

AGENDA ITEM

PLANNING COMMITTEE
9th August 2017

REPORT OF THE HEAD OF PLANNING AND REGENERATION

17/00353/FULL

BACKGROUND:

This is a full application for the erection of 6 affordable dwellings consisting of 4 x 2 bed houses and 2 x 3 bed houses. The existing railway dissects Burlescombe and the application site is located to the south of the railway on land located between the church at the top of the hill and the village hall towards the bottom of the hill. It is on land which bounds the main road through the village and direct access to the parking area is proposed. The access is located centrally within the site with a terrace of 3 units proposed on either side. The application site comprises part of an agricultural field and is boarded to the north and east by the remainder of the field. To the west is the existing access into the field (to be retained) and the dwelling known as 'Oakfield'. The road and houses to the south and west are set down at a lower level than the application site, whilst the land to the east continues to rise. The proposed development includes a communal parking area, front and rear gardens for each unit and a pedestrian footpath along the site frontage.

REASON FOR REPORT: To consider the reasons for refusal proposed by the Planning Committee at the meeting of 14TH June 2017 in light of further advice from Officers.

RECOMMENDATION(S)

Subject to the prior signing of a s106 to ensure that the site is only developed as an affordable housing exception site, Grant planning permission subject to conditions.

Relationship to Corporate Plan:

Homes

- Facilitating the housing growth that Mid Devon needs, including affordable housing
- Planning and enhancing the built environment

Environment

- Protect the natural environment

Financial Implications: An appeal may require the appointment of planning, highway and air quality consultants to assist in the defence of the reasons for refusal as the statutory consultees have indicated they would not support refusal of the application. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

Legal Implications: The report identifies the risks in proceeding with a decision based on the reasons given by the Committee on 14th June 2017, in terms of defending those reasons at appeal (if made). The Council will still need to prepare draft planning conditions for the appeal and complete a section 106 agreement. External legal and other expert representation may be required if the appeal proceeds to a public inquiry and this would increase the cost to the council of such action.

Risk Assessment: as above.

1.0 Introduction

1.1 At the Planning Committee held on 14th June 2017 the Planning Committee resolved that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- Highway safety
- Air quality
- The sustainability of the site

2.0 The implications of refusing the application

2.1 Highway safety

2.2 The Highway Authority as statutory consultee has been consulted on this application and provided a bespoke response which was reported within the agenda report on 14th June.

2.3 During the discussion on the application Members expressed concern about permitting 6 new dwellings in a location where in excess of 200 lorries pass daily from the quarry and equally, residents from the site would have to walk along that same road with no pavement for the most part to reach the village hall and school. There was concern that occupiers from the properties would therefore be likely to drive children to the school, impacting on parking in the vicinity of the school, rather than choosing to walk.

2.4 Paragraph 32 of the NPPF states that decision takers should take account of whether 'safe and suitable access to the site can be achieved for all people' and therefore it is entirely correct that members consider highway safety in their decision making.

2.5 However, the same paragraph of the NPPF states that, 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.' [my emphasis]

2.6 Therefore, the balance which members need to consider is whether the impact of permitting 6 dwellings would have such a severe impact on highway safety that it justified a refusal.

2.7 Further comments have been received from the Highway Authority in response to the concerns expressed by members. With regards to the concerns about putting 6 new houses in a location where lorries are accelerating uphill, they advise that, *'The visibility proposed at the access point is adequate for the location and speed of traffic. Lorries are accelerating at this point but it is up hill and in my experience (I know a local resident) they are not actually travelling excessively fast. It is widely accepted by transport planners and highway engineers that because of their sheer size, the presence of metallic 'clanking' from moving body parts and labouring engines, lorries do tend to give the impression that they are travelling faster than they are.'*

With regards to the concerns about residents having to walk along the road to reach the school etc, the Highway Authority advise, *'This is clearly not ideal but it is also true for the existing residents of Burlescombe and many villages across Devon, and wider. The main road through the village varies in width but at most points there is adequate width for two vehicles and pedestrians*

to pass in relative safety particularly given the relatively low traffic volumes. Between 1st Jan 2012 and 31st Dec 2016 there was one 'slight' severity collision in the village. In short I do not believe I could provide sufficient evidence to convince an Inspector that the application does not have 'Safe and suitable access'. The advice from the Highway Authority is that the development is acceptable. The development is considered to be small scale and the impact of permitting the 6 dwellings is not severe such as to refuse the application. If members were to refuse the application, the Highway Authority would not be able to provide advice or support in relation to any appeal

2.8 However, if Members still feel that the development is unacceptable, notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to Highway safety as follows:

2.9 Reason for refusal 1:

The application site is located with access from the main road through the village of Burlescombe. In excess of 200 lorries a day use this same road to deliver materials from the quarry. The LPA are concerned that this volume of heavy traffic, together with the need for residents from the proposed site to walk along the road which lacks footways, to reach the facilities in the village results in an unsafe development with severe impacts in terms of highway safety, contrary to the NPPF

2.10 Air Quality

2.11 The Environmental Health team has been consulted on this application and provided a bespoke response which was reported within the agenda report on 14th June.

2.12 During the discussion on the application Members expressed concern about permitting 6 new dwellings in a location where in excess of 200 lorries pass daily from the quarry and although they had regard to the comments of the Environmental Health team in the report, they were concerned that there was no mention of 'particulates'

2.13 The Environmental Health team have now provided a further response as follows:

- 1. NOX monitoring is a good indication of general air quality and particulates would not be monitored unless the action level for NOX is over 40µg/m3. A survey of particulates generated by Westleigh Quarry was carried out in 2005 and the levels were 22 µg/m3 which is well below the action level of 40µg/m3. The report also concluded that the majority of particulate matter in this area was more likely to be caused by domestic heating systems than HGV's. Of further note would be that since this report clean vehicle technology has progressed and the vehicles now using the route should be less polluting. As a further point of reference Exeter Road, Crediton is now below the yearly action level for particulates but still has on average 4500 commercial traffic movements daily with at least double that of non-commercial traffic.*
- 2. For a row of houses to have any effect the height of the row would have to exceed the width of the road on both sides creating a canyon as in Exeter Road, Crediton. This most certainly would not be the case if these houses were approved.*

The NPPF Planning Practice Guidance advises that in considering planning applications LPA's should consider whether it is appropriate to expose people to existing sources of air pollutants. This could be by building new homes, workplaces or other development in places with poor air quality. Therefore, whilst this is a material planning consideration the advice from Environmental

Health is that the development is acceptable, and the impact of permitting the 6 dwellings is not severe such as to refuse the application. If members were to refuse the application, Environmental Health would not be able to provide advice or support in relation to any appeal. Members would need to provide evidence of there being a particular problem with air quality to substantiate a reason for refusal at appeal and officers are concerned that based on the information provided by the Environmental Health team, such evidence is unlikely to be available.

2.15 However, if Members still feel that the development is unacceptable, notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to air quality as follows:

2.16 Reason for refusal 2:

The provision of 6 new dwellings in a location where in excess of 200 HGV's a day pass the frontage of the site, accelerating to travel uphill, is considered undesirable in terms of air quality and the particulates generated by such traffic movements, contrary to the advice set out in the Planning Practice Guidance which seeks to prevent exposing people to existing sources of air pollution.

2.17 Sustainability

In respect of the determination of planning applications, the planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) state that they should be determined in accordance with the development plan unless material indications indicate otherwise. The development plan is therefore the primary consideration and the NPPF acts as non-statutory guidance which should be taken as a material consideration in planning decisions.

Therefore the adopted MDLP is the development plan and it is this document that identifies that Burlescombe has a settlement limit and on this basis, the application site, as an exception site for affordable housing, accords with the development plan.

Para 6 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and Paragraph 14 of the NPPF states that *'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking'* Therefore Members are right to give consideration to whether this development is sustainable or not and clearly Burlescombe is no longer seen as being a sustainable location for development as the submitted Local Plan Review document proposes the removal of the settlement limit. However the document, having been submitted and still with outstanding objections, carries limited weight. This has been confirmed by an Inspector in a recent appeal decision (dated 16th June 2017) who stated, *'My attention has also been drawn to the Mid Devon Local Plan Review 2013 – 2033 (eLP) which was submitted for examination in March 2017. As the examination into the eLP has yet to be completed the provisions of the eLP can be given only limited weight.'*

The Local Planning Authority accepts that it is unable to demonstrate five years worth of housing against its housing requirement as set out within the National Planning Policy Framework and as such paragraph 14 of the National Planning Policy Framework (the Framework) therefore applies. Under paragraph 14 it is therefore necessary to consider whether there are any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework and this is discussed further below.

It is acknowledged that there is a lack of facilities available to existing and proposed residents of Burlescombe to such a degree that those residents would be reliant on the private car for daily access to facilities and services. There is no regular bus service and it is proposed to remove the settlement limit of Burlescombe from the Local Plan Review.

The benefits of the scheme are that it provides 6 affordable houses for local people (as indicated by a Housing Needs Survey), in a location where suitable drainage and landscaping can be provided and it has a limited impact on the amenity of neighbouring residents and ecology.

Members therefore need to consider whether their concerns about the lack of facilities and services which are accessible without the means of a private car significantly and demonstrably outweigh the benefits of providing affordable housing in a village location where a specific affordable housing need has been identified through a housing needs survey.

Notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to the unsustainable nature of Burlescombe as a settlement

Reason for refusal 3:

The application site is outside the current settlement limit boundaries of the village of Burlescombe and is in the open countryside. Policy AL/DE/6 of the Allocations and Infrastructure Development Plan Document permits 100% affordable housing on sites which adjoin a settlement. However, the LPA are concerned that Burlescombe does not have the services, facilities or public transport associated with a sustainable location and residents of the proposed dwellings will be required to use a private car to access these. This is echoed in the Councils Local Plan Review 2013 -2033, whereby the settlement limit for Burlescombe is proposed for deletion resulting in it being defined as open countryside. The Local Plan Review 2013-2033 carries limited weight at present (as it has not been through examination) and the Local Planning Authority accepts that it is unable to demonstrate five years worth of housing against its housing requirement as set out within the National Planning Policy Framework and consequently its adopted local plan is considered to be out-of-date. The tilted balance contained within paragraph 14 of the National Planning Policy Framework (the Framework) therefore applies.

When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development in terms of the unsustainable location for new housing resulting in its occupiers being heavily reliant on the private car would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework in relation to the provision of sustainable development.

2.0 Conclusion:

Members have indicated that they are minded to refuse the application following concerns relating to highway safety, air quality and the sustainability of the site. Members will note from the report above that neither the Highway Authority or the Environmental Health team would be able to provide professional support in the event of an appeal and your officers do not consider that there is sufficient policy support for a refusal on these grounds. However, given that the current local plan is considered to be out of date, members may consider that COR17 no longer applies and make their own assessment of the proposal against the sustainability emphasis of the NPPF. However, in doing so Members will need to be satisfied that the adverse impacts of the proposed development in terms of the unsustainable location for new housing would significantly and demonstrably outweigh the benefits (such as the provision of 6 units of affordable housing on an

exception site in a village where a housing needs survey has been undertaken which has highlighted a local need) when assessed against the policies of the Framework

Your Officers are of the opinion that refusal of this current planning application for the reasons given cannot be substantiated and the recommendation remains as one of approval.

Contact for any more information	Mrs Alison Fish, Area Team Leader 01884 234266
Background Papers	NPPF
File Reference	17/00353/FULL
Circulation of the Report	Cllrs Richard Chesterton Members of Planning Committee

Application No. 17/00353/FULL

Plans List No.

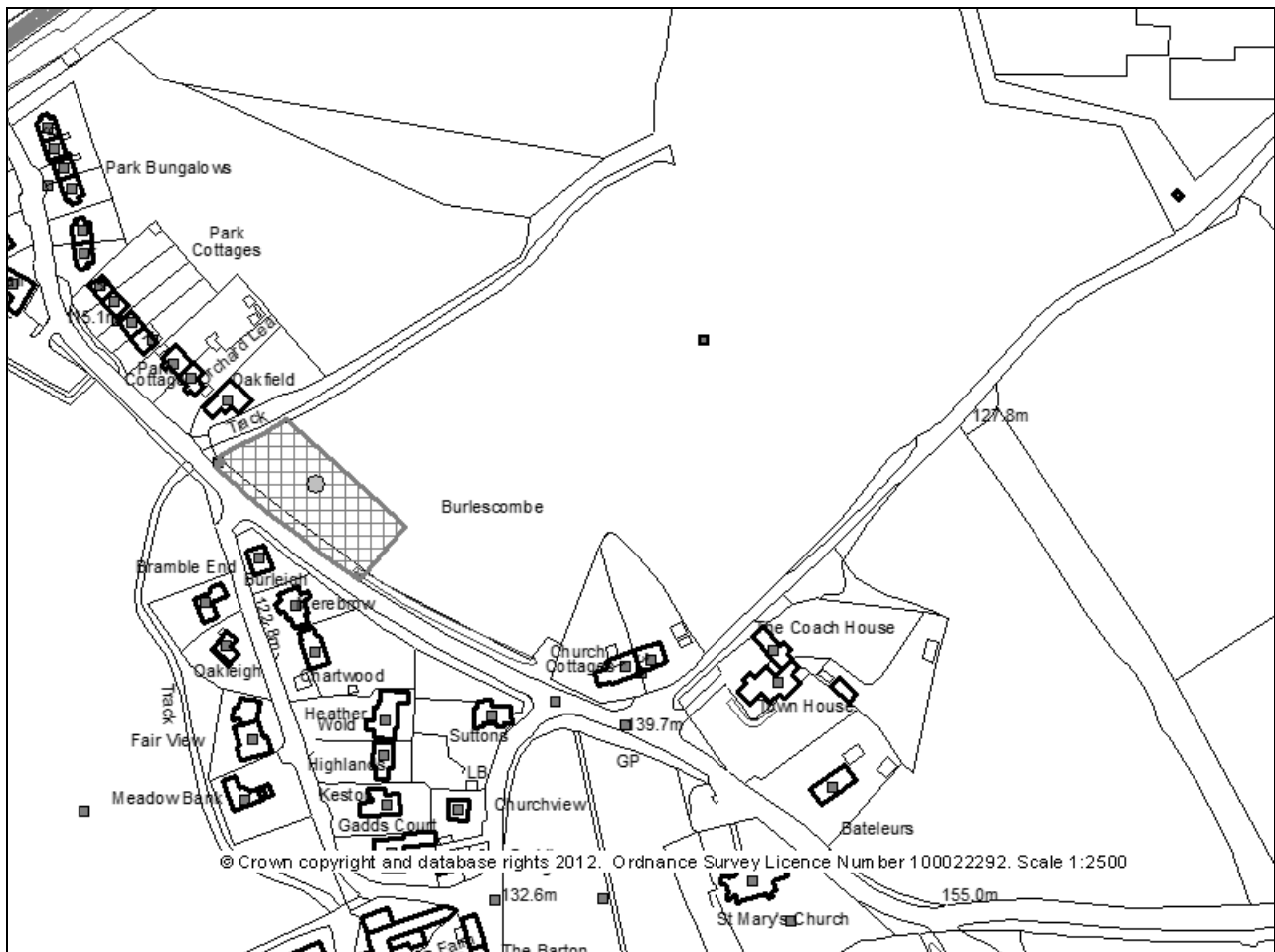
Grid Ref: 307580 : 116858

Applicant: Mr A Busby

Location: Land at NGR 307578
116857 (SE of
Oakfield)
Burlescombe Devon

Proposal: Erection of 6
affordable dwellings
and formation of
access

Date Valid: 3rd March 2017



Application No. 17/00353/FULL

RECOMMENDATION

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

Subject to a) the receipt of amended plans/information and b) prior of a s106 to ensure that the site is only developed as an affordable housing exception site, Grant planning permission subject to conditions.

PROPOSED DEVELOPMENT

This is a full application for the erection of 6 affordable dwellings consisting of 4 x 2 bed houses and 2 x 3 bed houses. The existing railway dissects Burlescombe and the application site is located to the south of the railway on land located between the church at the top of the hill and the village hall towards the bottom of the hill. It is on land which bounds the main road through the village and direct access to the parking area is proposed. The access is located centrally within the site with a terrace of 3 units proposed on either side. The application site comprises part of an agricultural field and is bordered to the north and east by the remainder of the field. To the west is the existing access into the field (to be retained) and the dwelling known as 'Oakfield'. The road and houses to the south and west are set down at a lower level than the application site, whilst the land to the east continues to rise. The proposed development includes a communal parking area, front and rear gardens for each unit and a pedestrian footpath along the site frontage.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Ecological impact assessment
Geotechnical investigation and contamination
Wildlife trigger list
Devon rural housing partnership - consultation event summary
Drainage scheme plan
Housing needs information - extract from the housing waiting list and Housing Needs Survey

PLANNING HISTORY

97/00783/FULL - S.W.E.B. consultation for overhead line diversion - REFUSED
98/00825/FULL - Revised consultation in respect of the diversion of 11kV and 33kV overhead power lines - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR18 - Countryside

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

AL/DE/6 - Exceptions Policy

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

DM14 - Design of housing

DM15 - Dwelling sizes

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 OBJECT

Burlescombe Parish Council have taken into consideration the objections received and the points raised at the Planning Committee Meeting by both members of the Public and Councillors on Wednesday 15th March and wish to object to this application.

The concerns raised are as follows:

1. Health and Safety- The numerous lorries travelling up the road from the Quarry, accelerate up the hill at the point where the houses will be built and there is an increase in emissions. The Parish Council would like to request that this is independently measured.

The road is extremely busy with over 200 lorries passing each day and there has been no provision for a footpath. Any children having to walk to the primary school at the bottom of the hill or to the play area would be walking on this road.

With only 11 car parking spaces it is highly probable that there is insufficient parking available on site and consequently cars will be parked in the road. This again exacerbates the problems above. The Council would like to see more car parking space made available on site.

2. Drainage - The Council have serious concerns over the arrangements for the drainage. The Architect had discussed at the meeting the provisions for the drainage of the site but there has been no discussion for the remainder of the field and the surface run off. There is a considerable amount of water running down the field which does not appear to have been considered.

3. Environmental - In the millennium several trees were planted along the edge of the field (including a Devon Oak) which are to be removed. New planting is not replacing them and the Council would like the Tree Officer from MDDC to review the trees on this site.

Crested Newts are located in a pond on the opposite side of the road and this needs to be a consideration.

4. The village lacks any amenities. With only one bus a week coming through Burlescombe a vehicle is required to access the shops, Dr or College.

The Parish Council have suggested that putting double yellow lines on the road would prevent any parking off site and request that this is considered. In summary the Councillors do not object to having affordable housing in the area but are strongly opposed to the allocated site as being inappropriate.

DEVON COUNTY EDUCATION - 7th April 2017 - Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 6 family-type dwellings will generate an additional 1.5 primary pupils and 0.9 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought is £19,728 (based on the current DfE extension rate of £21,921 per pupil) which will be used to provide education facilities for those living in the development.

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

1.00 secondary pupil
£3.10 per day x 190 academic days x 5 years = £2,945

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 NO OBJECTION WITH CONDITION

The proposed development lies in an area of archaeological potential.

For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

HIGHWAY AUTHORITY - 4th April 2017 NO OBJECTION WITH AMENDMENTS AND CONDITIONS

Observations:

The applicant engaged with the Highway Authority prior to the submission of the application.

The applicant was advised that two car parking spaces per dwelling were required in order to reduce the potential for parking on the carriageway. Unfortunately the submitted plans only include eleven spaces. They do however appear capable of easy amendment by removal of the small planted area between spaces on the eastern line of spaces and then rejigging to include an additional space.

As shown on the submitted plan there is a bus shelter adjacent to the North West corner of the site. Unfortunately the stop is only served by one bus a week, on a Friday. Nevertheless, the indicated steps shown on drawing 2501 Rev P01 show pedestrians being discharged direct on to the carriageway below the bus stop whereas there would be benefit in tying in to the concrete apron in front of the bus stop.

I would therefore be grateful if you would raise these issues with the applicant and seek appropriately amended plans.

Recommendation:

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

ENVIRONMENTAL HEALTH - NO OBJECTION

We have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school) and it is well below the action level.

It is also a very open area so any exhaust gases disperse quickly.

The action level is 40µg/m³ and Burlescombe, has been under 15µg/m³ for the last 5 years.

For that reason I would have no concerns regarding air quality at this site.

NATURAL ENGLAND - 20th March 2017

No comments.

ENVIRONMENTAL HEALTH - 13th March 2017

Contaminated Land - no objection to these proposals

Air Quality - no objection to these proposals

Environmental Permitting - N/A

Drainage - no objection to these proposals

Noise & other nuisances - 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 - Not applicable

Health and Safety - no objection to this proposal enforced by HSE.

HIGHWAY AUTHORITY - 21st June 2017 - The visibility proposed at the access point is adequate for the location and speed of traffic. Lorries are accelerating at this point but it is up hill and in my experience (I know a local resident) they are not actually travelling excessively fast. It is widely accepted by transport planners and highway engineers that because of their sheer size, the presence of metallic 'clanking' from moving body parts and labouring engines, lorries do tend to give the impression that they are travelling faster than they are.

[residents walking on the road to reach the school etc.] is clearly not ideal but it is also true for the existing residents of Burlescombe and many villages across Devon, and wider. The main road through the village varies in width but at most points there is adequate width for two vehicles and pedestrians to pass in relative

safety particularly given the relatively low traffic volumes. Between 1st Jan 2012 and 31st Dec 2016 there was one 'slight' severity collision in the village. In short I do not believe I could provide sufficient evidence to convince an Inspector that the application does not have 'Safe and suitable access'.

LEAD LOCAL FLOOD AUTHORITY - 17th May 2017

Recommendation:

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Observations:

The applicant has not submitted sufficient information in relation to the surface water drainage aspects of the above planning application in order for it to be determined at this stage.

The strategy presented within the submitted within the Drainage Statement (Ref: 16.11.283, Rev, 01, dated May 2017) is acceptable and SWW have agreed the proposed discharge point. However given concerns raised by adjacent residents about changes in overland flow routes, it would recommended that the proposed 300 mm high edge protection to development as shown on Drawing No. 16.11.283-1002-P01 to prevent overland flows is reduced in length to still provided to prevent exceedance from entering the proposed new dwellings but allow exceedance flows to enter the green space. However flows should be prevented from entering the proposed attenuation facility if this option is explored.

14th June 2017 - The applicant has now submitted sufficient information in relation to the surface water drainage aspects of

the above planning application in order for it to be determined.

The strategy presented within the submitted within the Drainage Statement (Ref: 16.11.283, Rev, 01, dated May 2017) is acceptable and SWW have agreed the proposed discharge point. However given concerns raised by adjacent residents about changes in overland flow routes, it would recommended that the proposed 300 mm high edge protection to development as shown on Drawing No. 16.11.283-1002-P01 to prevent overland flows is reduced in length to still provided to prevent exceedance from entering the proposed new dwellings but allow exceedance flows to enter the green space. However flows should be prevented from entering the proposed attenuation facility if this option is explored.

REPRESENTATIONS

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 - object

Burlescombe Parish Council have taken into consideration the objections received and the points raised at the Planning Committee Meeting by both members of the Public and Councillors on Wednesday 15th March and wish to object to this application.

The concerns raised are as follows:

1. Health and Safety- The numerous lorries travelling up the road from the Quarry, accelerate up the hill at the point where the houses will be built and there is an increase in emissions. The Parish Council would like to request that this is independently measured. The road is extremely busy with over 200 lorries passing each day and there has been no provision for a footpath. Any children having to walk to the primary school at the bottom of the hill or to the play area would be walking on this road. With only 11 car parking spaces it is highly probable that there is insufficient parking available on site and consequently cars will be parked in the road. This again exacerbates the problems above. The Council would like to see more car parking space made available on site.

2. Drainage - The Council have serious concerns over the arrangements for the drainage. The Architect had discussed at the meeting the provisions for the drainage of the site but there has been no discussion for the remainder of the field and the surface run off. There is a considerable amount of water running down the field which does not appear to have been considered.

3. Environmental - In the millennium several trees were planted along the edge of the field (including a Devon Oak) which are to be removed. New planting is not replacing them and the Council would like the Tree Officer from MDDC to review the trees on this site.

Crested Newts are located in a pond on the opposite side of the road and this needs to be a consideration.

4. The village lacks any amenities. With only one bus a week coming through Burlescombe a vehicle is required to access the shops, Dr or College.

The Parish Council have suggested that putting double yellow lines on the road would prevent any parking off site and request that this is considered. In summary the Councillors do not object to having affordable housing in the area but are strongly opposed to the allocated site as being inappropriate

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 - no objection with condition

The proposed development lies in an area of archaeological potential.

For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below,

based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby: 'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

HIGHWAY AUTHORITY - 4th April 2017 no objection with amendments and condition

Observations:

The applicant engaged with the Highway Authority prior to the submission of the application. The applicant was advised that two car parking spaces per dwelling were required in order to reduce the potential for parking on the carriageway. Unfortunately the submitted plans only include eleven spaces. They do however appear capable of easy amendment by removal of the small planted area between spaces on the eastern line of spaces and then rejigging to include an additional space.

As shown on the submitted plan there is a bus shelter adjacent to the North West corner of the site.

Unfortunately the stop is only served by one bus a week, on a Friday. Nevertheless, the indicated steps shown on drawing 2501 Rev P01 show pedestrians being discharged direct on to the carriageway below the bus stop whereas there would be benefit in tying in to the concrete apron in front of the bus stop.

I would therefore be grateful if you would raise these issues with the applicant and seek appropriately amended plans.

Recommendation:

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

(3 conditions listed)

NATURAL ENGLAND - 20th March 2017

No comments

ENVIRONMENTAL HEALTH - We have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school) and it is well below the action level.

It is also a very open area so any exhaust gases disperse quickly.

The action level is 40 $\mu\text{g}/\text{m}^3$ and Burlescombe, has been under 15 $\mu\text{g}/\text{m}^3$ for the last 5 years.

For that reason I would have no concerns regarding air quality at this site.

ENVIRONMENTAL HEALTH - 13th March 2017

Contaminated Land - no objection to these proposals

Air Quality - no objection to these proposals

Environmental Permitting - N/A

Drainage - no objection to these proposals

Noise & other nuisances - 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 - Not applicable

Health and Safety - no objection to this proposal enforced by HSE.

REPRESENTATIONS

1 letter of support has been received raising the following issues:

- a) Traffic speeds are limited to 30mph
- b) No lorries pass through at school run time and hardly at all at weekends and through the night
- c) Pedestrians are capable of walking on the verge or edge of road as they do now
- d) School would benefit from extra families
- e) Extra families may attract other amenities as they will be more viable
- f) Safeguards can be put in place for wildlife and trees and good planting can screen and protect from pollution
- g) Adequate drainage could be put in place
- h) Appears to be ample parking
- i) There is a great need for affordable housing in the village

12 letters of objection have been received raising the following issues:

- a) access is directly onto hill used by lorries from quarry at a point where they are increasing speed and power to climb the hill out of the village. Over 200 lorries a day exit the village by this road
- b) No footpath so pedestrians will have to walk on road
- c) Lack of facilities in village - will promote inequality and further disadvantage people in need of housing
- d) Car is the only viable option of getting to nearest towns as bus service is only once a week. Lack of access to a car can mean health services, child care and social activities are difficult to access and a barrier to getting a job
- E) Loss of trees to make way for development/access
- f) increased pollution levels from traffic using the road outside the site
- g) additional demands on drainage system
- H) Open space being swallowed up
- i) No necessity to build in Burlescombe with large scale developments proposed at Cullompton and Tiverton, where occupants will also have access to the associated infrastructure
- j) There are a number of springs in the application site and remaining field and there are concerns about how the development may affect them and the impact on existing properties including flooding and subsidence
- k) Steep access out on to the main road through village and lack of parking provision on site forcing

residents and their visitors to park on main road

l) Field is known to have greater crested newts etc.

m) MDDC should consider using other land such as the Redlands site to provide affordable housing on instead

n) Overlooking of garden to 'Merebrow'

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy**
- 2. Design**
- 3. Highways**
- 4. Air quality**
- 5. Ecology and trees**
- 6. Impact on residential amenity**
- 7. Drainage**
- 8. Archaeology**

1. Policy

The site is located outside but immediately adjacent to the existing settlement limit of Burlescombe. COR1 seeks to meet the housing needs of all sectors of the community including the provision of affordable housing. COR18 of the Core Strategy seeks to strictly control development outside settlement limits but (subject to other criteria) permits affordable housing to meet a local need. Policy AL/DE/6 (exceptions policy) of the AIDPD states:

The development of a site for 100% affordable housing to meet the needs of the local community will be permitted where:

- a) There is a proven need for affordable housing from households who have a strong local connection with the parish or an adjoining parish;
- b) The site adjoins a settlement in a location which takes account of visual and other impacts or is specifically allocated for affordable housing to meet local needs;
- c) The type of affordable housing and the scale of provision is limited to meeting the proven local need;
- d) A planning obligation is enforced which retains all the dwellings as affordable housing in perpetuity and gives priority to occupation by those with a strong local connection with the parish or adjoining parishes.

The applicant has provided information which demonstrates that a Housing Needs Survey was undertaken in 2013, the results of which are considered to remain valid for 5 years. In addition, information has been provided from the Housing Waiting list held by Devon Home Choice/MDDC. The information provided shows that there is an existing housing need within the village. Therefore the proposal complies with part a) of the policy.

The site is not allocated for affordable housing but it does immediately adjoin the settlement of Burlescombe, in a location where the existing built form of the village is linear in nature. Subject to consideration of other issues and policies below, the proposal complies with part b) of the policy.

The applicant is able to demonstrate that the mix of properties proposed is appropriate to address the need identified above and therefore part c) of the policy is complied with.

The application has been made by Mid Devon District Council and the proposal is for 100% affordable housing. It would be usual to have a s106 agreement whereby the applicant signs a legal agreement with the Council to ensure that all dwellings are retained in perpetuity and giving priority to occupation by those with a strong local connection with the parish or adjoining parishes. However, a Council cannot covenant with itself but in this instance, the land is not owned by MDDC and therefore it will be necessary to have a s106 agreement signed by all current landowners. The officer recommendation of approval is therefore subject to the prior signing of a s106 agreement to secure the affordable housing (but no other financial

contributions will be applied as this is an affordable housing scheme). On this basis part d) of the policy is complied with.

Concern has been expressed about the sustainability of a development in this location particularly given the lack of facilities within the village (a school, village hall and pub premises albeit that the pub has been closed for some time now). There is also only one bus service per week and therefore the heavy reliance on the private car. Policies within the NPPF and LDF do seek to promote sustainable development and as a consequence the Local Plan Review submission document sets out the authorities intention to remove the settlement limit for Burlescombe. However, the submission document currently carries little weight as it has not yet gone through examination by the Inspector. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The current adopted development plan identifies Burlescombe as a COR17 settlement within which (and consequently adjacent to it for an exception site) minor residential developments are considered acceptable. On this basis, whilst the concerns about sustainability are noted, it is not considered that this would be an appropriate grounds for refusal. As such the proposal complies with current policies COR1 and DM1

Other relevant policies and issues are addressed below

2. Design

COR2 and DM2 seek high quality design in new development with DM14 particularly seeking adequate levels of daylight, sunlight and amenity space. The requirements for minimum dwelling sizes in policy DM15 have been superseded by the nationally described space standards.

The proposed development consists of 2 terraces following the linear nature of development in this part of Burlescombe, set up and back from the road. The properties are simple in form constructed of materials which are appropriate to the area.

Concern has been expressed that the layout and design of the site does not provide for adequate on-site parking. The plans have been amended to reflect the comments of the Highway Authority to show 12 parking spaces for 6 properties.

The agent has confirmed that each of the units has been designed to comply with the nationally set space standards so on this basis, the proposal is considered to comply with policies COR2, DM2 and DM14.

3. Highways

Concerns have been expressed regarding the busy nature of the road, lack of footpaths from the site and whether this is an appropriate location for family homes given that approximately 200 lorries a day pass the site fully laden from the quarry. The Highway Authority have been consulted on the application and have not raised any objections in this respect or in terms of the safety of the proposed access onto the road. Whilst it is correct that anyone occupying the properties will need to walk along the verge and on the side of the road to access facilities such as the school, this is already the case for a number of residents in the village and it is not considered that the provision of a footpath from the site into the village is justifiable for a development of this scale.

The Highway Authority has however recommended some changes to the layout of the parking area to increase the number of available parking spaces and have recommended that the proposed pedestrian access exits onto the existing concrete apron by the bus stop which would be a sensible approach. Amended plans have been received which indicate 12 parking spaces but no alteration to where the pedestrian footpath exits. The applicant has been requested to look at this again and an update will be provided at committee.

Double yellow lines have been suggested to prevent residents from parking on the main road. With the provision of 12 parking spaces for 6 properties, it is not envisaged that this will be an issue but could be addressed by DCC at a later date through a Traffic Regulation Order if a problem arose.

4. Air quality

Concern has been expressed from residents about the impact on the occupiers of the proposed properties from the exhaust fumes emitted by the lorries coming from the quarry and accelerating on the hill outside the site. Environmental Health has been asked to specifically comment on these concerns and have advised that they have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school). They advise that the action level is 40 $\mu\text{g}/\text{m}^3$ and that Burlescombe has been under 15 $\mu\text{g}/\text{m}^3$ for the last 5 years. They also advise that it in terms of the application site, is a very open area so any exhaust gases disperse quickly. As a result, there are no objections to the proposal on air quality grounds.

5. Ecology and trees

The site is currently an agricultural field put to grass. Along the frontage of the site, bounding the road is a line of young trees planted to celebrate the millennium. The plans indicate that one of the trees (a Lucombe Oak) will need to be removed to provide access to the site and that other trees and shrubs will be planted along the frontage and within the site. The trees are less than 20 years old and whilst it is regrettable that any trees need to be removed, it is not considered that any of the trees within the site frontage warrant a TPO or that their loss would justify a refusal given that they are relatively young specimens. The Tree Officer has been consulted on the proposal and concurs with this view.

The application is accompanied by an Ecological Impact Assessment which sets out recommendations for native planting along the site frontage and the submitted scheme concurs with the recommendations. The Ecological assessment also sets out the impacts on any protected species. The impact on bats, nesting birds, badgers, hazel dormouse, reptiles and greater crested newts have been considered and found that there is unlikely to be any protected species either on site or affected by the development. However, residents and the Parish Council have raised the presence of great crested newts on an adjoining site and therefore the applicants ecologist has provided the following response:

'The site is located within a great crested newt (GCN) consultation zone and there is a record of a great crested newt breeding pond approximate 500 m north-east of the site. There is also a record of an EPSL for the damage and destruction of a GCN resting place approximately 1 km north-east of the site (refer to 3.1.2). There are two ponds (not including the identified breeding pond) approximately 400 m north-east of the site. There is no direct habitat connectivity from the site to the ponds. There are roads/residential areas and a train line between the site and ponds which may act as barriers to newt dispersal.

There are no ponds on the site. There are no mammal burrows, rough vegetation, dense scrub and/or rubble piles on the site that provide favourable GCN terrestrial habitat. It is therefore considered unlikely that GCN are present on the site.'

The site consisted of cattle poached improved grassland which is of negligible value to GCN. The south-west of the site is bounded by a strip of poor semi-improved grassland, semi-mature trees and patch of scrub adjacent to a road. This may provide potential habitat for GCN to travel through. However, given the limited extent and absence of dense scrub or other cover, such as burrows or dense scrub it is unlikely to provide favourable GCN resting habitat.

If GCN are present at Chartwood they would have to cross the road to access the site. The proposals include the loss of approximately 10-15 m of the bank (largely grass). If GCN currently cross the existing road they will be able to cross the new entrance to the proposed site. The proposed development includes reinforcing the existing south-west boundary with new woody vegetation. It is also proposed to plant a new hedgerow/boundary around the south-east and north-east boundaries of the site as well as areas of shrub plantings around the site. The provision of residential gardens and the new areas of planting within the development are likely to enhance the site value for any GCN in the area by providing a mosaic of habitats (as opposed to cattle poached grassland and a sparsely vegetated bank). You could provide additional measures such as permeable fence boundaries within the site, e.g., 125 mm² holes at the bottom of garden fences allow the potential dispersal of GCN and other wildlife over the site.

In summary, it is considered unlikely that the proposed development would have a significant impact on GCN (if they are present at Chartwood).

In light of the above, it is not considered that the proposal will have any adverse impact on ecology but members should note that if any protected species are found whilst contractors are on site, they are bound by the Wildlife and Countryside Act 1981 which makes it an offence to intentionally (or recklessly) kill or

injure protected species or interfere with places used for their shelter and protection.

6. Impact on residential amenity

Concern has been expressed the proposed dwellings may result in overlooking of an existing bungalow opposite known as 'Merebrow'. This is one of 3 properties (bungalows) located to the south west of the site, on the opposite side of the road and at a lower level than the application site. There is approximately 20m between the front elevation of the dwellings and the rear garden boundary of 'Merebrow', with the proposed dwellings being at a higher level. Whilst it is possible to see the rear elevation of all 3 properties whilst standing on the site, and taking into account that the proposed dwellings will be two storey, the distance between the dwellings and orientation are such that the extent of overlooking will not be so great as to warrant refusal.

7. Drainage

Concern has been expressed that the application site is currently a sloping agricultural field with a number of springs in it. There are existing properties which sit at a lower level than the site and the occupiers are concerned that any development of the site should not lead to increased levels of run-off. A drainage scheme has been provided with the application but DCC as Lead Local Flood Authority (LLFA) has requested further information from the applicants in order to fully assess the proposal. At the time of writing this report, the full details were still awaited but an update on this will be provided to members at committee. However members can be assured that in order to gain the approval of DCC LLFA the applicants will need to demonstrate that the development will not result in a worsening of the situation.

8. Archaeology

DCC Archaeology have advised that the proposed development lies in an area of archaeological potential and therefore any groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these periods.

For this reason a condition is attached requiring a programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. The results of this work will then determine the requirement and scope for further work

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
4. In accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

5. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, visibility splays, turning area, parking space and access drainage have been provided in accordance with the approved drawings..
6. All development shall be carried out in accordance with the recommendations and mitigation measures set out in section 4 of the Ecological Impact Assessment carried out by Richard Green Ecology and received by the Local Planning Authority on 6th March 2017
7. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained
8. The approved drainage scheme shown on drawing number *** shall be carried out in full prior to the first occupation of the dwellings and thereafter be so retained

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure, in accordance with Paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in Paragraph 5.3 of the Mid Devon Local Plan Part 3: (Development Management Policies) Policy DM27, that an appropriate record is made of archaeological evidence that may be affected by the development.
4. In the interest of public safety and to prevent damage to the highway.
5. To ensure that adequate facilities are available for the traffic attracted to the site.
6. In the interests of preserving protected species and their habitats and to enhance the ecological value of the site in accordance with Policy DM2 of Local Plan Part 3 (Development Management Policies)
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of the Local Plan Part 3: (Development Management Policies).
8. To ensure that adequate measures are in place to manage surface water and foul drainage from the site.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

A need for affordable housing in Burlescombe has been demonstrated and the proposed dwellings in terms of size, mix and design are considered appropriate for this location. The design and layout of the dwellings are considered acceptable and the comments of the Highway Authority have now been successfully resolved. No concerns regarding air quality have been raised by Environmental Health and it is considered that the removal of young trees, whilst regrettable, does not justify a refusal. No adverse impact on residential amenity is considered to result which justifies a refusal and subject to resolution of the outstanding issues relating to ecology and drainage the proposal is considered to comply with Policies COR1, COR2, and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/DE/6 and AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies).

Mrs Jenny Clifford
Head of Planning and Regeneration

