

PLANNING COMMITTEE AGENDA - 3rd December 2025

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>25/01237/HOUSE - Enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation at Broxford Cottage, East Village, Crediton.</p> <p>RECOMMENDATION Refuse permission.</p>
02.	<p>25/01239/LBC - Listed Building Consent for enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation; re-roofing of existing extension with slate and replacement windows at Broxford Cottage, East Village, Crediton.</p> <p>RECOMMENDATION Refuse Listed Building Consent.</p>
03.	<p>25/01423/FULL - Change of use of ground floor and rear outbuilding from veterinary practice (Class E) to residential use and subdivision and alterations to existing residential units to provide a total of 7 self-contained apartments (Class C3) at The Laurels, Station Road, Tiverton.</p> <p>RECOMMENDATION Grant permission subject to conditions</p>
04.	<p>25/01453/FULL - Variation of Condition 10 of Planning Permission 24/00039/FULL (Erection of 7 affordable dwellings with car parking, landscaping and other minor works following demolition of existing garages) to allow substitution of approved plans to reflect revised landscaping strategy, and parking areas at Land at NGR 303611 111116, Somerlea, Willand.</p> <p>RECOMMENDATION Grant permission subject to conditions</p>
05.	<p>25/00881/OUT - Outline application with all matters reserved, other than the point of access for the erection of up to 9 self or custom-build dwellings at Land at NGR 313524 113461, Culmstock Road, Hemyock.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>

Application No. 25/01237/HOUSE

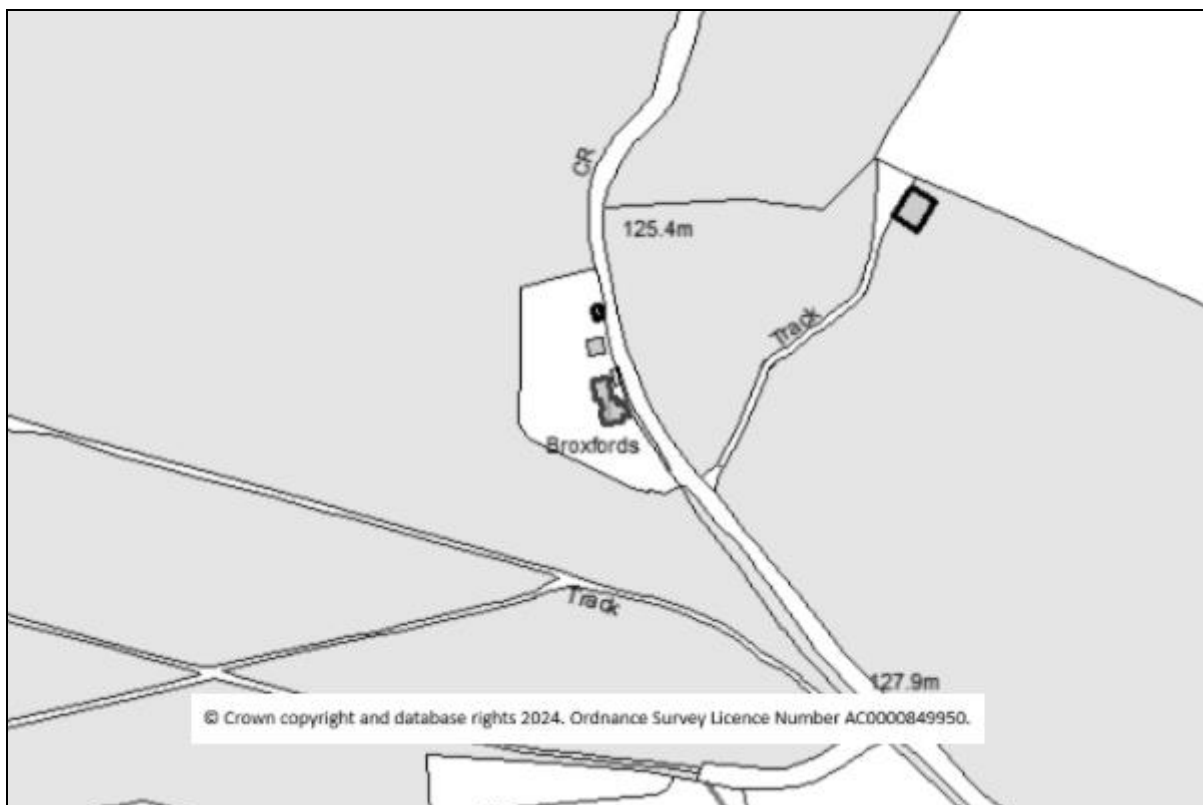
Grid Ref: 285094 : 103456

Applicant: Mr & Mrs P & R Eakers

Location: Broxford Cottage
East Village
Crediton
Devon

Proposal: Enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation

Date Valid: 23rd September 2025



APPLICATION NO: 25/01237/HOUSE

Decision Delayed Reason: Called into committee

COMMITTEE REASON

This application is required to be considered by the Planning Committee as it was called in by the Ward Member, in order to consider the weight that should be given public benefits arising from the proposed development.

RECOMMENDATION

Refuse planning permission

PROPOSED DEVELOPMENT

The proposed development relates to a householder application for the enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation with there being an associated listed building consent application. The property affected by this application is Broxford Cottage, a Grade II listed building. Broxford Cottage is an early-mid 19th century cottage in an 'L' shape, constructed of stone with a thatched roof. A stone and rendered, single storey extension is present at the rear, in addition to an outbuilding which bounds the site along Broxfords Hill. The habitable accommodation would provide a ground floor bedroom, en-suite, utility room and cloakroom.

APPLICANT'S SUPPORTING INFORMATION

- Application form
- Site Location Plan
- Proposed Block and Roof Plan
- Proposed Floor Plans
- Proposed Elevations
- Existing and Proposed Sections
- Survey Drawings
- Heritage Appraisal, Design & Access Statement & Impact Assessment
- Schedule of Works
- Bat Emergence Surveys

RELEVANT PLANNING HISTORY

11/00695/LBC - PERMIT date 15th July 2011
Listed Building Consent for external alterations

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities
S9 Environment
S14 Countryside

DM1 High quality design
DM5 Parking
DM11 Residential extensions and ancillary development
DM25 Development affecting heritage assets

CONSULTATIONS

Upton Hellions Parish Council

No response received

South West Water

Received 26th September 2025

Surface Water Services

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

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

No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

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

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

Highway Authority

Received 30th September 2025

The Highway Authority has considered this application and has no comments to make.

Conservation

Received 17th October 2025

Recommendation: REFUSE

The existing extension is already more than half the size of the historic cottage. By adding the proposal as well, the extension would be 73m², compared with just 58m² of the historic building (half the size again of the historic building), and there would be a loss of fabric from the outbuilding. Size alone does not indicate lack of suitability; some listed buildings can accommodate a large amount of change without harming their significance, but others cannot, and

my experience has shown that the smaller the building, the less likely it will be able to accommodate significant change without being harmed, and I believe that is the case in this instance. In addition, there are some questionable design choices proposed. While the proposal may make the cottage more accessible for this particular resident, there is no evidence that it cannot perform to its optimum viable use (as a dwelling) without this harmful alteration. As such, the proposal would provide no public benefit and therefore does not comply with local or national policy.

Loss of form, and subservience:

The property is in the cottage orné style, within The Broxfords plantation, likely belonging to the Creedy Estate, and indicating that it was a worker's cottage. As such, it is naturally a small building, initially of the '2-up-2-down' design. This small size is a key part of its character, and it has already been significantly extended, relative to its size.

The late 20th century extension appears to have been constructed on the site of earlier outbuildings, likely a toilet or store building, albeit with a much larger footprint. It does not follow the line or design of the historic cottage, and clearly cannot be confused with a structure of heritage value. There is no planning or building control history for the late 20th century extension, suggesting it was erected either without permission and consent, or within PD limits of the time prior to listing.

The existing outbuilding was constructed in the late 19th, early 20th century (according to historic maps) and was outside the residential curtilage. No information has been provided as to the significance of this building within the DAS, indicating that its curtilage listed status and contribution to the site has not been considered. It is very much a separate building, being on the opposite side of the residential curtilage adjacent to the road, and of a simple and utilitarian nature. To incorporate it within the dwelling would be an elevation of its status and removal of its purpose. It would require significant alteration to make it habitable, including insulation, a floor slab, a window, and services. This would be harmful to both the outbuilding and the main building.

Extending the building more than it already has been does not appear to be justified. The house already has three reception rooms, two bedrooms, a bathroom, and a kitchen, meaning it is functional as a dwelling, and therefore no public benefit could arise from further extension.

Design Issues:

The existing extension was not exceptional design even for its time, being rather squat and wide compared to its host, but it is of simple design with minimal openings on the north end of the building, an ideal location for a kitchen. It sits relatively quietly without being an awkward visual jar, although its projection beyond the western wall is not a good feature, nor is the rendered finish or concrete tile roof. It is highly visible from the east and north, but the use of stone for the north elevation means that it blends quite well with the host building. Its long length does make it look slightly awkward in relation to the house, but given all these considerations, it is relatively inoffensive, and the location at the back of the site and set down from the highway means that it is not immediately visible from the south now the main visible elevation of the house.

The contrived and awkward proposed north elevation is particularly poor design, encouraging water to pool in a difficult-to-access gully adjacent to historic walling. The historic outbuilding must be significantly changed to accommodate the raised ceiling and roof level and enlarged footprint. This elevation is quite visible and therefore should be complementary to the listed building. Instead, it appears as a collection of different roof levels and walls made to fit into an area it should not be.

Conclusion:

The reason the existing extension works is because of its sympathetic simplicity set against the more ornate cottage. The proposal cannot be classed as simple or sympathetic, and it is difficult to see how the desired floor space could be achieved without causing harm to the building. It is too large and in too poor a design to be considered not to cause harm to the listed building, and without providing public benefit, does not fulfil the policy requirements. The application should be refused accordingly.

Re-consultation response received 13th November 2025

Under NPPF 215 the public benefits include securing the optimum viable use of the property, which is as a residential dwelling. The property functions as this at the moment and does not require additional alteration to make it into a functional dwelling. The fact that it is not entirely accessible for the current occupant does not negate this fact, therefore increasing the accessibility for this particular occupant is not considered to be a public benefit. The harm therefore cannot be weighed against this private benefit and the proposal is contrary to local and national policy.

The other 'public benefit' stated is the replacement of concrete tiles with natural slate. The existing extension, whatever its roof covering, is clearly an extension built and designed 'of its time' and an improvement in roof covering would provide a negligible improvement in appearance. While the replacement of the modern concrete tiles with natural slate would be an improvement to the appearance, it would be negated by the poor design and overlarge size of the proposed extension, thereby not balancing the less than substantial harm and therefore contrary to local and national policy.

I do not consider this proposal to satisfy DM25 or other national policies and it should therefore be refused due to the less than substantial harm to the listed building without clear and convincing justification or the provision of public benefit.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Principle of the development**
- 2. Impact upon the listed building**
- 3. Public benefits**
- 4. Ecology/biodiversity**
- 5. Land drainage/flood risk**
- 6. Highway safety**

An assessment of the scheme against these considerations is set out below.

1. Principle of the development

- 1.1. Policy S14 of the Local Plan states that development outside settlement boundaries will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It states that detailed development management policies will permit agricultural and other appropriate rural uses including appropriately scaled and designed extensions and other physical alterations to existing buildings. More specifically, Policy DM11 of the Local Plan permits the provision of residential extensions provided that they:
- a) Respect the character, scale, setting and design of the existing dwelling;
 - b) Will not result in the over-development of the dwelling curtilage; and
 - c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.
- 1.2. In respect of criterion a), this is discussed in detail below in regard to the impact upon the main dwelling being a Grade II listed building. In respect of criterion b), it is not considered that the proposal would result in the over-development of the dwelling curtilage as such but there are concerns raised to the harm to the significance and setting of the listed building through the additions proposed, and in respect of criterion c), no neighbouring properties are located in close proximity to the dwelling, and therefore, no adverse impacts would arise in relation to the living conditions of occupants of neighbouring properties. Taking the above into consideration, the principle of the development to extend the existing building to provide additional accommodation could be acceptable through a suitable development which respects the character, scale, setting and design of the existing dwelling.

2. Impact upon the listed building

- 2.1. In coming to a decision the council must be mindful of the duty as set out in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses.
- 2.2. Section 16 of the National Planning Policy Framework (NPPF) sets out the national guidance for conserving and enhancing the historic environment. When considering potential impacts Paragraph 212 states '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'.
- 2.3. Policy DM1 of the Local Plan seeks to ensure new development is of a high quality design demonstrating clear understanding of the characteristics of the site and providing a positive contribution to local character including any heritage assets.
- 2.4. More specifically, Policy DM25 of the Local Plan relates to development affecting heritage assets. The policy states:

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).*

- 2.5. The proposal is for the enlargement of an existing extension to link the main property to the outbuilding, and for the extension and conversion of the outbuilding to form habitable accommodation. The habitable accommodation would provide a ground floor bedroom, en-suite, utility room and cloakroom.
- 2.6. As noted within the Conservation Officer's response, the property is in the cottage orné style, within The Broxfords plantation, likely belonging to the Creedy Estate, and indicating that it was a worker's cottage. As such, it is naturally a small building, initially of the '2-up-2-down' design. This small size is a key part of its character, and it has already been significantly extended, relative to its size.
- 2.7. The Conservation Officer notes that the total size of the proposed extension, together with the existing extension, would measure 73 square metres compared with 58 square metres of the historic building. The extension is proposed to be constructed of local stone with a slate roof. The gable end wall of the existing extension would be removed and reconstructed 3.5 metres further north, and the outbuilding would be extended 1.8 metres south. The existing courtyard area is then proposed to be covered to create the entrance hall/cloakroom for the accommodation.
- 2.8. The Conservation Officer has been consulted on the proposal where they have stated that they recommend refusal of the listed building consent and planning application due to the cottage not being able to accommodate the size of the proposed extension and due to the design of the development. The comments received from the Conservation Officer are set out in full above, where it is noted that harm to the listed building is considered to arise as a result of the proposed extension: *"... it is difficult to see how the desired floor space could be achieved without causing harm to the building. It is too large and in too poor a design to be considered not to cause harm to the listed building, and without providing public benefit, does not fulfil the policy requirements"*. The harm identified would be considered less than substantial.

3. Public benefits

- 3.1. Paragraph 215 of the National Planning Policy Framework states:

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.

- 3.2. The proposal seeks to provide accessible ground floor accommodation. The Conservation Officer has argued that alterations to the listed building to allow for the provision of an accessible home would not be considered a public benefit, but rather, a private benefit of the applicant. Moreover, there is no evidence to demonstrate that the dwelling cannot perform to its optimum viable without requiring any alteration. Therefore, it is considered that the harm to the heritage asset cannot be weighed against the benefit of the proposal to provide accessible accommodation, as this benefit is not public.
- 3.3. Moreover, the agent has argued that a further public benefit is the replacement of the concrete tiles on the existing extension with natural slate which will contribute towards enhancing the appearance of the extension. However, the Conservation Officer has argued that this amendment to the roof material would be negated by the poor design and overlarge size of the proposed extension, thereby not balancing the less than substantial harm.
- 3.4. Taking the above into consideration, whilst the need to provide accessible accommodation on the ground floor of the dwelling is appreciated, in this case, the proposal would provide a private benefit, rather than a public benefit, which would not outweigh the less than substantial harm to the listed building. The proposal would conflict with Policies DM1 and DM25 of the Local Plan and guidance within the National Planning Policy Framework.

4. Ecology/biodiversity

- 4.1. Policy S9 of the Local Plan relates to the environment and refers to protecting and enhancing species populations. A Bat Emergence Survey has been submitted in support of the application where the single storey extension at the rear was found to be a breeding roost site. Works would be required to this roof space to accommodate the extension which would cause disturbance to the roost. The survey notes that the impact on the roost in the long term would be negligible as no loss of the existing roost site is anticipated, however, a change of access would be required from the existing gable end access which would be lost with the extension, to a bat access slate fixed over the existing gable end access to their roost site. Additionally, the new extension would provide increased roosting opportunity with bat access replicated to ensure their favourable conservation status.
- 4.2. As the proposal will impact a bat roost site through disturbance, in the event of a planning approval, a European Protected Species licence will be required to be obtained from Natural England before any works can commence.
- 4.3. Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010 ("the Regulations") provides that, "A competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions". In exercising their duty, the Local Planning Authority should assess the proposal against the three derogation tests of the Habitats Regulations 2010, these being:

1. There are no feasible alternative solutions that would be less damaging or avoid damage to the site
 2. The proposal needs to be carried out for imperative reasons of overriding public interest
 3. The necessary compensatory measures can be secured.
- 4.4. In assessing the first two tests, it is considered that the proposal satisfies them in that the accommodation would provide enhanced living accommodation at this particular site. In regard to the third test, the survey recommends mitigation measures and ecological enhancements such as the sensitive timing of works, the installation of bat boxes, the use of bat safe materials and the presence of a Natural England bat worker. As mentioned above, a new bat access would also be created in the new gable end wall top. Should the planning application be approved, a condition should be imposed on the planning permission to ensure the works are carried out in accordance with the submitted Bat Emergence Survey.

5. Land drainage/flood risk

- 5.1. Policy S1 of the Local Plan refers to sustainable development priorities, stating that all development will be required to support the creation of sustainable communities by meeting the challenge of climate change by managing flood risk.
- 5.2. The application site is located within Flood Zone 1 which presents a low risk of flooding from rivers and the sea. In regard to surface water drainage, as South West Water has commented, no surface water strategy details were submitted in support of the application.
- 5.3. Should the planning application be approved, a condition would need to be imposed on the planning permission to ensure provision shall be made for the reuse of surface water on site or drainage within the curtilage of the dwellinghouse in accordance with the Run-off Destination Hierarchy as detailed in the comments received by South West Water.

6. Highway safety

- 6.1. Policy DM5 of the Local Plan states that development must provide an appropriate level of parking. The proposed development does not seek to alter the existing parking or access arrangement and the Highway Authority has no comments to make on the application.
- 6.2. In summary, notwithstanding the above comments, the proposal, by virtue of its scale and design, is considered to result in harm to the character, appearance and significance of the listed building. The identified harm is not outweighed by a public benefit with the development contrary to policies DM1 and DM25 of the Mid Devon Local Plan 2013-2033, Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework.

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". Disability is a protected characteristic identified by the Equalities Act 2010 and has been considered in the assessment of this application.

REASON FOR REFUSAL OF PERMISSION

The proposal, by virtue of its scale and design, is considered to result in harm to the character, appearance and significance of the listed building. The identified harm is not outweighed by a public benefit from the scheme, with the public benefits outlined by the applicant instead being considered to represent a private benefit to the applicant. Therefore, the proposed development is considered contrary to Policies DM1 and DM25 of the Mid Devon Local Plan 2013-2033, Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework.

BNG – Biodiversity Net Gain

Is BNG Required? No

Is BNG Offsite only N/A

Onsite only N/A

Offsite and Onsite N/A

Is a S106 agreement required? No

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 in the list below is/are considered to apply.

1. Development below the de minimis threshold, meaning development which:
 - ii) 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
 - iii) 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).
2. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is

not an application for change of use or an application to change the number of dwellings in a building.

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

Application No. 25/01239/LBC

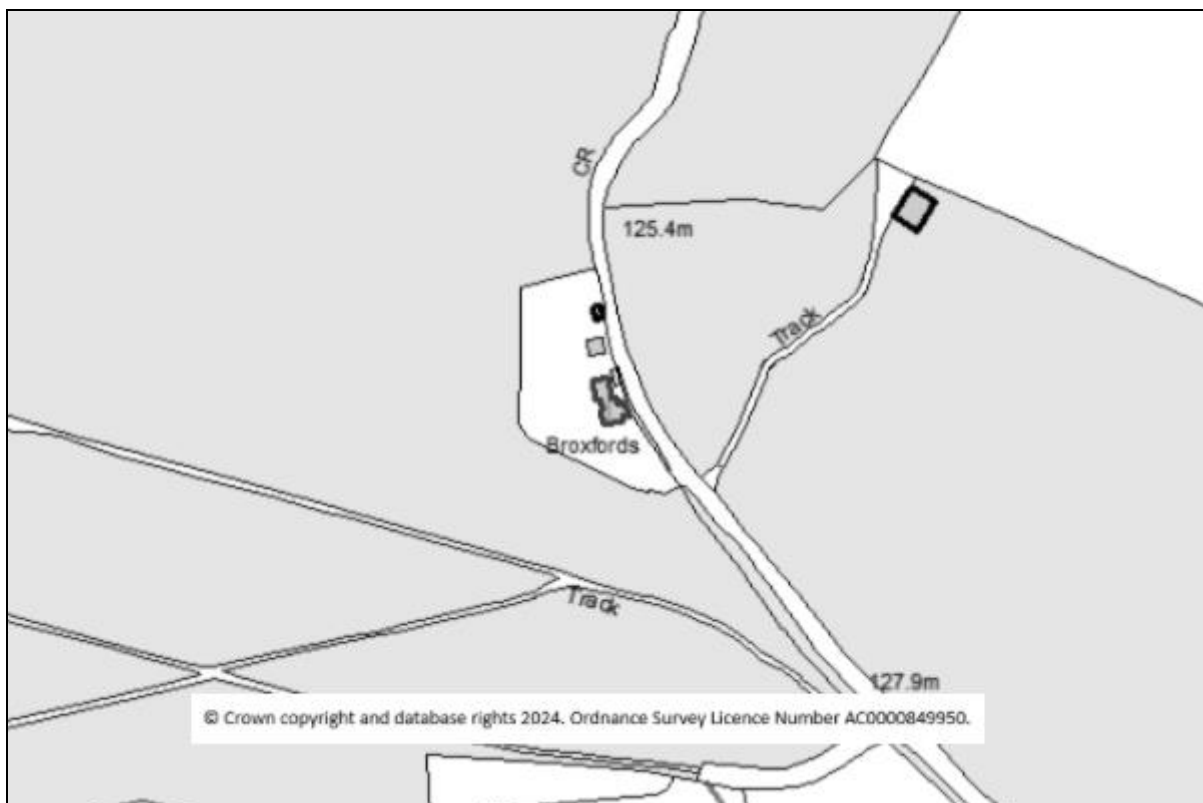
Grid Ref: 285094 : 103456

Applicant: Mr & Mrs P & R Eakers

Location: Broxford Cottage
East Village
CREDITON
Devon

Proposal: Listed Building Consent for enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation; re-roofing of existing extension with slate and replacement windows

Date Valid: 23rd September 2025



APPLICATION NO: 25/01239/LBC

Decision Delayed Reason: Called into committee

COMMITTEE REASON

This application is required to be considered by the Planning Committee as it was called in by the Ward Member, in order to consider the weight that should be given public benefits arising from the proposed development.

RECOMMENDATION

Refuse listed building consent

PROPOSED DEVELOPMENT

The proposed development relates to listed building consent for the enlargement of existing extension to link property to outbuilding; extension and conversion of outbuilding to form habitable accommodation, re-roofing of existing extension with slate and replacement windows with there being an associated householder application. The property affected by this application is Broxford Cottage, a Grade II listed building. Broxford Cottage is an early-mid 19th century cottage in an 'L' shape, constructed of stone with a thatched roof. A stone and rendered, single storey extension is present at the rear, in addition to an outbuilding which bounds the site along Broxfords Hill. The habitable accommodation would provide a ground floor bedroom, en-suite, utility room and cloakroom.

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Recommendation: REFUSE

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Loss of form, and subservience:

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The late 20th century extension appears to have been constructed on the site of earlier outbuildings, likely a toilet or store building, albeit with a much larger footprint. It does not follow the line or design of the historic cottage, and clearly cannot be confused with a structure of heritage value. There is no planning or building control history for the late 20th century extension, suggesting it was erected either without permission and consent, or within PD limits of the time prior to listing.

The existing outbuilding was constructed in the late 19th, early 20th century (according to historic maps) and was outside the residential curtilage. No information has been provided as to the significance of this building within the DAS, indicating that its curtilage listed status and contribution to the site has not been considered. It is very much a separate building, being on the opposite side of the residential curtilage adjacent to the road, and of a simple and utilitarian nature. To incorporate it within the dwelling would be an elevation of its status and removal of its purpose. It would require significant alteration to make it habitable, including insulation, a floor slab, a window, and services. This would be harmful to both the outbuilding and the main building.

Extending the building more than it already has been does not appear to be justified. The house already has three reception rooms, two bedrooms, a bathroom, and a kitchen, meaning it is functional as a dwelling, and therefore no public benefit could arise from further extension.

Design Issues:

The existing extension was not exceptional design even for its time, being rather squat and wide compared to its host, but it is of simple design with minimal openings on the north end of the building, an ideal location for a kitchen. It sits relatively quietly without being an awkward visual jar, although its projection beyond the western wall is not a good feature, nor is the rendered finish or concrete tile roof. It is highly visible from the east and north, but the use of stone for the north elevation means that it blends quite well with the host building. Its long length does make it look slightly awkward in relation to the house, but given all these considerations, it is relatively inoffensive, and the location at the back of the site and set down from the highway means that it is not immediately visible from the south now the main visible elevation of the house.

The contrived and awkward proposed north elevation is particularly poor design, encouraging water to pool in a difficult-to-access gully adjacent to historic walling. The historic outbuilding must be significantly changed to accommodate the raised ceiling and roof level and enlarged footprint. This elevation is quite visible and therefore should be complementary to the listed building. Instead, it appears as a collection of different roof levels and walls made to fit into an area it should not be.

Conclusion:

The reason the existing extension works is because of its sympathetic simplicity set against the more ornate cottage. The proposal cannot be classed as simple or sympathetic, and it is difficult to see how the desired floor space could be achieved without causing harm to the building. It is too large and in too poor a design to be considered not to cause harm to the listed building, and without providing public benefit, does not fulfil the policy requirements. The application should be refused accordingly.

Re-consultation response received 13th November 2025

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I do not consider this proposal to satisfy DM25 or other national policies and it should therefore be refused due to the less than substantial harm to the listed building without clear and convincing justification or the provision of public benefit.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this listed building consent are:

- 1. Principle of the development**
- 2. Impact upon the listed building**
- 3. Public benefits**

An assessment of the scheme against these considerations is set out below.

1. Principle of the development

1.1 Policy S14 of the Local Plan states that development outside settlement boundaries will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It states that detailed development management policies will permit agricultural and other appropriate rural uses including appropriately scaled and designed extensions and other physical alterations to existing buildings. More specifically, Policy DM11 of the Local Plan permits the provision of residential extensions provided that they:

- a. Respect the character, scale, setting and design of the existing dwelling;
- b. Will not result in the over-development of the dwelling curtilage; and
- c. Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

1.2 In respect of criterion a), this is discussed in detail below in regard to the impact upon the main dwelling being a Grade II listed building. In respect of criterion b), it is not considered that the proposal would result in the over-development of the dwelling curtilage as such but there are concerns raised to the harm to the significance and setting of the listed building through the additions proposed, and in respect of criterion c), no neighbouring properties are located in close proximity to the dwelling, and therefore, no adverse impacts would arise in relation to the living conditions of occupants of neighbouring properties. Taking the above into consideration, the principle of the development to extend the existing building to provide additional accommodation could be acceptable through a suitable development which respects the character, scale, setting and design of the existing dwelling.

2 Impact upon the listed building

2.1 In coming to this decision the council must be mindful of the duty as set out in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses.

2.2 Section 16 of the National Planning Policy Framework (NPPF) sets out the national guidance for conserving and enhancing the historic environment. When considering potential impacts Paragraph 212 states '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’.

- 2.3 Policy DM1 of the Local Plan seeks to ensure new development is of a high quality design demonstrating clear understanding of the characteristics of the site and providing a positive contribution to local character including any heritage assets.
- 2.4 More specifically, Policy DM25 of the Local Plan relates to development affecting heritage assets. The policy states:

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).*

- 2.5 The proposal is for the enlargement of an existing extension to link the main property to the outbuilding, and for the extension and conversion of the outbuilding to form habitable accommodation. The habitable accommodation would provide a ground floor bedroom, en-suite, utility room and cloakroom.
- 2.6 As noted within the Conservation Officer’s response, the property is in the cottage orné style, within The Broxfords plantation, likely belonging to the Creedy Estate, and indicating that it was a worker’s cottage. As such, it is naturally a small building, initially of the ‘2-up-2-down’ design. This small size is a key part of its character, and it has already been significantly extended, relative to its size.
- 2.7 The Conservation Officer notes that the total size of the proposed extension, together with the existing extension, would measure 73 square metres compared with 58 square metres of the historic building. The extension is proposed to be constructed of local stone with a slate roof. The gable end wall of the existing extension would be removed and reconstructed 3.5 metres further north, and the outbuilding would be extended 1.8 metres south. The existing courtyard area is then proposed to be covered to create the entrance hall/cloakroom for the accommodation.

- 2.8 The Conservation Officer has been consulted on the proposal where they have stated that they recommend refusal of the listed building consent and planning application due to the cottage not being able to accommodate the size of the proposed extension and due to the design of the development. The comments received from the Conservation Officer are set out in full above, where it is noted that harm to the listed building is considered to arise as a result of the proposed extension: *"... it is difficult to see how the desired floor space could be achieved without causing harm to the building. It is too large and in too poor a design to be considered not to cause harm to the listed building, and without providing public benefit, does not fulfil the policy requirements"*. The harm identified would be considered less than substantial.

3 Public benefits

- 3.1 Paragraph 215 of the National Planning Policy Framework states:

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.

- 3.2 The proposal seeks to provide accessible ground floor accommodation. The Conservation Officer has argued that alterations to the listed building to allow for the provision of an accessible home would not be considered a public benefit, but rather, a private benefit of the applicant. Moreover, there is no evidence to demonstrate that the dwelling cannot perform to its optimum viable without requiring any alteration. Therefore, it is considered that the harm to the heritage asset cannot be weighed against the benefit of the proposal to provide accessible accommodation, as this benefit is not public.
- 3.3 Moreover, the agent has argued that a further public benefit is the replacement of the concrete tiles on the existing extension with natural slate which will contribute towards enhancing the appearance of the extension. However, the Conservation Officer has argued that this amendment to the roof material would be negated by the poor design and overlarge size of the proposed extension, thereby not balancing the less than substantial harm.
- 3.4 Taking the above into consideration, whilst the need to provide accessible accommodation on the ground floor of the dwelling is appreciated, in this case, the proposal would provide a private benefit, rather than a public benefit, which would not outweigh the less than substantial harm to the listed building. The proposal would conflict with Policies DM1 and DM25 of the Local Plan and guidance within the National Planning Policy Framework.

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". Disability is a protected characteristic identified by the Equalities Act 2010 and has been considered in the assessment of this application.

REASON FOR REFUSAL OF LISTED BUILDING CONSENT

The proposal, by virtue of its scale and design, is considered to result in harm to the character, appearance and significance of the listed building. The identified harm is not outweighed by a public benefit from the scheme, with the public benefits outlined by the applicant instead being considered to represent a private benefit to the applicant. Therefore, the proposed development is considered contrary to Policies DM1 and DM25 of the Mid Devon Local Plan 2013-2033, Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework.

BNG – Biodiversity Net Gain

Is BNG Required? No

Is BNG Offsite only N/A

Onsite only N/A

Offsite and Onsite N/A

Is a S106 agreement required? No

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 in the list below is/are considered to apply.

1. 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).
2. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is

not an application for change of use or an application to change the number of dwellings in a building.

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

Application No. 25/01423/FULL

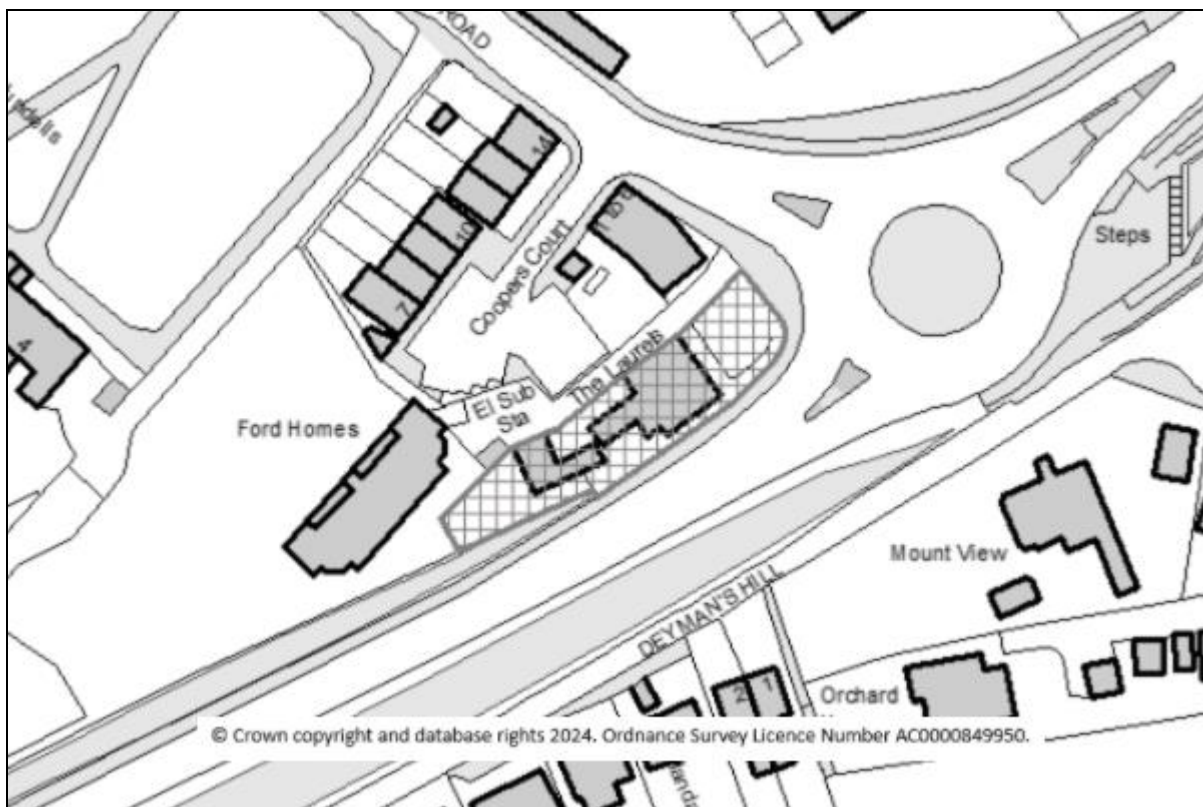
Grid Ref: 295914 : 112472

Applicant: Mrs S Barnett

Location: The Laurels
Station Road
Tiverton
Devon

Proposal: Change of use of ground floor and rear outbuilding from veterinary practice (Class E) to residential use and subdivision and alterations to existing residential units to provide a total of 7 self-contained apartments (Class C3)

Date Valid: 15th October 2025



APPLICATION NO: 25/01423/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 the ground floor and a rear outbuilding, from veterinary practice (Class E) to residential use, and subdivision and alterations to existing residential units, to provide a total of 7 self-contained apartments (Class C3).

The application relates to a large detached building, and single storey outbuilding to the rear, at the corner of Station Road and Great Western Way (A396). The main building is a three-storey brick building with slate roof. The ground floor has been vacant since 2023, having last been used as a veterinary surgery. The first and second floor each contain flats, both of which are accessed via an external stair to the rear of the property. The single storey outbuilding is of brick construction with clay tile roof, and contained operating theatres used in connection with the last use as a veterinary surgery.

The property is unlisted but is within the Tiverton Conservation Area. It is also within the defined settlement area of Tiverton, and just outside of the designated Town Centre. It is also identified as being within Environment Agency designated Flood Risk Zone 2, which is land with a medium probability of flooding.

The proposal is made to convert and refurbish the property to provide seven self-contained apartments for use as social rented housing, specifically for providing temporary accommodation for at risk people who are homeless or at risk of becoming homeless, while long-term solutions can be sorted out.

The proposed accommodation will comprise three one-bedroom flats at ground floor level of the building, one two-bedroom and one one-bedroom flat at first floor, a two-bedroom flat on the second floor and a two-bedroom flat within the converted outbuilding. The main building will be rearranged to provide internal access to the first and second floor units, with units two and three being provided with their own ramped external access. It is proposed to replace the existing windows and doors on the main building with double glazed timber windows, and the windows on the single storey extension, and outbuilding, with UPVC double glazed windows and composite doors.

There is an existing parking area to the front of the property, with space for parking of up to four cars. This will be retained for use in association with the proposed residential units. There is a lower ground floor, accessed via an external sliding door, which will be converted to provide cycle storage space, as well as bin and recycling storage facilities.

APPLICANT'S SUPPORTING INFORMATION

Completed Application Form, Plans, Design and Access Statement, Flood Risk Assessment, Wildlife Trigger Table, Wildlife Survey, BNG Statement for Validation

RELEVANT PLANNING HISTORY

91/00386/FULL - PERMIT date 2nd May 1991

Alterations, extensions and construction of new vehicular access

14/00227/ADVERT - PERMIT date 28th April 2014

Advertisement Consent for the display of 1 non-illuminated projecting sign and 1 non-illuminated fascia sign

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
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

Members had a number of concerns over the design and access of the development. It was felt that 7 dwellings was too many for the size of building and would feel cramped. It was felt that little consideration had been paid to those with wheelchairs or mobility issues. Members felt that there is not enough car parking on site for the 7 dwellings, and no roadside parking, therefore concerns over vehicles using nearby Blundells road were expressed, which is already heavily used by parked cars. It was felt the design would not enhance the character of the area, on a main road into the town centre. Overall, members agreed that whilst they are in favour of more affordable social housing in general, that this development had been poorly designed, with little consideration to space, accessibility, or access.

Not support

HIGHWAY AUTHORITY

10/10/2025

Comments: The site is accessed directly from Station Road, a classified road subject to a 30mph speed limit. The existing vehicular access benefits from good visibility to the northwest. Visibility to the southeast is acceptable but slightly constrained due to the geometry of the nearby roundabout. Vehicles approaching from the south-westerly arm of the roundabout may not be fully visible without drivers looking over their shoulders. However, this arrangement is not uncommon in urban settings and does not inherently present a safety hazard.

A review of the validated injury collision data for the past five years within a 100m radius of the site indicates two slight collisions. Neither incident was attributable to the site access, nor was the access a contributing factor. This suggests that the access has historically operated safely and continues to do so.

In accordance with NPPF, development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Based on observed vehicle speeds and collision history, the existing access is considered suitable for the proposed residential use.

No formal transport assessment or trip rate analysis has been submitted. However, the previous use as a veterinary generated a relatively high turnover of vehicular trips, particularly due to the nature of the service and the need for customers to transport animals.

The proposed development comprises seven residential units. In a worst-case scenario, this could generate up to 56 two-way trips per day. However, the site is located within Tiverton town centre, offering good access to public transport, local amenities, and employment opportunities. This sustainable location will reduce reliance on private vehicles and encourage walking, cycling, and public transport use.

Given the previous trip generation and the sustainable nature of the site, the proposed development is not expected to result in a severe impact on the highway network, in line with NPPF.

The applicant proposes to retain four off-road parking spaces, consistent with the previous use. Mid Devon Local Plan Policy DM5 recommends 1.7 spaces per dwelling, which would equate to approximately 12 spaces for this development. However, DM5 allows flexibility based on site context, accessibility, and the nature of the proposed use.

From a highway safety perspective, refusal on parking grounds would only be justified if the proposed provision were likely to result in a highway safety concern or a severe impact on the operation of the highway network. In this case, the site's central location, proximity to public transport, and existing parking restrictions mitigate the risk of overspill parking.

Nonetheless, clarification is sought on how the four spaces will be allocated. If unassigned, there is a risk of informal competition among residents, potentially leading to displacement parking in surrounding streets. The applicant should confirm whether the spaces will be allocated to specific units or managed communally.

No details have been provided regarding cycle parking provision. Given the site's sustainable location and the emphasis on promoting active travel in both the NPPF and Local Plan Policy secure and covered cycle storage should be provided. This would support sustainable travel choices and reduce reliance on private vehicles.

The highways authority seeks the following clarifications:

1. Parking Allocation: The applicant should confirm how the four off-road parking spaces will be allocated or managed to avoid displacement parking.
2. Cycle Storage: Provision for secure and covered cycle parking should be included to support sustainable travel.

Recommendation:

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

14/11/2025

In response to the additional information provided.

We are now satisfied that the proposed provision of secure and covered cycle storage within the existing building meets the necessary requirements. This provision supports sustainable travel choices and is appropriate given the site's central location and accessibility.

We note that the proposed units are intended for temporary accommodation managed by the MDDC Housing Options team, and that parking allocation will be managed internally based on occupant needs. While this may be suitable for the current intended use, it is plausible that the use of the site could change over the lifetime of the permission for example, to permanent residential occupation without necessarily requiring further planning consent.

To ensure that parking arrangements remain appropriate and do not result in displacement parking or highway safety concerns, we recommend a condition be attached to any grant of planning permission:

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 the occupation of any dwelling hereby approved, a Parking Management Strategy Plan shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces shall thereafter be managed in accordance with the approved Parking Management Strategy Plan in perpetuity.

Reason: This condition is considered necessary to ensure that parking spaces are adequately managed in the interests of highway safety and to prevent informal competition or displacement parking in surrounding streets.

MDDC CONSERVATION OFFICER

Built Heritage Advice pertaining to the change of use of ground floor and rear outbuilding from veterinary practice (Class E) to residential use and subdivision and alterations to existing residential units to provide a total of 7 self-contained apartments (Class C3).

The application site is located within the Tiverton Conservation Area. The building is a nineteenth-century building, visible upon historic maps, and is considered to make a positive contribution to the Tiverton Conservation Area, as part of its historic building stock.

Upon review of the submitted information, there is no objection to the conversion of the building which has been subject to alterations and additions. It is understood that there is a mix of timber and UPVC windows upon the existing building, the majority of this being timber. Where there are existing timber windows, such as the sash windows upon the front elevation, these should be replaced with timber units to match existing, in order to preserve the character and appearance of the Tiverton Conservation Area. Historic and traditionally detailed windows make an important contribution to our historic places and are an irreplaceable resource that should be repaired and retained where possible. The proposed replacement of the existing UPVC units for matching would not result in harm to the Conservation Area however there remains the opportunity for enhancement through the replacement of the UPVC windows for traditionally detailed timber windows.

Were permission to be granted, it is recommended that a condition is attached which secures detailed drawings of the proposed windows (including by section) to be submitted to and approved in writing by the local authority. This is in order to safeguard the character and appearance of the Tiverton Conservation Area.

DCC EDUCATION

As the development is only generating 1 family type dwelling (2+ bedroom) it falls under our threshold for requesting contributions and therefore a contribution towards education would not be required for this development. Devon County Council would only look to request for education contributions on developments consisting of 4+ family type dwellings and where there is a need for additional education in an area.

SOUTH WEST WATER

South West Water has no comment.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1. Principle of development**
- 2. Design and impact on the character and appearance of the surrounding area**
- 3. Highways, parking and access**
- 4. Residential amenity**
- 5. Flooding and drainage**
- 6. Ecology and Biodiversity Net Gain**
- 7. Planning obligations**
- 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 building containing a Class E business premises and two flats to provide 7

flats, 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 people who are homeless or at risk of becoming homeless. There is a shortage of such accommodation, which Mid Devon District Council has a duty to provide.

- 1.7 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. 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.

- 1.8 On the basis of the site being within the defined settlement limits of Tiverton, 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.
- 1.9 Consideration has been given to the loss of the Class E premises, however there are no specific policies within the Local Plan in respect to the loss of this type of business unit, outside of a designated town centre location. Policy DM19 considers the loss of employment land, however this specifically relates to the protection of commercial land falling within the former B uses (i.e. Use Classes B1, B2 and B8), and other sui generis employment type uses. As such, it is not relevant to the consideration of this proposal. It is however noted that since the property was vacated by Vale Veterinary Practice, in 2023, the business parts of the premises have remained vacant, despite the property being marketed.
- 1.10 The further relevant planning matters of the development are considered further below.

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

- 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 buildings, with internal changes proposed to form the living accommodation and subdivide the property to form the proposed self-contained apartments. The only external changes are the replacement of the existing windows and doors, with the windows being a mix of timber and aluminium single glazed windows, and the provision of ramps to access units 2 and 3.

- 2.3 The property is a good quality 19th century building. Despite a poorer quality extension to the rear, it makes a positive contribution to the character of the conservation area. It is proposed to replace the windows and doors in the higher quality, more prominently visible parts of the building, with double glazed timber doors and windows, while windows and doors to the less prominent elements, such as to the single storey rear extension and outbuilding, will be UPVC and composite materials. Subject to conditioning the final details of design and finish of the new windows and doors, these proposed alterations are considered to be acceptable, preserving the qualities of the building, and the character and appearance of the conservation area.
- 2.4 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.
- 2.5 Tiverton Town Council have advised that they do not support the proposal, citing concerns that the seven units was too many for the building, and would be cramped. Notwithstanding these concerns, the proposed dwellings would all meet the minimum floor space requirements set out in the Nationally Described Space Standards, and would achieve adequate levels of daylight, sunlight and privacy. The lower ground floor of the building, which is to be retained for storage purposes only, provides plenty of space to accommodate bins and recycling boxes, as well as cycle storage.
- 2.6 The Town Council have also raised concerns on the basis that they feel that little consideration has been given to those with wheelchair or mobility issues. In response, it has been confirmed that 4 of the 7 units are accessible at ground floor level, via the slope to the front of the property. Of these, unit 2 will be fitted with a fully accessible wet room, as well as ramped access. The other ground floor units will also be accessible to future residents with reduced mobility due the proposed ramped access, and lack of internal stairs. As such, it is considered that the needs of future residents with reduced mobility has been considered satisfactorily, particularly noting the constraints when converting an older building.
- 2.7 Noting that 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.”
- 2.8 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)”

2.9 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 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.

2.10 As detailed above, the proposed development involves mainly internal alterations with the external changes mostly being the replacement of windows and doors, and the installation of ramped accesses to some of the ground floor properties. On this basis, the proposed development is considered to preserve the character and appearance of the conservation area and cause no harm the setting or significance of this heritage asset.

2.11 Overall, it is considered that the proposal is acceptable and accords with policies S9, DM1 and DM25 of the Mid Devon Local Plan.

3. Highways, parking and access

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 At present the building does have four off street parking spaces, which are to be retained for use with the development proposed.

3.3 Tiverton Town Council have raised concerns about the amount of parking available, noting that there was insufficient space to provide parking for each of the dwellings. The Town Council were further concerned that this could lead to parking on nearby Blundells Road, which is said to be heavily used by parked cars.

3.4 The Highway Authority have commented on the application, noting that the proposal is for the retention of the existing parking spaces, consistent with the previous use of the building. It is noted that Policy DM5 requires an average of 1.7 spaces per dwelling, which in this case

would equate to 12 spaces. The Highway Authority do however also advise that policy DM5 allows flexibility based on site context, accessibility, and the nature of the proposed use. While it is acknowledged that the proposal would not be served by the optimum level of off-street parking, it is noted that this is consistent with the existing situation, with only the four parking spaces being available when previously used as a veterinary surgery and two flats. Furthermore, the site is within a central location, within very close walking distance of shops, facilities and public transport required for day to day living. It is also noted that there are existing parking restrictions on nearby roads, which would prevent overspill parking onto the adjacent roads.

- 3.5 The Highway Authority note that refusal on parking grounds would only be justified where the proposed development would lead to a highway safety concern or severe impact on the operation of the highway network. In this case, as a result of the locality, and its suitability for a reduced level of parking provision, it is not considered that there would be a severe impact so as to warrant refusal of planning permission.
- 3.6 Some concerns are raised about the allocation of parking spaces, as informal competition for spaces between residents could lead to displacement parking in the surrounding area. To alleviate this concern, the applicant has advised that due to the units providing temporary accommodation, they will be managed by the Council's Housing Options Team. This management will allow direct control over the allocation of the units and parking spaces, as necessary, based on the occupants of the building as a whole. It is also stated that approximately 1 in 3 temporary accommodation clients use a motor car, further reducing the potential pressure on parking spaces.
- 3.7 This was allayed the concerns of the Highway Authority, although they do advise that issues may arise should the nature of the accommodation change. As such a condition is requested requiring a parking management strategy plan to be agreed prior to occupation of the units. This would then be subject to variation should the manner of occupation, and associated parking arrangements, vary in the future.
- 3.8 The Highway Authority had also noted a lack of details about cycle storage in the initially submitted application. This has been addressed with the submission of the lower ground floor plan, showing the use of this area for the provision of cycle storage, alongside the waste and recycling storage areas.
- 3.9 Notwithstanding the concerns raised by Tiverton Town Council, 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.

4. Residential amenity

- 4.1 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.
- 4.2 In this case, the upper floors of the property are already in use for residential purposes. The change of use of the ground floor will introduce residential use to this part of the building, however the proposal is not considered likely to lead to an unacceptable impact on the living conditions of neighbouring properties. The building is set apart from the nearest residential properties, within Coopers Court, to the north and west. The existing windows in the building look to the parking court serving this neighbouring development, rather than directly towards any of the nearest properties. As such, due to distance and orientation, it is not considered

that there would be any adverse impact on residential amenity by way of overlooking. The same applies to the conversion of the outbuilding, which has existing windows facing away from the nearest neighbouring properties.

- 4.3 The buildings are not to be extended, as such there will be no increased risk of overshadowing or overbearing impact.
- 4.4 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.

5. Flooding and Drainage

- 5.1 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.
- 5.2 The site is located within Flood Risk Zone 2, which includes areas at medium risk of flooding. The proposal does not include any extension of the property or any external alteration that would increase surface water runoff, or the risk of flooding.
- 5.3 Use of a building as a dwelling house is classified as a more vulnerable use, which may be permitted in Flood Risk Zones 2 subject to the application of The Sequential Test. In this respect though, it is noted that the proposal represents a change to the use, in which case the Sequential Test need not be applied.
- 5.4 In terms of ensuring that the building is kept safe from flooding, details provided within the submitted Flood Risk Assessment indicate that flooding could occur to a depth of 66.25m above ordnance datum (AOD), taking climate change into account. The ground floor of the building is nearly 2m above this, at a level of 68.11m, with the access at a level of 67.96m AOD. As such, it is considered that the residential accommodation will be safe from the risk of flooding. The lower ground is acknowledged to be at risk of flooding to a depth of 0.3m in the case of an extreme flooding event, however this area does not contain any living space and is to be used for storage purposes only.
- 5.5 Foul drainage would remain as existing, with discharge direct to the local sewage network.
- 5.6 Overall, there will not be any impact on flood risk, and users of the development would be safe from flooding.

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 relates to an existing building that will be reused in a manner that will not have any impact on roof space of the building, or on any other features of ecological value. An ecological impact assessment has been submitted in support of the application, identifying the areas to be developed as being of negligible habitat quality for bats. It is however noted that there is a population of bats roosting within the roof space, although these would not be impacted. A range of precautionary measures are identified to avoid committing any offence in relation to protected species, should any be found during construction, as well as enhancement measures, comprising the provision of two crevice-type bat boxes. A condition requiring that the recommended precautionary measures, and biodiversity enhancements be complied with is proposed.
- 6.3 The ecological impact assessment did note that bats had been able to access parts of the vacant residential accommodation, from the suitable habitat in the roof, however had not been able to escape, leading to their death. Works will need to be undertaken to secure the residential space to prevent bats entering this part of the building, however this is to be done for bat welfare purposes rather than in relation to facilitating this development. It is not considered necessary to condition these works, however it is noted that these will need to be carried out with full ecological supervision, complying with relevant legislation. These works however will not lead to the loss of any bat roost provision, which will be maintained.
- 6.4 Due to the scale of development, with no material impact on any habitat, the development is exempt from mandatory requirements for 10% Biodiversity Net Gain (BNG).
- 6.5 There is no identified harm to local ecology and the scheme appropriately accords with policies S9 and DM1 of the Local Plan.

7. Planning obligations

- 7.1 Policy S5 (Public Open Space) states that within Tiverton, public open space is required from residential development of 11 or more dwellings. In this case however, the development is for solely affordable housing, and otherwise fall below the threshold, in which no financial contributions would be required.
- 7.2 The development also does not meet the threshold for contributions towards education due to less than four family (2+ bed) houses being proposed.

8. Planning balance

- 8.1 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. The proposal respects the character, scale, setting and design of the existing building and its surroundings, and will not result in over-development of the site. The proposed development will not significantly impact on any neighbouring properties or adversely affect ecological interests, highway safety interests, flood risk or surface water management. Despite the reduced levels of off-street parking, the site is within walking distance of public transport and other services and facilities.
- 8.2 The delivery of several additional affordable homes for social rent, weighs in favour of approval of the application. Taking all the above into consideration, it is considered that the balance weighs in favour of approval of the application. Other matters put forward in favour

of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited. The proposed development is acceptable in principle subject to the imposition of conditions under Local Plan policies S1, S3, S9, S10, DM1, DM2, DM3, 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 RECOMMENDATION OF APPROVAL

The proposed development comprising the change of use of the ground floor and rear outbuilding of a Class E business premises to residential use, and the subdivision and alterations to existing residential units, to provide seven self-contained apartments within the Tiverton defined settlement limits, is considered to be acceptable. The proposed development by virtue of its siting and design will appropriately respect and relate to the character and appearance of the surrounding development and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. The property created will be of a suitable size for its future occupants, and is not considered that the overall development would cause demonstrable harm to highway safety and local ecology or increase the risk of flooding locally. 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, S10, DM1, DM3 and DM25 of the Mid Devon Local Plan 2013 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. No work shall be carried out to fit any doors, windows, boarding or other external opening unless details of the design, materials and external finish of these elements have been submitted to and approved in writing by the Local Planning Authority. This will include detailed drawings including sections of at least 1:5. Such approved details, once carried out shall not be altered without the prior written consent of the Local Planning Authority.
4. Prior to the occupation of any dwelling hereby approved, a Parking Management Strategy Plan shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces shall thereafter be managed in accordance with the approved Parking Management Strategy Plan in perpetuity.
5. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Ecological Impact Assessment ref. 25-1217-EcIA-CT* (prepared by Lakeway Ecological Consultancy - dated 25th September 2025) covering avoidance of harm to protected species and biodiversity enhancement measures. Prior to the

first occupation of the development hereby approved, the bat boxes recommended in section 8 *Enhancements* shall be installed and thereafter shall be retained indefinitely.

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 safeguard the visual amenities of the area and the significance of local heritage assets, in accordance with policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
4. To ensure that parking spaces are adequately managed in the interests of highway safety and to prevent informal competition or displacement parking in surrounding streets.
5. For the conservation and protection of legally protected species and for the enhancement of biodiversity, 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).

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. 25/01453/FULL

Grid Ref: 303611 : 111116

Applicant: Mr Mike Lowman, Mid Devon District Council

Location: Land at NGR 303611 111116
Somerlea
Willand
Devon

Proposal: Variation of Condition 10 of Planning Permission 24/00039/FULL (Erection of 7 affordable dwellings with car parking, landscaping and other minor works following demolition of existing garages) to allow substitution of approved plans to reflect revised landscaping strategy, and parking areas

Date Valid: 20th October 2025



APPLICATION NO: 25/01453/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the land owner and the houses will form part of the Council's affordable rented housing stock.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development relates to a site within the defined settlement limit of Willand and is located on land between Somerlea and Somerville Road. There is a former commercial site to the north east, which is now used as car parking in association with a nearby commercial premises. A Public Right of Way (PROW), public footpath no. 4, Willand, runs along the north east boundary of the site, providing access between Somerlea/Fir Close and Somerville Road.

Planning permission was granted under 24/00039/FULL for the erection of 7 affordable dwellings on this Council-owned land off Somerlea, Willand. The site is approximately 0.17ha and comprises a mix of hardstanding and poor quality grassed areas. The site contained several shed and garage structures, however these have since been demolished with planning permission 24/00039/FULL having been commenced.

The approved dwellings are to be a terrace of seven 3 bed/4 person houses. The approved terrace of houses is to run parallel with the north east boundary. All properties are to be provided with their own private gardens, while the site will also include some additional landscaped areas. A palette of materials is proposed comprising rendered to the walls and metal standing seam roof. Solar PV panels would be installed on the roof slopes of the building.

All of the units are to be built to be national space standard compliant, in respect to both overall floor area and bedroom sizes. Each property will include 2 double bedrooms with a floor area of 11.5 square metres and a third single bedroom measuring 8.9 square metres. The scheme also provides for the storage of waste and recycling through the provision of a secured communal refuse storage area. Provision is also made for secure cycle storage within the gardens of each property.

This application seeks to amend the condition 10 of the approved planning permission, which requires the provision of parking in accordance with the previously approved site plan.

The application as submitted also included a request to vary the wording of condition 7 of 24/00039/FULL, noting the revised landscaping strategy provided. It is however noted that condition 7 does not reference a plan number specifically and does not therefore require varying. As such, reference to condition 7 has been removed from the description of development.

The proposed changes include a revised parking layout and landscaping scheme that responds to a correction to the land ownership plan, with land in neighbouring ownership mistakenly shown within the applicant's ownership in the original scheme. The revised layout allows better access to neighbouring parking spaces, which are accessed through the site and revises the landscaping

strategy accordingly. The revised plans also indicate the position of the bicycle storage required, as well as realignment of the proposed refuse storage area.

With the exception of these changes detailed, the scheme will otherwise remain as approved.

APPLICANT'S SUPPORTING INFORMATION

Application form, covering letter, amended plans

RELEVANT PLANNING HISTORY

24/00039/FULL - PERCON date 7th March 2025

Erection of 7 affordable dwellings with car parking, landscaping and other minor works following demolition of existing garages

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 - Sustainable development priorities
S2 - Amount and distribution of development
S3 - Meeting housing needs
S4 - Ensuring housing delivery
S5 - Public open space
S9 - Environment
S13 - Villages
DM1 - High quality design
DM2 - Renewable and low carbon energy
DM3 - Transport and air quality
DM4 - Pollution
DM5 - Parking

Willand Neighbourhood Plan 2020 to 2033

SD1 - High quality design in new developments
SD2 - Sustainable design in new developments
GI4 - New trees and planting
TAC1 - Improving Transport, Accessibility and Connectivity
TAC2 - Protecting the Footpath, Bridleway and Cyclepath Network

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

WILLAND PARISH COUNCIL

Willand Parish Council, in considering this variation application, has referred back to the original application - 24/00039/FULL - and is mindful of the concerns which the Parish Council raised at that time. It has also taken account of events since that time which have caused concern and led to a complaint being made that the conditions placed on the original application have not been dealt with correctly which in its view has shown a lack of due diligence and attention to detail.

It has been noted that at the time of this consultation Condition 7 has not been discharged, or if it has it has not been placed on the Planning Portal. It therefore follows that, in the public domain, Condition 7 has not been completed in accord with Planning Permission 24/00039/FULL as stated in the proposal.

The Covering Letter submitted with the application states:

"The proposed amendments are designed to achieve the following improvements to the development;

- Revised landscaping Strategy in response to an updated site boundary. Z47-ZP-A1-XX-DR-A-050-S01-P02
- Revised access for neighbouring properties, Z49-ZED-AR-ST-DR-A-0010-P04"

This appears to show that the original application was not presented correctly as the boundary of the site was wrongly shown which is concerning as the site is owned by Mid Devon District Council who were the applicant. They have applied through an agent who is also the supplier and builder of the dwellings.

The rear access to neighbouring properties was also raised by the Parish Council in one of their earlier submissions which was ignored.

The Parish Council also raise concern as to the apparent lack of due diligence and attention to detail being shown on the current application.

On inspection of the Application Form it shows that the works were commenced on 15/08/2025 and there is a commencement notice on the Portal for 15/08/25. That date is not correct as the works on site started on or about 21/07/25 and they were concrete pouring into the foundations all day and late into the evening on 14/08/25, which was the subject of a complaint made to MDDC by the Parish Council Chairman.

In the Covering Letter seven (7) Proposed drawings are listed. The drawing numbers submitted in the Covering Letter do not match the numbers of the submitted drawings in two (2) instances.

The Covering Letter states: "Revised landscaping Strategy in response to an updated site boundary. Z47-ZP-A1-XX-DR-A-050-S01-P02." The drawing number is not correct as it does not appear on the Proposed Drawings list nor does it appear on the submitted drawing of this title. In fact it looks to refer to another site completely.

The drawing submitted shows an area between the tarmac and the rear accesses to the privately owned properties which has a different shading. Although the area is not marked with a 'D', as the same shaded areas around the dwellings, this appears to be of pebbles for drainage. Will this be a suitable surface and of the correct levels to allow vehicle access to the rear of the privately owned dwellings? These points need to be clarified before a decision is made.

There is no suggested change in the wording for Condition 7.

The Covering Letter also states: "Revised access for neighbouring properties, Z49-ZED-AR-ST-DR-A-0010-P04." That is not the number on the submitted plan which has the arrows on showing

the access to the rear of adjoining properties. The plan quoted does not show any access to adjoining properties.

The suggested word change for Condition 10 appears to refer to a drawing where the suggested new parking layout is shown.

Willand Parish Council is unable to make an informed response to the proposed changes until the discrepancies raised above have been resolved and clarified.

HIGHWAY AUTHORITY

The Highway Authority has considered this application and has no comments to make.

SOUTH WEST WATER

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 150mm 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:

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

Surface Water Services

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

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

No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

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

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email:

DeveloperServicesPlanning@southwestwater.co.uk.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

- 1.1 This application is made to vary condition 10 of planning permission 24/00039/FULL, a condition that references the site plan, submitted in relation to this approved scheme.
- 1.2 The proposal is made to substitute several of the approved plans, with condition 10 to be amended to reflect these revised plans. The revisions are as a result of changes to the parking layout to allow better access to neighbouring parking areas, which are accessed through the site, and associated changes to the landscaping strategy that has been amended to accord with the revised parking layout. The revised plans also include details of the location of cycle storage areas, which weren't shown on the original plans, and revised position of the bin and recycling box storage areas.
- 1.3 As a starting point, the principle of the development as a whole has already been established so consideration needs only be given to the potential impact of the proposed changes to the original planning permission 24/00039/FULL.
- 1.4 In assessing the changes, it is considered that the revisions are acceptable. The changes are considered to be minor in nature, and while there are changes to the position of some of the parking spaces and the landscaping strategy, the overall scale and appearance of the proposed development will remain similar to that previously approved. The approved properties will remain within the same footprint and there is no increase in size, or change in design. Similarly, the number of units will remain the same and there are no changes considered likely to be detrimental to the amenity of existing neighbouring residents.
- 1.5 Willand Parish Council have commented, raising a number of points in regard to inconsistencies in the information contained within the application form and covering letter, and the plans submitted. The Parish Council considered that they were unable to make an informed response until those discrepancies had been resolved and clarified.
- 1.6 The discrepancies noted revolve mainly around some errors made in the application covering letter, which on some occasions differ from plan numbers submitted. This is acknowledged, however the plans submitted are correct and able to be reviewed, allowing proper

consideration to be given to the proposed changes. The applicant has clarified that the submitted plans are correct.

- 1.7 The Parish Council have highlighted that the date of commencement referenced in the application form seems to be different from the date that the scheme actually commenced. This is noted, however it has no bearing on the determination of this application. It is relevant however to note that the scheme has commenced, as this will have an impact on the conditions to be retained from the original planning permission.
- 1.8 It is also noted that the Parish Council have sought further clarification on the surfacing of an area of the car park, on the south west boundary, adjoining neighbouring parking areas. This is shown as being 'decorative pebbles used for drainage purposes', where the Parish Council have asked for confirmation that this will be a suitable surface and correct levels to allow vehicular access to neighbouring land. The applicant has been asked to provide further clarification on this matter, and it is confirmed that this area of the site would be finished with gravel/loose aggregate, as opposed to the tarmac within the remainder of the parking area. The site is currently level so there is no reason to assume that the levels would cause problems for neighbouring access.
- 1.9 The changes made to the parking layout reposition the parking spaces within the site, however the amount of parking remains as approved. On this basis, the changes would not lead to any change in regard to highway safety.
- 1.10 The amended landscaping strategy does include a reduction in the amount of tarmac on site and increases the amount of permeable paving and native planting, with the planting areas revised slightly. The previous proposal was submitted before mandatory Biodiversity Net Gain (BNG) came into force so there is not a need to provide 10% BNG. Nonetheless, like the approved scheme, this proposal will still provide sufficient levels of improvements to exceed this 10% BNG figure.
- 1.11 There are no other changes beyond those identified above. As such, the proposed variation of condition 10 is considered to be acceptable.
- 1.12 As well as varying the requested condition, it will be necessary to remove condition 1, the original time limit for commencement condition, as the scheme has commenced. Otherwise, the other conditions will be repeated as per the original decision, albeit with slight changes, where relevant, to reflect any conditions discharged and where there is reference to documents submitted in relation to the original planning permission but not included within this submission.
- 1.13 The original scheme was also subject to a S106 agreement, dated 5th March 2025, requiring planning obligations of £2,453.85 to be secured for the provision of secondary school transportation. The S106 agreement includes provision for those obligations to be carried over to any subsequent scheme agreed under an application made in respect to Section 73 of the Town and Country Planning Act 1990 (variation of conditions). As such, those obligations will apply equally to this permission should it be granted.

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 variation of condition 10 of planning permission 24/00039/FULL would result in minor and acceptable changes to a previously approved scheme. The proposed development comprising the erection of 7 affordable dwellings with associated parking, landscaping and other minor associated works is considered to be acceptable. The site is located within the defined settlement limit of Willand, therefore the principle of residential development on this site is accepted. The overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. There are no technical reasons why the application should not be approved subject to appropriate mitigation secured through condition, whereby drainage measures, biodiversity and landscape can be adequately mitigated and enhanced. The proposal will lead to the delivery of seven new homes, of which all would be affordable dwellings weighs in favour of approval of the application providing public benefits and the site is considered to be a sustainable location within walking distance of service and facilities. Taking all the above into consideration, the application is considered to be acceptable meeting the requirements of policies S1, S2, S3, S4, S9, S13, DM1, DM2, DM3, DM4 and DM5 of the Mid Devon Local Plan 2013-2033, policies SD1, SD2, GI4, TAC1 and TAC2 of the Willand Neighbourhood Plan 2020-2033 and the aims and objectives of the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, being those approved in connection with planning permission 24/00039/FULL and as amended by this planning permission.
2. The development hereby permitted shall be carried out strictly in accordance with the approved *'Combined Construction Phase Plan, Construction Environmental Plan and Site Management Plan Ref. Z49_001 Combined_CPP_CEMP_SMP March 2025 - Revision Date 16/09/2025'*.
3. Prior to the dwellings hereby permitted being first occupied, final detailed design for surface water drainage, including measures to prevent the discharge of surface water onto the highway, shall be installed in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such detailed drainage scheme shall demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable). BRE 365 infiltration testing shall be carried out to determine the suitability of infiltration techniques. Following its installation the approved drainage scheme shall be permanently retained and maintained thereafter.
4. The development hereby permitted shall be carried out in accordance with the details

approved by discharge of conditions decision letter, dated 30th July 2025, in relation to condition 5 of planning permission 24/00039/FULL, in relation to the investigation of contaminated land and subsequent remediation strategy.

Following completion of the approved remedial works, as detailed in the *Remediation Method Statement* (ref. P24-404rms - March 2025), approved in relation to planning permission 24/00039/FULL, a remediation validation report shall be submitted to the Local Planning Authority for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

5. The development, hereby approved, shall be for affordable housing and retained as such. The affordable housing shall be provided in accordance with the approved scheme, detailed within the *Affordable Housing Statement*, dated 04/07/2025, approved by discharge of conditions decision letter, dated 26th March 2025, in relation to condition 6 of planning permission 24/00039/FULL.
6. Notwithstanding the landscape strategy submitted, prior to above ground works of the development hereby approved, a final scheme of landscaping and planting shall be submitted to and approved in writing by the Local Planning Authority. This shall include details on tree species type, planting design and aftercare. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
7. The development, hereby approved, shall be carried out in accordance with Section 6 'Mitigation and Recommendations' of the Preliminary Bat Roost Assessment and Preliminary Ecological Appraisal carried out by Aval Consulting Group and dated 29th November 2023, submitted in relation to planning permission 24/00039/FULL. The development shall also be carried out in accordance with the Biodiversity Net Gain Assessment prepared by Aval Consulting Group dated 21st December 2023, submitted in relation to planning permission 24/00039/FULL.
8. Details of secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the approved cycle storage has been provided in accordance with the approved details. Following their provision these facilities shall be maintained and retained for the lifetime of the development.
9. The development hereby permitted shall not be occupied until the parking areas have been provided in accordance with the approved 'Proposed Site Plan', drawing number 'Z49-ZED-AR-ST-DR-A-0010-P04'. Following their provision these facilities shall be maintained and retained for the lifetime of the development.

10. The materials to be used for all the external surfaces of the building shall be in accordance with the details outlined within the Design and Access Statement submitted in relation to planning permission 24/00039/FULL. Details for any proposed changes to the materials outlined would need to be submitted to and approved in writing by the Local Planning Authority, with the development carried out in accordance with the approved materials and shall be so retained.

REASONS FOR CONDITIONS

1. For the avoidance of doubt as the development hereby proposed and in the interests of proper planning.
2. In the interests of public health and highway safety, in accordance with policies S9, DM1, DM3 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the Construction and Environmental Management Plan is agreed prior to any construction works.
3. In order to ensure that the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017), national policies, including NPPF and PPG, and policies S9 and DM1 of the Mid Devon Local Plan 2013-2033. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
4. In the interests of building integrity and public safety to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This is a pre-commencement condition as any issues found following the intrusive investigation and risk assessment would need to be addressed prior to construction of the development.
5. To retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework, and in accordance with policy S3 of the Mid Devon Local Plan 2013 - 2033.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033
7. To enable biodiversity net gain within development in accordance with Mid Devon Local Plan 2013-2033: Policy S9 Environment and national policy and to ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
8. To promote sustainable travel and in the interests of highway safety, in accordance with policies DM3 and DM5 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

9. In the interests of highway safety and to ensure adequate on-site parking facilities are available for traffic attracted to the site, in accordance with policies DM3 and DM5 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
10. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Local Plan 2013-2033 Policies S9 and DM1.

INFORMATIVES

1. The applicant/developer is reminded that this development is subject to a Section 106 agreement dated 5th March 2025, signed in relation to original planning permission 24/00039/FULL. The planning obligations imposed apply equally to this grant of planning permission.
2. The applicant/agent is reminded of the comments received from South West Water (SWW), dated 10th January 2024, in relation to planning permission 24/00039/FULL, and as repeated in comments dated 29th October 2025, advising of the presence of a public sewer, in the vicinity of the development, as well as detailing the developer's obligations in respect to development in close proximity to these assets. The developer is advised to contact South West Water if they are unable to comply with their requirements. Should the development encroach on the 3 metre easement, these assets will need to be diverted at the expense of the applicant.
3. The developer is reminded of the comments of Devon County Council Rights of Way Officer, in their response of 16th January 2024, in relation to planning permission 24/00039/FULL, which notes the presence of public footpath No.4, Willand running adjacent to the application site. The applicant must ensure that the path remains open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order – see below – but please note that a temporary closure will not be granted to enable construction on the line of the right of way unless a permanent diversion order has been made and confirmed.

POSITIVE WORKING STATEMENT

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions 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 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.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - iii) 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
 - iv) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning

condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

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

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

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

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

Application No. 25/00881/OUT

Grid Ref: 313521 : 113463

Applicant: Mr S Steele-Perkins

Location: Land at NGR 313524 113461
Culmstock Road
Hemyock
Devon

Proposal: Outline application with all matters reserved, other than the point of access for the erection of up to 9 self or custom-build dwellings

Date Valid: 23rd June 2025



APPLICATION NO: 25/00881/OUT

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee as it was called in by the Ward Member, in order to consider the potential impact of the proposed development, in particular respect to impact on highway safety, level of affordable housing provision, correctness of self-build register, archaeological significance of the site, potential harm to flora and fauna in the Blackdown Hills National Landscape, visual impact, and flood risk and river access.

RECOMMENDATION

Grant outline planning permission subject to:-

- (i) The prior completion of a Section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued, to secure the following:
 - (a) Secure a contribution of £162,000 towards the provision of off-site affordable housing;
 - (b) Secure a contribution of £30,477.15 towards the provision of off-site public open space enhancements;
 - (c) Secure a contribution of £3,706 towards secondary school transport provision;
 - (d) Secure accordance with self-build and custom housebuilding definition;
 - (e) A monitoring fee of £5,270
- (ii) Conditions.

PROPOSED DEVELOPMENT

Outline application with all matters reserved, other than the point of access for the erection of up to 9 self or custom-build dwellings.

The application site is located to the north of Culmstock Road, outside of but adjoining the defined settlement boundary of Hemyock. Other than the presence of a small redundant concrete block building and another small timber clad building, the site is currently undeveloped, comprising a grassed field. The site is to the east of Hemyock Cemetery, to the south of an area of public open space and is to the north and west of existing residential development. Vehicular access is available directly off Culmstock Road (B3391).

This site lies approximately 85m to the north of Hemyock Castle, a Scheduled Ancient Monument and associated buildings which range from grade II to grade II*. Further to the south west is St Marys Church, which is a grade II* building too. The site is also within the Blackdown Hills National Landscape.

The site lies mainly within Flood Risk Zone 1, however there is a small part of the site within Flood Risks Zones 2 and 3. These areas of higher flood risk are along the eastern boundary, which is adjacent to a watercourse.

The proposal is made for outline planning permission for the erection of up to nine self or custom build dwellings, with details of access to be determined within this outline proposal, and details of appearance, layout, scale and landscaping to be reserved.

The proposed access works include the improvement of visibility on the site frontage at Culmstock Road, and the widening of the public highway directly opposite the site.

APPLICANT'S SUPPORTING INFORMATION

Completed Application Form, Plans, Covering Letter, Design and Access Statement, Planning Statement, Historic Environment Desk-based Assessment, Heritage Technical Note, Design Guide, Archaeological Evaluation, Landscape Appraisal, Flood Risk Assessment, Ecological Impact Assessment, Arboricultural Impact Assessment, Initial Air Quality Assessment, Statement of Community Involvement, Draft Head of Terms, BNG Assessment, BNG Metric, BNG Statement for Validation

RELEVANT PLANNING HISTORY

88/01747/OUT - REFUSE date 27th September 1988
Outline for the erection of a dwelling

16/01772/MOUT - PERCON date 18th April 2019
Outline for the erection of up to 40 dwellings (including affordable housing), public open space and associated infrastructure - Non-Material Amendment - 20/01786/NMA - Granted 08/03/2021

20/01698/MARM - PERCON date 18th December 2020
Reserved Matters for the erection of up to 40 dwellings (including affordable housing), public open space and associated infrastructure following Outline approval 16/01772/MOUT.

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
S14 - Countryside
DM1 - High quality design
DM3 - Transport and air quality
DM5 - Parking
DM25 - Development affecting heritage assets
DM27 - Protected Landscapes

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

HEMYOCK PARISH COUNCIL

08/08/2025

Having noted the 26 objections from residents, Hemyock Parish Council RESOLVED that it was not content with this application and would comment as follows:

1. The area is outside the curtilage of the known village and is an inappropriate place for development.
2. The site is located in the Blackdown Hills National Landscape.
3. The proposed exit and entrance does not, even in the most recent drawings, appear to provide for an adequate visual splay and the Parish Council remains concerned over the ability for

construction vehicles to access and exit the site safely, particularly at school drop off and pick up times.

4. DCC Highways objected as no swept path analysis for large vehicles. Revised drawings have been provided showing this. However, the revised drawings (101B, 501A & 601B) are incorrect as are original drawings 100 and 101 as they do not show the actual space available. The width available between the cemetery wall and the kerb on the opposite side of the road is actually 5.7m and the drawings indicate a 5.5m wide highway plus a 1.2m wide footway. This means that it is impossible to provide the necessary visibility splay when looking west from the proposed access road. DCC Highways have not checked that this is the real situation. It is important that they do this check and adjust their advice.

5. In order to provide for the new entrance, the Parish Council has noted the Arborist report which states 'The proposed access road and footpath will encroach into the root protection areas of three retained trees and groups (T11, G13, G14). From the plans and report it is unclear of the level of incursion. BS5837:2012 provides guidance informing up to a 10% incursion shall be often acceptable. A 10%-20% incursion may be acceptable but should be carefully considered, and an incursion of greater than 20% is typically not acceptable.' Given that trees within the cemetery could be affected, the Parish Council would wish to receive further details on the level incursion is required.

6. The provisional Heads of Terms only provides for Custom Build Housing with the phrase 'Arrangements for the provision of custom build housing' yet the application itself also refers to self-build. The Parish Council would, therefore, wish to see information that the needs of individuals on the current self-build list are being met through this application and that self-build plots will form the majority of the proposed 9 dwellings given that there is an estimated saving of between 20-40%. Even with this saving the Parish Council does not believe that the outline application meets the housing needs of Hemyock where more affordable housing for local residents is required.

7. The provisional Heads of Terms states that with regard to Affordable Housing there will either be a. Financial contribution towards the provision of affordable housing offsite or b. Arrangements for phasing of development and provision of affordable housing contribution. The Parish Council would prefer to see Affordable Housing included on the site.

8. The provisional Heads of Terms states that with respect to Open Space a Financial contribution towards the provision of open space offsite will be subject to evidence of a deficiency in existing provision and need. Given that there is Open Space adjacent to the site, it would be difficult for the Parish Council to show need. However, a contribution towards ensuring that the current Open Space can be enjoyed by all residents would appear to be appropriate.

9. The provisional Heads of Terms states that Biodiversity Net Gain will be achieved by delivery this off-site. Whilst the Parish Council notes the limited ability to provide BNG within the site itself, it could be provided on the adjacent Open Space and, therefore, be of benefit to the residents of Hemyock.

10. Condition 2 in the S106 agreement for the previous Cavanna development designated this land as Public Open Space. This condition was removed at the very last minute after consultees had responded. This is concerning.

11. The speed watch group have reported that 55% of eastbound traffic and 31% of westbound traffic is exceeding the speed limit at this location.

12. Historic England state "multiple fatal flaws make the development unviable and inappropriate.

If MDDC planning were mindful to approve the application then the Parish Council would wish to see that the conditions provided by Environment Agency were included:

To ensure that the reserved matters design is appropriate, we recommend that conditions are included within any permission granted in respect of:

o no development within the 10m buffer strip adjacent to the watercourse as shown in the illustrative layout plan; and

o no raising of existing land levels within the floodplain in the detailed design, either during or post construction.

The Parish Council would wish to see the given condition wording included in any Decision Notice.

The Parish Council would wish to see that the developer submit a Construction Environment Management Plan to mediate again the risk of run off from exposed ground / soils to the nearby watercourses and acquire any necessary Environmental Permits.

The Parish Council would wish to see MDDC ensuring that no pollution of the waterways occurred.

Given the Parish Council's concerns over the visual splay, the Parish Council would wish to see a time-limit placed on the completion of the project. It is normal that an application must be started within three years of the Decision Notice with no end completion date but given this is a site for self- builds/custom builds, it is likely that the project will continue for a significant period of time. The Parish Council would like to see a time-scale placed on the development.

As advised by the applicant, the Parish Council would like its right of way over the proposed entrance and road to the cemetery extension included in any Decision Notice/S106 Agreement.

As advised by the applicant, the Parish Council would like to see the gateway into the Open Space area provided for residents included in any Decision Notice/S106 Agreement.

DCC HIGHWAY AUTHORITY

23/07/2025

The proposed development is located on the B3391, a classified road subject to a 20mph speed limit at this location. During a site visit, vehicle speeds were observed to be generally compliant with the posted limit. Notably:

- Speeds reduce further when travelling eastbound due to carriageway narrowing.
- Speeds increase westbound past the Parklands junction where the road widens.

The B3391 serves a range of vehicle types, including use by Heavy Goods Vehicles (HGVs), as confirmed by both site observations and public representations.

Collision data for the past five years indicates no recorded injury collisions at or near the proposed access point. Two slight collisions have occurred elsewhere in the village, suggesting the local highway network operates safely and is not inherently hazardous.

The proposed access is shown on Drawing No. 231d-100B. Visibility splays of 2.4m x 60m (west) and 2.4m x 57m (east) are proposed. These are considered acceptable for a 20mph environment, aligning with guidance in Manual for Streets.

Concerns have been raised by third parties regarding the feasibility of the proposed carriageway and footway widths. While the existing highway width is constrained, the submitted plan indicates localised widening to accommodate the proposed geometry. Therefore, the drawing is not considered inaccurate.

It is acknowledged that vehicles occasionally park adjacent to the cemetery, particularly during school pick-up/drop-off and funerals. This may encroach into the western visibility splay.

However, MfS2 (Section 10.7) recognises that in built-up areas, visibility splays are often partially obstructed by parked vehicles. Drivers on the minor arm typically edge forward cautiously, and drivers on the major road adjust accordingly. Given the nature of such parking and the low speeds

observed, this is not considered to pose a significant highway safety risk or justify refusal under NPPF Paragraph 116.

No Transport Statement has been submitted. However, using a worst case estimate of 8 trips per dwelling per day, the development could generate approximately 72 daily vehicle movements. Given the B3391's existing function, this level of additional traffic is not considered to result in a 'severe' residual cumulative impact on the road network, as defined in NPPF Paragraph 116. The proposal includes a pedestrian link to the existing footway network via an uncontrolled crossing. This will provide access to local services and facilities.

In principle, an access at the proposed location for 9 dwellings with the visibility splays shown on Drawing No. 231d-100B is acceptable. However, the application fails to provide swept path analysis demonstrating that refuse collection vehicles and emergency service vehicles can safely enter, turn within, and exit the site in a forward gear.

This omission is critical. Paragraph 116 of the National Planning Policy Framework (NPPF, December 2024) states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.' Manual for Streets (MfS) and Manual for Streets 2 (MfS2) both emphasise the importance of ensuring that service vehicles can manoeuvre safely within new developments without reversing onto classified roads.

The B3391 is a classified road used by a range of vehicles, including HGVs. Without evidence that large vehicles can turn within the site, there is a high risk that refuse vehicles or emergency services would be forced to reverse either into or out of the site. This would introduce unacceptable conflict with through traffic, increase the likelihood of collisions, and compromise the safety of all road users, including pedestrians using the proposed footway and uncontrolled crossing.

Furthermore, failure to demonstrate adequate access for emergency vehicles may compromise life safety and would be contrary to Building Regulations.

In the absence of this essential information, the Highway Authority cannot confirm that the proposed access arrangements are safe or suitable. The proposal therefore fails to comply with NPPF Paragraph 116 and the principles of safe and inclusive design set out in Manual for Streets.

Recommendation:

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

20/08/2025

Since the Highway Authority's previous response, the applicant has submitted a revised plan and accompanying swept path analysis.

The swept path analysis demonstrates that both refuse vehicles and fire appliances can now adequately enter, turn within, and exit the site in a forward gear. This resolves the previous reason for refusal relating to the lack of evidence for safe vehicle manoeuvring.

Concerns have been raised by third parties regarding the adequacy of the proposed visibility splays, particularly in relation to actual vehicle speeds at this location. The proposed visibility splays of 2.4m x 60m (west) and 2.4m x 57m (east) are appropriate for the posted 20mph speed

limit and align with guidance in Manual for Streets. Furthermore, these splays are also suitable for vehicle speeds of up to 35mph, based on the same guidance.

As previously noted, while visibility may be partially obscured particularly by parked vehicles adjacent to the cemetery during school pick-up/drop-off times and funerals, Manual for Streets 2 (Section 10.7) acknowledges that in built-up areas, such obstructions are common. In these situations, drivers on the minor arm typically edge forward cautiously, and drivers on the major road adjust their behaviour accordingly. Given the observed low speeds and the nature of the parking, this does not present a significant highway safety risk or justify refusal under NPPF.

Taking into account the revised drawings and the resolution of the previously identified concerns, the Highway Authority considers the proposed access to be safe and suitable.

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 Construction Management Plan (CMP) including:

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

2. Visibility splays shall be provided, laid out and maintained for that purpose at the junction in accordance with drawing 943c-LvWH-GEN-CR-DR-GEN-100 Rev C where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjoining carriageway level and the distance back from the nearer edge of the major road

carriageway shall be 2.4 metres and the visibility distances along the nearer edge of the major road carriageway shall be 60 metres in a Westerly direction and 57 metres in the other direction.

REASON: To provide adequate visibility from and of emerging vehicles

3. Prior to occupation in accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

4. Prior to occupation of the dwellings a pedestrian link of at least 1.8m width from the development access at the Southernly boundary of the development land to the Northernly boundary of the development land shall be provided and made available for public use.

5. Any proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

6. No part of the development hereby approved shall be commenced until the access road has been laid out, kerbed, drained and constructed up to base course level for the first 10 metres back from its junction with the public highway and the visibility splays required by this permission laid out.

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents

7. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the satisfaction of the Local Planning Authority:

- A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- C) The cul-de-sac visibility splays have been laid out to their final level;
- D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic

DEVON COUNTY COUNCIL EDUCATION

27/10/2025

Regarding the above planning application, Devon County Council has identified that the proposed increase of 9 family type dwellings would generate an additional 2.25 primary pupil and 1.35 secondary pupils which would have a direct impact on Hemyock primary school and Uffculme School.

It has been forecast the local primary and secondary schools have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will not seek a contribution towards additional education infrastructure at the local primary and secondary schools.

We will however require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme School. The costs required are as follows: -

1.35 Secondary pupil

£2.89 per day x 1.35 pupils x 190 academic days x 5 years = £3,706

The contribution above has been calculated based on the DCC contract cost of transporting a pupil from the area of development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil will attend the school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school.

All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Devon County Council will also request a contribution of towards monitoring fees that will be calculated per trigger event set out in a S106 agreement.

DEVON COUNTY COUNCIL ECOLOGY

28/07/2025

While there are no significant ecological concerns regarding the proposed development, further information is required before the application is determined with regards to biodiversity net gain (BNG) and bats in trees as follows:

1. BNG baseline: The following information and clarification required:

- o No metric tool showing the baseline available. Must be provided to determine the application.
- o Report states that there were no limitations; however, the survey was conducted in February outside the optimal survey period. Please provide justification or an updated survey.
- o The 5x trees to be lost are not mentioned in the report for the access, so their loss may not be included in the metric baseline. Clarification needed.

2. BNG Onsite: The BNG assessment report correctly notes that: "given that as this is an outline application and full landscaping details are not yet known, a precautionary approach has been taken to assessing what significant net gain may be on site post[1]development." Without the metric or the reporting showing the breakdown of the indicative post-development score and UK habitat types and condition proposed, we don't know what proportion of the indicative 1.87 onsite units proposed is significant onsite gain, nor how the applicant is scoring the habitats such as the "wet meadow wildflower mix" in the metric. The information is required so the general approach can be agreed, and so the appropriate conditions and potentially planning obligations to secure formal monitoring, can be applied to legally secure the significant onsite gains for 30-years.

3. Bat tree assessment: T15, T16, T17, T18 and T19 are to be removed. T19 is described as having a cavity and hollow. Report does not mention if the trees have been assessed for bat roost potential. Please can this information be provided.

For BNG, I note that a unit deficit is expected, and so the purchase of offsite units is proposed and preliminarily agreed with a habitat bank.

I am satisfied with the rest of the ecology survey work and reporting. This includes the mitigation proposed during construction for protecting hedgerows, great crested newts, badgers, nesting birds, dormice, reptiles and hedgehogs; the lighting recommendations during construction and operation to maintain the proposed dark corridors; and the proposed faunal enhancements i.e. a universal swift brick at a rate of 1 per 2 dwellings, an integral bat box bee bricks at rate of 1 per dwelling, insect bricks at 1 per dwelling and hedgehog access.

The following conditions are recommended:

1. Construction and Ecological Management Plan based on the recommendations in the Ecological Impact Assessment.
2. Sensitive lighting design based on the recommendations in the ecology report Ecological Impact Assessment.
3. A detailed Faunal Ecological Enhancement Plan to detail the bat and bird boxes, insect bricks and hedgehog access enhancements as detailed in the EclA, including confirmed types/specifications, and locations both on a site plan and on building the relevant elevation drawings.
4. A condition for an updated BNG metric to be submitted with the reserved matters to score the detailed landscape.
5. BNG related condition/obligations TBC (e.g. HMMP etc)

21/08/2025

I am satisfied with the additional information and can confirm no objection to the proposals with conditions.

Significant on-site habitat creation and enhancement comprises 0.62 biodiversity units of other neutral grassland in moderate condition, 0.13 units of urban trees, and 0.18 units of hedgerow. In my view, these habitats can be appropriately secured through a Landscape and Ecological Management Plan (LEMP) condition alone. Given that most of the Biodiversity Net Gain requirement (1.8 units) is being met through the purchase of registered off-site biodiversity units and considering that the proposed on-site habitats are proportionate and deliverable, I do not consider monitoring via a Section 106 agreement to be necessary in this instance. As well as the conditions 1-3 suggested in my previous response, I suggest the conditions below to secure BNG and the habitat management onsite:

4. Prior to the approval of reserved matters relating to landscaping, a revised Biodiversity Net Gain (BNG) metric shall be submitted to and approved in writing by the Local Planning Authority. The metric shall be completed in full, including habitat baseline and post-intervention calculations, and must include a statement confirming alignment with the BNG proposals. Reason: To ensure the landscaping proposals support the delivery of biodiversity net gain and remain consistent with the BNG proposals

5. No development shall take place (excluding demolition, site clearance, and enabling works) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved LEMP. The LEMP shall include:

- a) A description and location of all existing and proposed landscape and ecological features,
- b) Management objectives for all retained and created habitats,
- c) Detailed management prescriptions and schedules for habitat creation, enhancement, and maintenance,
- d) 30-year management objectives and prescriptions for all significant ("medium distinctiveness") onsite habitat creation and enhancement for Biodiversity Net Gain (BNG)
- e) Monitoring and reporting arrangements, including adaptive management measures to ensure the success of significant BNG habitats.
- f) Identification of the body or organisation responsible for implementing and monitoring the LEMP

Reason: To ensure the long-term protection, enhancement, and management of biodiversity and landscape features, including significant Biodiversity Net Gain habitats, in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended), National Planning Policy Framework (2024) and Mid Devon Local Plan Policies S1 and DM26

NATURAL ENGLAND

16/07/2025

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Natural England's generic advice on other natural environment issues is set out at Annex A.

PUBLIC HEALTH

23/07/2025

We have considered the application and do not anticipate any environmental health concerns once constructed, if approved. We would recommend that the standard CEMP condition is included on any approval in order that all individual builders or plot owners are aware of the standards to be met so that impact on the existing community during construction is kept to a minimum.

ENVIRONMENT AGENCY

16/07/2025

We have no objection to this outline planning application based on the information submitted at this stage. It appears that a development can be delivered within the site boundary without any development being built on an area that would be at risk of flooding now and in the future.

Provided this is the case, there is no requirement to undertake the flood risk Sequential Test in accordance with paragraph 175 of the NPPF.

However, to ensure that the reserved matters design is appropriate, we recommend that conditions are included within any permission granted in respect of:

- o no development within the 10m buffer strip adjacent to the watercourse as shown in the illustrative layout plan; and
- o no raising of existing land levels within the floodplain in the detailed design, either during or post construction.

The suggested wording for this condition and associated advice is set out below.

Condition - Undeveloped buffer zone for watercourse

The 10 metre wide buffer zone alongside the watercourse, as shown in drawing number 2303-KTA-ZZ-ZZ-D-A-102 P4, shall remain free from built development including lighting, domestic gardens and formal landscaping over the lifetime of the development.

Reason: To protect land alongside the watercourse which provides a valuable habitat for wildlife, as well as in the interest of not increasing flood risk.

Condition - No land raising within the floodplain

Within the floodplain (flood zones 2 and 3) as identified on the Flood Map for Planning, there shall be no storage of excavated material or construction materials during construction of the development hereby approved nor any alterations to the existing land levels (shown on topographical survey W15332_SX - identified as Drawing FRA1 in the Flood Risk Assessment 422AFRA2 V1 - 14.01.2025) either during or post construction.

Reason: In order to ensure flood waters are not displaced and thus in the interests of limiting the risk to people and property in a flood event.

Advice - Flood Risk

Our Flood Map for Planning indicates that there is a small area of Flood Zone 2 and 3 at the eastern edge of the site within the red line boundary. However, the illustrative layout (Drawing number 2303-KTA-ZZ-ZZ-D-A-102 P4) appears to show that no built development is proposed within the floodplain. It also shows that a 10m buffer will be provided adjacent to the watercourse. We consider that the above conditions are necessary to ensure that the principles shown at the outline stage are reflected in the detailed designs submitted with the application for reserved matters. In particular, it is important that the buffer zone is safeguarded and no development takes place within the floodplain, either during or post construction.

As well as safeguarding this land to flood risk reasons, land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. Legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats and promote the expansion of biodiversity.

We note that no information has been provided about the proposed finished floor levels of the properties. In the final design of the dwellings, we would recommend that these are raised at least 300mm above ground levels to reduce the risk of flooding from any surface water issues.

Advice - Pollution Prevention

We refer the applicant to advice relating to pollution prevention:

Pollution prevention for businesses - GOV.UK (www.gov.uk)

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and a Construction Environment Management Plan (CEMP) should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

SOUTH WEST WATER

04/07/2025

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 150mm 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:

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

Surface Water Services

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

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

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

Clean Potable Water

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

Foul Sewerage Services

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

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

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

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

MDDC TREE OFFICER

14/07/2025

The Arboriculture Impact Assessment informs there will be tree loss totalling five trees and a 2m section of hedge. The tree loss is cantered around the access lane where it adjoins the main road. These trees are typically viewed of limited merit currently. However the loss of these shall need to adequately mitigated by incorporating green corridors, landscaping with native species and planting of new trees too. Reviewing the Landscape Mitigation Plan (SPP06 Rev A) it appears to show the planting of 17 new trees, either in the front garden spaces, wetland area and grass verge. Though information is provided on species type, no information is provided on species quantity or location. With a view where species are planted at random this could result in inappropriate planting. It is encouraged that the Devon Local Nature Partnership 'Right Place Right Tree' is reviewed and greater consideration if given to the tree planting and planting as a whole in order to provide a successful landscape scheme that conserves the local character and conservation.

The Devon Tree and Woodland Tree Strategy sets out to increase the canopy cover in the region to 20% by 2030. It is unclear in the Landscape Mitigation Plan if the planting along with current canopy cover, not including those trees off site with help meet this goal.

Trees T11, T12, and G13 are likely to require on-going pruning in the form of a crown lift to 2.5m, such pruning is viewed a minor and is not given future consideration.

The proposed access road and footpath will encroach into the root protection areas of three retained trees and groups (T11, G13, G14). From the plans and report it is unclear of the level of incursion. BS5837:2012 provides guidance informing up to a 10% incursion shall be often acceptable. A 10%-20% incursion may be acceptable but should be carefully considered, and an incursion of greater than 20% is typically not acceptable. Further details on the level incursion is required.

Further details of the routing of services have not been provided. However, routing services should be kept out of the trees RPAs, including future predictive RPAs to ensure damage does not occurs to the trees rooting environment.

11/09/2025

It is not ideal but subject to an arboriculture method statement being conditioned for the encroachment, including pruning of the roots and protection I am happy to accept the level of encroachment.

In addition a condition to include the following too:

To treat the rooting soil environment (minimum ROA area) of the effected trees using the Geo-Tech Injector to improve soil drainage and structure followed by the injection of biochar.

Reason: benefits include enhanced soil porosity, improved water infiltration, and long-term soil health improvement.

BLACKDOWN HILLS NATIONAL LANDSCAPE

19/08/2025

The primary purpose of the AONB designation is to conserve and enhance natural beauty, and national planning guidance advises that great weight should be given to conserving their landscape and scenic beauty and that the scale and extent of development within these designated areas should be limited. Further, all relevant authorities, including local planning authorities, have a duty to seek to further the conservation and enhancement of natural beauty of the area in carrying out their functions. We support our constituent local planning authorities in the application of their development management policy framework together with national planning policy in respect of the above.

We consider that speculative development around the edge of settlements within the designated AONB should be resisted and that a plan led approach to development in villages ensures that impacts on the National Landscape can be properly considered, alongside other planning issues. Our preferred approach would be to see a proposal such as this worked up as a community-led project so that the dwellings meet local needs. In any event, where small housing schemes such as this are developed, we consider that they should be exemplars in achieving a high standard of design so that local character is reinforced and the natural beauty of the area is conserved and enhanced. This is of course an outline application with all matters reserved except for the point of access. There is much additional material submitted in relation to layout and design, which should be considered in their own right.

The Blackdown Hills AONB Management Plan 2019-2024 is the agreed policy framework for conserving and enhancing the designated AONB and seeks to ensure that all development affecting the area is of the highest quality (this remains the extant management plan until such time as a new plan is published in the coming months). It contains the following policy of particular relevance to development proposals:

Planning and development PD2

All necessary development affecting the AONB will conserve and enhance natural beauty and special qualities by:

Respecting landscape character, settlement patterns and local character of the built environment,

- Being sensitively sited and of appropriate scale,
- Reinforcing local distinctiveness, and
- Seeking to protect and enhance natural features and biodiversity

The Management Plan also provides a valuable reference for guiding development, noting that the layout, form and density of all new developments need to reflect the historic rural grain of the National Landscape if the essence of the place is to be preserved. It is important that all new development, especially housing development, is of a scale and layout that conserves and enhances the distinctive pattern of built form found across the Blackdown Hills. It goes on to highlight that in terms of new development location and context are important; development should respect the importance of the setting of individual settlements and enhance the sense of place. Ultimately therefore the design, size, scale, form, materials, and layout of future dwellings will be critical factors in how well the proposal fits into the village and the wider landscape. We would argue that it is not possible to judge impact on the National Landscape without full consideration of this detail.

If minded to approve this outline proposal, the subsequent detail will require careful consideration and management to address all site constraints and ensure a coherent, high standard of design so that local character is reinforced and natural beauty is conserved and enhanced. We agree with the parish council that a timeframe should be agreed for the implementation and completion of the development project for the benefit of the local community and in the interests of conserving and enhancing the area of outstanding natural beauty.

DCC HISTORIC ENVIRONMENT TEAM

02/07/2025

Previous archaeological investigations within the application area have shown the site to have little or no archaeological potential and, as such, the Historic Environment Team has no comments to make on this planning application.

HISTORIC ENGLAND

07/08/2025

The proposal is for outline permission for up to nine self build homes in a field to the rear of Bailey Lodge, which is one of the last remaining views of open land from the scheduled monument, Hemyock Castle (NHLE 1004583). Historic England has concerns regarding the proposal which has the potential to result in harm to the monument's significance.

Historic England Advice

Significance of the Scheduled monument

A quadrangular castle is a strongly fortified residence built of stone, or sometimes brick, around a square or rectangular courtyard. The outer walls formed a defensive line, frequently with towers sited on the corners and occasionally in intermediate positions as well. Ditches, normally wet, were also found outside the walls. Within the castle, accommodation was provided in the towers or in buildings set against the walls which opened onto the central courtyard. They are major medieval monument types which, belonging to the highest levels of society, frequently acted as major administrative centres and formed the foci for developing settlement patterns. Castles generally provide an emotive and evocative link to the past and can provide a valuable educational resource, both with respect to medieval warfare and defence, and to wider aspects of medieval society. Hemyock Castle survives comparatively well and will contain important archaeological and

environmental evidence relating to its construction, development, use and landscape context, being located on the edges of the village, which appears to have been an important hub for the production of iron.

Impact of the proposal on the Scheduled Monument

The proposal has the potential to impact upon the setting and significance of the monument by infilling one of the few remaining open spaces around the castle. This was recognised in our original advice for the recent Bailey Lodge development and sustained through a number of amendments in order to restrict the ridge heights of the proposed structure in order to preserve a sense of that open land beyond the scheduled monument.

We note an allusion to this in the Parameters plan which refers to maintaining views of the hills.

NOTE: Photograph 14 in the Historic Environment DBA is looking west along Culmstock Road and not to the development site as stated.

Policy relevant to the Scheduled Monument

NPPF contains strong policies relating to the importance of conserving heritage assets and what is important about them, their significance. This is made clear in para. 212 where it states that "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.". This already high bar is built on by para.213 where "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. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional."

Para. 215 notes that where harm is judged to be less than substantial, this harm should be weighed against public benefits of the proposed development, and para. 219 states that LPA's should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance.

Historic England position on the proposal

A lot of officer time was spent by both Historic England and your authority in order to ensure a degree of protection for views of Hemyock Castle's wider setting as an seat on the edge of an important industrial village. Whilst we welcome the proposed preservation of 'views of the hills to the north' in the supporting documentation, we retain scepticism given that the proposed layout does not seem to make the most of the topography to limit heights on the upper parts of the site and the proposal to plant new trees directly within that proposes arc of view preservation.

These, however, are factors that may usually be addressed at full planning stage through conditions and an agreed masterplan. The proposal, being for outline permission for up to nine self builds introduces great potential for deviation and future caseload in addressing proposals to deviate from agreed parameters.

For the above reasons we maintain strong concerns regarding this application.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 212, 213, 215, and 219 of the NPPF.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

MDDC CONSERVATION OFFICER

08/07/2025

The application site is located to the north of Culmstock Road, it is bounded by residential development to the east and south, to the west is the Hemyock Cemetery and to the north is public open space associated to the recently consented application for up to 40 dwellings (Ref: 20/01698/MARM). The following designated heritage assets are in proximity to the site:

- Hemyock Castle House, Grade II listed (list entry number: 1169449);
- Hemyock Castle Gatehouse and Curtain Walls, Grade II* (list entry number: 1325852);
- Pair of Outbuildings 4 Metres East of Hemyock Castle Gatehouse, Grade II listed (list entry number: 1106526);
- Linhay and Stables at Hemyock Castle Immediately North West of Church St Mary, Grade II (list entry number: 1254196); - Church of St Mary, Grade II* (list entry number: 1169390); and - Hemyock Castle, Scheduled Monument (list entry number: 1004583).

It is the setting of the above mentioned heritage assets which must be considered and the potential impact of the development through change in their setting. This follows the staged approach set out by Historic England The Setting of Heritage Assets (GPA Note 3).

As shown by cartographic evidence, the site has remained that of undeveloped land with modern residential development built to the south along Culmstock Road and to the east. Residential development has also encroached closer to the Scheduled Monument of Hemyock Castle, south of Culmstock Road. There are glimpsed views of the Church of St Mary afforded from within the site however much is screened by interposing development and mature planting. Therefore, the application site is considered to make a limited contribution to the setting of the heritage assets due to its physical and visual separation.

The proposal is for up to 9 self or custom-build dwellings, the illustrative layout indicates that this would be in a cul-de-sac arrangement. Given the limited contribution of the site to the setting of the nearby heritage assets and the presence of interposing development, the proposals are not considered to result in an adverse impact to the special interest or significance of the heritage assets through change within their setting. Details of scale, massing and appearance shall be for the reserved matters stage and this should ensure that the proposed development is in keeping with local character and distinctiveness.

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.

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

- The site is outside of the village settlement limits.
- The site is meant to be in use as communal space. It is understood that it is designated as public open space in relation to planning permission 16/01772/MOUT.
- The development will lead to increased traffic levels in the locality, where there is already congestion at school times.
- The access will have limited visibility that will create a hazardous junction at this point.
- There is no pavement to the village centre, requiring pedestrians to walk along a narrow stretch of unpaved road.
- The village school is at full capacity and there are no more places available. The development will add pressure to this and other infrastructure.
- The development will disturb the peace and quiet of the cemetery.
- The area has heavy clay soil, leading to poor drainage and subsidence. Fields in and around Hemyock have naturally reduced flooding. The erosion of green fields like this further increase the risk of flooding elsewhere.
- The area is heavily used by bats, with the proposal disturbing these mammals, and other protected species, such as deer, fox, owls, badgers, slow worms, butterflies and moths. The site is also home to an extensive range of flora.
- The proposal includes the unnecessary loss of existing trees.
- The development is not needed, as there are homes on the nearby new development that have not been sold after nearly three years. There are also many other houses within the village for sale.
- The development will adversely impact upon the Blackdown Hills National Landscape.
- The level of archaeological investigation is insufficient.
- The site is on higher ground than the neighbouring properties, leading to overlooking.
- The use of the site for 9 self-build dwellings is inappropriate, as the development in an uncoordinated way could take place over a period of 10 years, causing noise and disruption to neighbours over a prolonged period of time.
- The site is part of Hemyock's historic and cultural heritage. It has been used for archery practice and used for haymaking. The site should continue to be used for community purposes.

One letter of support was received from a local resident. The main points raised are summarised below:

- The proposal is well-considered, not attempting to squeeze in tiny boxes with barely any outdoor space or privacy.
- The application reflects an approach to ensure local satisfaction with the access arrangements and committing to 30% affordable housing.
- It is not considered that the proposal would cause traffic concerns.
- The local primary school is at capacity, with investment being beneficial.
- It is disagreed that there is a lack of need for family homes locally, due to some properties failing to sell. Local schemes that aren't selling are on cramped plots with little parking and small, overlooked gardens, which aren't conducive to a family home.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1. Principle of development**
- 2. Scale, appearance, layout and landscaping, including heritage context**
- 3. Highways, parking and access**
- 4. Flooding and drainage**
- 5. Residential amenity**
- 6. Ecology and Biodiversity Net Gain**
- 7. Planning obligations**
- 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 Policies S1 to S3 of the Mid Devon Local Plan (2013-2033) set the strategic priorities for the District in order to create sustainable communities. In terms of residential development, the policies set a general development focus in the three main towns with further small-scale residential development in defined villages. Whilst Culmstock is one such defined village, this application falls outside of the settlement limit, albeit adjacent to the south western boundary.
- 1.3 Policy S14 of the Local Plan refers to development outside of defined settlements and does not generally support new-build, open-market proposals. However, there are some exceptions such as when the Council are not able to demonstrate a 5 year housing land supply, enacting Paragraph 11 of the NPPF.
- 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 Members will be aware, as mentioned above, that the Town and Country Planning Act sets out that planning decisions should be made in accordance with the development plan

unless material considerations state otherwise, the National Planning Policy Framework being one such material consideration. Paragraph 11 of the NPPF, detailed above, is therefore a material consideration in determining this application. This assessment against paragraph 11 d) is commonly known as the tilted balance.

- 1.6 As above, the LPA cannot demonstrate a 5 year housing land supply at present, the tilted balance is therefore relevant and weighs in favour of granting planning permission for open-market housing subject to an assessment against other material considerations.
- 1.7 This particular application is for self-build housing so even if the LPA could demonstrate a general 5 year housing land supply, Paragraph 11 would be enacted due to the shortfall of self-build housing in the District and the lack of specific development management policy in relation to open-market self-build housing. Regard should also be given to Paragraphs 62 and 63 of the NPPF, which state that policies should give regard to those people wishing to commission or build their own homes. The fact that this proposal is for self-build accommodation as opposed to standard open-market housing, is a benefit that weighs in favour of granting planning permission given the specific shortfall for this type of accommodation and because it would accord with Paragraphs 62 and 63 of the NPPF. Information submitted with the application indicates that there is a shortfall in the number of plots against the demand that the Council is required to meet. Decision making weight should therefore be given to the benefit of addressing the self-build shortfall.
- 1.8 In summary, given the requirements of the NPPF and the shortfall of the type of accommodation proposed in Mid Devon, significant decision making weight must be given to the proposed provision of custom self-build housing. The self-build nature of the housing would be secured by a legal agreement. Members should also note that the tilted balance would be enacted for ordinary open market housing given the current land supply situation. Overall, significant weight is given to the proposed provision of self-build housing and this weighs strongly in favour of granting planning permission.
- 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.
- 1.10 There have been some objections to the development of the site, on the basis that it was to be included as public open space in relation to the Cavanna Homes development to the west, approved under planning permission 16/01772/MOUT. It is acknowledged that the site was part of the wider area of land identified as potentially offering public open space, however this didn't confirm the final location of the public open space, merely requiring that an area of 3 hectares be made available to the general public for recreation and enjoyment. The final details were to be provided prior to commencement of the development. When reserved matters application 20/01698/MARM was submitted, the final details of the public open space scheme were provided, limiting this to the land to the north of this site, the cemetery, and the Cavanna Homes site. This amounted to 3.69 hectares of public open space, which exceeded the requirement of the planning obligation. The application site, and the land to the north of the cemetery, which is now to be used as an extension to the cemetery, were not part of the reserved matters site. On the basis that the planning obligations to provide public open space, in relation to planning permission 16/01772/MOUT and 20/01698/MARM, has been satisfied, this does not prevent the land now being developed for other purposes.

2. **Scale, appearance, layout and landscaping, including heritage context**

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 Hemyock is a village located within the Blackdown Hills National Landscape, where Policy DM27 states that proposals affecting the BHNL must demonstrate that:

- a) Cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and
- b) Biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation.

Paragraph 189 of the NPPF also requires great weight to be given to conserving and enhancing the landscape and scenic beauty with National Landscapes.

2.3 Policy DM1 (High quality design) outlines:

Designs of new development must be of high quality, based upon and demonstrating the following principles:

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

2.4 As noted earlier, the site is located close to Hemyock Castle, which is a Scheduled Ancient Monument, and several other designated heritage assets, including the grade II* Hemyock Castle Gatehouse and Curtain Walls, and Church of St Mary. 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 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the decision maker to 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.

2.5 As this is an outline application, with all matters reserved apart from access, the final scale, layout, design and appearance, and landscaping is not to be determined until a later application for reserved matters. Nonetheless, consideration has to be given to whether a suitable scheme could be developed that meets the previously referenced policy considerations.

2.6 In general planning terms, the indicative plans submitted indicate that the proposed development could be developed in a manner that provides a high quality development with 9 dwellings spread throughout the site, with sufficient space for the required level of parking, landscaping and on-site surface water attenuation.

- 2.7 Noting that the site is on the village margin, within the Blackdown Hills National Landscape, the Blackdown Hills National Landscape (BHNL) have commented on the application. In doing so, the requirements for assessing applications, noted earlier in this section, have been highlighted, alongside the aims of the Blackdown Hills AONB Management Plan 2019-2024, which sets many of the parameters for determining applications.
- 2.8 The BHNL advise that their preference is to see a fully worked up community-led project come forward that meets local needs. Notwithstanding that, small housing schemes should achieve a high standard of design so that local character is reinforced and the area is conserved and enhanced. As such, the design, size, scale, form, materials, and layout of future dwellings will be critical factors in how well the proposal fits into the village and the wider landscape. It is argued that it is not possible to judge impact on the National Landscape without full consideration of this detail. The BHNL do however advise that should outline permission be granted the subsequent detail will require careful consideration and management to address all site constraints and ensure a coherent, high standard of design so that local character is reinforced and natural beauty is conserved and enhanced. A suggestion of the Parish Council had been repeated that a condition should be imposed requiring a timeframe for the implementation and completion of the development.
- 2.9 Starting with the matter of the condition, it is not considered reasonable to impose a condition requiring a development to be completed within a certain timescale. This is not considered to be best practice, with such conditions usually not considered to meet the tests for conditions due to the lack of reasonableness and enforceability.
- 2.10 In considering the impacts of the scheme on the National Landscape, supporting information has been provided, assessing the likely visual impacts of the scheme. These conclude that the scheme would be a modest infill between existing clusters of buildings, with the resulting scheme remaining contained within the valley setting at the edge of Hemyock, with limited extension beyond the existing village boundaries. Where there is some adverse impact on local landscape character as a result of the development, following occupation and with appropriate mitigation in the form of landscaping and appropriate design, the scheme is considered likely to have only slight adverse impact, and ultimately no substantial level of residual effect as a result of the development.
- 2.11 On the basis of the above considerations, it is considered that an appropriate scheme could be forthcoming to develop the site in a way that reacts in a sensitive manner to the designation of the local landscape, allowing opportunities to conserve and enhance setting, as required. The final details of the scheme will however be given consideration during a subsequent application for reserved matters, should this application for outline planning permission be granted. The indicative layout and parameters plans submitted, include the introduction of new hedge planting on the current open boundary with the cemetery, to the west, and tree planting within the site.
- 2.12 In respect to heritage considerations, Historic England have commented, and whilst not objecting, they have raised concerns about the potential to have an impact on the setting and significance of the scheduled ancient monument (SAM), Hemyock Castle, in particular. They note that this is one of the remaining open green open spaces around the castle, and note the level of input involved in a scheme to develop a new house on land to the south east of the site, at Bailey's Lodge. Some of the concerns relate to a feeling that the proposed layout does not make the most of the topography of the site to limit heights on the upper parts of the site. Like the BHNL, they note that these factors would usually be

addressed at full planning stage, however being an outline application, there is the opportunity to deviate from the proposed plans.

- 2.13 Noting the above comments, and concerns, it should however be repeated that being an application for outline permission, with scale, layout, design and appearance, and landscaping, reserved, the site plans are only indicative and any final scheme will still need to give consideration to all the relevant factors. As referred to earlier, it is important to consider whether there is sufficient information to assess the application and determine whether outline planning permission should be granted.
- 2.14 The Council's Conservation Officer has further considered the application in detail and is of the view that the site is relatively enclosed in respect to its relationship to the identified heritage assets, with glimpsed views limited by screening in between, and other built development. It is therefore the view of the Conservation Officer that the application site makes a limited contribution to the setting of the heritage assets. It is further noted that the development at Bailey's Lodge will reduce the interrelationship of the site and these heritage assets. Subject to the final details of scale, massing and appearance, to be established at reserved matters stage, it is considered that the proposal would not result in an adverse impact on the special interest or significance or local heritage assets through change to their setting, and that a scheme could be developed that is in keeping with local character and distinctiveness.
- 2.15 Noting the relative support of the Conservation Officer, a Heritage Technical Note was produced to summarise the impacts of the development. This concludes that the submitted information provides suitable and proportionate information on the significance and potential effects upon heritage assets to give sufficient reassurance that the site could be developed in a manner that preserves the setting and significance of local heritage assets, with final details to be assessed at reserved matters stage.
- 2.16 The Heritage Technical Note does identify the adjoining cemetery as having some local interest, and the northern boundary hedge as comprising an 'important' hedgerow that also has a low level of heritage impact. The proposed development would likely slightly reduce the low degree of interest associated with the cemetery, and a small element of the 'important' hedgerow's low heritage interest would be removed by the removal of a small section of this hedgerow to include a pedestrian access through to the public open space to the north. It is however indicated that the effects on these non-designated heritage assets should be accounted for in the determination of the application, with the necessary balance identified in paragraph 216 of the NPPF being considered.

Paragraph 216 states that:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

- 2.17 Overall, it is considered that there is sufficient information contained within the application to offer the appropriate reassurance that a suitably designed scheme could be forthcoming that would comprise a high quality development that could conserve and enhance the character of the National Landscape and appropriately respect and relate to the character of the area, whilst preserving the setting and significance of local designated heritage assets.

- 2.18 This part of Hemyock, and the wider Blackdown Hills, is an area rich in cultural heritage with the potential for underground heritage assets too. This is noted in nearby archaeological investigations, with archaeological findings in relation to the nearby castle.
- 2.19 Noting the potential for underground archaeology to be present, archaeological investigations were undertaken on site prior to submitting the application, the findings of which are dealt with in an Archaeological Evaluation report. The conclusion being that this site has little or no archaeological potential. Some comments received have questioned the appropriateness of the investigation, however the application has been considered by Devon County Council's Historic Environment Officer, who is satisfied with the investigation and has offered no further comment on this matter.

3. Highways, parking and access

- 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 This application includes details of access to be approved at this stage. In seeking to achieve appropriate access, the existing access to the site is to be widened and realigned. This will incorporate some of the land to the frontage of the adjoining property, which is within the applicant's ownership. It is also proposed to undertake off site highway works, within the public highway, to widen the carriageway opposite the site. In addition improved pedestrian links will be included through the construction of new footways at the site frontage, linking to the front of the cemetery, and an uncontrolled crossing at the opposite side of the road. A 1.8m wide pedestrian link is also to be implemented from the southern edge of the site, to the northern edge, providing improved access to the public open space to the north. The access will include visibility splays of 60m to the west and 57m to the east.
- 3.3 Several objections have been received for local residents, and the Parish Council, with concerns about the level of traffic currently experienced in the immediate vicinity of the site, especially during peak time such as school pick up time. Concern was also raised about whether there was sufficient width on the public highway to provide the required visibility splays, and manoeuvring space into the site.
- 3.4 The Highway Authority have considered the applicant, with the Highway Officer noting the concerns raised. In commenting, they have considered that the proposed improvements to the access, including the proposed levels of visibility and off-site works to widen the public highway opposite the site, would be acceptable. They have considered that with these improvements in place, the level of traffic generated by the proposed development would not be such to cause an unacceptable impact on highway safety.
- 3.5 Further information was requested in the Highway Officer's initial comments in respect to access for emergency vehicles, with further swept path analysis and revised access plans provided. This has appropriately demonstrated that emergency vehicles could safely access the site. As such, subject to a range of conditions, including the provision of a construction management plan, securing the access improvements, and other technical approvals, and surface water disposal measures, the highway Authority raise no objections to the proposed development.

- 3.6 As this application involves only agreement of the access details, compliance with policy DM5 will be a matter for later determination, however the indicative layout submitted do indicate that a scheme will be achievable that incorporates the necessary level of parking provision.

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 The site is partly within Flood Risk Zones 2 and 3, areas at medium and high risk of flooding. It is noted however that this is only a very small section along the eastern boundary of the site, adjoining a watercourse. The majority of the site is 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 order to ensure that there is no risk of flooding on-site, and that the development doesn't increase the risk of flooding elsewhere, a 10m no build buffer is proposed alongside the watercourse, ensuring that this feature is not impacted directly.
- 4.5 The Environment Agency have commented, raising no objections, providing the 10m buffer strip is provided, and there is no raising of land levels within the floodplain, at any stage of development. To secure these controls, conditions have been suggested, which will be imposed.
- 4.6 In respect to drainage, there is a sewer passing through the site, which is expected to accommodate foul water from the site, which accords with the drainage hierarchy.
- 4.7 Due to the underlying geology, it is not expected that the surface water can be dealt with by infiltration methods, however a drainage strategy has been put forward that proposes the construction of an attenuation basin to the north east of the site, which will discharge into the adjoining watercourse at a controlled rate. Surface water runoff is proposed to be further controlled via the promotion of water butts and provision of porous paving, and a swale, which are then routed through the proposed attenuation basin.
- 4.8 Maintenance and management details will not be available at this stage, however the final detailed drainage scheme will need to be accompanied by management proposals. At this stage it has been indicated however that the drainage infrastructure will be offered up to South West Water for adoption. In the event that it is not adopted, a management company will be set up to ensure ongoing management and maintenance of the drainage scheme.
- 4.9 Final drainage details will need to be conditioned, however the scheme will need to be informed by the final layout to be submitted at reserved matters stage. The submitted drainage strategy does however provide sufficient confidence that surface water can be appropriately disposed of without adding to the risk of flooding elsewhere.

5. Residential amenity

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.

5.3 The site is considered to be of sufficient size for the development to be located at sufficient distance from nearby properties to avoid any overshadowing or overbearing impact.

5.4 Concerns have been raised about the potential for overlooking of neighbouring properties to the east of the site. This is noted however, care will need to be taken in the design to avoid the potential of a loss of privacy for amenity for neighbouring residents. This is however a matter that can be assessed fully at reserved matters stage, with the properties appropriately designed to prevent harm to residential amenity. The proposed properties are able to be located at adequate distance to avoid unacceptable levels of overlooking, with careful design consideration further reducing the risk of harm. Again the final positions of openings, etc. can be considered at reserved matters stage.

5.5 It is acknowledged that this is a relatively built up residential area, with the potential for construction works, and associated traffic to cause disruption to local residents. Such distance is inevitable to a degree, however the requirement for a construction and environmental management plan (CEMP) would allow the risk to be properly considered and mitigated against to reduce the impacts of the construction phase of development. Both the highway Authority and MDDC Public Health have requested CEMPs, with a detailed condition dealing with highway safety and environmental matters to be imposed as a pre-commencement condition.

- 5.6 Overall, it is considered that the proposed development could be carried out without causing unacceptable harm to residential amenity.

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 former agricultural buildings on site and wider development site, which comprises a modified grassland field. The application is supported by an Ecological Impact Assessment and Biodiversity Net Gain Statement and Assessment.
- 6.3 The Ecological Impact Assessment identified the buildings on site as being of negligible potential for supporting bat roosts, in which case there are no objection to their removal on ecological grounds.
- 6.4 Assessment of potential of the remaining habitat on site was covered within the Ecological Impact Assessment. Low levels of long-eared bat species, myotis bat species and Lesser horseshoe bats were recorded foraging and commuting on site. The retention of the northern headline, notwithstanding the removal of a 3m wide section for public access, will ensure the continued presence of this feature for commuting and foraging bats. Due to the sensitivity of bats to increased lighting, a dark corridor is to be maintained along the northern boundary, with a sensitive lighting to be agreed. This would be implemented throughout construction and operation, avoiding illumination of boundaries. The creation of grassland meadow around the attenuation pond would provide improved foraging habitat and a more diverse grassland that would encourage a greater diversity of invertebrate prey species.
- 6.5 The report did not identify any significant constraints with no evidence of any protected species found to be occupying the site, and habitat being considered suitability for common amphibians, nesting birds, dormouse, hedgehog, reptiles, although the site is only considered to be of local importance for these species. It was considered that the site would be unlikely to support a substantial breeding population of dormouse. The base of the hedgerows provided suitable habitat for hedgehogs, with the grassland likely to be used for foraging. Habitat suitable for reptiles is limited to the base of the hedgerows and a small area of grassland around a small rubble pile on site.
- 6.6 In the case of bats and the species referenced above, the Ecological Impact Assessment includes recommendations for precautionary measures to avoid committing any offence in relation to protected species, should any be found during construction, as well as mitigation and enhancement measures. These measures include the working within sensitive timings for clearance works, appropriate for the species likely to be affected, the creation of new habitat and enhancement measures, such as new grassland creation around the attenuation basin, creation of new hedgerow along the eastern boundary of the site and inclusion of wildlife friendly species within any soft landscaping. Other enhancements

include the provision of swift boxes, bat boxes, bee bricks and hedgehog holes within any close board fencing.

- 6.7 The County Ecologist has considered these matters and has no objections, although has requested conditions requiring the agreement of a construction and ecological management plan based on the recommendations in the Ecological Impact Assessment, a sensitive lighting design and a detailed faunal ecological enhancement plan to detail the various enhancements, including final detail of their types, specifications and locations.
- 6.8 There will be the requirement to provide the mandatory 10% Biodiversity Net Gain (BNG). The baseline units for the site has been identified as comprising 2.6 habitat units and 0.57 hedgerow units. Some onsite habitat creation and enhancement will be provided through the creation of neutral grassland in a moderate condition, the planting of urban trees and new hedgerow but it is acknowledged that this will not be sufficient to meet the mandatory BNG requirements. As such, it is intended to purchase the outstanding habitat units from a habitat bank.
- 6.9 The County Ecologist is satisfied with the submitted information and approach proposed, however has requested two conditions in relation to BNG, one to ensure that a revised BNG metric is submitted prior to the approval of reserved matters, and that a Landscape and Ecological Management Plan (LEMP) is agreed, which will detail the landscaping proposals of the site, along with securing 30 years of management and monitoring arrangements.
- 6.10 The proposals also require the removal of 5 trees at the site entrance, and just inside the site, to accommodate the access works. The Council's Tree Officer has no objection to the removal of these particular trees, noting their limited merit. It is however noted that they will have to be replaced, with the indicative mitigation proposals including the planting of 17 new trees within the site.
- 6.11 Of more concern to the Tree Officer is the need for the new road and footpath to encroach on the root protection area (RPA) of a further 3 trees outside of the site. Despite this, it is accepted that this encroachment is of an acceptable level, although an arboricultural method statement (AMS) is to be conditioned, which will detail the method of working within the RPAs, to ensure that the trees are appropriately protected from damage. Additionally, there will be a need to prune other trees to allow construction, and for ongoing maintenance. It is recommended that the AMS include details of pruning, and tree protection measures.

7. Planning Obligations

- 7.1 Policy S3 (Meeting Housing Needs) that on sites of 6 dwellings or more outside of the main settlements of Tiverton, Cullompton and Crediton, a target of 30% affordable dwellings will be applied. Within this policy, it is also stated that site of 6-10 dwellings outside of Tiverton, Cullompton and Crediton, will be permitted to make a financial contribution sufficient to provide the affordable dwellings in another location.
- 7.2 Financial contributions towards off-site provision have been determined at £60,000 per dwelling. As the proposal is for 9 dwellings, the affordable housing requirement would be for the provision of 2.7 affordable dwellings. As such the required contribution will be £162,000 (2.7 x £60,000).

- 7.3 Policy S5 (Public Open Space) states that within Tiverton Cullompton and Crediton, public open space is required from residential development of 11 or more dwellings. Public Open Space is required for developments of 6 or more dwellings elsewhere. On this basis, there is a requirement to make contributions to off-site provision of public open space, in line with policy S5.
- 7.4 The Table of Costs (Table 16) within the Mid Devon Open Space and Play Area Strategy advises that the costs of meeting the Mid Devon standard for open space is £1,441 per person. On the basis of the costs being calculated on an average household of 2.35 people, this equates to a contribution of 30,477.15
- 7.5 Devon County Education have commented, identifying that the proposed increase of 9 family type dwellings would generate an additional 2.25 primary pupils and 1.35 secondary pupils, which would have a direct impact on the local primary and secondary schools. They do however confirm that it has been forecast that Hemyock Primary School and Uffculme College both have capacity for the pupils expected to be generated by this development and as such no contribution toward primary and secondary education provision would be sought. A contribution will however be required towards secondary transport costs due to the development being further than 2.25 miles from Uffculme School. The cost will be worked out as £2.89 per day x 1.35 pupils x 190 academic days x 5 years, equating to £3,706.
- 7.6 An additional obligation will also be necessary to ensure that the development accords with the self-build and custom-housebuilding definition, as legally defined in the Self-build and Custom Housebuilding Act 2015.
- 7.7 The applicant has agreed to the above planning obligations and as such, an appropriate legal mechanism to secure them will be necessary prior to the issue of any decision notice, should it be resolved to grant planning permission.

8. **Planning balance**

- 8.1 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.
- 8.2 In this case, the site is outside of the defined settlement limits of Hemyock, where ordinarily residential development would be resisted. It has to be acknowledged however that Mid Devon District Council is unable to demonstrate a 5 year housing land supply position, a situation that has worsened since July, following the Local Plan becoming more than 5 years since adoption. As a result, the 'tilted balance' is engaged. 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.

- 8.3 Noting the above position, the site is on the edge of the settlement limit, making it relatively sustainable in planning terms. It is considered that it has been demonstrated that a development scheme could come forward that would meet the various objectives of the development plan, including giving the appropriate consideration to the impact of the development on the Blackdown Hills National Landscape and local designated heritage assets. It is also considered that highway concerns have been adequately addressed and there would be no significant adverse impacts on flood risk and ecology. In principle, the material planning considerations identified could be addressed at reserved matters stage.
- 8.4 Whilst it would only be afforded limited weight, there are benefits attributable to the provision of 9 dwellings, and associated economic benefits.
- 8.5 Greater weight will be given to development contributing to the Council's shortfall of custom and self-build homes. Similarly, the development will contribute to the district's wider housing shortfall, as a result of the lack of 5 year land supply.
- 8.6 On assessing the above, and identifying that any associated harm would be limited, it is considered that when assessed against the policies in the Framework taken as a whole, the adverse impacts would not significantly and demonstrably outweigh the benefits. As such, it is recommended that outline planning permission should be granted.

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 outline planning permission for the erection of up to nine custom and self-build is considered to be acceptable. The proposal, subject to detail is considered to be able to be carried out without causing demonstrable harm to residential amenity, highway safety, local ecology, flood risk, or to the setting and significance of local designated heritage assets and the scenic beauty of the Blackdown Hills National Landscape. Due to the Council's lack of 5 year housing land supply, the provisions of paragraph 11d of the National Planning Policy Framework are engaged. In doing so, it is considered that when assessed against the policies in the Framework taken as a whole, any adverse impacts would not significantly and demonstrably outweigh the benefits. It is therefore 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, S2, S3, S4, S5, S9, S14, DM1, DM3, DM4, DM5, DM25 and DM27 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the buildings, and the landscaping of the site (hereafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by condition 1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, finished floor levels, materials, provision for the parking and turning of cars, foul and surface water drainage arrangements, details of biodiversity enhancements.
5. The site hereby approved for development shall be as shown on the approved plan listed in the schedule on the decision notice, that being Site Location Plan '2303-KTA-ZZ-ZZ-D-A-105'.
6. 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.

7. Prior to the commencement of development, a Construction and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall be based on the recommendations in the submitted Ecological Impact Assessment ref. '1815-01-EcIA-R1-AM Revision 1' (prepared by GE Consulting, dated 12th August 2025), and shall include details of the following:

- (i) Risk assessment of potentially damaging construction activities.
- (ii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- (iii) The location and timings of sensitive works to avoid harm to biodiversity features.
- (iv) The times during which construction when specialist ecologists need to be present on site to oversee works, where necessary.
- (v) Responsible persons and lines of communication.
- (vi) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- (vii) Use of protective fences, exclusion barriers and warning signs if applicable.

Once approved the Construction and Ecological Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

8. No development shall take place (excluding demolition, site clearance, and enabling works) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved LEMP. The LEMP shall include:

- a) A description and location of all existing and proposed landscape and ecological features,
- b) Management objectives for all retained and created habitats,
- c) Detailed management prescriptions and schedules for habitat creation, enhancement, and maintenance,
- d) 30-year management objectives and prescriptions for all significant ("medium distinctiveness") onsite habitat creation and enhancement for Biodiversity Net Gain (BNG)
- e) Monitoring and reporting arrangements, including adaptive management measures to ensure the success of significant BNG habitats.
- f) Identification of the body or organisation responsible for implementing and monitoring the LEMP.

9. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- a) Final detailed design for surface water drainage, including measures to prevent the discharge of surface water onto the highway. Such detailed drainage scheme shall demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable).
 - b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

Following its installation the approved drainage scheme shall be permanently retained and maintained thereafter, in accordance with the approved details above.

10. Prior to commencement of the development, any site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, an Arboricultural Method Statement and Tree Protection Plan to protect the trees to be retained on the site has been submitted to, and approved in writing by, the Local Planning Authority.

The Arboricultural Method Statement shall include a full methodology for the installation of new surfacing within the root protection areas of any retained trees, as well as a full specification of any tree pruning required.

Once approved the Arboricultural Method Statement and Tree Protection Plan shall be strictly adhered to before and during construction. The approved tree protection measures shall be installed in their entirety prior to commencement of the development, any site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, and shall remain implemented in their entirety for the duration of construction works.

11. Prior to their use on site, details (and the submission of samples where necessary) of the materials for all the external surfaces of the buildings shall have been submitted to and approved in writing by the Local Planning Authority. Only such approved materials shall be so used and retained.
12. Prior to their installation on site, details of new external doors/door frames and windows, shall have been submitted to, and approved in writing by, the Local Planning Authority. Such approved details, once carried out shall not be altered without the prior written consent of the Local Planning Authority. Installation of the doors/doorframes/windows shall be in accordance with these approved details, and be so retained.
13. The 10 metre wide buffer zone alongside the watercourse, as shown in drawing number 2303-KTA-ZZ-ZZ-D-A-102 P4, shall remain free from built development including lighting, domestic gardens and formal landscaping over the lifetime of the development.
14. Within the floodplain (flood zones 2 and 3) as identified on the Flood Map for Planning, there shall be no storage of excavated material or construction materials during construction of the development hereby approved nor any alterations to the existing land

levels (shown on topographical survey W15332_SX - identified as Drawing FRA1 in the Flood Risk Assessment 422AFRA2 V1 - 14.01.2025) either during or post construction.

15. The rooting soil environment (minimum RPA area) of the trees affected by encroachment through the provision of new hard surfaces, shall be treated using the Geo-Tech Injector to improve soil drainage and structure followed by the injection of biochar, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. No works shall take place within the Root Protection Areas of any retained trees on the site, or adjoining land, until such details have been approved in writing.
16. Prior to occupation of the dwellings, visibility splays shall be provided, laid out and maintained for that purpose at the junction in accordance with drawing ref '943c-LvWH-GEN-CR-DR-GEN-100 Rev C' where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjoining carriageway level and the distance back from the nearer edge of the major road carriageway shall be 2.4 metres and the visibility distances along the nearer edge of the major road carriageway shall be 60 metres in a Westerly direction and 57 metres in the other direction.
17. The off-site highway works on Culmstock Road, as detailed on drawing ref. '943c-LvWH-GEN-CR-DR-GEN-100 Rev' shall be provided prior to any of the dwellings hereby permitted being first occupied.
18. Prior to occupation of the dwellings, a pedestrian link of at least 1.8m width from the development access at the Southernly boundary of the development land to the Northernly boundary of the development land shall be provided and made available for public use.
19. Any proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
20. No part of the development hereby approved shall be commenced until the access road has been laid out, kerbed, drained and constructed up to base course level for the first 10 metres back from its junction with the public highway and the visibility splays required by this permission laid out.
21. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the satisfaction of the Local Planning Authority:
 - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;

- E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- G) The street nameplates for the spine road and cul-de-sac have been provided and erected.
22. No external lighting shall be installed or used on the application site unless details of a sensitive lighting design have first been submitted to and approved in writing by the Local Planning Authority. The sensitive lighting design shall be based on the recommendations in the submitted Ecological Impact Assessment ref. '1815-01-EcIA-R1-AM Revision 1' (prepared by GE Consulting, dated 12th August 2025). The approved sensitive lighting design shall thereafter be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.
23. A detailed Faunal Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority, detailing the bat and bird boxes, insect bricks and hedgehog access enhancements as detailed in the submitted Ecological Impact Assessment ref. '1815-01-EcIA-R1-AM Revision 1' (prepared by GE Consulting, dated 12th August 2025). The Faunal Ecological Enhancement Plan shall include confirmed types/specifications, and locations of the enhancements, both on a site plan and the relevant elevation drawings. The approved enhancements shall be implemented prior to the dwelling to which they relate is occupied, and shall thereafter be maintained and retained in perpetuity.
24. Prior to the approval of reserved matters relating to landscaping, a revised Biodiversity Net Gain (BNG) metric shall be submitted to and approved in writing by the Local Planning Authority. The metric shall be completed in full, including habitat baseline and post-intervention calculations, and must include a statement confirming alignment with the BNG proposals.
25. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C, D, E and F of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, erection of a porch outside any external door, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas, provision of a hard surface or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. To enable the Local Planning Authority to consider the visual effects of the proposal and any impacts on neighbouring occupiers 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.
5. For the avoidance of doubt and in the interests of proper planning.
6. In the interests of public health and highway safety, in accordance with policies S9, 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.
7. For the conservation and protection of legally protected species, in accordance with policies S1, 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). This pre-commencement condition is required to ensure that the Construction and Ecological Management Plan is agreed prior to any construction works.
8. To ensure the long-term protection, enhancement, and management of biodiversity and landscape features, including significant Biodiversity Net Gain habitats, in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended), National Planning Policy Framework (2024) and Mid Devon Local Plan Policies S1 and DM26. This pre-commencement condition is required to ensure as the approved landscaping scheme will need to accord with details submitted in the required Biodiversity Gain Plan.
9. 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 condition should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
10. To preserve the health, structure and amenity value of existing landscape features (trees), in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the necessary arboricultural methodology and tree protection measures are implemented prior to any commencement of preparatory and/or construction works.
11. To ensure the use of materials appropriate to the development in order to safeguard the character and amenities of the area, in accordance with policies S9, DM1, DM25 and DM27 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
12. In order to safeguard the character and amenities of the area, in accordance with policies S9, DM1, DM25 and DM27 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

13. To protect land alongside the watercourse which provides a valuable habitat for wildlife, as well as in the interest of not increasing flood risk, 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).
14. In order to ensure flood waters are not displaced and thus in the interests of limiting the risk to people and property in a flood event, 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.
15. To preserve the health, structure and amenity value of existing landscape features (trees) by providing benefits including enhanced soil porosity, improved water infiltration, and long-term soil health improvement, in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
16. To provide adequate visibility 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.
17. To provide an adequate site access 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.
18. In the interests of public safety and to maintain connectivity for pedestrians, in accordance with policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
19. To ensure that adequate information is available for the proper consideration of the detailed proposals 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.
20. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, 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.
21. To ensure that adequate access and associated facilities are available for the traffic, in accordance with Policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
22. 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).
23. 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).

24. To ensure the landscaping proposals support the delivery of biodiversity net gain and remain consistent with the BNG proposals, 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.
25. In order to safeguard the character and amenities of the area, and in the interests of protecting residential amenity, in accordance with policies S9, DM1, DM25 and DM27 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 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions 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 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 require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

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

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

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

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

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

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

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

4.5 Self and Custom Build Development, meaning development which:

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

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

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

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

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.