PLANNING COMMITTEE AGENDA - 8th October 2025

Applications of a non-delegated nature

Item No.	**Description**
1.	23/00209/FULL - Erection of 2 dwellings and associated works at Land and Buildings at NGR 295663 122384, Frog Street, Bampton. **RECOMMENDATION** Grant permission subject to conditions.

Plans List No. 1

Application No. 23/00209/FULL

Grid Ref: 295663 : 122384

Applicant: Mr R & Mrs D Seward

Location: Land and Buildings at NGR 295663 122384
Frog Street
Bampton
Devon

Proposal: Erection of 2 dwellings and associated works

Date Valid: 7th February 2023

APPLICATION NO: 23/00209/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee as it was called in by previous Ward Member, Rachel Gilmour, in order to consider the potential impact of the proposed development, in particular respect to impact on the living qualities of the neighbouring residents, highway safety, flood risk, impact on local ecology and visual impact.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of 2 dwellings and associated works

The site is located on land to the west of Frog Street and to the north and west of Newton Court, to the north of the centre of Bampton. The site comprises a largely grassed and vegetated former paddock with a group of dilapidated stable and storage buildings. There is a hard surfaced track linking a current access from Frog Street to a turning area within the south western corner of the site. This track previously accessed land to the south, to the rear of the Spar store, however this route has since been closed with the land to the south in third party ownership. There is also access to agricultural land to the north.

The site is within the defined settlement limits of Bampton, as well as being within the extended conservation area. The site itself is included within the Mid Devon Local Plan as part of a larger allocated site for residential development (BA1), for up to five houses. The site has neighbouring residential properties to the east and south, with undeveloped land to the north and west. The existing access from Frog Street is partially within Environment Agency designated Flood Risk Zones 2 and 3, however the remainder of the site to be developed is in Flood Zone 1, which is land at the lowest risk of flooding.

This proposal is made to erect two dwelling houses following the demolition of the existing buildings on site. The proposed dwellings are to be detached, one a two storey 4 bedroom property (Plot 1), and the other a single storey 3 bedroom property (Plot 2). It is proposed to construct these with a mix of locally sourced natural stone and render, with natural slate roofs. A single garage is proposed in connection with the house proposed on Plot 1, and two additional parking spaces are proposed per dwelling with the existing turning area retained for shared use area. It is proposed to dispose of foul drainage via existing mains sewer, with surface water to be stored on site in underground attenuation tanks for controlled release to the nearby Shuttern Brook.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, Plans, Planning Statement, Technical Statement - Transport, Heritage Appraisal and Impact Assessment, Ecology Report, Percolation Tests, Surface Water Drainage Strategy.

RELEVANT PLANNING HISTORY

There is no relevant planning history on this site

DEVELOPMENT PLAN POLICIES

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), decisions on the award of planning permission should be made in accordance with the development plan, unless material considerations indicate otherwise. The Mid Devon Local Plan 2013-2033, which was adopted on 29th July 2020, alongside any other relevant planning policy documents such as Neighbourhood Plans and Supplementary Planning Documents, form the Development Plan.

Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. In this case, however Mid Devon District Council has recently confirmed that it is no longer able to demonstrate a five year supply of housing sites, in which case the Development Plan policies relating to the supply of housing should be considered to be out of date. Furthermore, as of 29th July 2025, it was five years after adoption of the Mid Devon Local Plan, meaning that the Local Plan is now considered to be 'out of date' for the purposes of assessing local housing need, with the revised standard method calculation being used to assess housing land supply calculations. As identified in the 'Mid Devon Housing Delivery Test Action Plan 2025', the previously adopted housing requirement of 393 dwellings will increase to a figure of 572 dwellings to be used as the baseline of five year housing supply calculations. As a result of this change in the method of calculating housing land supply, there will be an inevitable significant increase in the level of housing land shortfall.

In situations where a Local Planning Authority has out of date housing supply policies, paragraph 11 d) of the National Planning Policy Framework (NPPF) states that decisions should apply a presumption in favour of sustainable development, meaning the following:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Mid Devon Local Plan 2013 – 2033

S1 - Sustainable development priorities
S2 - Amount and distribution of development
S3 - Meeting housing needs
S4 - Ensuring housing delivery
S5 - Public open space
S9 - Environment
S13 - Villages
DM1 - High quality design
DM3 - Transport and air quality

DM4 - Pollution
DM5 - Parking
DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

BAMPTON TOWN COUNCIL

03/03/2023:

- The area of Frog Street is shown as a HIGH RISK for flooding.
- Access to the proposed development is considered to be inadequate based as it is on a sharp bend in a narrow street.
- Traffic levels: additional vehicles serving the proposed development would increase already over-crowded traffic issues on a narrow street with no pavements for pedestrians.
- The two proposed properties are jammed into one corner of the site and would then cause overlooking and a loss of privacy for those in Newton Court.
- Being so close to properties in Newton Court will also incur loss of light and overshadowing.
- Bats are known to roost in Newton Court and this area is also known as a fly zone for the protected species.

10/06/25:

Bampton Town Council has very strong objections to this application. This amended application does not address the objections the Council has put forward previously and there is no real revision.

The Council repeat the points made previously:

1. The area of Frog Street is shown as a HIGH RISK for flooding.

2. Access to the proposed development is considered to be inadequate based as it is on a sharp bend in a narrow street.

3. Traffic levels: additional vehicles serving the proposed development would increase already over-crowded traffic issues on a narrow street with no pavements for pedestrians. A passing bay has now been removed

4. The two proposed properties would cause overlooking and a loss of privacy for those in Newton Court.

5. Being so close to properties in Newton Court will also incur loss of light and overshadowing.

6. Bats are known to roost in Newton Court and this area is also known as a fly zone for the protected species.

DCC HIGHWAY AUTHORITY

13/02/2023:

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

16/11/2023:

My first response to this application was for Mid Devon to assess the highway impact.

I have since been asked for my recommendation, therefore I have visited the site now on a number of occasions.

The site is accessed off an unclassified County Road which is restricted to 30 MPH although observed traffic speeds are considerably lower.

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

The Applicant has shown a visibility drawings in the Transport Statement which shows these to be below the guidance, but is acceptable as the speeds are very low.

The access is narrow and below guidance if they were to be building a new access, but this is an existing access and is already being used by vehicles today and therefore is wide enough. It is obviously not wide enough for two vehicles to pass in this access, but as this is off an unclassified road and the low speeds it is acceptable that vehicles can reverse on to the highway.

The number of trips this development could generate will not have a severe effect on the Highway network.

My main concern with this application is the distance from the access to the proposed new buildings which is further than 45 metres which is the maximum accepted distance for a fire engine and I believe this access would not be wide enough for a small appliance. I have spoken to the Transport Consultant regards this and they have said it is acceptable verbally, but have yet to confirm this in writing. Therefore this has not been resolved. This should be resolved for safety reasons.

DEVON COUNTY COUNCIL ECOLOGY

30/11/2023:

No objections subject to conditions to secure recommendations for preventative measures and ecological enhancements on site.

PUBLIC HEALTH

20/02/2023:

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

20/11/2023:

I have had another look at this application and the objection comments, which seem to be very well informed. It appears that because of the public sewer easement and other constraints there are difficulties in accommodating this proposal on the site in any case. I can see that a soakaway is proposed immediately adjacent to one of the new dwellings and adjoining an existing residence. As shown this would not meet the minimum distance requirements from either the new house or the adjacent property boundary. EHOs don't normally comment on soakaways but we feel this is necessary in this case because of the concern about potential flooding onto adjacent properties expressed by residents in the area. The site is also described as frequently waterlogged which suggests that percolation in this area is possibly limited, and it possibly takes excess water which would otherwise flood elsewhere. The applicant should provide more details regarding percolation tests and appropriately sited soakaways, because as shown both houses would drain into the one soakaway shown.

The adjacent oil tank would not be a concern.

In terms of potential contamination, this could be dealt with via the standard "unexpected contamination" condition because sub-stations should not be the source of contamination, and it is not clear where the high lead levels on the adjacent land have originated. This in itself would not be a barrier to development, although the applicant may need to ensure that 600mm of clean topsoil is incorporated into residential gardens if high levels are found.

The applicant suggests that ASHPs may be installed but there are no details and no commitment to this. They should be able to source noise compliant pumps, but if not then would need to submit a further planning application regarding these. If they are correctly selected and sited, i.e. not adjacent to existing residential boundaries, the modern pumps should not be a problem.

Incidentally, if this application is likely to be approved I would recommend that the standard CEMP condition is applied to any approval - I omitted this in my initial comments.

<u>05/11/2023:</u>

I have had a look at the percolation testing report and it appears to have been written by a company which mainly deals with air source heat pumps and ventilation systems, not a specialist drainage engineer. Furthermore the writer notes that 25litres of water took between 60 and 90 minutes to soak in - this would indicate a very poor infiltration rate. There is a responsibility on the applicant to satisfy the LPA, and in fact adjacent landowners, that the drainage system will actually work and in my view this has not been done. Proposing two large properties on this site does not actually leave sufficient room for compliant soakaway systems, even if the percolation rates are found to be acceptable. There is a clear note in previous comments that the underlying soil has a high proportion of clay and is therefore unlikely to be suitable for a soakaway.

I therefore recommend that the applicant appoints a qualified drainage consultant who can undertake proper percolation testing and recommend a workable surface water drainage system which could then form part of an approved document. To date the queries I raised have not been properly addressed and I do not think that this can be dealt with via a pre-commencement condition because a suitable and satisfactory system for dealing with surface water has not to date been offered.

<u>05/06/2025:</u>

We have considered the revised documents and see that a drainage engineer now recommends underground holding tanks for surface water with then a controlled discharge to the nearby stream via land in the ownership of the applicant. From an environmental health perspective this, if acceptable to the drainage officer and building control officer, should remove the potential for flooding of adjacent residences and thereby address concerns raised by residents regarding that.

The drainage investigation has revealed that much of the site comprises made ground, and our previously recommended contaminated land condition should be included on any approval. The condition is:

"Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.
Reason: To ensure that any contamination existing and exposed during the development is identified and remediated."

The applicant indicates that air source heat pumps may be included, and as no details are provided we would recommend the following condition regarding this:

"The air source heat pump(s) shall be selected, installed and operated such that the residual noise level from the pumps shall not exceed the background noise level (day or night, measured as La90dBa, 1hour) by any more than 5dBa measured as Laeq, 15 min at the boundary of the application site. Reason: to protect the amenity of existing and future residents from unacceptable noise levels."

The standard CEMP condition should be included on any approval.

BUILDING CONTROL

15/12/2023:

Where FB tender access falls outside the requirements of B5 Approved Document B - there is scope with fire service consultation to fit suppression as a compensating feature.

The fire service tend to treat these cases individually and it should not be taken for granted it would be accepted- so I would suggest that this is agreed with the Fire Authority at this stage.

23/07/2025:

Nothing to add. I would do exactly what you have done in consulting the FO.

EAST DEVON & SOMERSET FIRE AND RESCUE SERVICE

15/12/2023:

Thank you for getting in touch with regards to B5 access for the proposed development. It is not as straight forward as installing sprinklers as Alister indicates, hose distances although increased still need to be achieved. From the information provided these still appear excessive.

31st July 2025:

It is difficult to see from the drawing as access from the road, the important bit has been cut off. Access for a fire appliance must meet the requirements of table 13.1 of ADB Vol1 which from memory this cannot be achieved due to roadway width into the site.

If BS 9991 Fire safety in the design, management and use of residential buildings - Code of practice is used for the purposes of a building regulations application then there can be an increase in hose distances with the provision of sprinklers.

Houses not fitted with fire mains should allow access for a fire appliance to within 45 m of all points within the house, measured on a route suitable for laying hose.

Where sprinklers in accordance with BS 9251:2014 or BS EN 12845 are fitted throughout a house or block of flats:

a) the distance between the fire appliance and any point within the house (in houses having no floor more than 4.5 m above ground level) may be up to 90 m;

b) the distance between the fire and rescue service pumping appliance and any point within the house or flat may be up to 75 m (in houses or flats having one floor more than 4.5 m above ground level).

One point to mention with regards to residential sprinklers are that they have a limited run time of approximately 10 minutes which may not be sufficient.

SOUTH WEST WATER

09/11/2023:

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

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

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

Please click here to view the table of distances of buildings/structures from a public sewer.

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

It is noted from the plans that the applicant/agent are aware of the public sewer and have factored this into their plans.

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

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

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

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

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

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

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

DCC HISTORIC ENVIRONMENT TEAM

15/11/2023:

Comments from Stephen Reed, Senior Historic Environment Officer

Devon County Historic Environment Team ref: Arch/DM/MD/38912a

The proposed development site lies just to the north and adjacent to the historic core of Bampton and in an area where little in the way of formal archaeological investigations have been undertaken but where the presence of features, such as rubbish pits, small scale rural industrial activity like iron smithing, and former land divisions may be expected. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with any heritage assets with archaeological interest that may be present. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2023) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM25 (2020), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason
'To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

Reason
'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: https://new.devon.gov.uk/historicenvironment/development-management/.

REPRESENTATIONS

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

At the time of writing this report, letters of objection have been received from 19 local residents. The main concerns are summarised below:

- Frog Street is a busy narrow lane with tight bends that is well used by lots of residents/dog walkers but there is no footpath, increasing the risk to pedestrians.
- There is restricted visibility in and out of the site access, with cars parked either side. The access track is also narrow and would not allow cars to pass each other. An area indicated as a passing place is used as a car parking space for 5a Frog Street.
- Concerns about construction traffic accessing the site and potential for damage of neighbouring property.
- The traffic statement does not take into account parked cars and the traffic survey detailed within was undertaken during quieter times of the day.
- The proximity of the proposed dwellings to neighbouring properties will impact on residential amenity through overlooking, loss of light and overbearing impact.
- The increase in traffic will disturb neighbouring amenity.
- There is important wildlife nearby with bats present in a neighbouring property, owls, birds, foxes, toads and kingfisher present on nearby land, and otters in the nearby brook.
- It is considered that the wildlife survey undertaken was not satisfactory and does not include surveys for species such as crested newts, otter and toads. It also does not take into account the presence of bats within an adjoining property.
- The local area is affected by surface water flooding, as well as flooding from the nearby Shuttern Brook. The site is a water meadow and surface water accumulates in places near the boundary of nearby properties. The development will increase risk of flooding locally, as well as increasing the risk of the Shuttern Brook flooding. The Environment Agency has spent a lot of money to remedy flooding issues in the local area.
- The proposed use of soakaways to deal with surface water are not workable as the ground conditions would not allow for infiltration methods and the proposed soakaways are too close to adjoining properties. Infiltration testing undertaken in March 2024 was poorly done and the results are not believed as previous ground surveys and local knowledge, do not indicate that soakaways are feasible.
  <u>NOTE:</u> Further detailed infiltration testing has been undertaken since these objections were received; clearly indicating that infiltration is not possible.
- Concerns about the revised drainage details indicating use of underground attenuation tanks with discharge into the Shuttern Brook. It is thought that the proposed drainage would discharge up slope of the site and point of discharge could be harmful to wildlife and existing vegetation.
- Drainage to arrangements could impact on residents of Frog Street who have previously been impacted by sewerage overflow.
- The site is a former orchard with the trees being gradually removed over the years. One tree on site was removed just before the application was submitted.
- Concerns over how an emergency vehicle would enter the site, especially a fire tender, due to the restricted width of the proposed access, and fence blocking access through the road passing to the rear of the Spar shop, to the south, which is identified as a right of access.
- A fire hydrant has been included within the site, on recent amended drawings, however this would still not be useable as a fire appliance would be unable to access the site.
- Concerns about positioning of Air Source Heat Pumps and proximity to neighbouring oil tank.

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 heritage context**
3. **Highways, parking and access**
4. **Flooding and drainage**
5. **Residential amenity**
6. **Ecology and Biodiversity Net Gain**
7. **Archaeology**
8. **Planning obligations**
9. **Planning balance**

1. <u>Principle of Development</u>

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 site is within the defined settlement boundary of Bampton, where residential development is permitted in principle by policies S1 and S13 of the Mid Devon Local Plan 2013-2033. The development would contribute to meeting the housing needs of the District as set out in policy S3 of the Local Plan. Furthermore, the site is specifically allocated for residential development under Local Plan policy BA1, which states as follows:

A site of 0.25 hectares to the rear of Newton Square, Bampton is allocated for residential development, subject to the following:
a) 5 dwellings;
b) Provision is made on site for the parking of delivery vehicles serving the convenience store at 4-6 Newton Square;
c) Design which respects and enhances the character and appearance of the Conservation Area;
and
d) Archaeological investigation and appropriate mitigation measures.

The supporting text of this policy notes the following:

3.190 The site comprises land to the rear of the existing convenience store. It is suitable being a brownfield site, lying partially within the existing settlement limit. The majority of the site lies within the Conservation Area where development should preserve or enhance the character and setting of the area. Access is likely to be obtainable only through the existing access off Newton Court which serves the convenience store and through which deliveries are made. Due to the width of the access, Newton Court is not suitable for the regular

parking of delivery vehicles and provision should be made within the development site for this activity.

3.191 The site lies in an area of archaeological potential within the historic core of Bampton, so a programme of archaeological investigation will be required, with mitigation measures if necessary.

1.3 Further to the site being allocated for residential development and within the defined settlement limits of Bampton, it is also important to be aware of the fact that the Local Planning Authority are now unable to demonstrate a five year supply of housing land, and that the adopted Local Plan is more than five years old, in which case the Local Plan is considered to be 'out of date' for the purposes of assessing local housing need.

1.4 Where a Local Planning Authority has out of date housing supply policies due to being unable to demonstrate five years of housing land, or by virtue of its age since adoption, paragraph 11 d) of the National Planning Policy Framework (NPPF) states that decisions should apply a presumption in favour of sustainable development, meaning the following:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

1.5 On the basis of the site being allocated for residential development, and noting the status of the Local Plan and its housing policies, the principle of the proposed development of this site is considered to be acceptable.

1.6 It is noted that policy BA1 is allocated for five dwellings, in line with criterion a) of the policy, however the proposal is made is two dwellings only. The reasons for this is that the site is only part of the wider allocation and that the site is heavily constrained due to a mains sewer passing through the centre of the site, along with associated easement. Also due to the remainder of the allocation being in different ownership, access to the site is not available from Newton Court to the south, as originally intended in allocating the wider site. Access is therefore sought via an existing access from Frog Street to the east. This access is somewhat constrained due to its width and the nature of Frog Street itself, which is a narrow road, where parked vehicles further limits accessibility and visibility. A highway technical statement submitted in support of the application concludes that the access can safely serve an additional two dwellings, which is another reason why the scheme is limited to two dwellings only.

1.7 In addition to the reduced number of dwellings proposed, criterion b) of policy BA1 requires the provision of on-site parking for delivery vehicles to serve the nearby Spar convenience

store as 4-6 Newton Square. The proposal does not include such parking provision. Again this is due to the southern part of the land within the allocation not being part of the application site. There is currently a gated access to the southern part of the allocation, which is in separate ownership, to the rear of the Spar store, being the originally intended access to the whole site in the event at the whole allocation was developed together. Any delivery vehicle parking provision for the convenience store would need to be taken from this access, however that is not part of this proposed scheme and not within the applicant's control. The proposal put forward allows development of the northern part of the allocated site to a number of units that is considered to be acceptable in respect to increased usage of the only access into the site, that being via Frog Street. Furthermore, it would not be feasible to seek access and parking for the convenience store via the Frog Street access as this would lead to an unacceptable increase in amount and nature of traffic beyond that proposed by just two dwellings. While it is regrettable that the wider allocation is not able to come forward in its entirety, and that the provision of parking for the convenience store cannot be provided as part of this scheme, it is not considered that this presents reasonable grounds for refusal, particularly in light of the Council's lack of five year supply of housing land. Should the remainder of the land in separate ownership come forward, the opportunity to provide this part of the requirements of policy BA1 may be realistic.

1.8 The remaining criteria of policy BA1, c) and d), require the scheme to be of a design that respects and enhances the character and appearance of the conservation area, and that there is archaeological investigation and appropriate mitigation measures secured. These matters are to be addressed later in this report.

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

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

2.1 The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

2.2 The site is not located within a designated landscape and is on level land, however is within the Bampton Conservation Area. Being located to the rear of Newton Court, and not being publicly accessible, the site is rather discretely located with reduced public visibility, although there are some views from public vantage points, where the site is visible through the other modern development of Newton Court, and from distance along the northern parts of Frog Street. Policy DM1 (High quality design) outlines:

Designs of new development must be of high quality, based upon and demonstrating the following principles:
a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
b) Efficient and effective use of the site, having regard to criterion (a);
c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;
e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
i) Architecture
ii) Siting, layout, scale and massing
iii) Orientation and fenestration
iv) Materials, landscaping and green infrastructure
f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;
g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and
i) On sites of 10 houses of more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.

2.3 As noted earlier, the site is within the Bampton Conservation Area. As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 210 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."

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)"

In coming to this decision the council must also be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the decision maker 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.

2.4 The proposed dwellings comprise two detached units, one a two storey 4 bedroom property (Plot 1), and the other a single storey 3 bedroom property (Plot 2).

2.5 The property proposed on Plot 1 is to be a large home with a floor area of approximately 246 square metres. It is proposed to construct these with a mix of locally sourced natural stone and render, with natural slate roofs and white timber windows.

2.6 The other property on Plot 2 is to have a floor area of approximately 119 square metres, being constructed with a mix of natural stone and render with slate roof and white timber windows. The design of this property has been amended during the course of the application, originally being proposed as a larger two storey property. Due to concerns raised by local residents, which were shared by the case officer, in regard to the size and scale of this property, and its impact on both visual and neighbouring amenity, the proposed dwelling has been reduced in scale, and is now proposed as a single storey bungalow.

2.7 Considering the aforementioned site constraints, which include a mains sewer and easement running through the centre of the site, it is considered that the proposed dwellings make the most efficient use of the site, and are of a design and appearance that compliments the adjoining development of Newton Court, and is considered to conserve and enhance the character and appearance of the conservation area.

2.8 The proposed houses will all have level access and all bedrooms are shown as having a floor area well in excess of the minimum of 11.5sqm for a double bedroom, as identified within the Nationally Described Space Standards. Each unit will have its own garden area and parking provision.

2.9 Policy DM1 advises that development should provide suitable external spaces for recycling and refuse. The plans do not show the location of outdoor bin storage, however there is sufficient space within the proposed curtilages to accommodate waste storage provision.

2.10 Consideration has been given to the inclusion of forms of renewable energy provision, however the inclusion of solar panels has been ruled out due to the potential negative impact

on the character and appearance of the conservation area. It is however proposed to include air source heat pumps (ASHPs), which will negate the need for gas or oil supplies.

2.11 Due to the existing nature of the site, and its position, with existing landscaped boundaries to the north, and residential development to the south and east, limited additional planting is proposed, however there are opportunities for some planting throughout the site, which is indicated on the proposed site plan. Should planning permission be granted, final landscaping details would be conditioned.

2.12 On the basis of the above it is considered that the proposed development is acceptable in respect to its design, appearance and landscaping.

3. <u>Highways, parking and access</u>

3.1 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.

3.2 The proposed development seeks to make use of an existing access off Frog Street. The only other feasible access is to the south, via Newton Court, however this is not within the applicant's ownership and as such the use of this access is not possible. Notwithstanding the constraints on site that reduce the available space for development, this is also one of the reasons for limiting the development to just two dwellings, as this is the assessed level of development that could safely use the existing access without causing unacceptable harm to highway safety.

3.3 The existing access is narrow and visibility is reduced in comparison to the usual expected standard for Devon County Council Highway Authority's Standing Advice. Despite this, it is noted that the existing access provides both access to one existing property (5A Frog Street), the site itself, and agricultural land to the north. The current use includes equestrian purposes with a stable block and previous use of the access for the manoeuvring of a horse box in association with this use. The change of use of the site for residential purposes would lead to an increase in vehicle movements I association with two new dwellings, and a reduction in the type of movements that could be lawfully undertaken in connection with the current use. The application is supported by a highways technical statement and visibility drawings. Furthermore swept path analysis drawings have been provided and a traffic survey carried out along Frog Street, measuring speed and frequency of vehicle movements.

3.4 Objections have been received in respect to highway safety, with concerns raised about the existing width of Frog Street, the levels of visibility available from the site access, the width of the access, the presence of vehicles parked on-street close to the access, and the potential impact on existing users, both drivers and pedestrians. Additionally concerns have been raised that the width of the access is insufficient to allow access for emergency vehicles, in particular a fire tender.

3.5 The Highway Authority have commented on the application and raised no objections in principle. The Highways Officer did note that the width of the access and visibility were below the standard expected in the provision of a new access, however they also acknowledged that this was an existing access, already in use, and that vehicle speeds are low along Frog Street. They concluded that although the access was below standard for a new access, the number of additional trips that may be generated in relation to this existing access, would not

lead to a severe impact on highway safety. They agreed with the conclusions of the highway technical statement in that the proposed use of the existing access would be acceptable, and not affect the safety or integrity of the local road network.

3.6 Local Plan policy DM5 stipulates that the development must provide an appropriate level of parking, taking into account the accessibility of the site, including the availability of public transport and the type, mix and use of development. In respect of parking provision, Policy DM5 requires an average of 1.7 spaces per dwelling, which in this case will necessitate the provision of four parking spaces, rounded up from 3.4 spaces. The proposed layout makes provision for two per dwelling, along with a turning area to the south western corner of the plot. Additionally there is a garage proposed in connection with the property on Plot 1, although this would be beyond the parking standards expected. Furthermore, it should be noted that the Council's *Parking Provision in New Development* SPD (Supplementary Planning Document) does not count garaging towards the required number of parking spaces. Notwithstanding this, there is sufficient off-street parking provided to comply with the requirements of policy DM5. No cycle parking provision has been specifically identified, however there is sufficient space within the site to provide cycle parking.

3.7 There was one area of concern that the Highway Officer did have, however that has now been resolved. This was in relation to fire safety and the ability for fire safety measures to be put in place. Due to the width of the existing access, which narrows to 2.4m in width at its narrowest, it is unlikely that a fire tender would be able to access the site. The Highway Authority also note that the proposed dwellings are at a distance greater than 45m, which would be the normal distance that a hose could be operated from the fire tender.

3.8 In order to address this point, the applicant advised that this could be resolved through the fitting of fire suppression measures in the form of sprinklers to the properties. This is largely a matter for Building Control after approval, however it was considered important to resolve this matter prior to determination of this application. As such, the case officer has carried out further discussions with Building Control. The Building Control Officer has confirmed that where fire tender access falls outside of the scope of Building Control Approved Document B (B5), there is scope for the fitting of sprinklers, however the fire service tend to consider proposals on a case by case basis. The Building Control Officer recommend that Devon and Somerset Fire and Rescue Service be consulted.

3.9 Following consultation with Devon and Somerset Fire and Rescue Service, the Fire Officer advised that it was not as straight forward as fitting sprinklers, however in further discussions it was noted that where sprinklers were fitted hose distance could be extended to 90m for properties of the type proposed. The distance from the site entrance to the furthest of the proposed dwellings is approximately 75m, which is within the allowable hose distance. On this basis, it is considered that even though a fire tender would be unable to access the site, the properties are of a sufficient distance from a position where a fire tender can be positioned, when sprinklers are fitted. As such, it is considered realistic that the development could comply with appropriate non-planning fire regulations.

3.10 Further concerns have been raised in respect to the impact of construction works, especially deliveries and contractor parking along Frog Street. In order to ensure that matters of impact on highway safety during construction are well considered and controlled, a construction management plan condition is suggested. This will be imposed as a pre-commencement condition, and has been agreed by the applicant. Whilst not confirmed at this stage, it has been indicated that it may be possible to negotiate access for construction traffic to the southern access via Newton Court, even though the provision of permanent access via this route is not realistic. This would reduce the impact on Frog Street, if possible, although the

required construction management plan would ensure that highway safety impacts are reduced in the event of construction traffic needing to use Frog Street.

3.11 Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM5 of the Mid Devon Local Plan. It also complies with the accessibility requirements of policy DM1.

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. 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 Policy DM1 requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. Foul flows are proposed to discharge to the existing mains sewer that passes through the site, which would comply with the preferred method in the foul drainage hierarchy.

4.3 Objections have been received in relation to the development of the site and potential increases in risk of flooding locally. Due to its proximity to the Shuttern Brook, which passes under Frog Street close to the access. Frog Street has flooded in the past and comments received suggest that the site is a flood meadow, and that development would lead to an increase in surface water runoff that would increase the risk of flooding. Part of the access falls within Flood Risk Zones 2 and 3, however the majority of the site, including the developed areas, falls within Flood Zone 1, which is an area at the lowest risk of flooding. Notwithstanding this, it is important to ensure that the risk of flooding is not increased.

4.4 In initially submitting the application, it was indicated that the site would be drained via infiltration methods with disposal via a soakaway. Although this method would be at the higher end of the surface water drainage hierarchy, further information was sought in respect to the suitability of this drainage strategy, noting that objections had been received from local residents aware of the land characteristics in the immediate vicinity, and concerns of the Council's Environmental Health Officer.

4.5 As a result of the concerns raised, the applicant was asked to have infiltration testing carried out prior to determination to ensure that an appropriate drainage solution was identified early on. Initial infiltration testing was carried out concluding that soakaways were feasible, however a neighbour raised concerns about the manner of the testing and conclusions, concerns that were again shared by the Council's Environmental Health Officer. As a result further, more detailed testing was carried out, which then concluded that infiltration drainage was not possible. A surface water drainage strategy has since been formulated, proposing the introduction of underground attenuation tanks that would allow any surface water to be stored on site and then released at a controlled rate to the Shuttern Brook, lower than existing greenfield runoff rates, though the use of a hydrobrake. It is also recommended that smart water butts and rainwater harvesting are considered. Having ruled out disposal of surface water by on-site infiltration, the use of smart water butts, rainwater harvesting, and discharge to a local watercourse are the next favoured options. The route to the watercourse is over land within the applicant's control so no third party landowner need be affected.

4.6 There has been an objection to this latest proposed drainage scheme, with suggestions made that the route of the pipes is uphill, and that the proposal could lead to damage to trees and vegetation. The applicant has however confirmed that the route is not uphill and

the area of proposed discharge is unvegetated. There was also concern that the provision of anew headwall could cause damage to wildlife, however again it is noted that a headwall is not proposed at this stage. Should it become apparent that this is necessary, full consideration can be given to assessment of the risk to wildlife and ensuring that appropriate mitigation is put in place to prevent harm, however this is not something that need be considered at this point.

4.7 Notwithstanding the concerns raised, the development site is not within an area of high risk of flooding, in which case there are no concerns in respect to the risk of the site flooding. In regard to the risk of causing flooding beyond the site, it has been appropriately demonstrated that a suitable surface water drainage scheme is achievable to ensure that any surface water generated by the development is controlled and stored on site, being released to the nearby watercourse at a controlled rate. A pre-commencement condition is proposed to ensure that the final technical details of the proposed drainage scheme are agreed prior to works commencing on site.

4.8 A consultation response has also been received from South West Water (SWW) noting that the proposed surface water drainage method meets the run-off destination hierarchy and that connection is possible to the mains sewer. On this basis, it is considered that the site can be appropriately drained to ensure that there is no increase in the risk of flooding to future residents of the site, or to adjoining landowners.

5. <u>Residential amenity</u>

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

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

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

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

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

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

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

5.2 This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. In this case objections have been received in respect to the property proposed on Plot 2, that being the unit to the south east of the site. This is close to neighbouring properties in Newton

Court, with objections being received in respect to the potential for overlooking, overshadowing and overbearing impact.

5.3 As originally proposed, the building on Plot 2 was to be a large two-storey dwelling, sited close to the boundary of site with Newton Court. In this location there are neighbouring properties to the south and east. The case officer has visited the site on several occasions, viewing the proposal from the application site and neighbouring land properties, following a meeting with local residents and the previous Ward Member. Following this visit, it was felt that the proposed dwelling would be of a scale that did raise concerns about impact on neighbours, particularly as a result of overbearing impact and overlooking, alongside the previous concerns about visual impact.

5.4 Following lengthy negotiations with the case officer, the scheme has been amended to propose a single storey bungalow on Plot 2 instead of the previously sought two-storey house. The amended design and associated reduction in height is welcomed and it is considered that the proposed bungalow would address the main concerns identified. Whilst the property would remain close to the boundary with these neighbouring properties, the reduced height and pitched roof would eliminate the risk of overshadowing and overlooking, as well as reducing any harmful overbearing impact. As a result, it is considered that the proposed development is now acceptable from a residential amenity perspective.

5.5 It is noted that there are three south facing windows in the bungalow, which has raised some concern with neighbours to the south, however these all serve bathrooms, and a utility room, where obscurely glazed windows are acceptable and would remove overlooking. In order to ensure that there is no risk of overlooking, a condition will be imposed requiring that these windows are obscurely glazed and fixed shut at a height below 1.7m. Furthermore, it is considered appropriate to remove permitted development rights for the installation of new windows and extensions to protect neighbouring amenity, in the long-term.

5.6 Due to the position of the property on Plot 1, further to the west of the site, further away from neighbouring properties, no concerns are raised in relation to this property.

5.7 In order to protect residential amenity during construction works, a pre-commencement Construction and Environmental Management Plan condition will be imposed, tying in both the highway related elements of a construction management plan and additional environmental protections.

5.8 The Council's Environmental Health Officer has also commented on concerns raised in respect to the provision of air source heat pumps and building close to a neighbouring oil tank. They have raised no issues with the oil tank but have suggested that a condition is imposed to ensure that the air source heat pumps chosen do not exceed an appropriate noise level. Furthermore, whilst the nature of the site is such that contamination is not expected, an unexpected contamination condition is recommended to ensure that any contamination discovered during construction is appropriately investigated and mitigation provided.

5.9 Overall, it is considered that the proposed development is appropriately scaled and sited to avoid unacceptable harm to residential amenity, in accordance with Local Plan policy DM1 and the aims and objectives of the NPPF.

6. Ecology and Biodiversity Net Gain

6.1 Policy S9 of the Local Plan relates to the environment and clause f) states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through the protection and enhancement of designated sites of international, national and local biodiversity and geodiversity importance. On both designated and undesignated sites, development will support opportunities for protecting and enhancing species, populations and linking habitats. Policy DM1 Clause c) requires new development to demonstrate a positive contribution to local character including biodiversity assets.

6.2 The application includes the demolition of the existing stable buildings and sheds on site and the loss of a small area of improved grassland and mosaic of tall grass/ruderal and shrub. An ecology report was prepared by South West Ecology, in support of the application.

6.3 The findings of the Preliminary Bat Roost Assessment and Ecology Appraisal ecology report identified the buildings and habitat of a negligible likelihood of use by bats, with no evidence found within the existing buildings, and wider site either. As such, no further investigation is required, although precautionary measures are proposed to ensure that risk of harm to bats is reduced during demolition and construction, in the event that bats are found at a later date. Enhancements in the form of bat boxes are also proposed.

6.4 In respect to other wildlife, the buildings to be demolished, and associated vegetation, are considered to be suitable for nesting birds. Similarly it is assumed that there is the likelihood of slow worm being present on the site, as well as habitat suitable for hedgehogs. Otherwise no the habitat is not identified as being suitable habitat for other species. As such, it is recommended that precautionary pre-commencement checks take place prior to development, and no vegetation is removed during the bird nesting season, unless a qualified ecologist has first checked and confirmed lack of presence of nesting birds. In respect to reptiles (slow worms), progressive shortening of the grass is proposed to discourage use by slow worms, with final checks and installation of a reptile fence, once the site is confirmed as being clear. Final checks are also proposed for hedgehogs, with any found being safely removed from the site.

6.5 A number of local residents have raised concerns with the potential impact on wildlife, with other species, such as toads, otters, owls, foxes and crested newts, having been seen in the local area, particularly on land near to the Shuttern Brook. Furthermore, it has been advised that there are bats roosting in the roof of one of the neighbouring properties adjoining the site, with consideration into having been given to the impact on these protected species.

6.6 Due to the number of concerns raised, and to ensure that the scheme had been considered by an appropriately qualified professional, Devon County Council Ecology were consulted. In responding, the County Ecologist found that the submitted ecology report was appropriately carried out and concurred with the recommendations, suggesting conditions to ensure that the development is carried out in adherence with the proposed precautionary measures, mitigation and enhancements. In respect to commuting bats, such as those identified on adjoining land, the Ecologist is of the view that due to the size and scale of the proposed development, bat foraging and commuting would not be significantly impacted, however they do recommend that a condition is imposed to prevent the installation of any lighting on site without prior approval of the Local Planning Authority, which would ensure that any lighting is appropriately considered to limit impacts on bats outside of the site.

6.7 Due to the application being made prior to April 2024, the mandatory requirement to provide Biodiversity Net Gain (BNG) of at least 10% is not applicable. Nonetheless, it is proposed to provide some additional landscaping within the site, which would be welcomed form a visual perspective and to provide some level of biodiversity gains. I condition will be imposed for final landscaping details to be agreed.

6.8 An objection has been received, stating that a tree within the site was removed, without the correct consent, not long before that application was made. In considering this matter further, it is noted that an enforcement case was set up, with the Enforcement Officer at the time concluding that a breach of planning had not occurred.

6.9 Subject to the imposition of conditions it is considered that the proposed development seeks to protect, enhance and positively contribute to biodiversity in accordance with policies S9 and DM1 of the Local Plan and the provisions of the NPPF.

6.10 As such, there is no identified harm to local ecology and the scheme appropriately accords with policies S9 and DM1 of the Local Plan.

7. <u>Archaeology</u>

7.1 As noted earlier in the report, Local Plan policy BA1 identifies the need for appropriate archaeological investigation to take place, and appropriate mitigation measures to be undertaken, due to the site being within an area of high archaeological potential within the historic core of Bampton.

7.2 The Devon County Historic Environment Team have commented on the application, noting that the site lies adjacent to the historic core of Bampton, in an area where little formal archaeological investigations have been undertaken but where the presence of features, such as rubbish pits, small scale rural industrial activity like iron smithing, and former land divisions may be expected. As such, they conclude that groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with any heritage assets with archaeological interest that may be present. This is not a major consistent to development, however it is necessary to ensure that the impact on the archaeological resource is appropriately mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

7.3 The Historic Environment Team therefore recommend the imposition of conditions to require the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. This does not need to be provided prior to determination of the application but would need to be a pre-commencement condition. A further condition is recommended to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe.

7.4 Subject to the imposition of the suggested conditions, it is considered that the development can be brought forward, whilst ensuring that any archaeology present is appropriated investigated, recorded and mitigated, in line with the requirements of policies BA1 and S9 and DM25.

8. Planning Obligations

8.1 Due to the scale of development, no planning obligations are sought in connection with any planning permission.

9. Planning balance

9.1 The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. The application is in full and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. The proposal respects the character, scale, setting and design of the existing adjacent dwellings and will not result in over-development of the site. The proposed development will not significantly impact on any neighbouring properties or adversely affect ecological interests, highway safety, flood risk or surface water management.

9.2 Despite the number of dwellings falling short of the site allocation, it is noted that only part of the site is being developed. The delivery of housing that will meet existing District needs also weighs in favour of approval of the application. Taking all the above into consideration, it is considered that the balance weighs in favour of approval of the application. The proposed development is considered to be acceptable in principle subject to the imposition of conditions under Local Plan policies S1, S3, S9, S13, BA1 DM1, DM2, DM3, DM4, DM5 and DM25.

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 RECOMMENDING APPROVAL

The proposed development comprising the erection two detached dwellings within this allocated site is considered to be acceptable. The proposal by virtue of its siting and design will appropriately respect and relate to the character and appearance of the surrounding area, will preserve the character and setting of the conservation area and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. The properties created will be of a suitable size for its future occupants, and are not considered to cause demonstrable harm to highway safety, ecology or increase the risk of flooding. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S3, S9, S13, BA1, DM1, DM3, DM4, DM5 and DM25 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

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

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

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

   (a) A detailed drainage design based upon the submitted Surface Water Drainage Strategy (Report No. STG1533 – SWDS – 01, dated 11th April 2025);
   (b) A detailed management plan for the ongoing management and maintenance of the approved surface water drainage scheme;
   (c) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

   No development hereby permitted shall not be brought into use until the works have been approved and implemented in accordance with the details under (a) - (c) above. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

5. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.

6. The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

7. No work shall be carried out on in relation to the construction of any of the external surfaces of the development hereby permitted unless details of the materials, colour and finish (including the provision of samples) to be used for all external walls and roofs have been first submitted to and approved in writing by the Local Planning Authority. In addition to the provision of samples of the proposed materials, a sample panel of new natural stonework shall be provided on site for inspection. The development hereby permitted shall thereafter be constructed in accordance with the approved details.

8. A scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority, providing details of all new trees and other planting, including details of all existing planting to be retained. All planting, seeding, and earth works comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Ecology Report* (prepared by South West Ecology - dated 19th November 2022) covering avoidance of harm to protected species and nesting birds, mitigation, compensation and biodiversity enhancement measures. The proposed bat and bird boxes shall be installed prior to the dwelling houses hereby permitted first being occupied.

10. No vegetation clearance shall take place during the bird nesting season (01 March to 31 August inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this is kept and submitted to the Local Planning Authority.

11. No external lighting shall be installed at any time at the application site unless details have first been submitted to and approved in writing by the Local Planning Authority.

12. Any air source heat pump(s) shall be selected, installed and operated such that the residual noise level from the pumps shall not exceed the background noise level (day or night, measured as La90dBa, 1hour) by any more than 5dBa measured as Laeq, 15 min at the boundary of the application site.

13. The window to be inserted into the south facing elevation of the bungalow hereby permitted (Plot 2), to serve the proposed ensuite, bathroom and utility room, as indicated on approved plans, 'P04 Rev P7' (Plot 2 Floor and Roof Plan) and 'P07 Rev P10' (Plot 2 Proposed Elevations) shall be fitted with obscure glass (minimum level 3) and fixed closed below a height of 1.7m above the floor level of the room to which each window relates, and shall be permanently retained and maintained in this fashion thereafter.

14. Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

15. The parking spaces identified on the submitted plans shall be provided prior to the dwellings hereby permitted being first occupied, and shall thereafter be maintained and retained in perpetuity, being kept clear of obstruction and only used for parking of vehicles in connection with the development hereby permitted.

16. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no new windows (including roof lights) shall be installed or extensions undertaken in respect to the dwelling houses hereby permitted without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

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

2. For the avoidance of doubt as the development hereby proposed and in the interests of proper planning.

3. In the interests of residential amenity and highway safety, in accordance with policies DM1 and DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the Construction and Environmental Management Plan is agreed prior to any construction works.

4. In order to ensure that the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in

accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is agreed and temporary drainage arrangements in place prior to construction works starting.

5. To ensure, in accordance with policy DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

6. To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

7. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

8. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

9. For the conservation and protection of legally protected species, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).

10. For the protection of nesting birds, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).

11. For the conservation and protection of legally protected species (bats), in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).

12. To protect the amenity of existing and future residents from unacceptable noise levels, in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

13. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

14. To ensure that any contamination existing and exposed during the development is identified and remediated, in accordance with policy DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

15. In the interests of highway safety, in accordance with policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

16. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

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

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 the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

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

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

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

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

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

1. The application for planning permission was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
   4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
      i) the application for planning permission was made before 2 April 2024;
      ii) planning permission is granted which has effect before 2 April 2024; or
      iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

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