer: We can improve the design to the DGU/casement windows, however single glazing would be a retrograde step as all the windows will run with condensation in the winter months, double glazing will stop black mould occurring to the inside of the frame this preserving the longevity of the frame.

Conservation Officer Comment: Single glazing was not suggested, but the applicant has a requirement to provide clear and convincing justification for harmful proposals. The design of the windows is harmful, and if part of that poor design has arisen from the insertion of double glazing, then analysis of why it is the only form of glazing that would function in this location is required. It is known that double glazing is less successful in terms of energy, longevity, and acoustics than putting in secondary glazing in breathable buildings, which is why all applicants are required to justify their

proposals. Black mould only occurs where there is too much water, not enough heat, and not enough ventilation, and none of that arises from a change of glazing. New windows would be supported if they were appropriate, but this has not been provided.

Planning Officer Question: The schedule of works only relates to the windows. Acrylic paint and hybrid polymers are unacceptable as these are plasticised substances that prevent breathability.

Applicant Answer: These schedule of works were provided by the window audit consultant. We can expand upon the schedule of works to provide/amend the additional details required.

Conservation Officer Comment: This is appreciated, thank you.

05.02.2025

Following our site visit on Wednesday 8 Jan, the statement from the Housing Options Manager on Thursday 9 Jan, the email from the Housing Initiatives Officer on Wednesday 29 Jan (forward to me on Wednesday 05 Feb), and the receipt of revised plans on Thursday 30 Jan, I have the following comments. Apologies for the flow jumping around a bit, but as can be seen from the timeline above, the required information has arrived in stages rather than being submitted for consideration at the application submission stage. There has also been a disconnect between the applicant and their agent as comments given to one has not in every instance been passed to the other for consideration. This was clear on the site visit where housing colleagues had not been made aware of the comments given to the agent, and that the agent did not know the site visit had already been undertaken.

The starting point for any proposed works of alteration to a listed building is to consider whether they would impact on the significance of the property, therefore the significance needs to be assessed and provided by the applicant (NPPF 2025 207). A basic heritage statement has been supplied, focusing mainly on the area around the house, but with some mention of the individual house.

The use of the house as an HMO has already been established, and has permission to house 6 occupants. Under current housing regulations, the house does not have sufficient kitchen and bathroom space for 6 people, but does have sufficient compliant facilities and space for 5 people. In policy terms, these are 'units', and there is no policy position requiring them to be used for social or private housing. Therefore the public benefit is considering the change from 5 units to 8 units only. Unfortunately this means that the arguments regarding the standards and difficulties of accommodation and the cost to the council are relatively low considerations as they are not a matter of consideration within the local plan.

Given that there is no policy situation, where the Council cannot restrict the use of any units here solely to Council homelessness client, or even to be used solely for social housing, these units must be considered in the same manner as if they are proposed to be units available on the open market. The Council must apply the same legislation and policies when considering the Housing department in the same manner as they would for a private landlord for non-social units. Therefore, the situation is that 6 units are permitted, and 5 are possible. Officers must balance the creation of 2-3 units against the high level of less than substantial harm proposed.

Within this property 5 HMO units with shared facilities can be accommodated without further harm to the building. This should be the starting point, and would house 5 more people than the council can currently support in their existing buildings. The fact that this is not the type of accommodation that the council desires to use it for it a moot point - the council's housing department does not just provide en-suite homelessness accommodation, therefore it has other people that could be housed here.

Considering the purchase of the property, the time and resources that have gone into the works needed at this property could have been avoided by pre-application discussions with the planning department prior to purchase. As the purchase had to go to at least one committee before it happened, there was sufficient time to do this but the opportunity was not taken. Had the planning department been approached, the issues that had arisen at the property could have been taken hold of (e.g. the lack of compliance with the approved plans, the unauthorised occupants, etc.) and the housing department would have been advised of exactly how difficult, lengthy, and expensive the process would be, likely resulting in the council not purchasing the building. I reiterate the point that selling the property would be the best outcome for all and this should be undertaken as soon as possible to enable more appropriate accommodation to be found. Just because there are few houses registered as HMOs does not mean that more cannot be in houses that can accommodate the changes.

In this instance, the optimum viable use has already been secured through the use change from C3 to C4 in 2009 (09/01601/FULL), therefore the change from C4 to sui generis (or from 5 units to 8) is the issue at stake here.

The Council has a statutory requirement to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses', as set out in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset). Local plan policies are material to the consideration of the determination of the application, but do not have the same statutory weight they have in a planning application. To put it bluntly, if the listed building would be harmed by the proposal, it needs to be changed. If it cannot be changed as it would not secure the optimum viable use, then policy-compliant public benefit must be provided that can be balanced against the harm, i.e. at least as much benefit as harm is proposed. The harm in this instance would be irreversible, therefore that is what the benefit should be. As seen above, due to the policy situation, this cannot be.

The condition of the property and its unauthorised level of occupants at the time of purchase is not a heritage consideration, as anyone purchasing a listed building also buys those liabilities. Therefore there is no heritage benefit arising from the restoration of the property to a habitable state, and this cannot be considered as a benefit in terms of balancing harm.

The harm to the property has been discussed in my previous comments of 19 Nov 2024 and 16 Dec 2024. There is a misunderstanding from both the agent and applicant that the insertion of bathroom pods involves just the insertion of reversible partition walls and would not be harmful; this is not true, as there would be additional venting and soil pipework that would need to go through historic walls and floors. This would be irreversible and constitute harm as the fabric would be lost. In addition, the floor plan would be altered. This is seen in the heritage statement as part of the building's significance, but is not acknowledged or understood by the agent or applicant, and this is understandable, as it seems to be a rather theoretical and unimportant factor when considering the housing of homeless people. It is, but it is part of the listed building's significance and therefore needs great weight applied to it. Although the partitions are theoretically removable, we have seen from the 1960s-80s insertion of bathroom pods throughout the country that this does not often happen, and that it causes high levels of harm to room proportions and fabric which takes considerable resources to rectify. For these reasons, bathroom pods are now rarely permitted in listed buildings, and usually only where there has already been a huge loss of significance/the harm has already occurred.

To conclude, the use of the house as an HMO for 5 people with shared facilities is possible, permitted, and supported. The fact that the housing department does not want to use these facilities is not the 'fault' of the house, and therefore the conclusion is that the department wants to use the house for something it cannot be used for without any benefit to the house. The proposal would not maintain the significance of the property, and would not enhance it. The proposal therefore does not comply with the Act, National Policy, or Local Policy, and should be refused accordingly.

I am aware that this application will need to go to Planning Committee for decision. Please let me know if I am required to attend and when that will be.

09.07.2025

Dear John,

Many thanks for the revised plans for these applications. There is confusion regarding the numbering of the rooms on the plans, therefore for clarity I have used the locations of the rooms looking at them from the street instead. In addition, the description would need to be amended as only 7 bedrooms are proposed in this revised scheme.

Please note that my comments regarding the significance of the property and the objection in principle to bathroom pods still stand and are unchanged by the revised plans.

The harmful bathroom pods have been removed from the front two bedrooms on the first floor, and both rooms on the second floor. However, these harmful pods are still proposed in bedrooms 1-3, and there are two proposed for the rear left room instead, which appears to be contrary to the stated intention for the residents to have self-contained units (excepting kitchen facilities).

If the rear left room on both the first and ground floors were bathrooms instead, this would minimise the harm proposed and still provide 6 bedrooms, one more than is currently usable in the property. That would still be harmful – the pipework, the use of a main room for services - but would be significantly less harm than is proposed with the insertion of pods.

There is still the issue that the significant level of harm proposed would need to be weighed against the public benefit of 1-3 additional units. These units can only be classed as 'units' and not given any social housing weighting as there is no way to guarantee this, whoever the landlord/owner of the property is. There would be no way to reinstate the lost fabric once the harmful interventions were removed by a future owner.

Ultimately, this property cannot accommodate bathroom pods without incurring significant and irreversible harm to fabric and form.

At present, it can provide bedrooms, a kitchen, and a bathroom for 5 tenants as an HMO, compliant with both Planning and Housing legislation and policy, with no additional harm.

It could provide bedrooms, two kitchens, and two bathrooms for up to 6 tenants as an HMO, again compliant with both Planning and Housing legislation and policy, with a low to medium amount of less than substantial harm. This would mean 1 additional unit.

It cannot provide bedrooms, two kitchens, and 5-8 bathroom pods for up to 8 tenants as an HMO and also be compliant with Planning and Housing legislation and policy due to the high amount of less than substantial harm. This would mean 2 additional units (revised scheme) or 3 additional units (original scheme).

It is for officers to balance the less than substantial harm to a nationally designated listed building against the provision of 1-3 additional units.

The application should be refused as it is not compliant with local or national planning policy.

REPRESENTATIONS

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

One letter of support was received from the CEO of CHATs (Churches Housing Action Team), making the following comments:

- CHATs support increasing provision for temporary accommodation in Tiverton.
- There is a growing number of clients needing emergency accommodation. CHATs are pleased to work alongside MDDC Homeless Team in supporting clients while suitable long-term accommodation is sought.
- Individuals that CHATs support often face complex challenges and current reliance on hotel accommodation, often out of town and disconnected from essential services and support networks, does not meet their needs.
- Appropriate temporary accommodation for vulnerable individuals is a vital step to tackling homelessness and creating stability needed to enable clients to rebuild their lives and transition into long-term housing.
- There is an acute shortage of appropriate accommodation for single women, making ensuite facilities particularly essential to ensure their safety and dignity.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this application for listed building consent are:

- 1. Impact on the significance of the heritage asset**
- 2. Applicant's case, including public benefits**
- 3. Planning balance**

1. Impact on the significance of the heritage asset

- 1.1 Paragraph 207 of the NPPF advises that "in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness."

- 1.2 The above requirements in respect to heritage assets are echoed in policy DM25 of the Mid Devon Local Plan, which states that “heritage assets and their setting which are irreplaceable resources accordingly the Council will:
- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
 - b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
 - c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
 - d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and
 - e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”
- 1.3 In considering whether to grant listed building consent for any works, the council also has a duty set out in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that they shall have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.
- 1.4 The proposed development does not include the extension of the existing building, however does include significant alterations to the ground floor of the property primarily, with internal alterations proposed to accommodate the formation of three ensuite bedrooms at ground floor, the installation of two bathroom pods within one bedroom at first floor level, a second kitchen, and installation of a new central heating system, with accompanying works including the installation of additional services such as water supplies, drainage pipes, and air extraction systems. These additional facilities would also necessitate the installation of several new external vents and soil pipes. Other external works include the repair and replacement of damages and dilapidated windows.
- 1.5 In considering the proposals generally, Council's Conservation Officer originally commented, raising a range of concerns in regard to the proposal, and ultimately recommending refusal. The bulk of these comments, as detailed in the 'Consultations' section of this report, revolve around the works proposed to accommodate the additional bedrooms, and in particular the formation of ensuite bathrooms within each of these bedrooms, and the damage that would be done to the historic fabric of the building through introduction of services required to supply water and power to these bathrooms, and to provide drainage and ventilation. Not only will this introduce additional pipework and ventilation to all rooms of the house, these will have long runs to avoid needing to exit the property to its front elevation. These will have to pass through the house floors and walls of the property, not only impacting on the visual appearance of the individual rooms and building as a whole but also removing historic fabric.
- 1.6 In addition to the impact on historic fabric, there was to be a significant loss to the character and significance of the heritage asset by loss of the buildings original plan form. The property is in a dilapidated state and in need of repair and refurbishment, with the submitted heritage assessment identifying that the property has been extensively updated in the late 20th Century, with only a few of its original internal fixtures and fittings remain, which diminishes the building's architectural value. Nonetheless, the heritage statement also notes that the house almost entirely retains its original plan form, i.e. its original room layout and proportions. The

Conservation Officer had highlighted the fact that all rooms within the house, except for one bathroom, are maintained in their original configuration, as undivided rooms. Noting the harm already done to the building, this emphasises the importance of the plan form, which is a key part of the heritage asset's significance. The initially proposed introduction of ensuite bathrooms to the currently undisrupted rooms would have led to harm to all eight bedrooms by way of distorting their proportions and introducing pipework and venting. The Conservation Officer also noted that the proposed bathroom pods would obscure and alter the relationships of the fireplaces in three of the rooms and the windows in two of the rooms. Overall, almost the entire building would have been harmed by the proposed works required in association with providing the additional living accommodation, and the proposed ensuite bathrooms to each bedroom.

- 1.7 On the basis of these comments, and following further discussions with officers, the application has been revised to its current form, which continues with the significant alteration of the ground floor rooms, by way of installing bathroom pods into each of the existing bedrooms, and associated damage to historic fabric through the need to install new service runs. With the exception of the alteration of one room to form a bathroom area, with two separate bathroom pods installed, and the fitting of a kitchen within an existing bathroom. The remaining four bedrooms, two at first floor and two at second floor level, will retain the existing plan form.
- 1.8 The proposed works also include the changing of the attic windows and repair and restoration of several of the other single glazed sash windows throughout the building. The Conservation Officer did object to the proposed attic window replacements, as well as the method for finishing the windows generally, however amended details have been submitted to the Conservation Officer's satisfaction.
- 1.9 Noting the harm identified by the proposed development, National Planning Policy Framework paragraphs 212, 213 and 215, are of particular relevance and must be considered. These state the following:

"212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 1.10 In addressing levels of harm, it should be noted that even the smallest amount of harm will be considered to be 'less than substantial harm', and will require justification and assessment against the any public benefits. On this basis, the term 'less than substantial harm', will apply to varying levels of harm, from very minor adverse impacts to significant adverse impacts on the significance of the heritage asset. In their previous comments, the Council's Conservation Officer identified that the levels of less than substantial harm would be significant with loss of historic fabric, and an almost total loss of the plan form of the listed building, that being its primary remaining source of significance. The amendments reduce the amount of harm to the plan form, with the ground floor now primarily affected, however the Conservation Officer still

maintains an objection due to the level of harm identified, albeit reduced from the original submission. An assessment of the identified harm against the public benefits will be carried out in the planning balance section towards the end of this considerations section. Ultimately it will be for the decision maker to determine the level of weight given to the public benefits, and to determine whether these outweigh the identified harm.

2. Applicant's case, including public benefits

- 2.1 Noting the requirements of the applicant in respect to justifying works to the heritage asset, and in particular needing to provide clear and convincing justification for any harm to, or loss of, the significance of the designated heritage asset, the applicant has sought to identify the why the works are proposed, and to demonstrate that there are sufficient public benefits to outweigh the identified harm.
- 2.2 The applicant firstly notes that the Council has a statutory duty to deliver a homelessness function under Section 182 of the Housing Act 1996, the Homelessness Act 2002 and the Homeless Reduction Act 2017. Other significant areas of legislation are The Equality Act 2010, the Human Rights Act 1998, the Children Act 2004 and the Health & Social Care Act 2012.
- 2.3 The applicant has advised that homelessness is unpredictable, often unavoidable and can be immediate, resulting in the need to access accommodation at short notice for the Council to fulfil its legal duties. To do so, the Council either need to have suitable temporary accommodation in its ownership to accommodate those in need, otherwise there is a need to rely on hotel rooms and B&B bedrooms to meet this need. Amongst the risks to the Council of relying on the latter options is the cost of this type of accommodation, which is not sustainable in the long-term, and also the limited number of hotels/rooms available within Mid Devon District. The limited availability, particularly during peak tourism times can lead to homeless clients having to be accommodated outside of the district, where they can be cut off from support services and networks, as well as incurring additional transport costs. There are also client safety and welfare concerns with this type of accommodation having limited access to cooking facilities, as well as often limited availability of rooms to meet a disabled person's needs.
- 2.4 It is advised that as of 13th December 2024, there were 15 hotel rooms being used by the Housing Options team's clients, who were vulnerable single adults, of which one was disabled. In seeking to better fulfil their statutory function, and provide more suitable accommodation within the Council's ownership, opportunities are sought to purchase properties that can provide for this identified need. In this case, 5 St Paul Street was purchased as a property that already benefited from planning permission for the use as a six bedroom house in multiple occupation. The purchase was completed following Cabinet approval.
- 2.5 The submitted information confirms that the property must, as a minimum, achieve the standards expected by private rented, licensed HMOs under the Housing Act 2004, which it is understood does not require the provision of individual bathrooms, however the applicant has advised that it is the Council's intention is to provide accommodation that achieves a much higher standard and also meets the very specific needs of the most vulnerable users.
- 2.6 The applicant has identified that whilst there may not be a legislative requirement to provide ensuite bedrooms, there are mitigating reasons for doing so. In particular, it is suggested that in the case of the most vulnerable clients that allowing rooms within an HMO to have their own bathroom facilities is vital for the dignity and safety of vulnerable individuals. Additionally there are some people that are unable to share bathrooms for health reasons such as stomas or incontinence. Sharing bathrooms can also cause particular upset in shared households,

especially where there are mixed sexes residing within the property. In particular, it is noted that homeless individuals routinely have physical and trauma related conditions. Configuration of the property so that occupants would be required to share a bathroom could lead to a situation where a communal area has to be crossed. Whilst it is suggested that this would be less problematic when needing to access a communal kitchen, the sharing of bathrooms to access a toilet or shower could put an already vulnerable person at risk. It is further argued that Articles 3 and 8 of the Human Rights Act 1998 are directly relevant to the provision of suitable accommodation and the right to 'physical or psychological integrity'. Considering the heritage concerns identified, the proposal has been amended as previously described, however the applicant considers that for the reasons above, the provision of three ground floor rooms that provide ensuite bathrooms should be retained as this will allow them to be accessed by people with reduced mobility, as well as being able to be occupied by more vulnerable people that may be less suited to sharing a bathroom. In contrast the rooms at first and second floor can be occupied by slightly less vulnerable people, or those with restricted mobility, but whom are still in need of temporary accommodation. The provision of two bathroom pods within one room will increase the amount of bathroom space, whilst offering individuals more privacy in the shared areas of the house.

- 2.7 The applicant has highlighted that the Homes PDG (Policy Development Group) recently resolved to enable acquisition and remodelling of temporary accommodation following a Devon Housing Commission Report, which amongst other things, highlighted that Devon homes were under occupied and poor quality. In this case, it is suggested that the proposed works seek to remodel an existing HMO, utilising a building for housing that is unlikely to be used in any other way, and prioritises local need.
- 2.8 It is asserted that the current housing crisis is reducing the availability of private rental placements to relieve the homelessness duty, putting more pressure on temporary accommodation. More private landlords are said to be selling their properties, and less new landlords are buying property to let, leading to a lack of affordable single person accommodation in Mid Devon. It is suggested that the risk to property such as this is that it will remain empty, becoming derelict, resulting in a loss of the asset to neglect, should flexible use of the building not be considered.
- 2.9 Following the initial submission, and associated objections, officers have sought to negotiate with the applicant, seeking alternative layouts and solutions that would reduce the level of harm being caused to the building. These options include extending the building to provide some additional facilities, reducing the amount of accommodation proposed, and providing a reduced number of ensuite bathrooms, allowing some of the plan form to be retained, rather than complete loss. The applicant has considered several options, ultimately concluded that to meet their needs, and those of the Council's homeless clients, their needs to be at least some provision of ensuite bathrooms. As such, there remains less than substantial harm to the significance of the heritage asset, although this is now primarily limited to the ground floor, with less invasive alteration now taking place at first and second floor level. It is suggested that level of harm is not so significant given that there has already been the introduction of some harm by the installation of internal plumbing, modern electrics and fire safety requirements that are inherent with modern living and the property's existing use as an HMO.
- 2.10 Overall, the applicant concludes that there is a public benefit in providing additional, Council owned, temporary accommodation for vulnerable homeless people, in line with the Council's statutory duties. It is also argued that the harm is of reduced significance noting that the introduction of modern living facilities will already harm the heritage asset. The applicant therefore considers that the public benefits arising satisfy the requirements of the NPPF in

respect to justifying the proposed works and balancing the identified less than substantial harm against public benefits.

3. Planning balance

3.1 As detailed in earlier sections of this report, the proposed development comprising the change of use of a 6 bedroom house in multiple occupation (C4) to a 7 bedroom house in multiple occupation (sui generis), in the manner proposed, would lead to less than substantial harm to the significance of the heritage asset due to erosion of the plan form of parts of the building, by introduction of ensuite bathrooms to ground floor bedrooms, and the associated need for additional services such as pipes and vents, that would harm the historic fabric of the building, as well as harm its external appearance.

3.2 In considering this application that will affect designated heritage assets, Members are reminded that the Council has a duty as set out in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest, which it possesses, and having given it considerable importance and weight in the planning balance.

3.3 In identifying that there will be harm to the significance of the heritage asset, Members are also reminded that the requirements of the National Planning Policy Framework must be properly considered and satisfied. Paragraphs 212, 213 and 215 state the following:

“212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

3.4 Members will note that the Council’s Conservation Officer identified that the less than substantial harm caused by the proposed works are significant, leading to complete loss of the currently preserved plan form of the building at ground floor level, which is a key part of its significance, noting that most of the other features of historic significance have been lost.

3.5 The applicant has highlighted public benefits in the provision of in-demand temporary accommodation, a type of which is necessary to meet the Council’s statutory duties, and reduce the need to house vulnerable people in hotel accommodation, often outside of the district, distant from support services and networks, and at great cost to the Local Authority. It is also suggested that the works would allow the refurbishment of this listed building, otherwise preventing it falling further into disrepair.

3.6 The Conservation Officer has further responded to these suggested public benefits. As a starting point, they suggest that the restoration of the property should not be considered as a benefit, as notwithstanding the condition at the time of buying, purchasers of a listed building

also buy the liabilities associated with owning such a property. In respect to the harm to the significance of the heritage asset due to loss of the plan form of the ground floor of the building, and loss of historic fabric as a result of the provision of services associated with the provision of additional bathrooms, they note that the property already has permission for use as a 6 bedroom, albeit it only being compliant to be occupied by 5 persons at present due to the number of bathrooms and kitchens present. Despite the desire of the Housing Options Team to be able to provide enhanced accommodation, well in excess of the requirements for houses in multiple occupation, and to cater for the needs of vulnerable individuals who may benefit from their own bathrooms, the optimum use of the building is in its current state, as a house in multiple occupation with shared facilities that would not require further harm to the building. It is also noted that the use of the building to accommodate just 5 or 6 residents, rather than the proposed 7 would still mean that an additional 5 or 6 vulnerable people can be housed than is currently possible. It is also suggested that this particular property could be used by other people that the Council are required to accommodate, not just those that require individual bathrooms. As such, the Conservation Officer is not of the view that there is appropriate clear and convincing justification for the level of works proposed, or that the public benefits are of sufficient to outweigh the identified less than substantial harm, particularly when there is an optimum viable use that could be secured, which would be significantly less harmful. The Conservation Officer does also consider that despite the intentions of the applicant, there is no formal process available to secure the use of this property for the intended accommodation of vulnerable homeless people, meaning that they should be considered in the same manner as an application for open market housing. On this basis, they are of the view that the proposed use for occupation by homeless people cannot be considered a public benefit due to the inability to secure this use by means of a legal agreement.

- 3.7 In considering the required planning balance, it is the view of officers that there are some public benefits notwithstanding the limited ability to control the accommodation, with the ability to provide temporary homeless housing. It is also noted that whilst the level of harm caused to the significance of the listed building is of concern, the overall impact on the whole of the building has been reduced, thereby reducing the level of harm identified. It is still important to consider however that there is less than substantial harm to the significance of the heritage asset caused. The determination of this application has been delayed while Planning Officers and Members of the Housing Team have discussed ways to reduce the level of harm through omitting the ensuite bathrooms, or even reducing the number of ensuite bathrooms so more of the plan form can be retained, avoiding such a degree of loss. The current submission follows those discussions. Taking into account the views of the Conservation Officer, and noting that there is the opportunity to gain public benefits further consideration has been given to the method of securing those public benefits, allowing them to be considered in the planning balance. Noting the inability of the Council to agree a S106 legal agreement with itself, further information has been sought as to the ability of the accommodation to be disposed of. As a result, the Head of Housing has advised that the property is owned by the GF (General Fund) with the accommodation and users being managed by the GF Housing Options Team. It has been clarified that the original acquisition decision was approved by Cabinet, with the approval specifying that the property would be used for MDDC temporary accommodation purposes only, effectively setting the Council's adopted policy position for the property. To change this position would require a new Homes PDG (Policy Development Group) decision, followed by Cabinet decision by Members. This procedure would need to be followed for any other change of use to form non-temporary residential accommodation, or disposal of the property. Furthermore any disposal of the property would be required to go through the Capital Strategy Advisory Group (CSAG), which includes the Cabinet Member for Housing, Assets and Property, and the s152 Officer. Whilst this does not give legally binding measures to secure the accommodation, the required procedures do offer a democratic process that could be fed into by interested parties, with an increased level of security that the property will remain in its

proposed use for temporary housing of homeless people, and also provide the public benefits required to balance against the relatively high levels of less than substantial harm identified.

- 3.8 On the basis that Members are satisfied that the preventative measures to restrict the future use, or disposal of this property, are appropriately robust, it is considered appropriate to **recommend approval** of the proposed development.
- 3.9 To conclude, it is important to note however that it is for the decision maker to apportion the weight of the public benefits against the identified levels of harm. Whilst the recommendation is a very finely balanced one of approval, it will ultimately be for Members of the Planning Committee to make the final decision on whether the levels of public benefit outweigh the significant levels of less than substantial harm that would be caused to the significance of the heritage asset, as a result of the extent of works proposed, and to ensure that they are satisfied that the public benefits can be robustly secured. Notwithstanding the final decision, in determining this application, it is important for Members to ensure that they fulfil the Council's duty in respect to section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in that they have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Similarly it is necessary to ensure that the requirements of the NPPF are afforded the necessary attention, especially those of paragraph 215, which states *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

REASON FOR RECOMMENDATION OF APPROVAL

The proposed works to accommodate the change of use of the property from a 6 bedroom house in multiple occupancy (Use Class C4) to a 7 bedroom house in multiple occupancy, proposal would result in the loss of historic fabric and harm to the significance of the designated heritage asset, as well as the loss of interior detailing, character and the architectural interest of the listed building, in addition to preventing it continuing in its optimum viable use, further harming its significance. Notwithstanding this, public benefits have been identified, and when assessed against the level of harm to the listed building, it is considered that these public benefits outweigh the harm when judged against it. As such, the proposal is considered to accord with policy DM25 of the Mid Devon Local Plan (2013-2033) and the aims and objectives of the National Planning Policy Framework, particularly paragraphs 212, 213 and 215.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All new works and works of making good to the retained fabric, whether internal or external, shall be finished to match the adjacent retained / historic work with regard to the methods used

and to colour, material, texture, and profile, for example lath and lime plaster, painted softwood, etc.

3. All existing historic fabric shall be retained unless notated otherwise on the drawings approved under this consent.
4. All works of demolition shall be carried out by hand or by hand-held tools only and no power driven tools of any description shall be used in connection with the demolition works.
5. All new partition walls hereby granted consent shall be of lightweight softwood construction, easily removable and be so maintained.
6. Detailed drawings to a scale of no less than 1:10 unless otherwise specified (including cross-section, elevation, glazing, materials, colour/finish, recess, cill, lintel, relationship to retained material) in respect of the following shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun, and the works shall be carried out in accordance with those details so approved and shall thereafter be so maintained:
 - a) Details of proposed service runs for pipes and cables, which shall utilise existing ones where possible.
 - b) Drawings of new internal doors and architraves at 1:5, including any furniture and alterations for fire regs compliance. These shall be solid timber and painted.
 - c) Details of the locations and external finished appearance of the new flues, vents, and/or air bricks.
 - d) Internal elevations of the new bathroom pods, showing pipework relationship to existing finish floor and ceiling levels, and height of the pods to be no more than 300mm below the finished ceiling height
7. All new bathroom pods shall be located on top of the existing finished floor level and all existing floorboards shall be retained in situ and maintained as such.
8. No recessed ceiling lights are approved under this consent, with the exception of inside the bathroom pod units, and ceilings shall be maintained as existing, i.e. unpierced/unaltered.

REASONS FOR CONDITIONS

1. In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.
3. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.
4. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.
5. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.

6. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.
7. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.
8. In order to safeguard the special architectural or historic interest of the heritage asset and comply with policy DM25 of the Mid Devon Local Plan.

INFORMATIVE

This consent relates solely to listed building matters. Any works necessary to comply with other legislation, such as Building Regulations, may require an additional consent. Such a consent should be sought and obtained prior to those works being undertaken.

POSITIVE WORKING STATEMENT

In accordance with paragraph 39 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of listed building consent. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

BNG – Biodiversity Net Gain

Not applicable for applications for listed building consent.

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.