

PLANNING COMMITTEE AGENDA - 17th May 2017

Applications of a non-delegated nature

- | <u>Item No.</u> | <u>Description</u> |
|-----------------|---|
| 1. | <p>17/00033/OUT - Outline for the erection of 8 dwellings at Land and Buildings at NGR 301416 115145, Crosses Farm, Uplowman.</p> <p>RECOMMENDATION
Refuse permission.</p> |
| 2. | <p>17/00300/MOUT - Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses at Land at NGR 305578 112053, Uffculme Road, Uffculme.</p> <p>RECOMMENDATION
Grant permission subject to conditions and the signing of a S106 agreement to secure.</p> |
| 3. | <p>17/00395/FULL - Erection of a barn to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping at Land and Building at NGR 280066 113155, (Woodford Farm), Witheridge.</p> <p>RECOMMENDATION
Refuse permission.</p> |
| 4. | <p>17/00407/FULL - Variation of conditions 5, 6, 15, 23, 27, 28, 31, 32, 34 and 35 to allow certain works to be undertaken before additional details are submitted to the Local Planning Authority, to phase the Construction Management Plan/s and to enable works to be carried out before the tree and hedgerow protection fencing is erected; and removal of conditions 24 and 26 (duplication of the requirements of other conditions) of planning permission 13/00947/MOUT at Land at NGR 305036 113872 (Junction 27), Sampford Peverell, Devon.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |

Application No. 17/00033/OUT

Plans List No. 1

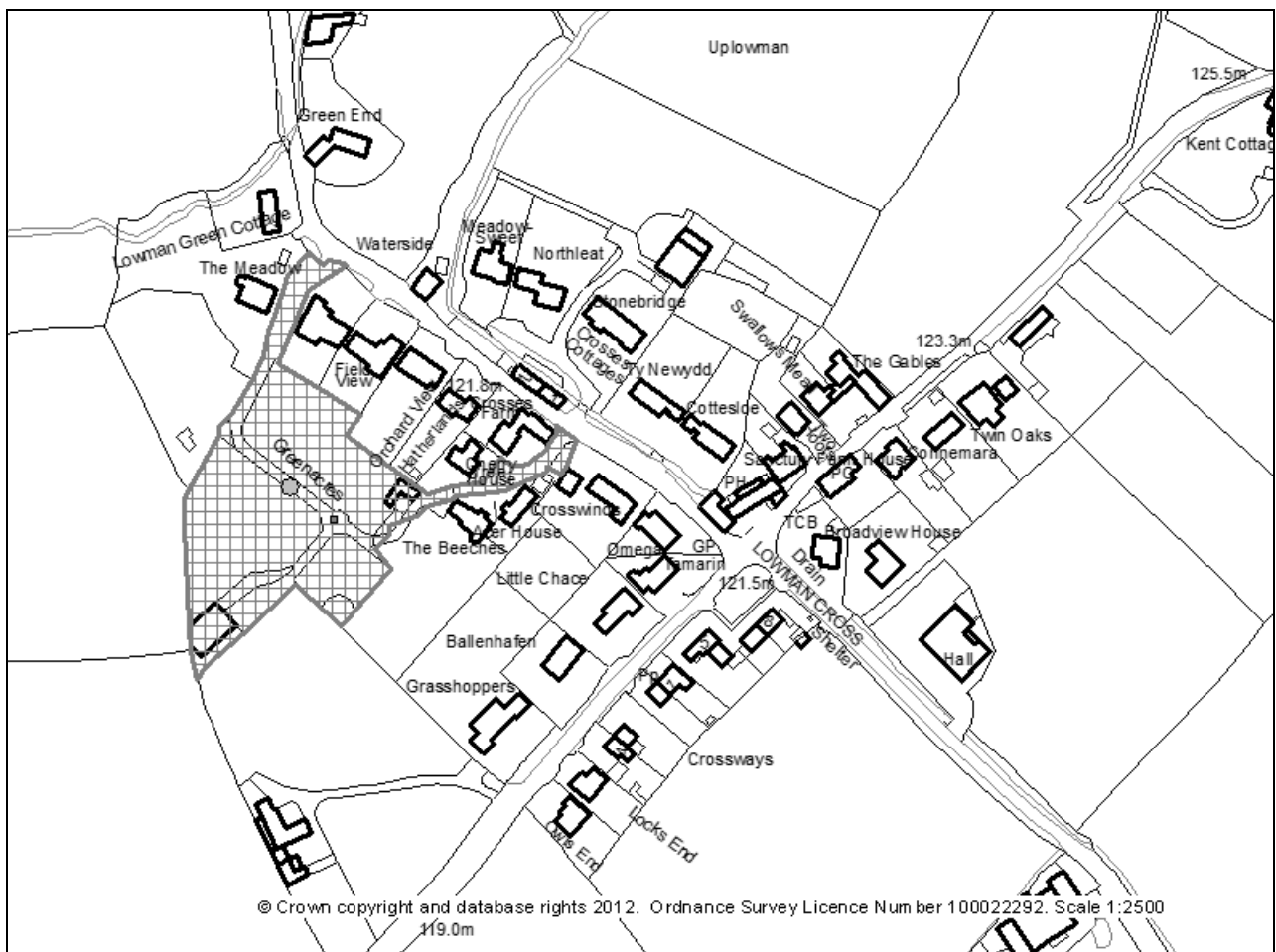
Grid Ref: 301416 : 115145

Applicant: Ms J Banks

Location: Land and Buildings at NGR 301416
115145 Crosses Farm Uplowman
Devon

Proposal: Outline for the erection of 8 dwellings

Date Valid: 13th January 2017



Application No. 17/00033/OUT

RECOMMENDATION

Refuse permission.

PROPOSED DEVELOPMENT

The proposal is an outline application for the erection of 8 dwellings on land to the west of Uplowman. Access is proposed to be in the form of a one-way system, the entrance being via an existing access to the north of the site and the exit via a private cul-de-sac to the south east of the site. Only the principle of the erection of 8 dwellings on the site and the access are to be determined under this outline application with layout, scale and appearance of the dwellings and landscaping of the site reserved for later consideration under a reserved matters application.

The site comprises approximately 0.8 hectares of agricultural pasture land with stables and agricultural building situated to the west of existing residential development. A track currently runs through the site from one access point to the other. Boundary treatments are a mix of post and rail fences, hedges and trees.

The existing stables and agricultural building on the site are to be removed.

There is residential development wrapping around the northern and eastern sides of the site, with garden and agricultural land retained within the same ownership to the south east and agricultural land to the south and west.

Foul drainage will be connected to the mains sewer. Surface water would be held in underground attenuation tanks and discharged into the nearby watercourse at no greater than existing greenfield rates. Paved areas would be permeable.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Foul drainage assessment
Technical note re flood risk
Technical note re traffic
Ecology report
Planning statement

PLANNING HISTORY

80/00363/FULL - REFUSE date 11th July 1980 - Construction of agricultural access
01/01621/FULL - PERMIT date 1st February 2002 - Formation of access track for vehicular access to stables and pedestrian access (A-B) to rear of Bolt Engineering site
10/01063/FULL - WDN date 9th August 2010 - Erection of a multi-purpose agricultural building following demolition of existing
10/01290/FULL - REFUSE date 13th October 2010 - Erection of a multipurpose agricultural building following demolition of existing (Revised Scheme)
11/01822/FULL - PERMIT date 26th March 2012 - Erection of a multipurpose agricultural building after demolition of existing
13/00399/FULL - REFUSE date 8th May 2013 - Retention of a multi-purpose timber frame agricultural building
14/00387/FULL - REFUSE date 14th May 2014 - Retention of a multi-purpose timber frame agricultural building (Revised scheme) (APPEAL DISMISSED 29.04.15)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR9 - Access
COR11 - Flooding
COR12 - Development Focus
COR12 - Development Focus
COR18 - Countryside

Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)

AL/DE/3 - Affordable Housing Site Target
AL/DE/4 - Occupation of Affordable Housing
AL/DE/5 - Inclusive Design and Layout
AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM8 - Parking

National Planning Policy Guidance
SPD meeting housing needs
SPD open space
SPD parking provision
SPD refuse storage

CONSULTATIONS

DEVON COUNTY EDUCATION - 26th January 2017 - NO OBJECTION

The proposed 8 family-type dwellings will generate 2 primary pupils and 1.2 secondary pupils.

There is currently capacity at the nearest primary. A contribution is required towards secondary school facilities of £26,305 and secondary school transport to Uffculme School of £6,669.

HIGHWAY AUTHORITY - 27th February 2017 - NO OBJECTION

The access to the north between The Meadow and Field View does not have sufficient visibility to allow two way traffic. The applicant has indicated a one way system which would remain private and would require the installation of appropriate control measures such as crocodile teeth to ensure one way working can be conditioned and installed.

While the visibility from the existing private cul-de-sac requires the exiting driver to view oncoming traffic over the neighbouring property to the south, this is an existing access. Consent was granted for the existing Crosses Farm development using the visibility provided by this access. The Planning Inspectorate has stated on other sites that it is unlikely visibility would be obstructed by neighbouring properties to the detriment of their own safety.

The Highway Authority considers that the visibility as existing is sufficient for the development.

ENVIRONMENTAL HEALTH - 23rd January 2017 NO OBJECTION

Contaminated Land - No objections to this proposal
Air Quality - No objections to this proposal
Environmental Permitting - N/A
Drainage - No objections to this proposal

Noise & other nuisances - I recommend approval with conditions:

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 comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Informative note

Health and Safety - no objections to this proposal

UPLOWMAN PARISH COUNCIL - 1st February 2017 - OBJECTION

Uplowman Parish Council opposes the application for the following reasons.

Uplowman Parish Council's long-standing policy, which was reconfirmed on 19th January 2017, is that there should be no new development in the village. The village has limited infrastructure, no significant public transport links and no local demand for housing has been identified. Therefore, Uplowman is not included among the rural settlements listed as suitable for limited development in Policy S13 of the MDDC Local Plan Review 2013-33.

Many public representations were heard at the meeting on 19th January. Petitioners drew attention to the current traffic hazards experienced at the sharp corner where the entrance to this development is proposed. UPC considers that those hazards will be increased by the additional traffic turning at this point. Neighbours note that the cul-de-sac through which vehicles leaving the development would exit is currently an unadopted private drive jointly owned by the four properties around the cul-de-sac. The technical note on traffic accompanying the application states erroneously that the village is subject to a 30mph restriction; councillors are concerned that other errors may also have crept into the advice given.

Concerns were also expressed that the South West Water sewerage is already at capacity and that installing an alternative private plant of this size and complex ownership is likely to lead to pollution entering the River Lowman.

Uplowman PC considers that permitting the proposed development at Crosses Farm would set a precedent that could result in similar developments at several other locations around Uplowman, contrary to the PC's 'no new development' policy. Uplowman PC considers that development on this scale is not required and, if granted, would significantly diminish the rural character of Uplowman village. The view of Uplowman PC is that the proposed development would adversely affect the village environment, impact negatively on immediate neighbours and presents access and drainage challenges.

HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 16th January 2017 - NO COMMENTS

DEVELOPMENT SERVICES MANAGER (PROPERTY SERVICES) - 7th April 2017 - NO OBJECTION

I am content in principle from the surface water drainage information provided at this stage that application is acceptable in terms of flood risk.

HISTORIC ENVIRONMENT SERVICE - 30th January 2017 - NEUTRAL

The proposed development lies in an area where prehistoric activity is known. Groundworks associated with the construction of proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric activity in the vicinity. Any consent should carry a condition to secure a programme of archaeological works.

SOUTH WEST WATER - 27th January 2017 - NO OBJECTION

A connection to the public sewer for the disposal of foul drainage would be permitted.

REPRESENTATIONS

38 objections (including from CPRE) summarised as follows:

1. Beyond settlement boundary and not in any existing or emerging site allocations
2. Uplowman is not classed as a village and has no settlement boundary
3. Contrary to development plan; all previous applications have been refused
4. The site is a greenfield site and development would extend into the countryside
5. The development would change the community from a rural hamlet to a dormitory village
6. The development/density is not in keeping with the surrounding area
7. The development is out of scale and out of character compared with other individual or small group dwellings
8. The development is visible at various locations around the village
9. The site retains an agricultural appearance (apart from the overbearing farm building) and development of the fields would change the character of the area
10. Uplowman consists of houses that directly front onto the main country lanes and back onto countryside; the development would create an area of housing to the rear of existing dwellings that would be out of character with the area
11. The development will destroy extensive rural views/outlook from adjacent properties
12. The development will result in noise disturbance and pollution for existing residents through from cars entering day and night, very close to windows of existing dwellings
13. Two storey dwellings would lead to window to window overlooking
14. The dwellings would block sunlight to the gardens of existing dwellings
15. The surrounding houses would be devalued
16. There are no high trees on the boundary to screen the development
17. The development would significantly increase traffic problems in Uplowman; speed and levels of traffic through the village are increasing
18. Roads in Uplowman are already congested
19. There are no pavements or street lighting in the village and lanes into the village are narrow with points where two vehicles cannot pass; A 17% increase in traffic poses a significant risk to pedestrian safety
20. Access points are narrow and dangerous due to poor visibility and the speed of road users; the lower access is on a blind bend; visibility is limited by parked cars
21. Large vehicles fill the whole width of the road, particularly during harvest time; traffic using the entrance would cause a hazard
22. There is no 30mph speed limit in Uplowman
23. Safety is concern particularly for children walking to school; adding further vehicles will increase the problem
24. The southern access is inadequate and opens onto a busy road which is chaotic at school time when children catch the bus to Uffculme School
25. The road is also on a national cycle route and there will be additional dangers to cyclists
26. The traffic and access note incorrectly refers to commercial use on the site and there are not 8 parking spaces on the site
27. 50 vehicle movements per day from the site cannot be considered negligible
28. The plans do not show how safe access through the cul-de-sac could be achieved; parking in the cul-de-sac restricts access to the site
29. A one-way system could not be enforced
30. Pedestrians would be required to walk on the carriageway
31. Movement through the cul-de-sac would create a functional restriction of access to existing dwellings in contravention of legal rights of way - the road is not adopted and existing residents are responsible for maintenance
32. The site plan does not show the extent of the land required to access the public highway - the cul-de-sac is a private road
33. Visibility across the frontage of "Crosswinds" required under planning permission 03/01066/ARM is not within the control of the applicant and required visibilities cannot be met
34. The development sits just above the flood plain; during high rainfall events the river floods and comes close to existing properties; additional hard surfacing will result in more water flowing quickly into the river
35. The road has recently had to be closed due to high floodwaters

36. Development of the field will increase the risk of flooding for existing properties
37. Connection to a main sewer should be required; if treatment plant installed, more information is required to avoid pollution of the river
38. Increased housing will lead to further pollution of Uplowman Stream
39. The sewage system is full
40. Uplowman primary school is near capacity
41. There is no shop, very little public transport (one bus a week), no facilities for children or young adults, no doctor, Post Office has limited hours
42. The lack of bus services makes those who cannot drive feel stranded and isolated
43. Loss of hedges and fields would result in reduced habitat for many endangered species
44. Any development in the village should be low cost/affordable housing to allow young people to remain
45. The houses will all be too expensive for young families and not affordable
46. No pre-application discussions with the community
47. The DAS is very thin
48. There is no need for this housing as there are 300+ acres of development proposed for Tiverton; there is no proof that this development is required
49. The applicant has not complied with previous planning conditions on the land
50. There is no mention of S106, CIL or social housing
51. Approving the development would set a precedent for further development in the area
52. Policy states LPAs should avoid new homes in the countryside unless there are special circumstances to justify approval; rural housing should be limited to local need
53. Where will the parking be for The Beeches if land is used for the development?
54. There is known to be archaeological interest on the site
55. The indicative plans and DAS do not tie up in terms of house types
56. Support letters are from people outside the village
57. The application contains errors and is not well considered

47 supporting representations summarised as follows:

1. No flood risk, no comments from Environmental Health, Housing Options
2. Mid Devon has a lack of 5 year plan and the Government states that villages should have development
3. Electricity, clean water, sewage and surface water drainage all on site so no disturbance to residents (SWW has capacity for the development)
4. School welcomes more children into the village and children can walk to school
5. Highways accept the access and one-way system
6. No increase in traffic over previous engineering business
7. Negative comments on previous planning should be disregarded as none are connected with the site
8. Well thought out development with no impact on the community; houses will be sought after
9. Design shows thought given to space, landscaping and surrounding property
10. There is a lack of housing in the village with few coming up for sale
11. Young families are priced out of the market; more houses would help make villages affordable for younger home owners
12. The houses will be attractive for local people rather than second home owners who have priced local people out of the market
13. If the houses are high value, they will enhance the value of neighbouring houses
14. The village has a pub, church, school, post office and village hall offering clubs and sports
15. The village needs more families to support services
16. The development will allow people to move into the village that are unable to find a house
17. The site will not be visible from the roads into the village
18. Villages need to evolve not stagnate
19. The development will help meet Mid Devon's housing targets
20. Road access is good and the village is easily accessible
21. The development will support the local economy
22. Better to infill villages than build new towns on the countryside
23. Uplowman is suitable for sympathetic and well planned expansion
24. The development will improve the value of surrounding properties

25. Many of the objections are from residents that have benefited from modern development in the village

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determining this application are:

- 1. Principle of development including 5 year housing land supply and sustainability**
- 2. Access**
- 3. Flood risk and drainage**
- 4. Indicative layout, including parking and potential effects on neighbouring residents**
- 5. Landscape, visual amenity, ecology, archaeology**
- 6. Section 106 including affordable housing, education and public open space and other financial considerations**
- 7. Other objections**
- 8. Benefits and comments in support**
- 9. Planning balance**

1. Principle of development including 5 year housing land supply and sustainability

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement.

Policy COR12 focuses development on the towns and states that other defined settlements should have only limited development to meet local needs and promote rural regeneration.

Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. These villages are characterised by having some local facilities and employment and access to public transport. Outside defined settlements, policy COR18 seeks to control development to appropriate rural uses including affordable housing to meet local needs (which can be cross-subsidised by market housing where necessary in accordance with policy DM9 of the Local Plan 3 Development Management Policies).

The development is proposed on agricultural land in the countryside. The site is not allocated and is not being proposed for affordable housing. The proposal is therefore considered to be contrary to policies COR17 and COR18 of the Mid Devon Core Strategy.

However, Members will be aware that Mid Devon has been found not to be able to demonstrate a 5 year housing land supply. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted. Policies COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework (NPPF).

The NPPF contains a presumption in favour of sustainable development. It requires local authorities to "boost significantly the supply of housing" and to consider housing applications in the context of the

presumption in favour of sustainable development. To promote development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This is reflected in policy DM1 of the Local Plan 3 Development Management Policies which takes a positive approach to sustainable development, allowing development to be approved wherever possible.

The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations that are or can be made sustainable.

At paragraph 55, the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

At paragraph 54, the NPPF states that in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.

Uplowman is not one of the defined villages listed in COR17 as it is not considered to have the facilities, employment and public transport required for day to day living. Uplowman has a primary school, pub and village hall. In addition it has a Post Office counter open Monday, Tuesday and Thursday mornings only and a bus once a week. Whilst development at Uplowman could potentially help support facilities in neighbouring villages, it is more likely that if residents have to drive to facilities anyway, they would drive to Tiverton which has a much wider range of services and facilities (5 km) rather than Sampford Peverell (1.8 km).

The status of Uplowman was reviewed for the emerging Local Plan Review (now submitted for examination) and it was concluded that Uplowman did not have the facilities to include it in the defined villages list and make it suitable for limited housing growth. Whilst Uplowman does have a primary school that would welcome new children, it does not have a shop or public transport service. These are the 3 essential services that the emerging Local Plan Review considers appropriate for a limited level of development.

The application does not propose 100% or cross-subsidised affordable housing to meet local needs and does not evidence a need locally for additional housing, for example in the form of a housing needs survey. Whilst new housing may provide some additional support to the remaining services within Uplowman, it is not considered to be of a level that would support the re-opening of a shop or the running of a more regular bus service. Uplowman Parish Council has stated that their long-standing policy is that there should be no new development in the village. The village has limited infrastructure, no significant public transport links and no local demand for housing has been identified.

An appeal for a single dwelling on nearby land was dismissed on 11th February 2016 (15/00979/OUT). The appeal Inspector stated that policies COR1 to COR12 of the Mid Devon Core Strategy embodied the principles of sustainable development set out in paragraphs 17, 30 and 37 of the NPPF that seek to manage patterns of growth so as to minimise journey lengths and make the fullest possible use of public transport, walking and cycling. The Inspector noted that the range of services within Uplowman is very limited, there being no shop and an infrequent bus service. He stated that accessibility to a wide range of services was poor and there would be a high dependency on the usage of the private car. The Inspector concluded that the proposal would not amount to sustainable development due to the extent it conflicts with other NPPF objectives. Although at the time, Mid Devon had not then been challenged on its 5 year housing land supply, the Inspector's comments with regard to the sustainability of Uplowman and the development's conflict with the objectives of the NPPF are still relevant.

Your officers do not consider that the proposed development would represent sustainable development contrary to policies in the Mid Devon Core Strategy and in the NPPF.

2. Access

Access to the site is to be determined under this outline application. There are two existing accesses to the site, one to the north between two residential properties and one to the east which joins an existing private road serving 3 dwellings. Concern has been raised with regard to the narrowness of the road, on street parking narrowing the road further, the speed and size of the vehicles using the road, congestion within the village and lack of visibility for vehicles exiting the site.

The Highway Authority considers that the access to the north between The Meadow and Field View does not have sufficient visibility to allow two-way traffic. The applicant has indicated a one-way system would be put in place which would remain a private road and would not be adopted. As the development is to remain private, the Highway Authority would require conditions to ensure the installation of appropriate control measures such as crocodile teeth to ensure the one-way system would operate as intended and management measures to ensure the road is maintained. These details would need to be conditioned if the application is approved.

While the visibility from the existing private cul-de-sac requires the exiting driver to view oncoming traffic over the drive to the neighbouring property to the south, this is an existing access and was included within the visibility splay for the cul-de-sac development even though it was outside the control of the applicant at the time. According to the Highway Authority, in appeal decisions with similar circumstances, the Planning Inspectorate has stated that it is unlikely that neighbouring properties would block visibility to the detriment of their own safety. In addition, should the neighbouring property seek to move the access now, such a change in location would require retention of adequate visibility splays to allay any safety concerns. For these reasons, the Highway Authority considers that the visibility as existing is sufficient for the proposed development.

The Highway Authority has raised no other concerns with the surrounding road network, congestion within the village or pedestrian, cycling or horse rider safety as a result of the development.

The proposal is considered to be in accordance with policy DM2 of the LP3 DMP in respect of a safe access being provided. However, the proposal would be contrary to policy COR9 of the Mid Devon Core Strategy which seeks to co-ordinate development and transport planning to improve accessibility and reduce the need to travel by car.

3. Flood risk and drainage

Concern has been raised with regard to the potential for the development to increase flood risk in the area. The site itself is outside Flood Zones 2 and 3 accordingly does not lie in an area considered to be at a higher risk of flooding. However, there is potential for the development to increase flood risk elsewhere if surface water drainage is not managed in an appropriate and adequate way.

Policy COR11 of the Mid Devon Core Strategy (LP1) seeks to guide development to the most sustainable locations with the lowest flood risk and to ensure development does not increase the risk of flooding elsewhere.

Policy DM2 of the Local Plan 3 Development Management Policies requires appropriate drainage including SUDS, and connection of foul drainage to a mains sewer where available.

The site lies within Flood Zone 1 (lowest flood risk) and is therefore considered suitable for residential development in flood risk terms. Concern has been raised that the surrounding roads flood in times of high rainfall and the development would exacerbate the problem. At times, the road has had to be closed due to high flood waters.

The Environment Agency does not require consultation for development within Flood Zone 1. For major development (10 dwellings or more), surface water drainage proposals would be assessed by Devon County Lead Local Flood Authority. For a proposal of the scale of this application, Mid Devon would need to assess the proposal. Mid Devon's Property Services has considered the surface water drainage proposals and, having discussed these with the Lead Local Flood Authority have confirmed that from the information

provided at this stage they are content in principle that application is acceptable in terms of flood risk. It would be necessary to condition that a detailed scheme for surface water drainage is provided to include percolation testing and greenfield run-off rates, details of existing and proposed ground levels, full details of the proposed system including the attenuation tanks and future maintenance of the scheme.

Consideration of surface water drainage proposals within a planning application is limited to whether the proposals are adequate for the site and whether they would be likely to increase surface water run-off from the site. There is no requirement for proposals to deal with existing flooding conditions off site, as long as the proposals do not increase flooding. Subject to detailed design, it is not considered that the development would increase flooding elsewhere.

A connection to the public sewer is available and it has been confirmed that a mains sewer connection will be provided. South West Water has confirmed that the public sewer network is capable of supporting the development and has capacity to accept the foul flows.

4. Indicative layout, including parking and potential effects on neighbouring residents

The submitted indicative plan shows 8 x 3, 4 and 5 bedroom houses arranged around a central one-way road and informal courtyard. There is sufficient space to provide 2 parking spaces per dwelling and adequate amenity space, including space for cycle and bin storage. As it is not intended to adopt the road, refuse collection points will be indicated at each access. Bins are currently collected from the grass verge at the beginning of the cul-de-sac and this will continue. A second bin collection point will be indicated at the northern access to the site. Whilst these arrangements are not ideal, as the road is to be a private road, there is no alternative to residents taking their bins to the collection point.

Policy DM8 of the LP3 DMP requires 1.7 parking spaces per dwelling to be provided on site and 4 cycle parking spaces per dwelling (3+ beds). The indicative plan demonstrates that this level of provision is achievable on site, subject to layout being confirmed at reserved matters stage.

Whilst the plan is indicative only, it demonstrates that 8 dwellings can be accommodated on the site without there being an unacceptable loss of privacy for amenity for neighbouring residents, subject to orientation and sufficient separation distances being provided between new and existing dwellings. The outlook from existing dwellings along the site boundary would change but this change in itself would not warrant refusal of the application. There is no requirement to preserve a private view in considering a planning application.

Concern was raised that the development would lead to noise disturbance and pollution for existing residents, particularly in the cul-de-sac private road that would act as the exit from the site. Your officers do not consider that the proposed increase in vehicle movements in the cul-de-sac private road would lead to an unacceptable impact on the living conditions of the existing residents.

5. Landscape, visual amenity, ecology, archaeology

Landscaping is a reserved matter. The application does not specify any landscaping, however, the site is fairly well enclosed within the landscape and your officers consider that landscaping could be addressed at the reserved matters stage, should the application be approved. The development is considered to be in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP in this respect.

Concern was raised with regard to the character of the proposed development being out of keeping with the surrounding development and extending into the countryside. Whilst most of the existing housing fronts the road, there is some (limited) backland development. The site is not highly visible and where it is visible it would be seen in context with existing residential development.

The submitted ecological assessment confirms that no evidence of protected species was found on site and no further surveys are required. The development is not likely to harm protected species, particularly as the existing hedges and trees surrounding the site are to be retained.

Devon Historic Environment Service has recommended a condition be imposed on any planning permission

to ensure that archaeological investigation is carried out before the development is constructed. The development would be in accordance with policy DM27 of the LP3 DMP in this respect.

6. Section 106 including affordable housing, education and public open space and other financial considerations

Policy AL/DE/3 of the AIDPD which requires open market housing sites in rural areas of more than 2 dwellings to provide affordable housing at 35% of the number of dwellings by which the site exceeds the 2 dwelling threshold (8 - 2 x 35%), rounded down to the nearest whole. For this application, there would be a need to provide 2 affordable dwellings on the site.

However, the written ministerial statement of 28th November 2014 states that affordable housing should not be sought from development of 10 units or less or sites which have a maximum combined gross floorspace of no more than 1,000 square metres. For designated rural areas, a financial contribution towards affordable housing provision elsewhere should be sought for developments of between 6 and 10 dwellings, the contribution to be calculated in accordance with the Meeting Housing Needs SPD, policy MHN/9. The indicative plans show the floorspace of the proposed 8 dwellings to be in excess of 1,000 square metres. However, these are indicative plans and the floorspace could be either above or below the 1,000 square metre threshold once reserved matters are submitted. For this reason, it is recommended that, should an application be approved, the Section 106 Agreement provides for 2 affordable dwellings to be provided on site on the basis of the indicative floorspace. The Section 106 Agreement could include a provision that should the floorspace proposed at reserved matters stage fall below the 1,000 square metres threshold, a financial contribution is paid based on the provisions for calculation of such financial contribution set out in policy MHN/9 of the SPD.

Policy AL/DE/4 requires affordable housing to be limited to households in need of affordable housing and this would also be secured within the Section 106 Agreement. Policy AL/DE/5 seeks an inclusive design and layout for the affordable housing and this policy would be addressed at reserved matters stage.

No public open space is intended to be provided on site. Policy AL/IN/3 of the AIDPD and Mid Devon's SPD on open space seeks financial contributions towards play areas and open space facilities where no on site provision is made. Accordingly, the applicant has agreed to enter into a Section 106 Agreement to secure a financial contribution of £9,640 towards the improvement of sporting facilities at Crossways Playing Field, Uplowman.

Policy AL/IN/5 of the AIDPD provides that where new housing development will lead to education facilities being over-subscribed, the development will cover the cost of the additional facilities necessary. Devon County Council have requested an education contribution towards additional education infrastructure at the local secondary school of £26,305, plus a contribution of £6,669 towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme School.

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus). Assuming 8 market houses and completion in 2017/18 the award would be paid over a period 5 years, amounting to £41,120. If completion takes place in 2018/19, the period would be reduced to 4 years, amounting to £32,896. If 2 affordable dwellings are to be provided on site, the sums would be £55,120 and £44,096 respectively.

7. Other objections

Devaluation of existing property prices is not a material planning consideration.

Private rights of way are not a material planning consideration.

The applicant's compliance with previous planning conditions is not relevant to this application.

Objectors mention that there is no need for the development as there is a large development proposed at Tiverton Eastern Urban Extension. There is a need to address a lack of housing supply in the District and it will be a number of years before housing on the Tiverton Eastern Urban Extension starts to address the shortfall in housing need. The Government requires Local Planning Authorities to substantially boost the

supply of housing in their areas.

Concern was raised with regard to a lack of pre-application discussion with the community. Mid Devon's Statement of Community Involvement seeks to ensure promoters of major development proposals undertake public engagement. However this engagement process does not apply to non-major proposals (less than 10 dwellings). Whilst the Local Planning Authority would encourage applicants to discuss the proposals locally, there is no legal requirement to do so.

8. Benefits and comments in support

The proposal would provide 8 new dwellings on the site which is considered to carry significant weight in terms of meeting the Government's aim of increasing housing supply. Depending on the floorspace provided (see Section 6 above), the proposal would either provide 2 affordable dwellings on site, or a financial contribution towards the provision of affordable housing elsewhere. In addition, there would be financial contributions towards education and public open space to off-set the additional requirements for these facilities.

Supporters point out that the development would allow families to move into the village that are currently unable to do so due to a lack of housing in the village, and would support the existing facilities in the village (pub, school, church, Post Office), and ensure the village does not stagnate. They state that Uplowman is suitable for sympathetic expansion and the development would help meet Mid Devon's housing targets.

Other comments state that the site is well screened with services such as electricity, water and sewage already available or to be provided on site, the highway solution has been accepted, and the design is well thought out.

9. Planning balance

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. The proposal would make a small contribution towards increasing housing supply in Mid Devon and significant weight must be given to this. In addition, the site is well screened, and highway safety, flood risk, archaeology and drainage concerns have all been addressed satisfactorily (subject to conditions). This also weighs in favour of the approval of the application, as do the financial contributions towards education facilities and play area provision, as well as the provision of 2 affordable dwellings on site (> 1,000 square metre floorspace) or a financial contribution towards off-site affordable housing (<1,000 square metres floorspace). The site is able to accommodate 8 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree.

However, Uplowman is not considered to be a sustainable settlement in that it lacks the day to day facilities that make it suitable for even limited housing growth, having only one of the three essential services that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In your officers' opinion, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework. Refusal is therefore recommended.

REASON FOR REFUSAL

1. The Local Planning Authority does not consider Uplowman to be a sustainable location for growth in that it lacks the day to day facilities that make it suitable for additional housing. Uplowman has only one of the three essential services that the Local Planning Authority considers necessary for even a limited level of new housing development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In the opinion of the Local Planning Authority, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits of the development in providing new housing in the District.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework.

Application No. 17/00300/MOUT

Plans List No. 2

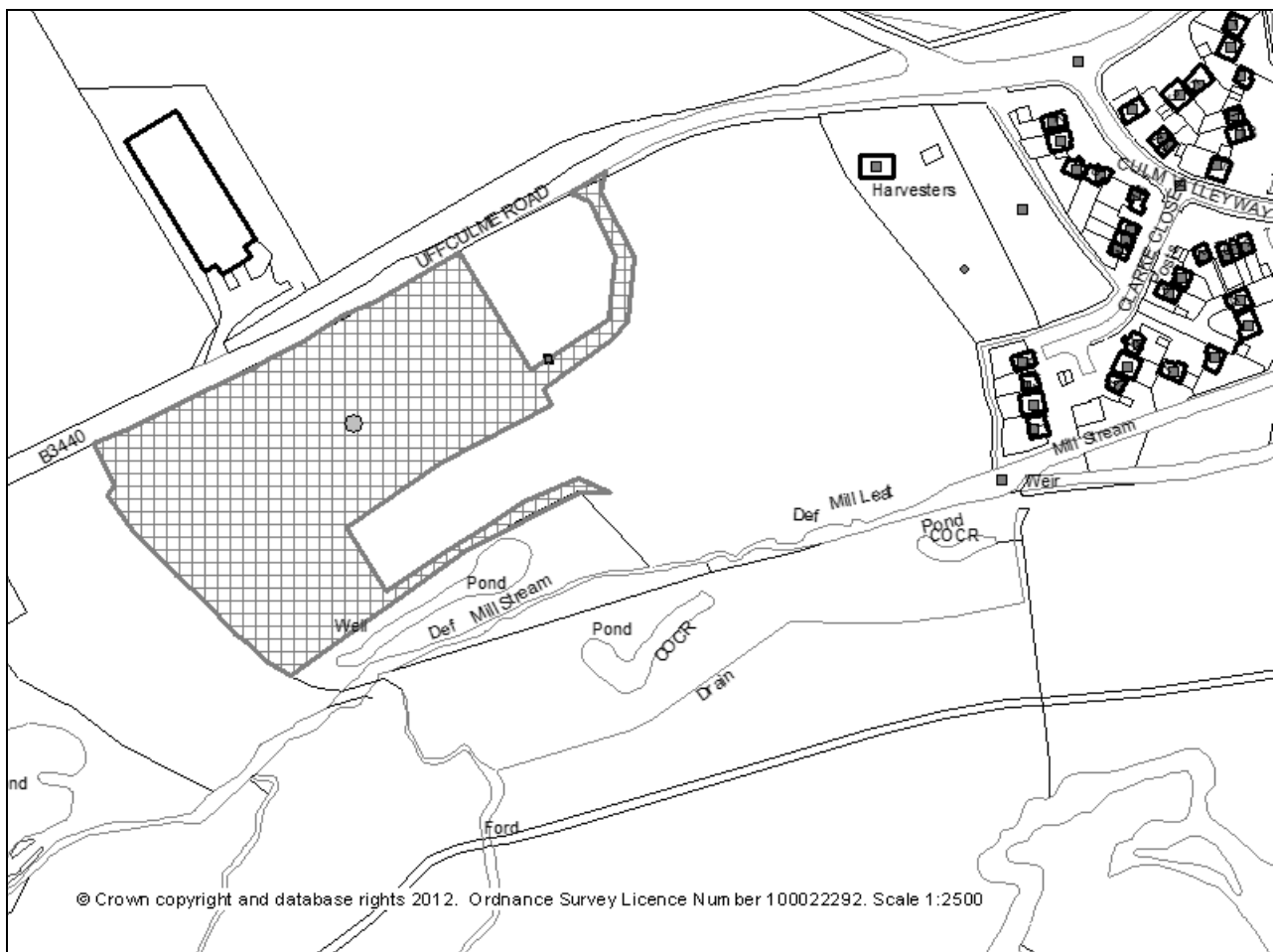
Grid Ref: 305658 : 112080

Applicant: R & L Persey Vegetables, C/O
Jillings Heynes Planning

Location: Land at NGR 305578 112053
Uffculme Road Uffculme Devon

Proposal: Outline for the erection of 30
dwellings and new vehicular and
pedestrian accesses

Date Valid: 23rd February 2017



Application No. 17/00300/MOUT

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement to secure.

1. 35% affordable housing on-site
2. £102,390 toward improved primary education facilities ((£3,413 per dwelling)
3. £98,644 toward improved secondary education facilities (3,288.15 per dwelling)
4. £24,100 toward off-site public open space provision

PROPOSED DEVELOPMENT

This application seeks outline planning permission for the erection of 30 dwellings with new vehicular and pedestrian accesses on land to the east of Langlands Business Park and to the west of the village of Uffculme. Access is to be determined as part of this application with all other matters reserved for future consideration.

The application site is proposed to utilise the access granted planning permission at appeal in 2016 as part of a submission for the erection of 60 houses on land immediately to the east of the application site. This access is off the B3440 Uffculme Road which links the villages of Willand and Uffculme. The red line of the application site overlaps with the site for the 60 houses to allow for this access. (application 15/00108/MOUT).

The application site is outside of any defined settlement limits of a village or town and so is in the open countryside in planning terms. Furthermore, other than for the access, the site of this application does not form part of any current or proposed allocation for development in the Local Plan. The adjacent site for 60 dwellings is proposed to be residentially allocated for this number of dwellings within the submitted Local Plan Review. This proposed allocation has been included in the plan only as a result of the appeal decision granting planning permission.

The site falls in a southerly direction from a high point in the north east corner at approximately 78.5m AOD, to a low point located on the southern boundary at approximately 73.0m AOD. It is bound to the north and west by a tree and hedge belt, to the east by the remainder of the field which now has outline planning permission for 60 dwellings and to the south by vegetation and a stream.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement
Flood Risk Assessment
Transport Statement
Ecological Appraisal
Arboricultural Survey
Carbon Reduction Statement
Waste Audit Statement
Geo-environmental Desk Study Report

PLANNING HISTORY

15/00108/MOUT Outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved - REFUSED (APPEAL ALLOWED WITH CONDITIONS 11.04.2016)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR5 - Climate Change
COR8 - Infrastructure Provision
COR9 - Access
COR10 - Strategic Transport Networks
COR11 - Flooding
COR12 - Development Focus
COR17 - Villages
COR18 - Countryside

Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)

AL/DE/3 - Affordable Housing Site Target
AL/IN/3 - Public Open Space
AL/IN/5 - Education Provision

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM3 - Sustainable design
DM4 - Waste management in major development
DM6 - Transport and air quality
DM27 - Development affecting heritage assets
DM28 - Green infrastructure in major development

Devon Waste Plan

W4 Waste Prevention

National Planning Policy Framework

CONSULTATIONS

WILLAND PARISH COUNCIL - 13th March 2017

Willand Parish Council discussed this at the meeting on 9 March and were concerned that they had not been directly consulted on this application as any approval will have more of an effect on Willand and Uffculme as opposed to Halberton.

It is recognised that approval has been given, on appeal, for 60 houses on an adjoining piece of land and that access to this application site will be through the approved site and so could be seen as a natural extension to it.

The Parish Council objects to the application for the following reasons:

- 1) The site is in open countryside and not in a settlement area where development could be justified.
- 2) The land is not allocated in any current local plan or emerging local plan for development of any description.
- 3) This is a major development for a rural area and will have an impact on the villages of Uffculme and Willand in respect to education, health and many other services. Although in Halberton Parish. it will not adversely impact on that parish.
- 4) The development will create additional vehicle movements, the majority of which will have to travel through Willand via the Four Cross Way roundabout, and most of the traffic will then move up the B3181 to Waterloo Cross. On the way, there are two junctions with accident records. Traffic on the B3181 is increasing with current and approved business developments and much of this increase consists of heavy goods vehicles.

5) The Waterloo Cross roundabout is becoming a 'pinch point' and concern as to this junction was raised by a Government Inspector in relation to the recent Devon Minerals plan which will increase traffic at this point. With possible additional development at Junction 27 of the motorway the current position will be further aggravated. If traffic were to travel towards Cullompton there are recorded concerns in relation to the area of Junction 28 of the M5.

Refusal of this additional housing is recommended

UFFCULME PARISH COUNCIL - 13th March 2017

The Parish Council objects to this application. The land lies outside the settlement boundary of the village. Permission would see a further ribbon development that would also further reduce the rural nature of the distinction between the villages of Uffculme and Willand. The land is also not included in the existing or emerging local plans as sites for development.

HIGHWAY AUTHORITY - No objection -

The site is located off an access previously agreed by the Highway Authority and the Highway Authority accept the application transport assessment. The Highway Authority considers that this site is unlikely to have an impact on Junction 28 and the existing severe queue lengths even though a proportion will wish to travel in that direction. The Applicants should consider the provision of footway links to the industrial estate at Langlands and the bus services and stops at that location. Therefore details of the pedestrian footway, access to the footway and its layout should be sought. A number of conditions are recommended.

ENVIRONMENT AGENCY - No objection -

Although the southern boundary of the site near the River Culm is within Flood Zone 3, where there is a high probability of flooding, the proposed residential units would all sit within Flood Zone 1 where the probability of flooding is low. LPA will need to apply the sequential test.

ENVIRONMENTAL HEALTH - ENVIRONMENTAL HEALTH - 1st March 2017

No objection

HALBERTON PARISH COUNCIL - 24th March 2017

Halberton Parish Council recommends Refusal of this application.

The proposed development site is located within a rural part of Halberton Parish, adjacent to our boundary with Uffculme Parish.

It was clear to the PC that this application is an extension of the application for 60 houses granted on appeal in April 2016, and the PC's objections are the same as those expressed in 2016.

Specifically:

1) This area of development is outside the settlement area and is not included within any planning document for the area.

Halberton PC has is of the opinion as is its neighbouring parishes that the road between Willand and Uffculme should remain a "Green Belt" of primarily agricultural land and no further "ribbon development" should be permitted.

2) Adding a further 30 properties (along with the 60 granted in 2016), in addition to the increased housing which is included within the revised local plan, will have a severe impact on the ability of local community services to meet the needs of the whole rural population.

3) At this time, Devon Highways has not commented on the proposal. Halberton PC's opinion is that the increased traffic flows at peak times onto the Willand-to-Uffculme road will significantly increase the risk of accidents involving not only HGV and passenger vehicles but also pedestrians, whether there be a pedestrian pavement or not. The 41 pages of commentary and 126 pages of appendices by the applicant related to transportation do nothing to change our opinion of that increased risk.

4) Halberton PC has also noted that the previous application which was granted on appeal, was granted on the grounds that development would start immediately, whereas other housing opportunities WITHIN the local plan might take longer to start.

However, twelve months after the 2016 decision was made, there is no evidence of any start to the construction of the 60 houses under that application, and we anticipate the same extended delay would happen, should this current application be approved.

It is recommended that MDDC should Refuse permission for this application.

LEAD LOCAL FLOOD AUTHORITY - No objection -

The applicant has submitted a suitable surface water drainage plan in the flood risk assessment (Awcock Ward Partnership Project Number: 0172) Additional information in relation to the surface water drainage aspects of the above planning application has been provided by Awcock Ward Partnership. Require pre-commencement conditions be imposed on any approved permission to secure an appropriate surface water drainage management system.

NATURAL ENGLAND - No objection -

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Natural England has published Standing Advice on protected species.

DEVON, CORNWALL & DORSET POLICE - Neutral -

I am unable to comment in any detail on the available 'illustrative feasibility layout', as it does not reveal any features that would specifically be of concern to the police.

DEVON COUNTY EDUCATION - No objection

We request an education contribution to mitigate the impact of development. The proposed 30 family-type dwellings will generate an additional 7.5 primary pupils and 4.5 secondary pupils. Both the local primary and secondary schools are forecast to be at capacity and therefore Devon County Council will seek a contribution towards provision of both primary and secondary school infrastructure. Our primary contribution request is £102,390 and the Secondary education contribution is £98,644.

MID DEVON DISTRICT COUNCIL - TREE OFFICER - No objection -

At this early stage I would suggest that the trees on this site will enhance a development in this area, providing the layout is considered correctly.

SOUTH WEST WATER - No objection -

A connection to the foul or public sewer should be made

REPRESENTATIONS

Two letters of objection received, summarised as follows:

1. Cumulative impact with neighbouring site for 60 houses will cause a serious loss of public visual amenity in respect of the view from the road across the fields to the Culm Valley;
2. Villages of Willand and Uffculme will lose their individuality as there will be almost continuous development on the south side of the road between the villages;
3. Site is on a flood plain;
4. The road is dangerous;
5. The additional traffic would spoil the village of Uffculme.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main considerations in the determination of this application are:

- 1. Adopted and emerging planning policy and five year land supply**
- 2. Highways considerations**
- 3. Considerations of location and scale and the character of the area**
- 4. Trees and ecology**
- 5. Drainage and flooding**
- 6. Infrastructure considerations**
- 7. Other matters**
- 8. Planning balance**

1. Adopted and emerging planning policy and five year land supply

Policy COR12 of the Core Strategy sets out the development focus for the District, concentrating development around the towns of Tiverton, Cullompton and Crediton with more limited development elsewhere. Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing.

The development is on agricultural land and at present the entirety of the site lies outside the defined settlement limit for the village of Uffculme, to which the site is closest (although it lies in Halberton Parish). The proposal is therefore considered to be contrary to policies COR17 and COR18 of Mid Devon's adopted development plan. With regard to the Council's emerging policy, the strategy for development focus will be at Tiverton, Crediton and Cullompton as identified in policy S1.

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy COR3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District.

The Local Plan Review proposes to allocate land immediately to the east of the application site (including part of the red line of this site which relates to the point of access) for 60 dwellings as that site has already been granted planning permission on appeal (policy ref. UF1). That appeal decision in April 2016 found that the authority is unable to demonstrate that it has an adequate 5 year supply of housing land and it is on that basis that this site is now brought forward. The National Planning Policy Framework (the Framework) advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

Although the Council has now submitted the Local Plan Review to the Planning Inspectorate for examination, at the time of writing the Plan is untested and cannot yet be construed as a demonstration of a five year supply of housing sites.

Paragraph 14 of the Framework, reiterated by policy DM1 of Local Plan Part 3, states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole OR specific policies in the Framework indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

Policies COR12, COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the Framework.

2. Highways considerations

The site is proposed to be accessed via a single point of vehicular access from the B3440 Uffculme Road; this point of access was approved as part of the planning permission for the 60 dwellings on the neighbouring site. The Highway Authority has indicated that it has no objection to the use of this access to serve the additional 30 dwellings but would like to see a pedestrian footway provided from the application site to Langlands Business Park to the west and the nearby bus stops which have been installed outside the Business Park. The applicant has amended the red line of the application site to include the land necessary to provide the footway and therefore its provision can be ensured through condition.

Concerns have been raised that the road from which this site is accessed is dangerous and reference is made to a fatal accident in the vicinity. This issue was also raised as part of the appeal at the neighbouring site but the Inspector found that there was no compelling evidence to demonstrate that the scheme for 60 houses would result in highway safety issues or congestion from increased traffic volumes. The additional traffic arising from a further 30 houses would not be significant and a similar conclusion is reached as part of this application.

Junction 28 of the M5 at Cullompton has been the subject of queue monitoring, which identifies significant queues of traffic in the am peak looking to reach the junction or pass over its bridge. These queues arise from the introduction of traffic signals at the junction which have reduced queue lengths of vehicles exiting the motorway, thus eliminating a previous highway safety concern but have exacerbated issues on the County network when combined with the poor operation of the roundabout serving the northbound on and off slips and the services. The queue monitoring has shown the junction to be over capacity at peak times in respect of the County network. The Highway Authority has indicated the additional traffic arising from the development is unlikely to have an impact upon this existing issue as although journey times to Junction 28 via either Junction 27 or the B3181 through Willand (without a queue) are the same at 8 minutes, once the additional time is factored in for the morning queues which would be experienced, the use of Junction 27 would be a more attractive option. On this basis they state that a reason for refusal based on increased impact through Junction 28 would be unsound.

In respect of highways considerations the application is in accordance with policies COR1, COR9 and COR10 of the Core Strategy and DM2 and DM6 of Local Plan Part 3 (DMP), which seek to deliver developments which have safe highway accesses and do not adversely affect the operation of the local or strategic network.

3. Considerations of location and scale and the character of the area

The appeal decision for the neighbouring site concluded that the wide range of facilities available in Uffculme (2 shops, 2 public houses, café, takeaway, GP surgery, community hall and fields, pre-school, primary school & secondary school) render the village better served than the other villages identified as settlements in the Core Strategy and that it was within an acceptable and safe walking distance of those services and facilities. Equally, the proximity to employment land is such that the location is readily accessible to some employment opportunities by sustainable means. Despite being located slightly further to the west than the appeal site, Officers are of the opinion that it would not be reasonable to reach a different conclusion in relation to the location of this site than that reached by the Inspector.

Although the site is situated to the west of Uffculme and would represent further linear or ribbon development to the south of the B3440, the Inspector in the appeal for the neighbouring site found that it would not materially close the gap between Willand and Uffculme and each would retain their individual identity. There is no reason to now reach a different conclusion in relation to this site and there would remain a sufficient gap between the two settlements, including areas of open field on both sides of the road so that they would retain their individual identities. In this respect, the objections raised by Parish Councils and objectors are not agreed.

The development of an additional 30 houses would represent a modest 3% increase in the number of households in the village and there is no evidence to suggest that such an increase would be adverse to the operation of the settlement and its community.

The site is within the Lowland Plains landscape character area as set out in the Mid Devon Landscape Character Assessment. This area is characterised by having an open, low lying flat agricultural landscape. The fields to the north of the B3340 are partially screened from views by the existing field boundaries. The application site is more enclosed than the neighbouring site for 60 houses by virtue of more established field boundaries and it is noted that the Inspector raised no issues with the impact of development of that site on the character of the area or with respect to visual amenity. Officers are of the opinion that a similar conclusion is reached in respect of this application site and the aim to sustain the quality, character and diversity of the environment are met as required by policy COR2 and DM2.

The registered historic park and garden at Bridwell Park lies approximately 215m to the north east, on the opposite side of Uffculme Road. Due to the intervening distance and existing vegetation it is not considered that the development will have a material impact upon the setting of the registered park and development would accord with policy DM27 in this regard.

4. Trees and ecology

A tree survey is submitted with the application that identifies all existing trees and hedges around the perimeter of the site will be retained. The authority's Tree Officer has visited the site and is of the opinion that these trees and hedges will enhance the development if the layout is carefully considered. There are some concerns regarding proximity of properties to the roadside trees as shown on the submitted feasibility layout but as layout is a reserved matter for later consideration, this could be adequately addressed through any reserved matters submission. The construction of the new footway to Langlands Business Park will necessitate the use of a no-dig method for some parts of the path where they would pass within the Root Protection Area of certain trees. Subject to the imposition of a condition to secure adequate details of a Tree Protection Plan and Method Statement for the construction phase, no objections arise to the development in relation to the impact upon existing trees and hedgerows.

Policy DM28 of Local Plan Part 3 relates to the provision of green infrastructure in major development and seeks to achieve a net gain in biodiversity. The submitted ecology survey makes a number of mitigation and enhancement recommendations, including the use of bat tubes and bird bricks on a number of new dwellings and the retention of the semi-improved grassland which is located close to the southern extremes of the site, outside the area identified for dwellings to be constructed on. Natural England have raised no objections to the application and a condition is recommended for imposition to require the submission of an ecological management plan with a reserved matters application.

5. Drainage and flooding

The majority of the site lies within Flood Zone 1 and is at the lowest risk of fluvial flooding; all new dwellings will be located in this area. A very small portion of the site lies within flood zone 3 and is at risk of flooding from the watercourse which runs to the south. This land would only be used for drainage purposes and would not accommodate dwellings or access or egress routes across it. The sequential test referred to by the Environment Agency in their consultation response seeks to direct development to areas at the lowest risk of flood by appraising what other land is available within the area at lower risk of flood. As none of the land within the application site which would accommodate built development is at risk of flooding and that the only other site proposed for allocation in the Local Plan Review is the neighbouring site for which planning permission exists, it is considered that the sequential test is passed and there is no other land at lower risk of flooding reasonably available for development in the area.

The submitted flood risk assessment includes a surface water drainage plan which Devon County Council as Lead Local Flood Authority have confirmed they have no in-principle objections to. Any approval of planning permission should include a condition requiring the submission of the detailed design of any management system and also an appropriate construction phase drainage management.

The site is proposed to be connected to the mains foul network.

Having regard to these matters the application meets with policies COR11 of the Core Strategy.

6. Infrastructure considerations

Policy COR8 of the Core Strategy sets out that the council will ensure that new development is served by necessary infrastructure and that developers will be expected to contribute to, or bear the full cost of, new or improved infrastructure and facilities where appropriate.

The site is above the affordable housing threshold and policy AL/DE/3 of the Allocations and Infrastructure DPD requires 35% affordable housing to be provided; this would equate to 10 dwellings on a site of this size. Subject to this requirement being included in a Section 106 agreement to ensure its provision and the later agreement of tenure and size split, this would accord with the policy requirements.

Devon County Council have indicated that both the local primary and secondary schools are forecast to be at capacity and on this basis they request a financial contribution toward increased facilities to accommodate for the increase in pupils as a result of this development. This contribution equates to £3,413 per dwelling for the primary education contribution and £3,288.15 per dwelling for the secondary education contribution. Such contributions would mitigate the impact upon education provision in the locality and meet with policy AL/IN/5 in this respect.

The development would give rise to an additional need for public open space provision and policy AL/IN/3 requires 60 square metres of equipped and landscaped public open space per dwelling. It is not considered that on-site provision is necessitated in this instance but a financial contribution toward improved provision off-site in the locality should be required through a Section 106 agreement. At the time of writing, a specific project/s for these monies to be spent on is being identified and an update will be provided.

7. Other matters

A Waste Audit Statement has been submitted to detail how waste produced during the construction phase will be disposed of. Although somewhat scant in nature, it is sufficient for the purposes of this application and accords with the requirements of policies DM4 of the Local Plan Part 3 and W4 of the Devon Waste Plan in this respect.

A Carbon Reduction Statement has been submitted which states the use of a fabric first approach to building construction in order to reduce energy consumption and CO2 emissions. Policies contained in the Local Plan requiring specific levels to be achieved are no longer valid by virtue of Ministerial Statements but the elements of policies COR5 and DM3 in relation to the demonstration of how sustainable design and construction methods will be incorporated is met.

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus), New Homes Bonus is under review by the Government. If completion of the development takes place in 2018/19, payment would be made for 4 years, amounting to £137,360.

8. Planning balance

The Framework contains a presumption in favour of sustainable development and requires local authorities to boost significantly the supply of housing. The development would provide up to 20 open market and 10 affordable dwellings which would provide economic and social benefits for Uffculme.

The Framework requires that where Local Plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole or specific policies in the Framework indicate development should be restricted.

The impacts on local schools and public open space provision can be off-set by financial contributions towards improvements. The visual effects of the development would depend very much on the designs submitted under a later reserved matters application and the final landscaping proposals however the site is not in a designated landscape and with the retention of existing tree and hedge screening, it is considered

that development would not cause demonstrable harm to the character and appearance of the area and would be read alongside the adjacent site for 60 dwellings which has the benefit of planning permission and the development of Culm Valley Way further to the east.

Weighing in favour of the development is the provision of 30 additional houses, including 35% affordable housing in a location adjacent to an existing settlement which is recognised as being sustainable for modest expansion.

In weighing up all material considerations, including those raised in consultation responses from Parish Councils and objectors, Officers are of the opinion that there are no adverse impacts arising from the development which would indicate that planning permission should be refused and therefore the application is recommended for approval by virtue of presumption in favour of sustainable development set out in paragraph 14 of the Framework being engaged. Members are asked to note that a similar planning balance for 60 dwellings on the adjacent site was undertaken by an appeal Inspector fairly recently resulting in the grant of planning permission. In light of this earlier decision it is not considered that a refusal of permission on this site could be substantiated.

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate (scale) of the (layout), (scale) and appearance of the building(s), [the means of access thereto] and the [landscaping] of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by condition CO1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and materials, an ecological management plan based on the recommendations for ecological mitigation and enhancement contained in the submitted Ecological Appraisal by Ecological Surveys Ltd., dated August 2016.
5. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
6. As part of the Reserved Matters submission/s referred to in condition 1, a Sustainable Urban Drainage Scheme and long term management and maintenance plan shall be submitted to the Local Planning Authority. The submitted details shall include a full drainage masterplan and associated drainage calculations also include a timetable for the implementation of the Sustainable Urban Drainage Scheme. The development shall be constructed and the Sustainable Urban Drainage Scheme provided, maintained and managed in accordance with the approved details submitted at Reserved Matters stage.
7. No development shall begin until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the construction phase will be managed for the full construction period, has been submitted to and approved in writing by the Local Planning Authority. The plan must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site and must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved the management plan shall be implemented in accordance with the approved details.

8. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Arboricultural Survey dated February 2017 (including the supplementary TPP dated 21/04/2017) and to include engineering details for any areas of no-dig construction, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
9. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
10. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
11. No other part of the development hereby approved shall be commenced until:
 - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
12. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
 - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

13. None of the dwellings permitted shall be occupied until such time as a footway from the site to Langland's Business Park has been constructed and made available for use in accordance with design and construction details that shall first have been submitted to and approved in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 5 and 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
4. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
5. For the avoidance of doubt and in the interests of proper planning.
6. To minimise flood risk and provide sustainable drainage on site in accordance with policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) and in accordance with guidance contained within the DEFRA document 'Non-statutory technical standards for sustainable drainage systems'.
7. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
8. To ensure the development is carried out without detriment to the health and amenity of trees and hedgerows on the site.
9. To ensure that adequate information is available for the proper consideration of the detailed proposals.
10. To ensure the proper development of the site.
11. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
12. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
13. To provide safe pedestrian access to the nearest available employment site and bus stops and to minimise the impact of the development on the highway network in accordance with paragraph 32 of the Framework.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application is considered to be in accordance with the requirements of policies COR1, COR2, COR3, COR5, COR8, COR9, COR10 and COR11 of Mid Devon Core Strategy (Local Plan Part 1), AL/DE/3, AL/IN/3 and AL/IN/5 of the Allocation and Infrastructure Development Plan Document (Local Plan Part 2), DM1, DM2, DM3, DM4, DM6, DM27 and DM28 of Local Plan Part 3 (Development Management Policies), policy W4 of the Devon Waste Plan and the National Planning Policy Framework.

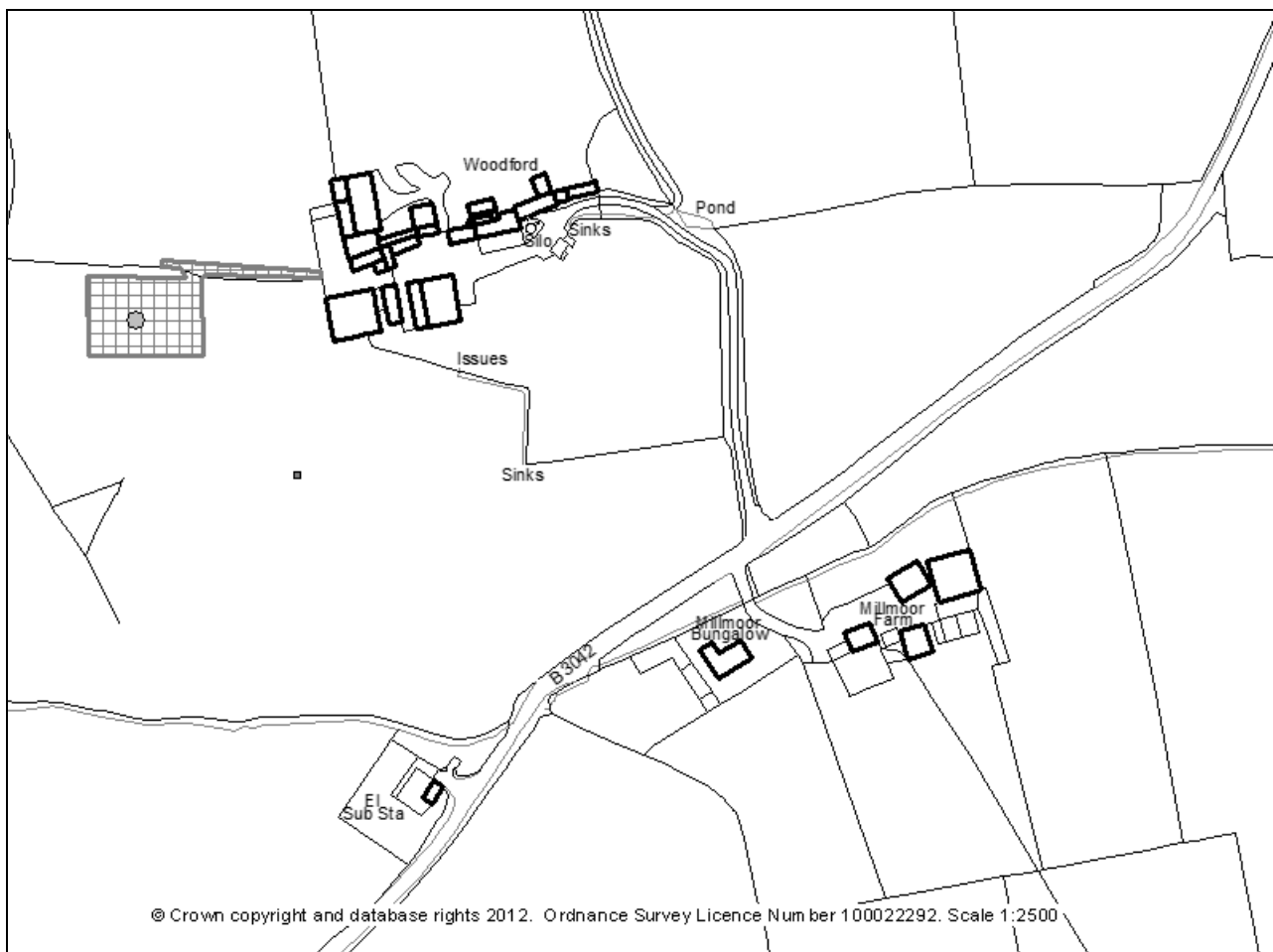
Grid Ref: 280133 : 113091

Applicant: Mr R Hayes

Location: Land and Building at NGR 280066
113155 (Woodford Farm) Witheridge
Devon

Proposal: Erection of a barn to house flexible
generation and energy storage plant
with associated infrastructure, access,
cable route and landscaping

Date Valid: 3rd March 2017



Application No. 17/00395/FULL

RECOMMENDATION

Refuse permission.

COUNCILLOR MRS M SQUIRES AND MRS J BINKS HAVE REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

Given the application is considered contrary to policy, it is requested the application is called in so that the benefits of the application scheme can be considered by the planning committee.

PROPOSED DEVELOPMENT

The application seeks consent for the erection of a building to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping at Woodford Farm, Witheridge. The site is located approximately 1km to the south of Witheridge and is accessed via a private lane from the B3042 to the south. The site forms part of an agricultural field to the west of the main farm complex, adjacent to the agricultural building permitted under 16/00942/FULL which has recently been completed.

The proposed building will house flexible generation and energy storage equipment which the applicant states is required to provide reserve power for the National Grid to ensure capacity when actual demand is greater than forecast and/or plant availability. The proposal will provide a short term solution within the network whilst low carbon technologies are implemented. The energy will be provided by six dual fuel generators that will operate for a maximum of 250 hours per year with the potential to produce 2500MWh of energy per year to the local network and the onsite energy storage. The energy storage will be provided by batteries and transformers within two shipping containers inside the main building and providing a storage capacity of 2MWh. The energy infrastructure will be connected to the existing substation to the south of the site adjacent to the B3042 via an underground cable. The primary fuel source is diesel. The proposal is not agricultural; it is not required for agricultural purposes in connection with the farm building.

The scope of the proposed built development includes four main elements; the 'agricultural barn' building housing the energy generation and storage plant and to the north of this a switch room, substation and a bulk fuel tank, the details of each are set out below;

- i. The proposed building will be 40m long by 10m wide, 6.1m high to ridge and 4.2m to eaves. It will be constructed with a steel portal frame clad in green metal sheeting with roller shutter doors to the east and west elevations. Given the equipment contained within it, the building is proposed to have weather louvres to the north and south elevations to ensure sufficient ventilation.
- ii. Switch room: a flat roof, rectangular building, 3.7m high, 11m long by 5m wide. To be finished in a green colour.
- iii. Substation building: a mono pitch building 4.28m high to ridge.
- iv. Fuel tank: situated adjacent to the site access, 2.3m wide by 5.5m long and 2.5m high, to be green in colour.

The scheme also includes proposed landscaping to the south of the barn including a new native hedgerow on shallow bank and tree planting.

APPLICANT'S SUPPORTING INFORMATION

Air Quality Assessment by Air Quality Consultants dated March 2017
Noise Assessment by inacoustic dated 3rd March 2017
Preliminary Ecological Appraisal by Western Ecology dated December 2016

PLANNING HISTORY

12/00161/FULL - Erection of a wind turbine with maximum blade tip height of 67m, formation of new vehicular access and associated infrastructure - REFUSED April.2012 (APPEAL DISMISSED 30.10.13)
14/01186/FULL - Installation of a ground-mounted photovoltaic solar panel array to generate 100kW of power (site area 700 sq m) - PERMIT September 2014
15/01438/FULL - Installation of 150KW ground mounted solar panels - PERMIT October.2015
16/00942/FULL - Erection of an agricultural building - PERMIT August 2016

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
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
DM7 - Pollution

CONSULTATIONS

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 - No objection subject to a condition securing a programme of archaeological work and written scheme of investigation to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

HIGHWAY AUTHORITY - 13th March 2017 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

THELBRIDGE PARISH COUNCIL - Support

ENVIRONMENTAL HEALTH - 16th March 2017 - No Objection

NATURAL ENGLAND - 20th March 2017 No objection

The proposed development will not damage or destroy the interest features for which Hare's Down, Knowstone and Rackenford Moors SSSI has been notified.

REPRESENTATIONS

At the time of writing this report 11 letters of objection have been received and two in support, these are summarised below.

Objections:

1. The applicant has not demonstrated any need for the facility to be located in this rural location
2. Diesel generators are the most carbon intensive form of generation, the generators will burn a huge amount of diesel which will pollute the countryside air
- 3... These are large industrial buildings not agricultural and will be a blot on the landscape
- 5... The proposal is clearly not sustainable contrary to COR1 of the Mid Devon Local Plan and the NPPF
4. The area is a clean, quiet rural location appreciated by holiday makers and walkers using the Two Moors Way and would be spoilt by the noise and pollution from the large generators.
- 6... The polluting diesel particulates will be blown over Witheridge where there are many elderly and young people
7. Wildlife is sensitive to vibration through the ground, sound pressure waves and diesel pollution

8. Such development should be located in existing industrial areas
- 9.. The diesel generators operate at a maximum of 250 hours per year and therefore the proposal represents a massive waste of resource creating unnecessary pollution in the countryside
10. The applicants statement and further letter is full of flaws- the capacity of the generators and storage capacity of the batteries should be given in MW

Support:

1. It is wonderful idea for the area to guaranteed electricity when it is in short supply
2. The existing trees will mask views from neighbours and the road so the visual impact is minimal and the shed will look like any other agricultural building
3. The batteries would be able to react almost immediately to demand unlike conventional steam power generators
4. The level of sound generated would not be an issue
5. The ability to store excess power generated by wind and solar facilities is vital

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determination of this application are:

- 1. Policy and principle of development**
- 2. Highway Impacts**
- 3. Landscape and Visual Impacts**
- 4. Ecology**
- 5. Air Quality and Noise**
- 6. Other issues- archaeology,**

- 1. Policy and principle of development**

Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The site is located in the countryside where policy COR18 strictly controls development to enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The policy permits agricultural and other appropriate rural uses as set out by points a- f below:

- a. Affordable housing to meet local needs, gypsy accommodation, replacement dwellings, housing essential to accommodate an agricultural or forestry worker and accommodation ancillary to a dwelling;
- b. Appropriately scaled retail, employment, farm diversification and tourism related development (including conversion of existing buildings);
- c. Appropriately scaled and designed extensions and other physical alterations to existing buildings;
- d. Agricultural buildings;
- e. Community facilities, such as educational facilities, buildings associated with public open space, development required to support or enhance biodiversity or geodiversity interests, transportation and infrastructure proposals, horse riding establishments and golf facilities; and
- f. Renewable energy and telecommunications.

Policy DM1 of the Local Plan part 3 (Development Management Policies) provides a presumption in favour of sustainable development and states that opportunities for development are to be sought and facilitated without delay unless there would be adverse impacts that significantly and demonstrably outweigh the benefits. Policy COR5 seeks measures to minimise the impact of development on climate change, and contribute towards national and regional targets for the reduction of greenhouse gas emissions. Policy DM5 supports the provision of renewable and low carbon energy where they do not have significant adverse impacts on the character, amenity and visual quality of the area.

Although the building is described by the applicants as an agricultural barn, the nature of the activities within the building are not considered to be agricultural and as such it is not considered that the proposal accords

with any criteria a-f above. The generators are dual fuel and therefore designed to run on a combination of diesel, bio diesel and gas, with the applicants stating a preference for bio diesel, however the supporting studies utilise a 'worst case scenario' of diesel. The burning of diesel fuels generating carbon is contrary to national and local objectives to reduce carbon emissions and move to a low carbon future. It is therefore considered that the proposed development represents an unsustainable approach to the generation of energy contrary to the clear aims of national and local planning policy which seeks to deliver a low carbon future through the provision of renewable energy. Whilst there are some benefits associated with the provision of stored energy it is considered that the provision of this unsustainable industrial development in this countryside location is not supportable in policy terms.

2. Highway Impacts

The site is accessed via the existing farm lane, through the yard and across the bottom of the agricultural field to the north of the site and via a new gap in the hedgerow. The fuel tank is designed to store up to 160000 litres of fuel. On the basis that the generators will be operational for no more than 250 hours per year, it is anticipated that the development will generate 42 trips to the site per year. This amounts to less than 1 per week. It is noted that no objections have been received from the Highway Authority and overall it is considered that the level of traffic associated with the development is unlikely to result in any significant adverse highway impacts.

3. Landscape and Visual Impacts

Policy COR2 of the Mid Devon Core Strategy requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets. Additional, policy DM2 of the Local Plan part 3 (Development Management Policies) requires designs of new developments to be of high quality and show a clear understanding of the characteristics of the site, its wider context and the surrounding area.

As set out above, the site is located to the west of the main farmstead adjacent to the previously approved agricultural building. The main building, as described above, is a large structure (800sqm) and will be clearly visible particularly from the B3042 to the south. The site would be contained by a 1m high post and wire fence and landscaping as set out above. The site is surrounded by a field network with boundaries of hedgerows and only occasional trees. To the north of the site there are two rows of photovoltaic panels. (granted under 14/01186/FULL) with permission for a further 3 rows (15/01438/FULL). The Two Moors Way footpath runs to the east of the main farmstead. The Landscape and Visual Impact Assessment submitted with the application concludes that development would not result in unacceptable harm to the local landscape character or cause significant visual intrusion.

It is accepted that the proposed building will be viewed in the context of the existing farm complex and particularly the recently approved agricultural building. Furthermore, there are existing large agricultural buildings nearby. Notwithstanding this, the proposed building is of substantial scale with a number of industrial features- weather louvres to the north and south elevation, six stacks from the generators and CCTV cameras. The presence of this substantial building with industrial features and associated ancillary structures is considered to have a negative impact on the rural character of the area which is not outweighed by any benefits of the scheme. On this basis the proposal is considered to be contrary to the requirements of policy COR2 and DM2.

4. Ecology

A preliminary ecological appraisal by Western Ecology has been submitted in support of the application. The survey identifies that the proposal will not have any significant adverse impacts on any habitats or species of nature conservation importance. A gap of approximately 7m will be made in the existing hedgerow to the north of the site to create the access and some gaps will be created where the cable route passes through the hedge bank to the south. Any gaps will be infilled with soil and replanted with native shrubs. The loss of hedgerow is mitigated by the gain in approximately 50m of hedgerow provide as part of the landscaping proposals.

The proposal does not include any specific mitigation measures in relation to any other habitats or species and it is not recommended that any further survey work is required.

5. Air Quality and Noise

The air quality assessment submitted with the application is based upon the generators operating for a maximum of 250 hours per year on diesel fuel. The assessment considers the potential impacts in relation to the air quality objectives set to protect human health and ecosystems at 15 nearby properties, the closest boundary of ancient woodland sites and the Culm Grasslands SAC. The report concluded that the impacts arising from the development would be insignificant in respect of: annual mean nitrogen dioxide concentrations, 1-hour mean nitrogen dioxide concentrations, annual and 24hour mean particulate matter concentrations, nitrogen oxides concentrations and nitrogen deposition.

The noise assessment considers the impact of the development upon noise- sensitive receptors based on the guidance contained within BS4142:2014. The report concludes that the providing that the cumulative rating sound level from the mechanical plant items does not exceed the stated noise criteria the impact of sound from such sources is predicted to have an impact not exceeding a No Observed Adverse Effect Level (NOAEL).

It is noted that the Council's Environmental Health team have not raised any objection in respect of noise or air quality. On the basis of the submitted evidence base, it is not considered that the proposed development would have a significant adverse impacts in terms of air quality or noise.

6. Other issues- Archaeology

The consultation response from the Historic Environment team requests a written scheme of investigation to secure a programme of archaeological work as the site lies in an area of archaeological potential.

REASON FOR REFUSAL

1. The site is located in the countryside where policy COR18 strictly controls development to enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It is considered that the proposed development represents an unsustainable approach to the generation of energy contrary to the aims of national and local planning policy which seeks to deliver a low carbon economy through the provision of renewable energy. Additionally, the proposed building is of substantial scale with industrial features in the countryside location of which has not been justified and its presence in the landscape is considered to have a negative impact on the rural character of the area which is not outweighed by any benefits of the proposed scheme in terms of supporting sustainable diversification of the rural economy. Overall it is considered that the proposal presents an unsustainable development in this rural location which is contrary to Policies COR1, COR2, COR5 and COR18 of the Mid Devon Core Strategy (Local Plan part 1), DM1 and DM2 of the Local Plan part 3 (Development Management Policies) and government advice in the National Planning Policy Framework.

Application No. 17/00407/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

This application seeks planning permission for the variation of 10 conditions and removal of 2 conditions attached to the outline planning permission for the erection of a Roadside Service Area, HGV filling station and associated parking, drainage and landscaping works at Junction 27 of the M5 motorway, to the east of the existing services and south of the A38. The site forms part of the proposed allocation of land at Junction 27 contained within the Local Plan Review which has been submitted to the Planning Inspectorate for examination. The original proposal to vary Condition 13 has been withdrawn from this application.

Reserved matters approval for the development was resolved to be granted by Planning Committee at the meeting of 1st February 2017.

The conditions seeking to be amended relate to the majority of those which require the submission of additional details before work commences on site. These conditions are sought to be amended to allow for some works to be undertaken implementing the permission before further details are submitted for discharge. The conditions sought for removal in part duplicate the requirements of other conditions. Further detail of the specific nature of each condition seeking variation or removal is given in the material considerations section of this report.

APPLICANT'S SUPPORTING INFORMATION

Covering letter

PLANNING HISTORY

93/00294/OUT - Outline for the erection of extension of existing facilities and parking to meet full motorway service area standards - Granted October 1995

00/01693/FULL - Application under S.73 of the Town and Country Planning Act 1990 to carry out development permitted under planning permission. 4/06/93/0294 (outline for extension of existing facilities and parking to meet full motorway service area standards) without complying with conditions 2,3,4, and 5 (relating to time limits for submission of Reserved matters and commencement, completion of off-site drainage works and completion of specific highways works) - Granted October 2004.

04/02160/ARM - Reserved Matters for extension of existing facilities and parking to meet full motorway service area standards (following outline approved under planning permission 00/1693/FULL) - Granted July 2005.

06/00674/ADVERT - Consent to display non-illuminated advertisement - Refused May 2006.

09/01380/MOUT - Outline for the erection of mixed use facilities building with associated parking and highway works - refused 15th December 2009 APPEAL ALLOWED WITH CONDITIONS 27.08.10 - REFUSE

10/00546/MOUT Outline for the erection of mixed use facilities building with associated parking and highway works (Revised scheme) - PERMIT

13/00947/MOUT Application to replace extant planning permission 10/00546/MOUT (to extend time limit). Outline for the erection of mixed use facilities building with associated parking and highway works (Revised scheme) - PERMIT

13/01192/MOUT Application to replace extant planning permission 09/01380/MOUT (to extend time limit). Outline for the erection of mixed use facilities building with associated parking and highway works - PERMIT

16/01773/FULL Reserved Matters for the erection of mixed use facilities building with associated parking and highway works following Outline approval 13/00947/MOUT - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR9 - Access
COR10 - Strategic Transport Networks
COR11 - Flooding
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM3 - Sustainable design
DM4 - Waste management in major development
DM6 - Transport and air quality
DM8 - Parking
DM20 - Rural employment development
DM28 - Green infrastructure in major development

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 - Burlescombe Parish Council have concerns that the specific detail for the construction phase as required by MDDC the planning permission 13/00947/MOUT is being either removed or diluted with this current application and therefore object. In particular the removal of condition 26 removing the specific details of the hedging planting as condition 32 does not replicate the requirement.

HIGHWAY AUTHORITY - 11th April 2017 - No Objection

WILLAND PARISH COUNCIL - 28th March 2017 - Following the discussion at the meeting on Thursday 23 March Willand Parish Council would recommend the refusal of this application. Their recommendation is made with the following points in mind:

These conditions were laid out and agreed as part of the approval to 13/00947/MOUT. They do not appear to have been made the subject of appeal in the three years since that approval and therefore must be assumed to have been acceptable to the applicant.

No comment was made as to a wish to change these conditions when application 16/01773/MARM was made in respect of the reserved matters.

It is now suggested that the conditions would not be placed on the approval in the current planning climate in the light of the NPPF and also there appears to be some reliance on legislation which is pending but not yet enacted.

The applicant is committed to the site being part of the larger Eden Westwood proposals for the whole area. There is no detail of what the meaning or Web site www.willandmatters.org.uk implications of "to enable the provision of hoarding, ground investigation works and the construction of not more than 10 metres of foundation" entails or its purpose in the whole scheme of things.

There may be little problem in carrying out the ground investigation works or the construction of not more than 10 metres of foundation. Why is hoarding needed at this stage? How much is there to be and where will it be? How high will it be and what is its purpose? If it is for security, then Harris Fencing would probably be more appropriate as it can be seen through and so anyone illegally on site can be spotted. It would still allow the main features of the landscape and environment to be seen and enjoyed. Solid hoarding will hide any illegal persons or activity on site and also be a considerable adverse impact on the view and environment. It would also restrict the free movement of wildlife across the site where required precautions have not been

taken prior to the commencement of works. It can also affect visibility at the junction to the current services if not well placed.

If it should be considered appropriate to approve all the suggested changes to the wording set out by the applicant it is argued that there should be no hoarding for the reasons given. If hoarding is permitted it should be conditioned that it should be painted an appropriate colour to blend in as near as possible with the surrounding countryside. It should be further conditioned that it should not be used as a medium for advertising or publicity materials or displays. This is in open countryside and everything should be done to retain that position until final decisions are made as to the end use of the area.

NATURAL ENGLAND - 24th March 2017 - No objection

LEAD LOCAL FLOOD AUTHORITY - 27th April 2017 - No objection

DEVON, CORNWALL & DORSET POLICE - 20th March 2017 - No comments.

ENVIRONMENTAL HEALTH - 23rd March 2017 - No objection

HIGHWAYS ENGLAND - 20th March 2017 - No objection.

REPRESENTATIONS

Two letters of objection received, raising the following issues:

1. Conditions were agreed as part of 13/00947/MOUT and must have been accepted, as they were not contested.
2. No changes to conditions were applied for as part of application 16/01773/MARM.
3. It would appear the developer is using the application as a fall-back position for the Eden Westwood project and wants to do as little work as possible on site to comply with the conditions.
4. Why would hoarding be required at an early stage? Heras fencing could be used and would not block the view of traffic emerging from the C107 onto the A38. Advertising placed on hoardings could be dangerous to motorists.
5. Any variation or removal of conditions protecting wildlife, trees, hedgerows, landscape or the environment should be refused.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the assessment of this application are:

- 1. Issue directly relating to the variation or removal of conditions proposed**
- 2. Other matters, including those raised in consultation and letter of objection**

1. Issues directly relating to the variation or removal of conditions proposed

All planning conditions imposed must meet tests set out by the Government in the National Planning Policy Framework and associated Planning Practice Guidance. Those tests are that a condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

In relation to the imposition of conditions that prevent development from beginning until the condition has been complied with (known as conditions precedent), the Government's Planning Practice Guidance states that such conditions should only be used where the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. Unless such a condition and its specific timing was fundamental to the acceptability of a permission it could be argued that it would fail the test of reasonableness.

In this instance, a large number of the conditions imposed at outline stage (2014) were done so as conditions precedent, requiring the submission of additional details before works commence on site. A full

copy of the outline planning permission decision notice is appended to this report for information. The conditions proposed for amending are addressed in turn below, with the original condition wording in italics. Numbering references are to the original condition number.

Condition 5. The development hereby approved shall not be carried out other than in accordance with a phasing programme which shall previously have been submitted to and approved in writing by the Local Planning Authority.

It is proposed to amend this condition to define the first phase of development (being ground investigation works and the construction of not more than 10 metres of foundation) and require the phasing programme for the remainder of the development to be submitted before any further works are undertaken. Such an approach is not considered to be unreasonable and will still enable the works to be appropriately phased and for such phasing to be agreed in a timely fashion with the LPA.

Condition 6.

No work shall commence on site until details of a Sustainable Urban Drainage System for managing surface water have been submitted to and approved in writing by the Local Planning Authority. The sustainable urban drainage system shall incorporate porous paving, swales, filter strips, attenuation ponds and reed beds. The surface water management system shall thereafter be completed on site in accordance with the approved drawings and a timetable to be agreed in writing by the Local Planning Authority and thereafter retained.

The reserved matters approval included an updated drawing indicating Sustainable Urban Drainage (SUD) principles for the site and that drawing is referenced in conditions on the reserved matters approval which relate to the details required by this condition. It therefore makes sense that the SUD scheme references in this condition reference that drawing and it has been submitted as part of this application. The condition is therefore proposed to be amended to include reference to that drawing (with similar wording to the reserved matters condition used to clarify that it doesn't approve the use of impermeable paving) and also to allow for ground investigation works and the construction of not more than 10 metres of foundation to be undertaken before these details are submitted. The Lead Local Flood Authority has indicated that it has no objections to the amendments proposed and an appropriate scheme can be delivered, taking into account the works proposed before the final scheme details are approved.

Condition 15.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details. The boundary treatment once provided shall not be removed.

The timing of the submission of these details is proposed to be amended to allow for ground investigation works and the construction of not more than 10 metres of foundation before details are submitted. The agreement of boundary treatments before works commence is not deemed necessary to make the development acceptable and so the variation requested will continue to render the proposal acceptable.

Condition 23.

No development hereby permitted shall commence until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and the Highways Agency acting on behalf of the Secretary of State for Transport). The plan shall include details of construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of Public Transport amongst contractors. The development shall be carried out strictly in accordance with the approved construction management plan.

Variations to this condition are proposed to require a new Construction Management Plan for each phase of the development as opposed to a single document being agreed before works commence. This is

considered to be a sensible alteration to the condition as often construction compounds and vehicle parking areas move around a site as development progresses. Furthermore, issues sometimes arise during a development which could then be addressed through a revised Construction Management Plan for the subsequent phase.

Condition 24.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a construction management plan (to include air quality and other nuisance impact mitigation measures). Work shall then be carried out on site, only in accordance with the approved details.

Removal of this condition is sought as it largely duplicates the wording of the preceding condition. However the preceding condition does not duplicate the specific requirement for air quality and other nuisance impact mitigation measures to be included in the plan; subject to condition 23 being amended to include this wording also, there is no objection to the removal of the condition.

Condition 26.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority an ecological construction method statement (to include details of how the hedges will be retained and protected for wildlife, the provision and protection of buffer zones, appropriate management, lighting restrictions etc). Work shall then be carried out on site, only in accordance with the approved details.

The applicants assert that the requirements of this condition are duplicated in condition 32. Officers do not agree that these two conditions duplicate one another in the majority although they do both relate to ecological considerations. However, variations to condition 32 are also proposed and the applicants have agreed that the requirements of both conditions could be merged. There is no objection to this as the revised condition would continue to secure the information required by both existing conditions. See condition 32 considerations for further detail of the variations requested to that condition.

Condition 27.

Before the development hereby permitted is commenced specific details relating to the provision of a bus stop on the northern and southern side of the A38 in the vicinity of the application site shall have been submitted to, and approved in writing by, the Local Planning Authority. No other part of the development hereby approved shall be brought into its intended use until the bus stop facilities on both sides of the A38 in the vicinity of the site have been provided in accordance with the approved drawings. Following their provision, these facilities shall thereafter be so retained.

Variation of this condition is sought to allow for the details of the bus stops to be submitted before construction of the approved new access onto the A38 begins. The Highway Authority has indicated that it has no objection to this and the revised wording would continue to ensure that the bus stops were provided at an appropriate phase of the development.

Condition 28.

No development shall commence on any part of the development hereby permitted until such time as the details of how the County highway known as the C107 shall be closed at its junction with the A38 to vehicular traffic, have been submitted to and approved in writing by the Local Planning Authority. The closure of the access to all traffic, with the exception of pedestrians and cycles, shall be carried out in accordance with the approved details within 24 hours of the new access from the new roundabout on the A38 to the junction of the C107 being open to all traffic and capable of use.

As with the timings of condition 27, variation of this condition is sought to allow for the details of the stopping up of the C107 to be submitted before construction of the approved new access onto the A38 begins as opposed to before any of the development begins. The Highway Authority has indicated that it has no objection to this and the details required in relation to the closure of the junction would be submitted at an appropriate phase of the development.

Condition 31.

The recommendations in the Extended Phase 1 survey (Devon Wildlife Consultants June 2013), dawn bat survey (Devon Wildlife Consultants July 2013) and Ecological mitigation plan (Devon Wildlife Consultants

July 2013) shall be implemented in full in accordance with a timescale that shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of work on the site.

The reserved matters submission included a new Ecology Report which was informed by survey work from 2016 and so is more up-to-date. It is proposed to vary this condition to refer to this later document, which has been submitted as part of this application. Condition 32 is also proposed to be varied to include reference to this report and requires mitigation and management in a phased manner, rendering the submission of a timescale for this condition redundant. No objections to this arise and protected species would continue to be adequately protected and mitigated as part of the development.

Condition 32.

Prior to the commencement of work on the site the following shall be submitted to and approved in writing by the Local Planning Authority:

- i) An ecological management plan based on the recommendations in the ecological mitigation plan (DWC June 2010);*
- ii) An external lighting scheme;*
- iii) A programme of monitoring to assess the effectiveness of the mitigation.*

It is proposed to separate this condition into two areas, one requiring an ecological management plan and programme of monitoring to be submitted for each phase of the development and a second requiring details of external lighting to be approved before their installation. These variations would ensure that any necessary ecological management and mitigation were carried out at the appropriate phase of the development, thus ensuring biodiversity retention and enhancement. No objections from Natural England have been received.

As previously mentioned it is proposed to amalgamate this condition with condition 26.

Condition 34.

No development shall begin until details of measures and calculations to demonstrate how a minimum of 13% of the energy requirements for any new buildings on the site shall come from decentralised on-site renewable or low carbon technologies has been submitted to and approved in writing by the local planning authority. Such approved details shall be implemented and operational prior the first use of the building for its permitted use and thereafter shall be retained as such.

It is proposed to vary this condition so that the details required by this condition are submitted before development relating to the construction of any of the new buildings on the site begins, other than for ground investigation works and not more than 10 metres of foundation. This requested timing would still allow for adequate decentralised energy measures to be designed into the development and should not hinder its delivery.

Condition 35.

No development relating to the construction of the development hereby permitted shall begin until evidence that the development is registered with a BREEAM certification body (or any such equivalent national body which measures sustainable building and which replaces that body) and a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development can achieve the final BREEAM level of a minimum of 'very good' has been submitted to and approved in writing by the local planning authority.

No individual building on the site shall be occupied until a final Certificate has been issued certifying that a minimum of BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating 'very good' has been achieved for this part of the development and evidence of this has been submitted to and approved in writing by the local planning authority.

The first paragraph of this condition is proposed to be varied to allow for ground investigation works and the construction of not more than 10 metres of foundation before the details are required to be submitted to the Local Planning Authority. As with condition 34 discussed above, this timing will still allow for the design of the buildings to be undertaken in a way which ensures compliance with the required standard.

All of the conditions above and the variations or deletions sought will continue to result in a planning permission which would deliver the development in an appropriately timed fashion with any necessary details approved at a relevant stage and meeting the tests for the imposition of conditions.

2. Other matters, including those raised in consultation comments and letters of objection

Condition 13 which relates to the provision of tree and hedgerow protection fencing was originally sought for variation as it is a pre-commencement condition. Following verbal comments from the authority's Tree Officer concerning these amendments, the request to amend this condition has been withdrawn and does not form part of the current considerations.

In their submission, the applicants sought to include the provision of hoarding within the specified works which could be undertaken before details to discharge conditions are submitted. Concerns have been raised by Willand Parish Council and objectors regarding the impact upon amenity and highway safety of the provision of hoarding. Whilst the applicants have stated that it would only be their intention to keep any hoarding erected for the minimum time necessary and that they would likely look to use Heras fencing, as permitted development rights exist for the provision of means of enclosure (it should be noted that such means of enclosure would not be permitted development if they caused a highway safety issue), they are happy for such wording to be omitted from any varied conditions. The application has been considered on this basis.

The applicants have stated in their cover letter that they intend to implement this development in order to safeguard their commercial interests without having to significantly re-allocate resources from the Eden Westwood proposals, which they are also promoting in the J27 area; the variation/removal of these conditions will help to ensure this. It is therefore clear that indeed, the proposal is being treated as a fall-back position by the applicants, however this does not render this submission unacceptable and it must be considered on its own merits.

Applications for the variation of conditions are not time-limited from the date an application is approved and so issues raised relating to the timing of this submission are not relevant. It is also noted that contrary to comments received, two of the conditions imposed on the reserved matters approval in relation to surface water drainage and highways works included similar wording to that now being sought insofar as allowing some works to be undertaken before additional details are submitted (ground investigation works and the construction of not more than 10 metres of foundations).

The time has now elapsed for the submission of any new reserved matters applications and so the development must be undertaken in accordance with the reserved matters approval given earlier in 2017. For this reason, a number of other conditions on the original outline approval which relate to the submission of reserved matters details and the timing of the commencement of development are recommended for variation or deletion. In addition, some other minor alterations are proposed to reflect name changes in government bodies and updated legislation.

CONDITIONS

1. The development hereby permitted shall be begun before 2nd February 2019.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice and in accordance with the reserved matters details approved under reference 16/01773/MARM.
3. The development hereby approved shall not be carried out other than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority. This condition does not preclude the undertaking of ground investigation works and the construction of not more than 10 linear metres of foundation across the site, which shall be taken as the first phase of development.

4. Other than for the undertaking of ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no work shall commence on site until details of a Sustainable Urban Drainage System for managing surface water have been submitted to and approved in writing by the Local Planning Authority. The sustainable urban drainage system shall follow the principles set on drawing number 002, Proposed Drainage, dated 25/10/2016, except in relation to where that drawing annotates the use of impermeable paving throughout the development.
5. A management plan, setting out the long term management responsibilities and maintenance schedules for the Sustainable Urban Drainage System shall be submitted to and approved in writing by the Local Planning Authority prior to any of the buildings first coming into use.
6. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
7. Oil or chemical storage facilities shall be sited in bunded areas. The capacity of the bund shall be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks shall be regarded as a single tank. There shall be no working connections outside the bunded area.
8. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever ever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
9. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for all landscaping areas and existing trees and hedges shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or of any phase of the development, whichever ever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
10. No work shall commence on site, until tree and hedge protection fencing has been erected on site in accordance with details and in a position to be agreed in writing by the Local Planning Authority. The fencing shall be provided on site and retained for the duration of the works and/or shall only be removed when the development has been completed or as agreed otherwise in writing by the Local Planning Authority. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
11. During the period of construction of the development:
 - (i) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure.
 - (ii) No fires shall be lit within the spread of the branches of the trees.
 - (iii) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (iv) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate.
 - (v) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans
12. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials

and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details. The boundary treatment once provided shall not be removed.

13. No part of the development hereby approved shall be occupied or brought into use until the highway works shown on drawing number C11032/4A (a copy of which is appended to this decision notice) have been completed and are available for use by the travelling public.
14. Occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until:
 - (i) the existing access road (the C107) has been closed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority, and
 - (ii) the new roundabout junction to provide access to the site and the existing Swallow Court employment development as detailed on Tony Gee drawing reference C108188/R/501E has been completed and is capable of use.

The occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until the works as mentioned at 14 (i) and 14 (ii) above have been certified in writing as complete by the Local Planning Authority (who shall consult with the Local Highways Authority and Highways England on behalf of the Secretary of State for Transport).

15. The maximum floorspace (Gross Floor Area - External) of the amenity building hereby permitted shall not exceed a total of 1750 square metres (including the second floor), and that of the proposed filling station kiosk shall not exceed a maximum floorspace (Gross Floor Area - External) of 50 square metres.
16. Notwithstanding the provisions 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 more than 550 square metres (Gross Floor Area) of the total floorspace within the amenity building shall be used for a retail use (including 50 square metres Gross Floor Area which must only be used for the sale of products originating from the region) within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) (with or without modification).

In addition, no more than 800 square metres (Gross Floor Area) within the amenity building is to be used for the purposes of restaurant/café floorspace (A3 use); no more than 30 square metres (Gross Floor Area) within the amenity building is to be used as a Tourist Information Centre (A2 use), and no more than 210 square metres (Gross Floor Area) is to be used for the purposes of private staff accommodation, administration and storage (B1 use).

17. The retail facilities within the development shall only be part of and ancillary to the principal use of the site as a roadside service area. No retail goods within the retail outlets (within the amenity building and proposed filling station kiosk) shall be sold other than food and drink items; confectionery; newspapers and magazines; tobacco; books and maps; audio and video media; non-prescription medicines and first aid items; flowers; toiletries; and car accessories.
18. A comprehensive Travel Plan shall be developed for all elements of the development hereby permitted. The Travel Plan shall be submitted to and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and Highways England acting on behalf of the Secretary of State for Transport), prior to the occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public.

The Travel Plan shall be prepared in line with prevailing policy, best practice and previously agreed Framework Travel Plan (June 2010) and as a minimum shall include:

- (i) The identification of targets for trip reduction and modal shift
- (ii) The methods to be employed to meet these targets
- (iii) The mechanisms for monitoring and review
- (iv) The mechanisms for reporting
- (v) The penalties to be applied in the event that target are not met
- (vi) The mechanisms for mitigation
- (vii) Implementation of the Travel Plan to an agreed timescale or timetable and its operation thereafter.
- (viii) Mechanisms to secure variations to the Travel Plan following monitoring and review.

A review of the target shall be undertaken within 3 months of the occupation of the development and on an annual basis thereafter, at the time of submission of the annual Travel Plan Report, for a period of five years.

19. No development hereby permitted shall commence on each phase of the development as agreed under condition 5 of this planning permission until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and Highways England acting on behalf of the Secretary of State for Transport). The plan shall include details of air quality and other nuisance impact mitigation measures, construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of Public Transport amongst contractors. Each phase of the development shall be carried out strictly in accordance with the approved construction management plan for that phase.
20. The first use of the development hereby approved shall not begin until the electric vehicle charging points identified on the approved plans for reserved matters approval reference 16/01773/MARM have been provided on site and they shall be retained thereafter.
21. No works for the construction of the new access onto the A38 shall begin until specific details relating to the provision of a bus stop on the northern and southern side of the A38 in the vicinity of the application site shall have been submitted to, and approved in writing by, the Local Planning Authority. No other part of the development hereby approved shall be brought into its intended use until the bus stop facilities on both sides of the A38 in the vicinity of the site have been provided in accordance with the approved drawings. Following their provision, these facilities shall thereafter be so retained.
22. No works for the construction of the new access onto the A38 shall begin until such time as the details of how the County highway known as the C107 shall be closed at its junction with the A38 to vehicular traffic, have been submitted to and approved in writing by the Local Planning Authority. The closure of the access to all traffic, with the exception of pedestrians and cycles, shall be carried out in accordance with the approved details within 24 hours of the new access from the new roundabout on the A38 to the junction of the C107 being open to all traffic and capable of use.
23. The two existing private accesses from the A38 to Jersey Farm shall be permanently closed to vehicular traffic within 24 hours of the new access to Jersey Farm being completed and capable of use.
24. Development shall be carried out at all times in accordance with the recommendations contained within the Ecology Report dated 31 October 2016 prepared by Engain (ref. eg16778).

25. (i) Prior to the commencement of the each phase of development as agreed under condition 5 of this planning permission, an ecological management plan in relation to that phase and based on the recommendations in the Ecology Report dated 31 October 2016 prepared by Engain (ref. eg16778) shall have been submitted to and approved in writing by the Local Planning Authority. The management plan shall include an ecological construction method statement (to include details of how the hedges will be retained and protected for wildlife, the provision and protection of buffer zones, appropriate management, lighting restrictions etc) and a programme of monitoring to assess the effectiveness of the ecological mitigation.

(ii) No external lighting shall be installed until an external lighting scheme has been submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the approved details.

26. The development shall be overseen by an ecological clerk of works.
27. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no development shall begin until details of measures and calculations to demonstrate how a minimum of 13% of the energy requirements for any new buildings on the site shall come from decentralised on-site renewable or low carbon technologies has been submitted to and approved in writing by the local planning authority. Such approved details shall be implemented and operational prior the first use of the building for its permitted use and thereafter shall be retained as such.
28. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site no development relating to the construction of the development hereby permitted shall begin until evidence that the development is registered with a BREEAM certification body (or any such equivalent national body which measures sustainable building and which replaces that body) and a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development can achieve the final BREEAM level of a minimum of 'very good' has been submitted to and approved in writing by the local planning authority.

No individual building on the site shall be occupied until a final Certificate has been issued certifying that a minimum of BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating 'very good' has been achieved for this part of the development and evidence of this has been submitted to and approved in writing by the local planning authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004, being the date two years from the date of the approval of the final reserved matters.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety and the ordered development of the site in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
4. To prevent an increase in the risk of flooding downstream of the site in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2.
5. To ensure that appropriate measures are in place for the long term maintenance and management of the Sustainable Urban Drainage System within the site to ensure that it continues to operate

effectively in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2.

6. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
7. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
8. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
9. To ensure that appropriate measures are in place for the long term maintenance and management of landscape areas within the site, in the interest of visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
10. 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 Local Plan Part 3 (Development Management Policies) Policy DM2.
11. In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual qualities of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
12. In the interest of preserving the visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
13. To maintain the safe and efficient operation of the Strategic Road Network in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
14. To ensure that the development is carried out in accordance with the information submitted which forms part of the application and to protect the safe and efficient operation of the local and strategic highway network.
15. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public without detrimental impact on the safe and efficient operation of the local and strategic highway network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
16. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public, and that the retail facilities would not become a retail destination in their own right in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
17. To ensure that the retail facilities only cater for the needs of the travelling public and they do not become a retail destination in their own right encouraging additional trips on the local and strategic road network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.

18. To ensure that the operation of the Strategic Highway Network is protected and that sustainable travel objectives for the site are met and maintained.
19. To ensure the appropriate controls are in place to monitor and manage the site generated construction traffic and to minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
20. To minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
21. In the interests of highway safety.
22. In the interests of highway safety, to ensure the safe operation of the strategic highway network and to prevent a multiplicity of accesses.
23. To minimise the number of accesses onto the public highway and to provide a satisfactory access to Jersey Farm.
24. To prevent, reduce or offset adverse effects on the natural environment.
25. To ensure habitats and species are protected and buffered from the development.
26. In order to advise contractors regarding ecological issues and ensure mitigation is implemented correctly.
27. To minimise the carbon footprint of this part of the development in accordance with Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
28. In order to ensure that the development utilises sustainable design and construction methods in accordance with Policy DM3 of Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTES:

1. The Environment Agency advised that:
 - a) In respect of the proposed new private sewage treatment plant to serve the development, an Environmental Permit (Consent to Discharge) will be required. The applicant/agent will need to contact our National Contact & Permitting Centre on 08708 506 506 for the application forms and further advice.
 - b) From the Environment Management (Water Quality) aspect there are no objections in principle to drain the foul effluent from this development via a package treatment plant provided that:
 - (i) The foul drainage is kept separate from clean surface and roof water.
 - (ii) The applicant applies for and is granted a Consent to Discharge from this Agency under the Water Resources Act 1991. The applicant can obtain application forms and further advice by contacting our National Customer and Permitting Centre on 08708 506 506. For information this process can take up to four months to complete and no guarantee can be given regarding the eventual outcome of an application until all the investigations associated with the determination have been completed and an evaluation of the proposal has been made.

2. You are advised that planning permission does not absolve you from complying with the relevant law, including obtaining and complying with the terms and conditions of any protected species licences required.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

This application seeks consent to vary 10 conditions and remove 2 conditions of the outline planning permission for the provision of motorway service facilities associated with the functioning of J27 of the M5. Since the granting of the original outline planning permission by the Planning Inspectorate, guidance on the imposition of planning conditions and particularly with regard to the timing and submission of additional details post decision has changed and Local Planning Authorities are encouraged to ensure that the wording of conditions does not place an undue burden on applicants and to have regard to the tests required to be passed regarding the imposition of conditions. In this instance, the conditions seeking variation would allow for works to commence on-site in advance of a range of additional details being sought, however those details remain to be sought at an appropriate time so that the development would be undertaken in a proper fashion having regard to all material considerations. The requirements of the two conditions seeking removal are incorporated into the wording of two other similarly worded existing conditions and there is no effect from their deletion. Subject to the imposed conditions the proposed development would not lead to increased highway safety risks on either the local or strategic highway network and would not have a demonstrably harmful impact upon local ecology and protected species, the amenity and living conditions of neighbouring properties and uses and would not harm the vitality or viability of nearby village and town centres. For these reasons and having regard to all other matters raised the development is in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR2, COR9, COR10, COR11 and COR18, Local Plan Part 3 (Development Management Policies) Policies DM2, DM3, DM4, DM6, DM8, DM20 and DM28 and the National Planning Policy Framework.

Mrs Jenny Clifford
Head of Planning and Regeneration

