

PLANNING COMMITTEE AGENDA - 21st October 2015

Applications of a non-delegated nature

- | <u>Item No.</u> | Description |
|-----------------|--|
| 1. | 15/00968/FULL - Erection of single storey extension at 4 Portway Gardens, Willand Old Village, Willand.
RECOMMENDATION
Grant permission subject to conditions. |
| 2. | 15/01086/FULL - Erection of petrol filling station including sales (200sqm shop), dispensing forecourt and canopy, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales at Willand Service Centre, Willand, Cullompton.
RECOMMENDATION
Grant permission subject to conditions. |
| 3. | 15/01234/FULL - Erection of dwelling at Exe Valley Practice, 3 Coach Road, Silverton.
RECOMMENDATION
Grant permission subject to conditions. |
| 4. | 15/01438/FULL - Installation of 150KW ground mounted solar panels at Land at NGR 280054 113389(Woodford Farm), Witheridge, Devon.
RECOMMENDATION
Grant permission subject to conditions. |

Application No. 15/00968/FULL

Plans List No. 1

Grid Ref: 303419 : 110232

Applicant: Mr C Leembruggen

Location: 4 Portway Gardens
Willand Old Village
Willand Cullompton

Proposal: Erection of single
storey extension

Date Valid: 27th July 2015



Application No. 15/00968/FULL

RECOMMENDATION

Grant permission subject to conditions.

COUNCILLOR B EVANS HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:

1. To consider the impact the proposal will have on the TPO'd trees.
2. To consider the impact the proposed extension will have on the street scene and the property.

PROPOSED DEVELOPMENT

Erection of a single storey extension with hipped roof similar to that of the existing building, the new extension will measure 6.6m x 4.65m and be sited to the south west, side elevation of the property. Materials are to match those of the original dwelling, namely smooth painted render external walls with composite stone plinths and quoins, white uPVC doors and windows and a natural slate roof with clay ridge and hip tiles. Within the roof a total of three timber rooflights are proposed, one on each roof slope.

The application initially included a detached garage located to the front of the site. This detached garage was to be located within the Root Protection Area (RPA) of the large protected Oak tree on the boundary of the site. This element has been withdrawn from the application following concerns regarding its impact on the RPA and the street scene.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement

PLANNING HISTORY

Relevant:

09/00727/OUT - Outline for the erection of 3 dwellings - Withdrawn July 2009.

09/01448/OUT - Outline for the erection of 3 dwellings (Revised Scheme) - Refused December 2009.

10/01217/FULL - Erection of 4 dwellings and associated works following demolition of existing bungalow (Appeal Dismissed 7th June 2011) - Refused January 2011

11/02002/FULL - Erection of 4 dwellings and associated works following demolition of existing bungalow (Revised Scheme) - Permitted September 2012.

13/01675/FULL - Variation of condition (2) of planning permission 11/02002/FULL to allow the substitution of previously approved plans - Withdrawn January 2014.

14/00468/FULL Variation of condition (2) of planning permission 11/02002/FULL to allow the substitution of previously approved plans - Permitted October 2014

15/00756/TPO Application to fell 1 Cedar tree protected by Tree Preservation Order 08/00003/TPO - Refused July 2015 - presently at appeal, tree is in the garden of number 3 Portway Gardens

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR17 - Villages

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM13 - Residential extensions and ancillary development

CONSULTATIONS

MID DEVON DISTRICT COUNCIL - TREE OFFICER - 21st September 2015

The proposed extension at Portway Gardens is unlikely to have a major impact on the walnut tree, providing adequate consideration is given to the design of the foundation type. It would be necessary to construct the foundation using a pile and beam method to minimise ground disturbance.

The plans show that the extension would encroach slightly into the original RPA of the Walnut tree, (RPA shown on 11/02002/FULL). The pile and beam foundation will reduce disturbance to the ground but attention must also be given to reduce compaction and ground disturbances at the time of the construction work. It may be beneficial to mark out the RPA of the walnut tree throughout the construction and if necessary erect protective fencing to ensure that work is not carried out within the RPA of the walnut tree, due to the close proximity.

It is also important to note that materials etc should not be stored beneath the large Oak tree at the front of the property. This area does present an obvious storage location for the works.

At the time the original house was constructed the foundations for a garage were built, which was contrary to the original permission and thus filled in. The construction of these foundations may have severed roots of the walnut tree already but the footprint for the new extension is larger so care is still required to protect the roots and ground in this area.

Pile and beam foundations would allow this extension to be built with less damage to the ground and preserve the walnut tree. Consideration to access, material storage and working methods will reduce the impact to both the trees on the property.

WILLAND PARISH COUNCIL - 15th September 2015

1. Recommendation

Willand Parish Council strongly and unanimously recommend refusal of this application.

2. The Application Revised

2.1 The alleged revision as shown on the MDDC Website consists of nine documents which are made up of a Design and Access Statement and eight drawings/plans. One of those plans is for the garage and there is nothing that can be seen on the drawing and in the accompanying paperwork which shows that it has been withdrawn.

The Design and Access Statement lists it by number with a note - 'omitted'. There is no new revised Application Form and therefore it can only be assumed that the original form dated the 12th of June 2015 is applicable and current. There is also an amended Application Form of the same date amending land ownership.

2.2 The Application Form on file raises the following points of concern:

- a) Q 3 The description of the proposed works are "Ground Floor kitchen extension and a detached garage for one car."
- b) Q 7 It states that there are no trees within falling distance of the proposed development. There are at least three trees all the subject of Tree Protection Orders that are within falling distance of the property.
- c) Q 8 It will affect existing parking arrangements as over a third of the current hard standing used for parking on is not approved under the current permission and been the subject of complaint to the MDDC Planning Department but no known action to resolve the issue has been taken.
- d) Q 11 The comments in relation to the proposed boundary finish is unclear and could mean that there is potential for more fencing to be raised which would affect the current street scene.

e) Q 11 With regard to hard landscaping it states: "The proposals will increase the brick block parking area at the front of the house in question, to allow a more generous drop off area and better access to the new garage. This hard standing area has been enlarged to suit. This increased area will therefore be modest, particularly with regard to the grand old oak tree and its RPA, which will be a little smaller. The remaining RPA will respect the tree by leaving 85-90% remaining, as is required and recommended by leading arboriculturists (sic). Please see c) above with regard to unapproved extended parking area. The comments in relation to the Root Protection Area of the Oak Tree are not factual as there are not considered to be any roots under the road at the front and in any case the tree is on a raised level. [See original report by Pegasus Environmental.]

2.3 The revised Design and Access Statement on file raises the following issues:

- i) Para 2.2 The statement is inaccurate. There are not any 'many larger housing developments which are significantly being developed outside the settlement boundary...'
- ii) Para 3.1 This should not be relevant as this is a brand new house which the applicant has recently bought.
- iii) Para 3.3 The modest external area for BBQ's etc is currently an unapproved paved area used for parking vehicles.
- iv) Para 3.4 We are unsure as to what is meant by the second paragraph the building will have a larger massing but not any change to the scale". The frontage of the house to the 'street scene' will be increased by about 50%.
- v) Para 3.5 the second paragraph is misleading - "currently there is no intention to provide any additional hard or soft landscaping as part of this application. It should be noted that existing hard landscaping as shown in Appendix 6 Figures 1 and 2 are unapproved and should not be there if Planning Enforcement had properly responded to information before the current applicant purchased the property. This unapproved area is currently used for parking of a vehicle. It is also unclear from the current site plan P102 Rev A as to what is the existing hard landscaped area as it appears to show the existing area and the extended area referred to on the original/current application form. There is a dotted line and a solid line. What is being applied for?

3. Planning History of the Site.

3.1 This whole development site has a very chequered history of planning applications and Plot 4 has been at the centre of much of the concerns. After refusals and a dismissed appeal a development of four houses with only two garages and a number of hard standing parking areas was approved. Since that time there has been amendment and revisions which have resulted in 'planning creep' with the site becoming more densely built on with extra garages and hard standing approved. There has also been the removal of a 'protected' tree. All go against the observations of a Planning Inspector.

3.2 During this period there have been a number of breaches of the conditions and approvals and most have been ignored or excused by officers. There have been alleged agreements which are not documented and cannot be evidentially supported. There have been contradictions in information and responses to complaints. Web site www.willandmatters.org.uk

3.3 The site used to contain one bungalow with good space between adjoining properties and numerous trees and shrubs which gave a very open and green street scene. That has been slowly eroded and will be even further compromised if the current application whatever it is for is approved.

3.4 It would appear that the planning officer has been negotiating with the agent and is indicating that he has made up his mind on some aspects in that he has repeated in two emails to an elected Ward Member that the extension on its own does not have a detrimental impact on the street scene. This is before the Parish Council has been consulted on the revisions and original objectors have not been advised of or asked to comment on the proposed changes. An elected Ward Member suggested a meeting with the Parish Council to which the officer responded "I am not convinced that a meeting is required with Willand Parish Council the amended application is clear in its proposal, for a single storey side extension set on piled foundations. It would appear that discussions with agents are in order which they are but the elected representatives of the local community do not warrant the courtesy! The officer's opinion on the effect on the Street Scene will be challenged later. The application detail is not clear.

3.5 All decisions in relation to the whole site have been made by elected members of the Planning Committee to date. It has been stated that our reference to the history of decision making for the development is not relevant as this is an application by a new owner in relation to one property. That being the case why is it acceptable for the agent to be able to refer to history in relation to tree surveys? This will be referred to later.

4. The Street Scene

4.1 The Street Scene at this point used to be open with one low profile bungalow surrounded by trees and other greenery with good margins between adjoining properties. This has been considerably eroded by the 'planning creep' of the current development with four two storied houses now virtually presenting a total building 'wall'. We are left with the one large remaining Oak Tree at the front and sight of protected trees on the left towards the rear of the site.

4.2 The house to the North East of the site is tight to that boundary. Plot four does have a reasonable margin between its South West elevation (left) and the boundary giving a natural break between it and the adjoining properties. That gap will be closed if this application is approved and the extension will virtually hide the protected trees from the street. That will have the potential to reduce their amenity value to the street scene and encourage argument for their removal - an experience already exercised in relation to one of the trees but fortunately refused.

4.3 The extension, albeit single story with a 'pyramid' roof', will have the effect of increasing the frontage of the property by 4.65 meters which is just over a further 50% of the current frontage of the property. This will result in natural material fencing and background greenery being replaced by building so this must have a detrimental impact on the street scene. It is appreciated the planning officer is expressing his opinion but equally the elected Parish Council are expressing an opinion supported by the observations and views of those who are part of the local community. Which should carry the most weight and value?

5. Trees

5.1 This separate original or revised application does not contain a professional arboriculturalist report to assess the impact of the proposed development on the protected trees. There is therefore no current and up to date professional opinion or advice as to the potential impact of the proposed development on the protected trees likely to be affected. There is no specialist reference to potential effects on root protection areas of the final build or any measures to be taken to provide root protection measures during construction. If one looks at the site with the current building, the proposed extension and the already hard landscaped areas [both approved and unapproved], there is little or no room for manoeuvre to provide protection measure during construction - a point made by a Planning Inspector when refusing an appeal for work on this site some time ago. Where and how are construction vehicles, workers vehicles to be operated or parked? Where will materials be stored? All of these issues can cause potential impaction of root protection areas thereby likely to affect the future wellbeing of the trees.

5.2 What information we do have in relation to this issue is a brief comment made by the agent to an original arboriculturalist report by Pegasus Environmental. That report was in relation to the original application and has twice since been 'tampered' with by the eventual developer of the site by appointment of another arboriculturalist together with alleged agreements between him and MDDC Tree Officer which were not made the subject or any form of record and therefore cannot be referred to. We have now seen that the planning officer has had a conversation with the tree officer stating I have also spoken to Cathy Lynch (Tree Officer) with regard to the impact the proposed extension will have on the TPO tree to the rear of the property. She has confirmed that provided we receive details with regard to pile foundations rather than strip foundations she would not have any objections with regard to the proposed side extension. Again we are faced with second hand reported opinion attributed to an officer with no recorded report on the file or in the public domain.

5.3 Whilst it is appreciated that the extension may have little effect on the root protection area of the walnut tree it is known that strip foundations for the original intended garage were dug and laid. The original applied for hard standing and turning area [NOT APPROVED and conflicting with the RPA of the Oak Tree] was built and this breach of approval has not been actioned to date by way of enforcement and is being conveniently ignored by the planning officer to date in relation to this application. If one looks at the Walnut tree it will be seen that at least one of the lower branches will be in conflict with the roof of the proposed extension very soon if not immediately.

5.4 We do have written reports and emails on file from the MDDC Tree Officer on previous applications/revisions/amendments as follows:

a) On 14 January 2014 the Tree Officer sent a memo to the Planning Officer and the relevant section states: With regards to the proposal to create a drive at the front of plot 2 (sic) [should be 4], with turning area that encroaches into the RPA of the large Oak tree at the front of the site, I object to this proposal. Although the encroachment could be considered acceptable by BS5837:2012 Trees in relation to design, demolition and construction Recommendations, a no dig construction design proposed I feel that the continued health of this Oak tree is essential. It is an important and significant tree in Willand. At present the roots of the tree

have been relatively undisturbed as the RPA reaches as far as the original property. I would prefer to see the RPA undisturbed throughout the development and not risk potential damage to the tree.

b) On 8 May 2014 the Tree Officer wrote to the Planning Officer

stating: The removal of the garage and driveway from plot 4 to me seems preferential. Whilst there is still some encroachment into the RPA it is reduced. I would still like to see no dig construction methods for these parking areas and wonder whether it is possible to put some kind of physical barrier between the parking and the grass, just to reduce the likelihood of parking on the grass area which could cause compaction in the trees RPA in the future.

5.5 It is felt that the comments in relation to the need for properly documented and accountable comment in relation to the continued protection of the trees, potential adverse effect of construction process and future wellbeing of the trees warrant proper consideration. The Parish Council's original response in their letter of 17 August 2015 [attached Appendix A] is still relevant in every respect with the exception of the provision of the garage but see comments in relation to the application form at paragraph 2.1 above.

6. Conclusion

6.1 It is considered that as all other decisions in relation to this whole development have been made by the Planning Committee they should have the opportunity to adjudicate on this application when it is known in clear and unequivocal terms what the detail of the application entails. This would be more democratic than the decision being made under delegated powers where the planning officer already appears to have made his decision on a flawed and incomplete application process and before full consultation has taken place.

6.2 Although the extension will be built to match the house the increasing of the mass at the location does not necessarily show a clear understanding of the characteristics of the site, its wider context and the surrounding area. It is further questioned as to whether or not it makes a positive contribution to the local character? It is further questioned as to whether or not it be well integrated with the surrounding buildings, streets and landscapes? There is a further concern that this will result in the overdevelopment of the curtilage of the property when one takes into consideration the constraints which should be placed upon it by the protection of the relevant protected trees.

6.3 This proposed extension development and the questioned and unapproved hard landscaping have the potential to adversely affect the future wellbeing of the relevant trees and in the light of contrary NEW and unambiguous information it should not be allowed.

6.4 There is insufficient clear and precise information for an informed decision to be made at present.

6.5 Refusal is recommended and our Ward Councillors are asked to ensure that the matter be brought before committee if the planning officer is minded to approve.

APPENDIX A

1. Introduction

1.1 Willand Parish Council unanimously strongly recommend refusal of this application.

1.2 This property is the main property at the front of a very recently completed 'garden grabbing' development. The planning history of the whole development and the management of the current build in compliance with planning approval conditions are most politely described as 'questionable'. Formal complaint procedure was lodged.

1.3 The South West elevation finish is not in compliance with the approved plan for the property. This is no doubt due to the fact that footings were laid for an unapproved garage to adjoin the house at this point. We now have the application for an extension to living accommodation which will have a larger footprint than the attempted garage build.

1.4 The driveway/parking area at the front of the house and the single rail fence to stop encroachment onto the root protection area of the Oak (T13) tree are not built in accord with the current approval. They cover a much larger area than approved. Repeated attempts to have Planning Officers deal with this have been fruitless until very recently and those actions are now suspended until this application is decided.

1.5 Although on a plan the curtilage of this property looks to be large the actual effect on the ground is to witness a much smaller area. The front area of the property is predominantly the root protection area of a magnificent Oak (T13) tree which is a very dominant and relevant feature to the street scene of the area. There are other trees close to the applicant property and on the general development which are the subject of tree protection orders.

1.6 If officers are inclined to give approval to this application under delegated powers one of the Ward Councillors has already agreed to 'call in' the application for determination by the Full Planning Committee.

2. The Application Papers

2.1 The Application Form

Q7 - states that there are no trees with falling distance - incorrect.

Q8 it will affect the current parking arrangements as they are in breach of planning approval.

Q11 boundary treatment needs to be clarified as it would not be acceptable to have a close board fence along the top of the roadside boundary.

2.2 The Design and Access Statement.

1.1 It is disputed that the garage will provide an improved setting to the front of the house aspect. It will be forward of the main building line fronting the street and will hide most of the proposed extension. It is contended that it will be completely out of keeping with the development as a whole and the street scene.

2.2 The statement in the second paragraph is inaccurate. There are not 'many larger housing developments which are significantly being developed outside the settlement boundary...'

3.1 This should not be relevant as this is a brand new house which the applicant has recently bought.

3.5 It is argued that this is misleading particularly when quite a proportion of the current hard landscaping is not approved.

2.3 The submitted proposed site plan shows a different layout for the current and approved entrance road layout. See plan at Paragraph 4.12

3. Objection

3.1 The reasons for objection to the application and recommendation for refusal are:

(a) With the exception of the extended living conditions all other aspects of the development will likely affect the future health and wellbeing of the excellent protected

Oak (T13) tree by digging into or compacting the root protection area. As the tree is on a raised level it is considered unlikely that there are many roots to the road side of the boundary bank.

(b) The proposed sitting/dining room is wider and deeper than the original intended garage and so will occupy more of the curtilage and be closer to the adjoining property boundary. It will also require digging into the RPA of TPO tree T1 a Walnut tree,

(c) The proposed garage is an additional build onto the curtilage of the property and will mean digging foundations into the RPA of T13. It will also be forward of the building line for this development.

(d) The widening of the paved area will further encroach onto the RPA of T13 thereby having the potential to adversely affect the future wellbeing and life expectancy of T13. Nothing is said about this being constructed by a 'no dig' construction method as required in the original approval.

(e) The drawings give the impression of a large curtilage for the property BUT when one considers the RPA for T13 at the front there is very little at the rear when looked at in reality on the ground.

(f) There are anomalies and inaccuracies in the application as set out in paragraph 2 above.

4. Comments and History of Protection of Trees.

4.1 Although RPA for tree T1 will be affected by the digging for the proposed sitting/dining room the major concern is the affect that the proposed garage and the extension of the width of the proposed driveway will have on the RPA of the Oak tree T13. This tree is on the bank at the front of the property at its boundary with the road. The location of the bank and road indicate that the root area for this tree is between the road and the front of the house. The Oak tree is an excellent specimen and is very much part of the street scene for this area - hence the reason to rigorously protect it.

4.2 In June 2011 Mr Neil Pope, a Government appointed Inspector dismissed an appeal against refusal of a planning application for the site. In that report he stated: Para 6 - Five of the trees growing within the site are the subject of a Tree Preservation Order. This includes a mature oak within the roadside bank. The size, form and appearance of this tree comprise a delightful specimen, which greatly assists in 'greening' and enhancing this residential area. It is a prominent feature of the street scene and makes a very important contribution to the character and appearance of the area. I concur with the appellant's agent that these protected trees and the roadside bank make the greatest contribution to the character and amenity of this section of the street. Para 7 The appellant's Arboriculturalist, using the classification in BS 5837:2005 has identified the oak as a 'Category A' tree. By definition, this is a tree of high quality and value. Any loss or damage to this important tree, or the foreshortening of its life expectancy, would seriously harm the character and appearance of the area. In the report he makes other references to the importance of the trees and the roadside bank to the area and the need to protect them.

4.3 In October 2011 Pegasus Environmental, on behalf of an applicant stated in its report: Para 4.6 - The following are category B trees which can make a contribution of between 20 and 40 years and in accordance with BS5837:2005 should where possible be retained within any development proposals: T13. [Note that within a few months it had been downgraded to a category B by the developer's appointee!]. Para 4.10 - It should be noted that the RPA of oak T13 has been adjusted in accordance with BS5837:2005 as it is likely

that the root protection area is concentrated in the Devon bank and the area between the existing bungalow and the hard surfaced road to the east.

4.4 On 26 January 2012 MDDC Tree Officer, submitted an appraisal of the application and the relevant part of his report states: The scheme appears to be designed so as to retain and not damage the best trees on the site. The most significant tree is the oak at the front. It appears that sufficient space has been allowed between this tree and plot 4 to avoid serious damage to roots or encroachment onto its RPA. The fact that the new drive and building plot 4 are similar to existing should minimise the impact on the oak.

4.5 Condition 7 of the approval decision notice issued on 7 September 2012 made specific reference to the Arboricultural Method Statement and Tree Protection Plan being adhered to and the given reason included the protection of the trees.

4.6 Sometime toward the end of October - beginning of December 2013 an alleged agreement was made between a new Arboriculturalist [Advanced Arboriculture] and Ms C Lynch, MDDC Tree Officer, to move the T13 RPA back from the plot 4 frontage by a meter or so but this does not appear to have been documented and there are no notes of the meeting. What is recorded is agreement to allow one of the TPO trees to be removed to put a garage beside plot 2.

4.7 On 14 January 2014 the Tree Officer sent a memo to the Planning Officer and the relevant section states: With regards to the proposal to create a drive at the front of plot 2 (sic) [should be 4], with turning area that encroaches into the RPA of the large Oak tree at the front of the site, I object to this proposal. Although the encroachment could be considered acceptable by BS5837:2012 Trees in relation to design, demolition and construction Recommendations, a no dig construction design proposed I feel that the continued health of this Oak tree is essential. It is an important and significant tree in Willand. At present the roots of the tree have been relatively undisturbed as the RPA reaches as far as the original property. I would prefer to see the RPA undisturbed throughout the development and not risk potential damage to the tree.

4.8 On 21 January 2014 Advanced Arboriculture wrote to the architect advising of the agreement to move the protective fencing for the RPA but did not alter the extent of the RPA. He argues that the amount of RPA affected by the amended proposals would be minimal in accord with recommendations. He did conclude by stating I consider the house and garage, both of which will require substantial traditional foundations, to be sufficiently far away as not to cause any unsustainable damage to the tree's rooting system. I consider the site layout as shown in your drawing 6889-109 to be sustainable in arboricultural terms subject to the adoption of a suitable no-dig driveway specification.

4.9 That application was subsequently withdrawn and a revised application made. Advanced Arboriculture sent another letter to the architect on dated 12 March 2014 reference to the new application where they still did not alter the RPA for T13. It speaks of the realigned protective fencing and the required no-dig method of laying the drive at the front of the house.

4.10 On 8 May 2014 the Tree Officer wrote to the Planning Officer stating: The removal of the garage and driveway from plot 4 to me seems preferential. Whilst there is still some encroachment into the RPA it is reduced. I would still like to see no dig construction methods for these parking areas and wonder whether it is possible to put some kind of physical barrier between the parking and the grass, just to reduce the likelihood of parking on the grass area which could cause compaction in the trees RPA in the future. The application is to extend the paved driveway, some of which is unapproved, which will result in further compaction on the RPA and in addition they wish to build a garage on it which will mean cutting through roots to put in footings.

4.11 The decision notice issued on 10 October 2014 sets out relevant conditions.

Condition 7 - Before and during the construction of each phase of the development hereby approved, the provisions set out in the Arboricultural Method Statement submitted with application reference 11/02002/FULL as amended by the letters from Advanced Arboriculture dated 12th March 2014 and 4th December 2014(sic), received by the Local Planning Authority on 26th March 2014 and the Tree Protection Plan drawing number 6889-109 rev. B, shall be adhered to at all relevant times.

The Reason - To ensure the development makes a positive contribution to the character and appearance of the area by protecting the existing trees during development in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Condition 8 - The driveway proposed to serve plot 4 shall be constructed using a no-dig method in accordance with the details contained in the letter and supporting documentation from Advanced

Arboriculture dated 12th March 2014 and 4th December 2014(sic), received by the Local Planning Authority on 26th March 2014.

The Reason - To safeguard the health and safety of the Oak tree on the site which is subject to a Tree Preservation Order, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Condition 10 - Before the first occupation of any dwelling on the site, measures to provide a physical barrier between the parking area for plot 4 and the adjacent grassed area shall have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Once provided, the barrier measures shall thereafter be retained as such.

The Reason - To safeguard the health and safety of the Oak tree on the site which is subject to a Tree Preservation Order, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

4.12 The approved plan is shown below. ___

5. Conclusion

5.1 Paragraph 4 shows the care which has been taken to try to protect the Oak (T13) tree and its future wellbeing for years to come as an asset and feature within the village. To allow the proposed further incursions into the protected area is unacceptable and the applicant should have been aware of the importance of this tree when the property was purchased.

___ For plan see associated documents on DMS.

HIGHWAY AUTHORITY - 30th July 2015

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

WILLAND PARISH COUNCIL - 17th August 2015

1. Introduction

1.1 Willand Parish Council unanimously strongly recommend refusal of this application.

1.2 This property is the main property at the front of a very recently completed 'garden grabbing' development. The planning history of the whole development and the management of the current build in compliance with planning approval conditions are most politely described as 'questionable'. Formal complaint procedure was lodged.

1.3 The South West elevation finish is not in compliance with the approved plan for the property. This is no doubt due to the fact that footings were laid for an unapproved garage to adjoin the house at this point. We now have the application for an extension to living accommodation which will have a larger footprint than the attempted garage build.

1.4 The driveway/parking area at the front of the house and the single rail fence to stop encroachment onto the root protection area of the Oak (T13) tree are not built in accord with the current approval. They cover a much larger area than approved. Repeated attempts to have Planning Officers deal with this have been fruitless until very recently and those actions are now suspended until this application is decided.

1.5 Although on a plan the curtilage of this property looks to be large the actual effect on the ground is to witness a much smaller area. The front area of the property is predominantly the root protection area of a magnificent Oak (T13) tree which is a very dominant and relevant feature to the street scene of the area. There are other trees close to the applicant property and on the general development which are the subject of tree protection orders.

1.6 If officers are inclined to give approval to this application under delegated powers one of the Ward Councillors has already agreed to 'call in' the application for determination by the Full Planning Committee.

2. The Application Papers

2.1 The Application Form

Q7 - states that there are no trees with falling distance - incorrect.

Q8 - it will affect the current parking arrangements as they are in breach of planning approval.

Q11 - boundary treatment needs to be clarified as it would not be acceptable to have a close board fence along the top of the roadside boundary.

2.2 The Design and Access Statement.

1.1 - It is disputed that the garage will provide an improved setting to the front of the house aspect. It will be forward of the main building line fronting the street and will hide most of the proposed extension. It is contended that it will be completely out of keeping with the development as a whole and the street scene.

2.2 - The statement in the second paragraph is inaccurate. There are not 'many larger housing developments which are significantly being developed outside the settlement boundary...'

3.1 - This should not be relevant as this is a brand new house which the applicant has recently bought.

3.5 - It is argued that this is misleading particularly when quite a proportion of the current hard landscaping is not approved.

2.3 The submitted proposed site plan shows a different layout for the current and approved entrance road layout. See plan at Paragraph 4.12

3. Objection

3.1 The reasons for objection to the application and recommendation for refusal are:

(a) With the exception of the extended living conditions all other aspects of the development will likely affect the future health and wellbeing of the excellent protected Oak (T13) tree by digging into or compacting the root protection area. As the tree is on a raised level it is considered unlikely that there are many roots to the road side of the boundary bank.

(b) The proposed sitting/dining room is wider and deeper than the original intended garage and so will occupy more of the curtilage and be closer to the adjoining property boundary. It will also require digging into the RPA of TPO tree T1 - a Walnut tree,

(c) The proposed garage is an additional build onto the curtilage of the property and will mean digging foundations into the RPA of T13. It will also be forward of the building line for this development.

(d) The widening of the paved area will further encroach onto the RPA of T13 thereby having the potential to adversely affect the future wellbeing and life expectancy of T13. Nothing is said about this being constructed by a 'no dig' construction method as required in the original approval.

(e) The drawings give the impression of a large curtilage for the property BUT when one considers the RPA for T13 at the front there is very little at the rear when looked at in reality on the ground.

(f) There are anomalies and inaccuracies in the application as set out in paragraph 2 above.

4. Comments and History of Protection of Trees.

4.1 Although RPA for tree T1 will be affected by the digging for the proposed sitting/dining room the major concern is the affect that the proposed garage and the extension of the width of the proposed driveway will have on the RPA of the Oak tree T13. This tree is on the bank at the front of the property at its boundary with the road. The location of the bank and road indicate that the root area for this tree is between the road and the front of the house. The Oak tree is an excellent specimen and is very much part of the street scene for this area - hence the reason to rigorously protect it.

4.2 In June 2011 Mr Neil Pope, a Government appointed Inspector dismissed an appeal against refusal of a planning application for the site. In that report he stated:

Para 6 - Five of the trees growing within the site are the subject of a Tree Preservation Order. This includes a mature oak within the roadside bank. The size, form and appearance of this tree comprise a delightful specimen, which greatly assists in 'greening' and enhancing this residential area. It is a prominent feature of the street scene and makes a very important contribution to the character and appearance of the area. I concur with the appellant's agent that these protected trees and the roadside bank make the greatest contribution to the character and amenity of this section of the street.

Para 7 - The appellant's Arboriculturalist, using the classification in BS 5837:2005 has identified the oak as a 'Category A' tree. By definition, this

is a tree of high quality and value. Any loss or damage to this important tree, or the foreshortening of its life expectancy, would seriously harm the character and appearance of the area. In the report he makes other references to the importance of the trees and the roadside bank to the area and the need to protect them.

4.3 In October 2011 Pegasus Environmental, on behalf of an applicant stated in its report: Para 4.6 - The following are category B trees which can make a contribution of between 20 and 40 years and in accordance with BS5837:2005 should where possible be retained within any development proposals: T13. [Note that within a few months it had been downgraded to a category B by the developer's appointee!]

Para 4.10 - It should be noted that the RPA of oak T13 has been adjusted in accordance with BS5837:2005 as it is likely that the root protection area is concentrated in the Devon bank and the area between the existing bungalow and the hard surfaced road to the east.

4.4 On 26 January 2012 MDDC Tree Officer, submitted an appraisal of the application and the relevant part of his report states: The scheme appears to be designed so as to retain and not damage the best trees on the site. The most significant tree is the oak at the front. It appears that sufficient space has been allowed between this tree and plot 4 to avoid serious damage to roots or encroachment onto its RPA. The fact that the new drive and building plot 4 are similar to existing should minimise the impact on the oak.

4.5 Condition 7 of the approval decision notice issued on 7 September 2012 made specific reference to the Arboricultural Method Statement and Tree Protection Plan being adhered to and the given reason included the protection of the trees.

4.6 Sometime toward the end of October - beginning of December 2013 an alleged agreement was made between a new Arboriculturalist [Advanced Arboriculture] and MDDC Tree Officer, to move the T13 RPA back from the plot 4 frontage by a meter or so but this does not appear to have been documented and there are no notes of the meeting. What is recorded is agreement to allow one of the TPO trees to be removed to put a garage beside plot 2.

4.7 On 14 January 2014 MDDC Tree Officer sent a memo to the Planning Officer and the relevant section states: With regards to the proposal to create a drive at the front of plot 2 (sic) [should be 4], with turning area that encroaches into the RPA of the large Oak tree at the front of the site, I object to this proposal. Although the encroachment could be considered acceptable by BS5837:2012 Trees in relation to design, demolition and construction - Recommendations, a no dig construction design proposed I feel that the continued health of this Oak tree is essential. It is an important and significant tree in Willand. At present the roots of the tree have been relatively undisturbed as the RPA reaches as far as the original property. I would prefer to see the RPA undisturbed throughout the development and not risk potential damage to the tree.

4.8 On 21 January 2014 Advanced Arboriculture wrote to the architect advising of the agreement to move the protective fencing for the RPA but did not alter the extent of the RPA. He argues that the amount of RPA affected by the amended proposals would be minimal in accord with recommendations. He did conclude by stating - I consider the house and garage, both of which will require substantial traditional foundations, to be sufficiently far away as not to cause any unsustainable damage to the tree's rooting system. I consider the site layout as shown in your drawing 6889-109 to be sustainable in arboricultural terms subject to the adoption of a suitable no-dig driveway specification.

4.9 That application was subsequently withdrawn and a revised application made. Advanced Arboriculture sent another letter to the architect on dated 12 March 2014 reference to the new application where they still did not alter the RPA for T13. It speaks of the realigned protective fencing and the required no-dig method of laying the drive at the front of the house.

4.10 On 8 May 2014 MDDC Tree Officer wrote to the Planning Officer stating: The removal of the garage and driveway from plot 4 to me seems preferential. Whilst there is still some encroachment into the RPA it is reduced. I would still like to see no dig construction methods for these parking areas and wonder whether it is possible to put some kind of physical barrier between the parking and the grass, just to reduce the likelihood of parking on the grass area which could cause compaction in the trees RPA in the future. The application is to extend the paved driveway, some of which is unapproved, which will result in further compaction on the RPA and in addition they wish to build a garage on it which will mean cutting through roots to put in footings.

4.11 The decision notice issued on 10 October 2014 sets out relevant conditions.

Condition 7 - Before and during the construction of each phase of the development hereby approved, the provisions set out in the Arboricultural Method Statement submitted with application reference 11/02002/FULL as amended by the letters from Advanced Arboriculture dated 12th March 2014 and 4th December 2014(sic), received by the Local Planning Authority on 26th March 2014 and the Tree Protection Plan drawing number 6889-109 rev. B, shall be adhered to at all relevant times.

The Reason - To ensure the development makes a positive contribution to the character and appearance of the area by protecting the existing trees during development in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Condition 8 - The driveway proposed to serve plot 4 shall be constructed using a no-dig method in accordance with the details contained in the letter and supporting documentation from Advanced Arboriculture dated 12th March 2014 and 4th December 2014(sic), received by the Local Planning Authority on 26th March 2014.

The Reason - To safeguard the health and safety of the Oak tree on the site which is subject to a Tree Preservation Order, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Condition 10 - Before the first occupation of any dwelling on the site, measures to provide a physical barrier between the parking area for plot 4 and the adjacent grassed area shall have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Once provided, the barrier measures shall thereafter be retained as such.

The Reason - To safeguard the health and safety of the Oak tree on the site which is subject to a Tree Preservation Order, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

4.12 The approved plan is shown below.

5. Conclusion

5.1 Paragraph 4 shows the care which has been taken to try to protect the Oak (T13) tree and its future wellbeing for years to come as an asset and feature within the village. To allow the proposed further incursions into the protected area is unacceptable and the applicant should have been aware of the importance of this tree when the property was purchased.

REPRESENTATIONS

There have been 3 representations objecting to the proposed, these are summarised below

- 1 The proposed extension and garage will negatively impact on the root protection area (RPA) of the two Tree Preservation Order trees (TPO).
- 2 Concern over the proposed development relating to the previous approved consents and the impacts upon the TPO trees.
- 3 Why is the planning application considered?
- 4 The street scene is likely to be adversely affected by the proposal.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The primary material considerations in assessing this application are:

1. **Site History**
2. **Layout, design and visual impact**
3. **Impact on TPO Trees**
4. **Impact on neighbouring residents**
5. **Other matters**

1. **Site History**

Planning permission was originally granted for the erection of four dwellings on the site of a detached bungalow under planning permission reference 11/02002/FULL.

Revisions to this originally approved scheme were approved in 2014 under planning permission reference 14/00468/FULL. It is this 2014 planning permission to which the development of the site has been carried out and the houses are now complete and three out of the four are occupied. Although there are couple of outstanding issues on the wider site being currently investigated by your Enforcement Officers these issues do not have any impact on the proposed scheme presented to you for consideration although it is noted that one of the outstanding issues relates to an additional area of vehicle hardstanding within the curtilage of 4 Portway Gardens. This hardstanding is not shown on the submitted drawings and its retention is not sought through this application.

2. Layout, design and visual impact

The application was initially submitted for the erection of the single storey extension and the erection of a detached garage which was proposed on land forward of the principal elevation of the house and in the RPA (Root Protection Area) of the large protected Oak tree which sits on the site frontage with Old Village Road. Following a site visit and consultation it was considered that the location of the garage within the RPA of the large Oak tree on the site frontage would not be acceptable in terms of the possible damage the structure could have on the protected tree and the impact on the street scene. This element of the scheme and the associated additional hard standing which was proposed to be within the RPA also has subsequently been removed from the proposal and therefore this application is considering the side extension to the property only.

The proposal is to provide a side extension to the south west elevation which will project out from this elevation some 5m to the eaves and 4.7m to the wall. The ridge height is at its maximum point 4.47m from ground level. The roof will comprise of a hipped roof to match that of the original dwelling. Materials are to match those of the existing property as detailed earlier in this report.

The appearance of the proposed within the street scene must be considered in any proposed extension and new build to any property. In this case Willand Old Village Road is made up of various and eclectic styles of dwellings some of which front directly onto the highway with others set back from the road and with a multiplicity of different ages and styles. Towards the centre of Willand Old Village there are bungalows with and without first floor rooms. Immediately opposite the site is a two storey property of similar overall design and scale set a comparable distance from the highway. To the south west along the road heading away from the Old Village there are again a number of differing designs and scale of housing with the majority being two storey brick or rendered properties.

It is considered that based on this varied design of housing along this stretch of road the proposed side extension will not adversely impact on the street scene. It will harmonise with the eclectic variations within the street as a whole and by not projecting further forward from the front façade of the building, it will not disrupt the building line.

The Parish Council has commented that the extension will disrupt views of the protected Walnut tree within the rear garden of the applicant property. Such views are already limited by roadside vegetation. In the 2011 appeal decision on this site the Inspector commented that the protected trees and roadside bank make the greatest contributions to the character and amenity of this section of the street. Neither the roadside bank or the Tree Preservation Order Oak to the road frontage will be affected by this proposal. The impact of the development upon views of the Walnut tree are not considered significant, nor to warrant refusal of the application, nor to will cause demonstrable harm to the character and appearance of the street scene. Therefore it is considered that the proposed will conform to Mid Devon Local Plan Part 3 Policies DM2 and DM13 which seek high quality design that does not cause harm to the character and appearance of an area.

3. Impact on TPO Trees

The wider Portway Gardens site is covered by a Tree Preservation Order (ref. 08/00003/TPO) which covers 5 trees. This includes two of the trees within the application site at 4 Portway Gardens; a large oak on the road frontage boundary and a smaller walnut tree in the rear garden. The proposal will not impact on the large oak tree with regard to the construction of the proposed extension. However there may be a possibility that materials may be stored under the canopy and within the RPA of this tree. It is considered appropriate to condition any approval to ensure this does not occur.

The Walnut tree to the rear of the property is located at its closest point to be 4.5m from the proposed extension, the RPA extends to 5m, and therefore the proposed scheme will fall within the extremity of the RPA in one corner by up to 0.5m. Consideration has been sought from this Authority's Tree Officer and the applicant has confirmed that a pile and beam foundation will be provided to ensure the roots are protected and that it will allow the tree to develop. There will be no compaction of the soil within this area of the site, other than that undertaken during the build of the main house.

It is considered that although the tree is relatively close to the house its location north of the property is unlikely to cause any undue overshadowing. Walnut trees can grow up to 25m in ideal conditions and can have a wide canopy. It is likely that in the future, works will be required to the tree to crown lift or prune branches. However this will be subject to a TPO application and dealt with at that time. Presently there are no specific issues with the existing tree and the proposed will not adversely impact on its future growth provided that construction is undertaken using a pile and beam foundation technique.

It is considered that based on the use of pile foundations and suspended floor the proposed side extension will not adversely impact on TPO trees within the site. Therefore it is considered that the proposed will conform to Mid Devon Local Plan Part 3 Policies DM2 and DM13 in this respect.

4. Impact on neighbouring residents

The proposed extension will have no direct overlooking into neighbouring properties. The building is located to the side of the property and due to its design it will also not be overbearing. In addition there is an existing close boarded fence set along the boundary which will be retained, providing adequate screening from and of neighbouring properties. The roof lights are in a position as not to be able to be looked out of and will cause no nuisance to neighbouring properties.

It is considered that the proposed will not cause nuisance to neighbouring properties or loss of amenity and is therefore considered to be compliant with Mid Devon Local Plan Part 3 Policies DM2 and DM13.

5. Other matters

Issues have been raised with regard to the history of the development and although the planning history is a material consideration, this application is to be considered on its merits.

The majority of the issues raised by Willand Parish Council relate to the siting, building and inclusion of additional hard standing. This has been removed from the application and is not to be considered as part of this application.

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 development shall begin until specific details of the method of constructing the foundations for the extension and providing a suspended floor so as to provide protection for the root protection area of the Walnut tree within the rear garden of the property have been submitted to and approved in writing by the Local Planning Authority. Once approved the development shall be undertaken in accordance with the approved details.
4. No development shall begin until fences for the protection of roots of the Walnut and Oak trees within the application site have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven, placed or stored within the areas enclosed by such fences or within the root protection areas.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

3. To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
4. To safeguard the trees which are protected by a Tree Preservation Order and are to be retained on the site in the interest of the visual amenities of the area and to comply with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed single storey extension to the side elevation of the house is considered acceptable by virtue of its scale, massing, design and location. The proposed is not considered to harm the privacy or amenity of the occupiers of another dwelling, the future amenities and services of the dwelling to be extended or its surroundings including the character and appearance of the street scene. The proposed will not adversely impact on the setting of the TPO tree located to the rear and provided a pile and beam foundation is used there will be minimal impact on the root protection area. Conditions controlling the construction of the extension and requiring protective fencing will safeguard root protection areas of protected trees on the site. As such the proposal is considered to comply with the requirements of Policies COR2 and COR17 of Mid Devon Core Strategy (Local Plan Part 1), Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Application No. 15/01086/FULL

Plans List No. 2

Grid Ref: 303123 : 110073

Applicant: Chartman Ltd

Location: Willand Service Centre Willand Cullompton Devon

Proposal: Erection of petrol filling station including sales (200sqm shop), dispensing forecourt and canopy, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales

Date Valid: 13th July 2015



Application No. 15/01086/FULL

RECOMMENDATION

Grant permission subject to conditions.

COUNCILLOR B EVANS HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

1. To consider if a condition restricting the opening hours of the site is warranted to protect the health and well-being of local residents.

PROPOSED DEVELOPMENT

The application site lies at the southern extent of the village of Willand, outside of the defined settlement limit for the village but adjacent to it as the settlement limit encompasses the houses on the opposite side of the B3181. The application site includes the land for the new petrol filling station and shop, the existing petrol filling station and associated shop and also the adjacent land which is used as a car sales area.

Immediately adjacent and to the south west of the site of the proposed new filling station is the existing petrol station, shop and associated retail and commercial units. The site fronts on to the B3181 which is the main road running through Willand and links it with J27 of the M5 to the north and J28 and Cullompton to the south.

The site including the existing facility is approximately 24m deep (north to south) X 125m long (east to west). Part of the site is already utilised by the applicant as a petrol filling station, shop and car sales and in addition a restaurant, hair and beauty parlour and car repairs garage are run from the wider site. The relocated petrol filling station will be on a small area of grade 1 agricultural land. The site of the new filling station is level with minimal vegetation bounded by a post and wire fence.

This planning application seeks the relocation of an existing petrol station with kiosk, pumps, canopy, altered site access, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales to the existing shop area and forecourt.

The proposed kiosk/shop will be located to the north east of the site, the pump area would be to the south west of the kiosk/shop with a L shaped canopy over the pump area and leading to the kiosk/shop in a mid-grey colour with the company sign (which would need to be subject to separate advertisement consent). A new vehicular exit is proposed onto the B3131 close to the existing traffic island. In addition the existing access will be narrowed to facilitate pedestrian access. Although outside the site, the existing pavement will be widened with agreement between the applicant and the Highway Authority.

The existing petrol station and shop will be refurbished and utilised to accommodate the car sales which is presently located to the rear of the site.

APPLICANT'S SUPPORTING INFORMATION

Stage 1 Road safety Audit
Transportation Statement
Plans

PLANNING HISTORY

82/01266/FULL Alterations to living accommodation and public toilets - PERMIT
87/00441/FULL Installations of windows - PERMIT
87/00442/ADVERT Consent to display three illuminated fascia adverts and one illuminated identification free-standing advert - PERMIT
87/00558/FULL Alterations and extension to provide bakery improved service facilities & larger cafe and change of use from cafe to shop; and change of use from office to cafe - PERMIT
93/01914/ADVERT Adv.Con. for the retention & repositioning of internally illumin. (static lit) identification sign & box fascia & installation of internally illumin. (static lit) spreader box sign - PERMIT
94/00283/FULL Erection of extension to canopy - PERMIT
98/01437/FULL Installation of underground petrol storage tank - PERMIT
00/01001/FULL Change of use of land and provision of hard surfacing to facilitate the relocation of car sales area and associated portable car sales building - REFUSE
01/00551/FULL Change of use to form additional car park and picnic area - REFUSE
01/01061/FULL Installation of automated teller machine - PERMIT
02/02480/FULL Installation of an automated teller machine - PERMIT
06/00027/FULL Construction of replacement service station, convert service station forecourt to car sales area and shop to offices - REFUSE
07/00811/FULL Erection of replacement service station, conversion of service station forecourt to car sales area and shop to offices - REFUSE

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR4 - Meeting Employment Needs
COR17 - Villages

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM6 - Transport and air quality
DM7 - Pollution
DM8 - Parking
DM19 - Rural shopping
DM20 - Rural employment development

CONSULTATIONS

HIGHWAY AUTHORITY - 28th July 2015

Observations:

The Highway Authority has no objection in principle to the above development and the majority of the layout is acceptable to the Highway Authority. However, notwithstanding the lorry weight limit the site should demonstrate the swept path of an articulated vehicle on entry and exit from both directions. My early considerations would indicate that there will need to be some minor realignment of the access radii to accommodate it. Also the Highway Authority wish to see the strengthening of the egress only by installation of No entry signs on the fence line.

In addition the scheme should be accompanied by an independent Stage1 Safety Audit, and upon submission of the requested swept path analysis the highway authority will comment further and may wish to recommend conditions

Recommendation:

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

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, and road layout contrary to paragraph 32 of the National Planning Policy Framework.

14th September 2015

Highway Authority response to stage 1 safety Audit, by TRL for Replacement petrol filling station at Willand Service Station

The Highway Authority have considered the safety Audit and have the following comments to make.

Section 3

Item 3.1

3.1.1 A condition for the detailed design and provision of drainage to prevent surface water being discharged to the public highway shall be conditioned.

3.1.2 Highway Authority accept the Auditors recommendation Local Planning Authority may wish to condition that the utility details are designed and approved prior to commencement.

3.1.3 This is in Keeping with the Highway Authority's recommendations and should be addressed at the section 278 stage and included on the design plans. Local Planning Authority may wish to see an annotation for planning purposes.

Item 3.2.

3.2.1 Agree with recommendation and subject to section 278 highway agreement approval.

Item 3.3

3.3.1 There is unlikely to be increased movements but the applicant should model the right turn prior to submission of section 278 details and adjust white lining accordingly for approval.

3.3.2 It is proposed to remove the hedge, and there will not be a visibility issue as it will comply with current standards.

3.3.3 Notwithstanding the current Lorry weight restriction, the Issue has already been identified by the Highway Authority and the applicant should seek to ease the radii to cater for Articulated vehicles, this will cater for any internally generated HGV movements in the village and the delivery tanker. Such alignment can be addressed through the section 278 submission.

Item 3.4

3.4.1 The provision of facilities to the east of the junction of Willand old village were considered at pre application, however the green area is not within the control of the Highway Authority or the applicant and there are no formal footways over it. There is a formal footway to the west leading to the existing pedestrian crossing facilities. The installation of a crossing facility to the east would be welcome if the land was available but its location would need to be between the existing island to the east of the exit and the Willand Old village. Such a facility would be dependant on the right turn lane and appropriate visibility to the east which is currently obscuring any visibility needed to convert the existing island, However, swept paths of vehicles turning right and the proximity of the right turn waiting area make its provision unlikely. The recommendation of guard railings is feasible with the land but may have implications for the Planning Authority in terms of street scenes. Given that the formal facilities all lead to an appropriate crossing point. The Highway Authority feel it would be unreasonable to object to the application, but at the same time

should lands be available would welcome further works to determine if the crossing can be installed closer to the desire line for the shop or the provision of some deterrent railing.

3.4.2 The Highway Authority agrees with the Auditor and the footway over the frontage should be widened. Such detail can be conditional and can be approved through the section 278

28th September 2015 - I can confirm that the Highway Authority are happy with the layout and that there is sufficient waiting space for the right turn traffic into the site. I also confirm that the provision of some guard railing as indicated by the safety Audit would be acceptable and prevent pedestrians crossing where the visibility is limited. Therefore the Highway Authority have no objections to the proposals and the details identified by the safety audit and the changes required will form part of the section 278 detail design drawings

30th September 2015

Observations:

The Highway Authority are in receipt of the safety Audit and confirm the email comments to the Local planning Authority.

The Highway Authority would raise no objection to the development and the issue raised by the safety Audit can all be accommodated in the section 278 detail drawings. The Highway Authority will wish to see an improvement to the egress for larger commercial vehicles, provision of guard railing to deter pedestrians crossing at the existing Island, widening of the footway over the frontage, introduction of "no Entry" signs on the exit.

These shall all be incorporated in a details construction drawings which shall be approved in writing prior to commencement on site.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Off-Site Highway Works No development shall take place on site until the off-site highway works for the provision of guard railing signage, footway widening have been designed, approved in writing and constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with policy 32 NPPF

2. 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.

WILLAND PARISH COUNCIL - 30th July 2015

Willand Parish Council recommend refusal of this application.

It is accepted that the local business is an asset to the village and would benefit from some modernisation. The Parish Council has no objection to business expansion if it fits in with policy and the area.

The following issues have led to the recommendation for refusal:

- a) The application is for a new filling station thereby greatly expanding the business site whilst retaining existing buildings for business use;
- b) The new filling station is outside of the village settlement area in a small field which is currently in 'open countryside';

- c) The extended site is not designated for employment or business use in the current local plan or the new plan under discussion;
- d) The design of the proposed building will be very modern and not in keeping with the existing business building or any of the residential properties opposite;
- e) There are concerns as to potential for increased traffic, noise and light pollution - the proposed 24 hour opening seven days a week will be vigorously opposed;
- f) The Transport Statement is considered flawed and misleading in that Willand is referred to as a Town when in fact it is a VILLAGE; no mention is made of the fact that there is a 18 tonnes weight limit on the road; references to the bus services is wrong - there are three services; the traffic survey is considered inadequate and not a true reflection of traffic flows; no mention is made of the fact that if the M5 is closed this becomes the diversion route which greatly affects traffic flows;
- g) Special provision is made on site for HGV refuelling but this should be minimal due to weight restrictions;
- h) Reference is made to Highways having no objection but at the time of writing no such evidence has been presented. Concern is expressed that if a long HGV leaves the site by the egress to turn right towards Cullompton there may be difficulty in completing the manoeuvre in one movement due to road width.
- i) No consideration appears to have been given to reducing the speed limit.

15th September 2015

Proposal: Erection of petrol filling station including sales (200sqm shop), dispensing forecourt and canopy, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales

Location: Willand Service Centre Willand Cullompton Devon

1. Willand Parish Council responded to the initial application in a letter dated 29th July 2015 [Attached Appendix 'A'] in which it recommended refusal. Additional information has now been received and it is known that there is a further response from Highways to one of the additional document which we have not been able to access fully at the time of writing due to a fault on the MDDC website.
2. There have also been exchanges between a planning officer and one of our Ward Councillors which are of concern. In particular it is stated in an email that presently I am of the view that the proposal fits with our policies and am looking positive in-terms of the proposal." This is of concern when one compares the application of 2007 with the current application and the policies in place.
3. The current application includes using the whole of the small field whereas the refused application only intended using about a third of it and so this application is larger in scale. This by inference indicates a larger impact of scale on the area and the countryside.
4. The relevant reasons given for refusal in the notice dated 28th June 2007 are:
 - 4.1. Reason 1 - The site is situated outside the defined settlement of Willand and is therefore located in the open countryside. On the basis of the submitted information, the Local Planning Authority are not satisfied as to the need for this replacement facility on a greenfield site in the open countryside and how the economic benefits would outweigh the harm to the visual amenity of the locality.

The proposal is therefore considered to be contrary to Policies COR7 and COR18 of the Core Strategy 2026 as amended by the Inspector's Report and Policies E8 of the Mid Devon Local Plan (LDF). COR7 and COR18 are still current and E8 has been replaced by DM20. COR Policy requires the need to minimise the loss of Greenfield sites to built development and development outside the settlements will be strictly controlled, enhancing the character, appearance and biodiversity of the countryside. It should only allow appropriately scaled retail. DM20 permits expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) The development would not lead to an unacceptable impact on the local road network;
 - b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and
 - c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal. It is submitted that a) may be overcome as suggested by Highways although there are reservations. In relation to b) it is an expansion of a business or to more correct a relocation of the core business. It is argued that it will have an adverse impact for a number of reasons already given. In relation to c) we have a Business Park with spare capacity but it would not serve a useful purpose to move this business there.
- 4.2. Reason 2 - The existing retail car sales element is considered to be small scale in relation to the overall use of the existing site. Policy E7 of the Mid Devon Local Plan (LDF) permits small scale retail development

outside settlement limits provided they are secondary to another use. On the information submitted, the Local Planning Authority considers that the car sales would become a predominant retail function. They would not be secondary to another use and the proposal is therefore considered to be contrary to Policy E7 of the Mid Devon Local Plan (LDF). E7 has been replaced by DM 19 and the relevant part of the policy states: Adjacent to defined villages and elsewhere in the open countryside, proposals for retail development must demonstrate that:

- a) The location and scale of the development would not harm the vitality and viability of town centre or village shopping facilities;
 - b) The development would not lead to an unacceptable impact on the local road network; and
 - c) There would not be an unacceptable adverse impact to the character and appearance of the countryside.
- The Parish Council and objectors are of the view that what is proposed is unacceptable.

4.3. Reason 3 - The proposed facility indicates shop and petrol filling facilities which are significantly larger than that of the existing facilities. Policy E6 of the Mid Devon Local Plan (LDF) permits additional shopping facilities provided they are limited to a scale which will meet a local need. Insufficient information has been provided to demonstrate that facilities of this size are required to meet a local need. The proposal is therefore considered to be contrary to Policy E6 of the Mid Devon Local Plan (LDF). Policy E6 has been replaced by DM19 which is contained in paragraph 4.2 above. The current proposal is for the development of a much larger area than was previously refused.

4.4. Reasons 4, 5 and 6 have some relevance but are partially addressed by having the larger site which will increase the frontage of the current business by approximately a further 75%. There is still an unresolved concern as to large vehicles leaving the site not being able to turn right safely and in one manoeuvre.

4.5. When one considers the reasons for refusal recorded above it does seem rather inconsistent to now want to appear to disregard those reasons for a development which will have a greater impact on the countryside and the immediate adjoining properties and their residents.

5. The stance of the planning officer over opening hours is not understood as there are businesses operating within Willand which have conditions attached to their planning approvals limiting their hours of operation. It is unacceptable that a planning approval can be given where a potential problem is identified and the attitude appears to be that some other department or agency will have to resolve that.

6. A new plan has been added to show the tanker coming in and leaving - both from and to Junction 27 direction. What has not been shown is how an HGV obtaining fuel and wanting to go towards Cullompton will achieve the manoeuvre without mounting the grass verge opposite or obstructing the road.

7. The Road Safety Report Phase 1 appears to be very thorough and raises a number of issues which do not appear to have been fully addressed in the current application. It also needs a footpath to be constructed across the green area to cater for the 'shortcuts' from Willand Old Village to the crossing point nearer to the proposed shop if approval is to be given as this will become a safety issue, particularly for elderly people who may walk on the grass. The additional response from Highways with suggested conditions could go a long way to resolve those issues if adopted by the planning officer and approval is given.

8. Willand Parish Council, having considered all the information available, still feel that this development in open countryside is not needed nor does the modern filling station fit in with the surrounding area or character of buildings. The potential all night opening is of further concern. There is no need as there are 24 hour facilities at J28. The facilities at J27 are no longer open all night due to there being no need. It would therefore seek that the final decision be considered by the Planning Committee if officers are minded to approve under delegated powers.

ENVIRONMENTAL HEALTH - 1st September 2015

I have reviewed the application and taken into account the concerns raised by the objectors regarding noise issues, also, I am very familiar with the site and the surrounding area.

21st July 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Waste & Sustainability

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - Not applicable

Licensing - N/A

Food Hygiene - No objections

Private Water Supplies - Not applicable
Health and Safety - No objections

Given the proximity of the M5 motorway which means the background noise levels in this location are very high and the distance from residential property, I have no reasonable grounds to object to this proposal.

REPRESENTATIONS

There have been 11 representations all of which object to the proposed facility, these are summarised below.

- The traffic survey is limited and unrepresentative
- The proposed will increase the difficulty in egress onto the B3181 both north and south bound
- The site is a Greenfield and outside the defined settlement area.
- Light pollution is a concern 7 days a week
- Head lights will be shone into the dwellings opposite
- Increased traffic thus possible increase potential for accidents
- Design of the building not in keeping with original
- Increased noise
- Surely a 24hr service station is not required and will have a detrimental impact on the area
- No mention of recyclable waste or parking areas for deliveries
- No defined soakaway plan
- No noticeable recognised crossing point
- Detrimental to the open village environment
- The highway has a weight restriction

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The primary material considerations in assessing this application are:

- 1) **Site history and planning policy**
- 2) **Design and impact on the area including the need for the proposal**
- 3) **Highways**
- 4) **Noise and lighting and neighbour amenity**
- 5) **Other issues raised**

1) Site History and planning policy

The site has been the subject of a number of previous applications the first being in 2000 application 00/01001/FULL for the change of use of land and provision of hard surfacing to facilitate the relocation of car sales area and associated portable car sales building. This application was refused on the grounds of the spread of commercial development beyond settlement limits. A further application was submitted in the following year 01/00551/FULL for the change of use to form additional car park and picnic area. Again this was refused and two reasons given namely that the site was outside settlement limits and the increased use of private motor vehicles would be contrary to sustainable development.

In 2006 the first of two application for replacement service stations were submitted, and involved the construction of a replacement service station, convert the existing service station forecourt to car sales area and shop to offices. Following this refusal a second similar application was submitted in 2007 and also refused. Both applications were refused on the grounds of the location being outside defined settlement limits, the size and scale of the proposed car sales element, the need for the retail sales element, insufficient parking and parking arrangements and a concern regarding conflict on the B3181.

Since the above refusals, national and local planning policy has gone through major change, becoming more supportive of proposals for new commercial and retail development and requiring less justification for proposals such as that currently being considered, despite the location being outside of defined settlement limits. The introduction of the National Planning Policy Framework (NPPF) in March 2012 has been

fundamental to this shift in policy.

At the heart of the NPPF is a presumption in favour of sustainable development, of which there are three dimensions - an economic role, a social role, and an environmental role.

These roles are mutually dependent.

- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Paragraph 28 of the NPPF advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses; and
- promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

Pursuant to the publication of the NPPF Mid Devon adopted the Local Plan Part 3 (Development Management Policies) in late 2013. Of particular relevance to the principle of this proposal are policies DM19 and DM20 which relate to rural shopping and employment development. Neither policy precludes the principle of a development of the type being proposed. In relation to the retail element of the scheme policy DM19 requires that the location and scale of the development should not harm the vitality and viability of town centre or village shopping facilities. Policy DM20 relates to new build employment and the expansion of existing businesses and requires that there are insufficient sites or premises in the immediate area to meet the needs of the proposal. Both policies also seek for proposals not to lead to an unacceptable impact on the local road network and not to have unacceptable adverse impacts on the character and appearance of the countryside.

For these reasons it is considered that the presence of the earlier refusals for similar schemes on this site does not preclude this application being recommended for approval. Planning applications must be determined in accordance with the development plan as it currently stands unless material considerations indicate otherwise. Although the planning history of the site must be considered and addressed, in this instance it does not carry more weight than the currently prevailing planning policy. There has been a material change in policy since the refusal of earlier applications.

2) Design and Impact on the area including the need for the proposal

The proposed petrol filling station and kiosk/shop will be seen in the context of the adjacent employment development when viewed from the B3131 and the Old Village Road which is on the opposite side of the B3181. The kiosk and pumps will be located towards the north eastern end of the site with the current filling station shop building and pumps located to the south western end. The mass and scale of the built development will be proportionate and less than the building that currently exists on the remainder of the site. It is acknowledged that the land is located to the edge of the village and outside the settlement limit. However, officers are of the view that the development would not unduly intrude visually into the streetscene and that the site is not particularly isolated from the village itself and existing built development so as to appear as an alien feature. Given the scale and visual appearance of the existing building on the site officers consider that the proposed development will result in a neutral impact on the setting of the gateway to the

village and provide an up to date service for the area. Officers consider that the proposed development will be visually in keeping with the locality. The proposed use of the site will not appear out of character with the adjacent land uses. When viewed from distant views the development will be seen within the context of the surrounding built development. Therefore it is considered that the proposal is compliant with policy DM2 of the Local Plan Part 3 which requires high quality design that takes account of local context.

The proposal will result in an increase in the amount of A1 retail floor space afforded to the business. Willand is the largest of Mid Devon's villages. In early 2015 planning permission was granted for the provision of a food store of approximately 300 square metres of retail floorspace to be built on land at the Mid Devon Business Park at the northern end of the village and within the village settlement limits. Work on this facility has not yet begun but the planning permission remains valid. In addition to the current retail facilities on the application site the village also has a modestly sized One Stop shop located near the village industrial estate, a Post Office with small retail offering in the Old Village and a further petrol filling station with very small retail element to the north of the Mid Devon Business Park. Having regard to the size of the village and its population and the extent and spread of existing retail facilities in the village it is not considered that the expansion of the retail offer at this site as a result of the proposal would harm the vitality or viability of the village shopping facilities and nor would it impact upon the operation of Cullompton town centre; in this respect the application accords with policy DM19 of Local Plan Part 3.

The existing building will be re-furbished to accommodate the existing car sales business on site thus further contributing to building a strong, responsive and competitive economy for the Willand area and Mid Devon. Policy DM20 is a key policy in the development of employment facilities in countryside locations as previously discussed, and planning permission will be granted for new-build employment or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location and that there are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal. The existing petrol filling station and associated retail sales area is the only facility of this kind at this end of the village and provides a useful facility for those passing by as well as those who live in the Old Village and other parts of the southern half of the village. It would be unreasonable to expect the facility to relocate to an entirely different location for this reason. In relation to the car sales element the business is established on this site and there is no evidence to demonstrate that there are alternative premises which are reasonably available to the operator on which to relocate. This element of policy DM20 is therefore considered to have been met.

Concern has been raised in third party representations with regard to on-site parking, deliveries and the storage and collection of recyclable material. The on-site parking provides 12 spaces for staff and public. In addition to this there is further parking to the rear of the existing site behind and to the side of the restaurant. It is considered there is sufficient available parking within and adjacent to the site to be compliant with policy DM8 of the Local Plan Part 3. It is understood deliveries will be undertaken as per the existing unit in terms of frequency and will likely require two of the parking spaces to be used during delivery times. It is confirmed that recycled waste will be stored to the rear of the building and dealt with in an appropriate manner.

3) Highways

Planning Policies require that proposals must demonstrate that the development would not lead to unacceptable impact on the local road network. The Highway Authority have scrutinised the proposal and are now content with the scheme in highway terms.

Representations have raised various highway concerns over the proposed use of the expanded part of the site as a petrol station, the fact that there is a weight restriction on the adjacent road and that this proposal may bring larger vehicles to the site.

There is presently a petrol filling station on the site and the introduction of this new location is not considered to exacerbate the level or size of vehicles already attending the service station over and above what is already using the existing.

The Highway Authority requested a safety Audit for the new site and the proposed access arrangements for the new filling station and shop has been considered within this Audit. The Highway Authority is content with the proposals subject to conditions and the provision of some off-site highway works as detailed in their

consultation response. .

Concern has also been raised with regard to pedestrians gaining access to the kiosk/shop from the Old Village Road, with there being no specific crossing point. Consideration was made by the Highway Authority to establish if the existing traffic calming island located north east of the junction could be used as a potential crossing point although it is presently not an official crossing point. Their view is that the existing crossing point located to the south of the junction is appropriate and will cater for both the existing services at the existing site and those proposed. Consideration is being undertaken to provide barriers to prevent crossing at the north eastern traffic calming islands. This is not part of this application and will be dealt with by Devon County Council (DCC). The existing pedestrian path which runs along the frontage of the site will be increased in width and will be undertaken in accordance with DCC section 278 process.

On the basis of the additional information received, and subject to conditions the Devon County Highways Officer raises no objection to the development.

Policy DM6 Transport and Air Quality considers development proposals that would give rise to significant levels of vehicular movements, in this case although there is likely to be some increase in vehicular movements it is considered that they will not be significant.

In conclusion to this subsection, given the detailed response from the Highways Officer, planning officers consider that the development is acceptable in terms of highway considerations and is compliant with policy DM2, DM6 and DM8 of the Local Plan Part 3.

4) Noise and lighting and neighbour amenity

There are residential areas adjacent to the application site. The nearest houses are to the south and east of the site on the opposite side of the B3131, with a separation distance of approximately 55m from the site of the new filling station and shop to the nearest property.

As part of the determination of this application the Councils Environmental Health Officer has been consulted and the concerns raised in third party representations have been carefully considered. It is acknowledged that the application site is located to the edge of the village and would bring the existing uses closer to some residential properties than existing. The application site is immediately adjacent to the existing petrol station which has no opening time restrictions. The agent has confirmed that it is intended for the shop to keep to the same opening hours as existing (0600 - 2200/2300). However the applicant wishes to open the petrol filling station 24 hours operating a night pay hatch system.

A noise assessment has been considered by the Environmental Health team and this has shown that the development would be acceptable in terms of the impact of noise on adjacent residential neighbours. This is because of the high background noise levels within the area generated by the M5. For this reason together with the lack of opening time restriction on the current site it is not considered either necessary or appropriate to recommend the imposition of a condition relating to opening hours for the new filling station and shop. To do so would be unlikely to meet all of the test which the government imposes for the imposition of conditions. It is understood that the question of the business as existing has not generated noise complaints.

A condition is recommended to control the details of any floodlighting associated with the development to ensure there is limited light spill into the immediate area.

A further observation has been made with regard to vehicle lights shining into neighbouring properties when turning into and out of the site. As the proposed is in close proximity to a highway junction there is already a potential for lights of vehicles when turning to affect properties. It is therefore considered that due to the distance from neighbouring dwellings and the associated street lighting that this will not be a major factor and would not be a reason to refuse the proposed application.

In conclusion to this subsection, subject to appropriate conditions, the development is considered to be acceptable in terms of impact on residential amenity and the application meets with policies DM2, DM19 and DM20 in this respect.

5) Other issues

Representations have made reference to the fact that the wider area around the town is well served by existing fuel stations and that therefore there is no demand for any more petrol filling stations. There is no increase in the number of filling stations or shops but the relocation to an area adjacent to the existing. There will be an increase in the size of the facility compared to the existing. However this is not considered to be unacceptable in planning terms with only a possible slight increase in traffic due to the increase in size.

The agricultural land to be used for the proposed site is grade 1 land and its loss is to be considered. However as it is a small section and located adjacent to a highway this loss of grade 1 land is considered to have a negligible impact on the total area of grade 1 land in the area. It would not be a reason to justify a refusal of this application.

No specific details have been provided regarding the proposed drainage strategy for the site. In order to ensure that adequate measures are employed so as to maintain greenfield runoff rates from the site, a condition is recommended to be imposed to require further details to be agreed prior to development beginning.

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 development shall take place until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such.
4. No development approved by this permission shall be commenced until a scheme and timescale for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such works shall be designed to prevent surface water being discharged to the highway. The drainage works shall be completed in accordance with the details and timetable agreed and be so retained.
5. No development shall take place on site until the off-site highway works for the provision of guard railing, signage, and footway widening have been constructed and made available for use in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
6. Within 1 month of the new petrol filling station and shop first being brought into use, the existing shop and petrol filling station shall cease to be used as such and thereafter the premises shall only be used for car sales and car showroom associated with the present on-site car sales business and for no other purpose.
7. Prior to its installation, details of external lighting together with associated shielding to prevent glare/light pollution shall be submitted to and approved in writing by the Local Planning Authority. External lighting shall be in accordance with the approved details and be so retained.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

3. To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
4. To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policies DM2 and DM7 of the Local Plan Part 3 (Development Management Policies).
5. To minimise the impact of the development on the highway network in accordance with Policy 32 of the National Planning Policy Framework.
6. To ensure there is only one filling station and shop at this location to safeguard the amenities of the surrounding area.
7. In the interests of preventing light pollution or glare in order to safeguard local amenities.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed development is considered compliant with the National Planning Policy Framework and with the policies set out in the Council's Local Plan with regard to the provision of retail facilities outside defined settlement limits and the expansion of existing businesses. The application site lies adjacent to existing employment premises and, although there is residential development in proximity, the proposed development is in keeping with the character of the site and surroundings in terms of use. In light of the above assessment, the size, layout and design of the development is acceptable within its context, there would be no overriding detrimental impact on the amenity of adjacent neighbours. Subject to conditions the application would not cause harm to highway safety. All material considerations have been taken into account, including those raised by consultees and contained in letters of representation. The proposal is therefore considered to comply with the requirements of Policies COR1, COR2, COR4 and COR17 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2, DM6, DM7, DM8, DM19 and DM20 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Application No. 15/01234/FULL

Plans List No. 3

Grid Ref: 295927 : 102937

Applicant: Exe Valley Practice

Location: Exe Valley Practice 3
Coach Road Silverton
Exeter

Proposal: Erection of dwelling

Date Valid: 3rd August 2015



Application No. 15/01234/FULL

RECOMMENDATION

Grant permission subject to conditions.

COUNCILLOR B DEED HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:

1. To consider whether this is a garden development and as such should be treated as a greenfield site.
2. To consider if the proposal constitutes overdevelopment and has insufficient amenity land.
3. To consider if the proposal has a negative impact on existing properties (including the property within the curtilage of the site)
4. To consider if the proposed access on to the highway is acceptable or would compromise an existing right of way.

PROPOSED DEVELOPMENT

The application seeks permission for the erection of one single storey, 2 bedroom bungalow within the rear amenity space which is currently associated with Exe Valley Practice doctor's surgery, 3 Coach Road. The site is adjacent to Park Road, and access to the proposal is proposed from that road. The dwelling is proposed to have painted render walls, a slate roof (including two solar panels) and upvc windows and doors.

The proposal includes the provision of two parking spaces specifically allocated for the dwelling, including a turning area. Five parking spaces will be retained within the existing doctor's surgery, including a turning area.

APPLICANT'S SUPPORTING INFORMATION

Arboricultural report
Letter from Exe Valley practice
Design and Access Statement
South West Water Drainage maps

PLANNING HISTORY

03/02127/FULL Change of use of dwelling house (C3) to doctor's surgery (D1) with formation of car parking hardstanding together with demolition of existing conservatory and erection of single storey extension to rear
- PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR17 - Villages

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM8 - Parking
DM14 - Design of housing
DM15 - Dwelling sizes

CONSULTATIONS

MID DEVON DISTRICT COUNCIL - TREE OFFICER - 2nd October 2015 - You asked me to look at a tree which may be affected by 15/01234/FULL. The tree is a small Honey Locust and is in good condition. I assessed the tree to determine whether it would be suitable for consideration for protection by TPO. My initial thoughts were that it did not have significant amenity value. I carried out an amenity evaluation (Poole system) and the tree had a score of 15. Anything greater than 15 merits consideration for a TPO. In this instance I do not feel that a Tree Preservation Order would be appropriate

HIGHWAY AUTHORITY - 8th October 2015 - I can confirm that the revised plan is acceptable to the Highway Authority for the size of surgery and would have no further comment to make on the application

9th September 2015

Observations:

The Highway Authority have indicated standing advice applies, and following a request from the Local Planning Authority have the following comments to make. The proposed plans submitted by the applicant are technically acceptable for parking turning and visibility and the highway Authority welcomes the removal of the Leylandii screen. The applicants in Their plan PL2 revD has included the retention of the right of way and subject to the applicant providing clear visibility over the whole Right of way the highway Authority would have no technical objection. The application should provide for suitable drainage to prevent water entering the public highway and a condition for which should be imposed. It would not be acceptable to drain the drive to a neighbouring gully and it should be incorporated into the private surface water sewer.

However the proposal will result in a loss of parking to the surgery with clients parking on the highway close to the bend and with the increased risk to all users particularly the school. Therefore the highway Authority would wish to see a parking layout and proposal for the surgery. It is noted that there is a potential for the surgery to close at this location, but until such time as the use of the property is formalised sufficient parking should be afforded for the surgery use.

Recommendation:

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

18th August 2015

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

SILVERTON PARISH COUNCIL - 7th September 2015 - The Parish Council felt the plans supplied did not clearly show what was being proposed and would ask if further clarification could please be provided as to clarify exactly what development is proposed at this site.

ENVIRONMENTAL HEALTH - 18th August 2015

Contaminated Land - No objection.

Air Quality - No objection.

Drainage - No objection.

Noise and other substances - No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Housing standards - No objection.

Licensing - N/A.
Food Hygiene - N/A.

Private Water Supplies - No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.

Health and Safety - No objection.

REPRESENTATIONS

2 letters of objection have been received. The objections have been summarised and raise the following concerns:

- The application should be treated as a greenfield site
- The proposal results in overdevelopment of the area
- The development has insufficient amenity space
- There will be a 'massive' impact on the neighbouring dwellings
- The proposal impacts a right of way
- The foundations will impact the neighbours trees

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) **Principle for development in this location**
- 2) **Design and impact on the character and appearance of the surrounding area**
- 3) **Impact on residential amenity**
- 4) **Parking and access**
- 5) **Other**

1) The principle for development.

Representation received notes that this development should be taken as the development of a greenfield site contrary to the provisions of PPS3, which was amended to exclude private residential gardens from the definition of 'previously developed land' (brownfield land). However, this did not mean that gardens could not be developed and each application should be considered on its own merits. Since the publication of the National Planning Policy Framework, PPS3 is no longer a material consideration in the determination of a planning application, although the exclusion of residential gardens from the definition of 'previously developed land' has been carried over into the National Planning Policy Framework.

This development is situated within the rural settlement of Silverton. COR17 of the Mid Devon Core Strategy 2026 notes development within defined villages such as Silverton will be limited to minor proposals. As this proposal is for the development of one dwelling, which is classified as a minor proposal, the principle for development in this location is acceptable in accordance with policy COR17 of the Mid Devon Core Strategy 2026.

It should be noted that the applicant has undertaken pre-application advice with the local planning authority, where it was established that subject to design, the principle for a modest development on this site would be acceptable.

2) Design and impact on the character and appearance of the area.

The proposal is for the erection of a single storey, 2 bedroom detached bungalow. The proposal is outside

the Silverton conservation area and is not considered to materially impact on the setting of a listed building (the nearest listed building is approximately 225metres away). The site is visible when travelling along Park Road, and less visible from Coach Road due to the screening provided by the existing dwellings.

The dwelling is proposed to have an external appearance of render with a slate roof and upvc windows and doors. Conditions have been recommended to require a sample of the slate to be submitted as well as details of the render finish and details of the doors and windows.

The dwelling is designed in an L shape, and is orientated to face south toward Park Road. The proposal is likely to be prominent from the highway, however, the surrounding dwellings on Park Road to the east are similar in design to the proposal (the neighbouring property on Park Road is a single storey bungalow). The internal layout of the bungalow includes two bedrooms, a kitchen/living room, a bathroom, and one en-suite. Policy DM15 of the Local Plan Part 3 (Development Management Policies) details minimum size requirements for new dwellings. In this case, the proposal should have a minimum internal floor space of 57-67 sqm. The dwelling is compliant with the size requirements under policy DM15 Local Plan Part 3 (Development Management Policies), and the DCLG, Technical housing standards - nationally described space standard.

The proposal includes a small patio/walkway surrounding the house, tarmacked drive, turning area (including Aco drain to stop surface water discharging onto the highway), and a grassed garden area. A 2 metre timber fence will surround the boundary to the sides and rear of the bungalow, together with a 1 metre high block wall to the front of the dwelling. A planting screen is included within the surgery car park, providing screening between the site and the surgery.

Representation was received regarding the size of the proposal resulting in 'overdevelopment' of the area and the provision of insufficient amenity space to the new dwelling and the surgery. The proposals size, including its height, scale and massing are all reasonable within the context of the site and the surrounding residential properties. Silverton has a wide range of housing styles and the appearance of the proposed bungalow is considered to fit in well with the street scene of Park Road. A reasonable amount of private amenity space has been portioned to the proposed bungalow, and a reasonable level of amenity space is retained for the existing doctor's practice. A letter received from the surgery notes that it is likely the surgery will be closing. Although this is speculation, the surgery has a reasonable level of amenity space retained for its existing D1 use, or a future use as a dwellinghouse.

The design and appearance of the proposal, including its impact on the character and appearance of the surrounding area, is considered to be in accordance with policies DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies).

3) Impact on residential amenity

Policy DM2 of the Local Plan Part 3 (Development Management Policies) requires that new dwellings do not have an unacceptably adverse effect on the privacy or amenity of the proposed or neighbouring properties and uses. The proposed bungalow would be south of existing dwellings in Coach Road, and west of a detached bungalow named Autumn Leaves.

One objection has been received from the occupier of the nearest residential dwelling to the North East (4 Coach Road), and none received from the dwelling to the north west. A further objection was received from Autumn Leaves to the east; however, this representation is specific to ensuring the right of way is retained between the properties, which is addressed above.

The bungalow would be approximately 14 metres from the rear wall of the surgery, and 15 metres from the nearest residential property. As shown on section 1, drawing number PL4 Rev E, the ridge height of the proposal is low in comparison to the dwellings situated to the north on Coach Road. Specifically, the ridge will be 0.9metres lower than the eaves of 3 Coach Road. The proposed bungalow is sited approximately 30 metres away from Autumn Leaves to the east, which is situated on a similar ground level. Some shadow may be cast over the southern garden area of 4 Coach Road in the late evening sun, and the southern garden area of 2 Coach Road in the morning sun, however, this is likely to be acceptable in planning terms, having limited impacts on the occupants of these dwellings. Considering the distance from the neighbouring

properties, including the reasonable height of the proposal, the bungalow is deemed to not have material overbearing and amenity impacts on the neighbouring properties.

As the proposal is a bungalow there are no first floor windows proposed, nor windows within a roof slope. The proposal includes limited windows in the side elevations, including no windows on the east elevation, and one window in the west elevation. Views out of the west elevation towards number 2 Coach Road are restricted by the layout of the bungalow, including the protruding gable to the north west of the building. The site is surrounded by a 2 metre fence screen, including planting to the north. The proposal is not considered to result in a significant loss of privacy to any neighbouring dwelling, in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies).

To ensure the privacy of the neighbouring properties is maintained, permitted development rights are proposed to be removed by condition for any new windows or the conversion of loft space of the proposed bungalow.

4) Parking and access

The proposal is accessed from Park Road, and includes two parking spaces and a turning area. Policy DM8 of the Local Plan Part 3 (Development Management Policies) requires 2 parking spaces to be provided per dwelling. The allocated parking for the new dwelling is considered to comply with policy DM8 of the Local Plan Part 3 (Development Management Policies). Devon County Council Highways attended the site, and have no objections to the proposed access onto Park Road, however, comment was raised regarding the lack of information showing formalised parking for the surgery use.

The applicant has provided a letter noting that the surgery is likely to be closing in March 2016, however, as this is not a certainty, and its future use cannot be guaranteed, a parking plan was requested by the local planning authority. The applicant has submitted a parking plan shown on drawing number PL2 Rev E. There are no parking restrictions on Coach Road, and the site is situated a good distance from the village centre of Silverton with reasonable public transport routes. In the opinion of the local planning authority, the proposal retains an adequate level of parking, including a turning area for the existing surgery.

Following receipt of the parking plan, the Highway Authority has been re-consulted and Members will be updated on receipt of the Highway Authority's response.

A condition is recommended to formalise the proposed parking arrangements.

The existing boundary onto Park Road includes a large conifer hedge, and a public right of way accessing the east of the site. The conifer hedge will be removed, and new hedge planting will be provided between the right of way and the proposal, retaining the existing right of way. Neighbouring letters were received regarding the retention of this right of way, and the applicant amended their original drawings detailing the right of way as preserved. The preservation of this right of way is recommended as a planning condition.

5) Drainage, trees, etc

Drainage:

The proposed dwelling would be connected to the mains sewer for foul drainage, whilst any surface water would be dealt with via a soakaway.

Neighbouring trees:

Objection received from 4 Coach Road notes that the development is likely to impact on an established tree within the garden of 4 Coach Road. The Mid Devon District Council tree officer was asked to comment on the application, and an arboricultural report was submitted by the applicant.

It should be noted that the neighbours trees (detailed as T1 and T2 in the tree protection plan) are proposed to be retained as part of this development, however, some trees on the site with low amenity value will be removed (labelled as G1, H1 and T3).

The Mid Devon District Council tree officer recognises that the neighbouring trees (T1 and T2) are a reasonable quality, however are not worthy of protect by a Tree Preservation Order. This view is reinforced within the submitted arboricultural report.

As the existing tree is not within the conservation area and is not TPOed, the applicant has a right to remove branches and roots overhanging the boundary line without gaining any consent. The tree report includes an arboricultural method statement to ensure impacts on these trees are minimised, and the applicant has confirmed his willingness to comply with this report. A condition is recommended requiring building works to be carried out in accordance with the arboricultural method statement.

Public Open Space:

A new dwelling is likely to increase the demand for public open space and play areas within the vicinity. Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) requires the developer to pay a financial contribution towards the provision of public open space/play areas, where an appropriate level is not provided on site. The applicant has provided a payment of £900. This payment will be used towards improvements to the School Lane War Memorial, and the applicant has signed a legal agreement which secures the money for this purpose.

There are no other materials considerations to weigh against the grant of planning permission, and approval subject to conditions is recommended.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to their first use on the development, details of the slate and render shall be submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be used and so retained.
4. Prior to their first use on the development, working details of the new external doors/door frames and windows, including sections, mouldings and profiles, finishes and glazing have been submitted and approved in writing by the Local Planning Authority. Such approved materials shall be used and so retained.
5. The development shall take place strictly in accordance with Appendix 4 root pruning methodology on page 9 of the report from Hi-Line dated 28 September 2015 and the details shown on drawing number CT_4071_TPP dated 28 September 2015.
6. Before the development hereby permitted is first brought into use, the vehicular access, parking and turning areas indicated on the approved plan PL2 REV E, including the proposed parking and turning area for 3 Coach Road, shall be surfaced and drained (to avoid surface water discharge onto the highway) and marked out in accordance with the approved details. Following their provision, these facilities shall be so retained.
7. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, of Part 1, relating to the extension and alteration of the dwelling, extensions or alterations to its roof, the insertion of windows and/or roof lights, and the provision of outbuildings, shall be undertaken within the dwellings curtilage without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. 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 Core Strategy (Local Plan Part 1) COR2
Local Plan Part 3 (Development Management Policies) DM2 and DM14.
4. To ensure the use of materials and detailing appropriate to the development, in order to safeguard the visual amenities of the area in accordance with:
Mid Devon Core Strategy (Local Plan Part 1) COR2
Local Plan Part 3 (Development Management Policies) DM2 and DM14.
5. To ensure the development makes a positive contribution to the character and appearance of the area by protecting the existing trees during development in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
6. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies)
7. To safeguard the visual amenities of the area and amenities of neighbouring dwellings in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed dwelling is considered to be an acceptable design and location in accordance with the policy requirements of COR2 and COR17 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies). The dwelling provides accommodation in accordance with the size requirements of Policy DM15 of the Local Plan Part 3 (Development Management Policies). The proposed dwelling will result in the loss of some parking associated with the doctor's surgery; however, the level of parking maintained at the surgery, including the proposed parking for the dwelling is acceptable in accordance with Policy DM8 of the Local Plan Part 3 (Development Management Policies). There will be some impact on surrounding residential properties, however, this will not be significant and the proposal is therefore in accordance with Policy DM2 in this regard. The proposal is considered to be in accordance with relevant planning policies and has been recommended for approval.

Application No. 15/01438/FULL

Plans List No. 4

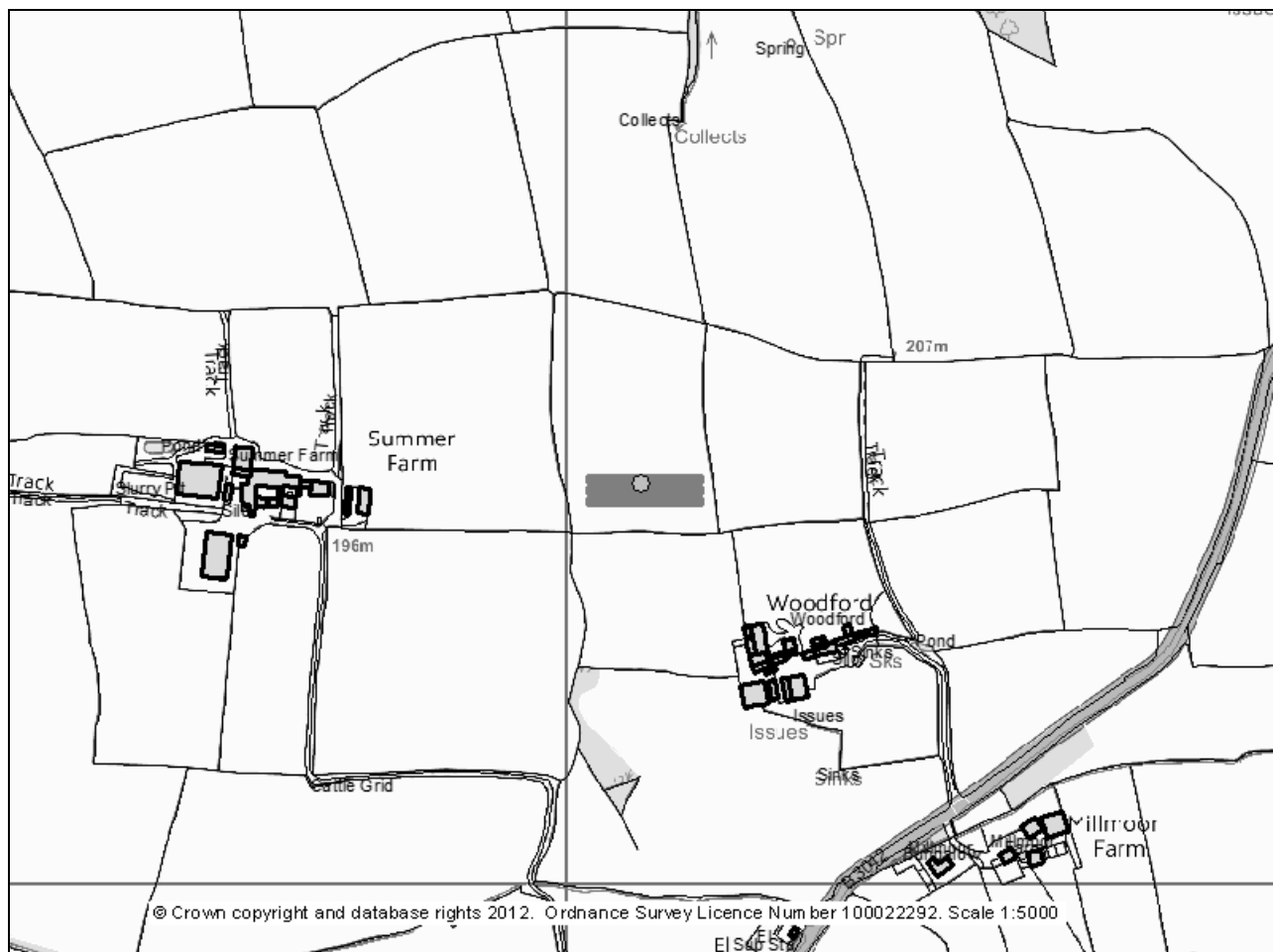
Grid Ref: 280054 : 113389

Applicant: Mr R Hayes

Location: Land at NGR 280054
113389(Woodford
Farm) Witheridge
Devon

Proposal: Installation of 150KW
ground mounted solar
panels

Date Valid: 9th September 2015



Application No. 15/01438/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

Installation of 150KW ground mounted solar panels at Woodford Farm, Witheridge.

The application seeks planning permission for the installation of three additional rows of ground mounted solar panels. The site is part of an agricultural field that forms part of the agricultural holding of Woodford Farm, to the south of Witheridge. There are two existing rows of solar panels already situated in the southern part of the field; the proposed additional rows will sit to the north of these existing panels.

The site is approximately 160m to the northwest of the farm holding of Woodford and 200m to the east of Summer Farm. The panels will be mounted on frames and stand up to 3.0m high, each row being 95m in length (the same as the two existing rows).

APPLICANT'S SUPPORTING INFORMATION

None

PLANNING HISTORY

14/01186/FULL Installation of a ground-mounted photovoltaic solar panel array to generate 100kW of power (site area 700 sq m) - PERMIT

14/00994/PE Replacement of single member poles with "H" poles - CLOSED

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR5 - Climate Change

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM5 - Renewable and low carbon energy

CONSULTATIONS

MORCHARD BISHOP PARISH COUNCIL - 6th October 2015

No comments.

WITHERIDGE PARISH COUNCIL - 5th October 2015 - The Council had no observations to make on the application.

EAST WORLINGTON PARISH COUNCIL - 30th September 2015 - No comments

HIGHWAY AUTHORITY - 24th September 2015 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

REPRESENTATIONS

No letters of representation have been received at the time of writing the report.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The site is outside of an adopted settlement limit and is therefore considered to be in a countryside location. Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) states that development outside settlement limits will be strictly controlled unless there are appropriate agricultural and rural uses that include renewable energy and telecommunications development (refer to Criterion F). The National Planning Policy Framework applies a presumption in favour of sustainable development and part 10 calls for planning policies and decision making to have a positive strategy to promote energy from renewable and low carbon sources, and identify opportunities where development can draw energy supply from renewal or low carbon systems. Policy COR5 of the Mid Devon Core Strategy (Local Plan Part 1) sets measures for development to minimise the impacts of climate change and to contribute towards national and targets for the reduction of greenhouse gas emissions. This should be achieved through the development of renewable energy capacity in locations with an acceptable local impact, including visual impact and on nearby residents and wildlife. Policy DM5 of the Local Plan Part 3 (Development Management Policies) sets the key policy tests for the scheme and is set out below:

Proposals for renewable or low carbon energy will be permitted where they do not have a significant adverse impact on the character, amenity, and visual quality of the area, including cumulative impacts of similar developments within the parish or adjoining parishes.

Where significant impacts are identified through environmental impact assessment, the Council will balance the impact against the wider benefits of delivering renewable and low carbon energy, considering:

- (a) Landscape character and heritage assets.
- (b) Environmental amenity of nearby properties in accordance with Policy DM7.
- (c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a).
- (d) Biodiversity (avoiding habitat fragmentation).

Landscape impacts

The potential impact of the development on the character and appearance of the surrounding area have been considered. The existing array, particularly the front row of panels, is visible from some points along the B3042 highway to the south. Views from this direction are reasonably long distance and broken by natural screening provided by hedge boundaries and trees. Given the natural undulation of the land, the proposed array being sited further to the north of the existing panels would not be highly visible. A public footpath runs to the east of the application site, and whilst the proposed solar development will be visible at some points along the route, these views are likely to be over a limited distance and therefore it is not considered that the proposed scheme would impact on the landscape character and/or visual amenities of the area for receptors along the footpath.

Whilst limited views of the development will be possible, given the scale and nature of the scheme it is considered that any resulting visual, landscape and/or environmental impacts would not be harmful to the character and visual amenity of the rural location and would not outweigh the renewable energy benefits arising from the scheme.

Amenity of nearby properties

The development is positioned within an agricultural field, to the north of the existing solar development. Given the separation distance to nearest residential dwelling (which is fact the farmhouse on the holding) it is not considered that the panels will result in any detrimental effects on the amenity of existing and future occupiers.

Furthermore taking into account the separation distance between the house and the field array the proposals are unlikely to affect the availability of outdoor amenity space associated with the property, or its character, appearance and setting.

As stated above the separation distance to the nearest non connected dwelling is over 200 metres away

Loss of agricultural land

The Local Planning Authority's system highlights that the site is situated on grade 3 agricultural land, although it does not distinguish whether this is 3a or 3b. Notwithstanding this, given the size of the site area (0.9 hectare) it is considered that given the extent of the scheme which is for 3 rows of panels at 95.0 metres in length, even when considered cumulatively with the existing development (2 rows), the development site is a relatively small part of the overall holding.

Therefore given the scale of the development in relation to the overall land holding it is not considered that the installation would have a significant adverse impact upon the operation of the holding or on the availability of best and most versatile agricultural land provisions of the area.

Biodiversity

Given the siting of the panels and the scale of the scheme it is not considered that there would be any significant adverse impacts to biodiversity as a result of the proposed development.

There are no other material considerations identified, and the application is recommended for approval.

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.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The erection of a small scale photovoltaic array comprising three rows of panels on a parcel of agricultural land is deemed to be an acceptable addition to the existing 2 rows of panels already in situ.

In summary the renewable energy benefits that will arise from the proposed scheme are achievable without;

- Having an adverse impact on the landscape and character of the area or any nearby heritage assets,
- Adversely affecting the environmental and visual amenities of any nearby residential property,
- Harming the living conditions of the occupiers of other nearby dwellings,
- Adversely affecting the availability of productive agricultural land,
- Adversely affecting local habitats within the site and surrounding area

As such the development complies with Policies COR5 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2 and DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework (NPPF). It is therefore recommended that the application is approved subject to conditions.

Mrs Jenny Clifford
Head of Planning and Regeneration