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15 September 2017

## PLANNING COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Tuesday, 26th September, 2017** in the Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

Yours sincerely

NEIL AGGETT  
Democratic Services Manager

Distribution: Councillors Smith (Chairman), Kerswell (Deputy Chair), Austen, Brodie, Bullivant, Clarence, Colclough, Dennis, Fusco, Hayes, Jones, Keeling, Mayne, Nutley, Orme, Parker, Pilkington, Price, Prowse, Rollason and Winsor

Substitutes: Councillors Connett, Dewhirst, Golder, Haines, Hocking, Russell and Thorne

A link to the agenda on the Council's website is emailed FOR INFORMATION (less reports (if any) containing Exempt Information referred to in Part II of the agenda), to:

- (1) All other Members of the Council
- (2) Representatives of the Press
- (3) Requesting Town and Parish Councils

**If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting**

**Local Government Act 1972 (Section 100 and Schedule 12A) - Reports in Part II of this agenda which contain exempt information are confidential.**

## Public Access Statement

- There is an opportunity for members of the public to ask questions at this meeting. Please submit your questions by email before 12 Noon on the Thursday before the meeting.
- Agendas and reports are normally published on the Council's website 5 working days prior to the meeting. If you would like to receive an e-mail which contains a link to the website for all forthcoming meetings, please contact us.
- Reports in Part I of this agenda are for public information. Any reports in Part II are exempt from publication due to the information included, under the Local Government (Access to Information) Act 1985.

## **A G E N D A**

### PART I (Open to the Public)

1. Apologies for absence.
2. Confirmation of the Minutes of the previous meeting.
3. Agreement of the Meeting between Parts I and II.
4. Matters of urgency/report especially brought forward with the permission of the Chairman.
5. Declarations of Interest.
6. Public Participation - the Chairman to advise the Committee on any requests received from members of the public to address the Committee.

### **Note:**

*A public participation feedback survey will be available at the meeting. Public speakers are invited to complete and return this form. The survey form is also available by contacting [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)*

7. Planning Applications for Consideration - to consider applications for planning permission as set out below. (Pages 1 - 90)

### **Notes:**

On 6 May 2014 the Council adopted the Teignbridge Local Plan 2013–2033. The Local Plan now has full development plan status and applications must be determined in accordance with the Local plan unless material considerations indicate otherwise.

Members are reminded that on 15 January 2012 Section 143 of the Localism Act 2011 came into force. This section provides that when determining planning applications, local planning authorities shall have regard to:

- (a) The provisions of the development plan, so far as material to the application;
- (b) Any local finance considerations, so far as material to the application; and

(c) Any other material considerations.

In this context 'local finance considerations' means grant or other financial assistance that has been, or will or could be provided by central Government or sums that a relevant authority, such as Teignbridge District Council has received, or will or could receive in payment of Community Infrastructure Levy.

On 13 October 2014 the Council introduced the Community Infrastructure Levy (or CIL) following the approval of the CIL Charging Schedule by the Independent Examiner in April 2014 and adoption by Full Council on 31 July 2014. CIL replaces Section 106 Agreements for the funding of infrastructure requirements arising from retail and residential developments.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and its provisions constitute material considerations which carry weight in the determination of planning applications. However the Local Plan was prepared in accordance with the NPPF and accordingly there should not be significant divergence between the policies of the Local Plan and the NPPF. Again, the Local Plan has primacy in determining applications.

Each report will give details of the relevant Local Plan policies and the relevant material considerations and the weight to be given to them.

Any representations received after the preparation of the reports will be placed on the Public Access area of the Council's Website and can be viewed prior to the Meeting.  
<http://gis.teignbridge.gov.uk/TeignbridgePlanningOnline/Search.aspx>

- **NEWTON ABBOT - 17/01773/FUL - 6 Belvedere Road** - Proposed timber decking and pergola in rear garden of property. (Pages 1 to 5 attached).
- **STARCROSS - 17/01703/MAJ - Cockwood Harbour & Starcross Slipways, Cockwood** - Tidal defence scheme to include flood gate installation and replacement, slipway raising and wall raising at tidal inlets, together with a combination of raising, repair and reconstruction of Cockwood Harbour seawall, and associated works. (Pages 7 to 21 attached).
- **EXMINSTER - 15/00708/MAJ - Land at South West of Exeter, Matford** - Outline - residential development, mixed use local centre (Use Classes A1, A2, A3, A4, A5, D1 and B1), education facilities and sport and recreation, land for community buildings (Use Class D2), open space, Suitable Alternative Natural Green Spaces (SANGS), Sustainable Urban Drainage Systems works, new access and highways infrastructure including a bridge and related works (approval sought for access). (Pages 23 to 31 attached).
- **EXMINSTER/SHILLINGFORD ST GEORGE - 16/03251/MAJ - West Exe Park, Alphington** – Outline application for employment development (Use Classes B1, B2 and B8) up to 47,112 square metres (gross floor area) together with associated infrastructure including new vehicular access, an internal road layout, car parking, landscaping, services and all other associated development (approval sought for access). (Pages 33 to 65 attached).

- **KINGSKERSWELL - 16/01961/MAJ - Land to rear of Mount Pleasant Road** - Outline – residential development of up to 34 dwellings (all matters reserved for future consideration). (Pages 67 to 80 attached).
  - **DAWLISH - 16/02074/FUL - 1 Priory Park Road** - Decking and parking bay at front of property. (Pages 81 to 89 attached).
8. Dawlish, 13 Weech Road, Buildings at Risk (Pages 91 - 98)
  9. Breach of Planning Control - The Buntings, Higher Woodway Road, Teignmouth (Pages 99 - 106)
  10. Appeal Decisions - to note appeal decisions made by the Planning Inspectorate. (Pages 107 - 110)

## **PART II (Private)**

### **Items which may be taken in the absence of the Public and Press on grounds that Exempt Information may be disclosed.**

NIL

## **FOR INFORMATION:**

### **Future meetings of the Committee**

24 October, 21 November, 19 December 2017. 23 January, 20 February, 20 March, 17 April, 15 May 2018.

### **Dates of site inspections**

Team 1 - 5 October 2017, 4 January, 29 March 2018

Chairman, Vice Chairman and Cllrs: Bullivant, Colclough, Hayes, Nutley, Price and Rollason

Team 2 - 12 November 2017, 1 February, 26 April, 2018

Chairman, Vice Chairman and Cllrs: Brodie, Dennis, Jones, Mayne, Orme, Parker

Team 3 - 30 November 2017, 1 March, 24 May 2018

Chairman, Vice Chairman and Cllrs: Austen, Clarence, Fusco, Keeling, Pilkington, Prowse and Winsor

## **APPENDIX 1**

### **THE LOCAL GOVERNMENT ACT 1972**

### **(Local Government (Access to Information) Act 1985)**

### **List of Background Papers relating to the various items of reports as set out in Part I of the Agenda**

#### ***As relevant or appropriate:***

1. Applications, Forms and Plans.
2. Correspondence/Consultation with interested parties.
3. Structure Plan Documents.
4. Local Plan Documents.

5. Local/Topic Reports.
6. Central Government Legislation.

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# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 1.

**CASE OFFICER** Eve Somerville

**APPLICATION FOR CONSIDERATION:** NEWTON ABBOT - 17/01773/FUL - 6 Belvedere Road - Proposed timber decking and pergola in rear garden of property

**APPLICANT:** Miss T Pike

**WARD MEMBERS:** Councillors Bullivant and Hocking, Bradley

## 1. REASON FOR REPORT

The applicant is a member of staff.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement
2. Development to be carried out in accordance with approved plans

## 3. DESCRIPTION

The site

- 3.1 6 Belvedere Road is a single storey, detached residential property located within the settlement limit of Newton Abbot. The site is on the edge of the settlement limit and fronts an area which is in predominantly residential use, with open countryside to the north.
- 3.2 The property sits in a row of nine dwellings forming a linear formation near the end of the cul-de-sac. The wider streetscene is constructed of similar properties, being mainly single storey with hipped roofs and gable ends to the front.
- 3.3 The property sits forward on the site with a detached garage, driveway and garden space to the front and rear. There is existing terracing to the rear of the property directly abutting the rear elevation of the dwelling, with the boundary consisting of timber fencing over a block work wall.

- 3.4 Due to the topography of the site the land gently slopes from east to west, with the neighbouring property to the east sitting above the subject site, which is repeated down the road.

#### The proposal

- 3.5 The application seeks permission for timber deck and a pergola to the rear of the dwelling within the garden space. The decking is to be 835mm at its highest point and 10mm at its lowest which is to the east extent of the dwelling, and extend 4.5 metres out from the rear elevation. The pergola is to be constructed of timber and is to run along the east wall abutting the neighbour some 6 metres, 1.5 metres in depth, and 2.4 metres in height.
- 3.6 The pergola is to be set below the eaves of the existing dwelling and is intended to act as some level of privacy screening for the applicant.

#### Sustainability/principle of the development

- 3.7 The application site is located within the Newton Abbot Settlement Limit as depicted in the Teignbridge Local Plan 2013-2033. Policies S1A, S1 and WE8 of the Local Plan are permissive of extensions and alterations to existing residential properties, subject to policy criteria being met. Thus, the principle of development can be acceptable, subject to compliance with policy.

#### Impact on the wider streetscene and open countryside

- 3.8 In assessing the design of the proposal, the existing street character and materials should be taken into consideration to ensure that the proposal harmonises with that of the existing development.
- 3.9 As discussed above the works are to be set to the rear of the dwelling, which ensures that there is no visual impact upon the existing streetscene. However, the property sits on the border of the open countryside, therefore the design and visual impact of the development upon the countryside needs to be carefully considered.
- 3.10 The view from the rear of the property is across the clay pit and clay works, with the nearest road being near Forches Cross, which is approximately 1,071 metres as the crow flies. This is considered to be far enough to ensure that the proposed minor works are not detrimental to the countryside.
- 3.11 Therefore, the design and scale of the proposed development is considered to be appropriate and will not cause a significant impact on the appearance or character of the immediate or wider area. The proposed development is therefore considered to be in accordance with Policy S2.

#### Impact on neighbours

- 3.12 The nearest neighbouring properties are numbers 5 and 7 Belvedere Road, with number 5 sitting some 4.6 metres to the west and number 7 approximately 5.9 metres to the east. Although the pergola is to sit above the existing boundary



fencing, its very nature and topography of the land ensures it will not be overbearing or result in overlooking to the nearest neighbour to the east.

- 3.13 The nearest neighbours to the east and west are at such a distance that the height, design and siting of the proposed extension would not cause any negative impacts on amenity in the context of Policy WE8 of the Local Plan.

#### Conclusions

- 3.14 The proposal does not materially affect the amenities of neighbouring occupiers or the character and visual amenities of the locality.
- 3.15 This is considered to represent an appropriate form of development whereby the Local Planning Authority determines that the balance of considerations weigh in favour of granting planning permission. There is therefore a recommendation to approve subject to standard conditions.

#### **4. POLICY DOCUMENTS**

##### Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S21A (Settlement Limits)

WE8 (Domestic Extensions, Ancillary Domestic Curtilage Buildings and Boundary Treatments)

##### Newton Abbot Neighbourhood Plan

NANDP2 (Quality Design)

##### National Planning Policy Framework

##### National Planning Practice Guidance

#### **5. CONSULTEES**

No consultations

#### **6. REPRESENTATIONS**

The neighbours at 5 and 7 Belvedere Road were notified and no letters of representation have been received.

#### **7. TOWN COUNCIL'S COMMENTS**

No objections

**8. COMMUNITY INFRASTRUCTURE LEVY**

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

**9. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.



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# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 2.

**CASE OFFICER** Donna Crabtree

**APPLICATION FOR CONSIDERATION:** STARCROSS - 17/01703/MAJ - Cockwood Harbour & Starcross Slipways, Cockwood - Tidal defence scheme to include flood gate installation and replacement, slipway raising and wall raising at tidal inlets, together with a combination of raising, repair and reconstruction of Cockwood Harbour seawall, and associated works

**APPLICANT:** Environment Agency

**WARD MEMBERS:** Councillor Connett, Kenton-with-Starcross

## 1. REASON FOR REPORT

This application is reported to Planning Committee as the site includes land which is owned by Teignbridge District Council

### UPDATE TO PREVIOUS REPORT TO 29 AUGUST PLANNING COMMITTEE

This report is returned for the consideration of Members following deferral of the application at the Committee Meeting which took place on 29 August 2017. The application was deferred to allow further Officer consideration of technical information and any impacts on nearby buildings arising from pile driving works alongside possible alternatives, and measures to minimise and monitor vibration levels or mitigation.

Following the August Committee Meeting, the Applicant (Environment Agency) has submitted additional information for consideration comprising a Technical Note which sets out how vibrations will be monitored and what mitigation measures will be implemented.

The Technical Note explains that equipment will be used to measure vibration levels (Peak Particle Velocity) over baseline levels. Action levels are identified (initial trigger of 1.5mm/s and action level of 3.0mm/s) which would confirm if any obstruction is reached during the piling works.

Piling works would be achieved by pre-augering key positions. During these works, should the initial trigger of 1.5mm/s be reached, the contractor would stop works and retract the auger and move to the next auger position. If no further obstruction is reached, the auger would be repeated in the previous position as it is a likely isolated area which could be cleared with minimal vibration. If further obstruction is encountered, consideration will be given to adapting the design to provide a shorter pile at these locations.

If the action level of 3mm/s is reached, operations would be stopped immediately and records of obstructions checked. If the obstruction is isolated it would be passed with minimal vibration, if it is not, dependent on depth, the design would be amended to leave the sheet pile shorter.

If action levels are reached then the option of pre-drilling (auger mounted within a casing to prevent uncontrolled movement when hitting hard material) would be carried out, rather than pre-auger.

The Technical Note also confirms that structural assessments will be undertaken of the listed properties directly adjacent to the site (in exceedance of normal practice only to assess properties where there is obvious visible signs that there is already an underlying issue and potential failure of the structure).

The Teignbridge District Council Coastal and Drainage Manager has reviewed the Technical Note and accompanying documents and is satisfied that mitigation measures have been properly considered and included, and that any objections relating to structural damage have been properly addressed.

Having due regard to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to a condition requiring compliance with the Technical Note methodology, it is not considered that the proposed development would impact the structural stability of nearby listed buildings and other structures.

Therefore the application is returned for the consideration of the Planning Committee with a recommendation for approval as set out below and subject to an additional condition to require the monitoring of vibration levels and mitigation measures as set out within the submitted Technical Note to be strictly adhered to during any pile driving operations being carried out. This condition has been added as Condition 12 to the original recommendation below.

The Teignbridge District Council Environmental Health Officer notes that the Applicant intends to apply for a Section 61 Prior Consent under the Control of Pollution Act 1974 and has advised that such an application would allow the details of the works and mitigation to be agreed to ensure that the impact from the work is minimised. The Teignbridge District Council Environmental Health Officer has requested that a condition is attached requiring that a Prior Consent application under the Control of Pollution Act 1974 is submitted. Whilst compliance with non-planning legislation should not be dealt with by planning condition, it is considered appropriate to attach an informative to the application.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement
2. Development to proceed in accordance with the approved details
3. Cockwood Harbour wall shall be recorded at level 3 as set out in Historic England Guidance Understanding Historic Buildings: A Guide to Good Recording Practice and the results deposited with the Devon Historic Environment Record (HER)
4. Archaeological written scheme of investigation to be submitted to and approved by the Local Planning Authority and implemented as agreed
5. Photographic survey of Cockwood Harbour wall and Starcross Slipways shall be completed and shall inform and form part of a method statement for the proposed works to be submitted and approved by the Local Planning Authority. Method statement shall determine the extent of capping and stone to be salvaged and re-used, how capping and salvaged stone will be stored, and re-used
6. Details of a sustainable Urban Drainage System for the full period of construction shall be submitted to and approved by the Local Planning Authority
7. Notwithstanding the approved plans, submission of details/materials of the following items shall be submitted for each individual section of the scheme as relevant:
  - a) Wall capping details
  - b) Steps
  - c) Handrails (type, colour, material and method of fixing)
  - d) Flood defence gates (design, materials and levels of fixings)
  - e) Surface treatments to slipways and walkways, and pavements (including between Rock Cottage and Cockwood Harbour)
  - f) Balustrade (type, colour, material and method of fixing)
8. Sample panels of stonework shall be provided for inspection by the Local Planning Authority (to show size of stone, bonding and mortar type)
9. Details and locations for mooring rings to be installed at Cockwood Harbour shall be submitted and approved in writing by the Local Planning Authority
10. Details of street lighting and bollards shall be submitted to and approved by the Local Planning Authority
11. Recommendations and mitigation measures as set out in table 18.1 of the submitted EIA must be followed.
12. Monitoring of vibration levels and mitigation measures as set out within the submitted Technical Note to be strictly adhered to during any pile driving operations being carried out

## 3. DESCRIPTION

### Site

- 3.1. The application site comprises four locations in Cockwood and Starcross. These locations are as follows:
  1. Starcross Site 1 - Tidal inlet at Strand Junction, Starcross;
  2. Starcross Site 2 – Tidal Inlet at Fishing and Cruising Club, Starcross;
  3. Starcross Site 3 - Tidal inlet at Generals Lane, Starcross; and,
  4. Cockwood Harbour

- 3.2. The Starcross sites lie immediately adjacent to the Exe Estuary Special Protection Area (SPA)/Ramsar site and European Marine Site. The slipways and Cockwood Harbour are not included within this SPA area, although the Harbour is designated as a County Wildlife Site, for estuarine habitats and communities.
- 3.3. Cockwood Harbour is within 2km of Dawlish Warren Special Area of Conservation (SAC); the Starcross sites are around 3km of Dawlish Warren SAC. The sites are also located directly adjacent to the Exe Estuary Site of Special Scientific Interest (SSSI).
- 3.4. The sites are located within Flood Zones 2 and 3, and the sites which are the subject of the application have been identified as key flood routes.
- 3.5. Cockwood Harbour lies within the Cockwood Conservation Area and a number of listed buildings (Grade I and Grade II) lie in close proximity to the application site. There are detailed later in this report.





## Proposal

- 3.6. The application is made on behalf of the Environment Agency and proposes a tidal defence scheme, comprising flood gate installation and replacement, slipway raising and wall raising at three tidal inlet locations in Starcross, and two slipways at Cockwood Harbour, together with a combination of raising, repair and reconstruction of Cockwood Harbour seawall, and associated works.
- 3.7. The works are associated with other tidal defence works around the estuary, including the Dawlish Warren Beach Management Scheme and Exmouth Beach Management Scheme.
- 3.8. By site, the works which are the subject of this application comprise:

### Starcross Site 1 - Tidal inlet at Strand Junction, Starcross

- New stainless steel floodgate installed across the tidal inlet;
- New emergency steps with historic maritime style handrails (to allow access from behind the floodgate during a high tide or storm event);
- Existing limestone walls either side of the inlet will be raised by between approximately 0.3 metres and 0.4 metres to a height of 3.55 metres AOD (walls will be made of limestone with cock and hen capping).

### Starcross Site 2 - Tidal inlet at Fishing and Cruising Club, Starcross

- Top of slipway will be regraded to a height of 3.55 metres AOD;
- Resurfacing the top of the slipway and the surrounding car park;
- Regrade the area of the car park to the top of the slipway as far as the Starcross Fish and Cruising Club Building to tie in with the steps at the entrance to the building;
- Existing walls on either side of the slipway will be raised by approximately 0.2 metres and 0.3 metres to a height of 3.55 metres AOD;
- Railway fencing will be reinstated;
- Existing handrail to car park side will be replaced with a black historic marine-style handrail.

### Starcross Site 3 - Tidal inlet at Generals Lane, Starcross

- Installation of a new flood gate;
- Footpath to the northern side of the inlet will be raised to the flood height of 3.55 metres AOD;
- New 1.1 metres high handrail in historic maritime-style will be fixed on top of the footpath as raised;
- Replacement steps ascending to the height of the newly-raised footpath;
- Emergency access steps will be installed on the wet side of the flood gate (to allow exit in the event of a flood or extreme high tide event);
- The lower part of a length of wall to the southern side of the inlet will be raised by approximately 0.1 metres to a height of 3.55 metres AOD using red brickwork to match the existing wall;
- Feather edge fencing will be installed on top of the newly raised wall to the south side of the tidal inlet.

#### Cockwood Harbour – North (from the A379 junction to the railway line)

- Flood gate clad in timber installed at the top of the northern slipway;
- New section of fillet wall will be constructed from the floodgate to merge into the existing northern harbour wall and bank at the same height;
- Reconstruction of the slipway to allow installation of the flood gate;
- Construction of a new wall (to the south) to mount the flood gate;
- New set of steps constructed to the north of the slipway (to allow access to and from the harbour if the floodgate is closed);
- Along the existing harbour wall, capping stones and handrail will be removed and the wall raised up to 0.45 metres, before capping stones replaced and a new black historic maritime-type handrail installed on top.

#### Cockwood Harbour – West (from southern slipway to the northern slipway)

- Repair of existing wall (which is at high enough level to provide level of flood protection required) by removing vegetation growing out of the wall and re-pointing and infilling holes and cracks.

#### Cockwood Harbour – South-West (from slipway to Rock Cottage)

- Flood gate clad in timber installed at the top of southern slipway;
- Reconstruct the slipway to amended gradient;
- Replacement of existing steps to allow people egress from the harbour when the floodgate is closed;
- Between southern slipway and start of the footpath in the south-eastern corner of Cockwood Harbour the existing seawall will be deconstructed down to approximately 100mm above road level and a new sheet piled wall will be installed along approximately 100 metres length in front of the existing seawall;
- Sheet piled wall will be clad using original stones removed and additional stone sourced to match the existing;
- Area existing wall and the new sheet piled wall will be backfilled and form a 1.2 metres wide pedestrian refuge along the length of the wall in the south-westerly section.

#### Cockwood Harbour – South-East (Rock Cottage to the railway line)

- Construction of an earth embankment up to the defence height of 3.55 metres AOD in the field directly south of the public footpath in the south-east of Cockwood Harbour;
- New access steps constructed from the Harbour to the footpath;
- Black historic maritime-style handrails will be mounted to the new steps and wall.

### Discussion

#### Principle of Development

- 3.9. The objective of the scheme is to protect the villages of Starcross and Cockwood from current levels of coastal flooding and future increased flooding associated with climate change and sea level rise. It is estimated that the proposed scheme would reduce flood risk to over 650 residential and commercial properties.

- 3.10. The site is within Flood Zones 2 and 3 where the sequential and exception tests would apply. However, in this instance the proposed scheme is a tidal flood defence scheme, which would reduce flood risk in comparison to the existing case and therefore is acceptable in this respect.
- 3.11. The proposed development is considered to be consistent with sustainable development objectives of the Teignbridge Local Plan Policy S1A and Policy S6 it is considered that the principle of development is acceptable subject to compliance with policy.

Impact on the setting of Listed Buildings and the Character and Appearance of Conservation Areas

- 3.12. A number of listed buildings are sited in close proximity to the application sites. The listed buildings in closest proximity to the proposed works are as follows:
- Rock Cottage and The Anchor Inn (both Grade II and sited to the south side of Cockwood Harbour)
  - Ilex House, Southbrook Lodge, Southbrook and Southbrook Gardens (all Grade II and sited to the north-west of Cockwood Harbour)
  - Starcross Pumping Station (Grade I and sited directly adjacent to Starcross Site 2)
- 3.13. Cockwood Harbour is not listed but is located within the Cockwood Conservation Area. Listed buildings mentioned above lie in close proximity of the Harbour.
- 3.14. In reaching its decisions, the Council has a statutory duty to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 3.15. Historic England considers that the proposed demolition of the existing sea wall at Cockwood Harbour (on the south-west section) is a clear loss in heritage terms. The sea wall at Cockwood Harbour is not listed but it makes a very significant contribution to the character and appearance of the Conservation Area.
- 3.16. Historic England advises that in accordance with Paragraph 134 of the National Planning Policy Framework the Authority must weigh the harm against the wider public benefits offered by the enhanced flood prevention.
- 3.17. Paragraph 134 of the National Planning Policy Frameworks states:
- Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*
- 3.18. The Teignbridge District Council Conservation Officer has advised that although there is considerable harm to the unlisted walls of Cockwood harbour and ultimately the setting of the listed buildings mentioned there is considerable public benefit

through carrying out flood prevention works. The flood prevention works would also benefit the listed buildings.

- 3.19. One letter of objection has been submitted which considers other flood defence options should be explored, including using the railway embankment for flood protection and raising the height of the existing harbour wall.
- 3.20. An options paper has been submitted in support of this application and this explains that intrusive investigations have shown that the existing wall to the south-west section of the harbour is in too poor a condition to take the additional loadings due to lack of adequate foundations and voiding beneath the wall.
- 3.21. The Teignbridge District Council Drainage Engineer has reviewed the options report and is satisfied with the conclusions as set out.
- 3.22. Historic England requests, if the Authority is minded to accept the proposals, that the existing wall is recorded at level 3 as set out in their guidance *Understanding Historic Buildings: a Guide to Good Recording Practice* and the results should be deposited with the Devon Historic Environment Record (HER) and used to inform the cladding of the new structure.
- 3.23. It is considered that there are significant public benefits of flood prevention in this instance to outweigh the harm to the character and appearance of Cockwood Harbour and the surrounding Conservation Area, subject to conditions, and that the application should be supported.
- 3.24. It is considered that attention to detail and selection of materials is vital with regards to the new-build elements of the Starcross and Cockwood proposals. Therefore it is recommended that conditions are attached to a decision notice which require details and samples of the materials to be used in the development in order that the Council can ensure that the selected materials are sympathetic to the existing character and appearance of the existing structures.
- 3.25. It is considered that a condition should also be attached to secure recording of the section of seawall at Cockwood Harbour which is proposed for demolition, as requested by Historic England.

#### Biodiversity/European Sites

- 3.26. As set out above, the Starcross sites lie immediately adjacent to the Exe Estuary SPA/Ramsar site and European Marine Site. The slipways and Cockwood Harbour are not included within the SPA, although the Harbour is designated as a County Wildlife Site for estuarine habitats and communities. The sites are also located directly adjacent to the Exe Estuary Site of Special Scientific Interest (SSSI).
- 3.27. Having regards to the location of the application site, a Habitat Regulations Assessment required under the Habitats Directive has been carried out to assess the impacts on the European site. The Teignbridge District Council Biodiversity Officer has completed an Assessment of Likely Significant Effect for this planning application and concludes that a full Appropriate Assessment is not required

providing a condition is attached to the planning permission requiring the development to accord with a suite of mitigation measures as set out in Environmental Statement (as set out in table 18.1) submitted in support of this application.

- 3.28. Natural England has advised that providing the proposed works are carried out in strict accordance with the details of the application which has been submitted, then it can be excluded that the application will have a significant effect on any SAC, SPA or Ramsar site. This is consistent with the advice received from the Teignbridge District Council Biodiversity Officer as set out above.
- 3.29. Having due consideration for the consultation responses of Natural England and the Teignbridge District Council Biodiversity Officer, it is considered, subject to a condition requiring accordance with proposed mitigation measures submitted as part of this application, that the proposed works are acceptable in relation to ecological interests.

#### Other Matters

- 3.30. Network Rail has confirmed that they have no objection to the principle of development and have provided a number of comments and recommendations relating to their requirements.
- 3.31. Similarly South West Water have no objections to the proposed development but advise that the applicant should liaise directly with them to discuss the protection of their assets.
- 3.32. It is considered reasonable to attach these comments/requirements as informatives to the decision notice.

#### Conclusions

- 3.33. For the reasons discussed in this report, the proposed development, comprising tidal defence works at sites in Starcross and Cockwood Harbour, is recommended for approval subject to appropriate conditions being attached to the decision notice.

## **4. POLICY DOCUMENTS**

### Teignbridge District Council Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S2 (Quality Development)

S6 (Resilience)

S22 (Countryside)

EN2A (Landscape Protection and Enhancement)

EN4 (Flood Risk)

EN5 (Heritage Assets)

EN8 (Biodiversity Protection and Enhancement)

EN9 (Important Habitats and Features)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

National Planning Policy Framework

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas Act) 1990 (Sections 66 and 72)

Cockwood Conservation Area Appraisal

## 5. **CONSULTEES**

South West Water (18 July 2017) - Approximate location of a public sewer and water main in the vicinity of the application site. The applicant is advised to liaise with South West Water to discuss the protection of their assets.

Natural England (19 July 2017) - Subject to mitigation being secured, Natural England advised that providing the works are carried out in strict accordance with the details of the application which has been submitted, then it can be excluded that the application will have a significant effect on any SAC, SPA or Ramsar site, either individually or in combination with other plans or projects. An Appropriate Assessment of the implications of this proposal on the sites' conservation objectives should not be required.

Devon County Council Archaeologist (21 July 2017) - The proposed development lies within the historic harbour here and will have an impact upon the historic fabric of Cockwood Harbour. Any groundworks undertaken also have the potential to expose archaeological and artefactual deposits associated with the use of the harbour. Therefore the Devon County Council Archaeologist recommends a condition requiring a programme of archaeological works to be implemented.

Network Rail (24 July 2017) - No objections in principle to this proposal. Comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land are provided.

It has been confirmed that the applicant has already been in contact with Network Rail's Asset Protection Engineers about this proposal but would advise that liaison with Network Rail is continued throughout this scheme.

Environment Agency (24 July 2017) - No objections to this proposal. The submitted Flood Risk Assessment dated May 2017 is considered to be acceptable. Advice provided on pollution prevention.

Historic England (26 July 2017) - No comment on the proposals in respect of the Starcross slipways beyond noting the necessity for quality control in new materials to ensure that the character and appearance of Starcross Conservation Area is preserved.

Complete reconstruction of parts of the sea wall at Cockwood Harbour are proposed. The sea wall is not listed but makes a very significant contribution to the

character and appearance of the Conservation Area and would represent a clear loss in heritage terms.

In accordance with NPPF paragraph 134 the Authority must to weigh the harm against the wider public benefits offered by enhanced flood prevention. If the Authority is minded to accept the proposals, we recommend that the existing wall is recorded at level 3 as set out in our guidance *Understanding Historic Buildings: a Guide to Good Recording Practice*.

Devon County Council Flood and Coastal Risk Management Team (1 August 2017) - Noted that the proposed development will continue to drain as currently and no in-principle objections to the proposals from surface water drainage perspective, subject to attaching a pre-commencement condition about detailed designed of the proposed surface water drainage management system.

Teignbridge District Council Conservation Officer (4 August 2017) - In principle the alterations to the Cockwood flood defences are acceptable as although there is considerable harm to the unlisted walls of Cockwood harbour and ultimately the setting of the listed buildings mentioned there is considerable public benefit through carrying out flood prevention works. The flood prevention works would also benefit the listed buildings.

Therefore, supports the application subject to a number of conditions to ensure that suitable materials and detailing to preserve the character and appearance of the area.

Teignbridge District Council Biodiversity Officer (8 August 2017) - An Assessment of Likely Significant Effect has concluded that the proposal is not likely to have a significant effect on the Exe Estuary SPA or Dawlish Warren SAC, either alone or in-combination with other plans/projects, provided that permission is conditional on compliance with the suite of mitigation measures. A full Appropriate Assessment is therefore not needed.

## **6. REPRESENTATIONS**

Three representations have been received in respect of this application for planning permission. Two of the representations do not object to the proposed development but request the following to be considered in the design:

- Fixing of suitable boat mooring rings to be attached to the perimeter harbour walls, to replace the existing
- Provision of usable means to exit the harbour when the flood gates are closed

One objection considers that other flood defence options should be explored, including using the railway embankment for flood protection and raising the height of the existing harbour wall, rather than rebuild of one section.

## **7. TOWN/PARISH COUNCILS' COMMENTS**

Starcross Parish Council (11 July 2017) - Starcross Parish Council supports this application.

Dawlish Town Council (27 July 2017) - Resolved unanimously by members present and voting that the Council recommends no objection to this application.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

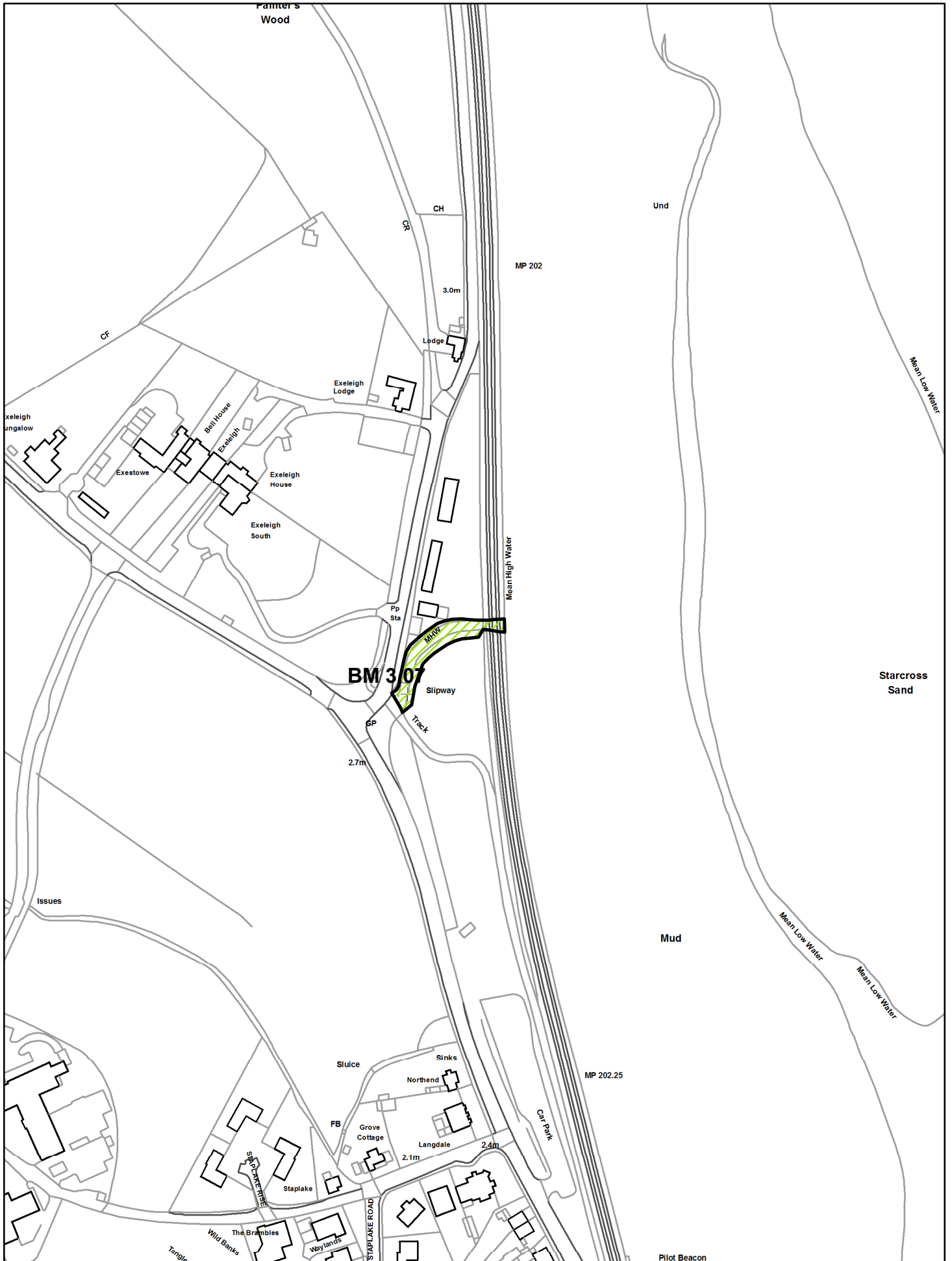
The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

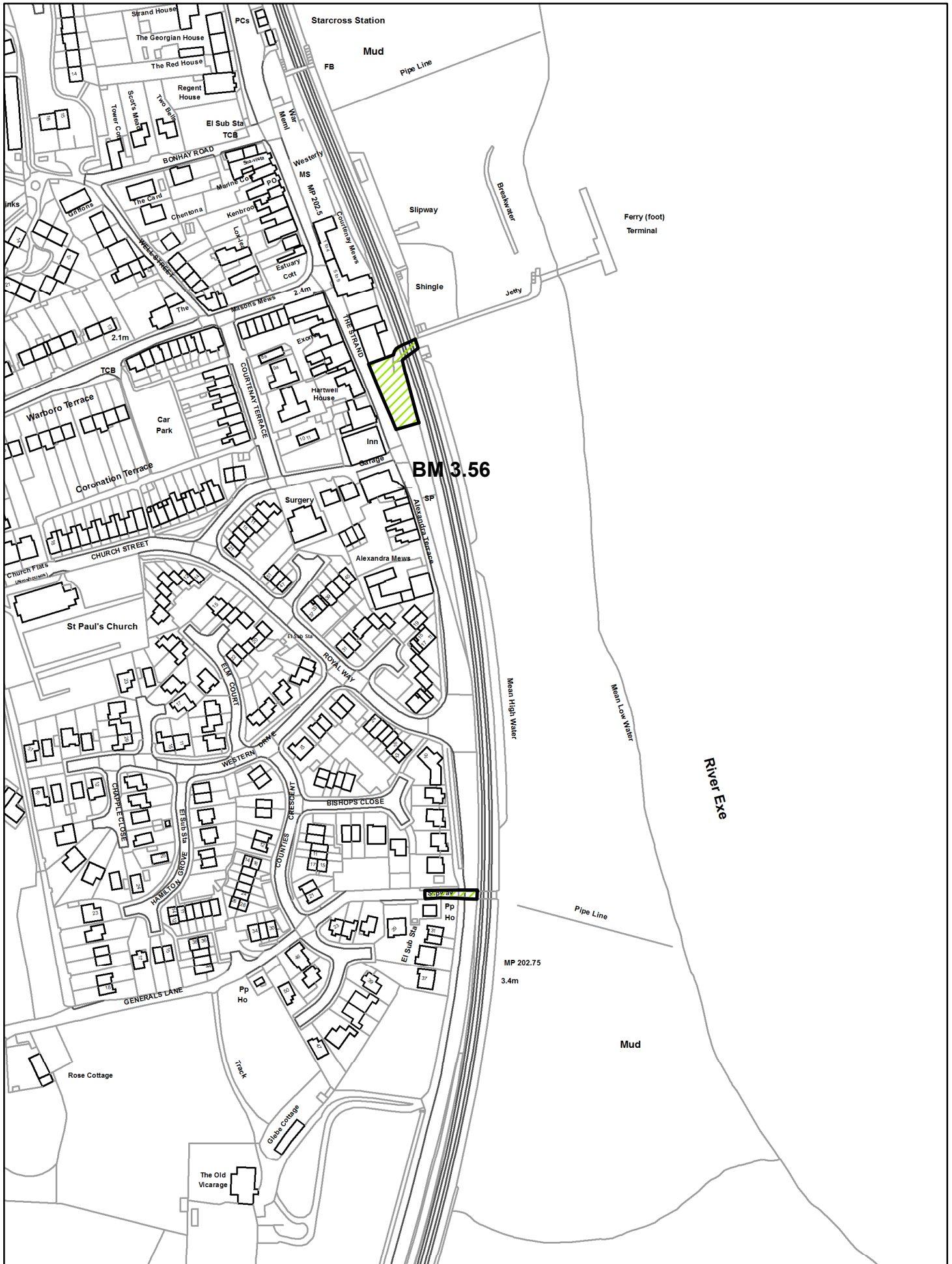
## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

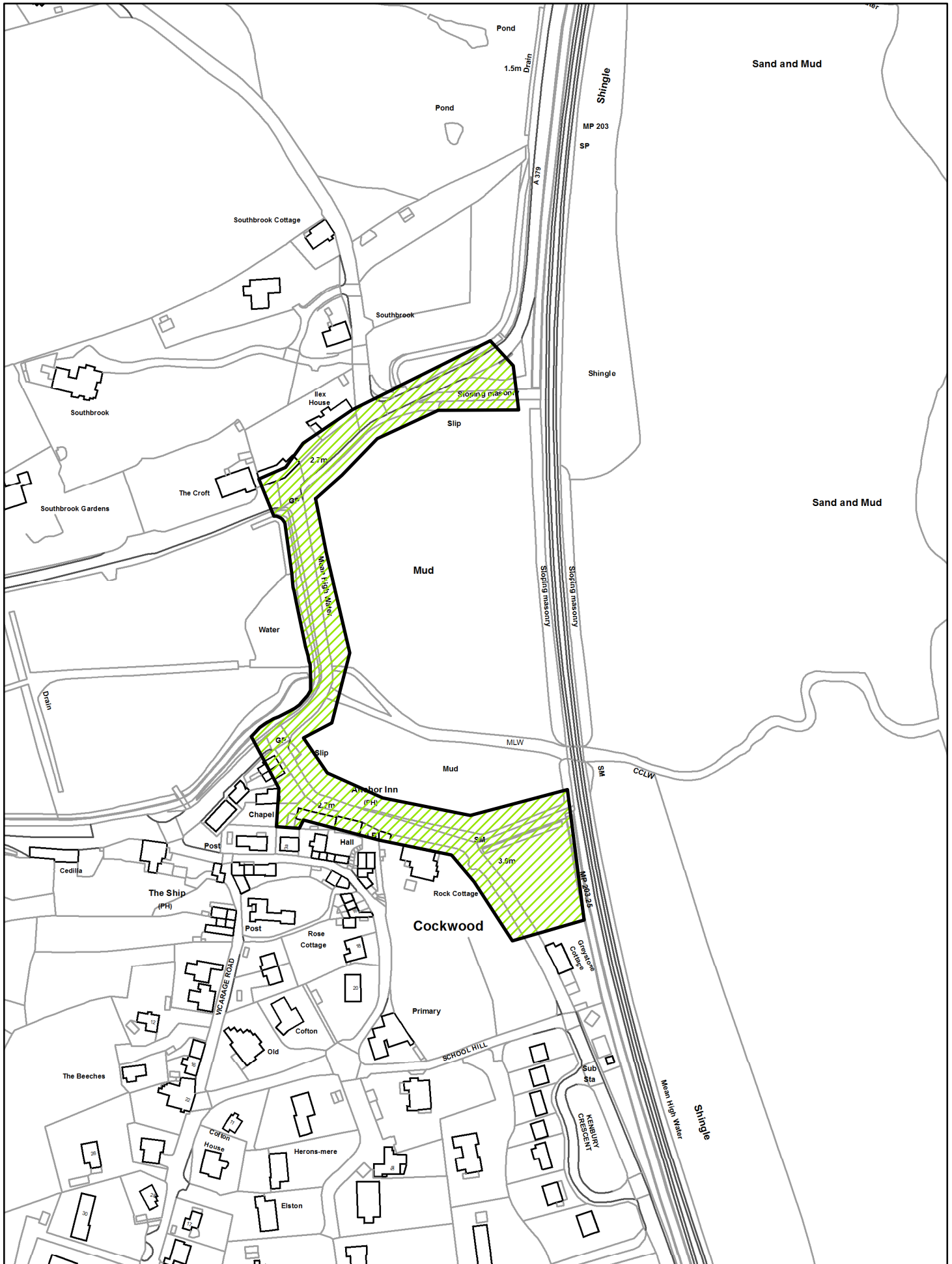
Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

A Screening Opinion was issued to the applicant under application reference number 15/02538/SO on 1 December 2015.









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# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 3.

**CASE OFFICER** Rosalyn Eastman

**APPLICATION FOR CONSIDERATION:** EXMINSTER - 15/00708/MAJ - Land at South West of Exeter, Matford - Outline - residential development, mixed use local centre (Use Classes A1, A2, A3, A4, A5, D1 and B1), education facilities and sport and recreation, land for community buildings (Use Class D2), open space, Suitable Alternative Natural Green Spaces (SANGS), Sustainable Urban Drainage Systems works, new access and highways infrastructure including a bridge and related works (approval sought for access)

**APPLICANT:** Bovis Homes Ltd - South Division

**WARD MEMBERS:** Councillors Goodey and Lake, Kenn Valley

## 1. REASON FOR REPORT

On 17 January 2017, Planning Committee resolved that:

*“Subject to:*

*A) The completion of a Section 106 Agreement within 9 months of the date of this Committee to provide:*

- 1. A minimum of 10% Affordable Housing in the first phase in line with the recommendations of the viability report split 25% Affordable Rent: 75% Shared Ownership (to be reviewed on receipt of any significant public or other funding in relation to any aspect of the scheme and at intervals throughout the development after the first phase)*
- 2. A minimum of 30 Custom Build Dwelling plots*
- 3. A scheme for provision of 4 Gypsy and Traveller Pitches*
- 4. Provision of District Heating – if public sector or other funding for infrastructure is guaranteed prior to development commencing and subject to further viability review. (Applicant to employ best endeavours to work with the Council to secure such funding)*

5. *Provision of land and financial contribution to Chudleigh Road link and financial contribution to Devon Hotel Roundabout improvements at a maximum of around £4,000 per dwelling, (precise amount to be agreed with Devon County Council)*
6. *Provision of land and financial contribution of £740 per dwelling for pedestrian/cycle bridge*
7. *Land and financial contribution for Community Building at total cost of £2,000 per dwelling*
8. *Land and financial contribution for Health Provision at total cost of £500 per dwelling*
9. *Travel planning and packs including £300 voucher per dwelling*
10. *Exe Estuary SPA mitigation contributions at £96 per dwelling*
11. *Resident Information packs containing travel planning information, pedestrian and cycle links, active recreation opportunities and useful contacts to mitigate travel impacts and assist with habit forming in relation to the Exe Estuary*
12. *Cirl bunting mitigation/offsetting to provide 1 hectare of replacement habitat*
13. *Hedge removal covenants*
14. *Artificial Turf Pitch (ATP) provision and management details including dual use provisions for school and community use*
15. *Indoor sports provision and management*
16. *Play provision and management*
17. *Green space provision and management*
18. *Allotment provision and management*
19. *Two x Traffic Regulation Orders at £5,000 each*

*If, as a result of further information, new viability or changes to government policy these provisions need to be amended, the Business Manager – Strategic Place will consult with Ward Members and the Chairman of Planning Committee before exercising delegated powers.*

- B) The completion of agreement(s) in relation to land purchase agreements between the applicant and Teignbridge District Council or a relevant third party for:*
- i) The Education land. This land is to be held for the delivery of a secondary school for 15 years or up to the time of the delivery of 1,350 units, whichever is the longer*
  - ii) Land for Community and Health provision*

*C) The completion of Agreement(s) in relation to SANGS provision.*

*PERMISSION BE GRANTED subject to:*

*D) Planning conditions to address the following matters and issues – the precise form to be agreed by the Business Manager – Strategic Place in consultation with Ward Members and the Chairman of Planning Committee:*

- 1. Requirement for Reserved Matters submissions*
- 2. Timing of submission of Reserved Matters of phases*
- 3. Time limit for commencement of phases*
- 4. Development to proceed in accordance with approved plans/documents*
- 5. Framework Plans and Design Guides for each phase to be approved prior to submission of Reserved Matters applications.*

6. *Phasing plans noting each Custom Build plot to be a distinct phase and limiting first phase to not exceeding 300 dwellings.*
7. *On-going development compliance plans to demonstrate how the overall Masterplan vision will be achieved.*
8. *Primary control – uses and quantum permitted by the permission*
9. *Timetable for delivery of non-residential uses (including a scheme of marketing for local shops and any other non-residential commercial uses)*
10. *Local Centre provision*
11. *Tree constraints and protection*
12. *Landscape strategy*
13. *Landscape and Ecology Management Plan (LEMP)*
14. *Construction Environmental Management Plan (CEMP), Environmental Management Plan (EMP), Public Right Of Way protection, improvement and provision*
15. *Construction access strategy and phasing including for occupants*
16. *Noise/air quality protection including for occupants*
17. *Sustainable Urban Drainage System (SUDs), provision, management, etc., including during construction and design for biodiversity*
18. *Archaeological investigations*
19. *Scheduled Monument management and interpretation*
20. *Biodiversity protection*
21. *Foul sewerage survey and provision*
22. *Construction management including noise, air quality and traffic*
23. *Public art*
24. *Lighting strategy*
25. *Watercourse pollution prevention during both construction and operation*
26. *Contaminated land investigation*
27. *Bus stop provision*
28. *Dedication of land to highways to site boundaries*
29. *Detailed highway design*
30. *Safe access to bus stops*
31. *Implementation of highway works, including footways and cycleways, in accordance with an agreed phasing scheme*
32. *Pedestrian and cycle bridge timing*
33. *The site access and visibility splays shall be constructed, laid out and maintained for that purpose*
34. *No development shall take place until a waste audit statement has been provided, and approved*
35. *Alternative uses (e.g. secondary school/flexible uses within the Local Centre)*
36. *Bat and bird boxes*
37. *Identification of opportunities for apprentices”*

It is unlikely that the Section 106 Agreement will be completed by the relevant date (17 October 2017) and therefore an extension to this resolution is requested as detailed below.

The application was originally considered by Planning Committee as the proposals are significant in scale and the Business Manager – Strategic Place considered that they merited review by Planning Committee prior to determination of the application.

## 2. RECOMMENDATION

Subject to:

A) The completion of a Section 106 Agreement by 23 January 2018 to provide:

1. A minimum of 10% Affordable Housing in the first phase in line with the recommendations of the viability report split 25% Affordable Rent: 75% Shared Ownership (to be reviewed on receipt of any significant public or other funding in relation to any aspect of the scheme and at intervals throughout the development after the first phase)
2. A minimum of 30 Custom Build Dwelling plots
3. A scheme for provision of 4 Gypsy and Traveller Pitches
4. Provision of District Heating – if public sector or other funding for infrastructure is guaranteed prior to development commencing and subject to further viability review. (Applicant to employ best endeavours to work with the Council to secure such funding)
5. Provision of land and financial contribution to Chudleigh Road link and financial contribution to Devon Hotel Roundabout improvements at a maximum of around £4,000 per dwelling (precise amount to be agreed with Devon County Council)
6. Provision of land and financial contribution of £740 per dwelling for pedestrian/cycle bridge
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10. Exe Estuary SPA mitigation contributions at £96 per dwelling
11. Resident Information packs containing travel planning information, pedestrian and cycle links, active recreation opportunities and useful contacts to mitigate travel impacts and assist with habit forming in relation to the Exe Estuary
12. Cirl bunting mitigation/offsetting to provide 1 hectare of replacement habitat
13. Hedge removal covenants
14. Artificial Turf Pitch (ATP) provision and management details including dual use provisions for school and community use
15. Indoor sports provision and management
16. Play provision and management
17. Green space provision and management
18. Allotment provision and management
19. Two x Traffic Regulation Orders at £5,000 each

If, as a result of further information, new viability or changes to government policy these provisions need to be amended, the Business Manager – Strategic Place will consult with Ward Members and the Chairman of Planning Committee before exercising delegated powers.

B) The completion of agreement(s) in relation to land purchase agreements between the applicant and Teignbridge District Council or a relevant third party for:

- i) The Education land. This land is to be held for the delivery of a secondary school for 15 years or up to the time of the delivery of 1,350 units, whichever is the longer.
- ii) Land for Community and Health provision.



C) The completion of Agreement(s) in relation to SANGS provision

PERMISSION BE GRANTED subject to:

D) Planning conditions to address the following matters and issues – the precise form to be agreed by the Business Manager – Strategic Place in consultation with Ward Members and the Chairman of Planning Committee:

1. Requirement for Reserved Matters submissions
2. Timing of submission of Reserved Matters of phases
3. Time limit for commencement of phases
4. Development to proceed in accordance with approved plans/documents
5. Framework Plans and Design Guides for each phase to be approved prior to submission of Reserved Matters applications
6. Phasing plans noting each Custom Build plot to be a distinct phase and limiting first phase to not exceeding 300 dwellings
7. On-going development compliance plans to demonstrate how the overall masterplan vision will be achieved
8. Primary control – uses and quantum permitted by the permission
9. Timetable for delivery of non-residential uses (including a scheme of marketing for local shops and any other non-residential commercial uses)
10. Local Centre provision
11. Tree constraints and protection
12. Landscape strategy
13. Landscape and Ecology Management Plan (LEMP)
14. Construction Environmental Management Plan (CEMP), Environmental Management Plan (EMP), Public Right Of Way protection, improvement and provision
15. Construction access strategy and phasing including for occupants
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17. Sustainable Urban Drainage System (SUDs), provision, management, etc., including during construction and design for biodiversity
18. Archaeological investigations
19. Scheduled Monument management and interpretation
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22. Construction management including noise, air quality and traffic
23. Public art
24. Lighting strategy
25. Watercourse pollution prevention during both construction and operation
26. Contaminated land investigation
27. Bus stop provision
28. Dedication of land to highways to site boundaries
29. Detailed highway design
30. Safe access to bus stops
31. Implementation of highway works, including footways and cycleways, in accordance with an agreed phasing scheme
32. Pedestrian and cycle bridge timing
33. The site access and visibility splays shall be constructed, laid out and maintained for that purpose

34. No development shall take place until a waste audit statement has been provided, and approved
35. Alternative uses (e.g. secondary school/flexible uses within the Local Centre)
36. Bat and bird boxes
37. Identification of opportunities for apprentices

### **3. COMMENTARY**

- 3.1 Following the resolution by Planning Committee to grant planning permission for the Bovis Homes proposals at South West Exeter in January 2017, Officers of the Council along with their colleagues from Devon County Council and the Bovis Team have been working hard to progress the various agreements necessary to allow this important development to take place.
- 3.2 Key planks of this work reflect the concerns of Members as expressed at Planning Committee including:
  - Discussions with the Parish Council and Ted Wragg Trust in relation to potential models for delivering community access to school/sports/community facilities;
  - Liaising with Devon County Council in relation to highway design and logistics; and,
  - Working with LocatEd and the EFSA on securing the land for the All-through school.
- 3.3 Good progress has been made on drafting the Section 106 Agreement and work is underway on the other agreements to enable planning permission to be granted.
- 3.4 In light of the complexity of the agreements and the number of parties involved in signing the documentation, it is however highly unlikely that agreements will be completed by 17 October 2017.
- 3.5 The recommendation above therefore seeks an extension to the original resolution to allow additional time to finish the drafting process and get agreements completed and subsequently the planning permission issued.
- 3.6 All parties are keen to have the planning permission issued by the Christmas break and therefore an extension to the resolution until the next Planning Committee after Christmas is sought. It is considered that this provides sufficient time for drafting/approval processes whilst ensuring that all parties remain focused on achieving the issuing of the Planning Permission in order that works on site can commence during the first part of 2018.

### **4. POLICY DOCUMENTS**

#### Teignbridge Local Plan 2013-2033

- S1A (Presumption in favour of Sustainable Development)
- S1 (Sustainable Development Criteria)
- S2 (Quality Development)
- S5 (Infrastructure)
- S9 (Sustainable Transport)

S10 (Transport Networks)  
S11 (Pollution)  
EC1 (Business Development)  
EC10 (Local Shops)  
WE2 (Affordable Housing Site Targets)  
WE4 (Inclusive Design and Layout)  
WE7 (Custom Build Dwellings)  
WE11 (Green Infrastructure)  
EN3 (Carbon Reduction Plans)  
EN4 (Flood Risk)  
EN5 (Heritage Assets)  
EN6 (Air Quality)  
EN7 (Contaminated Land)  
EN8 (Biodiversity Protection and Enhancement)  
EN9 (Important Habitats and Features)  
EN10 (European Wildlife Sites)  
EN11 (Legally Protected and Priority Species)  
EN12 (Woodlands, Trees and Hedgerows)  
SWE1 (South West of Exeter Urban Extension)  
SWE3 (Ridge Top Park)

Exminster Neighbourhood Development Plan

EXM1 (Community Sports & Leisure Facility)  
EXM3 (Quality of Design)

Devon Waste Plan

W4 (Waste Prevention)  
W10 (Protection of Waste Management Capacity)

SWE Development Framework  
Alphington Development Brief  
National Planning Policy Framework  
National Planning Policy Guidance

## **5. CONSULTEES AND REPRESENTATIONS**

No further consultations or publicity in relation to the application have taken place. We continue to work with Devon County Council, Exminster Parish Council and other relevant bodies in order to progress matters.

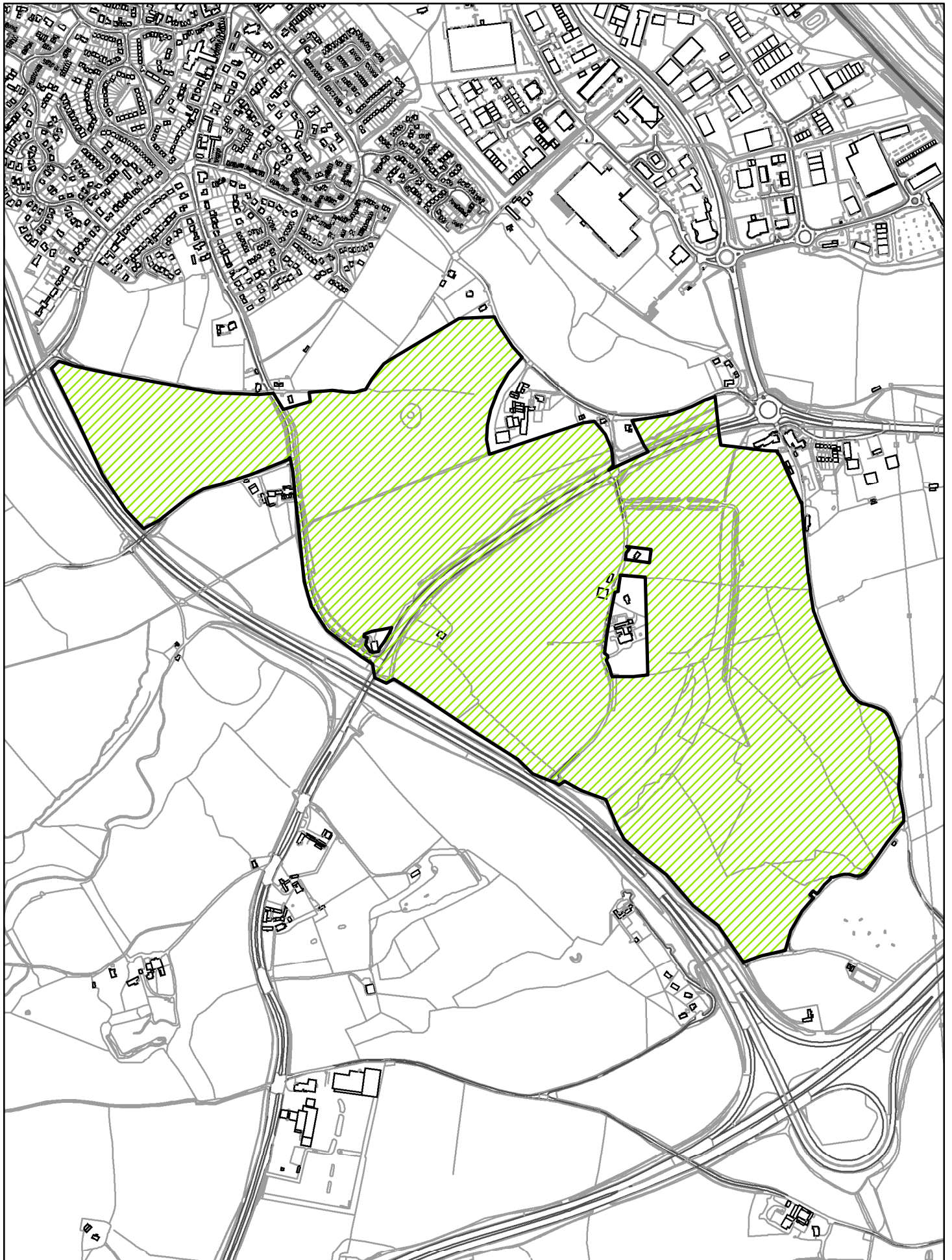
## **6. COMMUNITY INFRASTRUCTURE LEVY**

This is an outline application. CIL liability will be calculated when the reserved matters application is submitted.

CIL receipts are anticipated to be around £20-25 million of which 25% will be passed to Exminster Parish Council.

## **7. ENVIRONMENTAL IMPACT ASSESSMENT**

In determining this planning application, the Local Planning Authority has taken into consideration the Environmental Statement submitted with the planning application and also all of the consultation responses and representations received, in accordance with Regulation 3 (4) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.



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# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 4.

**CASE OFFICER** Angharad Williams

**APPLICATION FOR CONSIDERATION:** EXMINSTER/SHILLINGFORD ST GEORGE - 16/03251/MAJ - West Exe Park, Alphington - Outline application for employment development (Use Classes B1, B2 and B8) up to 47,112 square metres (gross floor area) together with associated infrastructure including new vehicular access, an internal road layout, car parking, landscaping, services and all other associated development (approval sought for access)

**APPLICANT:** Exeter Estates Ltd

**WARD MEMBERS:** Councillors Goodey and Lake, Kenn Valley

## 1. REASON FOR REPORT

The application was called to Planning Committee by Councilor Goodey because the proposal is outside the Local Plan designated area for employment land. There are concerns about vehicle access on surrounding areas and the effect of this on the Greater Exeter Transport Plan. There are also concerns about surface water treatment.

The application was brought to Planning Committee on 1 August 2017, when Members resolved to defer the application for further consideration of the impact of additional traffic in the villages of Kennford and Exminster.

Following Committee, Devon County Highways Officer and the applicant have met with members of the Parish Council and has worked with them and Teignbridge District Council in order to address the concerns that have been raised. The application is now being brought back to the Planning Committee for consideration.

## 2. RECOMMENDATION

Subject to:

The completion of a Section 106 Agreement to provide:

- a) A £250,000 sustainable transport contribution to deliver an off-site cycleway alongside the A379, or the delivery of the cycleway by the developer;
- b) Delivery of off site bus stops along the A379;

- c) A £5,000 contribution for a Traffic Regulation Order to enable the delivery of a scheme of signage for a 7.5 tonnes weight limit for the village of Kennford;
- d) Scheme for provision of signage at the western and eastern end of Days Pottles Lane to outline that the road is unsuitable for HGVs;
- e) Land for a future slip road as part of a wider strategic objective for Devon County Council to be made available in perpetuity,

PERMISSION BE GRANTED subject to the following conditions:

1. Requirement for reserved matters submissions;
2. Time limit for submission of reserved matters;
3. Development to proceed in accordance with the approved plans/documents;
4. Compliance with section 7 (Table 12) of the Ecological Survey;
5. Any reserved matters application to be accompanied by a landscaping plan showing trees planted within or adjacent to hard surfaces and all trees to be container grown and not planted until written approval received;
6. Prior to construction, the submission of a Landscape and Ecological Management Plan to be approved in writing by the Local Planning Authority;
7. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) will have been submitted to and approved in writing by the Local Planning Authority;
8. Prior to commencement of development a plan outlining a parking strategy for the site shall be submitted to and approved in writing by the Local Planning Authority, with parking thereafter maintained in accordance with the approved details;
9. Limitation of hours of operation during the construction period to 7 a.m.–7 p.m.;
10. All plant and machinery to not exceed the prevailing background noise levels as existing, by more the 5db;
11. Reserved matters applications to include details of design measurements to reduce noise levels including the incorporation of acoustic shrouding on all buildings;
12. A travel plan to be submitted to the Local Planning Authority for approval in writing prior to the occupation of each unit, and the travel plan implemented as approved. The travel plan shall detail a preferred route for traffic accessing the A38 north from the site that avoids travelling through Kennford Village centre;
13. Prior to the first occupation of each building, cycle parking facilities shall be provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Cycle parking shall thereafter be maintained in accordance with approved details;
14. An implementation of a programme of archaeological work in accordance with a written scheme of investigation;
15. No development shall commence until detailed design of proposed temporary and permanent surface water drainage management has been submitted to and approved by the Local Planning Authority;
16. No development shall commence until full details of a foul drainage strategy has been submitted to and approved in writing by the Local Planning Authority;
17. No development shall be undertaken until the submission of an investigation and risk assessment, and, where necessary, a remediation strategy and verification plan to detail how the unsuspected contamination will be dealt with;
18. Notwithstanding the submitted details, prior to the commencement of the development full access details including the new roundabout shall be submitted



to and approved in writing by the Local Planning Authority. The access works and roundabout shall be completed in accordance with the approved details prior to first occupation;

19. Provision of an external lighting scheme to be submitted and approved by the Local Planning Authority.

### **3. DESCRIPTION**

#### The Application Site

- 3.1 The application site is an irregularly-shaped area of land approximately 15.03 hectares in size, in the parishes of Exminster and Shillingford St George.
- 3.2 The site lies to east of the A379, beyond the existing Peamore Garage, to the south of Silver Ridge, and to the north of the A38. Days Pottles Lane borders the site to the immediate north, with Little Silver Plantation lying beyond. A smaller, irregularly-shaped piece of land lies to the immediate south west of the site and already benefits from the grant of planning permission for employment development (17,885 square metres) together with associated infrastructure including a new access from the A379 (Ref: 12/03079/MAJ). This land was allocated within the Council's Local Plan for such purposes.
- 3.3 Further to the north east, beyond the properties of Silver Ridge, lies the land allocated within the Local Plan for the South West of Exeter Urban Extension under Policy SWE1. A resolution to approve planning permission subject to the signing of a Section 106 agreement for the residential development of much of this land (approximately 90 hectares) including the provision of education and community buildings and Suitable Alternative Natural Greenspace (SANGS)) was reached at Planning Committee in January 2017.
- 3.4 The site is currently an agricultural field. The topography of the site slopes gently from north to south, with trees and hedgerow forming the site perimeter.

#### The Application

- 3.5 The application is submitted in outline with all matters reserved apart from access. The application proposes up to 47,112 square metres of floor space for Use Classes B1 (15,704 m<sup>2</sup>), B2 (15,704 m<sup>2</sup>) and B8 (15,704 m<sup>2</sup>) together with associated infrastructure, new vehicular access, internal road layout, car parking, landscaping, services and all other associated development.
- 3.6 The application is supported by a plan which illustrates the site sections as proposed. This provides an indication of the proposed heights of the buildings which suggests that the B1 offices (located to the northern end of the site) will be approximately 6 metres above the existing ground level (at the highest point). In respect to the other uses (including B2 and B8), these will predominately be located below the existing ground level given the proposal to cut into the land, thereby reducing the visual impact.

- 3.7 In terms of planning policy, the site falls outside Settlement Limits within an area of open countryside. The site is within an Area of Great Landscape Value (AGLV) but not within the Exminster Strategic Open Break. Whilst the site is not allocated within the Teignbridge Local Plan for employment, the site falls subject to Policy S22, where the principle of industry, business, warehousing and retail is acceptable, subject to considering the distinctive qualities of the landscape character, integrity of green infrastructure, impact of overall travel patterns and effect on the integrity of the South Hams SAC. This will be discussed in more detail in the body of the report.
- 3.8 For purposes of clarity, it should be noted that the application was initially submitted with the intention to provide an alternative access to that currently proposed. This involved the incorporation of a five arm roundabout on the far south western corner of the site, with a new slip road onto the A38. Following an objection from Highways England to this proposed access, the application was re-advertised following a decision by the Applicant to revert to the original three arm roundabout approved under outline planning permission 12/03079/MAJ.

#### Background

- 3.9 Prior to the application being submitted, the Applicant engaged in pre-application discussions with the Council where the principle of the development was discussed along with the technical issues that would need to be addressed should an application come forward.
- 3.10 The Council's 'Authority Monitoring Report 2015-2016' suggests that the district has a shortfall of employment land. The number of employment completions are reducing, and it is therefore important that the right employment space is provided to supply jobs. In accordance with the consultation response received from the Economy and Asset team, there is demand within Teignbridge for around 28,000 square metres (300,000 square feet) of B use employment space. Whilst employment schemes are being approved, land is not coming forward at sufficient rates.
- 3.11 Whilst planning permission has already been granted on the site to the immediate west, there are currently viability concerns relating to this site, which means that the site is not able to come forward without the development of the subject site. The proposed scheme would therefore assist in meeting the demand for additional employment space within the district, and will unlock the site immediately adjacent to it which already benefits from planning permission. However, there are a number of considerations to take into account alongside this matter, and these are discussed below within the body of the report.

#### Planning History

- 3.12 The site is subject to the following cases of planning history:
- 16/02527/SO – Screening opinion. EIA not required. 22 December 2016

- 3.13 As outlined above, outline planning permission has been granted on the smaller site to the immediate south west of the site for 17,885 square metres of employment space (Ref: 12/03079/MAJ). Reserved matters approval followed on 30 August 2016 (Ref: 16/00950/MAJ). The outline approval of this application also secured the principle of a new access off the A379, along the northern boundary of the site. In terms of context, it is this access which has already been approved that is now proposed as a means of achieving access to the subject site.

#### Introduction and structure of the report

- 3.14 As the application was deferred by the Members of Committee at the Planning Committee on 1 August 2017, this report first seeks to outline the additional measures that are being proposed by the applicant in order to address the concerns that have been raised in respect to highways, in addition to providing further information about the delivery of employment land throughout the district following some discussion over this matter at the previous Planning Committee.
- 3.15 The report therefore begins by discussing the matters that required further resolution following the Planning Committee of 1 August 2017. The report will then go on to discuss the other key considerations of the development proposal as outlined in the Officer Report that was before members at the last Committee, with the necessary updates.
- 3.16 It should be noted that since this time, the Council has received a new consultee response which has been provided in full detail under Section 5.

#### Matters that required further resolution following the Planning Committee of 1 August 2017.

- 3.17 As outlined above, the application came before Members of the Planning Committee on 1 August 2017. The application was subsequently deferred by Members for the following reason:
- 3.18 "Further consideration of the impact of additional traffic in the villages of Kennford and Exminster".
- 3.19 Following the Committee, a meeting was held on 15 August with members of the Parish Council and the Devon County Highways Officer. It is understood that at this meeting, four areas relating to highways were identified by the Parish Councils that either required further information or mitigation. Such areas included:
- The deliverability of the off-site cycleway alongside the A379;
  - The relocation or provision of additional bus stops closer to the site;
  - The need for a weight limit to be incorporated through Kennford;
  - Additional understanding of the current traffic flows and potential impact of the development on Days Pottles Lane.
- 3.20 The applicant has since worked with Devon County Council and Teignbridge District Council in order to address these concerns, and a meeting was held with the

applicant and the Parish Councils on the 11<sup>th</sup> September to discuss their proposals. This includes the following:

1. Deliverability of the off-site cycleway alongside the A379

- 3.21 The Officer Report to Committee on 1 August outlined that there would be a sustainable transport contribution to fully fund the provision of an off-site cycleway alongside the A379. As noted within the report, the amount of contribution was yet to be agreed following further discussion with Devon County Council and the applicant.
- 3.22 Following Committee, it is understood the Parish Councils have concerns over the deliverability of the off-site cycleway, and therefore the applicant has worked with Teignbridge District Council and Devon County Council in order to provide Members with the certainty that the cycleway will be delivered.
- 3.23 As part of this process, the applicant has provided a clear breakdown of the costs for the provision of a cycleway/pedestrian route, which includes costs for site clearance, new footpath construction (hard and soft), drainage, signage & lining as well as taking into account preliminaries, exclusions and allowances. The figure has amounted to a cost just under £250,000.00. The cost breakdown has been prepared on the basis of the delivery of a 3 metres wide footpath/cycleway.
- 3.24 This cost information has been reviewed by the Highways Officer at Devon County Council and is considered to be acceptable, and sufficient in enabling the delivery of the off-site cycleway/pedestrian route. The applicant has also provided a plan which illustrates the off-site cycle improvements (Drawing number: GA-01 Rev C) which will also be incorporated into the Section 106.
- 3.25 Nevertheless, in order to provide additional certainty, it has been agreed with the applicant that the Section 106 will provide the option for the applicant to either deliver the off-site cycleway/pedestrian route to the satisfaction of Devon County Council, or to provide the financial contribution of £250,000.
- 3.26 Discussions have already been undertaken with the Council's solicitor on appropriate trigger points for the obligation.

2. The relocation or provision of additional bus stops closer to the site

- 3.27 The applicant and the Highways Officer have undertaken discussions with the Devon County Council Transport Officer, in order to determine whether it is possible to either relocate or have additional bus stops closer to the site.
- 3.28 In regards to relocation of the bus stops, this was not considered to be appropriate given that it is understood that the two existing bus stops situated to the far north of the site are the nearest bus stops to the Marsh Barton Estate, and consequently to move these could cause inconvenience for those who already use this bus stop.
- 3.29 The provision of additional bus stops has therefore been investigated and it has been agreed that additional bus stops can be provided alongside the A379 close to

the application site. Stagecoach will then serve the new stops once the location has been agreed and the relevant road works undertaken. The applicant has therefore provided an additional plan (Drawing number: PHL-08-C) which illustrates an area (between A and B) of the A379 where the bus stops will be provided. This will be part of the Section 106 agreement to ensure that they are delivered.

### 3. The need for a weight limit to be incorporated through Kennford

- 3.30 At the Planning Committee on 1 August, Kenn Parish Council raised concern about the possibility of lorries using Kennford as a rat run, given that the village has no upper weight limits. It was requested that a 7.5 tonnes weight limit be introduced in Kenn.
- 3.31 The applicant and Devon County Council have since investigated how this could be achieved and it is now proposed to have weight restriction signs (7.5 tonnes) at appropriate locations alongside Exeter Road. The applicant has provided a plan entitled 'Proposed Kennford Weight Limit' (Drawing No: WL-01 Rev C) which has been reviewed by Devon County Council and is considered acceptable. The provision of the signs will be subject to a Traffic Regulation Order which will require a £5,000 contribution and this will form part of the Section 106 agreement.

### 4. Additional understanding of the current traffic flows and potential impact of the development on Days Pottles Lane

- 3.32 In order to address this matter, the applicant has provided an additional draft Technical Note (Technical Note 8 – Days Pottles Lane Traffic Note) which seeks to set out the recorded details of traffic flow on Days Pottles Lane and the rationale behind the projections for the use of Days Pottles Lane by traffic from the proposed development. It is understood that the Parish Councils are currently being consulted on the content of this note, and a further update to members may be necessary, but for purposes of this report, the note draws attention to the following:

#### Existing Traffic Flows

- 3.33 The application was supported by a Traffic Assessment which outlines that a traffic survey was commissioned at the western end of Days Pottles Lane in the form of an automatic traffic count survey (ATC). In addition to this, a manual classified turning count was also undertaken at the junction of the A379 with Days Pottles Lane and the existing Exeter Estates site access.
- 3.34 The ATC survey was commissioned at the western end of the lane and obtained traffic data on Days Pottles Lane for the period 9-15 November 2016. In addition to this, a manual classified turning count was undertaken at the junction of the A379 with Days Pottles Lane and the existing Exeter Estates site access on 28 April 2015.
- 3.35 The full results of the ATC and Manual Classified Count are shown within the draft Technical Note, but in summary, the Technical Note outlines that both sets of traffic data collected across the two year period demonstrate generally low levels of traffic

on Days Pottles Lane and low levels of traffic on Days Pottles Lane accessing the Exeter Estates site.

#### Potential Future Traffic Flows

- 3.36 Future year traffic forecast for a development site is usually undertaken using a trip information database called TRICS.
- 3.37 TRICS is an industry standard database of trips rates. It includes surveys of vehicles (and other modes) arriving and departing from a site as well as information on the sites that are surveyed to determine their characteristics. There are survey sites across the country.
- 3.38 The database is interrogated to determine sites with similar characteristics to the application site. Information on trip rates is then extracted from the database (normally based on gross floor area) and applied to the application site. From this, the number of trips that the application site may be expected to generate can be calculated. This method is used in assessing the potential future impacts of development proposals across the district and across the UK.
- 3.39 The trip distribution at the proposed Exeter Estates site has been agreed with Devon County Council, and this has been calculated on the basis of proposed floor space for the proposed B1, B2 and B8 uses. The anticipated number of development trips using Days Pottles Lane between the site and the A379 to Dawlish is anticipated to be 8% of the development trips, resulting in the potential for 12 additional two way trips in the a.m. peak and 9 additional two way trips in the p.m. peak. This is also on the worst case scenario that all trips emanating from the A379 in the Dawlish direction would take the short-cut via Days Pottles Lane during most of the day, rather than continuing along the A379.
- 3.40 It is therefore considered that there will be a low level of anticipated future additional trips which when combined with the existing. The development proposal is therefore expected to have a minimal impact on Days Pottles Lane. However, in recognition of the Parish Councils' concerns, and as an additional measure, the applicant proposes to erect the following sign on the western end of Days Pottles Lane below the existing speed de-restriction sign, and at the eastern end of Days Pottles Lane to the back of the existing stop sign.



- 3.41 The provision of such signs do not require a Traffic Regulation Order (TRO) and will be erected by the developer with the agreement of Devon County Council at an agreed trigger point.

## Travel Plan

- 3.42 Whilst the provision of a detailed travel plan is a recommended condition, concern over the travel plan was noted at the previous Planning Committee, and in order to provide Members with more detail on this matter, the applicant was asked to provide a document which would set out the draft travel and operations of the site.
- 3.43 The applicant has now provided an additional Technical Note (Technical Note 9) in support of the application, which is entitled "Draft Travel and Operational Plan". This seeks to build upon the Framework Travel Plan that was submitted as part of the Traffic Assessment under Chapter 7.
- 3.44 The Technical Note outlines that further work has been undertaken since the submission of the application and further local measures are now proposed which are considered to assist in delivering smarter travel choices through the travel planning at the site.
- 3.45 The key updates evidently include the matters discussed above including the provision of the off-site footpath/cycleway; bus stop provision, and signage on Days Pottles Lane.
- 3.46 Given the concern that has been expressed regarding HGV vehicles opting to travel through the lanes of Days Pottles Lane or Kennford (despite the proposed weight restriction at Kennford), the Travel Plan will now include some operational measures including:
- The need to establish a registration scheme for the HGVs operated by new site occupiers in order that it is clear what HGV operators are registered to the site at all times;
  - A site contact number to be established and publicised should local people identify vehicles that are not registered to the site. The site contact number will be a direct number for the Travel Plan Co-ordinator;
  - Quarterly site operational review meetings with Exminster and Kenn Parish Councils;
  - The permanent siting of an automatic traffic counter to be installed on the access road to monitor traffic flows; there will then be a monthly download of traffic data to monitor site traffic flows. This can then be discussed in the quarterly site operational review meetings with the Parish Councils.
- 3.47 An on-going review of long term operational management of the site will therefore be established through the Travel Plan, planning conditions and Section 106 Agreement.

## Conclusion

- 3.48 The application was brought before Planning Committee on 1 August 2017. Following concerns raised on the impact of additional traffic in the villages of Kennford and Exminster, the application was deferred in order to provide time for further consideration on these matters.

- 3.49 Since this time, the applicants have worked with Teignbridge District Council, Devon County Council and the Parish Councils in order to establish ways in which the Parish Councils' concerns could be addressed.
- 3.50 The additional highway works proposed are considered to address the concerns that have been raised and provide additional certainty that the proposed development will not have a significant impact on the highway network surrounding the application site. It is understood that the Parish Councils have met with the applicant to discuss these proposals and are currently considering the detail of the drafted Technical Notes. Further updates may therefore be provided at Committee.

#### Further matters

- 3.51 Whilst not a reason for deferral of the application, at the previous Planning Committee Members raised a number of points in regards to the delivery of employment land.
- 3.52 For this reason, the Council's Economy Manager has provided an additional consultation response which seeks to address these points. The response can be read in full under the 'Consultee' section of this report; however, the key points are discussed below.
- 3.53 The Economic Development team have been working with Exeter Estates for almost 2 years to help bring forward the approved 5 hectares site to the immediate west of the application site. As the opening up costs for the site, (particularly the access roundabout and electricity supply) are in the region of £4 million, it has made the approved development site unviable. In addition to this cost, it is understood the lead in time for the electricity supply is approximately 2 years.
- 3.54 Teignbridge District Council's Economic Development team have worked closely with the Local Enterprise Partnership (LEP) to seek funding towards opening up costs, and the LEP have also taken up the case on the costs and timescales of power supply with Western Power Distribution. However, unfortunately, the team have been unable to make progress.
- 3.55 The subject application therefore offers a potential solution to this, in enabling the costs of opening up the site to be spread, potentially bringing in end-users who can contribute to those costs at an early stage.
- 3.56 The full consultation response received from the Council's Economy Manager sets out a table which illustrates the progress of the allocations within the Local Plan. The employment allocations are at varying stages of delivery, and the Economic Development team continue to engage with the site promoters to see what assistance is required and whether there are barriers to delivery. It is understood that opening up costs are generally cited as the main barrier and working with site promoters to see what funding is available to overcome these concerns is a consistent role for the team.
- 3.57 The Teignbridge Local Plan (Policy S3, Land for Business, General Industry and Storage and Distribution) refers to the delivery of 3 hectares of business, industrial



and warehousing sites per year, which equates to 12,000 square metres. Since 2012 the amount of delivered employment land has been significantly below the Local Plan target, particularly when considering the net gain of new floorspace. This is illustrated in the graphs set out in the full consultation response. The strategic distribution of approved sites and their delivery to date should also be noted.

- 3.58 In terms of the current demand for employment space, there is a demand for floorspace for approximately 28,000 square metres. This is from indigenous businesses wishing to expand, but unable to due to the lack of available space to move into. By bringing more land forward, the creation of more space allows for a churn of businesses. The Economic Development team currently turn away inward investment enquiries as there is no land available to fulfil the requirement.
- 3.59 Of further note, a significant opportunity presented as part of this application is safeguarding land for a new northbound slip road on to the A38. While the slip road itself is not a formal part of this application, by safeguarding the land it creates the potential to significantly improve the accessibility of the site, making it very attractive to new businesses seeking accessibility along a strategic transport corridor and access to a large potential workforce. It would also help to address a number of traffic issues from vehicles seeking to join northbound A38/M5 that currently travel across the city or have to head south down the A38 first.

#### Key considerations of the application

- 3.60 The application seeks outline planning permission for employment development (Use Classes B1, B2 and B8) with up to 47,112 square metres of floorspace, together with associated infrastructure including a new vehicular access, internal road layout, car parking, landscaping, services and all other associated development. Approval is sought for access.

The key issues in the consideration of the application are therefore:

- The principle of the development/sustainability;
- Impact of the development upon the character and visual amenity of the area;
- Impact of the development on the residential amenity of the occupiers of the surrounding properties;
- Impact of the development on biodiversity;
- Flood and drainage impact of the development;
- Highways impact of the development

#### The principle of the development/sustainability

- 3.61 The site falls outside settlement limits, within the open countryside and within an Area of Great Landscape Value (AGLV).
- 3.62 Policy S22 deals with application proposals within the open countryside and states that in open countryside, development will be strictly managed and limited to uses which include industry, business, warehousing, retail and leisure. The principle of the open countryside being developed for these uses (amongst others) is

acceptable; however, the policy also outlines that in assessing development proposals, particular account will be taken of the following:

- Distinctive characteristics and qualities of the Landscape Character Area;
- The integrity of green infrastructure and biodiversity networks;
- Impact on overall travel patterns arising from the scale and type of development proposed;
- The need to ensure that development in the countryside does not have an adverse effect on the integrity of the South Hams SAC.

3.63 The above points are considered in detail under the relevant heading within the body of the report; however, in summary, it is considered that the application is acceptable and does not give rise to concerns that are of a significance that would justify the refusal of the application given that it is only made in outline at this stage. Details will need to be negotiated and discussed in future reserved matters applications.

3.64 With regards to sustainability, Policies S1A and S1 seek to ensure that development is sustainable and outlines that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development. In accordance with Policy S1, proposals are required to perform well against a number of criteria, taking into account the social, economic and environmental benefits of the proposal, its scale and magnitude, legally protected features and any associated mitigation. Such criteria relate to (amongst other matters) the accessibility of the site; road safety and congestion; environmental effects of noise, smell, dust, light, vibration, pollution and associated traffic. Impact on the residential amenity of existing and committed dwellings on privacy, security, outlook and natural light should also be considered.

3.65 The above criteria are discussed below in detail under the relevant heading; however, it is considered that following negotiations and discussions with the applicant, the scheme has reached a position where it is not considered to cause a significant impact on these matters that would outweigh the benefits of the proposal. In respect to site accessibility, the development proposes to use the approved three arm roundabout to access the site. The site is located in close proximity to the South West of Exeter Urban Extension and is easily accessible off the A38. Following recent discussions, the applicant has also agreed to enter into a Section 106 agreement to provide a sustainable transport contribution for the delivery of an off-site cycleway/pedestrian footpath alongside the A379, or to deliver such infrastructure themselves to the satisfaction of Devon County Council. With regards to road safety and congestion, this has been an area of much contention and is discussed in detail above and below.

3.66 Environmental effects have been fully considered and appropriate discussions undertaken with the Council's Environmental Health team following concerns raised by nearby residents. The outcome of these discussions and comments received advises that the development proposal is acceptable subject to the incorporation of relevant conditions. In terms of the impact on residential amenity, this has again been carefully considered and is discussed below. However, in summary, with appropriate mitigation (achieved via conditions), it is considered that the

development will not cause any significant impact on the amenity of residents living within the surrounding area.

- 3.67 It is worth outlining within this section of the report that the application is not within land allocated as a 'Strategic Break'. Comments received about the application have raised concern that the site is located within such an area, and therefore falls in conflict with Policy EN1. It should be noted that the Exeter–Exminster Strategic Open Break designation lies further to the east of the site as shown on the Local Plan South West Exeter and Exminster Inset Map.

Impact of the development upon the character and visual amenity of the area

- 3.68 The site falls within an AGLV. Policy EN2A seeks to protect and enhance the landscape and seascape of the area, with development proposals conserving and enhancing the qualities, character and distinctiveness of the locality; restore positive landscape character (where appropriate); protect the landscape; wildlife and historic features and maintain quality by minimising adverse visual impacts.
- 3.69 The site is currently in agricultural use. The site occupies a single large field situated within the low, rolling valleys approximately 2km south of Exeter and approximately 2.5km west of the Exe Estuary. The site sits along the southern edge of a larger portion of land which is defined by three transport routes: the A38 which runs the full length of the southern boundary; the A379 which sits close to the western edge of the site beyond the existing Peamore Business Centre and the M5/A38 beyond the neighbouring field to the east of the site. Planning permission has already been granted for employment floorspace to the south west of the site, with Peamore Garage lying to the north of this site.
- 3.70 The application is supported by a Landscape and Visual Impact Assessment and this has been reviewed by the Council's Landscape Officer, as well as the plans and other supporting documents.
- 3.71 Whilst the site is visible from the M5, the other borders of the site are considered to be screened from view due to the presence of well-established hedgerow. The topography of the site means that the higher part of the site is most visible from Days Pottles Lane, with the lower end of the site falling away towards the M5.
- 3.72 Initial pre-application discussions undertaken with the applicant discussed the topography of the area, and how the scheme would need to be sympathetic to the gentle sloping nature of the site. Whilst the scheme is made in outline, it should be noted that the applicant has considered the advice received at pre-application stage, and the larger buildings on the site are proposed to the south where the buildings would not have such an impact on the skyline, with the proposed office buildings (smaller in terms of massing), located to the north of the site. Furthermore, as can be noted from the proposed illustrative site sections, the larger buildings to the south will predominately fall below what is currently the existing ground level.
- 3.73 The Landscape Officer has advised that he is happy with the overall density and scale of the buildings and the principle of the bulkier buildings being at the bottom

of the site with the smaller units at the top. However, the Officer has asked that at reserved matters stage, the applicant consider how camouflaging the buildings can be achieved via the use of materials. There were concerns raised that the structure of the landscape has been driven by a desire for habitat creation and that large areas of native scrub and species rich grassland could give the site a scruffy low status appearance. This is something that will require more attention and can be dealt with via the recommended condition for a LEMP.

- 3.74 The LVIA submitted in support of the application presents a variety of views from which the development has been considered; however, a view directly from the A38 was not initially included. Following concern by the Landscape Officer on this matter, the applicant resubmitted the LVIA with this additional viewpoint included. Whilst landscaping is a matter reserved for future consideration, the applicant has revised the site layout to enable a bolder landscaping design with trees less spread out on site as originally proposed. This again responds to the concerns initially raised by the Officer and works towards maintaining the character of the area.
- 3.75 The LVIA concludes that the study area has an overall medium–low sensitivity. In respect of site character, the effect on the site character as a result of the development would be moderate-substantial-adverse. Mitigation measures include retaining and enhancing all existing boundary vegetation together with provision of additional planting. It is evident to say that the proposed development will have an impact on the landscape character of the area, given that it is currently undeveloped, agricultural land; however, when weighed against the merits of the proposal and the matter that planning permission is already granted on the site to the immediate south west, it is considered that the proposed development together with mitigation measures can be achieved without being a detriment to the countryside. This is agreed by the Landscape Officer who agrees with the findings of the LVIA at this stage, with further detail to be agreed at reserved matters.
- 3.76 In conclusion, and referring back to Policy EN2A, the applicant has worked with the contours of the land and proposed that larger buildings be located to the south of the site where there is less visual impact. To enable a positive approach to the landscaping and setting of the development, the applicant has acknowledged concerns raised by the Landscape Officer and revised the plans accordingly to address concerns. It should be noted that at this stage, only the principle of the development is being considered together with the proposed access which is already subject to the grant of planning permission. Future reserved matters applications relating to scale and appearance will evidently need to provide more detail on how the development can be designed to mitigate harm on the character and appearance of the area in respect to materials and orientation.

Impact of the development on the residential amenity of the occupiers of the surrounding properties

- 3.77 Policy S1 requires consideration of the proposal against the impact on residential amenity of existing and committed dwellings, particularly privacy, security, outlook and natural light. Impact in terms of environmental effects of noise, smell, dust, light, vibration, fumes or other forms of pollution or nuisance arising from the

proposed development must also be considered. For clarity, each of these points has been considered separately below in detail.

The nearest residential properties to the site include:

- Westfield site (beyond the A38) approximately 97 metres to the south of the site;
- The properties of Little Silver accessed off Deepway Lane, to the north of the site (approximately 263 metres to the nearest dwelling)
- Dadmouth Cottage (beyond the A379) approximately 518 metres to the west of the site;
- Peamore House (beyond the A379) approximately 505 metres to the northwest of the site.

#### Impact on residential amenity with regards to privacy, security, outlook and natural light

- 3.78 Looking at all of the above dwellings, it is considered that these properties are a significant distance away from the development site that the development will not impact on the residential amenity in terms of privacy, security and natural light. Whilst residents of Little Silver have raised concerns about privacy, it is considered that the development will not cause any overlooking concern due to its distance from the rear gardens and dwellings. Whilst there have been a number of objections that relate to views of the countryside, a right to a view is not a planning matter, and cannot therefore be considered in respect to impact on residential amenity.

#### Impact in terms of environmental effects of noise, vibration, dust

- 3.79 Following several comments received from the local residents about potential noise impact, the Council's Environmental Health Officer was consulted and asked to assess the proposal. Feedback from the Officer outlines that previous sound monitoring in the vicinity of the application site showed that the prevailing noise source in the immediate area originates from the nearby highway network. It is suggested that to limit the concerns of nearby residents on the potential impacts of noise, a condition should be associated with any grant of planning permission which limits the time that the construction of the development could take place. Furthermore, it is considered that in respect to the design of the site layout, advantage can be taken of the acoustic shrouding offered by the proposed building, with sound sources such as air handling units and compressors placed so that they use the acoustic shrouding of the buildings and are not within the line of sight of noise sensitive receptors, such as residential dwellings. These issues can be addressed through consideration of the future reserved matters application.
- 3.80 Concerns about potential dust emissions arising as a result from the construction of the development have been raised, and this will be assessed/controlled via the need for the applicant to submit a Construction Environmental Management Plan (CEMP) as part of satisfying a condition.

#### Impact in terms of environmental effects of light, smell, fumes or other forms of pollution or nuisance

- 3.81 With regards to light pollution, discussions undertaken with the Council's Environmental Health Officer have suggested that this can be controlled via means of condition, with all window apertures facing into the site and the implementation of low level illumination fitted below eaves level on buildings which would again need to face into the site and be located in such a way and of an intensity to avoid causing any light pollution. This issue can be addressed through consideration of the future reserved matters application
- 3.82 Turning to matters of air quality, and other forms of pollution, the application is supported by an Air Quality Assessment as prepared by Kairus Ltd. It is understood that the scope of the report was discussed with an officer of Environmental Health, ensuring that the receptors were located within appropriate areas to give an overall representative of the air quality.
- 3.83 Concern was raised by a resident of Little Silver following review of the report and Figure 4.1 which illustrates the receptor locations. It was questioned why the receptors were placed predominately along the north west of the site, rather than any being within the area of Little Silver. The Environmental Health Officer has advised that the receptors were best placed alongside the road to get the best indication of air quality given that cars using this road would be the key source.
- 3.84 The assessment concludes that the impact of the development is not considered to be significant, and no mitigation measures are considered to be necessary. A travel plan, however, has been suggested as a condition, and the Environmental Health Officer supports the application. The delivery of an off-site cycleway will evidently also help to improve matters in addition to the provision of additional bus stops as discussed above.

#### Traffic

- 3.85 Whilst a number of concerns have been raised about the impact of further traffic on the nearby residential properties, supporting documents submitted with the application and comments received from the Highways Officer at Devon County Council suggest that the roads are capable of accommodating the additional traffic arising as a result of the development. The capacity of the roundabout has been assessed on the understanding that traffic associated with the permitted development (on the site immediately adjacent to the west) as well as that proposed under the subject application and the wider allocated development at South West Exeter will pass through. The assessment has demonstrated that the roundabout is projected to have sufficient capacity to accommodate the proposed development.
- 3.86 The previous planning permission on land to the west of the site was subject to a condition that required the delivery of the roundabout in advance of any occupation of the development. A similar condition is recommended above for the subject application. In addition to this, other conditions are recommended which require the submission of a Construction Management Plan providing details to be approved on the movements of traffic during the construction of the site, and the provision of HGV route signage to control the direction of HGV traffic.

- 3.87 Sustainable transport is also encouraged, and following concerns at the last Planning Committee, discussions have been undertaken to ensure delivery of additional bus stops which will now be incorporated along the A379 to serve the development site. As discussed above, the applicant has agreed to enter into a Section 106 agreement to deliver an off-site cycleway alongside the A379 either by providing a financial contribution to the full cost of the works, or providing the cycleway to the satisfaction of Devon County Council. A condition relating to the provision of cycle parking facilities is also recommended, together with the need for a travel plan to be submitted and approved.
- 3.88 In conclusion, following review of all relevant documentation and consultation replies from the relevant Officers of the Council, it is considered that the development could proceed without having a significant impact on the amenity of the nearby residents, provided the recommended conditions are incorporated into any grant of planning permission.

#### Impact of the development on biodiversity

- 3.89 The application falls within the following Council-designated areas:
- Cirl bunting winter zone;
  - Cirl bunting breeding zone;
  - HRA Dawlish Warren;
  - HRA Exe Estuary.

The application is supported by an Ecological Appraisal as prepared by Green Ecology. The appraisal included a desk study, an Extended Phase 1 Habitat Survey, bat activity survey, reptile survey and cirl bunting survey.

- 3.90 The results of the survey work suggest that the site consists of a low ecological value arable field which supports some notable arable plants. The site supports commuting and foraging bats, breeding birds and likely to support invertebrates. One tree proposed for retention was identified as having bat roost potential. Mitigation measures will be required for the development to be acceptable and form part of the recommended conditions.
- 3.91 The Council's Biodiversity Officer initially had a holding objection to the application pending receipt of cirl bunting survey information. Since the additional cirl bunting survey work has been submitted, the holding objection has been withdrawn and the Officer has confirmed that no compensation is needed for these species given that no cirl buntings were recorded on site. Conditions however are recommended and include the need for the mitigation chapter of the ecological survey to be followed in addition to a Construction Environment Management Plan, a Landscape and Ecology Management Plan, an external lighting scheme and implementation programme. There is, however, opposition to the planting of gunnera around the SuDS ponds, and the applicant is advised to revise this when it comes to submitting their LEMP as part of satisfying the associated condition.

### Flood and drainage impact of the development

- 3.92 In terms of its location, the site is not located within a flood zone or an area of flood risk. However, given that the application constitutes major development, the application is supported by a Flood Risk Assessment and Drainage Strategy.
- 3.93 In terms of surface water run-off, it is proposed that roof water from the proposed units will be collected from downpipes and gutters and transferred via private below-ground piped networks towards the proposed on-site drainage network and SuDS train. The road network is proposed to drain via trapped gullies into a separate highway drainage network, prior to discharging to the proposed drainage network. Attenuation and long-term storage will be provided within the attenuation features of the site. Once the long-term storage has been filled, a second outfall will engage.
- 3.94 In terms of foul water, it is proposed that the scheme will use a series of on-site private foul water treatment plants.
- 3.95 Devon County Council's Flood and Coastal Risk Management Team initially advised that whilst they had no in-principle objection to the proposed surface water management strategy, further information from the Applicant was required. Following the submission of this information, the concerns of the team were considered to be addressed and there are no objections to the proposal from the Lead Flood Authority.

### Highways impact of the development

- 3.96 As discussed above, the application has been amended to propose that access be achieved via the use of a three arm roundabout to the north west of the site, which was approved under the outline planning permission in 2013. When originally submitted, the application proposed that access be achieved via the provision of a five arm roundabout to the south west of the site, which has association with a proposed strategic highways scheme that Devon County Council has been developing. Such a scheme would involve the provision of north-facing slip roads at the Wobbly Wheel junction on the A38 together with the widening of the A38. However, due to concerns raised by Highways England, the application no longer proposes the five arm roundabout as an option. Therefore, assessment of the access to the application site can only consider that put before the Council, which is the provision of the three arm roundabout.
- 3.97 Devon County Highways have worked closely with the applicant in order to assess whether the proposed access will be suitable for accommodating not only that of the permitted employment development on the site to the immediate west, but that also of the proposed development.
- 3.98 The vehicle generation has been checked against TRICS (industry standard database of trip rates) as well as against another employment location in Devon with similar characteristics to the site as outlined at the front of this report. This has demonstrated that the trip rates used to support the application are within an appropriate range.



- 3.99 Assessment undertaken by the Highways Officer has estimated that the development would generate an additional 150 vehicle trips in the a.m. peak and 121 in the p.m. peak. When combining this with the permitted site, the total development would generate an additional 224 vehicle trips in the a.m. peak and 179 in the p.m. peak. The current traffic flows within the area are assessed at being approximately 2,000 vehicles an hour in the a.m. peak and 1,800 vehicles an hour in the p.m. peak. As such, the development traffic represents approximately a 10% increase in vehicles in this location, and when combined with existing traffic, is considered to be within the capacity of the network. It is expected that the development traffic will be distributed on the highway network, with approximately 60% routing to and from the north, and 40% to and from the south.
- 3.100 Following the concerns raised by the Parish Council's at the last Planning Committee over the potential of development traffic choosing to route through Kennford, the applicant has worked with Devon County Council and met with the Parish Councils, and it is now proposed to incorporate a weight limit of 7.5 tonnes for Kennford via the erection of signs alongside Exeter Road. A Traffic Regulation Order is required for this and will form part of the Section 106 as discussed above. Furthermore, the delivery of cycle infrastructure will help encourage the use of sustainable transport, thereby minimising the levels of traffic through the village, in addition to the provision of additional bus stops. Further detail has also been incorporated in respect to the Travel Plan, with measures proposed to monitor the HGV traffic that is associated with the site.
- 3.101 It should be noted that the Applicant has also agreed with Devon County Council to make land available for the delivery of a potential slip road on a plan to be agreed for a period of 10 years, should Devon County Council continue to develop their proposed strategic highways scheme. Should this be the case, then this will lead to further reductions in traffic travelling southbound.

#### Other matters

- 3.102 Following objections received on the application, it is understood that there was some concern from local residents on the advertisement of the application, with it being suggested that no site notices had been erected around the area to advise local residents of the proposed development when it was first submitted.
- 3.103 It should be noted that two site notices were erected on 13 February 2017 and an advertisement was published in the Express and Echo newspaper on 9 February 2017. However, following concerns raised by the residents, a further advertisement was published in the Express and Echo on 23 March 2017 and an additional four site notices were posted within the area.
- 3.104 Further site notices were erected around the site following the decision of the applicant to revise the proposed access of the application, together with a further advertisement published in the Express and Echo on 1 June 2017.

## Conclusion

- 3.105 The application seeks outline planning permission for the development of up to 47,112 square metres of employment development. Following careful consideration of the application against the relevant planning policy and having taken into account the concerns of the Parish Councils and local residents it is considered that the proposed development is acceptable subject to the provision of mitigation measures including the delivery of an off-site cycleway.
- 3.106 Whilst a number of matters have been raised throughout the consideration process, these are considered to be matters that can be addressed via the implementation of mitigation measures. There are a number of material planning considerations in relation to the benefits of the proposal that have been taken into consideration and following technical assessment and reviewing the advice received from internal/external consultees, it is considered that the development is acceptable and will assist in providing the much needed employment land that Teignbridge requires.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

#### **STRATEGY POLICIES**

S1A (Presumption in favour of Sustainable Development)  
S1 (Sustainable Development Criteria)  
S2 (Quality Development)  
S6 (Resilience)

#### **STRATEGY PLACES**

S3 (Land for Business, General Industry and Storage and Distribution)  
S22 (Countryside)

#### **QUALITY ENVIRONMENT**

EN2A (Landscape Protection and Enhancement)  
EN3 (Carbon Reduction Plans)  
EN7 (Contaminated Land)  
EN8 (Biodiversity Protection and Enhancement)  
EN9 (Important Habitats and Features)  
EN10 (European Wildlife Sites)  
EN11 (Legally Protected and Priority Species)

### Devon Waste Plan

### Exminster Neighbourhood Plan

### National Planning Policy Framework

## **5. CONSULTEES**

Economy and Regeneration - Support the proposal. Outlines that the proposed larger site will help with the viability of the overall scheme by offering a greater return on investment.

Following the discussion at the Planning Committee on 1 August 2017 regarding the application for 15 hectares of employment land at Peamore, this report seeks to address a number of the points raised by Members at the meeting relating to the delivery of employment land.

### Council Strategy

While the Council Strategy was not specifically referred to during the discussion, it is important to set out some of the commitments in that strategy, as these are some of the main drivers for the work of the Council's Economic Development team.

In both the 'Going to Town' and 'Investing in Prosperity' projects the Council commits to using its regulatory powers, decision making powers and targeted investment to support business growth.

### Delivery issues for the Exeter Estates employment land to date

The Economic Development team have been working with Exeter Estates for almost 2 years to help bring forward the approved 5 hectares site. The opening up costs for the site, particularly the access roundabout and electricity supply, in the region of £4 million, make the development unviable. In addition to this cost, the lead in time for the electricity supply is approximately 2 years.

We have worked closely with the Local Enterprise Partnership (LEP) to seek funding towards opening up costs, and the LEP have also taken up the case on the costs and timescales of power supply with Western Power Distribution. However, we have been unable to make progress.

The proposal before Committee offers a potential solution to this, by spreading the costs of opening up the site and potentially bringing in end-users who can contribute to those costs at an early stage.

### Local Plan allocated sites

Set out in the table below is the progress of the allocations within the Local Plan. It should be noted that allocation within the Local Plan does not automatically guarantee viability or deliverability.

Site	Employment land provision	Area/space delivered or approved to date	Progress to date
NA1 Houghton Barton	18 hectares	0 ha delivered.	<p>Outline permission granted for a site of approximately 0.72 ha with consent for B1 (a/b/c) employment use as part of Hele Park. The site is currently being marketed.</p> <p>The land at Forches Cross allocated in the Local Plan for employment uses could come forward once the improvements to the A382 have been undertaken in 2019.</p>
NA2 Whitehill	2 hectares	0 ha delivered	<p>This site will not be delivered. The approved alignment for the A382 improvements runs through the site. A financial contribution to employment will be the alternative approach.</p>
NA3 Wolborough	10 hectares	0 ha delivered	<p>A planning application is with the Council under reference 17/01542/MAJ for part of the site.</p> <p>The hybrid application proposes 3,500 square metres (B1), 5,500 square metres (C2 – care home), and 1,250 square metres (A1, A3, A4, A5) of new employment generating floorspace in outline. The full application also includes 1,158 square metres of hotel, restaurant and bar space.</p>
NA4 Milber Employment Area	8 hectares	0 ha delivered	<p>Reserved Matters application approved under reference 14/03208/MAJ in 2015.</p> <p>Issues relating to opening up costs, specifically the road access.</p>

<b>Site</b>	<b>Employment land provision</b>	<b>Area/space delivered or approved to date</b>	<b>Progress to date</b>
NA10 Bradley Lane	15,000 square metres	0 sqm delivered	This site will be part of the regeneration plans for the Bradley Lane area. Work is not anticipated to begin on this for at least 2 years.
KS1 Sands Copse	16.4 hectares	0 ha delivered	Part of the site is still an active quarry. No planning application received.
KK1 Land off Torquay Rd and Embury Close	0.5 hectares	0 ha delivered	Planning consent has been granted for the allocation under reference 17/00132/MAJ. The employment allocation is not being brought forward. A financial contribution towards delivering employment land will form part of the Section 106 agreement.
SWE2 Adjacent to Peamore	5 hectares	0 ha delivered	Reserved Matters planning permission granted under reference 16/00950/MAJ in 2016.  Issues relating to opening up costs linked to access and power preventing delivery.
DA2 North West Secmaton Lane	3 hectares	0 ha delivered	Outline permission granted in 2016 under reference 15/02700/MAJ.
BT2 Bradley Bends	915 sqm	0 sqm delivered	Outline permission granted in 2013 under reference 13/00251/MAJ.
BTC2 Old Newton Road	0.7 hectares	0ha delivered	No progress.
BT3 Challabrook	1.2 hectares	0 ha delivered	An outline planning application is before the Council under reference 17/01821/MAJ.
CH1 Rocklands	1.5 hectares	0 ha delivered	Outline planning permission granted in 2014 under

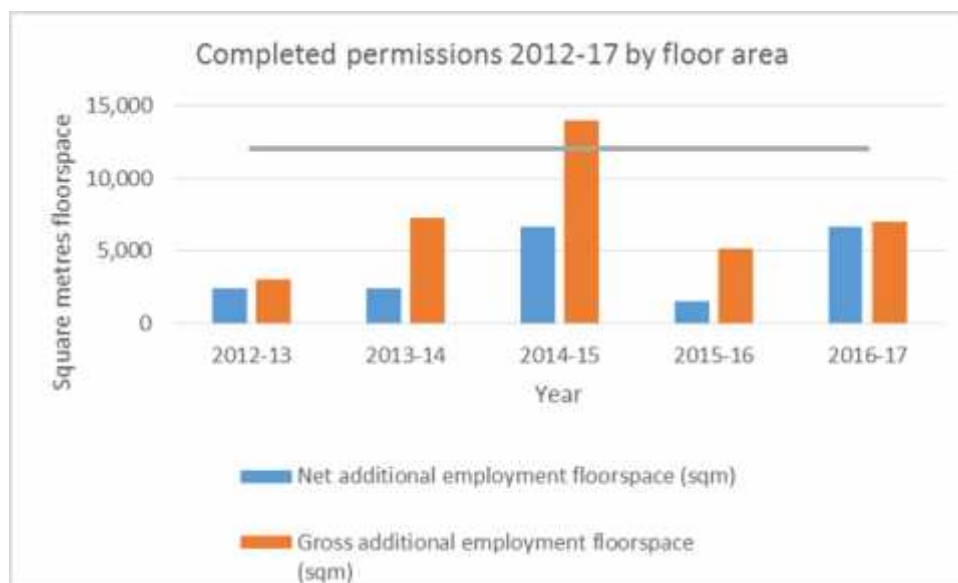
Site	Employment land provision	Area/space delivered or approved to date	Progress to date
			reference 13/01062/MAJ for 2,500 square metres of Use Class B1 (a) employment space.
CH6 North West of Town Centre (Chudleigh)	0.5 hectares	0 ha delivered	No progress.

The employment allocations are at varying stages of delivery. Some sites have had consent for a number of years without progress. The Economic Development team continue to engage with the site promoters to see what assistance is required and whether there are barriers to delivery. Opening up costs are generally cited as the main barrier and we will work with the site promoters when funding is available.

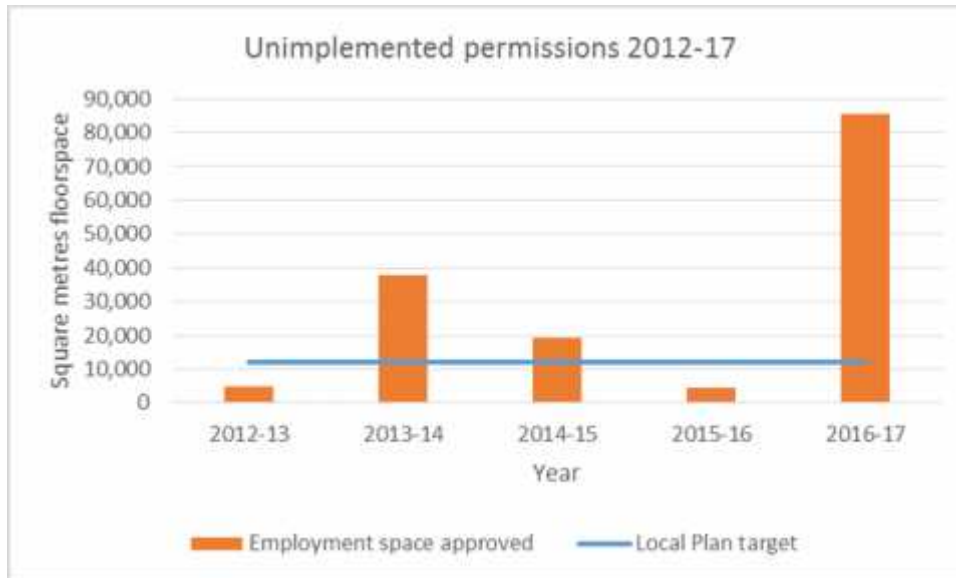
#### Employment permissions 2012-17

The Teignbridge Local Plan (Policy S3) refers to delivery of 3 hectares employment land per year, which could equate to 12,000 square metres. As planning permissions are recorded in square metres the following tables also use this measure.

Since 2012 the amount of delivered employment land has been significantly below the Local Plan target, particularly when considering the net gain of new floorspace.



During the same period planning permissions for a significant increase in floorspace have been granted but not implemented.



The majority of the permissions in 2016-17 relate to the indicative figures given in the outline planning permissions at Ilford Park, Stover (31,000 square metres), the land at Peamore (18,000 square metres) and land at Langdon Hospital, Dawlish (30,000 square metres).

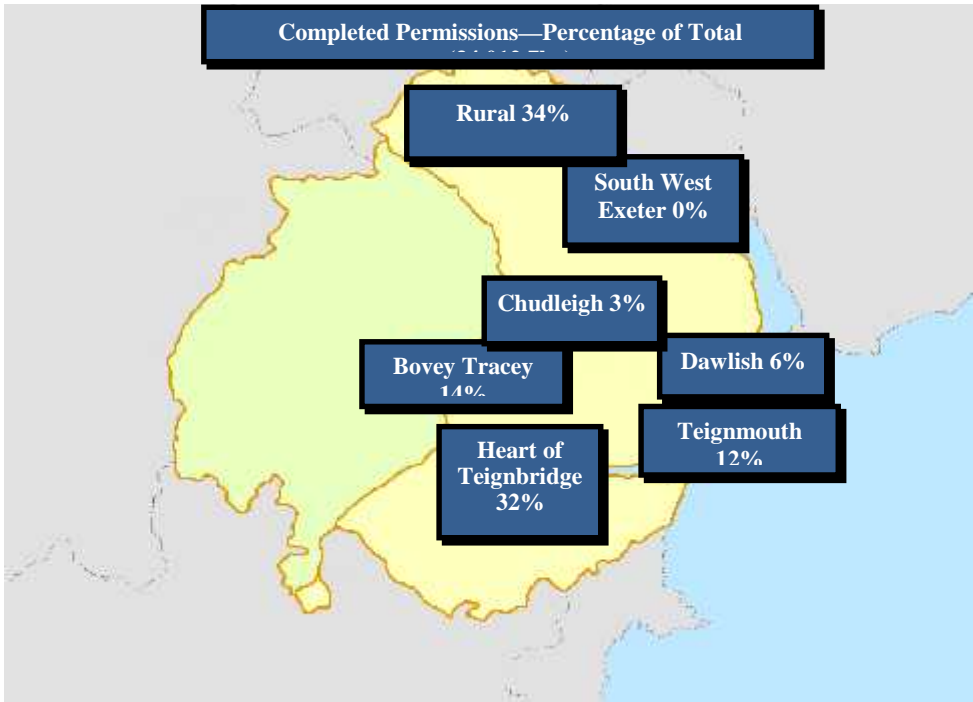
The site at Ilford Park is experiencing the same issues as Peamore, with opening up costs for highways and power supply providing a significant barrier to delivery.

#### Strategic distribution of approved sites and delivery to date

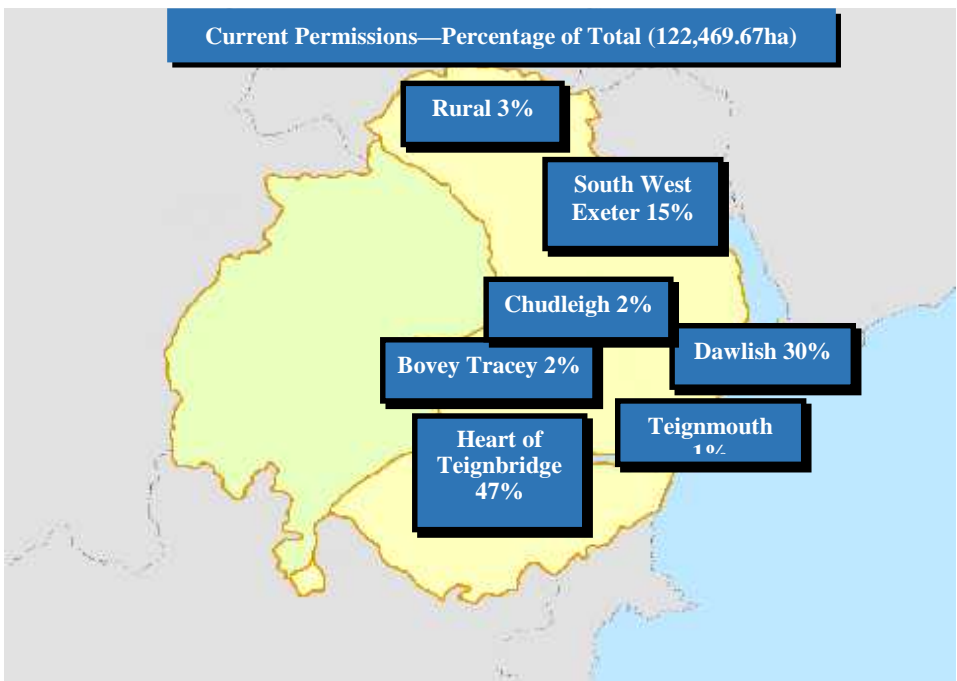
The Local Plan sets out a strategic distribution of employment sites as follows (all figures are approximate and based on an overall allocation of 75.7ha, including existing permissions):

- Heart of Teignbridge – 60%+ (45.4ha+)
- South West Exeter – 5%+ (3.8ha+)
- Dawlish – 3%+ (2.8ha+)
- Bovey Tracey – 3%+ (2.8ha+)
- Chudleigh – 3%+ (2.8ha+)

Geographically the spread of completed permissions is as follows:



Below is a similar plan showing the spatial distribution of existing permissions.



The Local Plan distributions account for 74% of the delivery of employment land, and sites were not allocated across the District. For example there is no Local Plan figure for Teignmouth or any rural locations, but 46% of delivered schemes have been in those areas, as well as a further 4% of existing permissions.



While spatial distribution is important, this is only one factor to be considered and does not mean that applications for employment sites in areas outside those listed in Policy S3 should be rejected in principle.

### Demand

Demand for employment space is always a snapshot in time. At present we are aware of a demand for floorspace for approximately 28,000 square metres. This is from indigenous businesses wishing to expand, but unable to due to the lack of available space to move into. By bringing more land forward the creation of more space allows for a churn of businesses.

We currently turn away inward investment enquiries as there is no land available to fulfil requirement.

A significant opportunity presented as part of this application is safeguarding land for a new northbound slip road on to the A38. While the slip road itself is not a formal part of this application, by safeguarding the land it creates the potential to significantly improve the accessibility of the site, making it very attractive to new businesses seeking accessibility along a strategic transport corridor and access to a large potential workforce. It would also help to address a number of traffic issues from vehicles seeking to join northbound A38/M5 that currently travel across the city or have to head south down the A38 first.

Highways England - Originally had a holding objection to the application on the basis of the five arm roundabout being proposed. This was largely because the access arrangements to the site were originally dependent on the case for a new on-slip to the A38 and Highways England wanted to consider the application in more detail.

Since this time, the applicant decided to revise the application plans, omitting the proposal for the five arm roundabout and proposing that the approved three arm roundabout be used to gain access to the site. The application was subsequently re-advertised, and consultees re-consulted, Highways England have since come back and advised that they offer no objection to the proposals.

Devon County Council (Highways) - Devon County Council's Highways Officer has worked closely with the applicant in assessing the proposals for access to the site to ensure that the location and the proposed access is suitable for the proposed development in terms of the traffic it would generate. Following a comprehensive assessment of the potential traffic implications using specialised traffic data known as TRICS, the application was referred to Devon County Council's Development Management Committee given its relationship to a future highway scheme.

Whilst Devon County Council Highways do not object to the application, there are a number of conditions and a Section 106 contribution that is recommended, which the applicant has agreed to enter into. This will provide a financial contribution to the delivery of an off-site cycle path and safeguarding land in perpetuity to facilitate future road improvements.

Further information can be found within the Devon County Council Committee report, which has been made publicly available.

Devon County Council (Archaeology) - No objection to the development. The applicant submitted a report detailing the results of the archaeological evaluation of the site, and the work demonstrated the presence of prehistoric/Roman-British activity on the site. For this reason, a condition is recommended which requires the applicant to secure the implementation of a programme of archeological work in accordance with a written scheme of investigation. The scope of such can be discussed with the Officer.

Devon County Council (Lead Local Flood Authority) - Had no in-principle objection to the scheme proposed, but required the applicant to submit additional information to demonstrate that all aspects of the proposed surface water drainage management system had been considered.

The applicant has since submitted the required details, and the Officers have now recommended that any grant of planning permission be associated with conditions relating to detailed design of proposed permanent surface water drainage management.

Health and Safety Executive - Do not advise against the development.

Natural England - No objection to the development. Encourage use of Green Infrastructure.

Devon Wildlife Trust - Disappointed that the proposal has not incorporated more biodiversity measures to increase the net gain, and concerned about the lighting of the hedgerow to the north which is understood to be used by the greater horseshoe bat. On this basis, the Trust objects to the application.

Wales and West Utilities - Provided a plan which illustrates that there is a high pressured main running along the far south eastern border of the site. Wales and West Utilities have no objection to the proposals; but outline that their apparatus may be at risk during construction works and therefore should the application be approved, the promoter of the works should contact Wales and West to discuss their requirements in detail. Should diversion works be necessary, they will be fully chargeable.

NATS Safeguarding - Proposal does not conflict with safeguarding criteria, therefore no objection to the proposal.

Environment Agency - Awaiting formal response, but telephone discussions with the Environment Agency suggest that there are no significant concerns.

Environmental Health (Air quality) - Recommends approval of the application.

Environmental Health (Noise & Light) - Outlines that previous sound monitoring in the vicinity of the application site identifies that the prevailing noise source in the immediate area originates from the nearby highway network.

Recommended that to reduce level of complaints arising from potential noise disturbance a condition could be associated with any grant of planning permission which would limit works which are likely to give rise to significant levels of noise (including vehicle movement) between the hours of 7 a.m.–7 p.m. Such a condition would be further reinforced by the Control of Pollution Act 1974 which stipulates such hours for works that are likely to give rise to noise.

It is suggested that in the design of the application, advantage should be taken of the acoustic shrouding offered by the proposed buildings, with sound sources such as air handling units and compressors placed inside the internal perimeter of the site facing into the complex in order to limit fugitive sound emissions being experienced by nearby residents.

All window apertures should also face into the site to limit the possibility of nuisance being caused and to limit light pollution from the development. Low level illumination should be fitted below eaves level of buildings again facing into the site and be located in such a way and be of such intensity so as to avoid causing a nuisance to the occupiers of nearby residential dwellings.

Environmental Health (Contaminated Land) - Recommends that a condition be associated with any grant of planning permission which requires no further development to be undertaken (unless otherwise agreed in writing with the Local Planning Authority) until the developer has submitted to and obtained written approval from the Local Planning Authority for an investigation and risk assessment, and, where necessary, a remediation strategy and verification plan detailing how the unsuspected contamination will be dealt with.

Biodiversity Officer - Originally had a holding objection to the application on the basis that it was considered that insufficient bird bunting survey information had been submitted. Following the submission of this survey information, the Biodiversity Officer has withdrawn their holding objection and has no further concerns subject to any grant of planning permission being associated with conditions including provision of a CEMP, LEMP and external lighting scheme.

Landscape Officer - Satisfied with the way the scheme has been developed. Some concern was raised about some of the views off the A38; however, it is considered that these concerns can be addressed at reserved matters stage as the detail is not required at outline.

Tree Officer - No objections to the proposal as no trees within or adjacent to the site that contribute significantly to the visual amenity of the area are affected by the proposal.

Any reserved matters application should be accompanied by a landscaping plan showing the following:

- Trees planted within and/or adjacent to hard surfaces
- All trees to be container grown and will not be planted until written approval has been provided by the Council's Arboricultural Officer

## **6. REPRESENTATIONS**

A total of 62 objections and 4 comments have been received on the application at the time of writing. Such concerns have been addressed in the body of the report where appropriate.

In summary, the objections raise the following issues:

1. Request that the application be resisted until existing areas of approved development within the Local Plan have been completed;
2. Concern that the application is not in accordance with the policies and provisions of the Local Plan;
3. Overdevelopment of the site;
4. Concern over the highway safety of Days Pottles Lane;
5. The loss of agricultural land;
6. Increase of traffic within the local area;
7. Pollution caused through the development;
8. Protection of biodiversity and flora and fauna;
9. Highways concerns;
10. Questions as to why the proposal is being considered if the site is not allocated for employment land;
11. Visual impact of the development;
12. Concern over further development of the area around the site;
13. Impact on the amenity of local residents;
14. Noise and light pollution;
15. Water contamination;
16. Concern that the application was not advertised correctly;
17. Encroachment upon the green space between Exminster and Kennford;
18. Concerns over the flood risk assessment;
19. De-valuation of property (not a planning matter);
20. Pre-empting of the Greater Exeter Strategic Plan;
21. Impact of the development alongside the residential allocation of SW Exeter;
22. Concerned that insufficient impact assessments of the development have been undertaken;
23. Concern over why a residential dwelling cannot be built within the location but employment can be;
24. Lack of services;
25. Impact on heritage;

Four comments have been received and whilst there is no objection to the principle of the site being developed, they raise concern about the traffic generation and questions over whether the decision was to be delegated or Planning Committee decision and whether comments made prior to the changes of the application would be taken on board for the revised submission.

## **7. PARISH COUNCILS' COMMENTS**

Exminster Parish Council and Kenn Parish Council have submitted a joint response in addition to an individual response. The joint response raises concern about the compliance of the development with Local Plan policy.

Exminster Parish Council - The Council object to the application and have provided a joint submission of objection with Kenn Parish Council. Whilst comments were submitted prior to the revised proposal of the 3 arm roundabout, the Council consider that the revisions have no material effect upon the decision to object to the application. The grounds on which the Parish Council object are:

- Traffic – the Council believes that the proposed development would generate a significant increase in traffic through the village and along Days Pottles Lane. If approved, requests that consideration be given to suitable traffic calming measures such as speed restrictions, access restrictions and appropriate signing. The Council have commissioned a Traffic Assessment report from Jon Pearson. The report concludes that it is considered the TA submitted with the application only considers the likely impact on the A38 and A379 rather than the impact on the area.
- Environment and sustainability - considers development to be detrimental to the environment given increase in noise, artificial light levels and general disturbance and decrease in air quality.
- Agricultural land – Concerned about the development being constructed on Grade 2 agricultural land;
- Drainage – Concerned over the FRA;
- Landscape value – Considered over the visual impact of the development;
- Availability of employment land and business premises – considers there to be sufficient provision of suitable employment land and vacant business premises. Concerned that approval will set a precedent for further development.

The Parish Council have also commissioned a Transportation Advisory Note jointly with Kenn Parish Council and a submission has been made by Jon Pearson FIHE. The submission suggests that the application would have an impact on congestion, air quality and highway safety and that the location of development is not sustainable. The applicant has submitted a technical note to address the points raised within the submission, and this has also been reviewed by Devon County Council Highways, who offer no objection to the application.

Kenn Parish Council - Provided a joint submission of objection with Exminster Parish Council as outlined above.

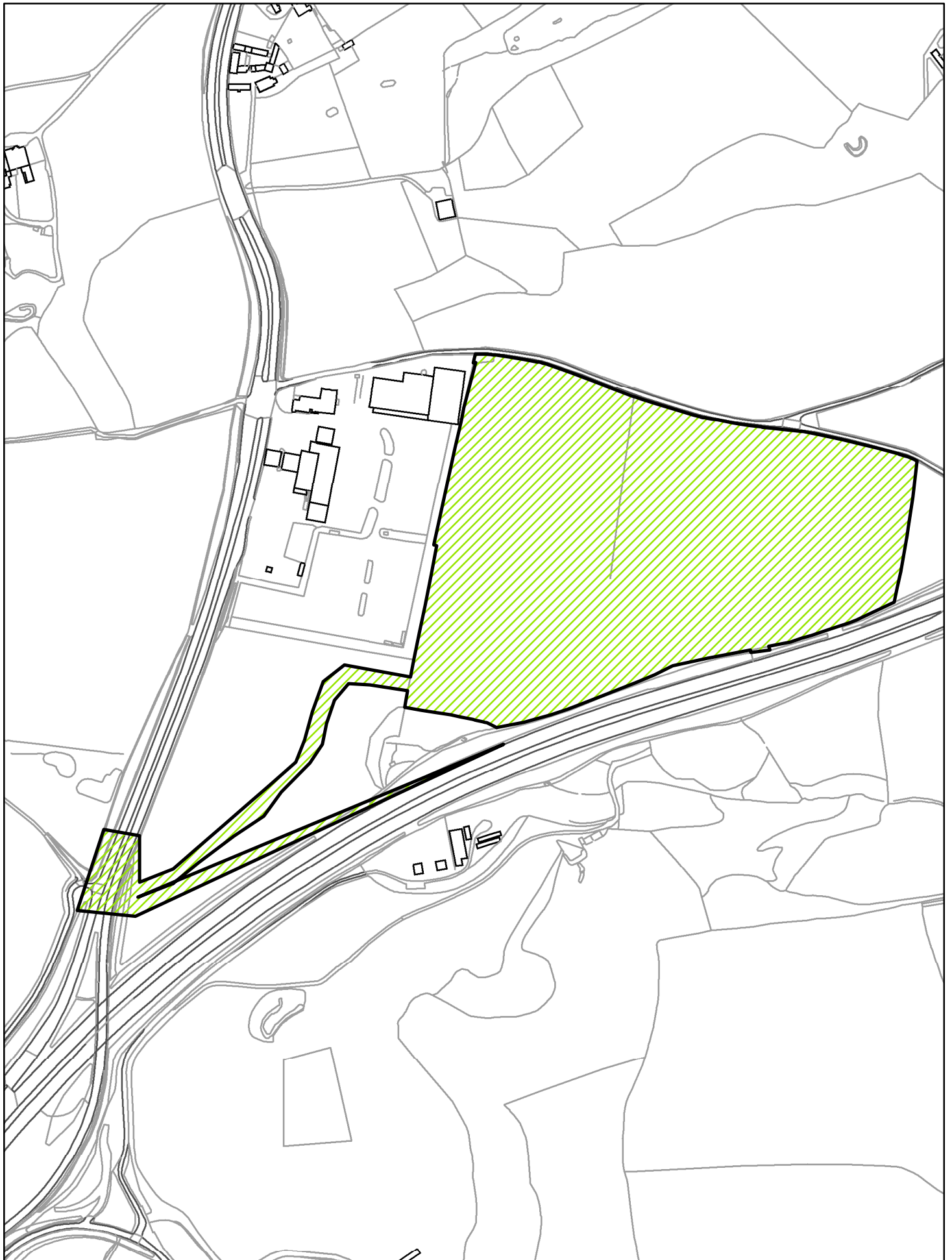
Shillingford Parish Council - Agree with the concerns raised by the other Parish Councils, concerned about the levels of traffic the development would create and the impact this would have. Object to the application.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

This application has been screened under the Environmental Impact Assessment Regulations 2011 and the Council's Screening Opinion is considered to be negative as set out in the Screening Opinion decision letter and proforma Ref: 16/02527/SO dated 12 December 2016.



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# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 5.

**CASE OFFICER** Donna Crabtree

**APPLICATION FOR CONSIDERATION:** KINGSKERSWELL - 16/01961/MAJ - Land to rear of Mount Pleasant Road - Outline - residential development of up to 34 dwellings (all matters reserved for future consideration)

**APPLICANT:** De Vere Farms Ltd

**WARD MEMBERS:** Councillors Cook and Haines, Kerswell with Coombe

## 1. REASON FOR REPORT

This application is presented to Planning Committee at the request of Councillor Cook because she is concerned about:

- Overdevelopment, against the Local Plan
- Highways issues
- Area of cirl buntings

## 2. RECOMMENDATION

Subject to the applicant entering into a Section 106 Agreement to secure:

1. Delivery of 21% affordable housing (based on the number of dwellings progressed through reserved matters) to meet local needs at a tenure split of 70% Rented and 30% Intermediate;
2. One dwelling to be provided as a 'more accessible' dwelling (in accordance with Part M4(2) of the Building Regulations);
3. 5% of total number of dwellings to be Custom Build;
4. £74,193 financial contribution towards cirl bunting mitigation (off-site territory contributions);
5. A 'per pupil' financial contribution towards school transport which would be calculated based on the number of dwellings progressed through reserved matters (£21,603 financial contribution would be applicable to a development of 34 dwellings),

PERMISSION BE GRANTED subject to the following conditions:

1. Submission of reserved matters (access, scale, appearance, landscaping and layout) required prior to commencement;
2. Reserved matters to be submitted within 3 years (5 years for custom-build plots);

3. Development shall commence before the expiry of 2 years from the date of final reserved matters;
4. Site Characterisation/Phase 2 Contamination Assessment to be submitted to and approved by the Local Planning Authority;
5. Contamination Remediation Scheme Assessment to be submitted to and approved by the Local Planning Authority;
6. In addition to conditions 4 and 5, an implementation of approved Remediation Scheme shall be carried out;
7. Detailed drainage design for the full period of the construction of the development shall be submitted to and approved by the Local Planning Authority;
8. Detailed permanent drainage design to be submitted to and approved by the Local Planning Authority prior to commencement;
9. Reserved Matters application for landscaping shall include formal play;
10. Details of the proposed estate road, cycleways, footpaths, verges, junctions, street lighting, sewers, drains, etc., shall be submitted to and approved by the Local Planning Authority;
11. Details of the off-site highways works to be submitted to and approved by the Local Planning Authority;
12. Access, parking facilities, commercial vehicle loading/unloading area, turning area and access drainage shall be submitted to and approved by the Local Planning Authority;
13. Submission of a Construction Management Plan (CMP) for approval of the Local Planning Authority;
14. Development to take place in strict accordance with the recommendations of the Ecological Impact Assessment and submission of a detailed LEMP to the Local Planning Authority for approval;
15. Provision of bird/bat boxes at a rate of 1 per dwelling;

### **3. DESCRIPTION**

#### The Site

- 3.1. The application site lies to the south-eastern edge of Kingskerswell. It is approximately 1.2 hectares in size and comprises the KK2 (Land to the rear of Mount Pleasant Road) site allocation in the Teignbridge Local Plan 2013 - 33.
- 3.2. The application site lies adjacent to existing built development along its south and west boundaries; dwellings on Mount Pleasant Road and Caroline Close back onto the western boundary at lower ground levels, and the recent Cavanna Homes development, which comprises 62 dwellings and is accessed from Charles Road, lies to the south.
- 3.3. The Cavanna Homes development was granted outline planning permission in 2012 (reference number 11/01568/MAJ) with reserved matters approved in 2013 (reference number 12/02509/MAJ).
- 3.4. Boundaries between the application site and the existing development to the south and west are formed by established trees and hedges. An existing stream also lies adjacent to the southern boundary, between the application site and the Cavanna site.

- 3.5. In 2013, outline planning permission (reference number 13/00386/OUT) was granted for three dwellings to the north of the application site, accessed from Fluder Hill. Reserved Matters Approval (reference number 15/00445/REM) was granted for the three dwellings in 2014. Amended plans were approved in 2016 (reference number 16/00022/VAR) and these dwellings are currently under construction.
- 3.6. The site comprises grassland which is steeply sloping and falls from north to south. An existing timber stable building is sited to the north-eastern corner of the application site. Open fields lie immediately adjacent to the site to the east.
- 3.7. The site falls within the cirl bunting enhancement zone and within 500 metres of a cirl bunting breeding territory.

#### The Proposal

- 3.8. This application seeks outline consent for residential development of up to 34 dwellings with all matters (access, scale, appearance, landscaping and layout) reserved.
- 3.9. The details which have been submitted with the application include a Transport Assessment, Contaminated Land Assessment, Ecological Surveys, Tree Survey, Flood Risk Assessment and Drainage Strategy, Landscape and Visual Impact Assessment, and Illustrative Layout.

#### Principle of Development

- 3.10. The application site falls within the extent of the KK2 (Land to the Rear of Mount Pleasant Road) site allocation. Policy KK2 as set out in the Teignbridge Local Plan 2013-2033 allocates land for at least 15 homes. Therefore the principle of residential development of this site is acceptable.
- 3.11. Whilst some public representations received in respect of the scheme object to overdevelopment of the site, in this instance, the application seeks outline planning consent for up to 34 homes. This would result in a density of approximately 28 dwellings per hectare. The density is considered to be consistent with existing built development adjacent to the south at the Cavanna Homes site.
- 3.12. The site allocation policy KK2 sets out a housing target of at least 15. Therefore there is no "in principle" objection to exceeding this housing target, providing the proposed development accords with other Local Plan policies.

#### Affordable Housing

- 3.13. Policy KK2 states that development will provide at least 15 dwellings with a target of 30% of these to be affordable.
- 3.14. During consideration of this application, the applicant raised viability concerns. Due to the sloping nature of the site and the increased costs of developing such a site,

the applicant considered that provision of 30% of the total number of dwellings as affordable homes, would render the site unviable.

- 3.15. Therefore, the applicant submitted a Viability Assessment as part of the application to evidence the site viability; this has been independently assessed by a Viability Assessor instructed by the Council.
- 3.16. The independent Viability Assessor has confirmed that the submitted Viability Assessment proves that the affordable housing target of 30% would render the site undeliverable in this instance.
- 3.17. The Viability Assessments have concluded that the site would be viable with a 21% affordable housing provision.
- 3.18. Policy WE2 c) (Affordable Housing Site Targets) of the Teignbridge Local Plan states:

*the provision of affordable housing is a high priority in considering planning applications, however if independently verified evidence is submitted which proves that the affordable housing target renders the site undeliverable, a reduced level of provision or other alterations to the scheme sufficient to bring it forward will be negotiated.*
- 3.19. Providing a Section 106 Agreement is entered into to ensure a 21% level of affordable housing as supported by the submitted Viability Assessments, at a suitable tenure mix, and to include 1 x 1 bedroom ground floor flat accessible dwelling (in accordance with Part M4(2) of the Building Regulations), the Teignbridge District Council Housing Enabling Officer is supportive of the proposals.
- 3.20. Therefore, it is considered that the proposal to provide 21% of the total number of homes, which is supported by Viability Assessments, accords with Policy WE2 and KK2 of the Teignbridge Local Plan 2013-2033. It is perhaps worth noting that 21% affordable housing would deliver 8 affordable units (if 34 dwellings were achieved at reserved matters stage) whereas if a scheme comprising the KK2 minimum of 15 dwellings was pursued, even at 30%, only 5 affordable housing units would be achieved.
- 3.21. The requirement for one of the units (1 bedroom ground floor flat or similar) to be provided as a 'more accessible' dwelling (in accordance with Part M4(2) of the Building Regulations) is considered to reasonable, having regard for the aims of the interim policy approach approved by Executive Committee in September 2016 to meet specific housing needs.
- 3.22. For the reasons set out above, it is considered that the approach to affordable and accessible housing is acceptable in this instance. The requirements would need to be reflected in a Section 106 legal agreement.

#### Custom Build Housing

- 3.23. Policy WE7 requires 5% of the total number of dwellings to be provided as custom build. The applicant is in agreement to the custom build element being secured by a Section 106 legal agreement.

#### Impact upon setting of Listed Buildings and Conservation Areas

- 3.24. The nearest listed building to the application site is approximately 500 metres to the north and the nearest Conservation Area approximately 1km away. Having due regard for the statutory duty of the Council as set out under Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the nearest listed buildings and Conservation Areas are sufficiently distant and unrelated to the site that, it is not considered that any harm would result to their setting, from residential development of this site.

#### Impact upon the Character and Visual Amenity of the Area/Open Countryside

- 3.25. A Landscape and Visual Impact Assessment has been submitted as part of this application. Whilst the site is visible to long views, it would be seen in the context of the existing development on the eastern edge of the village, and therefore it is considered that the resultant visual impact of a suitably designed scheme would be acceptable.
- 3.26. An indicative layout is submitted as part of this application which indicates that 34 properties could be accommodated on the site together with landscaping and formal play provision.
- 3.27. The scale, appearance, landscaping and layout of the proposed development would be determined at reserved matters stage, and therefore the visual and landscape impacts would need to be further considered as part of the reserved matters application(s).

#### Impact on Residential Amenity of the Occupiers of Surrounding Properties

- 3.28. A number of objections have been received in respect of neighbouring amenity. These raise concerns relating to overlooking, loss of privacy, noise and disturbance from construction traffic.
- 3.29. The ground levels of the application site are higher than those on Mount Pleasant Road, Caroline Close and of the recent Cavanna Homes development. However, as this application is submitted in outline, matters relating specifically to residential amenity for the occupiers of surrounding properties will be addressed at reserved matters stage when details of the proposed dwellings and their relationship to existing homes and their boundaries are known.
- 3.30. With regards to disturbance of construction traffic; whilst a certain level of disruption during construction phase is inevitable, Devon County Council Highways Authority has requested a condition requiring the submission and approval of a Construction Management Plan (CMP) prior to the commencement of the development in the interests of local amenity. It is considered reasonable to attach this condition.

### Land Drainage/Flood Risk

- 3.31. Letters of representations received raise concerns about the potential surface water flooding resulting from the proposed development, particularly as it is a sloping site and the surrounding residential development to the east and south are situated at lower ground levels.
- 3.32. As set out above, this application has been accompanied by a Flood Risk Assessment and Drainage Strategy, prepared by AWP.
- 3.33. This document sets out how plot and highway drainage would intercept surface water flows and would discharge into the existing stream adjacent to the southern boundary of the site. This replicates the existing drainage catchment of the site and is proposed at equivalent greenfield run-off rates up to the 1 in 30 year return period. Any residual surface water flows above the 1 in 30 year return period would be directed to a detention basin to the south-west corner of the site, to temporarily store run-off until it can return to the system.
- 3.34. The Flood Risk Assessment and Drainage Strategy has been reviewed by Teignbridge District Council Drainage Engineers and Devon County Council as the Lead Flood Risk Authority. Both have confirmed that the submitted drainage strategy is acceptable. Devon County Council Lead Flood Risk Authority recommends prior to commencement conditions requiring detailed surface water management plans both for the permanent SUDS and for the duration of the construction period.
- 3.35. Devon County Council Lead Flood Risk Authority has noted that there are existing flood risk issues downstream of this proposed development site. However, Devon County Council Lead Flood Risk Authority confirms that the proposed surface water drainage management system would provide betterment over the existing greenfield conditions of the site by restricting the maximum off-site discharge rate to the 1 in 30 year greenfield run-off rate.
- 3.36. Therefore, subject to a condition which requires the developer to accord with the principles of the submitted Drainage Strategy, it is considered that the scheme is in accordance with Policy EN4 (Flood Risk) of Teignbridge Local Plan.

### Impact on Ecology/Biodiversity

- 3.37. This application is supported by an Ecological Impact Assessment, prepared by EAD Ecology.
- 3.38. The Ecological Impact Assessment sets out a number mitigation measures including retention and protection of existing hedgerows, no lighting within the buffer along the stream corridor and bat boxes installed in buildings.
- 3.39. The Teignbridge District Council Biodiversity Officer has no objections to the proposed development, subject to appropriate mitigation being secured. This would include a condition requiring the development to take place in accordance with the mitigation measures as set out in the submitted Ecological Impact Assessment,

together with the submission of a detailed Landscape and Ecological Management Plan (LEMP) for approval by the Local Planning Authority.

- 3.40. The proposed development would have a direct impact on a cirl bunting territory. Therefore the applicant has agreed to provide a financial contribution of £74,193 (as confirmed as the necessary amount by RSPB) in order to secure and manage habitat elsewhere within the Teignbridge District. This would need to be secured by way of a Section 106 legal agreement.
- 3.41. Having due consideration for the consultation responses of the Teignbridge District Council Biodiversity Officer and the RSPB, and the requirements of Policies EN8 to EN12 of the Teignbridge Local Plan, it is considered, subject to conditions and Section 106 obligations as set out above, that the proposed development is acceptable in relation to the ecological interests of the site.

#### Highways and Access

- 3.42. This application seeks outline consent for residential development of up to 34 dwellings with all matters reserved. Therefore details of the proposed access will be considered at reserved matters stage.
- 3.43. Notwithstanding that access is a reserved matter, the Design and Access Statement and the illustrative layout plan submitted in support of this application indicate that access to the site would be gained from the existing Cavanna Homes development adjacent to the southern boundary of the application site.
- 3.44. A number of objections have been raised about highway safety. In particular, objections relate to the principle of an access to the site through Charles Road and the Cavanna Homes site, and the increased use of Southey Lane, which narrows near the junction with the old A380 Torquay Road. Concerns have also been raised that Fairfield Road, which is a private road, could be used as a 'rat-run' by residents of the proposed residential scheme.
- 3.45. A Transport Assessment prepared by AWP has been submitted in support of this application and this has been reviewed by the Devon County Council Highways Authority.
- 3.46. Devon County Council Highways Authority has advised that the number of trips that the proposed development could generate would not result in a severe effect on the highway and has no objection to the proposed development, subject to conditions requiring full details of the highways works; details of the off-site highways works, and the approval of a Construction Management Plan (CMP). These conditions are considered to be reasonable and therefore it is recommended that, if outline consent is granted, these conditions are attached.
- 3.47. There has been a substantial reduction in trips on the old A380 Torquay Road, as a result of the opening of the South Devon Highway and in this context, Devon County Council Highways Authority has not objected to the increased vehicular use of the Torquay Road/Southey Lane junction, which is estimated to result from a residential development of up to 34 dwellings. The existing highway on Charles

Road and through the Cavanna site is considered to be capable of accommodating additional vehicle movements without unacceptable impacts.

- 3.48. With regards to concerns that Fairfield Road could be used as a 'rat-run' by residents of the proposed residential scheme, as this is a private road and no public vehicular access is permitted, this would be a civil matter. As set out above, it is considered that the existing highway network is considered capable of accommodating the additional vehicle movements.
- 3.49. Therefore, having regard to the advice of the Devon County Council Highways Authority, Officers are satisfied that suitable vehicular access can be achieved for this application site, through the Cavanna site as indicated on the illustrative plans.
- 3.50. The Devon County Council Highways Authority has also recommended that additional 20 m.p.h. signs be installed on the existing highway on Charles Road. The proposed development would be subject to a Section 278 agreement with the Highways Authority; therefore if additional signage is considered to be necessary it is considered appropriate for this to be agreed as part of the Section 278 agreement.

#### Education

- 3.51. Devon County Council Children's Services has confirmed that there is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development.
- 3.52. Devon County Council Children's Services has requested a financial contribution towards secondary school transport due to the proposed development site being further than 2.25 miles from Newton Abbot Community College. The costs would be a 'per pupil' contribution, however for 34 dwellings the contribution would be £21,603.
- 3.53. Subject to the agreed contribution being secured, Devon County Council Education Team has no objections to the proposed development.

#### Contaminated Land

- 3.54. The Contaminated Land Assessment which has been submitted in support of this application has revealed that there are some potential contamination problems that require further intrusive investigation prior to commencement of development on the site.
- 3.55. The Teignbridge District Council Environmental Health Officer has reviewed the Assessment and recommends conditions requiring a phase 2 assessment and remediation scheme to be submitted and approved by the Local Planning Authority.
- 3.56. Subject to the requested conditions being attached to the outline planning consent, the Teignbridge District Council Environmental Health Officer has no objections to the proposed development

#### Financial Benefits Information



3.57. As set out in this report, the financial benefits of the scheme are as follows;

- Delivery of 21% affordable housing (based on the number of dwellings progressed through reserved matters) to meet local needs at a tenure split of 70% Rented and 30% Intermediate;
- One dwelling to be provided as a 'more accessible' dwelling (in accordance with Part M4(2) of the Building Regulations);
- 5% of total number of dwellings to be Custom Build;
- £74,193 financial contribution towards air quality mitigation (off-site territory contributions);
- A 'per pupil' financial contribution towards school transport which would be calculated based on the number of dwellings progressed through reserved matters (£21,603 financial contribution would be applicable to a development of 34 dwellings).

3.58. It is considered that all the above financial requirements are material to the application and are required in order to make the development acceptable. CIL would be applicable to the proposed development and would be calculated when the reserved matters application(s) are submitted.

#### Conclusion

3.59. Therefore, having regard to the main planning considerations which are set out in this report, it is considered that the balance of consideration falls in favour of the application proposals, and therefore it is the Officer's recommendation that the application is approved, subject to necessary conditions and the prior completion of a Section 106 agreement to secure the financial contributions and obligations as set out at the start of this report.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S3 (Land for Business, General Industry and Storage and Distribution)

S4 (Land for New Homes)

S5 (Infrastructure)

S6 (Resilience)

S9 (Sustainable Transport)

S11 (Pollution)

S16 (Kingskerswell)

WE2 (Affordable Housing Site Targets)

WE4 (Inclusive Design and Layout)

WE7 (Custom Build Dwellings)

WE11 (Green Infrastructure)

EN2A (Landscape Protection and Enhancement)

EN3 (Carbon Reduction Plans)

EN4 (Flood Risk)

EN5 (Heritage Assets)  
EN7 (Contaminated Land)  
EN8 (Biodiversity Protection and Enhancement)  
EN9 (Important Habitats and Features)  
EN11 (Legally Protected and Priority Species)  
EN12 (Woodlands, Trees and Hedgerows)  
HT3 (Heart of Teignbridge – Green Infrastructure)  
KK2 (Land to the Rear of Mount Pleasant Road)

Planning for Affordable Housing - Interim Policies (Executive Report to Committee dated 6 September 2016)

Devon Waste Plan

National Planning Policy Framework

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

## **5. CONSULTEES**

Devon County Council Children's Services (25 August 2016) - There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards secondary school transport due to the proposed development site being further than 2.25 miles from Newton Abbot Community College. The costs required are:

£3.79 per day x 6 pupils x 190 academic days x 5 years = £21,603 + £500 legal costs.

Teignbridge District Council Arboricultural Officer (26 August 2016) - No arboricultural objections.

Teignbridge District Council Drainage Engineer (8 September 2016) - No objections in principle to the surface water proposals for this development subject to detailed design, to include drainage design, specification and supporting calculations, construction phase surface run-off prevention and water quality measures, details of the management, maintenance and water quality and overland route flooding.

Teignbridge District Council Landscape Officer (9 September 2016) - No objections, expects conditions requiring further information on landscape works.

Teignbridge District Council Play Area Project Officer (12 September 2016) - Well-designed formal play provision is provided to meet the needs of children up to 12 years of age.

Teignbridge District Council Environmental Health Officer (12 September 2016) - The first phase 1 desk top study has revealed that there are some potential

contamination issues that require further intrusive investigation. Conditions recommended requiring a phase 2 assessment to be conducted, and a remediation scheme to be completed.

Devon County Council Flood and Coastal Risk Management Team (14 September 2016) - The submitted drainage strategy is acceptable. Recommend prior to commencement conditions requiring detailed surface water management plan.

Teignbridge District Council Custom Build Officer (21 September 2016) - Should consent be granted it is possible that this proposal could yield more than 20 dwellings and the proposal should incorporate at least 1 Custom Build plot, if the proposal achieves more than 30 dwellings in total then the requirement increases to 2 Custom Build plots. The requirement for Custom Build dwellings should be reflected in a Section 106.

Teignbridge District Council Housing Enabling Officer (29 September 2016) - The residential development will be expected to meet the 30% policy requirement and should be secured at a tenure splits of 70:30 (rented:intermediate) by a Section 106 agreement. The site has the potential to include some bungalows in the housing mix.

Housing Enabling discussions will be required about the location of proposed affordable units, design/layout features parking provision for the affordable housing. Affordable housing should be indistinguishable, avoiding design/layout features which are in contrast to the open market, garages or parking arrangements for example.

Devon County Council Highways Authority (24 October 2016) - The number of trips this development could generate will not have a severe effect on the highway and these number of trips are an estimated figure taken from TRICS database which is a nationally accepted database.

The Council Highways Authority have no objections to the proposal subject to a number of conditions, one being for the applicant to put in some extra 20 m.p.h. signs and painted roundels on the existing highway in Charles Road and conditions which secure full details of the highway and details of a Construction Management Plan (CMP).

If the application is successful then a Section 38 Agreement will be required for the highways to be adopted and this will include some Section 278 works on the existing highway in the new development for the access of pedestrians to this proposed development.

RSPB (12 January 2017) - The proposed development needs either to provide effective on-site mitigation or to compensate for the loss of curlew habitat. The total cost for providing and managing habitat needed to support one pair is £74,193. It is considered reasonable to provide curlew compensation in relation to this proposed development.

There is no detail provided to know how effective proposed lighting controls will be to safeguard retained hedges and streamside habitat from light pollution. In relation to providing integral nest sites for swifts, it is recommended that this is increased to one per dwelling.

Teignbridge District Council Biodiversity Officer (13 January 2017) - The proposed development would result in loss of curlew bunting territory which will require mitigation. If it cannot be shown that sufficient curlew habitat will be retained and safeguarded on site a standard off-setting/commuted sum payment would need to be made. Agree with RSPB that the good practice standard for the number of roosting/nesting features should be agreed. This would be addressed at reserved matters stage.

## **6. REPRESENTATIONS**

43 letters of representation have been received in respect of this application for planning permission which object to the proposed development:

1. Neighbouring amenity impacts (loss of privacy/overbearing appearance/noisy)
2. Loss of trees
3. Highway safety (increase in vehicular traffic/use of inadequate road infrastructure/narrow junction at Southey Lane and poor access at Charles Road/parking)
4. Limited public transport
5. Impact on wildlife
6. Concerns that Fairfield Road and Hare and Hounds Car Park, which is a private road, will be used as a 'rat-run' by construction traffic and vehicular traffic accessing the development on completion
7. Loss of fields for development
8. Number of houses
9. Overdevelopment of Kingskerswell
10. Flood risk as it is a sloping site
11. Visual impact/landscape impact of the proposed development on an elevated site
12. Lack of outside space and areas for recreation
13. Disruption during construction of the houses
14. Concerns relating to lane adjacent to Caroline Close being opened up for access

## **6. PARISH COUNCIL'S COMMENTS**

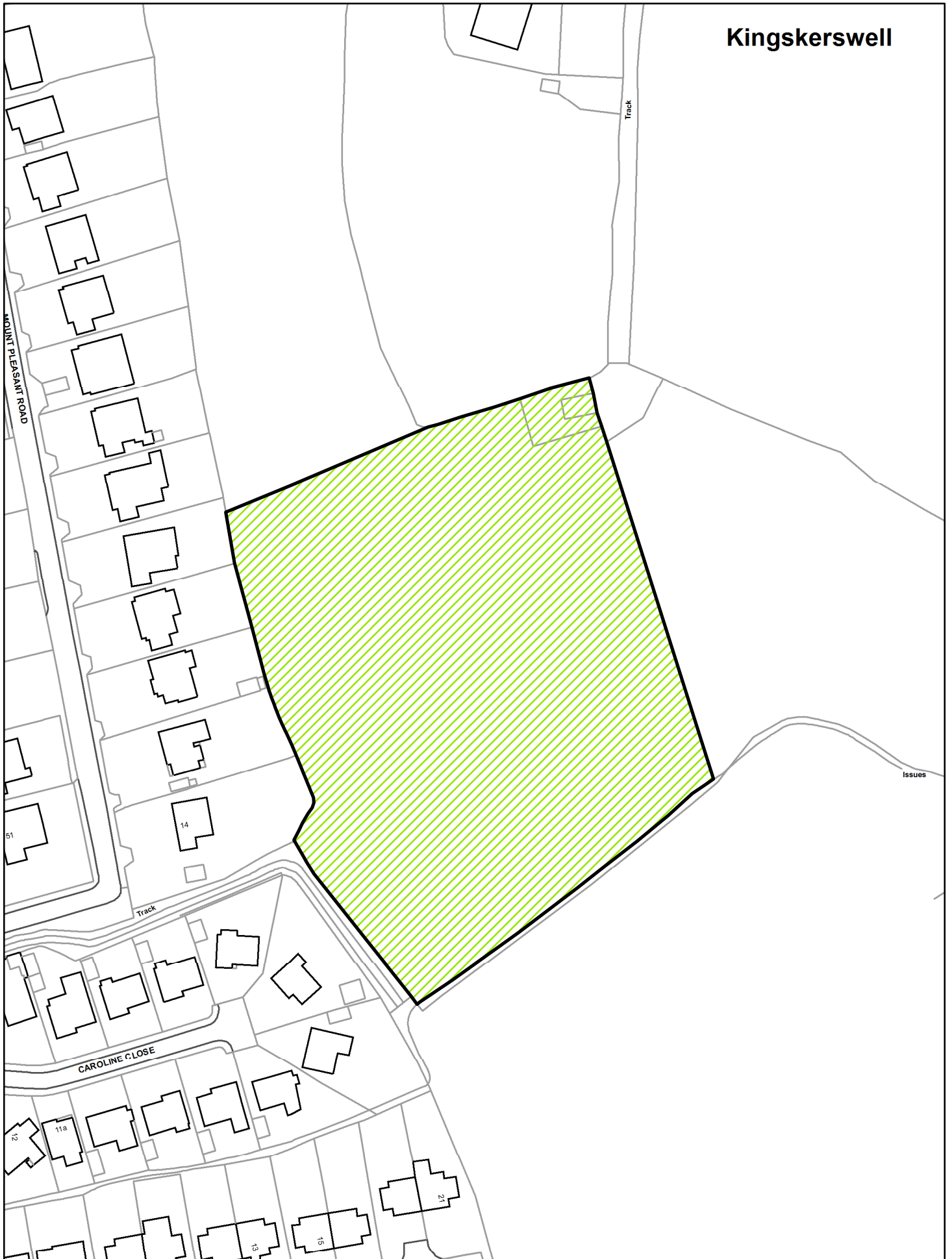
Strong concerns about the traffic handling capabilities of Charles Road and Southey Lane. Do not consider that the current road infrastructure would deal with additional traffic burdens and consider existing homes in the area would be adversely affected by increased parking demand and peak congestion. Grave concerns about the entrance of the junction of Southey Lane which cannot be changed to take an increase of in and out traffic.

## **7. COMMUNITY INFRASTRUCTURE LEVY**

This is an outline application. CIL liability will be calculated when the reserved matters application is submitted.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.



# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017

**REPORT OF:** Business Manager – Strategic Place

**ITEM:** 6.

**CASE OFFICER** Angharad Williams

**APPLICATION FOR CONSIDERATION:** DAWLISH - 16/02074/FUL - 1 Priory Park Road - Decking and parking bay at front of property

**APPLICANT:** Mr L Buckland

**WARD MEMBERS:** Councillors Hockin, Mayne and Price, Dawlish Central and North East

## 1. REASON FOR REPORT

The application has been called in by Councilor Price if the Officer is minded to recommend approval. There is no objection to the parking area but the Councillor is concerned about the decking element of the application because of an unwelcome negative impact on the street scene and also overlooking of Haldon Terrace properties opposite the site.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Standard three year time limit for commencement;
2. Development to proceed in accordance with the approved plans;
3. Details of the soft landscaping as illustrated on Plan 1503-01 100 Rev D to be submitted and approved in writing by the Local Planning Authority prior to the provision of the decking area.

## 3. DESCRIPTION

- 3.1 The application site relates to a detached dwelling within the settlement limits of Dawlish. The site benefits from a moderately-sized curtilage to the front and rear, but due to the topography of the area, the garden slopes steeply at the front and at the rear.
- 3.2 The site is bound in all directions by further residential dwellings, with Priory Park Road to the south, which is set at a much lower level. Along Priory Park Road, the character of the area is defined by the presence of garages which face directly onto the road, with the dwellings set back at a distance behind. Because of the rising

topography, the front garden areas of the dwellings are predominantly screened from eye level, with only the house in full view.

- 3.3 The site falls just outside the Dawlish Conservation Area and a number of listed buildings known as Haldon Terrace lie to the south.

#### The Proposal

- 3.4 The application seeks full planning permission for the provision of decking to the front of the property in addition to the provision of a parking bay at the front which will lie adjacent to the existing garages. New steps up to the property will then be incorporated to the rear of the parking bay together with a new retaining wall with a painted render finish.
- 3.5 The decking will extend approximately 3.7 metres to the front and will end just before the start of the garages. The applicant proposes a 1.2 metres high obscure glass privacy screen that will be positioned on the western part of the decking.
- 3.6 Following submission of the initial plans, concerns were raised about the materials proposed for the decking and the impact this had on the appearance. The wooden appearance was considered to be out of character with the existing development, and appear heavy and bold in an area that needs to be sensitive to the presence of the listed buildings to the south. It was considered that, given that there are other dwellings within the area that have balconies, the use of glass with dwarf walls painted with a render to match the existing dwellings, would be more appropriate. Following an on-site meeting with the applicant, it was agreed to revise the designs, and this has been done accordingly.
- 3.7 The applicant also proposes some soft landscaping to the east of the decking with low level shrubs to assist in screening the dwarf walls and soften the appearance of the development.

#### Planning History

- 3.8 There is one planning application that is relevant to the site, 02/02948/FUL. This was a full planning application for a dwelling adjacent to the subject site with two garages and parking spaces. This was approved on 25 September 2002.

#### Key Considerations

- 3.9 The application seeks full planning permission for the provision of decking to the front and rear of the property, together with a parking bay.
- 3.10 The key considerations in the determination of this application are:
- The principle of the development/sustainability;
  - Impact of the development upon the character and visual amenity of the Conversation Area and listed buildings;
  - Impact of the development upon the character and visual amenity of the area;



- Impact of the development upon the amenity of the occupants of the surrounding properties;
- Impact on biodiversity;
- Impact on highways.

#### Principle of the development

- 3.11 The application site falls within the Settlement Limits of Dawlish. Within Settlement Limits, development proposals are permitted where they are consistent with the provisions and policies of the Local Plan.
- 3.12 The application seeks full planning permission for the provision of decking to the front of the property together with the introduction of a parking bay.
- 3.13 Policy WE8 allows development including extensions, alterations and boundary alterations, and therefore, in principle, the development is considered acceptable. Matters such as design and appearance, however, must also be considered, and in this instance, the potential impact of the development on the character and appearance of the Conservation Area, in addition to that of the listed buildings. In accordance with Policy WE8, development proposals must be complementary to the existing building, and the character of the area; the scale must be appropriate to the existing building and must not overdevelop the site or have an adverse impact on the occupiers of neighbouring properties.
- 3.14 It is considered that, following discussion with the applicants and revision of their materials for the proposal, the development would be acceptable. This is discussed in detail below under the relevant sections.

#### Impact of the development upon the character and visual amenity of the Conversation Area and listed buildings

- 3.15 The site falls just outside the Dawlish Conservation Area. The character and appearance of the Conservation Area has still to be taken into consideration when assessing the proposal, ensuring that the development would not have a significant impact on the area or that of the listed buildings.
- 3.16 In accordance with Policy EN5 of the Local Plan, development proposals should respect and draw inspiration from the local historic environment, responding positively to the character and distinctiveness of the area.
- 3.17 The Grade II Listed Buildings of Haldon Terrace lie just to the south of the site and constitute a row of terraced buildings that are three storeys in height with slate roofs and rendered walls.
- 3.18 In assessing the initial proposals, it was considered that the parking bay would be acceptable as the provision of this element is not dissimilar to that already seen along Priory Park Road; however, the provision of the decking with the bold use of wood was considered to be too dense and out of character, having an impact on the surrounding area.

- 3.19 Following a site meeting with the applicant, it was agreed that the material could be altered to be more sympathetic with the surrounding area, and more in keeping with the materials used on balconies within the immediate surroundings. The applicant now proposes to increase the use of glass and to have a dwarf wall with painted render base to match the existing garages to the front of the property. This is considered to be more appropriate, and is not considered to detract significantly from the character of the Conservation Area or that of the listed buildings.
- 3.20 The use glass and render are materials that are already incorporated along Priory Park Road and therefore the development will sit more comfortably within the existing surroundings. Given that the neighbouring property to the immediate west of the site already benefits from a large balcony, the provision of the decking together with the proposed landscaping on the subject property is not considered to have such a significant impact that it would warrant refusal of the application.

Impact of the development upon the character and visual amenity of the area

- 3.21 As noted above, the character of Priory Park Road is defined by its high rising boundary treatments and garages that front directly onto Priory Park Road, with the steep incline of front gardens. Consequently, the majority of properties are only reached via steps that wind their way up to the front façade.
- 3.22 In its existing state, the property features a rather large front garden area, which is currently not landscaped. A large existing garage sits at the foot of the garden and immediately to the side of this is a large empty space which is proposed for the off-road parking bay. There is already a dropped kerb at this point on the pavement and the provision of a car parking space is not considered to cause any significant impact here on the character or appearance of the street scene.
- 3.23 In terms of the decking, this will see the front garden somewhat improved in appearance given that at present the garden area is not landscaped. Whilst the neighbouring property to the immediate west does not have a large area of decking, there is already a balcony in place, which again uses glass. As this is on the front of the property, the proposed development is not considered to be of a nature that is so significantly different that it should warrant refusal.
- 3.24 Given the presence of the existing garages, it is considered that the base of the decking will be largely screened from view, with only the glass balustrade on view.



- 3.25 The introduction of soft landscaping with low level shrubs will also assist in softening the development.
- 3.26 It is considered that the revised selection of materials for the decking area is more appropriate and is more sympathetic to the existing surroundings.

Impact of the development upon the amenity of the residential occupants of the surrounding properties

- 3.27 The nearest residential properties to the site include that of:
- Priory Lodge (to the immediate west of the site);
  - No. 12 Stockton Hill (to the immediate east of the site)
  - The Grade II Listed Buildings of Haldon Terrace lie to the south of the site.

Priory Lodge

- 3.28 This property lies to the immediate west of the site and is situated at an angle which looks across at the front garden area of the subject site. Due to this arrangement of the properties, there is already a degree of overlooking that occurs between both properties. Whilst it is acknowledged that the proposed decking will raise the level of land in order that it is level, it is considered that in the existing situation, the owners of the subject site when using their front garden, can still see across into the front garden and across to the balcony.

- 3.29 The applicant proposes a 1.8 metres high obscured glass privacy screen to be positioned at the western end of the decking, which will prevent the applicant from looking across to this property.

#### No. 12 Stockton Hill

- 3.30 This property lies to the immediate east of the site, but is set back at a slightly further distance than that of the subject site given that it is accessed off Stockton Hill, with the rear facing onto Priory Park Road. Given this situation, there are no concerns in respect to overlooking on the property itself as the decking will extend further out to the front of the subject site, lying adjacent to the rear garden of no. 12.

- 3.31 The rear garden is already predominately bound by the presence of timber fence which screens the garden from view. Whilst again, it is acknowledged that the provision of the decking would raise the land to a point where it is level, it is not considered that there will be a significant impact on the privacy of the occupiers given that the fencing already in place should continue to assist in screening the garden.

#### Properties of Haldon Terrace

- 3.32 Whilst the properties of Haldon Terrace lie to the south of the site at a lower level, there is not considered to be any significant additional impact on these properties than that already experienced.

- 3.33 The properties lie approximately 25 metres away from the point where the proposed decking would end. This is considered to be a reasonable distance in terms of proximity to limit the level of overlooking that could occur.

#### Parking bay

- 3.34 It is considered that the provision of the parking bay will not have any significant impact on either of the above properties given that it will just result in the addition of a new parking space that is off-road and not near any of the other properties.

#### Impact on biodiversity

- 3.35 The site falls within the following Council-designated areas:

- HRA Dawlish Warren;
- HRA Exe Estuary;
- Bat Corridors;
- Cirl Buntings Winter Zone.

- 3.36 Given the scale and nature of the application, the above areas are not considered to be significantly impacted on by the development and no survey work has been requested.

### Impact of the development on highways

- 3.37 The proposal to introduce a parking bay at the front of the property is considered to improve the situation in relation to highways. Whilst there are a number of existing garages, there are still a number of cars that parallel park along Priory Park Road, causing difficulty for vehicles to manoeuvre and pass. The provision of the additional parking bay will assist in reducing the number of cars parked alongside the road. Visibility in and out of the parking bay should not be significantly different to that achieved when using the existing garage even with the provision of the new retaining wall.
- 3.38 In terms of the proposed decking area, this will not have any impact on the highway given its proposed location.
- 3.39 There are therefore no concerns in relation to highways as a result of the development.

### Conclusion

- 3.40 The application seeks full planning permission for the provision of decking to the front and rear of the property, together with a parking bay, also to the front of the property.
- 3.41 Following Officer concerns about the materials proposed for the front decking area, and subsequently its appearance, the applicant has submitted revised designs which are considered to be more appropriate.
- 3.42 There is therefore a recommendation to approve the application.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S21A (Settlement Limits)

WE8 (Domestic Extensions, Ancillary Domestic Curtilage Buildings and Boundary Treatments)

EN2A (Landscape Protection and Enhancement)

EN5 (Heritage Assets)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

### National Planning Policy Framework

### National Planning Practice Guidance

### Listed Buildings and Conservation Areas Act 1990

## **5. CONSULTEES**

Conservation Officer - Has advised that they did not wish to comment on the application and would accept the Case Officer's decision.

Wales and West Utilities - Advised that there may be gas pipes owned by other gas transporters or privately owned and the promoter of the works must not build over any of their plant or enclose their apparatus.

## **6. REPRESENTATIONS**

A site notice was displayed along Priory Park Road on 21 June 2017. Direct notification of the development was also submitted to the occupiers of 12 Stockton Hill and 17 Stockton Hill.

At the time of writing, no representations have been received.

## **7. TOWN COUNCIL'S COMMENTS**

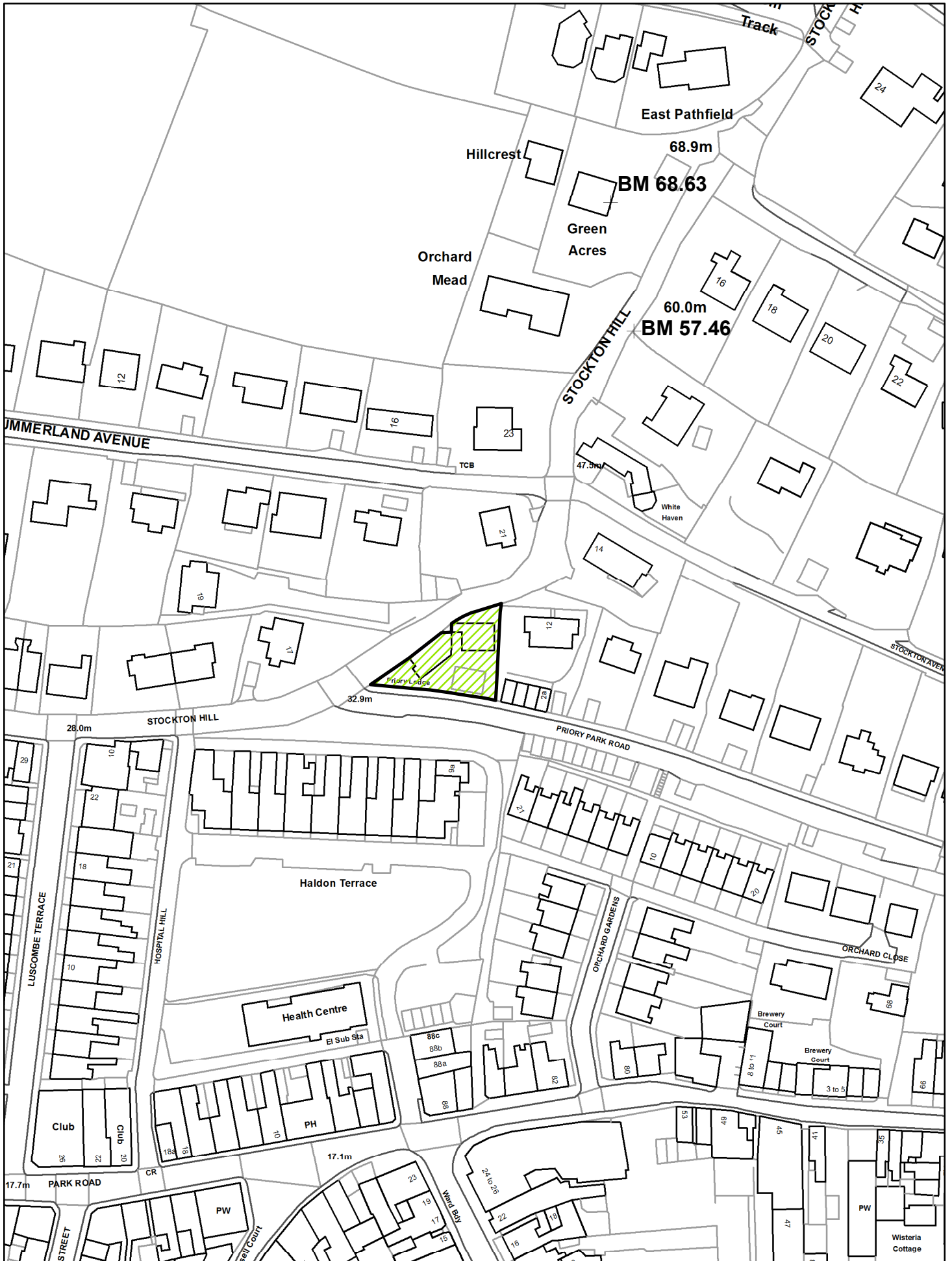
No objection.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.



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TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

PORTFOLIO HOLDER: Cllr Humphrey Clemens

**DATE:** 26 September 2017

**ITEM:** 7.

**SUBJECT:** DAWLISH - 13 Weech Road - Buildings at Risk

**RECOMMENDATION**

**The Planning Committee is recommended to resolve that Urgent Works Notices be served for 13 Weech Road and the Gig House at 13 Weech Road, Dawlish.**

**1. PURPOSE**

To inform and support the Conservation Officer in carrying out enforcement works to halt deterioration in the condition of The Old Vicarage and the Gig House at 13 Weech Road, Dawlish.

**2. BACKGROUND**

- 2.1 The building was listed Grade II in 1951 but is not in a Conservation Area. The original house is thought to date from the late 17<sup>th</sup>-early 18<sup>th</sup> century and a later wing was added in 1846. There is a detached cob gig house in the grounds thought to date from the 17/18<sup>th</sup> century that is included in the listing.
- 2.2 The Council was first informed of the deteriorating condition of the building in 2001. In 2002 the property was purchased for the sum of £60,000 by Robert Fraser, Twentieth Development Company Ltd and Goldpark Ltd of London, whose business is development and to sell real estate. On 2 October 2009 the ownership of the gig house and the remainder of the site, excluding the footprint of the Old Vicarage, was transferred to Sterling Property Developments Ltd and the price stated to have been paid was £225,000. The Old Vicarage was transferred on 2 October 2009 to Safebrite Properties Ltd and the price stated to have been paid was £150,000.
- 2.3 In 2008 an appeal was dismissed for demolition of the building and the inspector summarised that a suitable scheme was not before him to replace the building. In 2016 a further scheme was submitted for demolition and Historic England objected as it would result in **substantial harm**. It was cited that the supporting documentation submitted with the application did **not** meet the criteria set out in Paragraph 133 of the National Planning Policy Framework (NPPF), to demonstrate that all other options had been

## TEIGNBRIDGE DISTRICT COUNCIL

investigated with regard to the building and therefore, that demolition is justified. It was considered that a considerable amount of time had lapsed since the inspector's decision in 2008 and it did not meet the expectations of paragraph 133 as it had not been advertised on the open market.

Paragraph 133 of the NPPF

*Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- *the nature of the heritage asset prevents all reasonable uses of the site*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible*
- *the harm or loss is outweighed by the benefit of bringing the site back into use*

### 2.4 Condition of the Building

In 2007 Norman Rourke prepared a report on behalf of the owners outlining timber decay but did not outline defects in structural stability.

In 2016 the Council's Structural Engineer prepared a report on the building's current condition and to recommend minimum intervention works. It was considered the Victorian range walls were in good condition, the original house in poor condition and in near collapse, and the Gig House in very good condition.

In 2016 the Structural Engineer of Historic England was asked to report on the condition of the buildings and to recommend minimum intervention works to arrest further deterioration. The engineer agreed broadly with the condition outlined in the Teignbridge report of 2016. He considered cob wash out in the Gig House could be greater. The Victorian wing wall structure appeared sound and was likely to require a new roof. He considered that the original building required the rebuilding of cob in three areas, extensive propping of floor structure and the roof seemed in better condition. He did not conclude the building should be demolished.

### 2.5 Urgent Works Notices, 215 Notices, Repairs Notices, Compulsory Purchase

The owners of listed buildings are under no legal obligation to maintain their buildings in a good state of repair. When they do not, local authorities can take action to maintain and safeguard the buildings. When negotiation fails, local authorities have various statutory enforcement powers at the growing cost of repairing a building that are at their disposal.

## TEIGNBRIDGE DISTRICT COUNCIL

The authority has a general duty under the Planning (Listed Buildings & Conservation Areas) Act 1990 to help secure a viable future for historic buildings. This duty can be enforced by the use of discretionary powers to require the implementation of Urgent works (Section 54); issue a Repairs Notice (Section 48) where necessary; or ultimately acquire the building via compulsory purchase (Section 47). It is advisable to commence action at the lower raft of legislation with a view to further notices if necessary. To date the owners have not advertised the property on the open market to see if there is a viable option for its conservation. They have not made any attempts since purchase to arrest the deteriorating condition and it has been allowed to deteriorate further since first purchased. Although Historic England operates a grant scheme to underwrite repairs to buildings at risk, grade II buildings that are not in a conservation area are not eligible.

### 2.6 Urgent Works Notice - Section 54 of the Planning (Listed Buildings and Conservation Areas Act)

An urgent works notice is the lower level of notice to be served with a view to serving further notices should the building continue to be neglected. An Urgent Works Notice allows a local authority to directly carry out works that are required urgently to make an unoccupied listed building weather tight and thus prevent further deterioration. The local authority can seek to reclaim the cost of the works from the landowner. The owner may challenge the cost claimed by writing to the Secretary of State. The grounds of challenge may be that:

- Some or all of the works were unnecessary for the preservation of the building.
- Temporary support and shelter measures have continued for an unreasonable length of time.
- The amount reclaimed is unreasonable.
- Recovery of the amount claimed would cause the owner hardship.
- Listed building consent is not required to implement the notice.

### 2.7 Section 215 Notice

A relatively straightforward power to require the owner or occupier to carry out works to improve the external condition of a building or land if its neglect is adversely affecting the surrounding area.

### 2.8 Repairs Notice

A power that allows a local authority to specify to the owner works it considers reasonably necessary to secure the conservation of the listed building. The Local Authority serves the repairs notice specifying the works necessary for the proper preservation of the building. If it appears that steps are not being

## TEIGNBRIDGE DISTRICT COUNCIL

taken for its preservation in a period of not less than two months the Council can commence compulsory purchase of the building. The Council would not be committed to compulsory purchase and can withdraw the Repairs Notice at any time.

### 2.9 Section 17 of the Housing Act 1985

Acquisition of land for housing purposes allows local authorities to acquire houses or buildings that could be made suitable as houses by agreement or by Compulsory Purchase Order.

### 2.10 Compulsory Purchase Order

When all other measures fail, the local authority's last resort is to compulsorily acquire a listed building in order either to repair it itself or more usually to sell it on to be restored by a buildings preservation trust or other new owner.

- 2.11 A schedule of work has been prepared by Economy & Assets to support the report on the condition undertaken in 2016 by the Council's Structural Engineer. The works are intended to make the building wind and water tight and to arrest further deterioration as a temporary measure with a view to serving either a 215 Notice or Repairs Notice should the owner fail to carry out repairs.

The work to be undertaken would be as follows:

A - Make the Victorian building weathertight by erecting a temporary scaffolding for a work period of 4 weeks, provide a temporary roof and board up windows. Remove temporary scaffolding.

B - Provide a tented scaffolding structure to cover the original building for a period of 26 weeks. Should the tented scaffold be required for longer than 26 weeks the rental price would be in the region of £4,850 per month.

C - Shore and prop the Gig House to stabilise the structure and make watertight.

The estimated cost for these activities depends on which of options is followed:

#### Option 1

With rental of the scaffold, including provisional sums and contingencies the cost is £74,699.44 + VAT for a period of 26 weeks.

#### Option 2

To purchase the tented structure over the cob building (as the period of hire will be unknown) would cost £56,500.00 + VAT, so the total sum for the works would be £91,249.44 but the scaffold would have a re-sale value.

## TEIGNBRIDGE DISTRICT COUNCIL

Section 55 of the 1990 Act enables a notice to be served on the owner reclaiming the expense of the works. In the case of continuing expenses for temporary support or shelter, the notices may be repeated.

If the owners do not carry out the works to both buildings the Council has the power to carry out the works and reclaim the cost of the works from the landowner. If the costs are not repaid the Council can seek a charge on the properties.

### 3. CONSULTED

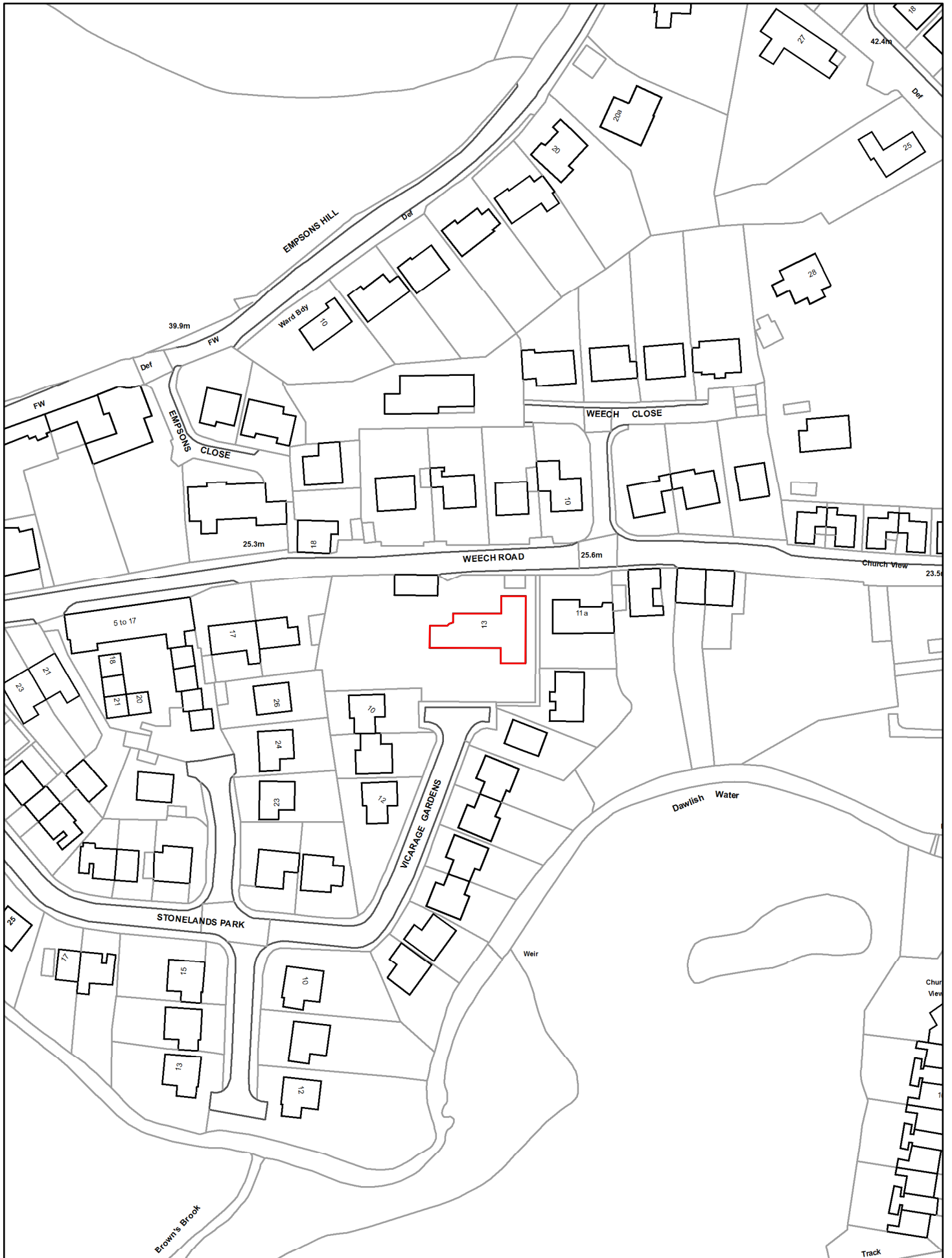
Historic England.

### 4. CONCLUSIONS

It is clear that these buildings are not currently being maintained or repaired by the owner. Discussions have taken place with the owner over many years to secure an acceptable use for the site, but the planning proposals that have been submitted have not been acceptable. Applications for Listed Building Consent to demolish the buildings have been refused and dismissed on appeal. The landowners have no current planning proposals with the Authority. To halt the further deterioration of these grade II listed buildings it therefore seems necessary for the Council to take action. The appropriate starting point is the service of an Urgent Works Notice requiring the landowner to undertake the minimum works necessary to make the unoccupied listed buildings weather tight and thus prevent further deterioration. In view of the current condition of the building it is considered that these measures should be put in place as soon as possible. It is therefore recommended that an Urgent Works Notice be served. This action would be in accordance with the Council Strategy T10 Project – Great Places to Live and Work – in particular the Action “Protect our most important landscapes and heritage and support proposals which enhance them”.

**WARD MEMBERS: Councillors Clemens and Prowse, Dawlish South West**





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TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017  
**REPORT OF:** Business Manager – Strategic Place  
**ITEM:** 8.

**ENFORCEMENT REPORT**

**REFERENCE NO:** 12/00345/ENF

**DESCRIPTION OF DEVELOPMENT**

**TEIGNMOUTH:** The Buntings, Higher Woodway Road, Teignmouth

**OBSERVATIONS**

Site History

1. On 7 May 2014 an Enforcement Report was placed before the Planning Committee relating to various activities at land off Higher Woodway Road, Teignmouth. This related to the residential use of the existing barn and the unauthorised change of use of the surrounding land from an agricultural use to a mixed use for agriculture and the production of charcoal and sale of logs. At the Meeting the Members resolved to serve an Enforcement Notice requiring the residential use of the barn to cease together with cessation of the commercial use of the land for the production and sale of charcoal and log sales. A period of six months for compliance was also agreed.
2. Following the Committee Meeting the decision of the committee was challenged by a Judicial Review. Although this was eventually dismissed it was clear from the ongoing enforcement investigation being carried out that there had been some discrepancies between the matters reported to committee resulting from the original investigation and the Owner's explanation of the matters. As such it was considered that additional investigations should be carried out. Furthermore, it was disputed that there was a breach of the planning legislation particularly regarding the residential use of the barn and the charcoal production. It was claimed that the barn was not being used for residential purposes and the sale of charcoal was only the sale of surplus charcoal and was not at a level that amounted to a change of use of the land.

## TEIGNBRIDGE DISTRICT COUNCIL

3. To help resolve the matter a site meeting was carried out on 27 February 2015. It was clear that the land was being used for agricultural purposes with the majority of the caravans and various paraphernalia being used to house livestock or store items associated with the owner's agricultural activities. As for the alleged residential use of the barn, having inspected the inside of the building it was clear that there was no evidence of it being used as a dwelling house.
4. At the time there was also concern being raised about the appearance of the site, particularly when viewed from public viewpoints into the site. At the time of the February visit it was noted that there was a line of strong plastic bags containing timber being stacked and stored adjacent to the public footpath that runs along the southern boundary of the land. At that time it was considered the line of bags of timber was being used to form a means of enclosure and it was considered that no further action should be taken irrespective of the appearance of the bags of timber as existed at that stage.
5. Whilst on site the owner passed the Officers a planning application for Prior Approval under Part 3 Class MB (a) and (b) and paragraph N of the GPDO for the change of use of the agricultural building from agricultural use to a dwelling. However, due to insufficient information the application was not subsequently validated. Despite chasing up the necessary additional information this was never submitted so the application was never validated and eventually the application and fee were returned to the Applicant.
6. Complaints continued to be received about the residential occupation of the site so in order to assess the use of the barn and the caravans sited on the land the Council served a Planning Contravention Notice (PCN) on 9 November 2015. However, this was never returned. On 7 July 2016 a further PCN was served to obtain the information previously requested with a request for additional information but again this was never returned despite a chasing letter from the Council's Solicitor.
7. As it is an offence under the planning legislation not to return a PCN the Council pursued legal proceedings. This resulted in the matter going before the Courts in March 2017. At the hearing it was agreed that the case would be adjourned for 4 weeks for the PCN to be completed and returned.
8. In April 2017 the PCN was returned and from the information given it was clear that the existing barn was being used for residential purposes and it was claimed that there had been a residential use of the land since 2011. It seems currently the original barn is being used for residential purposes along with a caravan sited next to the barn. As it is clear from the PCN that a planning breach relating to the residential use of the barn and caravan is occurring and the Council is still receiving complaints about the state of the site it is necessary to consider what action should be taken, if any, to resolve the planning breaches.

### Appearance of the site

## TEIGNBRIDGE DISTRICT COUNCIL

9. With regard to the appearance of the site it has been noted this has continued to deteriorate with the increase in the number of vehicles, moveable structures and caravans etc. being brought onto the land. In addition it seems that the number of commercial vehicles has increased. It has also been noted that where there had been previously a linear line of bags of timber forming an enclosure adjacent to the Public Footpath this is no longer the case. The bags no longer form a linear boundary feature and are now clearly visible within the site. They are being used to store timber, builder's rubble and building materials. They cannot now be claimed to be fulfilling the primary purpose of a means of enclosure and can therefore no longer be considered permitted development.
10. To resolve the matter the Council has advised the owner in writing to tidy up the site on a number of occasions but to date there is little evidence of the appearance of the site improving. If anything the overall appearance has become worse and is now having a detrimental impact on the amenity of the surrounding area. It is therefore recommended that a notice under section 215 Town and Country Planning Act 1990 be served for:
  - a. The removal of all the bags of logs, timber, rubble, building materials, etc. currently located near the southern boundary of the site and in the open elsewhere within the site
  - b. Removal of all building materials and machinery and all other items currently stored in the open fields other than materials or machinery that are reasonably required for regular agricultural purposes within the unit
  - c. Removal of any items stored in the yard area that are not reasonably necessary for agricultural purposes taking place on the site

### Residential use of the barn and caravan/s

11. It is clear from the PCN that there is an unauthorised use occurring on the land by the use of a caravan and agricultural barn for residential purposes. It is therefore necessary to consider enforcement action. The Council has discretion to take enforcement action, when the Council considers it expedient to do so having regard to the development plan and any other material considerations. The NPPF at paragraph 003 states that *"In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control."*
12. With regard to the unauthorised residential use of the barn and caravan no formal planning application has been submitted for the use but it is clear that a family consisting of two adults and two children are currently living in the barn and caravan. Although no planning permission or deemed consent has been granted for the residential use of the barn, when deciding whether to take enforcement action to stop the use, consideration should be given to the fact that if the planning application for Prior Approval for the change of use of an agricultural building (the barn) from agricultural use to a dwelling had been validated and determined, it is highly likely that it would have been approved as there was no grounds to refuse it. This is a consideration when determining

## TEIGNBRIDGE DISTRICT COUNCIL

whether it is expedient and proportionate to take enforcement action and further whether such action is in the public interest. Since Government policy is to allow the change of use of agricultural buildings to residential use it is not considered expedient or proportionate to take enforcement action in respect of the use of the barn for residential purposes.

13. Therefore, it is considered that the current occupiers should be allowed to continue using the existing agricultural building for residential purposes but action should be taken against the use of the caravans sited on the land for residential purposes. Although it had been hoped to carry out an up to date site inspection prior to this report being written that has not been possible because officers have not been able to get onto the site for reasons that cannot be disclosed in a public report. It has not therefore been possible to identify which of the caravans are being used for residential purposes. Prior to taking enforcement action this matter will be discussed with the Owners to see whether agreement can be reached to remove the caravans by agreement with the residential use of the land being limited to the barn. However, it has not been appropriate for officers to agree this position with the Owners in advance of member approval.
14. It should be noted by Members that if the Council decides not to require action to be taken to remedy the whole of a breach of planning control then there is an "under enforcement" in respect of the breach of planning control not enforced against. The effect of the under enforcement is that if the requirements of the notice have been complied with then planning permission is deemed to be granted for those remaining operations or use. In summary if the Council decides not to take enforcement action against the residential use of the barn then, subject to the rest of the notice being complied with, the use of the barn for residential purposes becomes lawful.

### Agricultural building constructed under Permitted Development Rights

15. In 2012 the Council received a complaint relating to evidence that had been used to support an Agricultural Notification (reference 11/01313/AGR) for a barn to house livestock feed and associated implements that had already been granted on appeal on 21 February 2012. The complaint stated that there had been an error made relating to the amount of land which formed the agricultural holding. In order for the barn to be considered 'permitted development' the holding had to be more than 5 hectares. However, it seems that part of the land indicated as being within the holding was not in fact owned by the applicants. As this means that the size of the holding is less than 5 hectares the barn should not have been granted under the Agricultural Notification process. As it appeared that there was a discrepancy over the information submitted as part of the application, which called into question the validity of the decision, the Council contacted the owner to make them aware of the Council's concerns. Furthermore, the owner was advised not to proceed with the construction of the agricultural building.
16. Towards the end of 2012 it was noted that ground works had commenced on the building without resolving the extent of the land within the agricultural unit.

## TEIGNBRIDGE DISTRICT COUNCIL

As it was considered planning permission may be required for the building the owner was contacted to clarify the extent of the land that comprised the agricultural unit. Although this was never resolved a further legal opinion indicated that the works could proceed as set out in the Agricultural Notification as any issues over the extent of the land should have been dealt with during the application process.

17. Although no further action could be taken in respect of the Prior Approval that had been granted it became clear that the building being constructed had a roof consisting of different roofing materials than were approved, which meant it wasn't in accordance with the terms of the Prior Approval. The materials detailed on the application form indicated a green or grey roof. That under construction consisted of different colours and was considered to have a detrimental impact on the surrounding area. The owner was contacted and advised to change the materials to one colour. From a recent visit to the area it was noted that this has been undertaken so no further action was necessary.
18. More recently concerns have been raised about the size and location of the building. To determine whether the size and location of the building are correct a site inspection was proposed but again this has been held in abeyance due to the access issue with the site. However, it is proposed that a site inspection will be carried out as soon as is reasonably possible. Should it be determined there is a variation to the approved plans the matter will be discussed with the Ward Councillors / Chairman of the Planning Committee to agree whether further action should be taken.

### The Human Rights Act 1998

19. The Owners are using the barn and caravans as their home. As such, the courts will view any decision to take enforcement action as engaging the occupiers' rights under Article 8 ECHR (right to respect for private and family life and home) and Protocol 1 Article 1 (peaceful enjoyment of possessions). The service of an Enforcement Notice requiring the unauthorised residential use to cease would represent a serious interference with these rights. However, it is permissible to do so "insofar as is in accordance with the law and necessary in a democratic society for the protection of rights and freedoms of others".
20. The courts have held that provided a balanced and proportionate approach is taken, having regard to all relevant considerations and not giving irrational weight to any particular matter, the UK planning system (including the enforcement process) is not incompatible with the Human Rights Act.
21. Tackling breaches of planning control and upholding Local Plan policies is clearly in accordance with the law and protects the District from inappropriate development. There are not believed to be any overriding welfare considerations at this time in view of the recommended course of action:
  - The personal circumstances of the occupiers have been considered and fully taken into account.
  - There are not understood to be any current education issues
  - There is no known social services involvement

## TEIGNBRIDGE DISTRICT COUNCIL

- Officers have been advised that there are ongoing welfare issues to be considered, these have been taken into account in the recommendation not to enforce against the residential use of the barn to minimise the impact on the family, although the justification for under enforcement relates to other matters as set out in this report.
22. Members are therefore advised that the recommended enforcement action would be:
- (i) in accordance with law – s.178 (1) T&CPA 1990
  - (ii) in pursuance of a legitimate aim – the upholding of planning law and in particular policies S22 (Countryside) and EN2 (Undeveloped Coast) of the Teignbridge Local Plan 2013 - 33
  - (iii) proportionate to the harm and therefore not incompatible with the Human Rights Act.

### Conclusion

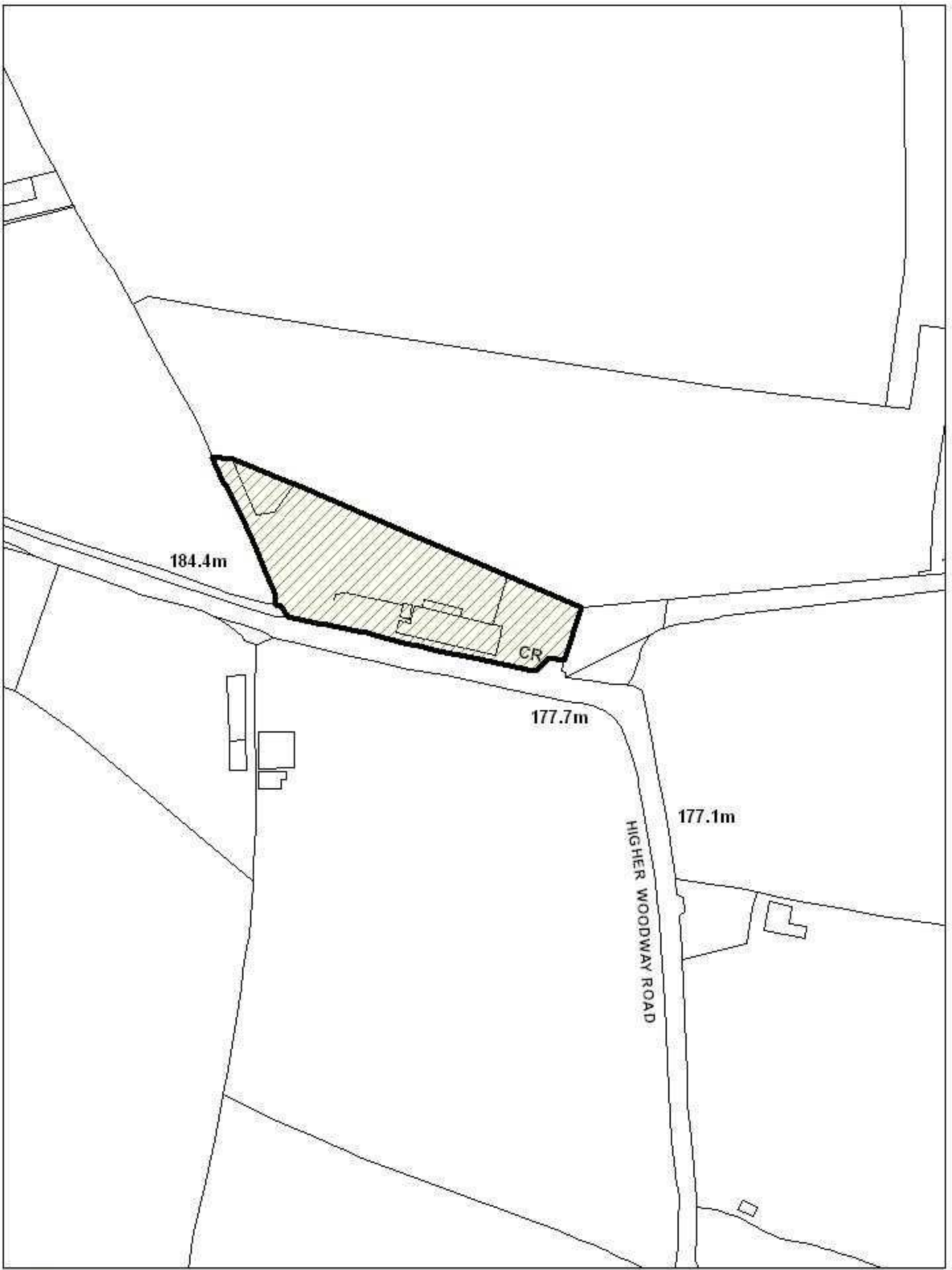
23. The unauthorised siting of residential caravans on the land is clearly contrary to development plan policy and the untidy condition of the land is detrimental to the character of the Undeveloped Coast. The development is also considered contrary to the advice contained in the National Planning Policy Framework. It is now considered appropriate to secure the cessation of the use of the land for the siting of residential caravans and to ensure that the appearance of the site is improved.

### **RECOMMENDATION**

The Committee Members are recommended to resolve

1. That an Enforcement Notice be served to cease the unauthorised use of the land for the siting of residential caravans with a compliance period of six months.
2. That a notice under section 215 Town and Country Planning Act 1990 be served for:
  - a. The removal of all the bags of logs, timber, rubble, building materials, etc. currently located near the southern boundary of the site and in the open elsewhere within the site
  - b. Removal of all building materials and machinery and all other items currently stored in the open fields other than materials or machinery that are reasonably required for regular agricultural purposes within the unit
  - c. Removal of any items stored in the yard area that are not reasonably necessary for agricultural purposes taking place on the site

WARD MEMBERS: Cllr Russell and Fusco, Teignmouth



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TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

**DATE:** 26 September 2017  
**REPORT OF:** Business Manager – Strategic Place  
**SUBJECT:** Appeal Decisions

- 1 17/00032/FAST TEIGNMOUTH** - 97 Coombe Vale Road Teignmouth  
Appeal against refusal of Planning Permission No  
17/00061/FUL - Single storey rear extension and  
formation of parking area to front  
APPELLANT: Mr J Wickham

APPEAL DISMISSED – DELEGATED REFUSAL
- 2 17/00022/REF BROADHEMPSTON** - Brightside Woodland  
Appeal against refusal of Planning Permission No  
16/01915/VAR - Removal of condition 6 on planning  
permission 05/03745/COU relating to use of premises  
as holiday accommodation only  
APPELLANT: Mr N Hague

APPEAL ALLOWED – DELEGATED REFUSAL
- 3 17/00038/FAST BISHOPSTEIGNTON** - Hilltop Teign View Road  
Appeal against refusal of Planning Permission  
16/02252/FUL - Modernisation and extension of an  
existing chalet bungalow to include raising of roof height  
and first floor balcony to rear elevation  
APPELLANT: Mr B Sullivan

APPEAL ALLOWED – DELEGATED REFUSAL

**TEIGNBRIDGE DISTRICT COUNCIL**

- 4 17/00025/REF HOLCOMBE BURNELL** - Wheatley Hall Tedburn Road  
Appeal against refusal of Planning Permission No  
16/02750/FUL - Live - Work Unit (B1)  
APPELLANT: Miss V Turner
- APPEAL ALLOWED – DELEGATED REFUSAL
- 5 17/00021/REF HOLCOMBE BURNELL** - Westwood Farm Westwood  
Lane  
Appeal against refusal of Planning Permission No  
16/01334/FUL - Retrospective planning permission for  
access track and raising of ground levels for new  
agricultural building  
APPELLANT: Messrs A & J York
- APPEAL DISMISSED – DELEGATED REFUSAL
- 6 17/00010/REF IDE** - The Bungalow Rollsbridge Farm  
Appeal against refusal of Application No 16/02098/CLDE -  
Certificate of Lawfulness for non compliance with agricultural  
tying condition  
APPELLANT: Miss A Barradine
- APPEAL DISMISSED – DELEGATED REFUSAL
- 7 17/00006/REF DODDISCOMBSLEIGH** - Hereford Cottage  
Doddiscombsleigh  
Appeal against refusal of Planning Permission No  
15/03393/CLDE - Certificate of Lawfulness for existing  
change of use of land to domestic garden  
APPELLANT: Mr A Utting
- APPEAL DISMISSED – DELEGATED REFUSAL

**TEIGNBRIDGE DISTRICT COUNCIL**

- 8 17/00007/REF DODDISCOMBSLEIGH - Hereford Cottage**  
Doddiscombsleigh  
Appeal against refusal of Planning Permission No  
16/01171/CLDE - Certificate of Lawfulness for existing  
change of use of land to domestic garden  
APPELLANT: Mr A Utting

APPEAL DISMISSED – DELEGATED REFUSAL

- 9 17/00008/REF DODDISCOMBSLEIGH - Hereford Cottage**  
Doddiscombsleigh  
Appeal against refusal of Planning Permission No  
16/02523/CLDE - Certificate of Lawfulness for existing  
use of land to rear as domestic garden  
APPELLANT: Mr A Utting

APPEAL DISMISSED – DELEGATED REFUSAL

**PLEASE NOTE THAT THE FULL TEXT OF THESE APPEAL DECISIONS IS  
AVAILABLE ON THE COUNCIL'S WEBSITE**

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