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13 October 2017

## PLANNING COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Tuesday, 24th October, 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, Dewhurst, Golder, Haines, Hocking, Russell and Thorne

The Members of the Planning Committee as named below:

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.
- General information about Planning Committee, delegated decisions, dates of future committees, public participation in committees as well as links to agendas and minutes are available at [www.teignbridge.gov.uk/planningcommittee](http://www.teignbridge.gov.uk/planningcommittee)

## **AGENDA**

### PART I

(Open to the Public)

1. Apologies for absence.
2. Confirmation of the Minutes of the previous meeting. (Pages 1 - 12)
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.

Note: 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>

a) **EXMINSTER - 15/01331/MAJ - Land off Chudleigh Road, Alphington**  
(Pages 13 - 30)

Hybrid application comprising: Full application for conversion of the existing threshing barn and associated linyhay to form three dwellings and erection of 16 new dwellings with associated landscaping and access; Outline application for dwellings with open space and infrastructure works (approval sought for access).

b) **SHALDON - 17/01385/VAR - Highfield, Torquay Road.** (Pages 31 - 40)

Variation of condition 2 on planning permission 15/01503/VAR to amend access road.

c) **DAWLISH - 17/02011/FUL - Branscombe Farm, Branscombe Lane.**  
(Pages 41 - 48)

Conversion of existing building to one dwelling.

d) **WOODLAND - 17/01064 – Chardonnay.** (Pages 49 - 58)

Extension to authorised gypsy site to provide two additional pitches, comprising pitches, comprising parking, dayroom, tourer pitch and static unit.

e) **KINGSKERSWELL - 17/01330/FUL - Garth Gardens, Pound Lane.**  
(Pages 59 - 72)

Demolition of existing dwelling and erection of two dwellings.

8. Breach of Planning Control - Mistleigh Farm Barns, Doddiscombsleigh.  
(Pages 73 - 76)
9. Wildlife and Development Guidance Note: Cirl Buntings - To consider a guidance note for developments impacting on Cirl Buntings. (Pages 77 - 118)
10. Appeal Decisions - To note appeal decisions made by the Planning Inspectorate.  
(Pages 119 - 120)

## **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**

21 November, 19 December 2017.

23 January, 20 February, 20 March, 17 April, 15 May 2018.

##### **Dates of site inspections**

Team 1 - 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

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## **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.

## **PLANNING COMMITTEE**

**TUESDAY, 26 SEPTEMBER 2017**

Present:

Councillors Smith (Chairman), Kerswell (Deputy Chair), Austen, Bullivant, Clarence, Dennis, Fusco, Hayes, Jones, Keeling, Nutley, Orme, Parker, Pilkington, Rollason, Winsor, Haines (for Colclough) and Russell (for Prowse)

Members Attendance:

Councillors Connett, Clemens, Goodey, Hellier-Laing, Cook and Lake

Apologies:

Councillors Brodie, Mayne and Price

Officers in Attendance:

Nick Davies, Business Manager - Development Control  
Frances Robinson, Solicitor  
Rosalyn Eastman, Principal Planning Officer  
Neil Blaney, Economy Manager  
Donna Crabtree, Senior Planning Officer  
Angharad Williams, Planning Officer  
Steven Hobbs, Senior Planning Enforcement Officer  
Maureen Pearce, Team Leader Design & Heritage  
Trish Corns, Democratic Services Officer  
Hannah Milford, Legal Assistant

**146. CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETING.**

It was proposed by Councillor Kerswell and seconded by Councillor Nutley that the minutes of the meeting held on 29 August 2017 be approved as a correct record and signed by the Chairman. This was carried by 16 votes for, 0 against and 1 abstention.

**147. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reminded Members that they should not vote on an application if they are not present at the meeting to hear the entire debate on the application. The Chairman also welcomed public speakers to the meeting.

**148. DECLARATIONS OF INTEREST.**

Members declared interests as detailed below.

**149. PLANNING APPLICATIONS FOR CONSIDERATION - TO CONSIDER APPLICATIONS FOR PLANNING PERMISSION AS SET OUT BELOW.**

The Committee considered the reports of the Business Manager – Strategic Place together with comments of public speakers, additional information reported by the officers and information detailed in the updates sheet previously circulated.

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

*Councillor Bullivant declared an interest by virtue of his residence being within close proximity to the application site. He did not participate in discussion or vote on the application.*

It was proposed by Councillor Smith and seconded by Councillor Parker that the application be approved as set out in the report circulated with the agenda.

Resolved

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.

**(16 votes for, 0 against and 1 abstention)**

• **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**

The Committee noted the further information requested at the meeting on 29 August in relation to 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.

It was proposed by Councillor Dennis and seconded by Councillor Bullivant that the application be approved as set out in the report circulated with the agenda.

Resolved

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 HistoricEngland 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 reused, 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.
- (18 votes for and 0 against)**

- **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)**

Councillor Connett requested that the Parish Council be consulted as a key partner in the process, in addition to District Ward Members and the Chairman of the Committee, if the provisions of the agreements need to be changed as a result of further information, new viability or changes to government policy.

It was proposed by Councillor Smith and seconded by Councillor Haines that the application be approved as set out in the report circulated with the agenda, with the addition of Councillor Connett's request above.

Resolved

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 therecommendations 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 perdwelling.
  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, the Chairman of Planning Committee, and Exminster Parish Council 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.

**(16 votes for, 1 against and 1 not voted)**

- **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)**

*Councillor Clarence declared a Paragraph 14 interest by virtue of the Applicant being a close associate. He withdrew from the meeting while the application was discussed and determined.*

A clearer and more detailed site map was circulated at the meeting. An economic development report was circulated which addressed a number of points raised by Members at the meeting of the Committee on 1 August, 2017 relating to the delivery of employment land. Indicative travel maps were also circulated.

The Business Manager referred to the updates sheet, which recommended an addition to the Section 106 agreement terms and condition 12 as a result of the receipt of further information. The Business Manager reminded Members that this application was only deferred by Committee for further consideration of the impact of traffic on Kennford and Exminster and reiterated that the expert advice from DCC Highways was that the application was acceptable in the form previously presented. He advised Members that the Applicants had met with officers from Teignbridge District Council and DCC and with the two Parish Councils concerned and had proposed an additional package of measures to alleviate any potential traffic impacts in the nearby villages.

The Business Manager accepted that there was significant local objection to the proposal and that should be taken into account before making a decision. The Applicants have sought to address the objections. He advised that any remaining concerns should be balanced against the significant local and district-wide economic and sustainability benefits that will be delivered. In view of the lack of any policy or technical objections, and in view of the additional work carried out by the Applicants he advised Members that the Officer's view was that the economic benefits of this scheme outweighed any residual impacts and for that reason the recommendation was approval of the application.

Public Speaker: Objector – Objected on behalf of the Parish Councils on the grounds of: the site does not relate well to Exeter and is unsustainable; contrary to the Development Framework; the traffic survey underestimated traffic flow because it was undertaken at a time when Days Pottles Lane was closed and diversions in place; the pedestrian and cycle routes are not adequate; the 7.5 tonne weight restriction through Kennford should be in place prior to construction works; Kenn and Exminster Parish Council's employed a highway consultant who agreed with the 2013 view of Devon County Council Highways that the increase in traffic would have an unacceptable impact on the south west Exeter highway infrastructure.

Public Speaker: Objector – as highway consultant for the Parish Councils he raised objections as follows: £250,000 is being requested for the delivery of a

cycle route. This has not undergone a road safety audit; the footway overbridge is proposed to be widened to 3 metres, but it stops on the wrong side of the road. There are no facilities for cyclists to continue on the other side; two new bus stops are proposed at the site entrance but Stagecoach has not been contacted to confirm these stops, and have not been subject to a full Safety Audit; the 7.5 weight restriction has not been fully considered and tested; and the effect on Days Pottles Lane has not been fully considered.

Public Speaker: Supporter – The Applicant met with representatives of the Parish Councils, and officers from Teignbridge and Devon County. There would be additional traffic calming measures including weight restrictions; additional bus stops at the site entrance, which Stagecoach has confirmed it will use; a safe cycle route will be provided; a Flood Risk Assessment has been submitted; underground storage tanks to alleviate flooding; concerns have been listened to and additional measures will be put in place.

Comments raised by Members of the Committee included: Councillor Goodey advised the proposal would have a profound negative impact on the area; the pedestrian/cycle overbridge is not a complete route and therefore does not provide a safe route for cyclists; it is not a sustainable site; unacceptable increase in traffic; all employment requirements will be at one site, damaging the amenities of local residents in the villages of Kenn, Exminster, Alphington and surrounding settlements; the detrimental environment and amenity impacts far outweigh the economic benefits.

Councillor Lake submitted the proposal was an opportunist site; the increase in traffic would detrimentally effect the quality of life for residents particularly those at Little Silver in relation to carbon emissions and pollution; and the infrastructure is adequate.

The Council's Economy Manager referred to his comments in the report, along with a circulated economic development report which sought to address a number of points raised by Members at the meeting of the Committee on 1 August, 2017. The information related to the significant under delivery of employment land against the Local Plan targets. The plan identifies a need for 12,000sqm of new floor space per year, and only 4,000sqm net new employment space is being delivered per year on average. Of the sites identified in the Local Plan for employment land only 17 hectares has been approved, with none delivered. The Economy Manager set out the benefits of bringing this site forward, including job creation, delivery of much needed employment land, and the potential of a new northbound road onto the A38. The Economy Manager advised members that his team had been working with the applicants since they had obtained permission for the 5ha site, to try to help overcome obstacles to delivery including the expensive opening up costs and timescale for the delivery of new infrastructure for the upgrade of the power supply.

Councillor Connett emphasised that the site is in an Area of Great Landscape Value (AGLV); the hours of work of 0700 to 1900hrs would be detrimental to residents' amenities and prevent them from having peaceful enjoyment of their own homes; the additional work of the Applicant with the Parish Council's and residents in particularly with Little Silver has unsatisfactory outcomes. Councillor

Connett referred to the indicative travel maps circulated at the meeting, of the A379 around Exminster and the Devon Hotel, and a Mamhead route. He advised that shorter routes would be taken which would incorporate Days Pottles Lane, which is unsuitable for additional traffic, and result in detrimental highway issues for residents. It is understood there are problems with the electricity supply to the site. There is no evidence that the proposal is viable and is deliverable. The site, in such close proximity to residential settlements, is in the wrong location for employment use.

The Planning Officer advised that the Applicants were addressing issues to alleviate concerns. There is no evidence to suggest the proposal would result in highway issues for the surrounding villages, and the proposal would result in the much needed employment creation.

Councillor Pilkington referred to development in the AGLV, contrary to Local Plan Policies S22 and EN2A to protect landscape and heritage.

The Business Manager advised that Local Plan Policy S22 does not prohibit employment development in the countryside; and the Landscape Officer has advised that the proposal is acceptable in terms of Policy EN2A.

Councillor Haines raised concern that the cycle route was such that cyclists had to cross the road. Devon County Council's highway representative advised that the cycle path/footpath would be on the same side of the road as the development. Traffic calming measures would also be developed along the road, to reduce traffic speed.

The Economy Manager, in response to Cllr Connett's comments, explained that the viability of employment sites is different to residential, that there were no speculative developers and that prospective future tenants would require security of their investment before committing to a site. The high opening up costs are not unique to this site. All new employment sites would need to be connected to the national grid and if there needs to be an upgrade to the network then the costs are the same, as are the time delays. The Local Plan and the Council Strategy set out an economic aim to provide one job for every working age resident. It is presently 0.74 jobs for every working age resident, with no other new employment sites in the pipeline. The Economy Manager advised that refusal of the application would also put the delivery of the approved 5ha site at risk, as it was not viable as a stand-alone proposal.

It was proposed by Councillor Smith and seconded by Councillor Bullivant that the application be approved as set out in the report circulated with the agenda. This proposal was lost by 2 votes for and 14 against.

It was proposed by Councillor Pilkington and seconded by Councillor Fusco that the application be refused on the grounds of: development in the countryside and AGLV contrary to Policies S22 and EN2A of the Teignbridge Local Plan; and highway impacts in the villages of Exminster and Kennford.

The Business Manager advised that the Landscape Officer and County Highway Engineer did not raise an objection to the application, and that the proposed

reasons for refusal were not supported by the Council's expert consultees. The application could be deferred for further negotiations as an alternative to refusal.

There was no amendment proposed and a vote on the proposal for refusal was taken and carried.

Resolved

Permission refused for the following reasons:

1. Development in the countryside and AGLV contrary to Policies S22 and EN2A of the Teignbridge Local Plan.
2. Highway impacts in the villages of Exminster and Kennford.

**(10 votes for and 6 against)**

- **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)**

*Councillor Haines declared a Paragraph 10 interest by virtue of his residence being within close proximity of the application site. He withdrew from the meeting while the application was discussed and determined.*

Public Speaker: Supporter – The site is allocated for residential development in the Local Plan as KK2; there is no objection from statutory consultees; all issues other than the principle of residential development would be subject to reserved matters; density is acceptable at 28 per hectare; distances between existing and proposed dwellings is acceptable; 7 affordable houses would be provided and £200k CIL payment.

Comments raised by Members of the Committee included: overdevelopment of the site; overlooking and loss of privacy for neighbours along Mount Pleasant Road, at a lower level; lack of village amenities; flooding risk; increase in traffic; and impact on Cirl Buntings.

The Senior Planning Officer advised that construction work and traffic would be controlled by a construction management plan; there would be a permanent drainage scheme; mitigation measures and financial contributions for Cirl Buntings; and layout and house design would be determined at reserved matters stage with neighbouring amenity being a material planning consideration.

It was proposed by Councillor Dennis and seconded by Councillor Winsor that the application be approved as set out in the report, circulated with the agenda.

Resolved

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 curtilage 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.

**(15 votes for and 0 against)**

• **DAWLISH - 16/02074/FUL - 1 Priory Park Road - Decking and parking bay at front of property**

It was noted that the proposal would not result in any additional impact on the street scene or neighbours than at current.

It was proposed by Councillor Russell and seconded by Councillor Fusco that the application be approved as set out in the report circulated with the agenda.

Resolved

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.

**(13 votes for and 0 against)**

**150. DAWLISH, 13 WEECH ROAD, BUILDINGS AT RISK**

The Committee noted the advice from Historic England that an Urgent Works Notice should be issued. The Conservation Officer advised she had had exhaustive conversations with the owner, and the Council has a statutory duty to preserve the Grade II Listed Building.

It was proposed by Councillor Kerswell, seconded by Councillor Jones and

Resolved

Urgent Works Notices be served under Section 54 of the Planning (Listed Buildings and Conservation Areas Act 1990, in respect of 13 Weech Road and the Gig House at 13 Weech Road, Dawlish, to enable works to be undertaken to secure the preservation of the buildings.

**(11 votes for, 0 against, and 1 not voted)**

**151. BREACH OF PLANNING CONTROL - THE BUNTINGS, HIGHER WOODWAY ROAD, TEIGNMOUTH**

*Councillor Orme declared a Paragraph 14 interest and did not vote on the matter.*

The Senior Enforcement Officer referred Members to the updates sheet. It was also noted that the occupier of the site had circulated a letter to members of the Committee. The unauthorised siting of residential caravans on the land is contrary to development plan policy and the untidy condition of the land is detrimental to the character of the Undeveloped Coast. The development is so 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.

Concern was raised at the extensive and continuing misuse of the land for the siting of residential caravans and it was considered that the appearance of the site should be improved.

Resolved

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.

3. That an Enforcement Notice be served to cease the unauthorised use of the barn for residential purposes. The Business Manager is granted delegated owners to determine the period for compliance.

**(11 votes for, 1 against and 1 not voted)**

**152. APPEAL DECISIONS - TO NOTE APPEAL DECISIONS MADE BY THE PLANNING INSPECTORATE.**

The Committee noted a report circulated with the agenda on decisions made by the Planning Inspectorate on appeals against refusal of planning permission.

DENNIS SMITH  
Chairman



# PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

**DATE:** 24 October 2017

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

**ITEM:** 1.

**CASE OFFICER** Rosalyn Eastman

**APPLICATION FOR CONSIDERATION:** EXMINSTER - 15/01331/MAJ - Land Off Chudleigh Road, Alphington - Hybrid application comprising: Full application for conversion of the existing threshing barn and associated lincay to form three dwellings and erection of 16 new dwellings with associated landscaping and access; Outline application for dwellings with open space and infrastructure works (approval sought for access)

**APPLICANT:** Westcountry Land (Alphington) Ltd

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

## 1. REASON FOR REPORT

The application proposes development of a significant scale and the Business Manager – Strategic Place considers it merits review by the Planning Committee prior to determination as it forms part of the strategically important SWE1 allocation.

It has not been called to Committee nor is Committee consideration required under the scheme of delegation.

The application is not considered to be a Departure from the Development Plan.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to:

- A) The completion of a Section 106 agreement within 9 months of the date of this Committee to provide:
1. Affordable Housing in line with the recommendations of the viability report split 6 Affordable Rent: 30 Shared Ownership (16%) (to be reviewed on receipt of any significant public or other funding in relation to any aspect of the scheme and received prior to commencement of development excluding the detailed phase).

2. A minimum of 6 Custom Build Dwelling plots.
3. A scheme for provision of 1 Gypsy and Traveller Pitch.
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 work with the Council to secure such funding).
5. Provision of financial contribution to highway works at a maximum of around £4,740 per dwelling (precise amount to be agreed with Devon County Council).
6. Land and financial contribution for Community Building at total cost of £2,000 per dwelling.
7. Land and financial contribution for Health provision at total cost of £400 per dwelling.
8. Travel planning and packs including £300 voucher per dwelling.
9. Exe Estuary SPA mitigation contributions at £96 per dwelling.
10. 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.
11. Play provision and management.
12. Green space provision and management.

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 the Chairman of Planning Committee and Exminster Parish Council before exercising delegated powers.

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

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

#### Time Limits

- a. Development shall commence on the full planning permission phase within 2 years of the date of this permission
- b. Prior to commencement of any other phase, reserved matters approval for that phase shall be sought
- c. Reserved Matters approval shall be sought within 2 years of the date of this permission for all phases except any self/custom build dwelling
- d. Reserved Matters approval for each custom build dwelling shall be sought within 5 years

- e. Development shall commence within one year of receiving Reserved Matters approval

#### Whole Site

- a. The development shall be a phased planning permission.
- b. Approved plans and documents for whole site including outline phases.
- c. Tree constraints and protection plans and details for each phase.
- d. Landscape and Ecology Management Plan (LEMP) including mitigation included in Environmental Statement.
- e. Construction Environmental Management Plan (CEMP), Environmental Management Plan (EMP), including noise, air quality and traffic. Phased.
- f. Construction access strategy and phasing including for occupants.
- g. Noise/air quality protection including for occupants, phased.
- h. Sustainable Urban Drainage System (SUDs), provision, management, etc., including during construction and design for biodiversity, phased and cumulative.
- i. Biodiversity protection mitigation and enhancement.
- j. Foul sewerage survey and provision.
- k. Public art.
- l. Lighting strategy - phased.
- m. Watercourse pollution prevention during both construction and operation - phased.
- n. Contaminated land investigation - Soil sampling - phased.
- o. Access strategy including dedication of land to highways, detailed highway design, safe access to bus stops, implementation of highway works, including footways and cycle ways, in accordance with an agreed phasing scheme, the site access and visibility splays shall be constructed, laid out and maintained for that purpose.
- p. No development shall take place until a waste audit statement has been provided, and approved, phased.

#### Full planning permission

1. Development to proceed in accordance with approved plans.
2. Replacement bat roost details prior to commencement.
3. Sparrow nest box details prior to commencement.
4. Samples of materials prior to use.
5. Architectural details prior to construction.
6. Parking provision prior to occupation.
7. Boundary treatment details prior to installation.
8. Treatment of retaining structures prior to relevant works.
9. Landscape details and delivery and management.
10. Removal of Permitted Development (from barns).

### **3. DESCRIPTION**

#### The Application Site

- 3.1 The application site comprises part of the South West Exeter housing and mixed use development, that is allocated in the Teignbridge Local Plan 2013-2033 under Policies SWE1 and SWE3.

- 3.2 The site is located approximately 5km to the south west of Exeter city centre, with Alphington and Exminster located to the north and south east respectively. It lies to the western side of the Exe Valley, within a landscape characterised by a sloping topography, ridges and valleys.
- 3.3 The site, as a whole, comprises approximately 6.56 hectares. The Matford Brook divides the larger site in two, with a northern and southern area. There are a number of existing trees located on this parcel of land, featuring largely to the west, north-east and centre.
- 3.4 The larger portion of the site is predominately in agricultural use: however, the far north eastern tip of the site is currently occupied by Waybrook Cottages, which are two storey dwellings, and a number of existing outbuildings, including a former threshing barn.
- 3.5 Land around the Waybrook Cottages is subject to the full, detailed part of the application, with outline planning permission for residential development sought for the remainder of the site (with all matters except access reserved for future consideration).
- 3.6 The recent outline planning permission obtained by Bovis (subject to the signing of a Section 106 agreement) will also see the current agricultural fields to the north and east of the site coming forward for further residential development with significant community infrastructure being delivered south of the A379.

#### The Application

- 3.7 The application comprises a hybrid application, with full planning permission sought for the conversion of the existing threshing barn and associated linhay to form three dwellings and the erection of 16 new dwellings with associated landscaping and access (north eastern tip of the site). Outline planning permission is then sought for the residential development on the remainder of the site.
- 3.8 The detailed application area seeks full planning permission for:
- The retention of 5 cottages;
  - The construction of 16 new dwellings;
  - The conversion of the existing stone threshing barn and associated linhay to form 3 new apartments;
  - Associated landscaping;
  - Access infrastructure.

The outline application area seeks outline planning permission for:

- Dwellings;
- Landscaping;
- On-site infrastructure;
- Estate roads, and,
- Open space.

The application is submitted with an Environmental Statement and, as a consequence of the timing of the submission, falls to be considered under the 2011 EIA Regulations.

- 3.9 The Environmental Statement considers the impact of about 225 new dwellings, which will be delivered in a range of types and tenures.
- 3.10 In addition to the detailed part of the site, for which full plans have been provided, the application seeks outline approval for residential development with associated open spaces and infrastructure, with access only for approval at this stage.

### Policy Review

#### The Principle of the Development

- 3.11 The principle of the development is acceptable. The site is allocated in the Local Plan for residential development. The approved South West Exeter Development Framework (SWEDF) amplifies this allocation and does not seek any community infrastructure in this part of the development. These items are considered to be best provided in a new hub proposed to be located to the south of the A379 within the area covered by the Bovis planning application 15/00708/MAJ (that benefits from a resolution to grant consent from January 2017).
- 3.12 The Exminster Neighbourhood Plan also forms part of the Development Plan and is relevant to this application.
- 3.13 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) remain the most up to date national planning guidance documents and therefore are relevant in the determination of this application.
- 3.14 Outline planning permission has also recently been granted (subject to the signing of a Section 106 agreement) for the development of 1,350 homes with land for a mixed use local centre, education, community buildings, open space, SANGS, SUDs, access and infrastructure, on land to the north and east of the application site. Permission is also extant for development of the easternmost parcel of land within the SWE1 allocation.
- 3.15 It is clear therefore that the principle of significant residential and infrastructure development within the allocation has been considered acceptable, with the subject application forming part of it. Nevertheless, the application has been considered against the relevant policies of the Teignbridge Local Plan including those outlined above.

#### Teignbridge Local Plan Policy SWE1

##### Housing and Affordable Housing, Custom Build Dwellings Market and Affordable Housing

- 3.16 Policy SWE1 states that the development will provide around 2,000 new homes with a target for the delivery of 25% of these to be affordable.

- 3.17 Following concerns over viability of the development, the applicant submitted a viability appraisal which has been scrutinised by an Independent Viability Assessor. As a consequence of the viability concerns in relation to the development the Local Planning Authority considers 16% affordable housing can be achieved on site, split 15% affordable rent: 85% intermediate tenures.
- 3.18 This is considered to be fully policy compliant, as the Local Plan permits affordable housing targets to be adjusted depending on the outcome of independent reviews of viability evidence – as is the case here.
- 3.19 The permission is for a smaller number of units than those addressed by the Bovis proposals considered under application reference 15/00708/MAJ and there is not in this case considered to be any requirement for a review of the affordable housing provision – provided that the development proceeds as swiftly as is reasonable and therefore the viability position does not change significantly over time. For this reason, the main outline portion of the site as set out in the recommendation, is recommended to be subject to shorter time periods for the submission of applications for reserved matters approval and the subsequent commencement of development than the standard conditions. In the alternative, a review mechanism could be built into the Section 106 agreement should the applicants prefer.
- 3.20 In addition to traditional open market and affordable housing, the development will also provide a minimum of 6 serviced plots for custom build dwellings.
- 3.21 The proposal is considered to be policy compliant in relation to housing provision.

#### Gypsy and Traveller Provision

- 3.22 In the same way that mainstream affordable housing has been reduced to maintain the viability and deliverability of the development, so Gypsy and Traveller provision has also been reduced. Provision for 1 pitch has been included within the proposed Section 106 obligation.
- 3.23 The proposal is considered to be policy compliant in relation to gypsy and traveller provision.

#### Green Space

- 3.24 Given the scale of residential development proposed, it is important to ensure that the appropriate mix, scale, distribution and quality of public open space is delivered. The SWEDF amplifies and clarifies the requirements of the adopted Local Plan. To assist further with the delivery of appropriate green space, the Council prepared a Green Infrastructure note which sought to clarify the requirements for distribution and quality of green space to be secured. With reference to this document, the requirements of the proposal in terms of green space have been assessed against the submitted documentation.
- 3.25 The applicant has submitted an illustrative layout plan in support of the outline application, which shows the provision of formal and informal public open space, 2

LAPs, 1 LEAP, natural green space and retention and enhancement of dense woodland embankment adjacent to the A30.

- 3.26 Provision of green spaces will be secured through the planning permission and the application of appropriate conditions and Section 106 obligations, including through approval of reserved matters.
- 3.27 The proposal is considered to be policy compliant in relation to green space provision.

#### Education Provision

- 3.28 Policy SWE1 of the adopted Teignbridge Local Plan requires land for primary and secondary education.
- 3.29 Appropriate funding for this provision will come from a number of sources including potentially Community Infrastructure Levy (CIL). As noted with the Bovis application, the provision of the education campus will also require the building of a pedestrian foot/cycle bridge to assist the safe crossing of the A379. Devon County Council has undertaken costings for the delivery of this bridge which has been broken down per dwelling across the whole South West Exeter allocation. This is included in the Section 106 contributions detailed in the recommendation above.
- 3.30 The proposal is considered to be policy compliant in relation to education provision.

#### Community Facilities

- 3.31 Provision of a Community Building to deliver community, leisure and sport facilities has already been discussed and secured under the recent Bovis planning application. A financial contribution towards this building is included within the Section 106 contributions detailed in the recommendation above.
- 3.32 The proposal is considered to be policy compliant in relation to community facilities provision.

#### Sustainable Travel

- 3.33 The proposal is well located to take advantage of existing pedestrian and cycle networks into and around Exeter.
- 3.34 The Section 106 agreement will require the provision of sustainable travel vouchers and information packs for occupants of the development.
- 3.35 The proposal is considered to be policy compliant in relation to sustainable travel provision.

#### Public Transport and Highway Improvements

- 3.36 Work is expected to begin shortly on the Marsh Barton Rail Halt that it is anticipated will free up highway capacity to help accommodate the proposed development.

Similarly, works have recently completed at Bridge Road to relieve the bottle neck there. Devon County Council is still investigating opportunities for the provision of an additional Park and Ride facility, however, following the decision to take this off-site (made at the Framework Plan stage), it is not considered that its early delivery is a pre-requisite of the decision-making process in relation to this application.

- 3.37 Other highways improvements are addressed through planning conditions and obligations as required. In particular, ensuring good access for pedestrians and cyclists through the development and linking into the surrounding network – including during the construction period – will be important and will be controlled through conditions.

#### District Heating

- 3.38 Following careful consideration of the submitted viability information, it is considered that District Heating is not viable as part of this development at present with any meaningful proportion of affordable housing. Its delivery will however be included within the Section 106 agreement so that should funding become available at the right time, its incorporation will be secured.

#### Exminster Neighbourhood Plan

- 3.39 Exminster Neighbourhood Plan contains four policies. Two of these are particularly relevant to the consideration of this application. Policy EXM1 is supportive of the provision of a new sport and leisure facility within the SWE1 area and Policy EXM3 encourages development to be of a high standard of design respecting the vernacular.
- 3.40 It is considered that the proposal as currently set out in the Section 106 obligations and conditions will help to ensure the delivery of the community facility envisaged by Exminster. More detail on design quality will be understood as the proposals develop towards reserved matters approvals.
- 3.41 On balance, it is considered that the proposals comply with the requirements of the Exminster Neighbourhood Plan.
- 3.42 There are therefore no “in principle” policy reasons why the development proposed should not be granted planning permission.

#### Technical and Other Matters

##### Access

- 3.43 The application site is immediately bordered and contained by the main A30 road to the south west and the A379 connecting Exeter to Dawlish. Along the full extent of the eastern boundary is Chudleigh Road, linking Alphington with the A379 and access to the ‘Island Site’. Waybrook Lane lies to the north of the site and links Chudleigh Road to Shillingford Abbot.



- 3.44 There are two accesses proposed off Chudleigh Road to serve the development. One towards the north east of the development (to the immediate south of the detailed application site) and the other to the south of the site, which will serve the remaining site area. Access to the Island Site will also be achieved off Chudleigh Road.
- 3.45 The proposed accesses are considered acceptable. Chudleigh Road will be undergoing considerable change as a result of the surrounding SWE1 proposals and there are opportunities to incorporate pedestrian and cycle linkages into the development to ensure safe access for all.
- 3.46 Highways contributions towards works to provide a new Chudleigh Road link, the pedestrian bridge between the northern and southern elements of the development and improvements to the Devon Hotel Roundabout are included in the Section 106 obligations listed above.

#### Drainage and Flooding

- 3.47 The developable part of the site has reduced in size as a consequence of a more detailed understanding of the flood and drainage issues for this part of the allocation. Following receipt of revised information during the life of the application, concerns initially raised by the Environment Agency have been allayed.
- 3.48 Subject to the application of conditions/Section 106 obligations there are no in principle concerns about drainage and flooding from the site. However care will need to be taken to ensure that water quality is maintained in respect of SPA/SAC considerations. This is considered further below.

#### Heritage Considerations/Archeology

- 3.49 Historic England has confirmed that the site does not include any designated heritage assets that would fall within their statutory remit and they do not object to the application. Devon County Historic Environment Team has also advised that previous archaeological work undertaken which consisted of a geophysical survey and subsequent investigate excavations, does not indicate that the site will have an impact on any significant heritage assets.

#### Ground Conditions

- 3.50 Parts of the site constitute made ground following the construction of the A30. There are, however, no ground condition/stability concerns that cannot be addressed through the application of the recommended conditions.

#### Air Quality

- 3.51 The development does not raise any air quality concerns that could not be addressed via condition.

- 3.52 Air quality around the site is generally considered acceptable – air quality concerns generally occur in areas where traffic is stationary and/or where fumes are contained by development. Neither is the case in this instance.

#### Noise

- 3.53 The most significant noise source at the site is road noise. The applicant has sought to reduce the noise levels by leaving a significant landscape buffer to along the south-western boundary of the site.
- 3.54 There are no noise concerns that cannot be addressed through the application of the recommended conditions and careful design at the reserved matters stage.

#### Agricultural Land

- 3.55 The proposals will see a loss of agricultural land to development. However, the site is allocated in the Local Plan and it is not considered to be a significant loss within the ambit of national guidance.

#### Biodiversity

- 3.56 The application site consists of three semi-improved grass fields bounded by hedgerows and bisected by a watercourse with a strip of marshy grassland adjacent. There are a number of mature broadleaved trees within the hedgerows as well as a small number of in-field trees. There is a small area of plantation mixed woodland within the boundary as well as a second small parcel of plantation broadleaved woodland to the western boundary adjacent to the A30.
- 3.57 The field and desk surveys undertaken on the application site and wider area confirmed the presence of bats, birds, otter and invertebrates.
- 3.58 With regards to bats, a number of buildings were considered to support bat roosts, and works to the buildings will therefore require a European Protected Species Licence from Natural England.
- 3.59 Full details of replacement bat roosts and sparrow nest boxes will be required to be in place prior to development commencing – this will be addressed through the application of conditions.
- 3.60 In addition to bats and sparrows, the Environmental Statement identifies a series of mitigation and enhancement measures that will be incorporated into planning conditions.
- 3.61 In addition to on-site biodiversity matters, the site has the potential to have a “likely significant effect” on the nearby Exe Estuary Special Protection Area (SPA).

#### Exe Estuary SPA and SANGS

- 3.62 The site lies between 1-2km from the Exe Estuary SPA (Exminster Marshes) and approximately 12km from Dawlish Warren Special Area of Conservation (SAC). A

residential development this close to the SPA/SAC will contribute to (in-combination) increased damage and disturbance to special interest features from increased recreational use. Due to the proximity of this site to protected areas the Council is required to establish whether or not the proposed development is likely to have a significant effect on the sites and their integrity.

3.63 The Council has endorsed the Joint Approach for mitigating Exe Estuary effects (August 2014) and in general considers that compliance with the Joint Approach provides adequate certainty that no likely significant effect on the protected sites will occur. The proposal has been carefully considered against the 2010 Habitat Regulations and the Joint Approach and it is concluded that, provided that the following mitigation is delivered, the Local Planning Authority, as the Competent Authority, is content that the proposal will not have a significant effect on the European site:

- SUDS to the satisfaction of Teignbridge District Council and the Environment Agency; and,
- £96 per house towards Habitat Regulations Assessment mitigation measures; and
- Land sufficient to act as a SANGS to be delivered prior to occupation of dwellings all to the satisfaction of Teignbridge District Council and Natural England.

3.64 Natural England is closely involved with the consideration of this matter and has confirmed that that they are satisfied with current arrangements for SANGs delivery.

3.65 The applicant controls sufficient land within SWE3 to deliver a SANGS. The delivery of SANGS will be required prior to occupation. In parallel to the subject application, the applicant has submitted a separate application for the change of use of this land to SANGS on a site within the allocation of the Ridge Top Park. This site is of a sufficient scale to mitigate the impact of the proposed development, both by itself and more particularly in conjunction with other parcels of land included within the SWE3 allocation. Furthermore, Natural England has endorsed the approach to phased delivery of the strategic South West Exeter SANGS through the emerging SANGS Delivery Strategy (June 2016).

3.66 There are not considered to be any biodiversity/European sites reasons to not grant planning permission at this stage.

#### Design/Documentation for Approval

3.67 The application constitutes a hybrid application with full planning permission sought for the conversion of the existing threshing barn and associated linhay to form three dwellings and the erection of 16 new dwellings with associated landscaping and access. Outline planning permission is then sought for the residential development on the remainder of the site.

3.68 The detailed part of the application site in particular has therefore been the subject of much consideration in terms of the design, appearance, and scale of the

proposed units – including in relation to how amenity and access to the retained units and the converted agricultural buildings can best be achieved.

- 3.69 During the early stages of the application, the layout of the detailed area was negotiated with the applicant making several revisions to the layout following workshops and detailed discussions with the Council's Urban Design Officer. It is considered that the final layout put forward for approval addresses the concerns raised.
- 3.70 Dwellings will range between two and three storey in height and this part of the development as a whole will be served by 46 car parking spaces (approximately 1.9 spaces per unit). The proposed dwellings are smaller in size and this level of parking on a very accessible site is considered acceptable.
- 3.71 Trees and hedgerow to the north will be protected with a 1.5 metres high wire mesh fence.
- 3.72 Access is proposed off Chudleigh Road to the east.
- 3.73 Subject to conditions to manage the detail of this element, the detailed design of this part of the development is considered acceptable.
- 3.74 The outline part of the proposal is controlled through a series of technical documents and plans, including the information in the Environmental Statement and subsequent submissions. The conditions detailed above will reflect this.

#### Overall Summary and Conclusion

- 3.75 On balance, it is considered that the proposal is compliant with the Local Plan as well as other relevant local and national policies.
- 3.76 There are opportunities to secure the quality of the design and environmental mitigation and, subject to the proposed conditions and obligations, it is considered that planning permission for this development as part of the strategically important South West Exeter proposals should be granted.

#### **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)  
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 and 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**

Devon County Council - A comprehensive response was submitted taking account of all service needs. Discussion with Devon County Council (DCC) has continued and will continue following any resolution to ensure infrastructure delivery priorities are maintained.

DCC Highways and Education remain engaged in emerging development proposals for SWE as a whole as well as this site specifically.

DCC Waste: Policy W4 of the Devon Waste Plan requires applications for major development to include a waste audit statement demonstrating how the demolition, construction and operational phases of the development minimise waste generation and ensure compliance with the waste hierarchy in the management of any waste that does arise. As the application was not accompanied by such a statement, a condition has been recommended to secure provision of a Waste Audit Statement.

DCC Library Services: Seek support for additional facilities

Historic Environment: Confirms that previous archaeological work undertaken on the site does not indicate that the development of the site will have an impact on any significant heritage assets.

Health and Wellbeing: Suggests design measures should be included to meet local priorities including access to safe and easy travel, healthy food (including allotments), and provision of nearby local food outlets, ensuring quality and condition of housing reduces energy use.

Environment Agency - Initially objected to the application on grounds that the original FRA was unsuitable. Following on-going discussions with the applicant, an addendum to the FRA was submitted, and has satisfied the concerns initially raised. There are no longer any objections to the application.

Historic England - Recommended that the Council's Conservation Officer and the archaeological specialists within the Council be consulted and that the application be determined in accordance with national and local policy guidance.

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

Contaminated Land Officer - Recommends that a condition be associated with the application for soil sampling.

Biodiversity Officer - Advises that there are Habitat Regulations, protected species and habitat issues.

An Assessment of Likely Significant Effect has been undertaken and concludes that with only the current submitted information, TDC must conclude there would be a Likely Significant Effect; however, with the incorporation of planning conditions, it is possible to conclude No Likely Significant Effect. This includes planning conditions associated with full details of SuDS; pollution avoidance measures during construction; HRA contribution and the delivery of SANGS.

Housing Enabling Officer - Comments received prior to viability discussions relating to preferred mix, distribution, tenure and phasing. These comments will be incorporated into the Section 106 agreement as far as is possible in light of the reduced provision proposed.

Aboricultural Officer - The Officer initially requested that a tree constraints plan be submitted in addition to justification for the loss of protected trees, and a section of hedgerow. A tree survey was subsequently submitted by the applicant along with a Constraints and Feasibility Study. However, it was not considered by the Officer that such information was appropriate and therefore the Officer objects to the application.

Conditions can be applied to address these concerns

Landscape Officer - A number of concerns have been raised over the Landscape and Visual Impact Assessment. It is considered that the existing landscape buffer is inadequate and can be improved at the time the reserved matters application(s)

come forward. Character of the area and landscape should be considered when layout comes forward as a reserved matters application. Considered the development could take better advantage of the views. Good quality topsoil should be conserved and compaction should be avoided.

## **6. REPRESENTATIONS**

At the time of writing, 5 objections to the proposed development have been received. In summary, concerns raised include:

1. Increased traffic along Waybrook Lane;
2. Impact on the landscape, character and appearance of the area;
3. Concerns about noise and dust impact;
4. Concerns about the loss of old farm buildings;
5. Drainage;
6. Impact of the development on Nos 1-5 Waybrook Cottages;
7. Lack of infrastructure.

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

### Exminster Parish Council

At a meeting on 20 July 2015, Exminster Parish Council resolved to comment on this application as follows:

- The application made no mention of a monetary contribution to 'Infrastructure funded or provided directly through development' (SWE Framework). Following dialogue with the developer, it was apparent that there was confusion over the funding, as the developer believed that they would only be required pay CIL and had not been advised by Teignbridge District Council that there would be any requirement to enter into Section 106 agreements other than for affordable housing. Clarification between Teignbridge and the developer is sought by the Parish Council who would additionally like to ensure that any arrangements for Section 106 agreements are negotiated before this application reaches the Teignbridge Planning Committee.
- The Parish Council understands that the required SANGS would be provided by Teignbridge out of the CIL contribution and that for this application, the SANGS would not be on site. Therefore, the Parish Council seek assurance that the SANGS will be provided by Teignbridge in time for the occupation of the first dwelling.
- Issues with drainage have been identified. Any works to address the lack of capacity should be carried out before the development commences and Teignbridge should be satisfied that the proposed approach will be appropriate to the whole development as the drainage from this site is shared with the Bovis Homes site and the Exeter City Council site(s).
- Parts of the development (Area A in the SWE Framework) are particularly prominent and visible from Exeter City. The development runs alongside the A30

and suffers from high levels of noise. The developer has said that special measures will be taken to mitigate these issues. Teignbridge should be satisfied that the measures are adequate.

- Although it is acknowledged that there is no longer any intention for this development to have any junctions with Waybrook Lane, the Parish Council would like consideration to be given to making Waybrook Lane one way for traffic travelling east to west. This point will also be taken up with Devon County Council as recommended by the Case Officer.
- The Parish Council believes that the previous application (14/02710/NPA) is pertinent to this planning application and the concerns leading to it being refused should be fully considered with this application.
- Relevant policies in the Exminster Neighbourhood Development Plan should be taken into account when considering this application.

### Shillingford St George

The Parish Council would like to submit the following comments.

1. Waybrook Lane - We would like to propose that Waybrook Lane is made one-way, only allowing vehicular traffic out of Shillingford Abbot. In the winter this route is needed as a way out of the villages. We have a very serious concern that this will soon become a rat-run otherwise. This issue has been raised at public meetings, public consultations and on various planning responses. It is a big concern to our residents.
2. Residential properties across the new development must be allocated sufficient off-road parking. Modern families often have two or more vehicles and this must be considered in the design.

The Parish Council would like to work with Devon Highways and the District Council to find a suitable solution to the use of Waybrook Lane.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposal will deliver about 225 net additional dwellings. Assuming 80-120 square metres per dwelling, the proposal will generate about £3.2-£4.8 million of which 25%, or £0.8 million to £1.2 million will be passed to Exminster Parish Council.

## **9. 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:** 24 October 2017

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

**ITEM:** 2.

**CASE OFFICER** Kelly Grunnill

**APPLICATION FOR CONSIDERATION:** SHALDON - 17/01385/VAR - Highfield, Torquay Road - Variation of condition 2 on planning permission 15/01503/VAR to amend access road

**APPLICANT:** Park Green (SW)

**WARD MEMBERS:** Councillor Clarence, Shaldon and Stokeinteignhead

## 1. REASON FOR REPORT

Councillor Clarence requests Committee consideration if officers are recommending approval. The reason given is in the interests of democracy due to the high number of representations received.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Development to be in accordance with approved plans
2. Soft landscaping scheme (details, implementation and management) to be submitted within one month of determination. These details shall include the Devon banks, reinstatement details for stock fencing and hedge along the Woodleigh Park boundary and wild meadow mix for the area of land east of the dwellings
3. External lighting scheme (details including location, type and management to be submitted within one month of determination)
4. Details for the pillars and gate at the entrance including automation, opening direction and access for emergency vehicles to be submitted within one month of determination

## 3. DESCRIPTION

### Site description

- 3.1 The application site is a rectangular area of land which lies on a hillside at the outer edge of Shaldon, situated between existing established residential development to the east at Woodleigh Park and the Coast View Holiday Park to the west and south.

- 3.2 The site sits in an elevated position relative to the rest of Shaldon and above development at Woodleigh Park.
- 3.3 The site lies within an area designated as Undeveloped Coast as defined in the adopted Teignbridge Local Plan 2013-2033. It lies within the Teign Estuary Landscape Character Area as defined in the Teignbridge Landscape Assessment.
- 3.4 There are 5 newly-constructed houses on site which all appear to be occupied. Four were approved under application reference: 15/01503/VAR and the fifth under application reference: 15/02241/FUL.
- 3.5 The holiday homes at Coast View Holiday Park to the west can be seen viewed in the spaces between each property. A fence marks the boundary between these sites. Each property has a private paved drive with soft landscaping.
- 3.6 The site is served from Picket Head Hill by an approximately 4.1 metres wide tarmac access road which runs in a north to south direction and is of varied gradient and proximity from the east boundary shared with properties at Woodleigh Park. The road has a gravel strip at the north eastern section of the access. Three passing spaces have been provided on the lower northern section of the access road. A new gated field access (marked by post and rail fencing) has been constructed on the north western side of the access road. A wild meadow mixed grassed margin is shown on the upper section of the access road (where the dwellings are located) at its east side. Officer inspection during the site visit indicates that there is a bank at present where the meadow area is shown and there were no obvious signs of any wild meadow mix planting.
- 3.7 A pair of rendered and white painted pillars (measuring 900 mm wide x 2100 mm high) with automated steel gates (each leaf measuring 2250 mm wide by 1800 mm high) have been constructed close to the site access. There are areas of newly-constructed Devon Bank within the site along the access. There is some ground cover grass planting on top but at present no trees or hedging as indicated on the submitted plan.

#### Relevant site history

- 3.8 In 2012, outline planning permission was granted at appeal for the construction of four detached dwellings and an access drive, with scale, appearance, layout and landscaping reserved for later approval. In allowing the appeal the inspector made the following observations:

*“Whilst matters of location and scale are not for consideration under this appeal, I note the indicative drawings submitted show the dwellings to be cut into the hillside with roof levels at or below that of the hedge separating the site from the caravan park. I have no reason to suppose that this could not be achieved.”*

*“From more elevated positions in Teignmouth, the access road rising up to the dwellings would be more clearly seen. However, with planted banks alongside it, the road would appear much as a traditional Devon lane which is part and parcel of local hillside scenery. With a low building profile aided by excavation as I have*

*described, and with the potential for adding planting, I would not expect the proposed dwellings themselves to be particularly visible from the western parts of Teignmouth. Elsewhere, the rounded form of the hillside would shield the development from view.”*

- 3.9 In 2014, a reserved matters application to approve details of scale, appearance, layout and landscaping was granted (application reference: 14/02008/REM). The approved scheme showed four houses arranged along the access road and orientated to face eastwards towards Woodleigh Park. The properties were cut into the hillside with ridge height from ground level varying between 7.7 metres to 8 metres (east facing elevation). All the houses were of identical design, scale and massing with pitched roof and had a terrace at first floor level facing eastwards.
- 3.10 In 2015 reserved matters approval was sought (ref: 15/00346) for an alternative design, layout and scale of development to that previously approved in 2014. The officer recommendation to approve was accepted by Members at its meeting on 28 April 2015.
- 3.11 In 2016 an application was made under Section 73 (ref: 15/01503/VAR) to change the location of the approved turning head from the middle of the development to the south side. This application was approved subject to conditions.

15/01503/COND1 – Conditions 4 (external materials), 6 (existing drain on site) and 7 (surface water) – approved

15/01503/COND2 – Conditions 3 (landscaping) and 5 (hard surfacing) – approved

15/01503/COND3 – Condition 3 (landscaping) – Pending consideration

This is the development that the applicant has implemented and the four houses are currently built and occupied.

In July 2016 a fifth dwelling was granted planning permission under appeal (Ref: 15/02241). This dwelling was approved in the area shown as a turning head at the south side of the site. The fifth dwelling is now complete and the dwelling appears to be occupied.

#### Proposal

- 3.12 The application has been made under Section 73A of the Town and Country Planning Act which relates to planning permission for development already carried out and, in this case, subsection (c) without complying with some conditions subject to which planning permission was granted.
- 3.13 The applicant seeks to amend condition 1 (approved plans condition) of application ref. 15/01503/VAR to essentially substitute approved drawings with the submitted plans

3.14 The amendments relate to the realignment of the first section of the site access road (northern section) leading up from Picket Head Hill. The four houses have been constructed in accordance with the approved drawings.

N.B.: The submitted drawings do not show the fifth dwelling on site as this was approved under a separate permission and therefore does not relate to the application which the applicant seeks to amend.

3.15 The key changes can be summarised as follows:

- Re-alignment and changes to gradient of the access road between the site access and where it curves into a straight section up towards the dwellings;
- Entry into the farm to the west of the access road has been increased in width which the applicant has advised is for appropriate access for livestock;
- Minor amendments to the bin collection points;
- Provision of passing spaces;
- Drainage strip along the access (as required by surface water condition discharge);
- Adjustments to the approved landscape scheme (15/1503/COND2) to reflect the re-aligned road.

3.16 As set out in the history section above, there is an existing permission in place for four dwellings which have been constructed and are occupied. Therefore, issues relating to the principle of the development and the impact of these dwellings in the undeveloped coast are not relevant to the determination of the current application to regularise the works to the road alignment and gradient.

3.17 Letters of representation have also raised concerns about the fact the development has not been undertaken in accordance with the approved plans and that the applicant must be required, as a matter of principle, to implement the development as approved.

3.18 Officers have inspected the site, as a result of complaints, and this application has come forward as part of this enforcement investigative work. Whilst there is some sympathy with the local residents about their concerns over development taking place without first obtaining consent, and the uncertainty this has caused, Section 73A of the Planning Act does enable works undertaken without the benefit of planning permission to be regularised. Section 73 of the Planning Act also enables conditions imposed on a planning permission to be amended or removed following an approval. Therefore, the route taken by the applicant to apply for permission to regularise the unauthorised works to the access road and layout is a legitimate one.

3.19 The main issues in the determination of this application therefore relate to:

- the effect of the changes to the access road on the character and appearance of the area and the Undeveloped Coast having regard to the letters of representation received and local and national policies; and,
- whether the changes to the access road would have any impact on the amenity of nearby residential properties having regard to the letters of representation received and local and national policies.

The effect of the changes to the access road on the character and appearance of the area

- 3.20 For the purpose of settlement boundaries, the site lies in countryside, outside of defined settlement limits on land designated as countryside and where Policy S22 (Countryside) of the Local Plan applies. However, given the five dwellings on the site and the consented access road, the appearance is not one of open undeveloped countryside.
- 3.21 The site also lies within an area which is designated as the Undeveloped Coast. Policy EN2 aims to prioritise the protection, maintenance and enhancement of the distinctive landscape and seascape character and ecological qualities of the Undeveloped Coast, and that new development will be regarded as inappropriate except in certain circumstances, none of which applies here.
- 3.22 In terms of the immediate site context, the site cannot be easily seen from public vantage points in close proximity to the site, owing to the convex curve of the hillside, the existing development near the site and the intervening vegetation. Views of the access road from Woodleigh Park are also limited and no better view can be obtained from the A379. The site is on elevated, steeply-sloping, north east-facing ground above the entrance to the Teign estuary and visible from the coast, estuary and Teignmouth promenade and beach. It forms part of the rural setting of Shaldon from these views.
- 3.23 Letters of representation have raised concerns about the amendments made to the approved scheme and subsequent harm to the landscape character of the area and surrounding countryside. It is strongly requested by a number of residents that only the consented scheme would be acceptable and that the due to the harm that arises from the development that has been undertaken, regularisation though the current application should be rejected.
- 3.24 Officer opinion is that the changes to the access, in terms of gradient, layout, access strips and passing places do not significantly differ from how the site would appear if the consented scheme had been implemented. In the context of the wider landscape and available views of the site, the changes to the access road as undertaken would be negligible and would not harm the character or appearance of the countryside or the Undeveloped Coast.
- 3.25 Letters of representation also raise concerns about elements of the landscape scheme which have been amended and/or not implemented; including details for the Devon banks and related cover planting, re-instatement of stock fencing and boundary hedging and the planting mix for the wildlife area. The applicant submitted an application to discharge landscape details under 15/01503/COND2 (details discharged) and 15/01503/COND3 (pending consideration), however, due to the changes applied for under the current application the applicant would now seek to address landscaping as part of this approval.
- 3.26 The Teignbridge Landscape Officer has visited the site and has raised no landscape concerns about the appearance of the development and has made recommendations about appropriate landscape conditions. The Landscape Officer

also raised no concerns about the hard surface materials for the access road, including the use of tarmac, which would be a Highway Authority requirement. The location of the site means that the main view of the access road (and its surfacing) would be from Picket Head Hill though the access. Similarly, the change in road access layout would have a negligible impact upon the approved hard surfacing scheme.

- 3.27 Lighting details in the form of ground based units have previously been approved. Given the amended access layout it is recommended that such details are obtained by condition.
- 3.28 Concerns have also been raised about the increased width of the gated access into the field/agricultural land at the lower section of the access road. In particular, it is considered to be too wide for its intended purpose. Officer's view is that while the access is indeed wide, this may be to facilitate speedier livestock movements into the serving field given its proximity to Picket Head Hill. The access width is not considered to have any negative impact upon the character or appearance of the area.
- 3.29 If Members are minded to approve this application, it is recommended that a condition requiring further details of soft landscaping, lighting and management are imposed.
- 3.30 For the reasons set out above, the development is considered to accord with Policies S1, S1A, S2, S22 and EN2 of the Teignbridge Local Plan 2013-2033.

#### Residential Amenity

- 3.31 The site sits in an elevated position above its neighbours on Woodleigh Park. Letters of representation (in the current and previous reserved matter applications) have raised concerns about the relationship of the development to these properties.
- 3.32 The access road layout has changed from the approved application. Parts of the access road are closer to the eastern boundary with Woodleigh Park properties, however, sections of the access road are also built lower than approved. The access road is complete and in use by the five occupied properties. Officers have inspected the site and it is not possible to overlook any of the Woodleigh Park properties from the access road. Even when stood on the Devon banks which lie adjacent to the eastern side of the access, views are limited mainly to rooflines. The Devon banks would also be planted with hedging and trees as part of the recommended landscape condition which would offer additional screening.
- 3.33 For the above reasons, the changes to the access are not considered to harm residential amenity and the development accords with Policy S1A of the Local Plan.

#### Summary and conclusion

- 3.34 The proposed access realignment is considered to have a neutral impact upon residential amenity and the character and appearance of the area, taking into consideration the approved development. The development accords with the



policies of the Local Plan. Conditions of permission would ensure that landscaping and lighting is undertaken to reflect the revised road layout. It is therefore recommended that approval is given to regularise the works undertaken on site, subject to conditions.

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

##### Teignbridge Local Plan 2013-2033

S1 (Sustainable Development)

S2 (Quality Development)

S22 (Development in Countryside)

EN2 (Undeveloped Coast)

EN2A (Landscape Protection and Enhancement)

EN12 (Woodland, Trees and Hedgerows)

WE11 (Green Infrastructure)

##### National Planning Policy Framework

##### National Planning Practice Guidance

#### **5. CONSULTEES**

Teignbridge Landscape Officer - Has visited the site and raised no objections to the road realignment as proposed. However, it was noted that the Devon banks adjacent to the access have not yet been landscaped. It is recommended that details for the proposed hedge planting mix, including plant size, spacing and planting specification is required by condition including details for the tree sets within the hedge. The cherry and field maple are considered to be very suitable species, however birch is considered to be less appropriate in this situation and would be better replaced with oak. It is recommended that a condition is imposed requiring further details to be provided in relation to plant size, their method of cultivation (container grown would be most suitable) and method of staking/support.

#### **6. REPRESENTATIONS**

25 letters of representation have been received which raise the following objections in summary:

1. The applicant has continually contravened the plans and the Council has an obligation to ensure they are adhered to or it may be necessary to approach the Ombudsman. It is suggested that the road is dug up and constructed as approved under the previous application.
2. The breach in the plans can only be remedied by carrying out the development in accordance with the approved drawings.
3. The mistakes in the application make it invalid.
4. Why did no one in the planning department study the plans, calculate the measurements and see if the development fitted into the plot of land?
5. The Council has turned a blind eye to planning breaches and has allowed the developer to make a retrospective application. Closed door discussions have taken place and all correspondence has not been placed on the Council website.

6. The contours in the hillside should be returned to their original condition.
7. Stock fencing and hedging has been removed/damaged at the rear of existing properties which was previously shown to be retained.
8. The 3 metres wide Devon bank presently has no cover planting and is presently a mound of spoil with movement towards neighbouring properties.
9. There should have been two x 1 metre grassed biodiversity verges along the access road which have been changed to gravel footpaths. Loss of wild meadow and biodiversity strips should be re-instated which were supposed to provide an ecological benefit.
10. No gated entrance was identified on the approved plans. The current application shows two large white pillars and gates. These are incongruous with the location of the site. The gates would also be obstructive to emergency vehicles.
11. There is now an enlarged access to the adjacent field for livestock which it is considered is not intended for that purpose.
12. The enlarged agricultural gated entrance needs to be reduced as sheep do not require this width to access a field.
13. Four dwellings are shown on the plans, however, five dwellings are built on site.
14. Extra passing places are shown.
15. The drive has not been constructed in the approved location – it is 4 metres too far east.
16. The width of the access should be 4.1 metres wide across its entire length.
17. Inconsistencies from the planning inspectorate in allowing four houses at appeal and then shortly after finding the new local plan sound.
18. The drive way should be at least 7 metres from the back garden of the properties at Woodleigh Park which has not been achieved.
19. Landscape impact of houses in the meadow.
20. Determination of application ref. 15/01503/COND3 is pending (this application relates to the discharge of the landscaping scheme).
21. Breaches in the ecological appraisal.
22. The road has not been cut into the hillside and indeed seems to have been raised in height by the importation of thousands of tonnes of soil which therefore completely changes the contours, causing great visual harm to this former beautiful meadow that can be viewed from Teignmouth.
23. The number of passing spaces has increased.
24. A porous access road was previously required and the tarmac is considered to be unsuitable.
25. Houses on site cause damage to the landscape.
26. During high rainfall the Devon banks may subside.
27. The Devon bank needs to be constructed to the well documented specifications of the local authority and set behind the "buffer zone".
28. The retained hedgerow must be replanted behind all eleven properties.

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

Shaldon Parish Council has raised objection to the application. The development has taken place outside the terms and conditions of the planning approval, specifically the road construction. The approved plans sought to minimise the visual impact of the development and the impact on neighbours. The enforcement officer has confirmed that the approved plan has been flouted in this regard and this has a

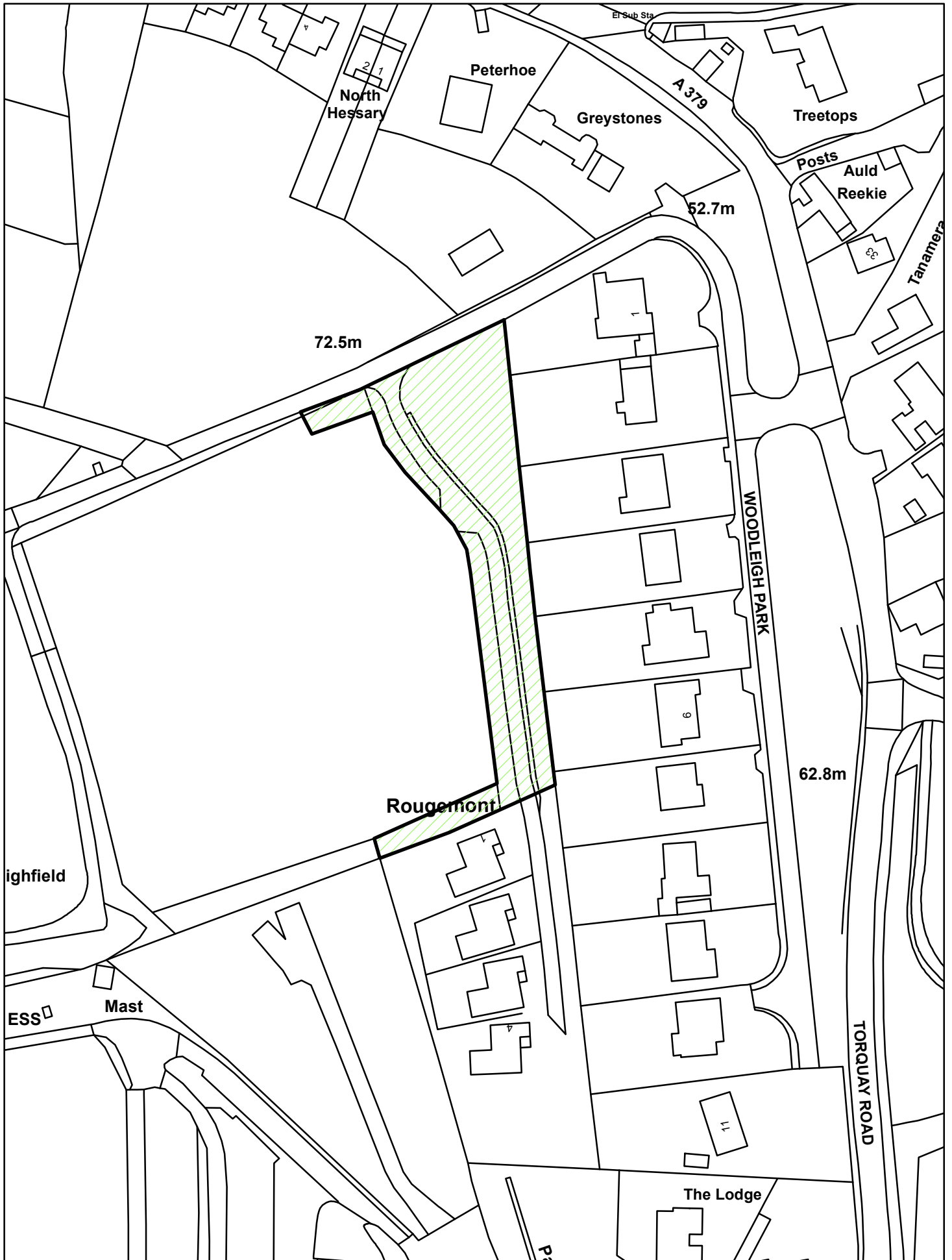
detrimental impact on the local area and residents of Woodleigh Park. We believe that the original approved plan should be enforced and that the development should be reinstated to comply

**8. COMMUNITY INFRASTRUCTURE LEVY**

This development is not liable for CIL because it is a Section 73 application for the variation of conditions to a reserved matters application for development with an outline permission granted before the implementation of CIL.

**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:** 24 October 2017

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

**ITEM:** 3.

**CASE OFFICER** Estelle Smith

**APPLICATION FOR CONSIDERATION:** DAWLISH – 17/02011/FUL - Branscombe Farm, Branscombe Lane - Conversion of existing building to one dwelling

**APPLICANT:** Mrs M Carter

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

## 1. REASON FOR REPORT

Councillor Price has requested Committee consideration if the Case Officer is recommending approval because this site has a long and involved planning history and also an enforcement notice. In the interests of clarity to satisfy any confusion or puzzlement about the various applications we have received he considers a Committee view would be beneficial in achieving a decision.

## 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. Unsuspected contamination condition
4. Permitted Development Rights removed, Classes A, B, C, D, E and G of Part 1 and Classes A, B and C of Part 2

## 3. DESCRIPTION

- 3.1 The application site is a field of (0.32 hectares) which lies in the open countryside to the north-east of Dawlish. It lies on the western side of a country lane (Branscombe Lane) which is lined by hedge banks that bisect a gently sloping valley of grass fields. The area does not have a landscape designation but is, nonetheless, an attractive area of open countryside. The site is accessed via a tall metal gate and is bounded on all sides by a high hedgerow. Within the site is a barn that runs parallel with the road frontage.

- 3.2 Although small the site is used for agricultural purposes, a fact established by the Part Q Change of Use approval. Branscombe Farm, has been part of an active farm holding for 10 years or more and registered with DEFRA as an agricultural holding. The Holding Number is 10/478/0011.
- 3.3 Although part of the barn is used as a dwelling there is a current Enforcement Notice requiring the cessation of its residential use. This area is shown as the “space currently occupied as a dwelling” on the submitted plans.
- 3.4 An enforcement report concerning the above was discussed at 14 March 2017 Planning Committee and it was resolved that further enforcement action was not taken at that time on the basis that the following is complied with:
- (a) Within 1 month from the date of Committee and this decision, for the owner to agree a timetable, with the Business Manager - Strategic Place, in consultation with the Chairman and Ward Members, for the following matters:*
1. *Start work on the dwelling to be created under the Prior Approval.*
  2. *Completion of the work.*
  3. *Remove the existing dwelling.*
- (b) Having agreed the timetable, in the event of the owner not complying with any of the time frames agreed, then proceedings will be issued by way of prosecution.*
- 3.5 The remainder of the structure has been subject to a successful Part Q Application for Prior Approval of a Change of Use (COU) together with operational development to enable its conversion, from an agricultural use to a residential use, reference 16/02413/NPA granted 21 December 2016.
- 3.6 Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 allows for agricultural buildings to be converted into dwellings without the need for full planning permission subject to specified procedures being completed and subject to certain limiting provisions; i.e. to meet the provisions of Class Q, buildings would have needed to have been used for agriculture on 20 March 2013, or last used for agriculture before that date if un-used on 20 March 2013.
- 3.7 The provisions of this legislation allow for the creation of up to 3 dwellings by conversion of up to 450 square metres of existing floor space in an existing building on an agricultural unit and includes associated residential garden area which would be required, including the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas and other services to the extent reasonably necessary for the building to function as a dwelling.
- 3.8 These works have not as yet been implemented, however the Applicant has until 20 December 2019 to complete the works as approved. The approved scheme would provide a single storey 2 bedroomed dwelling with open plan living space with a kitchen, a shower room and a small residential curtilage.

- 3.9 The current proposal seeks planning permission to convert the area of the barn subject to the Enforcement Notice as an extension to the dwelling approved under reference 16/02413/NPA to provide an additional en-suite bedroom and a garage and to provide a larger residential curtilage (still no greater than the overall total footprint of the barn).
- 3.10 Teignbridge Local Plan 2013 - 2033 Policy S1A (Presumption in Favour of Sustainable Development) sets the criteria against which all proposals will be expected to perform well. It advises that the Local Planning Authority should take into account whether the adverse impacts of granting permission would outweigh the benefits of the development. In this case it is considered that the principle of the development is acceptable for the following reasons:
- 3.11 The conversion of the “space currently occupied as a dwelling” would normally not be supported under Policy S22 of the Teignbridge Local Plan 2013 – 2033 as there is no justified need for a new dwelling here and it would not be eligible for another Part Q Prior Approval process as it was clearly not last used as an agricultural building.
- 3.12 However, as the proposal is to convert both sections of the barn to one single dwelling, it is considered that the Council could take a pragmatic view in as much as the resulting outcome would still amount to only one dwelling on the site, albeit a larger dwelling than the extant Part Q approval.
- 3.13 An objection has been received from the occupier of a neighbouring property. In respect of the points raised in concern and in turn:
- 3.14 The site is at least 60 metres from the nearest residential property and therefore it is considered that any overlooking and any consequent loss of privacy caused by the development is not considered to be an issue and would be no different to the impact resulting from the already approved dwelling.
- 3.15 The barn is well screened by hedgerows from public view and although the objector advises that the site is visible from her property, being single storey and flat roofed and an existing structure, it currently sits quite comfortably below the boundary hedgeline and therefore it is considered that its conversion will not have any undue or overbearing impact on the rural character and appearance of the streetscene, the locality or, to any great extent, the wider landscape.
- 3.16 The provision of the proposed windows and doors are to the north east and south west elevations only and therefore the changes will not be visible from public views even through the open front gates. In effect the design of the building is not altering and furthermore Permitted Development restrictions would control further extension or alteration.
- 3.17 The site already attracts a certain amount of traffic and, notwithstanding the current unlawful residential use, following the approved Class Q conversion the site will attract additional residential traffic as well as agricultural traffic. It is not considered that the traffic levels will be increased to any material extent as a result of this development as the number of dwellings on site will not change.

- 3.18 The part barn, subject to the Part Q approval, could in fact be converted to (up to) 3 separate dwellings (albeit very small ones) under that planning legislation, an act that would definitely increase the amount of traffic use here. Allowing this proposal would have the result of actually restricting the number of dwellings on the site to one.
- 3.19 As the part of the barn subject to this application is flat roofed, and currently occupied as a dwelling, it is unlikely to support bats or nesting birds.
- 3.20 It is doubtful that an enlarged dwelling would increase the noise levels in the locality, over and above that already granted with the Part Q approval. It should be noted that domestic noise control is an aspect covered by the Council's Environmental Control Team who have greater powers than the Local Planning Authority for enforcement on noise nuisance grounds.
- 3.21 Finally, as the building is in existence already, surface water flooding risk is not considered to be increasing and no objections have been raised by Teignbridge's Drainage Engineers on the use of the existing soakaway for surface water drainage. In addition, foul water drainage, to be drained to an existing septic tank, is controlled separately under the Building Regulations.
- 3.22 It is considered that the proposal is not strictly in accordance with Local Plan or government policy relating to residential development in the countryside. However the unique circumstances surrounding the proposal are a material consideration that justifies approval. The proposal would resolve the current breach of the Enforcement Notice and would not result in any more dwellings on the site than have already been approved.
- 3.23 An approval would enable the Council to continue to control future development by the imposition of a condition withdrawing Permitted Development rights to ensure the retention of the visual amenity of the area together with an Unexpected Contamination condition which would ensure the safety of future occupiers and that of occupiers of neighbouring properties.
- 3.24 Planning History
- 17/00104/FUL agricultural storage building, refused at Planning Committee 13 June 2017. Planning appeal against non-determination of this has been lodged and is undetermined. This development was similar in area to the area of agricultural building lost to the 2016 residential Prior Approval conversion (below)
- 16/02413/NPA - Application for Prior Approval under Part 3 Class Q (a) and (b) and paragraph W of the GDPO change of use of (the south western half of) agricultural building to a dwelling (approximately 72.5 m<sup>2</sup>). This was approved 21 December 2016 following 13 December 2016 Planning Committee.
- 3.25 Previous to this there were two Certificate of Lawfulness applications for use of an existing barn for residential purposes and before that three planning applications for siting a mobile home on the land.



11/00349/CLDE - Certificate of Lawfulness for existing use of part barn as residential accommodation refused due to insufficient evidence 13 April 2011, an appeal was lodged which was later withdrawn

11/02134/CLDE - Certificate of Lawfulness for existing use of part barn as residential accommodation refused due to insufficient evidence 15 August 2011 and an appeal was withdrawn

07/01777/COU - Siting of a mobile home for use as an agricultural dwelling was refused on 6 December 2007. An appeal was lodged on 12 December 2007 was also withdrawn

07/00339/COU - Siting of a mobile home for use as an agricultural dwelling was refused on 4 April 2007

06/07709/COU - Stationing of mobile home for residential use refused on 1 May 2007

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

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S22 (Countryside)

National Planning Policy Framework

National Planning Practice Guidance

#### **5. CONSULTEES**

Drainage Engineers - No objection to the applicant's proposal to discharge surface water from the development to a soakaway within the application site.

#### **6. REPRESENTATIONS**

One letter of objection was received raising the following points:

1. Overlooking/loss of privacy.
2. Overbearing effect.
3. Design
4. Impact on appearance of the area
5. Access/traffic/road safety
6. Impact on biodiversity
7. Impact on landscape
8. Noise/disturbance
9. Flooding
10. In conflict with local or government policy

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

RESOLVED by majority of Members present and voting that this Council recommends REFUSAL of this application based on the existing enforcement order.

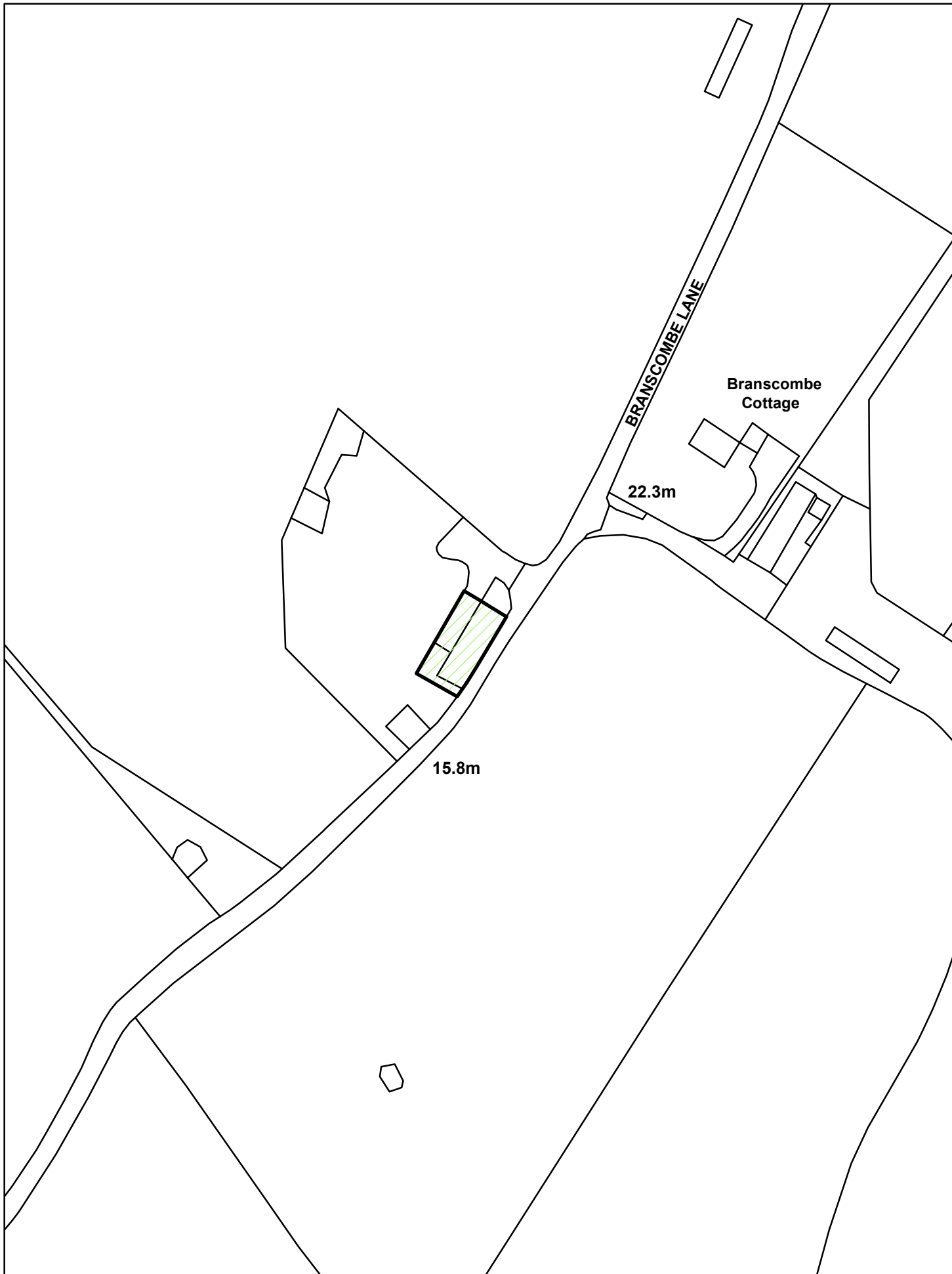
Councillor Graham Price abstained from the vote

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 141.63 m<sup>2</sup>. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 72.54 m<sup>2</sup>. The CIL liability for this development is £16,535.35. This is based on 69.09 net m<sup>2</sup> at £200.00 per m<sup>2</sup> and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

## **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:** 24 October 2017

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

**ITEM:** 4.

**CASE OFFICER** Kati Owen

**APPLICATION FOR CONSIDERATION:** WOODLAND - 17/01064/FUL - Chardonnay - Extension to authorised gypsy site to provide two additional pitches, comprising parking, dayroom, tourer pitch and static unit

**APPLICANT:** Mr M Doran

**WARD MEMBERS:** Councillor Colclough and Smith, Ambrook

### 1. REASON FOR REPORT

This report is brought to Planning Committee at the request of Councillor Smith, who is concerned that the site is directly below 400 kv National Grid power lines and is both unsafe and unsustainable development in the countryside.

### 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. Occupation limited to persons of gypsy or traveller status, as defined in Annexe 1 of Communities and Local Government Planning Policy for Travellers Sites August 2015
4. Height restriction 3.5 metres
5. No more than 4 caravans (2 static and 2 touring) to be stationed
6. No storage of materials
7. New hedge to be planted along south east boundary
8. Details of any external lighting to be installed

### 3. DESCRIPTION

Planning History of Site and Adjacent Site

- 3.1 17/01062/FUL - Proposed additional mobile home and touring caravan pitch at authorised gypsy site – conditional approval

10/03918/VAR - Removal of conditions 2 and 3 of planning permission 05/01913/COU to allow site to be occupied by any person(s) with gypsy/traveller status - conditional approval with restriction of use to people with gypsy and traveller status

08/04479/FUL - Erection of dayroom/utility block – conditional approval for 8 metres by 5 metres building to provide kitchen, washroom and toilet

05/01913/COU - Change of use of land to a private gypsy caravan site for Mr R Small and family, to include the stationing of two mobile homes and two touring caravans – conditional approval

02/02836/COU - Use of land as gypsy site to accommodate nine units – refused

00/02612/OUT - Outline application for a dwelling to replace existing mobile home – refused and appeal dismissed

96/02924/FUL – Shed to house generator and for storage and work materials – conditional approval

93/00297/FUL – Re-siting of field entrance – conditional approval

91/02136/COU - Change of use of land to private gypsy caravan site for 1 family – refused - appeal allowed

### Site Description

- 3.2 The site lies outside any Settlement Limit and is within the Countryside, approximately 2.5 kilometres south east of Ashburton, 3 kilometres north west of Denbury and 650 metres north of Woodland. It comprises a rectangular piece of ground, measuring approximately 20 metres by 50 metres, which forms part of a larger field. The site is set adjacent to an existing gypsy and traveller site, which provides three pitches with a total of six caravans (3 static and 3 touring), along with dayroom, toilet and store.
- 3.3 The land is enclosed by mature hedging along the north east (lane-side) and south west boundaries and by a combination of fencing and hedging along the north west boundary with the existing site. National Grid power lines cross above the site.
- 3.4 The site is within 5km of a Great Crested Newt record, is within a strategic bat flyway and a public footpath crosses the field to the south west.

### Proposal

- 3.5 The application seeks to use the site to provide two gypsy and traveller pitches, comprising two static caravans, two touring caravans and two day rooms. The site would be accessed via an existing field gate from the existing authorised site, which is accessed via a splayed entrance from the lane.

### Supporting Information

- 3.6 The agent for the applicant has provided a supporting statement explaining that the applicants require additional accommodation for their extended family in order to provide a base in the West Country to serve their needs and that the proposed additional two pitches are required to provide accommodation for the children (and their partners/children) of the occupiers of the adjacent existing/authorised gypsy and traveller site.
- 3.7 The agent's supporting statement, which accompanies the planning application, also says:

*“The Council recognises that suitable and available sites for gypsy’s use are difficult to locate and acquire and often will be extensions to family-owned sites. It is accepted, therefore, that the on-going maintenance of a five-year supply of land will be difficult and that suitable opportunities to increase the supply should be taken.*

*This is particularly relevant in the current case as the nearest gypsy site at Chipley, Bickington (A383) has recently closed with the loss of 3 pitches. The proposed development will make compensatory provision within the same local area.*

*The Council’s published (draft) Affordable Housing SPD 2015 advocates that small clusters of 3 to 6 pitches can be highly successful, particularly when designed for use by one extended family group, as is the case with these proposals.*

*Part of the Council’s proposals include 24 pitches at Houghton Barton, Newton Abbot and 24 pitches as part of the proposed urban extension to the South-West of Exeter. Both of these proposals are a long way from fruition.*

*The application site meets the requirement to be within 30-minute cycling distance of Denbury Primary School.*

*Occupation will be limited to members of the applicant’s extended family who all fulfil the definition of travellers provided in national policy.*

*There is no business use carried out from, or proposed from, the site.*

*Although the site lies close to a Strategic Bat Flyway in the South Hams SAC, the limited scale of the development that proposes no removal of hedgerows or trees would not be detrimental to interests of nature conservation.*

*The applicant would be willing to accept conditions of approval to maintain low-level lighting although it should be pointed out that no such restriction applies to the authorised site”.*

### Principle of the development/sustainability

- 3.8 The National Planning Policy Framework (NPPF) sets out a three dimensional approach to sustainable development, balancing economic, social and

environmental considerations. It also contains a presumption in favour of sustainable development.

- 3.9 The Teignbridge Local Plan follows this approach. Policy S1A reiterates the presumption in favour of sustainable development and Policy S1 sets out criteria for assessing the sustainability of development.

The principle of the development is further informed through Policy S22, which sets out the limited circumstances where development in the countryside will be supported. The policy allows for gypsy and traveller pitches, where account is taken of the following criteria:

- f) the distinctive characteristics and qualities of the Landscape Character Area;*
- g) the integrity of green infrastructure and biodiversity networks;*
- h) impact on overall travel patterns arising from the scale and type of development proposed; and,*
- i) the need to ensure that development in the countryside does not have an adverse effect on the integrity of the South Hams SAC.*

Policy WE6 of the Local Plan refers specifically to homes for the travelling community. It seeks provision of at least 70 pitches for gypsies and travellers from 2013 - 2033 and permits additional gypsy and traveller pitches, or travelling show people plots in the open countryside, subject to the following criteria:

- a) in the case of Gypsy and Traveller pitches, there is not a five year supply of permitted or allocated pitches;*
- b) in the case of Travelling Showpeople plots, there is a proven need;*
- c) the proposed site is within approximately 30 minutes travel by means of public transport, walking or cycling of a primary school. Exceptions should be clearly justified;*
- d) occupation is limited to those meeting the definition of Gypsies and Travellers and Travelling Showpeople in the relevant national planning policy;*
- e) any business use proposed within the development does not exceed 50% of the developed area of the site, excluding storage requirements of travelling showpeople; and,*
- f) it can be demonstrated that the site is in a location that will not affect the integrity of the South Hams SAC.*

- 3.10 With regard to Policy WE6, the site lies within a 30 minute cycle journey from Ashburton, which provides a good level of services, facilities, education and employment opportunities and within a 30 minute cycle journey from Denbury, which has a primary school. The proposed pitches would be occupied by persons meeting the definition of Gypsies and Travellers and no business use is proposed to be carried out from the site. The proposed enlargement of the site for the accommodation of the extended family of gypsies/travellers would not result in harm to the South Hams SAC, subject to the creation of a new hedge along the south east boundary.

- 3.11 The proposed development would not comply with criterion (a), as the Council has a 5 year supply of gypsy and traveller sites. However, it is notoriously difficult to



find suitable sites for the gypsy and traveller community. The adjacent site has been established for approximately 25 years and the proposed extension of the existing site is considered to be an appropriate way of providing two additional pitches in a sustainable location. The additional sites would provide accommodation for family members of the occupiers of the adjacent site. Furthermore, as the figures provided by the Spatial Planning and Delivery team show, the recent creation of 3 sites since April 2017 has taken the Council's supply of sites from 4.4 years to over 5 years. Conversely, should there be a loss of a small number of existing sites, the Council would fall below the target 5 years supply.

- 3.12 Therefore, whilst the proposed development does not strictly comply with Policy WE6, due to the Council's current 5 year supply of gypsy and traveller pitches, weight is attached to the benefits of providing two additional pitches in this relatively accessible location, adjacent to an existing site, which is occupied by family members.

#### Impact upon the character and visual amenity of the area/open countryside

- 3.13 With regard to environmental considerations and, in addition to criterion f) of Policy S22, Policy EN2A seeks to ensure that development conserves and enhances the qualities, character and distinctiveness of the area and protects features that contribute to local character.
- 3.14 The proposed extension to the existing site would be screened from views along the lane by existing mature hedging and trees and from views to the north west by the adjacent existing gypsy and traveller site and its hedging enclosure. There is hedging along the south west boundary of the site and a condition is attached (in the interests of ecology) to create a new hedged boundary along the south east. Therefore, views of the site would be extremely limited and would be restricted to views from part of the public footpath that crosses the adjacent field.
- 3.15 The qualities, character and distinctiveness of the area would be conserved and the development would not affect any features that contribute to local character and the proposal would comply with Policies S22 and EN4.

#### Impact on residential amenity of surrounding properties

- 3.16 The nearest residential properties are situated approximately 300 metres from the site and there are no impacts upon residential amenity of any nearby properties.

#### Impact on ecology/biodiversity

- 3.17 The site lies within a strategic flyway area used by bats and would involve the loss of a small area of pasture and therefore foraging area for the bats and has the potential to increase light levels, which may adversely affect the movement of greater horseshoe bats. However, providing that lighting levels are controlled and that a new section of hedgebank is created to compensate for the loss of the pasture, the Council's Biodiversity Officer has no objections to the proposal, which

would comply with the objectives of Policies EN8, EN9, EN10, EN11 and EN12. The agent has confirmed that the applicant would be willing to accept a restriction on lighting levels.

#### Impact upon setting of listed buildings and the character and appearance of the Conservation Area

- 3.18 There are no impacts on the setting of any Listed Building, the nearest being approximately 1 kilometre away. In addition, the nearest Conservation Areas lie approximately 3 km away at Ashburton and 3.5 km away at Denbury and are unaffected by the proposal.

#### Land drainage/flood risk

- 3.19 The site would dispose of foul drainage to an existing septic tank and surface water directed to an existing soakaway.

#### Highway safety

- 3.20 The County Highway Authority is satisfied with the proposal, which would use the existing vehicular access to the adjacent site, as the access to the site has good visibility in both directions. The Authority raises no objections to the two additional pitches.

#### Conclusion

- 3.21 The proposed development comprises a small extension to an existing modest gypsy and traveller site. The existing site accommodates two pitches (with a third recently granted planning permission) and the enlargement of the site would be in order to accommodate two additional pitches, each comprising a static caravan, touring caravan and dayroom, to be used by members of the family occupying the adjacent site.
- 3.22 It is accepted that it is often difficult to provide sites for members of the gypsy and travelling community and weight is given to the benefits of providing two additional pitches. The location of the existing site has been accepted to be relatively sustainable, given its relative proximity to services, education and employment and the same must be considered of the proposed extension. In the absence of any resulting harm to the character and appearance of the landscape, heritage interests, wildlife interests, highway safety or residential amenity, on balance the proposed development is considered acceptable.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S22 (Countryside)

WE6 (Homes for the Travelling Community)  
EN2A (Landscape Protection and Enhancement)  
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

DCLG Planning Policy for Traveller Sites, August 2015

## 5. **CONSULTEES**

Biodiversity Officer - The application site is within a Strategic Flyway associated with the greater horseshoe bats (GHBs) of the South Hams Special Area of Conservation. GHBs follow linear features such as hedges to navigate the landscape. They are very light-averse and increases in light levels can stop them using traditional flyways.

The proposal will involve the loss of a small amount of pasture where the bats may feed and will introduce additional light into the remaining pasture. To minimise these impacts, a new hedge should be created along the south east boundary of the extension area, and lighting should be carefully controlled. I welcome the statement that the applicant would be willing to accept conditions to maintain low-level lighting. I acknowledge that no such restriction applies to the authorised site, but my aim is not to increase the level of lighting over existing levels.

The Biodiversity Officer also requires the following conditions to be attached to any planning permission:

Prior to first occupation of the new units, a new hedge shall be created along the south east boundary of the extension site. The hedge shall comply with details previously submitted to and approved by the Local Planning Authority. The hedge shall be on a Devon hedge bank and shall consist of locally-occurring native tree and shrub species. The hedge shall be managed thereafter at a height of 2 or more metres.

REASON: For the benefit of bats of the South Hams SAC.

Prior to installation of any external lighting, plans showing the detail of the external lighting shall be submitted to and approved by the Local Planning Authority. Such external lighting shall be restricted to PIR motion-activated lamps on short (2 minute) timer; shall be low height and low intensity, emitting warm spectrum wavelengths only; and shall be directed downwards and away from boundaries, using cowls or baffles to prevent light falling on boundary hedges. Once approved, the lighting plans shall be complied with.

REASON: For the benefit of bats of the South Hams SAC.

National Grid - There has been correspondence between the National Grid and Case Officer as the site lies directly underneath overhead power lines. An engineer from the National Grid has reviewed the details and the Case Officer has advised the National Grid that none of the structures will exceed 3.5 metres in height, either in situ or when being delivered to the site. This has been confirmed by the agent, who agrees to the use of a height restriction condition.

The National Grid has commented as follows:

National Grid has no objections to the above proposal which is in close proximity to a High Voltage Transmission Overhead Line.

Devon County Council (Highways) - The site is accessed off a C Classified County Route which is restricted to 60 m.p.h. The access to the site has good visibility in both directions, and the additional two pitches would not be a severe impact on the highway network. Therefore the County Highway Authority would have no objections.

Spatial Planning and Delivery - The development proposal covers two pitches, provided as an extension to an authorised gypsy site to the west for family members not already resident on the authorised site.

The land at Chardonay is located in the open countryside east of Ashburton.

There are no protective designated policy areas for the land such as area of great landscape value or conservation area.

In terms of supply of traveller pitches in relation to Policy WE6 (item (a)) of the Teignbridge Local Plan, at the last counting period for year to 1 April 2017 there was a site supply for 4.4 years. Since then, an additional site has received permission (for 3 pitches) so the plan area currently has a full supply of deliverable sites for the five year period from April 2017–April 2022. (As shown in the attached statement for Gypsy and Traveller – Five year supply of available pitches (at May 2017)).

## **6. REPRESENTATIONS**

A site notice was posted on 22 May 2017.

Four letters of objection have been submitted, raising the following concerns:

1. Unacceptable increase in the number of pitches;
2. Unacceptable increase in the potential number of people residing at the site;
3. The number of gypsies and travellers within Woodland Parish community would be disproportionately high in relation to the population of the parish;
4. The potential from increase in number of pitches that the site will not be occupied by a single family, but by a number of families and, that others may reside there on a temporary basis, thus not contributing to the local community;
5. Poor access to facilities along narrow lanes with high hedges;

6. Harm to the countryside.

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

Woodland Parish Council objects to the development for the following reasons:

- The site is in the countryside and at a distance from local services and facilities;
- No evidence has been shown relating to the need for a site in this location as Teignbridge District Council has a 5 year supply of sites;
- The application would set a precedent for development along the road;
- The development would be located where it is remote from adequate services, employment, education and public transport; and,
- Concern about residential use directly beneath 400 KV overhead power lines.

## **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:** 24 October 2017

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

**ITEM:** 5.

**CASE OFFICER** Claire Boobier

**APPLICATION FOR CONSIDERATION:** KINGSKERSWELL - 17/01330/FUL - Garth Gardens, Pound Lane - Demolition of existing dwelling and erection of two dwellings

**APPLICANT:** Staplegrove Contractors

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

### 1. REASON FOR REPORT

Councillor Haines has requested that this application be referred to Planning Committee for determination if the Case Officer is recommending approval because:

- Proposal is in Flood Risk Area
- Lack of Design and Access Statement
- Steep gradient on access drive
- Large number of vehicles for access off Pound Lane
- Plans are somewhat sketchy – with references in application form that detail is on plans
- Concerns about construction traffic if the proposal is approved

### 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 the approved plans/documents.
3. Surface water drainage scheme to be submitted for approval.
4. Notwithstanding the submitted details, samples of external materials for the dwellings shall be submitted to and approved by the Local Planning Authority.
5. Removal of Permitted Development Rights – Part 1, Schedule 2 (Classes A, B, C, D, E and G – alterations and extensions to dwellings, outbuildings, roof alterations, porches, chimneys and flues).
6. Unsuspected land contamination.
7. Recommendations as set out in ecology report to be followed.

8. No external lighting shall be installed on or in association with the new dwellings, except low intensity, warm spectrum PIR security lighting on a short timer (2 minutes maximum) mounted on the eastern elevation, for the benefit of legally protected species.
9. Construction work, deliveries and collection of materials shall only take place during the following hours 8am to 6pm Monday to Friday and 8am to 1pm Saturdays. Works shall not take place on Sundays or Bank Holidays.
10. Disposal of waste shall not be undertaken by burning.
11. Visibility splays as shown on drawing 6117/2 Rev B shall be provided prior to first occupation of either dwelling and thereafter shall be kept free of obstruction over 600mm.
12. The development shall not be carried out otherwise than in strict accordance with the submitted Flood Risk Assessment.
13. The development shall not be occupied until refuse/bin storage facilities have been provided in accordance with details, to include proposals for maintenance and management of the storage area, which shall have first been submitted to and approved in writing by the Local Planning Authority. Once provided the facilities shall be retained in perpetuity.
14. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
15. Foul drainage from the development and no other drainage shall be connected to the public foul or combined sewer.
16. Landscaping Plan to be submitted prior to the development progressing beyond dpc level and shall include all surfacing materials, boundary treatments, planting and landscape works and shall be agreed in writing by Local Planning Authority and implemented in the first available planting season prior to first occupation of either dwelling.

### **3. DESCRIPTION**

#### The Site

- 3.1 The site lies within the defined Settlement Limit of Kingskerswell and is accessed off Pound Lane and consists of what is currently the rear garden serving Garth Gardens (formerly known as Garth Cottage).
- 3.2 The site consists of an existing semi-detached property fronting Pound Lane. The property is in a poor state of repair with a large rear garden which slopes down to the rear boundary of the site adjacent to the railway line. The site levels off at the end of the garden adjacent to the rear boundary and there is evidence that a number of trees have been felled within the rear garden prior to the submission of the application.
- 3.3 The viaduct over the railway line on Rose Hill is Grade II listed and is visible from the site and likewise the site is visible from the viaduct.



- 3.4 The site does not lie in an area with any specific landscape protection nor is it within a Conservation Area.

#### The Proposal

- 3.5 This application seeks planning permission for the demolition of the existing dwelling and the erection of two new dwellings and garages together with alterations to the entrance drive.
- 3.6 The dwellings proposed are of contemporary design with rendered walls, tiled roof and elements of full height glazing. Garden areas would be provided to the north and west of the proposed properties. Access to the plots would be obtained from Pound Lane as is the case with the existing property on the site and the proposal includes the provision of garages to provide parking for the proposed units with space to turn and leave the site in forward direction.
- 3.7 A new internal access road is proposed off Pound Lane to access the dwellings in the location of the dwelling to be demolished. It is proposed to have landscaping on either side of the proposed drive to provide some soft screening to the properties known as Bessmount and Kings View.

#### Principle of the Development/Sustainability

- 3.8 Policy S1A (Settlement Limits) designates areas where development may be acceptable, provided the proposal is consistent with the provisions and policies of the Local Plan. The proposal results in residential development within the Settlement Limits of Kingskerswell and therefore in policy terms it is a sustainable location for residential development.

#### Impact upon setting of listed buildings and the character and appearance of the Conservation Area

- 3.9 Having regard to its statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Local Planning Authority must give considerable importance and weight to any harm to the character of the Conservation Area. Under section 66(1) the Local Planning Authority must 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.
- 3.10 Whilst Kingskerswell has a Conservation Area, the proposed dwellings are some distance away and the proposal would not adversely impact on the character and appearance of the Conservation Area.
- 3.11 The closest listed structure to the site is the Grade II listed viaduct over the railway line on Rose Hill, Kingskerswell. Whilst, the site would be visible from this listed structure and likewise the listed structure is visible from within the site it is not considered that the proposed dwellings would adversely affect the setting of this listed structure given that the listed viaduct is already surrounded by residential

properties. The addition of two additional dwellings is not assessed to undermine its setting.

Impact on character and visual amenity of the area

- 3.12 The site comprises a parcel of land to the rear of Garth Gardens (formerly Garth Cottage) and the property known as Bessmount.
- 3.13 The site itself is not afforded any special landscape protection. The Parish Council in its representation refers to the site as having been historically a Conservation Area, however the site is not currently within a designated Conservation Area.
- 3.14 The site presently has the appearance of an unmaintained garden plot, and does not presently provide a positive impact when viewed from the listed viaduct. It is considered that a balanced judgement needs to be made as to whether using the site for two dwellings whose occupants would maintain the garden space would be preferable and create an improved focal point when viewed from the viaduct.
- 3.15 Whilst the design of the proposed dwellings are contemporary in an area of traditional housing the property does pick up the palette of materials found locally with its rendered walls and tiled roof and, whilst a different design approach is taken, it is not considered that this should be a reason for refusing the application. The applicant has chosen to work with the gradient of the site and the property appears as 2 ½ storeys when viewed from the west and single storey when viewed from the east, fronting the rear of the existing residential dwellings. It will therefore appear from views of the property from the rear of Kings View and Bessmount as a single storey dwelling with garage beside. This design choice reduces the scale and massing of the dwellings when viewed from the surrounding residential properties and thus its impact on these dwellings, which are also at an elevated position compared to the proposed dwellings.
- 3.16 The proposed buildings, being of a contemporary design, could act as an interesting focal point in this approach across the viaduct whilst not appearing too over dominant in its design, scale and massing.
- 3.17 If Members are minded to approve a condition is recommended for samples of all external finishing materials for the dwelling to ensure that they would be compatible with the character of the surrounding properties.
- 3.18 It is considered that two dwellings and associated garages can be accommodated on this site without appearing cramped in and it is considered that the proposals make effective use of the plot size and shape whilst ensuring that the properties have the benefit of a garden which is comparable to neighbouring properties to enable the dwellings to integrate with the character of the surroundings.
- 3.19 Whilst, the properties are set beyond the rear of Bessmount and Kings View they are broadly on the same rear building line as the existing properties on the other side of the viaduct (The Old Stables, Brooklea) off Daccabridge Road against which they will be read when viewed from the viaduct.

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

- 3.20 The application site is on lower ground than the surrounding properties and therefore whilst windows are proposed to the east elevation they will not offer the opportunity for an unacceptable level of overlooking into the rear of surrounding properties due to the change in ground level. Whilst substantial glazing is proposed to the western elevation, this looks down the garden of the proposed dwellings and onto the trees lining the railway line boundary and does not raise overlooking concerns.
- 3.21 The proposed dwellings, given their siting, layout and scale and that they will present as single storey to surrounding properties, are not considered to result in an overbearing impact, loss of light or privacy to neighbouring occupiers to an extent to warrant a refusal of planning consent. A condition is, however, recommended to remove Permitted Development Rights for extensions and alterations to the dwellings and outbuildings in order to retain control over any future enlargements of the properties in the interests of protecting the residential amenity of neighbours.
- 3.22 The proposed development is considered to satisfy the requirements of Policy S1 (Sustainable Development Criteria) of the Teignbridge Local Plan 2013-2033.
- 3.23 Due to the close proximity of residential dwellings Environmental Health have been consulted about noise nuisance that may be generated during the construction period. Whilst they do not object to the application, they have requested conditions to restrict working hours which will include vehicle movements to between 8am and 6pm Monday to Friday, 8am to 1pm Saturdays and no working on Sundays or Bank Holidays. It is recommended that these hours restrictions also be applied to deliveries and collection of materials in order to minimise impact on residential amenity of neighbours during the construction period. A condition is also recommended to be applied for the disposal of waste to not take place by burning. These conditions are considered reasonable given the close proximity of the site to residential properties and, if minded to grant consent, these conditions should be applied to the decision.

### Impact on ecology/biodiversity

- 3.24 The application site is within a South Hams SAC strategic flyway centred on the railway/brook. Bats are likely to use the tree cover along the railway/brook due to the dark corridor it provides.
- 3.25 An ecology survey has been submitted in support of the application which concludes that there are no signs of bats feeding, perching or roosting in the building to be demolished, however it recognises that bats are known to be present in the area, including specific bat roosts on adjacent properties and potential roosts in surrounding structures, it can therefore be assumed that bats are active in the area and may pass over or through the site whilst foraging or commuting. Whilst no further survey work is recommended or required as no roost is to be damaged, moved or manipulated by the works, the report does set out a number of precautionary recommendations to be followed. If minded to grant consent a

condition should be applied to ensure the recommendations set out in the ecology report are followed as a precautionary measure given that the site is within the South Hams Greater Horseshoe Bat Consultation Zone.

- 3.26 The Council's Biodiversity Officer has been consulted on this application and advises that as the tree cover alongside the railway/brook provides a dark corridor for bats it will be important that these trees are protected during the construction works. It will also be important to limit light falling on this corridor. As well as requiring the applicant/developer to retain these trees, a mechanism to prevent felling of the trees by new residents is also recommended.
- 3.27 The trees referred to are on railway-owned land and are not within land in the ownership of the applicant. It would therefore not be feasible to condition for the trees to be retained as part of the application submission or for a condition to be placed to prevent new residents felling the trees. Nonetheless, as the trees are not owned by the applicant and would not be owned by future occupants, it would be outside of the power of either the applicant/developer or new residents to fell the trees. The Council's Tree Officer has been consulted on the potential to protect these trees by other means, however he considers that in this case a group TPO would not be appropriate.
- 3.28 A condition is recommended that no external lighting be installed on or in association with the new dwellings, except low intensity, warm spectrum PIR security lighting on short timer (2 minutes maximum) mounted on the eastern elevations to prevent light spill into this tree corridor. A condition is also recommended to ensure that the recommendations set out in the ecology report are followed in the interests of protecting bats which may be in the area.

#### Impact on Trees

- 3.29 The Council's Arboricultural Officer has been consulted on the application and advises that owing to the removal of a number of trees recently no significant trees remain that will be adversely affected by the proposal.
- 3.30 No arboricultural objections are therefore raised to the proposal.
- 3.31 The site plan provides details of new landscaping bordering the proposed access drive and to the proposed gardens. As no specific details have been provided of the landscape treatments proposed a condition is recommended to secure a landscaping scheme which compliments the site.

#### Contaminated Land

- 3.32 Whilst the land, given its former use, is not considered to be likely to be contaminated, as a precaution an unexpected contamination condition is recommended to ensure that, should contamination be discovered, it is dealt with appropriately given the sensitive end user of this proposal.

### Land Drainage and Flood Risk

- 3.33 A Flood Risk Assessment was originally submitted with the application which was found to be deficient in a number of areas by the Environment Agency.
- 3.34 A revised Flood Risk Assessment was later submitted during the course of the consideration of this application and the Environmental Agency were re-consulted on the acceptability of the measures proposed within this document.
- 3.35 The Environment Agency has advised that *“the submitted FRA is acceptable and demonstrates that the proposed development will be safe from flooding over its lifetime”*. As a result they have confirmed that they remove their objections to the proposal. They go on to state that *“using the 2005 WSP model of Aller Brook the Flood Risk Assessment demonstrates that the siting of the proposed development is, in fact, outside the design flood event outline. Furthermore comparing levels of the design flood event to finished floor level reveals that there is over 750mm of freeboard. This precautionary approach is acceptable”*.
- 3.36 Based on the revised Flood Risk Assessment, and subject to a condition securing the measures set out in the Flood Risk Assessment, no objection is raised on flood risk grounds to the proposal.
- 3.37 The application form states that the surface water from the development will be dealt with by soakaway, however no details of the proposed surface water drainage scheme have been submitted with the application. If Members are minded to approve a condition is recommended that prior to construction of the dwellings a surface water management scheme be provided and approved in writing by the Local Planning Authority to ensure that surface water is adequately managed. Furthermore, the application form advises that foul sewage will be disposed of by main sewer. South West Water has advised that foul drainage from the development (and no other drainage) shall be connected to the public foul or combined sewer. It is recommended that this be added as a condition to the consent. However it is considered that the disposal of foul sewage by the mains sewer with South West Water agreement is an acceptable method of disposal.

### Highway Safety

- 3.38 The letter of representation received raises concern about the proposal resulting in additional vehicles using Pound Lane and the suitability of the access to serve the proposed dwellings.
- 3.39 The access to the site would be achieved by demolishing the existing property at the site to provide a private drive to access the proposed new dwellings. On-site parking would be provided and turning space is available on-site to enable vehicles to exit in a forward direction.
- 3.40 The site is to be accessed off Pound Lane, an unclassified narrow County Route, which is restricted to 20 m.p.h.

- 3.41 Devon County Council Highways were consulted on this application specifically about the impact of the proposal on highway safety on Pound Lane and about the suitability of the access to serve the number of dwellings proposed.
- 3.42 During the course of considering the application Highways requested additional information from the applicant about visibility splays from the proposed new drive and also access gradients onto the public highway.
- 3.43 Revised drawings were provided to show the requested information and an accompanying technical note was provided by the applicant's transport consultant.
- 3.44 The County Highways Authority raise no objections to the proposal based on the shown visibility splays being offset by 1 metre in both directions which means that the visibility splays will be within highway land and therefore there will be no obstructions over 600mm. They therefore conclude that the amendments made to the access on the revised drawing provide adequate visibility from the access in order that the proposed new access would not raise a highway safety concern sufficient to justify refusing consent. A condition is however recommended for the visibility splays to be provided prior to first occupation of either dwelling and for them to be kept free of obstruction over 600mm.
- 3.45 It is concluded that the number of trips to be generated from the development would not be so severe as to harm highway safety, particularly given that the visibility from the access would be improved compared with the current situation.

#### Archaeology

- 3.46 The proposed development occupies the former site of Underhill House shown on the mid-19<sup>th</sup> century Tithe Map. The age of this building is unknown and appears to have been demolished with the construction of the road and railway bridge in the later 19<sup>th</sup> century. The proposed development has the potential to expose archaeological and artefactual deposits associated with the historic settlement at Kingskerswell, in particular Underhill House.
- 3.47 For this reason, and in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5, if minded to approve a condition that no development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall first be submitted to and approved by the Local Planning Authority is recommended in order to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

#### Refuse and Recycling Facilities

- 3.48 The plans do not provide details of refuse and recycling facilities, however there is considered to be adequate space available on site or within the proposed garage for the storage of such receptacles. A condition is recommended to be applied for details of their storage to be provided and agreed prior to first occupation of the dwellings and for the facilities to be in place prior to first occupation and to be

retained thereafter to serve the properties to ensure that adequate facilities are provided.

### Summary and Conclusion

- 3.49 The proposed development brings forward a design which respects the residential amenity of the occupiers of surrounding properties to the east by keeping the dwellings facing them single storey in scale. This ensures that the scale and massing of the buildings is not imposing when viewed from these properties and works with the gradient of the site to deliver 2 ½ storeys to the west elevation facing onto the proposed garden areas for the new dwellings, which provide good sized gardens to serve the dwellings. The contemporary design responds to the topography of the site and, whilst a different design approach to the more traditional properties surrounding, does pick up on the palette of materials found locally.
- 3.50 It is considered that the access to the site and the parking arrangements are acceptable.
- 3.51 This is considered to represent an appropriate form of development whereby the balance of considerations weigh in favour of approving planning permission. There is therefore a recommendation to approve planning permission, subject to the recommended conditions as set out above.
- 3.52 This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **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)

EN4 (Flood Risk)

EN5 (Heritage Assets)

EN7 (Contaminated Land)

EN8 (Biodiversity Protection and Enhancement)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

### National Planning Policy Framework

### National Planning Practice Guidance

## **5. CONSULTEES**

Environment Agency - The submitted Flood Risk Assessment is acceptable and demonstrates that the proposed development will be safe from flooding over its lifetime. We therefore remove our objection to this proposal.

Using the 2005 WSP model of the Aller Brook it demonstrates that the siting of the proposed development is, in fact, outside the design flood event outline. Furthermore, comparing levels of the design flood event to finished floor level reveals that there is over 750mm of freeboard. This precautionary approach is acceptable.

Drainage - We recommend that the application is not determined until the proposed location of the dwellings has been justified and a satisfactory Flood Risk Assessment (FRA) and surface water drainage strategy has been submitted and approved.

Case Officer Note: FRA subsequently submitted and Environment Agency has approved its content.

Devon County Council (Highways) - Further information has been submitted with this application stating the visibility splays will be offset by 1 metre in both directions which means that the visibility splays will be within highway land therefore there will be no obstructions over 600mm.

The County Highway Authority has no objection to this proposal.

Environmental Health - Recommend approval subject to conditions.

Due to the close proximity of residential dwellings complaints of noise nuisance are likely to be received during the construction period.

Works likely to give rise to significant noise levels, which will include vehicle movements, should be restricted to the following times

Monday - Friday	0800 - 18:00
Saturday	0800 - 13:00

There should be no works outside of these times, on Sundays or on Bank Holidays.

Deliveries and collections of materials should only be carried out during the above mentioned times.

The disposal of waste should be by alternative means other than by burning.

Environmental Health (Contaminated Land) - Recommend unsuspected contamination condition be applied if minded to approve to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

Biodiversity Officer - Controls are needed to retain a dark corridor beside the Aller Brook and the railway, for South Hams SAC bats.

The application site is within a South Hams SAC strategic flyway centred on the railway/brook. It is important for the bats to retain the remaining tree cover



alongside the railway/brook to provide a dark corridor for the greater horseshoe bats to follow. As well as protecting these trees during construction it is important that they are retained subsequently. It is also important to limit light falling on this corridor.

As well as requiring the applicant/developer to retain these trees, can a mechanism be found to prevent felling of the trees by new residents, please?

Condition recommended: No external lighting shall be installed on or in association with the new dwellings, except low intensity, warm spectrum PIR security lighting on a short timer (2 minutes maximum) mounted on the eastern elevation. Reason: For the benefit of legally protected species.

Tree Officer - Owing to the removal of a number of trees recently no significant trees remain that will be adversely affected by the proposal.

Natural England - Natural England has no comments to make on this application.

Conservation Officer - We do not wish to comment on this application and will accept the case officer's decision.

Devon County Council (Archaeology) - The proposed development occupies the former site of Underhill House shown on the mid-19th century Tithe Map, the age of this building is unknown and appears to have been demolished with the construction of the road and railway bridge in the later 19th century. The proposed development has the potential to expose archaeological and artefactual deposits associated with the historic settlement at Kingskerswell, in particular Underhill House.

For this reason and in accordance with paragraph 141 of the *National Planning Policy Framework (2012)* and the supporting text in paragraph 5.17 of the *Teignbridge Local Plan Policy EN5 (adopted 2013)*. I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

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

Reason: *'To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that an appropriate record is made of archaeological evidence that may be affected by the development.*

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

South West Water - The applicant/agent is advised to contact South West Water to ensure compliance with South West Water requirements and a condition is recommended to emphasise that foul drainage from the development and no other drainage shall be connected to the public foul or combined sewer.

## **6. REPRESENTATIONS**

One objection letter has been received raising the following summarised objections:

1. The proposal will include parking for a total of 4 cars per dwelling, making a total of eight vehicles. Pound Lane is very narrow and could not possibly sustain an additional 8 vehicles entering and exiting onto Pound Lane;
2. There are already numerous problems with parking in Pound Lane caused by visitors and staff visiting Bessemont House Nursing Home on both sides of Pound Lane and any additional vehicular access will only make the situation much worse;
3. The access to the site would have sub-standard sight lines and the access gradient of the driveway would be much less than the requirements for disabled access of 5% (1 in 20);
4. Emergency vehicles already experience difficulties in accessing 1 to 9 Pound Lane and other properties to the north of the proposed access, as these vehicles cannot access Pound Lane from the entrance to Pound Lane from School Lane due to the 90 degree bend at the entrance to the private driveway serving 1 to 9 Pound Lane;
5. The proposed driveway is in the flood plain of Aller Brook, which is now classified as Mains River, and an Environment Agency acceptable Flood Risk Assessment has not been provided with the planning application.

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

Kingskerswell Parish Council have commented that this application has been requested to go to Committee, but we would like to add that in the opinion of the parish council the application should be refused.

- The proposed building would impinge on the flood plain of the adjacent waterway;

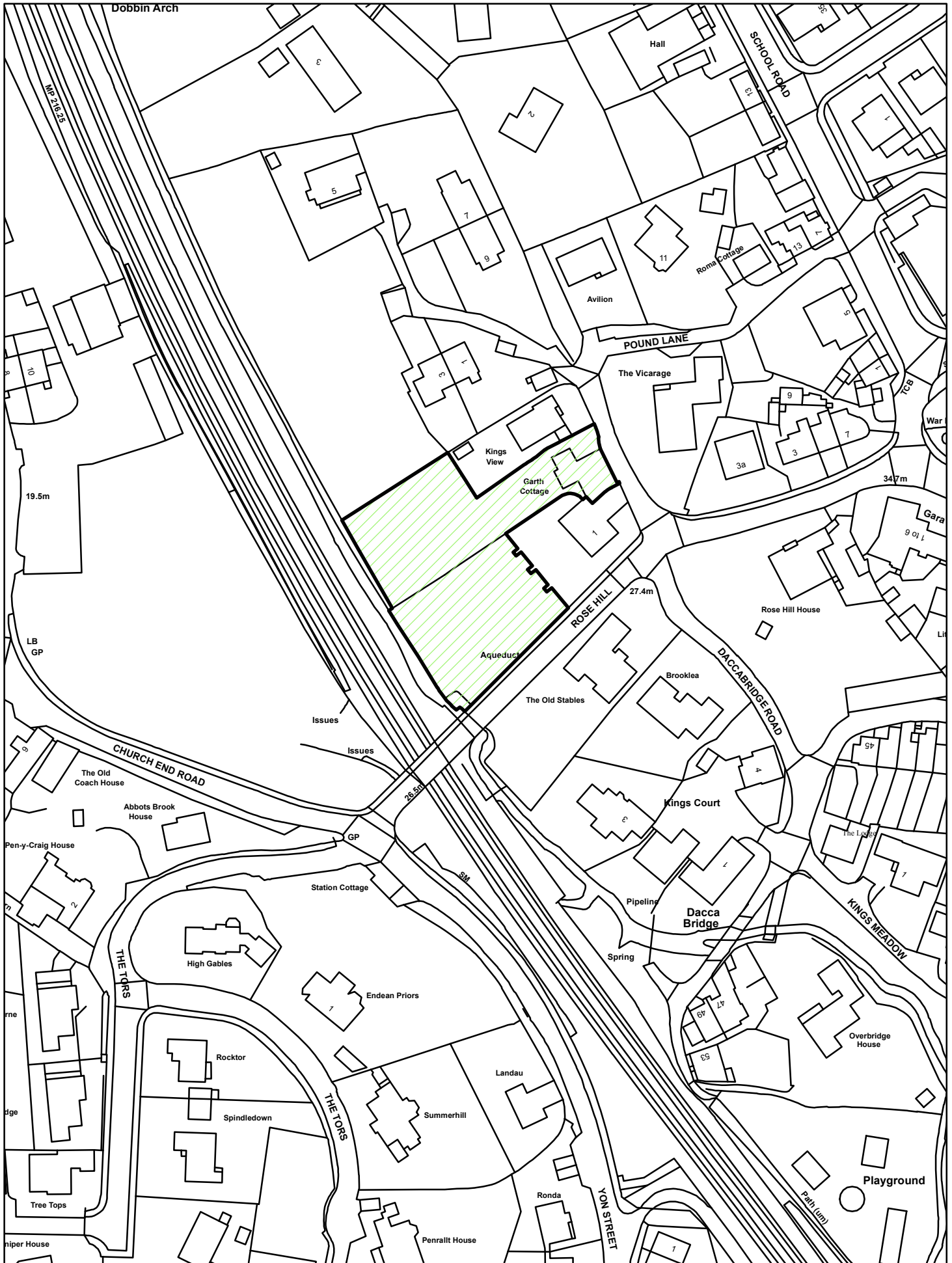
- The proposed dwellings will adversely affect immediate neighbours in both view and additional traffic on a very narrow access lane;
- We are under the impression, on advice from the occupiers of neighbouring houses, that the area has historically been a conservation area;
- The necessary building works will cause an unacceptable strain on the immediate locality and significantly affect the quality of life of the inhabitants of neighbouring houses.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 288.09. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 120.01. The CIL liability for this development is £14,079.34. This is based on 168.08 net m<sup>2</sup> at £70 per m<sup>2</sup> and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

## **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.



TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

**DATE:** 24 October 2017  
**REPORT OF:** Business Manager – Strategic Place  
**ITEM:** 6.

**ENFORCEMENT REPORT**

**REFERENCE NO:** 10/00266/ENF

**DESCRIPTION OF DEVELOPMENT**

**TEIGNMOUTH:** Mistleigh Farm Barns, Doddiscombsleigh

**OBSERVATIONS**

1. On 19 September 2012 the Council issued an Enforcement Notice for;
  - i. the unauthorised erection of a boundary metal fence exceeding one metre in height adjacent to a highway; and
  - ii. the unauthorised change of use of the land and building from agricultural use to the storage of vehicles, skips, containers and assortment of scrap not associated with agriculture;on land to the South West of Mistleigh Farm, Doddiscombsleigh.
2. Following an appeal that was dismissed on 26 April 2013, to comply with the Enforcement Notice it was necessary by 26 July 2013 to;
  - i. remove the metal fence,
  - ii. remove from the land and building all the vehicles, skips, containers and assortment of scrap not associated with agriculture, and
  - iii. stop using the land and building for the storage of vehicles, skips, containers and assortment of scrap not associated with agriculture.
3. Following the date for compliance, although it was clear the fence had not been removed or reduced to no more than one metre, and there were still items being stored on the land, as there appeared to be no activities being carried out no further action was taken at that time. Furthermore over the next couple of years as the site remained fairly inactive, the requirements of the Enforcement Notice were not pursued despite the fact that the fence had not been removed and some unauthorised storage continued.

## TEIGNBRIDGE DISTRICT COUNCIL

4. In October 2016 the Council received a complaint about activities occurring on the land. From an investigation it was noted that there were numerous items such as skips and vehicles being stored on the land that did not appear to be associated with the permitted agricultural use of the land. It was clear that there had been a recent increase in the level of use of the land. As these items were being stored contrary to the requirements of the Enforcement Notice the Council pursued prosecution proceedings which resulted in the matter being brought before the Courts in July 2017. As a result of the Court's decision the landowner has taken steps to clear the land, but a final resolution of the matter remains outstanding and this is still being pursued.
4. As well as the use of the land for storage the Council also received a complaint that the land was being used for residential purposes. Investigations were carried out and it was noted that a caravan had been sited inside the existing agricultural building. However, it was claimed that it was being used as a restroom and that the landowner stays elsewhere overnight, although evidence seemed to suggest otherwise.
5. To determine whether a residential use was occurring on the land a Planning Contravention Notice was served on the owner in April 2017 requesting clarification on the use of the caravan. In response it was claimed the caravan provides a rest area and is not used for residential purposes.
6. On 5 September 2017 a site visit was carried out to determine what works had been undertaken to comply with the requirements of the Enforcement Notice. At the same time it was noted that there was a caravan sited inside the agricultural building that contained a bed with a duvet on it that appeared to have been used. There was also a portable toilet next to the caravan along with a cooker and other facilities that indicated a residential use is occurring.
7. Although the owner states no residential use is occurring, from the evidence available it appears that a change of use of the land has occurred to include a residential use. As this is contrary to planning policies it is necessary to take enforcement action to ensure the unauthorised use ceases.

### The Human Rights Act 1998

8. From the evidence available it seems the owner is using the caravan sited within the existing barn 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".
9. The courts have held that provided a balanced and proportionate approach is taken, having regard to all relevant considerations and not giving irrational

## TEIGNBRIDGE DISTRICT COUNCIL

weight to any particular matter, the UK planning system (including the enforcement process) is not incompatible with the Human Rights Act.

10. 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.
11. Members are therefore advised that 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 S1 (Sustainable Development Criteria) and S22 (Countryside) of the Teignbridge Local Plan 2013 - 33
  - (iii) proportionate to the harm and therefore not incompatible with the Human Rights Act.

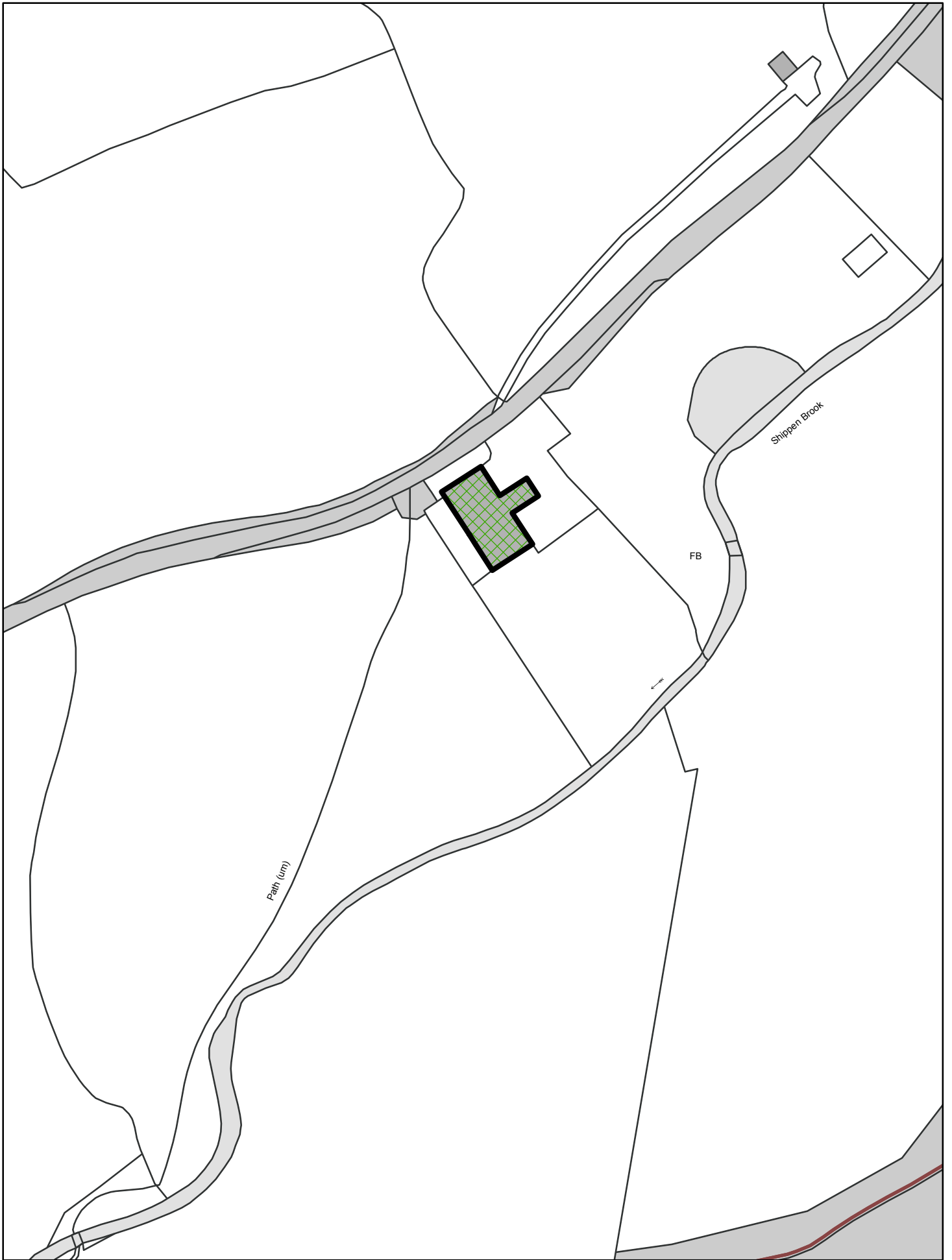
### Conclusion

12. The unauthorised siting of a residential caravan on the land is clearly contrary to development plan policy. The development is also considered contrary to the advice contained in the National Planning Policy Framework. To resolve the matter it is now considered appropriate to secure the cessation of the use of the land and building for residential purposes.

### **RECOMMENDATION**

The Committee is recommended to resolve that an Enforcement Notice be served to cease the unauthorised use of the land and building for residential purposes with a compliance period of one month. In the event of the Notice not being complied with, the Solicitor be authorised to take action as necessary under Sections 178 and 179.

WARD MEMBERS: Cllr Ford, Teign Valley





TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

**DATE:** 24 October 2017  
**REPORT OF:** Business Manager – Strategic Place  
**ITEM:** 7.  
**SUBJECT:** Wildlife and development guidance note: Cirl Bunting

**RECOMMENDATION**

The Committee is recommended to approve:

- A. This technical guidance note, which provides a consistent approach for dealing with developments that negatively impact cirl buntings; and**
- B. That the guidance is amended from time-to-time as necessary to maintain the most up to date advice. Such amendment to be carried out by Officers in consultation with the Chairman.**

**1. REASON FOR REPORT**

- 1.1 To ensure a consistent and up to date approach is applied in consideration of planning decisions affecting cirl buntings.

**2. DESCRIPTION**

- 2.1 Cirl bunting is a nationally rare and threatened 'priority species', which receives legal protection as a Wildlife and Countryside Act 'Schedule 1 bird'. Once a widespread farmland bird, Britain's cirl bunting population is now confined to South Devon, with Teignbridge supporting about 30% of the country's birds.
- 2.2 Over the last 10 years Teignbridge has worked with stakeholders to best consider the cirl bunting through planning. This has identified the necessary survey requirements to establish the presence of cirl buntings and measures to support application of the mitigation hierarchy of first avoiding, then mitigating before, as a last resort, compensating for any residual impact. Compensation measures include taking a financial contribution for the Council to then deliver the necessary conservation measures offsite, in partnership with others where appropriate.

## TEIGNBRIDGE DISTRICT COUNCIL

- 2.3 This approach is detailed and formalised in this technical guidance. It is supported by the adopted Local Plan policies EN8, EN9 and EN11 that require development that would negatively impact such a species to be refused unless the impacts can be mitigated and compensated for, and reflects the position set out in paragraphs 109, 117 and 118 of the National Planning Policy Framework.
- 2.4 The Council Strategy super project - Great Places to Live and Work includes an action to work towards an overall improvement in the area's biodiversity by protecting the most important habitats and investing in new wildlife areas. The production of this guidance is a project identified as part of the delivery of this action.
- 2.5 The approach has now been successfully applied on a number of developments in Teignbridge. Where the developer has been unable to sufficiently mitigate/compensate for impacts on breeding territories, the Council has required a contribution for off-site curlew conservation measures.
- 2.6 Under this system around £165,000 has already been received and spent on curlew conservation projects across the District, including 3ha winter foraging habitat. More than £650,000 more is secured through S106 Agreements with further conservation schemes under development.
- 2.7 It is proposed that Officers are authorised to update this guidance from time-to-time as necessary to maintain the most up-to-date guidance.

### 3. POLICY DOCUMENTS

#### 3.1 Teignbridge Local Plan 2013-2033

EN8 (Biodiversity Protection and Enhancement)  
EN9 (Important Habitats and Features)  
EN11 (Legally Protected and Priority Species)

### 4. CONSULTEES

- 4.1 This is a technical guidance note for developers, their consultants and Local Planning Authority Officers with no statutory requirement for consultation. It has been drafted with the close involvement of the RSPB and Officers from other Local Planning Authorities. It formalises an approach that is already successfully practiced in Teignbridge. No further consultation has been undertaken.

### 5. REPRESENTATIONS

- 5.1 RSPB have provided a letter of support for this guidance, included in Appendix B.

## TEIGNBRIDGE DISTRICT COUNCIL

<b>Wards affected</b>	All
<b>Contact for any more information</b>	Jonny Miller, Green Infrastructure Officer, 5755 Mary Rush, Biodiversity Officer, 5794
<b>Appendices attached:</b>	A: Wildlife and development guidance note: cirl bunting B: RSPB letter of support

**TEIGNBRIDGE DISTRICT COUNCIL**

**Appendix A: Wildlife and development guidance note: cirl bunting**

## Wildlife and development guidance note: **Cirl Bunting**



Male cirl bunting  
© Andy Hay (RSPB-images.com)



Female cirl bunting  
© Andy Hay (RSPB-images.com)

October 2017

### Who is this document for?

This guidance note is intended to help anyone (e.g. developers, agents, consultants, Local Planning Authorities) considering built developments that may affect cirl buntings in Devon. Map 1 shows where cirl buntings are found in Devon at the time of publication (this map will be updated annually). From this you can see whether a proposed development falls within the known range and is likely to affect cirl buntings. An up-to-date map can be found at: <http://bit.ly/2wFg97f>.

This document has been produced by Devon County Council, Teignbridge District Council, Torbay Council and the RSPB. Discussions are ongoing with neighbouring authorities to seek broader adoption. It is a live document and will be updated as issues are raised and resolved. For the latest version and to provide feedback visit – <http://bit.ly/2wFg97f>.

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## I Background

Cirl buntings are an attractive and iconic Devon species. Once widespread across southern England, changes in farming practice resulted, by the late 1980s, in almost the entire UK population being restricted to South Devon. Dedicated conservation effort since then has halted and reversed their catastrophic decline. However, cirl buntings remain rare (1,079 pairs recorded in last systematic national survey in 2016) and very restricted in range, with most of the population in South Devon, confined to suitable farmland between Exeter and Plymouth.

In 2016, the national cirl bunting population falls within:

Devon County Council	88%
Of which:	
South Hams District Council	54%
Teignbridge District Council	33%
*East Devon District Council	1%
*Exeter City Council	wintering only
Torbay Council	7%
Cornwall County Council	5

\*support a small % of the population, but represent important outposts for extending the range of the species.

Map 1 (page 36) shows the currently known cirl bunting range. The red areas are 250m radius areas around records of breeding cirl buntings. They represent the land on which each pair will hold its territory. The amber areas are 2km radius around breeding territories and represent the areas where cirl buntings are likely to be wintering and where unknown territories are most likely to be located and new territories most likely to be established.

### Ecological Needs

Cirl buntings are characteristic of Devon's low intensity mixed farmland. They are birds of farmland and need a mixed farmland landscape to flourish. Changes to farming practices and the resultant loss of nesting sites and sources of both winter and summer food is the major cause of the cirl bunting's dramatic decline. See Appendix 1 for details of cirl bunting habitats. In brief, they need:

1. Nesting sites: traditionally managed hedgerows and scrub.
2. Breeding: tussocky pasture on which to forage for invertebrates to feed young. As a highly sedentary species, breeding cirl buntings usually forage within 250m of their nests when feeding young, with the majority of territories having arable and rough grassland habitats within 250m of the nest (Stephens *et al*, 2002).
3. Winter: A source of small seeds over the winter, ideally arable weeds within an over-winter stubble following harvest of a low input spring barley crop. They generally travel no further than 2km from their breeding areas in winter (Evans, 1996). It is therefore vital that summer and winter habitats are available within close proximity to each other.

Loss of one habitat type may undermine the suitability of a landscape to support them. For example, the integrity of a breeding site for cirl buntings will be jeopardised if hedges are retained but grassland lost and vice versa. In addition winter foraging habitat is essential to attract and sustain breeding pairs due to their highly sedentary nature.

### **Wider Benefits**

Preserving a network of suitable habitats isn't just good for cirl buntings. It also preserves the characteristic Devon landscape and benefits a number of other priority species and habitats such as bats, dormouse, wildflowers, arable plants and hedgerows.

For further details of the conservation action taken for cirl buntings see:

<http://www.rspb.org.uk/ourwork/projects/details/222509-the-cirl-bunting-project>



## II Why are ciril buntings important in the planning context?

Whilst changes in farming have caused the ciril bunting's decline, their limited range and distribution around coastal settlements that have strong development pressure mean that cumulatively, growth of those settlements risk a population-scale impact on the species, and a major threat to its continued recovery.

The ciril bunting is a UK priority species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. These species were identified as requiring action under the UK Biodiversity Action Plan and remain conservation priorities under the UK Post-2010 Biodiversity Framework. The S41 list is used to guide decision-makers, including local authorities, in implementing their duty under Section 40 of the NERC Act 2006, to have regard to the conservation of biodiversity in England when carrying out their normal functions.

The National Planning Policy Framework<sup>1</sup> sets out the Government's planning policies for England and how these are expected to be applied. It includes:

- Minimising impacts on biodiversity and providing net gains where possible (paragraph 109)
- Planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure (paragraph 114)
- Promoting the protection and recovery of priority species populations and the preservation, restoration and re-creation of ecological networks and priority habitats (paragraph 117); and

In particular, it is worth emphasising the Government's policy towards conserving and enhancing biodiversity by adherence to the mitigation hierarchy. This approach is set out in the first bullet point in paragraph 118 of the NPPF; it states:

*If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

This statement makes clear that the preferred approach is always to avoid impacts wherever possible, and to then mitigate as the next best choice. However, there will be circumstances where compensation is the only alternative, other than for the LPA to refuse planning permission. There may be situations where the number/density of ciril buntings is such that planning authorities should refuse planning permission. Where this isn't the case, unavoidable loss of Ciril Bunting habitat will require adequate provision of new habitat to offset the loss incurred on the proposed development land. This document provides clear guidance on how the need for such compensation can be assessed and delivered.

Planning law<sup>2</sup> also requires planning applications to be determined in accordance with up-to-date Development Plan policies, including those that seek to preserve biodiversity (such as S.41 species). These relevant policies are available on respective Local Planning Authority websites. This document amplifies and clarifies the requirements of those policies in respect of the ciril bunting. It is not a supplementary planning document but is seeking approval at Planning

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1. <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

Committee of the following Councils and is a material consideration in determining planning applications:

- Devon County Council;
- Teignbridge District Council;
- Torbay Council
- Discussions are ongoing with neighbouring Councils to seek broader adoption of this guidance.

Cirl buntings along with all wild birds are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) from being killed, injured or captured, and their nests and eggs protected from being damaged, destroyed or taken. Cirl buntings are also listed under Schedule 1 of the Act which makes it an offence to intentionally or recklessly disturb birds at, on, or near an 'active' nest. Disturbance could be caused by human activity or machinery working near the nest and is to be avoided during the breeding season – any clearance of scrub/hedges if undertaken shall be done outside the breeding season.

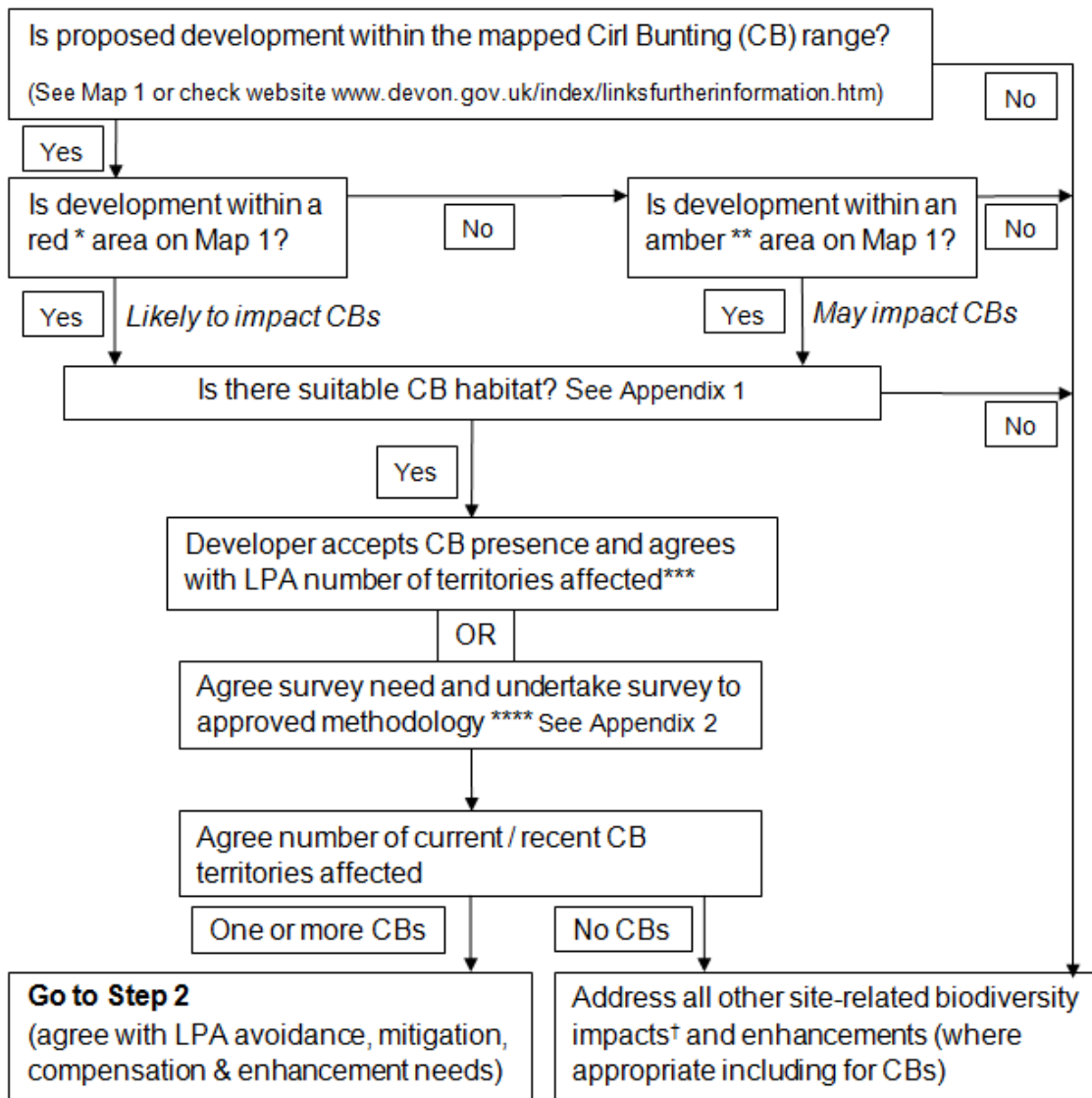
Cirl buntings have a particularly long breeding season and can be actively nesting from mid-April into mid-September. It is the responsibility of any developer to ensure that no breeding cirl buntings are disturbed as part of any built development.

### III Cirl bunting positive planning process

The following six sequential steps shall be followed in order to determine whether a proposal is likely to harm a cirl bunting territory, appropriate avoidance, mitigation, compensation and enhancement measures and, if compensation is needed, its form, scale and delivery.

#### Step 1: Determine whether a proposal affects cirl buntings

The flow chart below shows how cirl bunting impacts must be assessed and addressed before a planning application is made and how.



\* Red areas are where CB breeding has been recorded. If development takes place in this area it is very likely to impact on a breeding territory/territories and/or wintering habitat.

\*\* Amber areas are where CBs may be feeding in winter and could also be breeding. If a development takes place in this area it may impact on breeding territory/territories and/or wintering habitat.

\*\*\* Including by commissioning data search (from RSPB) to identify known CB breeding territories

\*\*\*\* If the approved cirl bunting survey methodology is not followed, the Local Planning Authority may ask for the survey to be repeated.

† For Devon County Council guidance on wildlife in the planning system, see [www.devon.gov.uk/wildlife](http://www.devon.gov.uk/wildlife)

## Step 2: Apply the mitigation hierarchy

Where ciril buntings are relevant to a proposed development, the mitigation hierarchy must be deployed to minimise impacts and achieve net enhancement for the species as set out below. The mitigation hierarchy shall be supported by appropriate plans and strategies as per Step 4.

- i. **Avoid:** Priority shall be given to avoiding loss of or harm to ciril bunting habitat (as detailed in Appendix 1). Retain habitats such as hedges, scrub and grassland and ensure appropriate management. In some cases, the population of ciril buntings present may override the need for the development, and the site left undeveloped in order to conserve the population *in situ* (e.g. where it affects a nationally important population, i.e. 1% or more of the national population; currently 20 or more individuals).
- ii. **Mitigate:** Ensure no nesting habitat (hedges and scrub) is removed during the nesting season. Ciril buntings have an extended breeding season ranging from mid-April to mid-September, though some variation may occur depending on weather conditions.
- iii. **Compensate:** Where there is a residual impact on ciril buntings after applying avoidance and mitigation measures, compensation will be required in accordance with Table 1 (page 10). Onsite habitat creation will only contribute towards compensating for a breeding territory in the rare instance where it is in a suitable location and of a sufficient scale and mix on its own or in combination with adjacent offsite measures to meet the requirements set out in this document. Compensation will be demonstrably additional and further:
  - a) Compensation shall be in a suitable location. Ideally this would be within 250m of the damage to ensure territories affected can move to the compensation habitat. Where this is not possible it should be within the determining planning authority boundary and at a strategic scale as per b) below. All compensation must be within 2km of an existing breeding territory and include spring barley stubbles alongside breeding habitat to ensure a good chance of attracting new breeding pairs (outside of the breeding season, ciril buntings forage within 2km of their breeding territories).
  - b) Compensation shall be at a suitable scale. Managing for one isolated pair is less likely to be successful than managing a larger area for several pairs of ciril buntings. In addition, creating and managing suitable agricultural habitat, particularly arable, within a development is likely to be difficult. On larger sites, e.g. quarries, or where only linear features, such as hedges, are lost it may be possible to achieve a suitable scale of compensation on-site. On most sites, compensatory provision will normally need to be off-site. Wherever possible these should be combined with other compensation areas to achieve larger, joined up and strategic sites such as through the strategic approach set out in Step 3.
  - c) Compensation shall be to an appropriate timescale. Compensation should be provided for the duration of the impact (i.e. in most cases in-perpetuity) and secured prior to commencement. Compensation should also be established several years in advance of the damage to ensure the habitat is suitable.
  - d) Compensation shall follow Steps three to six (pages 10-13).
- iv. **Enhance:** Development proposals should deliver a net gain for wildlife. Where compatible, the habitat creation or restoration required for ciril buntings shall also be designed to meet the requirements of other species and habitats impacted by the development.

Enhancements could also include additional areas of suitable habitat to benefit ciril buntings and other wildlife of conservation concern. Appendix 1 describes suitable ciril bunting habitats.

**Table 1 – Ciril bunting compensation requirements**

Loss	Compensation need
<p><b>Loss of more than 0.7ha</b><sup>3</sup> of suitable habitat within a breeding territory or <b>Loss of less than 0.7ha</b> of suitable habitat within a breeding territory, where there is a <b>high risk</b> of compromising its viability<sup>4</sup></p>	<p>Ordinarily at least 2.5ha<sup>5</sup> suitable habitat per breeding territory lost/ compromised, made up of at least: - 1.13ha of rough grassland - 0.2ha of hedge/scrub and - 1ha<sup>6</sup> of spring barley<sup>7</sup></p>
<p><b>Loss of less than 0.7ha</b> of suitable habitat within a breeding territory, where there is a <b>low risk</b> of compromising its viability.</p>	<p>Suitable habitat at least equal in area and quality to the amount of habitat lost per Breeding Territory compromised.</p>
<p><b>Hedgerow loss</b> only</p>	<p>At least a like-for-like replacement by length of species-rich hedgerow, under sympathetic management and ensure optimal management of remaining hedges.</p>
<p><b>Loss of 1ha or more</b> of suitable habitat supporting a nationally important<sup>8</sup> Wintering Population but no Breeding Territories</p>	<p>At least 2ha<sup>9</sup> of suitable habitat per affected site.</p>

3. 0.7ha of suitable habitat is judged (based on RSPB research – see references in Section 6) an appropriate threshold to assume on average the loss of which would compromise the viability of the breeding territory. This is over half the area of rough grassland that evidence suggests a breeding pair needs to be successful. Breeding ciril buntings forage up to 250m from their nest. Whilst a circle with a radius of 250m has an area of >19ha, in reality ciril buntings are likely to depend on a relatively small area of habitat within the total theoretical area.

4. The LPA will decide, in light of ecological advice, whether a smaller area of habitat loss has a high risk of compromising a territory's viability. This will be informed by the habitat type, scale and location of the proposed loss in relation to the nest and the remaining availability of suitable habitat. RSPB can advise in cases where there is doubt.

5. Research suggests that it is only possible to have confidence that ciril buntings will use compensatory habitat if the full 2.5ha of suitable habitats is created and appropriately managed. Because of the species' secretive nature it is extremely difficult to identify the centre of a territory (the nest site), and therefore to know that the compensatory habitat, even if within 250m of a breeding record, is being provided within an existing territory. In exceptional circumstances where it is possible to have a high level of confidence (as decided by the LPA) that a territory will remain viable, it may be possible to provide less than this. See Appendix 6 for details

6. At least 1ha of wintering habitat is needed to ensure a supply of seeds throughout the winter.

7. Compensatory breeding sites will need to include all aspects of ciril buntings' habitat requirements i.e. tussocky pasture, scrub/hedges and spring barley/winter stubble. RSPB research shows that ciril buntings need a minimum of 1.13ha of rough grassland and at least 0.2ha of hedge or scrub for a successful breeding territory within 250m of arable habitat. Cereals are used for summer foraging but also as winter habitat when left as stubble. It is essential that winter forage (weedy spring barley stubble) is included in the compensation package since this is the land use that will attract ciril buntings in and encourage them to use a site.

8. 1% or more of the national population of ciril buntings (20 or more individuals in 2016).

9. Good spring barley arable habitats take time to establish. It is the associated layer of ground-level weeds that provide the seeds ciril buntings feed on in winter. Where 1ha or more of a nationally important winter ciril bunting site is lost, 2ha of ongoing compensatory spring barley should be provided to help offset the temporal and other risk factors associated with establishing a new high quality spring barley arable habitat. See habitat examples in Appendix 1.

### **Step 3 Contribute to strategic provision**

A developer needing to deliver compensation shall ordinarily make a financial contribution to the relevant LPA, to pool with other such contributions and deliver strategic off-site cirl bunting nature reserves (in accordance with this document). This aggregates habitat creation requirements at a small number of key locations (see Map 2) within the species' range, to achieve population-scale benefits.

Teignbridge District Council has successfully operated such an approach on a number of applications. The contributions required per Breeding Territory compromised is set out in Appendix 5 and may vary across LPA depending on local land values, delivery partners, schemes and detailed specifications. Contributions per Breeding Territory lost or compromised for the following LPAs are:

- Teignbridge - £74,193 (based on 2014 prices and subject to inflation); and
- Torbay - £87,313 (based on 2015 prices and subject to inflation).

### **Step 4 Ensure effective delivery**

Delivering the mitigation hierarchy must be supported by suitable plans / strategies, securing mechanisms and delivery bodies to give confidence in the successful delivery of all necessary measures.

#### **Design and management plans**

Relevant plans and strategies should be produced and implemented in accordance with BS 42020:2013 (Biodiversity – Code of Practice for Planning and Development). In particular:

- Ecological Design Strategies (EDS) as per Clause D.4.3, required to inform the design and implementation of capital works; and
- Landscape and Ecological Management Plans (LEMP) as per Clause 11.1 and D.4.5, required to secure a commitment to on-going long-term management of the habitats provided through the initial capital works.

The detail required will reflect the size and complexity of the proposed measures, but the plans/strategies shall include (adapted from BS42020:2013):

- a) Ecological trends and constraints on site that could influence design and management.
- b) Aims and conservation objectives for the proposed works.
- c) Review of site potential and constraints.
- d) Detailed designs and appropriate management activities for achieving aims and objectives.
- e) Description and evaluation of features to be managed to achieve aims and objectives.
- f) Detailed assessment of biodiversity impacts and how measures will contribute to achieving the policy commitment of net gain for biodiversity. Assessments should use the Defra Biodiversity Offsetting Metric in line with the latest local guidance (see <http://www.naturaldevon.org.uk/biodiversity-offsetting-pilot/>). The RSPB and TCCT financial compensation mechanisms (Appendix 5) will be considered to contribute an uplift in biodiversity units as set out in Appendix 7:
- g) Extent and location/area of proposed works on appropriate scale maps and plans.
- h) Prescriptions for establishment, initial aftercare and long-term maintenance.
- i) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- j) Details for disposal of any wastes arising from works.

- k) Preparation of a work schedule that includes demonstration of how it is aligned with the proposed phasing of development and an annual maintenance work plan capable of being rolled forward over five year periods.
- l) Body or organisation and personnel responsible for implementing the plan/strategy.
- m) Monitoring and remedial measures (see Step 5 below).
- n) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan/strategy will be secured by the developer with their relevant delivery partners.

The plans/strategies must be submitted for approval to the relevant LPA who will assess its viability and fitness-for-purpose.

### **Mechanisms**

Circl bunting compensation and enhancement measures must be secured prior to commencement of development by a suitable mechanism, such as those recommended below. Further mechanisms may be required to secure long-term funding and land security, for example covenants or land charges.

#### ***i. S106 agreement:***

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as S106 Agreements, can be used to secure compensation and enhancement measures, where they meet the legal tests set out in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. As only five S106 Agreements can be pooled to deliver one item of infrastructure, local planning authorities must be careful in their use of this mechanism. (See <http://www.legislation.gov.uk/ukxi/2010/948/part/11/made>). However it is considered that land provided purely to protect and enhance nature conservation value is not “infrastructure” in the context of s.216(2) PA 2008 and therefore not subject to these pooling restrictions.

#### ***ii. Grampian condition:***

A planning condition attached to a decision notice that prevents the start of a development until off-site works have been completed on land not controlled by the applicant (Grampian Regional Council v City of Aberdeen District Council (1984) 47 P&CR 633)). These require a scheme providing for the compensation and enhancement to be submitted and approved by the LPA, prior to commencement. Example condition wording is provided below. The cost calculations of Appendix 5 provide indicative costs of scheme delivery.

The following example condition wording is taken from the Secretary of State’s final decision on 3 September 2013 in respect of an appeal by Bellway Homes (North East) Ltd, Land at Whitehouse Farm, West Moor, Newcastle-upon-Tyne (in North Tyneside). Application ref: 11/02337/FUL. Further standard or model conditions are provided in BS 42020:2013 (Biodiversity – Code of Practice for Planning and Development).

88. No development shall commence unless and until a scheme ("the offsetting scheme") for the offsetting of biodiversity impacts at the site has been submitted to and agreed in writing by the Local Planning Authority. The offsetting scheme shall include:

1. A methodology for the identification of receptor site(s);
2. The identification of receptor site (s);
3. Details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012);
4. The provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and
5. A management and monitoring plan (to include for the provision and maintenance of the offsetting measures in perpetuity).

The written approval of the LPA shall not be issued before the arrangements necessary to secure the delivery of the off-setting measures have been executed. The offsetting scheme shall be implemented in full accordance with the requirements of the approved scheme.

### **Delivery provider**

The agreed compensation and enhancement measures must be delivered by a capable and competent individual or organisation – the delivery provider. Developers, conservation bodies and landowners wishing to be delivery providers will need to demonstrate to the Local Planning Authority how they will deliver and maintain the compensation and enhancement measures, including having the expertise, appropriate finance and long term control of the land. Measures should be designed to compensate for damage to biodiversity for at least the lifetime of the development that is causing the damage, e.g. for residential development this should be in perpetuity given the establishment of the permanent principle of residential use.

## **Step 5 Establish ongoing monitoring and reporting**

Independent monitoring will be a requirement of any compensation, mitigation or enhancement measures delivered via the planning process. Independent monitoring shall be factored into and funded through developer contributions and undertaken to:

- a) Ensure compliance with relevant planning conditions/obligations;
- b) Establish the success and effectiveness of measures undertaken to avoid, mitigate or compensate for impacts and/or to achieve biodiversity enhancements; and
- c) Identify, agree with the decision-maker and implement contingencies and/or remedial actions where monitoring shows proposed measures to be ineffective or not reaching their stated aims and objectives.

Monitoring proposals shall be in accordance with Clause 11.2 of BS42020:2013 and detailed within the approved Management Plan (as above). The independent organisation carrying out the monitoring and feedback advice must be agreed with the Local Planning Authority.

## **Step 6 Enforce against non-compliance**

Where monitoring identifies non-compliance with planning conditions, obligations or licensing requirements, enforcement powers are available and will be used where appropriate by the relevant decision-maker (e.g. local planning authority).



## IV References

Evans, A.D. 1996. The importance of mixed farming for seed-eating birds in the UK. In Pain, D.J. & Pienkowski, M.W. (eds) *Farming and Birds in Europe. The Common Agricultural Policy and Its Implications for Bird Conservation*: 331-357. Academic Press, London.

Stephens D.K., Donald P.F., Evans A.D., Buckingham D.L. & Evans J. 2002. Territory distribution and foraging patterns of ciril buntings (*Emberiza cirilus*) breeding in the UK. *Biological Conservation* **107**, 307-313.

## Appendix 1 – Cirl bunting habitats

References:

- Advisory sheet: [Land management for cirl bunting](#)
- Advice for farmers: <http://www.rspb.org.uk/ourwork/farming/advice>

Cirl buntings favour an extensively managed mosaic of mixed farmland, with fields typically of 2ha and smaller, though this is not always the case as they will use suitable habitat in large fields. They nest in dense cover provided by particularly thick hedgerows or scrub, typically foraging within 250m of the nest. In the summer months they rely on extensively managed grassland (often cattle grazed) and field margins/corners for invertebrates, particularly grasshoppers and crickets. In the winter they forage in cereal stubbles, particularly those from spring-sown barley. Other winter habitats include wild bird seed crops, stubble turnips, fallows, field margins and game cover that have an open structure that allows the birds to access the seeds. They feed on seeds from broad-leaved weeds such as fat hen, chickweed and annual meadow grass. They winter usually within 2km of breeding habitat and cirl buntings can use a number of sites during the winter. As well as arable habitats, they may also use rough grassland, pasture fields where stock is over-wintered and fed with grain or hay or gardens.

**Table 2: Summary of the habitats and management required by cirl buntings**

Habitat type	Function	Ideal Outline Management
Rough, tussocky semi-improved grassland supporting invertebrates	Summer foraging	Cattle or mixed grazing. Management regime necessary to maintain access to the ground for foraging birds and a sward suitable for grasshoppers. Must have good surrounding hedges or dense areas of scrub e.g. gorse or bramble.
Species rich UK BAP priority grassland habitats (including coastal grasslands).		
Arable field margins/field corners	Summer foraging	Rough grassland, cut on rotation. Some areas retained uncut each year. Other areas are cut during the growing season to allow bird's access to the ground to forage.
Low-input spring cereals and winter stubbles, usually barley	Summer and winter foraging	Birds will forage for insects during summer, often take fledged young into crops. Retained as overwintered stubble through until April. See agri-environment description for further information. Must have good cover, hedges/scrub around field. Most likely to be within 2km of an existing breeding territory to be used in winter.
Wild Bird Cover crop	Winter foraging	Crop grown specifically for a winter food source for cirl buntings. Example mix: Spring barley (80%), millet and quinoa (20%). Dense growing crops such as kale are not suitable. Established annually after mid-April. Must have good hedges/scrub around field. Most likely to be within 2km of an existing breeding territory.
Scrub	Nesting	Gorse, bramble, blackthorn – managed on rotation to maintain suitable nesting habitat and to create open areas within the scrub good for foraging. Needs to be within an area of summer foraging habitat.
Hedgerows	Nesting	Traditional hedge, thick with dense vegetation such as blackthorn, hawthorn, bramble. Must have a sympathetic

		cutting regime, i.e. not regularly flailed or cut every year and only cut in winter as they can nest into September.
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## **Examples of cirl bunting breeding and summer foraging habitat**



## Examples of cirl bunting winter foraging habitat



Photos: RSPB

## **Appendix 2 – Survey methodology to establish cirl bunting presence on a site**

### **1. Introduction**

The following survey methodology has been designed to give an indication of number of cirl bunting territories on site but many factors such as observer experience, weather conditions and territorial behaviour or lack of it can influence how successful this will be. Cirl buntings when breeding can be very quiet and elusive, particularly isolated pairs where singing can be infrequent. A data search (contact RSPB direct) before surveying the site should be undertaken to give an indication of the historic use of the site. Cirl buntings are very site faithful. However, the national surveys are undertaken from public rights of way so inaccessible sites are less likely to have any data available. So a lack of data does not mean cirl buntings are not present if the habitat is suitable, especially if the site is within 2km of known breeding pairs.

Cirl bunting surveys should be undertaken on sites with suitable habitat within 2km of the known breeding range of cirl buntings. Map 1 shows where cirl bunting territories have been recorded (red area) and where they may occur (orange area) as it is within 2km of breeding territories. Note that our most comprehensive data on cirl buntings is based on the most recent national survey in 2016 and any additional reliable sightings since. It is possible that cirl buntings may be present in other areas.

All surveys, the interpretation of data and subsequent ecological reports should be undertaken and prepared in accordance with Clause 6 of BS42020:2013.

### **2. Note to ecological consultants/developers/local authorities**

The RSPB expects cirl bunting surveys over an entire breeding or wintering season (or both, as appropriate to the habitat of the site) to follow the most recent edition of this methodology. This means that all visits for a breeding survey need to be in the same year, and that all visits for a wintering survey need to be in the appropriate months of one single winter season i.e., in the end months of one year and in the early months of the following year.

Failure to carry out cirl bunting surveys where recommended, or surveys that do not follow this methodology may result in an RSPB objection to the related planning application.

The RSPB will review this guidance annually and circulate any revisions prior to the onset of a breeding season (and will confirm the date of the most recent edition on request).

### **3. Habitat Survey**

Before any species surveys are undertaken, habitats on site should be assessed and mapped to identify areas potentially suitable for cirl bunting. For details of important habitats and how to identify them, please see Appendix 1.

### **4. Breeding Survey**

To establish how many cirl buntings are utilising a site, detailed observations over a single breeding season (i.e., visits in the recommended months made in the same year) will be required. However, it is not necessary to locate or examine nests; this is both highly disturbing to cirl buntings and not needed to assess importance of a site for cirl buntings and also illegal without a specific disturbance licence from Natural England (NE). Whilst every effort should be

made to avoid disturbance, it is recommended that surveyors obtain a Natural England licence for this Schedule 1 species.

Cirl buntings can be difficult to survey, particularly at low breeding densities, so it is important that the work is carried out by a competent ornithologist, preferably with previous experience of cirl buntings. If the surveyor has no or little experience with cirl buntings a prior visit to a site with high densities, such as Labrador Bay - <http://www.rspb.org.uk/reserves/guide//labradorbay/about.aspx> - should be undertaken to gain experience of the species, particularly its calls which are invaluable in locating them.

Any additional surveys (habitats/species including other bird surveys) should be done separate to the cirl bunting survey.

Information required:

- Presence of cirl bunting
- Number and approximate location of breeding territories
- Habitat location and use
- Any constraints to survey (e.g. access limitations to areas of apparently suitable habitat, survey effort not according with RSPB recommendations).

## 4.1. Survey method

A minimum of five survey visits between mid-April and the end of August are required and all these visits need to be in the same year. At least two should be in mid-April-May and two in June-August. At least one visit must be after mid-August as this is a good time to detect family parties. Ideally there should be a sufficient gap between each visit, e.g. c2 weeks. More visits would help to build a complete picture of bird use on the site, or if there is a high concentration of pairs. Territories can overlap and singing males are known to use the same singing posts as their neighbours. It is vital to ensure that simultaneous registrations are recorded. Nests can be within 100m of each other which makes assessing number of pairs difficult. In cold springs breeding activity may be delayed and birds can still be in loose flocks in April and early May. However, this will still give an indication of where birds may subsequently go on to nest.

The duration of each visit (which should be recorded) will depend on the size and features present at each individual site. It is recommended that at least 5 minutes is needed per hectare surveyed plus 45 minutes per site.

For example

1 ha site = 45 minutes + 5 minutes = total time on site 50 minutes.

20 ha site = 45 minutes + (20x5 minutes = 100 minutes) = total time on site 145 minutes.

A site of up to 50ha of suitable habitat would require almost 5 hours.

Avoid poor weather conditions, specifically heavy rain, poor visibility and strong winds (greater than Force 4), as bird activity and detectability will be much reduced. Complete a single visit in a single morning.

The site should be mapped and a route taken that approaches to within 10m of every hedge or suitable area of scrub on the survey area. This route should also be mapped and should be walked slowly to aid detection. Vary the direction of the route walked between visits. All hedgerows and areas of scrub will need to be walked on each visit. The survey should preferably be carried out in the morning after sunrise and before 1100hrs. However, cirl

buntings can be active at all times of day so timing could vary between visits as long as the majority of visits are undertaken in the morning. Avoid between 1100 and 1500hrs.

The song of the male may be audible from up to 500m on a calm day. It is best described as a slightly accelerating, rattled trill lacking rhythm. It can resemble that of greenfinch, wren, yellowhammer and lesser whitethroat with individual males varying the quality and tone of the song though not the general structure during a bout of song. Their other calls, heard only at close range, are more difficult to pick up without previous knowledge and experience, but these are often the best way of detecting birds so it is vital surveyors know these calls. The commonest call is a sharp, thin, quiet 'tsip' very like that of a young robin: this call is often given in flight. Other calls, including alarm and contact calls, are similar and inconspicuous. The calls of chicks and recently-fledged young are distinctive and can be useful in identifying breeding sites. The calls are similar to those of adults, though are more frenetic and typically comprise two or more staccato notes given in quick succession, rather than just the single note given by the adult.

For records of ciril bunting song and calls, follow these links:

<http://www.xeno-canto.org/species/Emberiza-cirlus>

<http://sounds.bl.uk/Environment/British-wildlife-recordings/022M-W1CDR0001391-1700V0>

<http://www.rspb.org.uk/discoverandenjoynature/discoverandlearn/birdguide/name/c/cirilbunting/index.aspx>

<http://www.british-birdsongs.uk/ciril-bunting>

Territories can overlap or be very close. For example, nests can be within 100m of each other. In addition, where they are at a low density they may sing intermittently and could easily be missed. Singing males are known to use the same singing posts as their neighbours, or do not necessarily sing at each other, making assessing number of territories difficult. Singing birds will often stop singing when approached. If birds are heard singing from different locations but not all at the same time do not assume this is the same bird moving around. They will often sing at different times to each other. If you have not seen birds flying between song posts, sit and wait for singing to resume and see if it can be determined if these are different birds. Ensure that you record simultaneous singing or calls on the map, as well as movements of individual birds.

If birds have not been picked up on early visits, spend 45-60 minutes in suitable breeding habitat to pick up birds that may be being inactive and quiet. This can happen when there is a very low density of birds. Ciril buntings can be extremely unobtrusive and can spend time just sitting quietly in hedges so it is important to spend time in suitable areas and not just walk through. Change the location of where time is spent on different visits.

If birds are suspected of nesting off the site but foraging within the site boundaries, this information is equally important. For this reason it would be useful to survey within 250m of the site boundary (this can be done by scanning from the survey site boundaries but ideally by walking suitable habitat in this 'buffer' zone if access is possible) and record any birds seen just off site.

Use separate maps at an appropriate scale (e.g. 1:2500) for each visit, or use a different colour to indicate different visit dates. On each map note the visit number, date, times, observer and

weather (e.g. Visit 1, 21/04/14, 0730-1100 BST, observer: JW, weather: cool, bright and wind speed force 2).

On each visit, map the location of every cirl bunting, indicating its behaviour with the appropriate BTO behaviour code (see Appendix 3). Use separate maps for each visit or use a different colour to indicate different visit dates. The most important point to concentrate on is the location of individuals which are recorded at the same time. For example, three males singing simultaneously indicates three separate territories.

## 4.2. Interpretation of data

After the final visit, put all the sightings on a separate 'summary' map and circle the cluster of sightings considered to be from each territory on the site. From this the minimum number of territories using the site can be assessed. Retain field maps as well as final season maps to submit to the local planning authority with the application. Record as much detail as possible, such as the age and sex of each bird.

A cluster is, in general, a spatially distinct group of registrations, in which not more than one male and female are represented. However, as already said, cirl buntings are not always easy to pick up. For example, if a singing male has been recorded on more than one visit an assumption that he is part of a breeding pair should be made. Normally there should be at least two registrations per cluster for the series of visits, unless conditions on other visits were not ideal. However, as cirl buntings are so elusive and may move between nesting attempts (i.e. to just off site), if birds are seen in appropriate nesting habitat on just one occasion then record as possible breeding.

A single record of a nest containing eggs or young (but note that nest finding is not required as part of this survey and illegal without the relevant licence), an adult carrying nesting material or food, or recently fledged young can be counted as a territory with confirmed breeding. As cirl buntings can nest within 100m of each other, territories can be close together and in fact overlapping. This is something that needs to be considered when interpreting data. They typically forage within 250m of the nest, but this can occasionally be further. Using this as a basis, a pair of cirl buntings may range over 19ha during the breeding season.

Records of more than two birds together, other than pairs or juveniles, should be treated as belonging to more than one cluster. If a group of birds show any sign of aggression, then it would be reasonable to put them on the boundary between clusters. If during field-work two records fall very close together on a single visit, it is worth another few minutes of waiting to see if they are from two different birds.

Ideal clusters show both a series of registrations of territorial behaviour spanning most of the visits and dotted lines (indicating birds recorded simultaneously and therefore indicative of separate territories) radiating out to neighbouring clusters (see Appendix 4). However, in reality, map analysis can involve a certain amount of subjectivity in interpretation. It is therefore important to retain field maps as well as final season maps as these may be required to explain interpretation of data and to justify the number of territories considered to be using the site.

It is important to remember that the boundaries drawn around clusters, although useful in understanding the number of territories on the site, do not represent the limit of where the birds range and should therefore not be used for this. To understand how the birds use the site through the season would require far more detailed and more frequent observations.



The interpretation of behaviour to assess breeding<sup>10</sup> is as follows:

Possible breeding	Probable breeding	Confirmed breeding
<ul style="list-style-type: none"> <li>Bird recorded in suitable breeding habitat</li> <li>Singing male</li> </ul>	<ul style="list-style-type: none"> <li>Pair in suitable nesting habitat</li> <li>Territorial behaviour</li> <li>Display</li> <li>Visiting probable nest site</li> <li>Agitated behaviour</li> <li>Carrying nesting material</li> </ul>	<ul style="list-style-type: none"> <li>Adult carrying faecal sac or food for young</li> <li>Recently fledged young</li> <li>Chicks heard</li> </ul>

It is not necessary to have evidence of confirmed breeding to know that a site is important for the species. Records of birds exhibiting behaviours for possible and probable breeding in suitable habitat in the breeding season indicate that a site has importance for ciril buntings.

### 4.3. Breeding Survey Summary

- Map habitats on site (see Appendix 1).
- Undertake 5 survey visits: at least two in mid-April-May, at least two in June-August (including one visit after mid-August), with all visits made in the same year.
- Map route taken, weather and time spent on site for each visit.
- Map all sightings and behaviour – retain field maps as well as final territory map.
- Interpret sightings on a final territory map – assess minimum number of territories on site.

## 5. Winter Survey

Ciril buntings will move up to 2km to find favourable foraging habitats, mainly winter stubble. They can use several different sites throughout the winter. To identify if a site is used by ciril buntings, regular systematic searches are required. All visits should be made in the same winter season, i.e., in the recommended months at the end of one year and the beginning of the following year.

Information required:

- Presence of ciril bunting
- Maximum numbers using site
- Habitat locations
- Foraging areas
- Any constraints to survey (e.g. access limitations to areas of apparently suitable habitat, survey effort not according with RSPB recommendations).

### 5.1. Survey method

Map suitable habitats on the site (for details of what habitats ciril bunting use in winter see Appendix 1).

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10. Balmer, D.E., Gillings, S., Caffrey, B.J., Swann, R.L., Downie, I.S. & Fuller, R.J. 2013. *Bird Atlas 2007-11: the breeding and wintering birds of Britain and Ireland*. BTO Books, Thetford.

The site should be checked at least 4 times over a single winter period (October-March), i.e. visits should be in the recommended latter months of one year and the early months of the following year. Two visits should be before Christmas and two after. Visits should be spread over the winter period, with each visit in a different month. Surveys should be undertaken in the morning one hour after sunrise as this is when the birds are most actively foraging. Leave at least 10 days between each visit. The duration of each visit will depend on the size and features present at each individual site, but as a guide 10ha should take 1 hour. Avoid poor weather conditions, specifically heavy rain, poor visibility and strong winds as bird activity and detectability will be much reduced.

Ensure survey route takes you with 10m of each field boundary. Cirl buntings are unlikely to feed in the middle of large fields but may do if there are patches of scrub/cover. Surveyors should be familiar with calls made by cirl buntings as this is often the way they are picked up. If birds are flushed, take note of where they fly to and record on field maps to help avoid double counting.

Though there can be several species feeding in the same fields, cirl buntings often stick together rather than join mixed flocks, though this is sometimes the case.

The maximum number of birds seen on the site on any one visit should be reported along with where they were feeding.

## 6. Disturbance

Cirl buntings are protected under Schedule 1 of the Wildlife and Countryside Act (1981). Breeding birds and their nest sites should NOT be disturbed unless an appropriate licence is held. For details on appropriate bird licenses visit - <https://www.gov.uk/government/collections/bird-licences>. Please note that searching for nests is NOT part of this survey.

## 7. References

Balmer, D.E., Gillings, S., Caffrey, B.J., Swann, R.L., Downie, I.S. & Fuller, R.J. 2013. *Bird Atlas 2007-11: the breeding and wintering birds of Britain and Ireland*. BTO Books, Thetford. ISBN 978-1-908581-28-0.

Bibby, C.J., Burgess, N. D., Hill, D. A. & Mustoe, S. H. 2000. *Bird Census Techniques*. 2nd edn. Academic Press, London.

Gilbert G, Gibbons D W and Evans J (1998) *Bird Monitoring Methods: a manual of techniques for key UK species*. RSPB, Sandy. ISBN 1-901930-03-3.

Mackenzie, D.I., Nichols, J.D., Lachman, G.B., Droege, S., Royle, A. and Langtimm, C.A. (2002). Estimating site occupancy rates when detection probabilities are less than one. *Ecology*, 83:8. pp. 2248–2255.

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**14 June 2017**

*To be reviewed annually. Contact RSPB for up to date version.*

## Appendix 3 – BTO behaviour codes

Standard symbols for bird activities.

The standard BTO list of conventions is shown. These are designed for clear and unambiguous recording. Symbols can be combined where necessary. Additional activities of territorial significance, such as displaying or mating, should be noted using an appropriate clear abbreviation.

CH, CH♂, CH♀ 3 CH juvs, CH♂1♀	Chaffinch sight records, with age, sex or number of birds if appropriate. CH♂ indicates one pair; 2CH♂ means two pairs together.
R fam	Juvenile Robins with parents(s) in attendance.
<u>R</u>	A calling Robin
<u><u>R</u></u>	A Robin repeatedly giving alarm calls or other vocalisations (not song) thought to have strong territorial significance.
(R)	A Robin in song
RR	An aggressive encounter between two Robins.
* R	An occupied nest of Robins; do not mark unoccupied nests, which are of no territorial significance by themselves.
* BT	Blue Tits nesting in a specially provided site (e.g. nest-box)
* PW on	Pied Wagtail nest with an adult sitting.
PW mat	Pied Wagtail carrying nest material
PW food	Pied Wagtail carrying food.

Movements of birds can be indicated using the following conventions:

- GR →	A calling Greenfinch flying over (seen only in flight)
(D) →	A singing Dunnock perched then flying away (not seen to land)
→ B♂	A male Blackbird flying in and landing (first seen in flight)

The following conventions indicate when registrations relate to different birds, and when to the same bird. Their proper use is essential for the accurate assessment of clusters.

WR → WR

A Wren moving between two perches. The solid line indicates it was definitely the same bird.

(WR) --- (WR)

Two Wrens in song at the same time, i.e. definitely different birds. The dotted line indicates a simultaneous registration and is of very great value in separating territories.

\* Li --- \* Li

Two Linnets nests occupied simultaneously and thus belonging to different pairs. This is another example of the value of dotted lines. Only adjacent nests need be marked in this way.

(CK) — (CK)

The solid line indicates that the registrations definitely refer to the same bird.

(SD) ? — (SD)

A question-marked solid line indicates that the registrations probably relate to the same bird. This convention is of particular use when the census route returns to an area already covered—it is possible to mark new positions of (probably the same) birds recorded before, without the risk of double recording. If birds are recorded without using the question-marked solid line, overestimation of territories will result.

(WR) WR mat

No line joining the registrations indicates that the birds are probably different, but depending on the pattern of other registrations they may be treated as if only one bird was involved. (It is possible to use a question-marked dotted line, indicating that the registrations were almost certainly of different birds.)

C\* C\*

Where adjacent nests are marked without a line, it will often be assumed that they were first and second broods, or a replacement nest following an earlier failure.

In all cases the standard BTO codes for British birds should be used.



## Appendix 5 – Cirl bunting compensation cost calculations

The cost of delivering compensation measures may vary across Local Planning Authorities depending on local land values, partners, schemes and specifications. The following sets out agreed financial contributions that are in place for Teignbridge (Section 1), at 2014 prices and Torbay (Section 2), at 2015 prices. Section 3 shows estimated costings for a landowner/developer providing the mitigation for a breeding territory themselves, at 2014 prices. All figures shall be updated for inflation.

When calculating contributions for impacts on a nationally important Wintering Population but no breeding territories, apply an area-based proportion to the breeding territory rates set out below. For example, if 1ha of suitable habitat is lost then, according to Table 1, at least 2ha of compensation is needed which in Teignbridge equates to £59,354 where a contribution of £74,193 provides for 2.5ha of breeding territory compensation.

### 1. Teignbridge District Council - financial contribution to compensate for one cirl bunting breeding territory

Contribution covers land purchase for nature reserve and RSPB management and monitoring costs for first 5 years with subsequent costs being met by RSPB reserve management budget.

#### Land purchase costs

Land price	@£23,000/ha (arable) x 2.5	£57,500
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#### Site setup costs

Incl. grassland creation, arable creation, fencing, gates, hedge planting etc.	£2,500
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TOTAL Capital costs	<u>£60,000</u>
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#### Annual Management costs (using figures for payments available under Higher Level Stewardship)

<http://publications.naturalengland.org.uk/publication/2827091>

Hedge maintenance	£ 540.00
Hedge laying/planting = 100m a year	£ 700.00
Grassland management	£ 146.90
Combination of low input spring cereal and over-wintered stubbles	£ 370.00
6m grass buffer strip around arable	£ 81.60
Total	£1,838.50/year

#### Annual Staff Costs

Monitoring by RSPB staff during site management visits (5 site visits during summer at 60mins each and 4 visits during winter at 20mins each) = 1 day

Admin for site, arranging work/contractors/dealing with tenants etc. = 3 days

Total of 4 RSPB staff days per year @ £250/day	£1,000/year
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TOTAL Revenue Costs per Year	<u>£2,838.50/year</u>
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#### Summary costs

Purchase/habitat creation costs	£60,000
Annual costs (annually for 5 years*)	£14,193

<b>Total cost</b>	<b><u>£74,193</u></b>
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\*Under this scenario, following the first 5 years, the RSPB funds ongoing management.

## 2. Torbay Council - financial contribution to compensate for one cirl bunting breeding territory

Contribution covers Torbay Coast and Countryside Trust (TCCT) management and monitoring costs for 25 years. TCCT has every intention to continue to manage the land in accordance with an agreed Scheme of Management until the expiry of its current lease in 2060. This calculation includes a 2% capitalisation cost (inflation and loss of interest payments).

**Table 3: Scheme costs based on habitat provision for an additional six pairs of cirl buntings at Cockington by TCCT**

Works Category	Costs	
<b>Setup Costs</b>		
Fences, Gates and Water Supply	£50,206	
Stock Purchase	£3,960	
<b>Total Setup Costs</b>	<b>£54,166</b>	
<b>Infrastructure Replacement Costs</b>		
Fences, Gates and Water Supply	£144,379	
		Capitalised @ 2%
<b>Total Infrastructure Replacement Costs</b>	<b>£144,379</b>	<b>£113,783</b>
<b>25 yr. Running Costs</b>		
Grassland Management	£151,346	
Hedgerow Management	£166,526	
Arable Management	£123,770	
Management of Grass Margins	£2,513	
Winter feeding	£7,613	
Monitoring of cirl bunting numbers	£4,004	
		Capitalised @ 2%
<b>25 yr. Running Costs</b>	<b>£455,771</b>	<b>£355,929</b>
Average Annual Running Costs	£18,231	£14,237
<b>TOTAL for 6 pairs (Setup, Infrastructure Replacement &amp; Running Costs)</b>	<b>£654,316</b>	<b>£523,878</b>
<b>Scheme cost per pair of cirl buntings</b>		<b>£87,313</b>

Note that this cost is based on an agreed Scheme of Management for habitat provision for an additional six pairs of cirl buntings at Cockington for at least 25 years. One contribution is already secured through a s106 agreement leaving compensation for five pairs currently available.

A similar Scheme of Management is being developed for TCCT managed land at Maidencombe.

### 3. Cost of developer/landowner delivery of compensation for one cirl bunting pair

Contribution covers ongoing management and monitoring of land only.

#### Site setup costs

For example grassland creation, arable creation, fencing, gates, hedge planting etc.

TOTAL Capital Costs £2,500

#### Annual Management costs using figures for payments available under Higher Level Stewardship)

<http://publications.naturalengland.org.uk/publication/2827091> Hedge maintenance

£ 540.00

Hedge laying/planting = 100m a year	£ 700.00
Grassland management	£ 146.90
Combination of low input spring cereal and over-wintered stubbles	£ 370.00
6m grass buffer strip around arable	£ 81.60
Total	£1,838.50/year

#### Annual Monitoring Costs

Monitoring by ecologist (5 site visits during summer at 60mins each and 4 visits during winter at 20mins each plus travel time) = 4.5 days Site visits to check habitats 2 days

Total of 3 consultant days per year @ £350/day

£2,275/year

TOTAL Revenue Costs per Year

£4,113.50/year

#### Summary costs

Habitat creation costs £ 2,500

Revenue costs for 80\* years £329,080

**Total cost\*\* £331,580**

\* 80 years represents an approximation of in perpetuity.

\*\* At 2014's prices – no allowance has been made for inflation over this period.

## Appendix 6 – Cirl bunting habitat requirement justification

### 1. Introduction

The recommendations expressed in this document are based on the most current scientific evidence and the experience from 25 years of habitat delivery through the RSPB/Natural England Cirl Bunting Recovery Project.

The ecology and habitat requirements of cirl buntings are well known (Evans, 1997). They nest in thick hedges or scrub such as bramble or gorse. In summer, they mainly forage for invertebrates in semi-improved/rough grassland and, in winter, they forage for seeds mainly in stubble fields. They are also known to forage in cereal fields during summer, both to collect invertebrates (especially from spring-sown crops) and to collect grain of the crop when wet or cool weather makes it difficult to find invertebrates. Cirl buntings are a resident and relatively sedentary species, typically moving no more than 2km between breeding and wintering areas. Conservation action has mainly involved the delivery of key habitats through agri-environment schemes which has led to a significant increase in the cirl bunting population (Peach et al 2001). Despite this increase the UK cirl bunting population continues to be restricted mainly to south Devon and is therefore vulnerable.

It is important that compensation habitat, if it is to be successful, can support the critical year-round needs of the required number of pairs of cirl buntings: hedges/scrub, appropriate grassland and spring barley left as stubble.

### 2. Compensation Requirements

Based on years of quantitative research in South Devon, the authors conclude that, to adequately compensate for the loss of habitat associated with one pair of cirl buntings, it is necessary to provide at least 2.5ha of appropriately managed habitat.

The 2.5ha for a single cirl bunting pair should comprise as follows:

#### **2.1. Semi-Improved / Rough Grassland (summer feeding habitat) – minimum 1.13 ha**

The amount of rough grassland recommended is derived from average habitat parameters measured in the study reported in Stevens et al (2002). This found that cirl bunting territories contained an average of 1.13 ha of rough grassland. It should be noted that study sites are likely to have been high functioning sites with good concentrations of breeding cirl buntings and therefore high quality grassland habitats (i.e. having a history of low fertilizer inputs, low grazing/mowing intensity and consequently high invertebrate abundance). In most cases, grassland compensation sites are unlikely to be of such high quality and will need time to develop and there could be a case for increasing the area of grassland habitat provided. However, for now it is assumed that some summer foraging habitat will be provided by arable and the margins of hedge/scrub habitats. It is recommended that grass margins are provided around the arable component of the compensation habitat and these can count towards grassland provision.

#### **2.2. Hedge / Scrub (nesting habitat) – minimum 0.2 ha**

Mature and properly managed hedges should provide suitable nesting habitat. Our recommendation is for a minimum of 0.2 ha of hedge/scrub habitat (which could equate to c1000 metres of hedge that is approximately 2 metres wide, or 0.1ha of scrub and 500m of 2m wide hedge) as adequate to provide nesting habitat for one cirl bunting pair. Hedgerows must



be appropriately managed to provide the thick bushy conditions that nesting ciril buntings favour: this carries an expectation that ongoing rotational hedge management will render some of the available hedgerow unsuitable for nesting in some years. Hedges are important for cover throughout the year and it is also essential that winter cereal stubbles have suitable surrounding hedges, as ciril buntings rarely forage further than 30m from cover (Evans 1997). A large proportion of nests are known to have both rough grassland and arable habitats within 250m (Stevens et al 2002), showing the importance of a mixed farmland landscape for this species. Stevens et al (2002) found a strong positive influence of non-linear scrub (young gorse and bramble within grassland) on ciril bunting territory distribution. If scrub is present or can be encouraged within the grassland, it will be very beneficial.

### **2.3. Weedy Overwinter Stubble (winter feeding habitat) – minimum 1 ha**

This 1ha minimum is based on research reported in Peach & Wotton (2010). This indicates that 1 ha of Environmental Stewardship's special barley option (spring sown barley harvested in autumn and left as a weedy winter stubble until end of March) per 1km square supports on average 1.7 pairs of ciril buntings. It is important that this winter habitat provides a seed source that will last throughout a winter. If spring barley is not appropriate then a barley-based unharvested crop may be considered, but this will still need to be at least 1ha in area.

When chick rearing, ciril buntings will forage for ripening grain (and for some invertebrates) in cereal crops and a high proportion of nests are within 250m of arable land. In addition, the winter stubble is important to attract ciril buntings to a new site and is therefore a critical component of any compensation scheme. Providing less than 1ha of arable can be problematic from a management point of view, as it provides little resilience against management error or crop failure.

### **2.4. Total Area of Compensation Habitat – minimum 2.5ha**

The individual habitat areas in 1) to 3) above total a minimum provision of 2.33 ha. However, the individual area totals are the minimum areas required and assume high quality habitats are provided. While ciril buntings can occur at a density of 2.5 pairs or more per ha, those situations are the exception, not the norm. They are usually associated with the highest quality habitats and most suitable landscapes.

When new habitat must be created for ciril buntings – as is the case with provision of compensation for developments – average habitat quality is likely to be lower. A larger amount of land is therefore needed to provide an amount of habitat that has a high chance of supporting a viable local ciril bunting population.

Hence at least 2.5ha of compensatory habitat should be provided for each compensated pair of ciril buntings. Particularly, it is recommended that more grassland than the minimum of 1.13ha is established where possible. It will take time for some habitats to establish and become functional.

### **2.5. Location**

The location of compensation habitat needs to be carefully considered. For compensation to be successful there has to be a high probability of ciril buntings finding the site. Ideally compensation sites should be within 1km of a healthy ciril bunting population, as Peach et al

(2001) showed that new agri-environment agreements more than 1km from an existing territory were less likely to be colonised. Two kilometres is the maximum distance the species will typically travel, so compensation must be delivered at least this close to established breeding pairs. The overall scale of compensatory habitat provision is also likely to be important and we therefore advocate locating compensation sites next to one another; managing for one isolated pair is less likely to be successful than managing a larger area for several pairs of ciril buntings. On a practical basis (based on our experience of the Ciril Bunting Recovery Project) larger blocks of land, in particular arable, are often easier to manage than smaller blocks.

### 3. Summary

We are confident that providing the habitat areas recommended in this document, coupled with appropriate ongoing management, provides a strong basis for compensating for ciril buntings lost through development. Providing smaller habitat areas would seriously reduce the likelihood of long-term occupancy by ciril buntings. Pooling compensation and providing larger areas of adjoining habitat is strongly recommended because larger sites:

- can accommodate more sustainable populations
- Are more resilient to management practices and unforeseen problems that might render some habitats unsuitable in some years (e.g. permits arable rotations or hedge restoration)
- Are usually cheaper to manage per ciril bunting pair. Are more likely to attract newly-colonising ciril buntings

This approach also fits with the principles of “*more, bigger, better and joined*” set out in the Lawson report.

The success of compensation for ciril buntings delivered through the planning process needs to be monitored. This can add to our understanding of delivering ciril bunting habitat and be used to review the proposals set out in this document. It is recommended that this review happens by 2025.

January 2016

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Cath Jeffs (Ciril Bunting Project Manager, RSPB)  
Phil Grice (Senior Specialist - Ornithology, Natural England)

### 4. References

Evans AD (1997) Ciril Buntings in Britain. *British Birds* 90 (7): 267-282.

Peach WJ, Lovett LJ, Wotton SR & Jeffs C (2001) Countryside Stewardship delivers ciril buntings *Emberiza cirilus* in Devon, UK. *Biological Conservation* 101:361-373.

Peach and Wotton (2010) *Effects of Environmental Stewardship on the distribution and population changes of ciril buntings and other farmland birds in south Devon* (RSPB report to Defra, Defra project code BD5202).

Stevens, Donald, Evans, Buckingham and Evans (2002) *Territory distribution and foraging patterns of ciril buntings breeding in the UK* in *Biological Conservation* 107: 307-313.

Making Space for Nature: A review of England's Wildlife Sites and Ecological Network  
Chaired by Professor Sir John Lawton CBE FRS. Submitted to the Secretary of State, the  
Department for Environment, Food and Rural Affairs on 16 September 2010

## Appendix 7 – Biodiversity unit gain from financial contribution

National and local planning policy seek net gain for biodiversity from development. Policy compliance can be demonstrated, in part, by the use of the Defra Metric (<http://bit.ly/1We3PAQ>) to quantify the net impact of development. Calculations assess the impacts in terms of biodiversity units and a net gain is considered to be a positive net impact of greater than zero.

This document provides guidance on how the cirl bunting shall be considered through planning. Offsite habitat enhancements to compensate for impacts on cirl bunting (including through the payment of a financial contribution) may also achieve an uplift in biodiversity. This can again be quantified using the Defra Metric. This uplift can be considered against any net impacts of onsite biodiversity measures to demonstrate net gain.

For example, a development proposal includes onsite measures resulting in a net loss of biodiversity. The proposal also results in the loss of one cirl bunting breeding territory and agrees a suitable compensation payment for offsite habitat enhancements. If the offsite enhancements result in both the necessary cirl bunting gain and an uplift in biodiversity units, then the proposal can be considered to have achieved net gain if the onsite loss is less than the offsite gain in biodiversity units.

This assumes no other wildlife impacts and does not take account of impacts on protected or (other) priority species and protected sites.

This appendix sets out how much biodiversity unit gain is expected to be achieved from strategic provision (Step 3) by RSPB and TCCT, funded through financial contributions (Appendix 5). Should the developer choose to deliver the compensation through another approved delivery provider then a bespoke assessment may be required.

### Useful sources of information:

The calculations made in this Appendix are based on the Defra metric and use the Warwickshire excel spreadsheet-based calculator. The calculator and guidance on its use is available from <http://www.warwickshire.gov.uk/biodiversityoffsetting>. Other calculators are available.

Guidance on offsetting was produced for South Devon in 2014 as part of Defra's pilot. This is due to be updated and a single recommended calculator provided for the entire county. In the meantime the South Devon guidance is available from <http://www.naturaldevon.org.uk/biodiversity-offsetting-pilot/>.

### Assumptions:

The calculations are based on hypothetical scenarios taking details set out in this document into account. The following specific assumptions have been made:

- Habitat areas are measured up to the centre point of the field boundary
- Baseline habitats are all in poor condition:
  - o 1.1ha intensively managed arable
  - o 1.4ha Improved or Poor Semi-Improved grassland
  - o 0.8km intact species poor or rich hedge without trees
- Proposed habitats are expected to reach moderate condition within timescales specified.
  - o 1.1ha low input spring barley; immediate
  - o 1.3ha tussocky, insect-rich but still improved or Poor Semi-Improved grassland; within 5yrs

- 0.8km intact species poor or rich hedge without trees but allowed to grow bushy and tall with rotational management; within 5yrs
- 0.1ha scattered scrub
- The calculation assumes that management changes have resulted in enhanced condition for the habitats but that they remain the same as the baseline with the exception of some additional scattered scrub on the grassland. The scrub is assumed to be planted into the grassland with a gradual transition to its target habitat and therefore considered to be enhancement of the grassland rather than loss and then creation.
- Defra guidance on the use of the metric would not normally support the use of low Distinctiveness habitats on offset sites. However the South Devon Biodiversity Offsetting Guidance recognises the ciril bunting as a strategic priority for targeting offsets and the wider wildlife benefits of two particular habitats - low input spring sown arable and tussocky insect rich grassland. The guidance therefore assigns a condition enhancement for these habitats over the baseline low distinctiveness habitats of intensive arable and improved grassland. These measures are therefore assumed not to be considered as trading down.
- Habitats of higher biodiversity unit value could also be enhanced or created to benefit ciril bunting e.g. species-rich grassland. However this is likely to take longer and cost more to achieve. Development sites that still have residual net impacts on non-statutory biodiversity when factoring the below values in should discuss with their offset provider as to the feasibility and cost of delivering greater unit value from their ciril bunting compensation scheme.
- A screen shot of the area and linear-based calculations is provided below.

## Results:

The above assumptions provide for different scenarios. Calculations have been made for each of these and then averages taken to provide the final anticipated biodiversity value achieved through the financial contributions. The level of gain is therefore:

- Average habitat gain: 5 units; to avoid trading down this should only be used to compensate for low value habitat loss elsewhere.
- Average linear habitat gain: 3.3 units; to avoid trading down this should only be used to compensate for medium or low value linear habitat loss elsewhere.

Area-based calculations:

Existing habitats on site Please enter all habitats within the site boundary			Habitat distinctiveness		Habitat condition		Habitat Biodiversity Value						Comment
code	Phase 1 habitat description	Habitat area (ha)	Distinctiveness	Score	Condition	Score	Habitats to be retained with no change within development		Habitats to be retained and enhanced within development		Habitats to be lost within development		
				A		B	Area (ha)	Existing value	Area (ha)	Existing value	Area (ha)	Existing value	
Direct Impacts and retained habitats							C	A x B x C = D	E	A x B x E = F	G	A x B x G = H	
J11	Other: Arable	1.10	Low	2	Poor	1			1.10	2.20			
B4	Grassland: Improved grassland	1.30	Low	2	Poor	1			1.30	2.60			
B4	Grassland: Improved grassland	0.10	Low	2	Poor	1			0.10	0.20			
J11	Other: Arable	1.10	Low	2	Poor	1			1.10	2.20			
B6	Grassland: Poor semi-improved grassland	1.30	Medium-Low	3	Poor	1			1.30	3.90			
B6	Grassland: Poor semi-improved grassland	0.10	Medium-Low	3	Poor	1			0.10	0.30			
Total		5.00					Total	0.00	0.00	5.00	11.40	0.00	0.00
											$\Sigma D + \Sigma F + \Sigma H$		
											Site habitat biodiversity value	11.40	

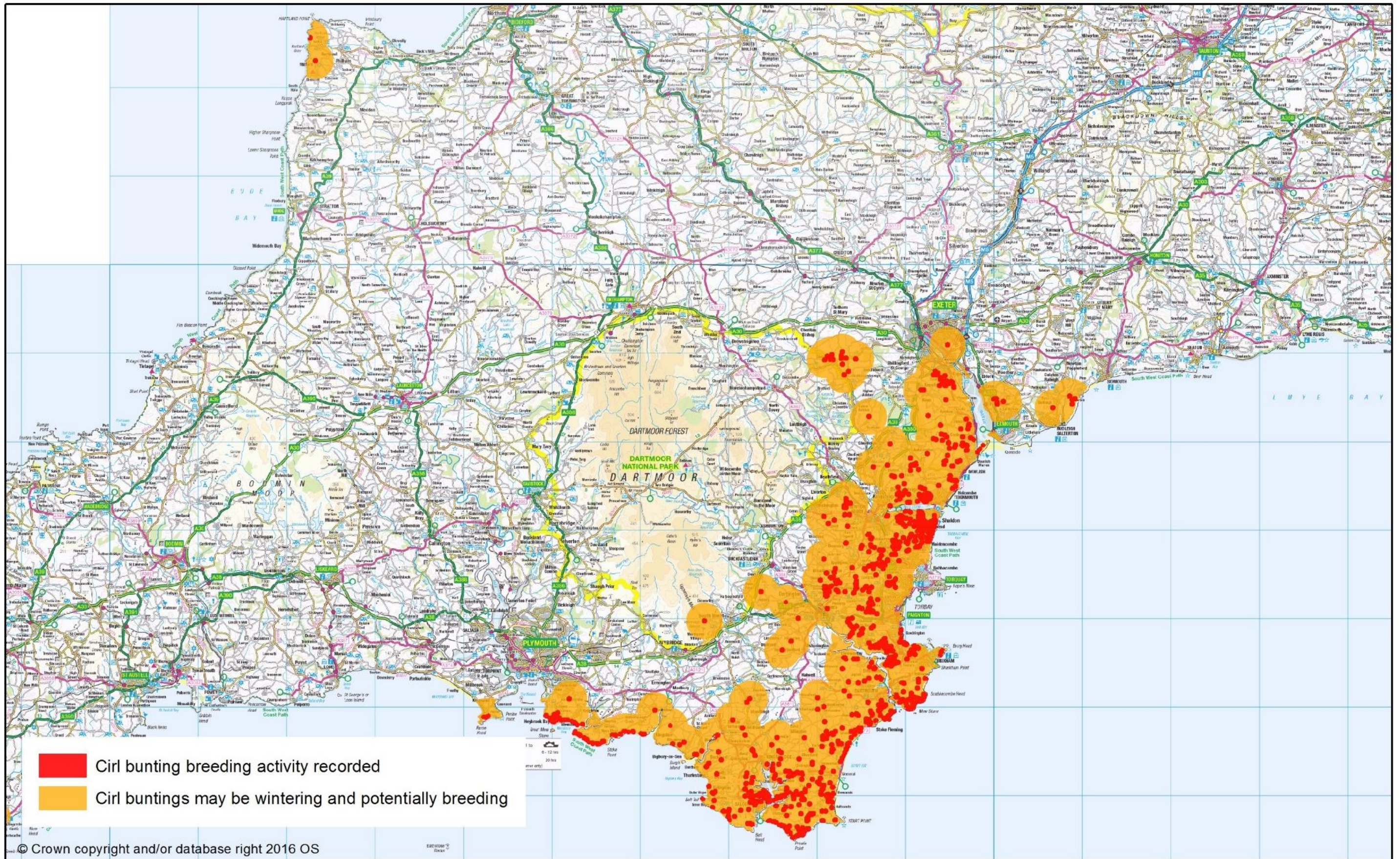
Proposed habitats on site (Onsite mitigation)			Target habitat distinctiveness		Target habitat condition		Time till target condition		Difficulty of creation / restoration		Habitat biodiversity value	Comment	
code	Phase 1 habitat description	Area (ha)	Distinctiveness	Score	Condition	Score	Time (years)	Score	Difficulty	Score	(N x O x P) / (Q / R)		
Habitat Creation		N		O		P		Q		R			
Habitat Enhancement							Existing value S (= F)				((N x O x P) - S) / (Q / R)		
Total		0.00											
J11	Other: Arable	1.10	Low	2	Moderate	2	2.20	5 years	1.2	Low	1	1.83	low input spring barley
B4	Grassland: Improved grassland	1.30	Low	2	Moderate	2	2.60	5 years	1.2	Low	1	2.17	tussocky insect-rich grassland
A22	Woodland: Scattered scrub	0.10	Medium	4	Moderate	2	0.20	5 years	1.2	Low	1	0.50	
J11	Other: Arable	1.10	Low	2	Moderate	2	2.20	5 years	1.2	Low	1	1.83	low input spring barley
B6	Grassland: Poor semi-improved grassland	1.30	Medium-Low	3	Moderate	2	3.90	5 years	1.2	Low	1	3.25	tussocky insect-rich grassland
A22	Woodland: Scattered scrub	0.10	Medium	4	Moderate	2	0.30	5 years	1.2	Low	1	0.42	

Linear-based calculations:

Existing linear features on site			Linear distinctiveness		Linear condition		Linear Biodiversity Value						
code	Phase 1 habitat description	Feature length (km)	Distinctiveness	Score	Condition	Score	Linear features to be retained with no change within development		Linear features to be retained and enhanced within development		Linear features to be lost within development		
				A		B	Length (km)	Existing value	Length (km)	Existing value	Length (km)	Existing value	
Direct Impacts and retained features							C	A x B x C = D	E	A x B x E = F	G	A x B x G = H	
J21	Hedges: Intact hedge	0.80	Medium	4	Poor	1			0.80	3.20			
J211	Hedges: Native species rich intact hedge	0.80	High	6	Poor	1			0.80	4.80			
Total		1.60					Total	0.00	0.00	1.60	8.00	0.00	0.00
											$\Sigma D + \Sigma F + \Sigma H$		
											Site Linear Biodiversity Value	8.00	

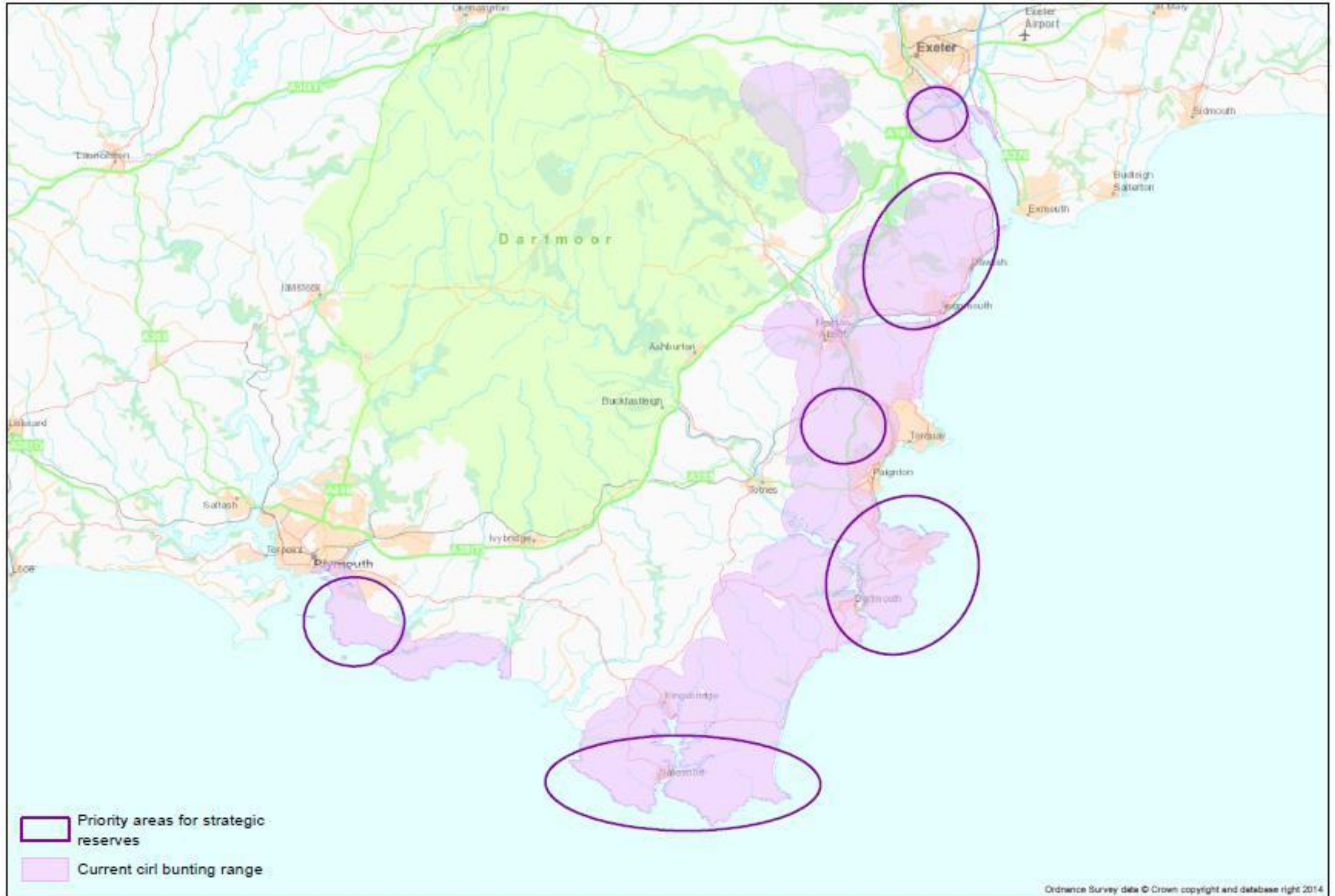
Proposed linear features on site (Onsite mitigation)			Target linear distinctiveness		Target linear condition		Time till target condition		Difficulty of creation / restoration		Linear biodiversity value	Comment
code	Phase 1 habitat description	(km)	Distinctiveness	Score	Condition	Score	Time (years)	Score	Difficulty	Score	(N x O x P) / (Q / R)	
Linear Creation		N		O		P		Q		R		
Linear Enhancement							Existing value S (= F)				((N x O x P) - S) / (Q / R)	
Total		0.00										
J21	Hedges: Intact hedge	0.80	Medium	4	Moderate	2	3.20	5 years	1.2	Low	1	2.67
J211	Hedges: Native species rich intact hedge	0.80	High	6	Moderate	2	4.80	5 years	1.2	Low	1	4.00

**Map 1 – Devon’s cirl bunting breeding range.** Known breeding territories (red) and potential breeding / wintering areas (amber). (Primary source: 2016 national survey)



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Map 2 – Target areas for strategic cirl bunting nature reserves



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**TEIGNBRIDGE DISTRICT COUNCIL**

**Appendix B: RSPB letter of support**

Nick Davies  
Spatial Planning & Delivery  
Teignbridge District Council  
Forde House  
Brunel Road  
Newton Abbot  
Devon TQ12 4XX

2 October 2017

Dear Nick

**Wildlife and Development Guidance Note: Cirl Bunting**

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I understand that Teignbridge District Council is considering adoption of the Cirl Bunting Wildlife and Development Guidance document at its 24 October Planning Committee meeting.

The RSPB has contributed to the drafting of this document, and we fully endorse the approach set out within it. We believe that it represents a pragmatic mechanism to enable necessary growth to take place without jeopardising cirl buntings' continued recovery from near extinction. It articulates a logical, transparent decision making framework which formalises the practice that has to a large degree been operated by Teignbridge Planning authority for a number of years. Furthermore, our experience at Labrador Bay and indeed with the recent acquisition of land at Ashill gives us, and, I hope, the Council, confidence that this approach can be effective at mitigating the ecological risks of development to this still highly localised species.

We see this is an example of good practice, alongside approaches that are being adopted by other local planning authorities, which seek to ensure that the planning system contributes to the UK's aspiration to halt biodiversity loss, and indeed the National Planning Policy Framework's stated objective for planning to achieve net gains for nature.

The RSPB hopes that Teignbridge District Council's Planning Committee will adopt this guidance, and we look forward to continuing to work with the Council to deliver positive outcomes for Teignbridge and its wildlife.

Yours sincerely

Gavin Bloomfield  
Senior Conservation Officer

South West England  
Regional Office  
4<sup>th</sup> Floor (North Block)  
Broadwalk House  
Southernhay West  
EXETER  
Devon EX1 1TS

Tel 01392 432691

[rspb.org.uk](http://rspb.org.uk)

TEIGNBRIDGE DISTRICT COUNCIL

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Dennis Smith

**DATE:** 24 October 2017  
**REPORT OF:** Business Manager – Strategic Place  
**SUBJECT:** Appeal Decisions

- 1 17/00036/REF BOVEY TRACEY** - Mill House Station Road  
Appeal against refusal of Planning Permission No 17/00316 - Single storey side extension to existing veterinary practice  
APPELLANT: Moorgate Veterinary Surgeons  
  
APPEAL ALLOWED
- 2 17/00020/REF HACCOMBE WITH COMBE** - Westborough Cottage Combeinteignhead  
Appeal against refusal of Planning Permission No 16/03144/FUL - Detached garage with office over  
APPELLANT: Mr G Cooper-Smith  
  
APPEAL DISMISSED
- 3 17/00029/REF IPPLEPEN** - Land at Ngr 283627 66859 Tremlett Grove  
Appeal against refusal of Planning Permission No 15/00187/OUT - Outline application for eight dwellings, approval sought for access and layout  
  
APPELLANT: Rosemoor Homes Ltd  
  
APPEAL DISMISSED
- 4 17/00028/REF KINGSKERSWELL** - Unit 5 Aller Vale Buildings  
Appeal against refusal of Planning Permission No 16/03263/FUL - Change of use from storage and distribution (Use Class B8) to mixed use of retail (Use Class A1) and storage and distribution (Use Class B8)  
APPELLANT: Mr T Hubbard  
  
APPEAL ALLOWED

**TEIGNBRIDGE DISTRICT COUNCIL**

- 5 17/00034/REF KINGSTEIGNTON** - Unit A1 Kingsteignton Trading Estate Pottery Road  
Appeal against refusal of Planning Permission No 16/02673/FUL - Widen permitted uses to include Use Class A1 (retail) and alterations to front elevation  
APPELLANT: Sharps Bedrooms Ltd

APPEAL ALLOWED

- 6 17/00046/REF OGWELL** - 22 Margaret Road Ogwell  
Appeal against refusal of Planning Permission 15/02999/FUL - Dwelling in rear garden  
APPELLANT: Ms J Warnes

APPEAL DISMISSED

- 7 17/00033/REF DENBURY AND TORBRYAN** - Greyface Farm Broadhempston  
Appeal against refusal of Planning Application No 17/00491/NPA - Application for Prior Approval under Part 3 Class Q (a) and (b) and paragraph W of the GDPO change of use of agricultural building to a dwelling  
APPELLANT: Mr V Wadling

APPEAL ALLOWED

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