

# PLANNING COMMITTEE REPORT

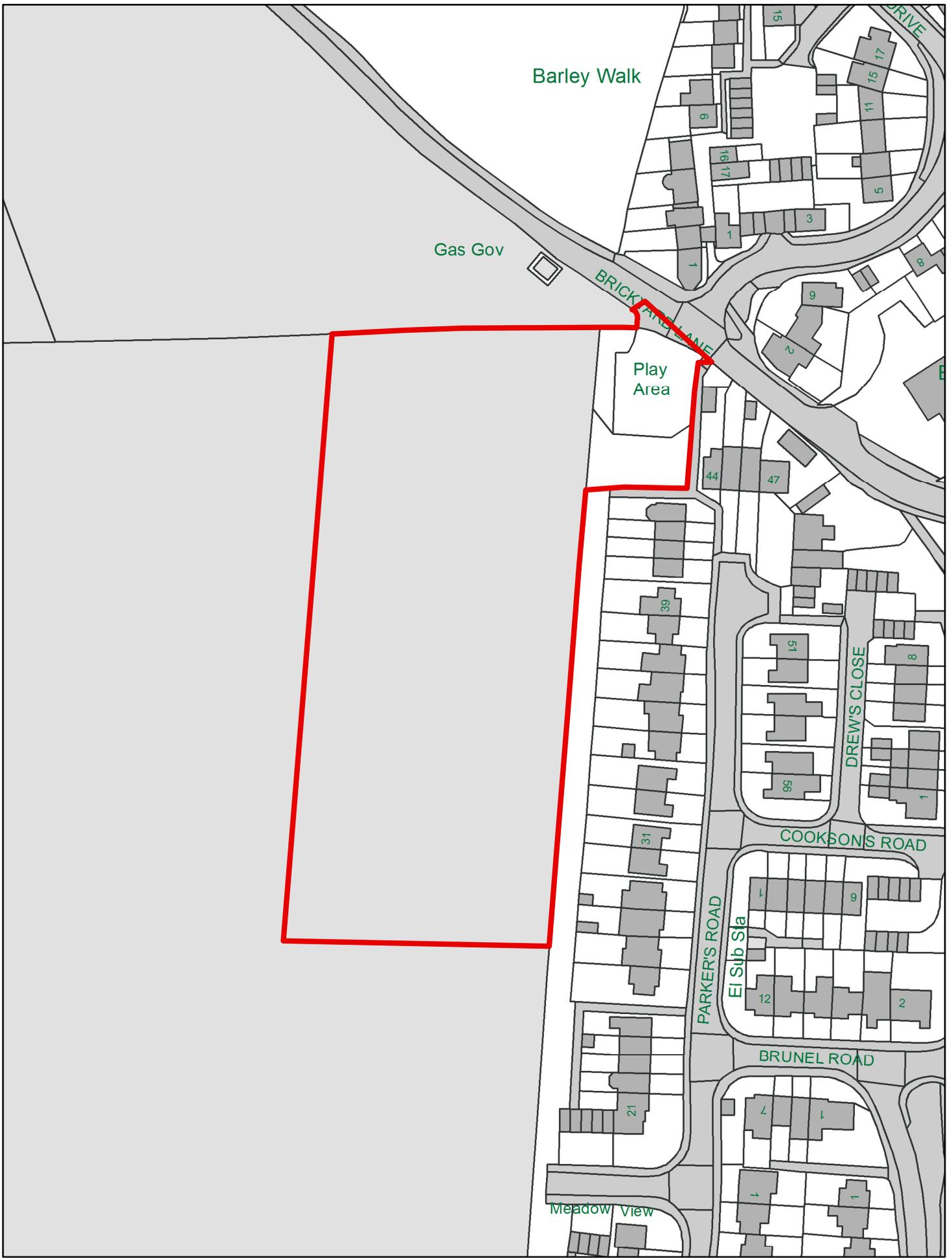
13 April 2021

CHAIRMAN: Cllr Mike Haines



<b>APPLICATION FOR CONSIDERATION:</b>	<b>STARCROSS - 18/01656/MAJ - Land Off Brickyard Lane, Starcross - Revised application: Erection of 20 dwellings (affordable housing) including a local equipped area of play in place of existing play park, public open space, landscaping, access and associated infrastructure</b>	
<b>APPLICANT:</b>	<b>Templer Homebuild Limited</b>	
<b>CASE OFFICER</b>	<b>Kelly Grunnill</b>	
<b>WARD MEMBERS:</b>	<b>Councillor Connett</b>	<b>Kenton With Starcross</b>
<b>VIEW PLANNING FILE:</b>	<a href="https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=18/01656/MAJ&amp;MN">https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=18/01656/MAJ&amp;MN</a>	





**18/01656 - Land off Brickyard Lane, Starcross**

Scale: 1:1,250

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## **1. REASON FOR REPORT**

- 1.1 Councillor Connett has requested that this application be referred to Planning Committee for determination. The request was received prior to procedures being updated and refers to the general importance of the decision for the community.

## **2. RECOMMENDATION**

- 2.1 FULL PLANNING PERMISSION BE GRANTED subject to:

A) The Applicant entering into a Section 106 Agreement to secure:

1. Standard Affordable Housing Provisions
2. Provision of a Landscape and Ecology Management Plan (LEMP) to secure the mitigation measures described in the Appropriate Assessment, including and monitoring costs
3. Provision and maintenance of the informal play areas and LEAP\* (LEAP to be included in the unlikely event it is not bought back by the LPA under the Option Agreement)
4. Flood Evacuation Plan - Safeguarding of an emergency pedestrian route to Staplake Lane and a review of this requirement in 25 years. Provision of the route thereafter, if required.
5. Provision and maintenance of surface water attenuation
6. Safeguarding of easement to the ditch
7. Provision of off-site highway works shown on drawings SK04 Rev A and SK05 Rev A (unknown cost)
8. TRO contribution £5,000
9. HRA contributions £18,060 (£903 per dwelling)
10. Secondary School Transport Contribution of £6063 (index linked)
11. S106 monitoring costs (TBC)

B) Conditions covering the following matters, the precise number and form of which to be determined by the Business Manager – Strategic Place under delegated Authority:

1. Development shall commence within 3 years of permission
2. Development shall be carried out in accordance with the approved plans and documents
3. Pre-commencement submission of Construction Management Plan (CMP)
4. Pre-commencement submission of CEMP
5. Phasing Plan – Showing construction and timing to detail how phased works will avoid coinciding with the peak period of SPA bird use (November to February inclusive), including mechanism for additional mitigation if monitoring demonstrates this is necessary to prevent adverse effects on protected sites.
6. All clearance, precautions, avoidance, mitigation, compensation and enhancement measures described in the Ecological Appraisal Report shall be undertaken
7. Bat and bird boxes, bee bricks and hedgehog holes at a rate of 1 per dwelling
8. External materials and architectural details;
9. Boundary treatments including details of location, design, height and materials to ensure important hedgerows are outside garden areas;

10. All soft and hard landscaping to be undertaken in accordance with the agreed details (unless amended by the LVIA);
11. Full details of carbon reduction measures including consideration of renewable energy technologies and the inclusion of dwellings to be “electric ready” for EV charger provision.
12. Compliance with bin storage / collection details;
13. Full details of details of the informal play area/LEAP including proposed play equipment (number, type, specification), seating and cycle storage, landscaping, the levels of the equipment and the timing of installation.
14. Tree protection during construction;
15. Arboricultural method statement including for the installation of the play equipment and the use of no dig construction for surfaces within the play area;
16. Pre-commencement surface water drainage conditions;
17. Finished floor levels shall be set no lower than 4.92 metres Above Ordnance Datum (mAOD) 2.
18. Re-profiling of ordinary watercourse channel adjacent to the LEAP/Public Open Space
19. Unsuspected contamination
20. Highway estate road details
21. Removal of permitted development rights for extensions, roof lights or dormer windows and upward extensions
22. Removal of permitted development rights for wind turbines.
23. Waste Audit Statement / Plan.

### **3. DESCRIPTION**

#### Application Site

- 3.1 The application site is an L-shaped shaped parcel of land which covers an area of approximately 0.91 hectares.
- 3.2 The site predominately contains arable land as well as local authority amenity land. It is situated to the west of Starcross and incorporates the north-eastern corner of a wider agricultural field with the far north-eastern corner containing an equipped playpark (which is to be relocated with new equipment as part of the proposals). There is a slight fall across the site from west to east, at a gradient of roughly 1 in 40.

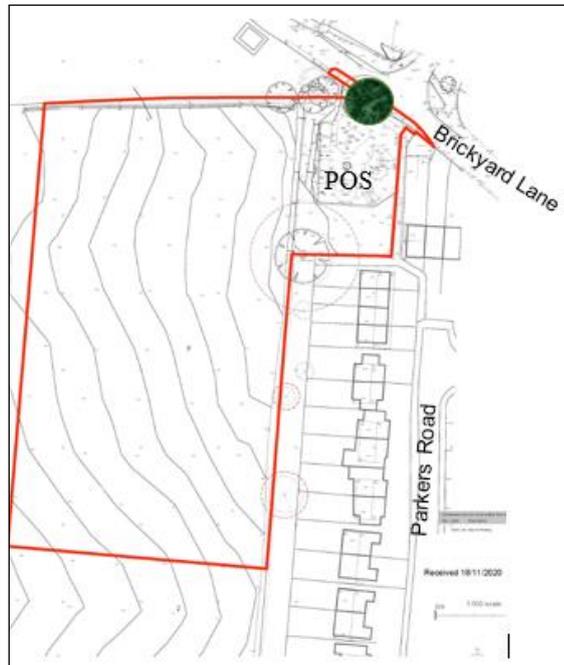


Fig.1: Site Boundary edged red, showing POS and Oak Tree in green

- 3.3 The site is largely bordered by trees and hedgerows of varying quality and completeness to the east and open to the arable land to the south and west. There are no Tree Preservation Orders (TPOs) relating to the Site, however, a large Pedunculate Oak Tree lies at northern extent of the site adjacent to Brickyard Lane where access is proposed.
- 3.4 The site is bound; to the north by agricultural land then Brickyard Lane and allotments beyond, to the east by the residential development of Starcross (most immediate Parkers Road), and to the south and east by the agricultural field that contains the site and the wider agricultural landscape setting of Starcross beyond, there is a sparse row of large residential properties on the opposite side of Staplake Lane to the south.
- 3.5 A stream runs from north to south through the western boundary of the site.
- 3.6 The north-eastern corner of the existing play park is located in a Flood Plain (Flood Zone 2 and Flood Zone 3), and also within the Starcross settlement limit. The remainder of the site comprising the agricultural land is designated as an Area of Great Landscape Value and is outside the flood plain and Starcross settlement boundary.
- 3.7 There are no public rights of way (PRoWs) or permissive footpaths within the site. There is a PRoW in the vicinity of the site – Starcross Footpath 14, located east adjacent to the backs of Drew Close properties, running north to south.
- 3.8 The site is just under 0.5 km from the Exe Estuary Special Protection Area (SPA)/ Ramsar site and is approximately 2.5km from Dawlish Warren Special Area of Conservation (SAC)/ National Nature Reserve (NNR).

## Proposed Development

- 3.9 This application seeks planning permission for 20 dwellings as an affordable housing exception site. The application is made by Templar Homes, part of Teign Housing which is a registered social landlord and housing charity.
- 3.10 Access to the site is proposed from Brickyard Lane from the north eastern corner of the site and through the existing locally equipped play area and public open space (POS) which will be replaced as part of this development. A veteran Oak Tree at Brickyard Lane would also be removed to facilitate access.
- 3.11 A SUDS (Sustainable Urban Drainage System) scheme in the form of underground surface water attenuation tanks is proposed to manage surface water. Foul sewage will be disposed of to a mains sewer. A 3m ecology buffer is to be provided around the perimeter of the site facing the field.
- 3.12 An Ecological Impact Assessment (EclA) has been submitted which provides a range of mitigation measures. This includes the creation of a wildlife area in the northern extent of the Site, enhancement of retained hedgerows and creation of new native hedgerows as well as a wildlife corridor along the western and southern Site boundaries.
- 3.13 During the course of application the proposal description has been amended and revised plans submitted.
- 3.14 The initial development submitted 07 August 2018 comprised a development of 32 dwellings (16 Affordable Dwellings and 16 Market Dwellings) on an area of approx. 1.14 hectares including a local equipped area of play in place of existing play park, public open space, wildlife area, access and associated infrastructure.
- 3.15 Following a review of consultation responses and letters of representation, the applicant submitted a revised development on 18<sup>th</sup> November 2020, in order to address matters relating to highway, landscape, flood risk, ecology and POS.
- 3.16 The key changes can be summarised as follows:
- Site area reduced from circa 1.14 hectares to circa 0.9 hectares.
  - A reduction in the number of dwellings proposed, from 32 to 20
  - Previously the proposals were 50% affordable and 50% open market homes. The development now comprises 100% affordable housing.
  - Alteration to the house types
  - Confirmation that all properties will comply with the Nationally Described Space Standards (NDSS)
  - An increase in the amount of Public Open Space (POS) proposed
  - A 3.2m maintenance easement is also provided to the ditch on the north boundary
  - Amendment to the location of the surface water attenuation feature. Previously the surface water attenuation features were located beneath the LEAP. The revised layout positions the attenuation features beneath a grassed area of incidental open space that will be maintained by the applicant.
  - The internal estate road has been simplified, removing the T-junction turning head at the south of the site.

- The Flood Risk Assessment (FRA) has also been amended to take account the provision of an emergency access route heading south across the adjacent field to Staplake Lane [this may be required in 2049 and only if Starcross defences are not in place]. This means of escape route is effectively off-site, it will need to be controlled through a Section 106 Agreement (S106).
- A detailed landscape plan has been prepared to provide the requested mitigation. This includes the planting of 35 new trees, including a number of replacement Oak trees. In particular, there is native species tree planting proposed in close proximity to the new entrance that includes an Oak tree (extra heavy standard, i.e. a larger than normal specimen) to replace the one removed. A significant number of shrubs and new hedgerows and grassed areas would also be provided.
- Drawings SK04 Rev A (non-signalled pedestrian crossing facility at New Road) and SK05 Rev A (a 'build out' at the Staplake Road/A379 junction) were previously submitted. Devon County Highways has confirmed that the build out works are no longer required. Drawing SK05 Rev A is no longer therefore proposed for consideration.

### Principle of Development

- 3.18 Sections 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require the Council to determine any application in accordance with the statutory development plan unless material considerations indicate otherwise.
- 3.19 The existing play park at Brickyard Lane, where access will be taken from, is within settlement limits. The remainder of the site, where the houses will be sited, lies outside of the settlement limit of Starcross and is therefore, for planning policy purposes, within open countryside where Policy S22 (Countryside) of the Local Plan would apply. Policy S22 states that, in open countryside, development will be strictly managed and limited to uses which are necessary to meet the overall aim, in this case affordable housing for local needs.
- 3.20 The National Planning Policy Framework states that "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this."
- 3.21 Policy WE5 (Rural Exceptions) of the Local Plan is permissive of housing in the countryside. The policy states that the development of a site for 100% affordable housing will be permitted subject to the following criteria being met [Officer response set out below each criteria]:

**1. There is a proven need for affordable housing from households who have a strong connection with the parish or adjoining parish;**

This scheme is fully supported by the housing enabling team as it will provide much needed affordable homes in a location where the opportunities for alternative sites are limited. TDC Housing Enabler has confirmed that there is a proven need from households who have a strong local connection with the Parish of Starcross and adjoining Parish (Powderham, Kenton and Mamhead).

**2. The site adjoins a settlement and does not have a disproportionate impact on local environmental or historical assets;**

The site lies immediately adjacent to the defined Starcross settlement limit and therefore satisfies criteria 2.

**3. The type of affordable housing and the scale of provision are limited to meeting the proven local need;**

The proposed 20 affordable homes would comprise of 14 rented properties and 6 shared ownership properties. The TDC Housing Enablers have confirmed that the type and scale are limited to meeting the above local need.

**4. A planning obligation is enforced ensuring the affordable dwellings are retained as affordable in perpetuity;**

A planning obligation has been offered to ensure the affordable dwellings are retained as such in perpetuity.

**5. The price paid by the Registered Provider or other appropriate housing provider is limited to £10,000 per plot or £300,000 per hectare equivalent, whichever is least;**

The applicant is a Registered Provider and the submitted viability appraisal assumes £10k per plot for land value. The viability appraisal is no longer relevant to wider application considerations though.

**6. Where there is a proven need according to (1) but no available public grant to fund the affordable dwellings, the incorporation of open market housing on the site may be permitted, at the minimum amount required to fund the affordable housing provision if in accordance with the parish/neighbourhood plan (if any);**

Not applicable as this application proposed 100% affordable housing.

**7. It can be demonstrated the proposals are in a location or of a type that will not affect the integrity of a European site.**

Compliance with criteria 7 is addressed later in this report.

- 3.22 As set out above, the TDC Housing Enabler strongly supports this development and welcomes this opportunity to bring forward an exception site in Starcross. They have confirmed that this is a proposal that meets Policy WE5 criteria 1), 2), and 3) of the Local Plan and is a development that they offer strong support to see delivered. A Planning Obligation would ensure the dwellings are retained in perpetuity.
- 3.23 The principle of this development is therefore acceptable subject to the applicant showing compliance with Criteria 7 above, which is discussed later in this report.
- 3.24 The proposal would provide 20 homes, all of which would be affordable housing. Having regard to the impetus to increase the supply of housing of all types which is explicit in the Framework, and the identified need for such housing in the District, this is a significant benefit of this development. It is therefore recommended that Members attribute the provision of affordable housing, very substantial weight.

## Character and Appearance of the Area

### *Landscape*

- 3.25 The application area occupies the north eastern corner of a larger agricultural field adjacent the settlement boundary on the western side of Starcross. It is defined along the northern and eastern boundaries by hedgebanks but the other two boundaries are open to the wider field that contains it. The site provides an agricultural setting for the settlement of Starcross and as such the site currently contributes to the landscape setting of the village.
- 3.26 Paragraph 127 of the NPPF sets out that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 170 states that planning decisions should protect and enhance valued landscapes in a manner commensurate with their statutory status.
- 3.27 Policies EN2A: Landscape Protection and Enhancement of the TLP requires development to be sympathetic to and help to conserve and enhance the natural and cultural landscape and seascape character of Teignbridge.
- 3.28 The site lies outside of the Undeveloped Coast designation, which is approximately 130m west of the site boundary where Policy EN2 applies. The proposed development would be experienced as part of the village of Starcross and its immediate landscape setting which already presents development in this location and would not impact on the Undeveloped Coast designation.
- 3.29 A Landscape Visual Impact Assessment (LVIA) accompanies the application and this includes A Zone of Theoretical Visibility assessment.
- 3.30 Letters of representation have raised concerns regarding the visual impact of this development and harm to the wider landscape and AGLV.

### *Landscape impact at a strategic level (wider views)*

- 3.31 As set out above, the development relates to an area at the corner of a field, leaving an L shaped enclosure in an otherwise rectilinear, grid iron, field pattern. The site's key characteristics include that it is low lying and relatively flat, well contained on two sides, enclosed within existing development, boundary hedges and trees; and, set away from the public frontage of Starcross and hidden away from the principal routes in and out of the settlement. As such, the proposed development can be accommodated on the site without significant erosion of the character and visual amenity of the area or harm to the setting of Starcross.
- 3.32 The TDC Landscape Officer has confirmed that in terms of wider landscape impacts at a strategic level, the development is compliant with Policy EN2A as the site is closely attached to the existing settlement, in a discreet location, small, reasonably well integrated into the settlement and landscape pattern with good boundary treatment. This view is consistent with the applicants LVIA which overall concludes that due to the proximity to existing housing and the lack of visibility of the site in longer range views, the level of perceived change at a wider landscape level would be relatively low.

*Landscape impact at a localised level (immediate views)*

- 3.33 In relation to the extent of change the proposal would bring about at a localised level, the introduction of housing onto the site, the loss of a Category A Oak Tree and new access would lead to a visible level of change in immediate views, particularly from Brickyard Lane, gaps in houses at Parkers Road, New Road and from Staplake Lane.
- 3.34 The proposals include the creation of a new access point from Brickyard Lane into the north eastern corner of the site across the current play area adjacent the site which will be replaced within the proposed scheme. Upon entering the site the main access road turns south towards the 20 dwellings.
- 3.35 The density, form and scale of the proposed layout follows an arrangement that is consistent with the existing village of Starcross. The proposals also include retention and enhancement of existing vegetation on site boundaries as well as new landscape features including hedging on the southern and western boundaries and internal street trees within the site. These mitigation measures have been incorporated into the scheme to limit the potential effects of the proposed developments. While breaking up the large field to create a smaller parcel for housing will be noticeable, it is considered that these measures will assist in assimilating the development into the landscape in the long term.
- 3.36 Weight has also been given to the nature and form of the existing development pattern in the surrounding area; specifically that the site is located adjacent to built development, in close proximity to the residential southern edge of Starcross.
- 3.37 The visual impact of the proposal would lessen over time as the proposed landscaping becomes established. Considering the collective visual and landscape impacts of the scheme, it is concluded that the impact on local landscape and the character of the area would be limited in the long term but would nonetheless have short term localised impact for residents, road users and some recreational walkers and cyclists.
- 3.38 The TDC Landscape Officer is satisfied that the landscape mitigation identified above are an appropriate approach (including that for the replacement Oak Tree). The Landscape Officer is also satisfied that developing land outside of the settlement limit and within the AGLV will not significantly harm landscape character provided the agreed mitigation is undertaken.
- 3.39 Having regard to the applicants LVIA, the TDC Landscape Officer's response, the design and layout of the development and proposed mitigation, it is officer opinion that the level of change to and the impacts on the landscape are moderate and are not considered to be outweighed by the significant social benefits of the development.
- 3.40 In terms of how the landscaping would be managed, all of the homes in the development will be affordable i.e. for rent or for shared ownership sale and the Registered Provider will retain the open spaces other than the play area which will be transferred to Teignbridge Council. The Registered Provider will be responsible for the ongoing maintenance of the open spaces within the scheme in accordance with the schedules with the planting plan and the cost will be charged to the residents as part of their service charge. These matters will be covered by

conditions relating to maintenance and management and within the Landscape Ecological Management Plan (LEMP).

#### *Light pollution*

- 3.41 Letters of representation have also raised concerns regarding the effects of lighting from the proposal at night. The site does not lie in an area which is protected for its dark skies. It is acknowledged that the extent of development would be apparent outside daylight hours due to lighting on site, however, this would very much be experienced in the context of existing housing in Starcross. Requirements of the Appropriate Assessment (discussed later in this report) also impose controls over lighting which would ensure a sensitive lighting scheme is installed.

#### *Design and Layout*

- 3.42 National guidance within the National Planning Policy Framework (NPPF) confirms that good design and creation of high quality buildings and places is a key aspect of sustainable development, and is fundamental to planning. It goes on to say that planning decisions should ensure that developments will function well, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 3.43 Policy S2 of the Local Plan requires new development to be of high quality design which will support the creation of attractive, vibrant places. Designs should be specific to the place, based on a clear process which analyses and responds to the characteristics of the site, its wider context and the surrounding area, creating a place with a distinctive character. Account should be taken of a number of objectives, inter alia, a) the integration with and, where possible, the enhancement of the character of the adjoining built and natural environment, particularly affected heritage assets; and k) respect for the distinctive character of the local landscape and seascape, and the protection and incorporation of key environmental assets of the area, including topography, landmarks, views, trees, hedgerows, wildlife habitats, heritage assets, and skylines.
- 3.44 A coherent style of housing sizes and types are proposed with the layout arranged in small cul-de-sacs. Dwellings have been clustered around parking courts with vegetation incorporated to create a low density community feel to the development, with green space and vegetation incorporated to enhance the public space. The design of the development has sought to draw on inspiration from within Starcross with regard to choice of cladding materials and elevational treatment.
- 3.45 While the scheme draws on different materials than the immediately adjacent housing estate, it seeks to respond to the wider range of architectural styles and construction techniques within Starcross, attempting to reference its vernacular while providing a distinct development at the site. Many properties in Starcross have a clear divide between ground and first floor, typically with brick facades at ground level, and render above. This approach has been referenced in the facade designs throughout the scheme. Utilising tile hanging and timber boarding to deliver this in a more contemporary way. This design approach is considered to be acceptable and conditions are recommended relating to external details and boundary treatments to ensure a good quality finish is achieved that is reflecting of the Starcross character while allowing the originality of the development to come through.

- 3.46 It is considered that the proposal offers a high quality development that responds well to the characteristic of the site and Starcross while creating a place with distinctive character.
- 3.47 Therefore, notwithstanding the harm the loss of countryside would cause to the character of the area, the proposal would nonetheless provide a high quality environment through design and layout and would not conflict with policy S2 or EN2A of the TDC LP.

#### Archaeology

- 3.58 Paragraphs 194 & 197 of the NPPF are the pertinent policy background with regard to archaeology.
- 3.59 The proposed development site does not lie in an area of known archaeological potential. However, due to Prehistoric and Romano-British activity is recorded in the hinterland around Starcross, Cockwood and Kenton and the DCC Historic Environment Team (HET) advised that the land adjacent to the estuary would have been an attractive site for early settlement and may contain archaeological and artefactual deposits associated with the prehistoric and later activity recorded in the surrounding landscape.
- 3.60 However, following the submission of a geophysical survey report the HET subsequently withdrew their previous objection and recommend that no further archaeological mitigation would be required in support of this application and no further archaeological mitigation was necessary.
- 3.61 The proposal is considered to be in compliance with paragraphs 194 & 197 of the NPPF.

#### Existing Trees

*Loss of Pedunculate Oak (T1) identified as an A Category tree in good condition.*

- 3.62 Policy EN12 (Woodlands, Trees and Hedgerows) of the TDC LP states inter alia, that development should contribute to the protection and enhancement of trees in the area. The loss of healthy trees with visual, historic or wildlife importance will be resisted. Particularly strong protection will be given to aged or veteran trees.
- 3.63 A mature Oak estimated to be over 300 years stands adjacent to the play park on the corner of Brickyard Lane and the 1970s Parkers Road development and opposite the junction to Haywood Drive. The tree is of significant size and quality, and a prominent feature from Brickyard Lane and Heywood Drive.
- 3.64 In order to facilitate access to the site and proposed development, the tree would need to be felled. In letter of objections, there is significant public concern regarding the loss of this tree and the Starcross community have strongly expressed their desire for this tree to be retained. This matter is given great weight in the determination of the application.
- 3.65 The applicant, in discussion with Devon County Council, has considered whether an alternative access point or design could be achieved that would allow this tree to be retained. Due to a number of constraints along Brickyard Lane, it would not be viable or practical for the applicant to provide an alternative route.

- 3.66 There isn't sufficient space to provide the Site access between the tree and the neighbouring property in Brickyard Lane. The other alternative would be pushing the access a considerable distance down Brickyard Lane to avoid the tree. This would relate to third party land not within the applicant ownership and would also present a conflict with the Gas Governor that is constructed against the highway. To achieve this, it is likely that the lane would have to be increased in width and the roadside hedge would have to be relocated. Any access that could be proposed would then have to bridge over the medium pressure gas main that is located in the field adjacent to Brickyard Lane.
- 3.67 All of the above would add significant extra costs onto the scheme including the purchase of third party land, additional engineering works for the diversion of the gas main and any works required for building over the main.
- 6.68 There is uncertainty in securing the third party land required to re-locate the access as well as the consents involved to divert the gas pipe as well as additional cost of these elements. The applicant has advised that the impact on additional costs and potential time delays on the above is likely to render this already finically tight scheme of 100 % affordable housing potentially undeliverable.
- 3.69 Therefore, in accordance with Policy EN12 this proposal has sought to incorporate the tree into the overall design, where possible.
- 3.70 Paragraph 175 c) of the NPPF states that when determining planning applications *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.* The footnote states that an exceptional reason includes one where the public benefit would clearly outweigh the loss or deterioration of habitat.
- 3.71 In this instance, the proposal for 20 affordable dwellings is considered to be a Public Benefit with regard to Paragraph 175. This includes a replanting scheme comprising:
1. To the right of the access entrance an Oak tree (Quercus robur Standard Extra Heavy)
  2. Tree planting that will deliver a loose group of 4no Oaks [Including (1) above] in the vicinity of the site access road
  3. 9no. Oak trees planted along the northern boundary
  4. A number of other specimen trees within the site
- 3.72 The proposed Oak Trees are **circled red** in the plan below:

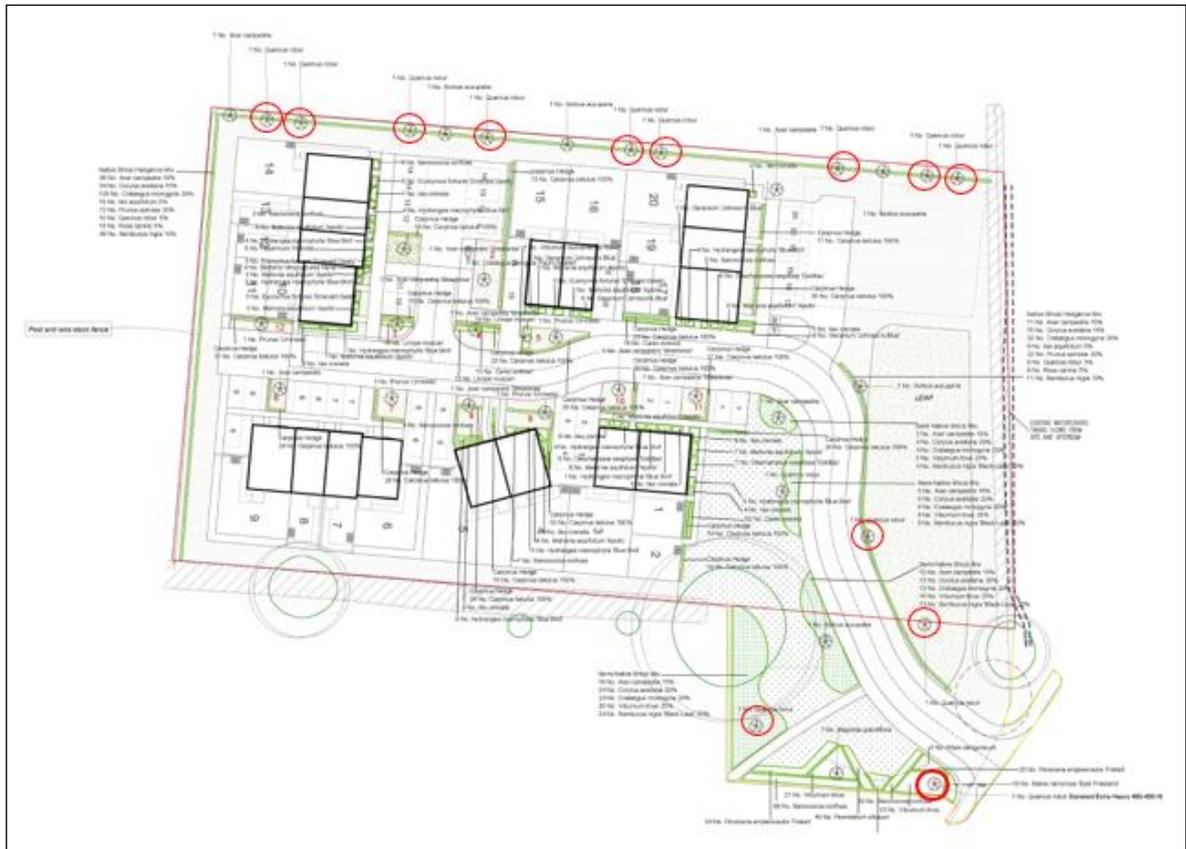


Fig.2: Plan showing proposed landscaping, including the replacement Oak Trees in red

- 3.73 The Applicant's landscape consultant has advised that given the space that is needed for oak trees, the group of 4 at the front of the site is appropriate. In addition to this, there is also an underground electricity cable that bisects the group location preventing further trees.
- 3.74 The TDC Landscape Officer has been consulted on the compensatory planting strategy and has advised the submitted scheme is acceptable, taking into account site constraints, and that the replacement oak at the entrance is a sizable and suitable specimen.
- 3.75 It is considered that the compensatory planting strategy meets the requirement of paragraph 75 of the NPPF. The loss of The Oak Tree which would arise in this case is an adverse impact which must weigh against the proposal in the planning balance.

*Other notable trees*

- 3.76 Further notable trees on site include G4 (a mixed species linear tree group forming the northern boundary of the site), T5 (mature weeping willow immediately to the east of the site), T7 and T8 (Silver Birch Trees). The dense stocking of G4 provides a good screen of the site from Brickyard Lane.
- 3.77 All proposed dwellings and car parking have been positioned outside of the canopies of retained trees so to avoid seasonal nuisance such as leaf drop, honeydew drop and faeces from perching birds. However, the garden of plot 2 will

likely collect some leaves deposited from tree T5 (weeping Willow). A means of composting the leaves could be provided with the dwelling.

- 3.78 The proposed buildings are of sufficient distance from the retained trees so as to not impose any potential future pressure.

#### Loss of Agricultural Land

- 3.79 Policy S1 of the TDC LP requires consideration of the impact of a development upon agricultural production.
- 3.80 The NPPF requires LPAs to consider the economic and other benefits of the best and most versatile agricultural land (BMV). The best and most versatile land is defined as Grades 1, 2 and 3a by policy guidance (see Annex 2 of NPPF). This is the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals.
- 3.81 The proposal would lead to the loss of 0.9 hectares of agricultural land, which is classified as Grade I (excellent quality agricultural land) in the TDC Maps and Grade 3a (good quality agricultural land) Magic/DEFRA. There has been no site specific survey to determine which Grade is the most accurate, however, both fall within the BMV range.
- 3.82 The adjoining land to the west and south is also classified as agricultural land and can continue to be accessed and farmed alongside the application proposals. The development does not reduce its attractiveness as a prospect for agricultural use should the application site be developed.
- 3.83 The NPPF directs that where **significant** development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality but again this relates to plan making not to decision taking. The applicant has not done a comparative assessment in this regard to indicate that no lower grade land is suitable and available, but the Framework does not require such a sequential test for planning applications and it would be unreasonable to require it.
- 3.84 Neither does the Framework define what “significant” development might comprise. In this case the amount of land in question would not go beyond the threshold for consultation to Natural England (20 hectares) as set out in Schedule 4 of the General Development Procedure Order.
- 3.85 Having regard to the amount and quality of the land in question (be it Grade 1 or Grade 3a) and the relative scarcity of such land as a national resource, it is considered that the loss of land from agricultural production as a result of the proposal would not be significant and would not prejudice the continued agricultural operation of the adjoining land. It is therefore concluded that the application would not conflict with Policy S1.

### Residential Amenity

- 3.86 Policy S1 (Sustainable Development Criteria) of the Local Plan specifies that proposals will be required to perform well against 10 criterion. Criterion (e) relates to protecting residential amenity of existing and committed dwellings particularly with regard to privacy, security, outlook and natural light.
- 3.87 The topography of the site and immediate surrounding land is fairly level and consistent with the character of Starcross.
- 3.88 Concerns have been raised within the representations received regarding the potential for overlooking from the proposed houses; however, these would be two-storey buildings set at an appropriate distance from the neighbouring properties to the east at Parker Road and separated by the retained hedgerow and green lane which runs parallel to the eastern boundary of the site. The layout of the proposed development has sought to ensure that the proposed residential units do not immediately abut the site boundaries to ensure there would be no undue overlooking or overbearing impact that would arise for existing residential properties adjoining the site on Parkers Road.
- 3.89 The residential amenity of nearby properties will not be unacceptably affected and a high level of amenity will also be provided for occupiers of the proposed residential development.
- 3.90 The proposed development is not considered to cause harm to the residential amenity of the adjacent residential dwellings and would be in-keeping with the local character. The proposed residential units would provide complementary uses to the area and form a logical extension for development of this nature in this location
- 3.91 Whilst a certain level of disruption during the construction phase is inevitable, Devon County Council Highways Authority has requested a condition requiring the submission and approval of a Construction Management Plan (CMP) prior to the commencement of the development in the interests of local amenity. The Starcross Parish Council has also asked for assurances that the construction traffic would be appropriately managed. It is therefore considered reasonable to attach this condition.
- 3.92 Overall, the scale and massing of the dwellings proposed and the layout of the scheme and its relationship with the existing neighbouring dwellings is considered acceptable, would provide an acceptable level of amenity for future occupiers. The proposed development accords with Policy S1 in this regard.

### Impact on Biodiversity and European sites

- 3.93 Policies EN8 Biodiversity Protection and Enhancement, EN9 Important Habitats and Features, EN10 European Wildlife Sites & EN11 Legally Protected and Priority Species are the relevant TLP Policies and require that protected species and habitats are protected and enhanced. Paragraph 175 of the NPPF require development proposals minimise harm to biodiversity and provides opportunities for biodiversity enhancement.

## **Impact on the Exe Estuary SPA/Ramsar Site and Dawlish Warren Special Area of Conservation**

- 3.94 The site is just under 0.5 km from the Exe Estuary Special Protection area (SPA) and around 2.5km from Dawlish Warren Special Area of Conservation (SAC).
- 3.95 This site also qualifies under Article 4.1 of the Wild Birds Directive (79/409/EEC) by supporting populations of European importance of species listed on Annex I of the Directive (1% or more of the population in Great Britain for any species listed, in any season) as well as qualifying under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 waterfowl.
- 3.96 In 2018 under the 32 unit scheme, TDC Ecologist, Natural England and in letters of representation, the following concerns were raised (in summary)
- The impact of the development on the use of the wider field by the birds and their displacement
  - Which birds were present on site and constituted components of the non-breeding waterbird assemblage, a qualifying feature of the SPA
  - Implications for future development around the Exe Estuary
- 3.97 To address the above, an Ecological Impact Assessment (the EclA) was submitted March 2019 which included the findings of a winter bird survey of the site (2018/2019).
- 3.98 The EclA confirmed No SPA assemblage or Annex I species were recorded within the Site boundary. The winter bird survey found:
- a max of 52 Oystercatcher representing 2.3% of the SPA's population (defined as the 5-year max mean population of Oystercatcher for the Exe Estuary is 2,228). Oystercatcher is an Article 4.1 species.
  - a max of 27 Curlew. Curlew is not an Article 4.1 species for the Exe.
  - It was also noted that photographs and records from members of the public had recorded 6 Common Snipe and a max of 52 Curlew on the wider field area (5.1% of the Estuary population).
  - Oystercatcher were recorded in the wider field, however oystercatcher were recorded more frequently using other fields in the area, indicating that this field is not an important foraging area for oystercatcher.
- 3.99 Following the above, a Discretionary Advice Service meeting was held on 02 December 2019 between Natural England and TDC Biodiversity Officer and the applicants Ecologist to consider the impacts on the Exe Estuary SPA/Ramsar Site. Green Infrastructure and/priority species. Ecological Mitigation Plan and Monitoring Strategy.

### The NE bird expert advised the following:

- The application site is NOT functionally-link land;
- The wider field is NOT functionally-linked land, although it has some characteristics of FLL;
- A significant adverse impact on SPA waterbird assemblage would NOT be likely;

- A >1% reduction of the bird feature population would be construed as constituting significant damage (i.e. as opposed to displacement/disturbance of >1%);
- The current proposal would NOT have a likely significant effect on the Exe oystercatcher population (i.e. the only individually-named SPA bird recorded on site);
- Reducing disturbance to allow waterbirds to exhibit their natural behaviour while on the remaining area of the field is an important objective;
- Timing of construction is key;
- As development would take 1½ to 2 years, a careful construction phasing plan would be needed to avoid peak periods of bird use of the field (which is November to February inclusive);
- The construction of a 3m buffer with bank and hedge around the development site (of species which will provide substantial screening) will be required at the start of construction.

3.100 A significant amount of survey data is presented/interpreted in the Third Iteration of the Appropriate Assessment for the application (for 20 houses). In summary, small numbers of SPA bird species were found to roost and feed on the wider field within which the site sits and in adjacent fields. However, the loss of the circa.1ha site in the corner of the field (with the remaining 5ha of the field continuing to be an available resource) was concluded to have a negligible effect on species from the Exe Estuary subject to a suite of protection, enhancement and mitigation measures.

3.101 Letters of representation have raised concerns regarding the RSPB objection and that its objection was not resolved though further survey work. While the RSPB has raised objections to the application, the applicant was required to commission some of the surveys RSPB recommended, on and round the site itself. 'WeBS' counts on The TDC side of the estuary were taken into account too.

3.102 While the RSPB were not involved in the Discretionary Advice Service meeting with NE Natural England, at the meeting, NE advised that the site/adjoining field did NOT constitute 'functionally-linked land' and recommended a suite of measures that would be needed to avoid any impacts on the SPA birds. These were agreed with all present. As NE are the Government Authority, the Biodiversity Officer considers that RSPB's and others' concerns will have satisfactorily been addressed

#### Mitigation:

##### *Avoidance of impacts on SPA birds using the wider field:*

3.103 The applicant proposes a suite of mitigation measures including:

- the development is to follow the recommendations of the submitted wildlife reports – specifically all precautions, avoidance, mitigation, compensation and enhancement measures;
- the provision of new hedges, on Devon hedgebanks, to the west and south of the development, with grassy buffer zones between the new hedges and the new houses/gardens, including a temporary fence screen while the hedging grows;
- submission of a phasing plan, to avoid disturbing construction activity coinciding with the peak period of SPA bird use (November to February inclusive);
- compliance with submitted and approved details of SuDS (or other surface water disposal method) and foul sewage disposal, to EA/industry standards;

- submission of a Construction Environment Management Plan (CEMP), including measures to avoid watercourse pollution & that no construction or other lights shall be left on overnight
- submission of a lighting scheme
- submission of a Landscape and Ecological Management Plan (LEMP) detailing planting and ongoing maintenance/ management of existing and new hedges, trees, buffer zones, and wildlife area (plus installation of bat and bird boxes, installation of hedgehog holes in garden fences/walls, and other biodiversity mitigation/ compensation/ enhancement measures) for the benefit of cirl buntings and other wildlife; and
- monitoring, of the effects of the proposal on SPA birds during both the construction and operational phases. This condition is also recommended to include a clause to allow securement of additional mitigation measures, if monitoring shows additional mitigation to be needed.

3.104 These measures will assist in reducing the levels of disturbance to the SPA birds using the remainder of the field.

*Pollution impacts:*

3.105 Foul sewage is to be disposed of to a mains sewer. Surface water is to be disposed of via a Sustainable Drainage System which will attenuate peak flows and should provide some pollution amelioration.

*Recreation impacts*

3.106 As the application site is within 10km of the Exe Estuary SPA and Ramsar site and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. The applicant has indicated a willingness to make the Joint Approach financial contribution towards the mitigation of impacts from recreation use of the SPA and SAC. The development would therefore require the completion of an s106 agreement to pay the Habitat Mitigation Contribution of £903 [as of 1 April 2021] per unit before development commences (which totals £18,060 for 20 dwellings – index linked).

3.107 Natural England has raised no objections to the Third Iteration of the Appropriate Assessment and therefore, subject to the Joint Approach Habitat Mitigation Regulations contribution being secured via an s106 agreement. The LPA as Competent Authority, is able to conclude that there will be no adverse effect on the integrity of the Exe Estuary SPA and Ramsar site and Dawlish Warren SAC, and so this does not constitute any reason for refusal of the development.

**Other protected and priority species**

3.108 *Cirl Bunting Survey.* The application site lies within a Cirl Bunting breeding territory, as does the adjoining field. Breeding and Wintering Surveys have been undertaken. Previous discussions (under the 32 unit scheme) considered that the development of the site would need to mitigate for one pair of Cirl Buntings via a S106 contribution of £74,193, The amended EclA demonstrates a case for the provision of on-site mitigation in lieu of the need for any financial contribution. The measures are proposed in the EclA (section 4.1, 4.5) and are needed to mitigate impacts on cirl bunting, by providing suitable foraging habitat, and to offset other wildlife impacts. The TDC Biodiversity Officer accepts this approach. The EclA

describes that this net gain of habitat will result in a positive residual impact for cirl buntings and following the guidelines (DCC, TDC and RSPB 2017) it can be concluded that a S106 contribution for off-site mitigation is not necessary to make the development acceptable in planning terms.

- 3.109 *Bats/Birds and Bees*: Bat and bird boxes and bee bricks are proposed in the EclA section 5 bullet 6 and 7, at a rate of one of each per dwelling (ie 20 bat boxes and 20 bird boxes). A condition is recommended to obtain the details for the design, location, height and aspect of the boxes/ bricks.
- 3.110 *Reptiles and invertebrates* - habitat piles/hibernacula to be created to provide sheltering and basking habitat (proposed in the EclA section 5 bullet 4)
- 3.111 *Hedgehogs*: A condition is recommended for the provision of 13cm x 13cm hedgehog access holes to be provided in the base of every curtilage boundary, to permit free movement for hedgehogs between gardens and other areas.
- 3.112 Subject to conditions and obligations to secure the required biodiversity mitigation and enhancement measures as set out above, the proposed development is considered acceptable with regards to the Exe Estuary SPA and Ramsar site and Dawlish Warren SAC, protected species and biodiversity.

#### Highways and Sustainable Transport

- 3.113 Policy S1 of the TLP requires development to be accessible by walking, cycling and public transport, particularly work, shopping, leisure and education and to not harm highway safety or create unacceptable levels of congestion. Policy S9 seeks to encourage sustainable transport choices through an integrated approach to transport.
- 3.114 A Transport Assessment accompanies the application. Access to the site is proposed off Brickyard Lane which is unclassified. The development would utilise part of the existing pedestrian footpath which links through to the play park, opposite Heywood Drive. The new access junction would effectively provide a cross road with Haywood Road opposite.
- 3.116 Off-site highway works are also proposed relating to the provision of a non-signalled pedestrian crossing facility at New Road, adjacent to the Starcross Primary School (see Drawing SK04 Rev A) which would be secured through the S106 Agreement.
- 3.117 A significant number of objections, including a signed petition, have raised concerns regarding highway impacts of this development. These include visibility at the site access, the impact of the development on traffic congestion, that Brickyard Lane is a road heavily parked by vehicles and conflict with other road users, which includes vulnerable school children.
- 3.118 Devon County Council has raised no objections to the design of the new junction which has suitable visibility in both directions. It is considered that this development can be provided with suitable access and without detriment to the safe operation of the local transport network
- 3.119 Letters of representation have raised concerns regarding the width and suitability of Brickyard Lane, both in a west direction when traveling towards Staplake Road

where the road is physically narrow as well as east into the village which they consider roadside parking reduces the actual road width.

- 3.120 It is acknowledged that Brickyard Lane to the west is narrow and has limited passing, however, this amounts to a 400m stretch of highways and given the number of dwellings proposed, DCC Highways has confirmed there is no justification in asking for passing spaces. Similarly, while Brickyard Lane does have the facility for cars to park along both sides of the road, this also helps to reduce speeds in the area and there is no evidence to suggest that the scale of development proposed could not be accommodated on the highway.
- 3.121 The Transport Assessment submitted shows trip rate figures have been taken from TRICS database which is a nationally accepted database. The number of trips are low at peak times and would not cause a severe impact on the highway network
- 3.122 The route the pedestrians are likely to make from the proposed development to the school would be into Parkers Road, then into Cookson Road coming out on to New Road, then along New Road and the desire line would be to cross over to the school. As stated above, as part of this application a formal crossing points is proposed at this location. This would also be of benefit to the existing community.
- 3.123 Letters of representation have also raised concerns regarding the junction from Staplake Road on to the A379. The Transport Assessment confirms this junction has capacity to accommodate the development. While DCC has confirmed that visibility at the junction is limited, based on the reduced 20 unit proposals, they do not consider the scale of development proposed would cause detriment to highway safety.
- 3.124 DCC Highways has also requested a Traffic Order to ensure the access section of Brickyard Lane is 20 MPH, a contribution for this will be secured within a S106 agreement.
- 3.125 Internal roads within the new development have been designed to be compliant with Devon County Council Highway Design Guide and Manual for Streets principles. Minimum gradients are satisfied and there is sufficient space/turning areas for a large refuse vehicle to enter and exit the site and navigate the internal arrangement. Forward visibility and junction/driveway visibility have all been checked and the submitted drawings confirm that the arrangements are satisfactory.
- 3.126 DCC Highways has raised no objections to the development subject to conditions and the above mentioned highway works being secured through a S106 Agreement.
- 3.127 The proposed access from Brickyard Lane is considered acceptable in terms of highway safety. County Highways have confirmed that the traffic generated by the proposed development would be to an acceptable level and would not unduly affect the existing road network. It is therefore considered by Officers that the technical details of the application accords with Policy S1.

#### *Parking & Waste*

- 3.128 Parking spaces are provided in the range of 4 bedroom dwelling (3 spaces) 2 and 3 bedroom dwelling (2 spaces) and one bedroom (1 space). Two visitor spaces have also been provided. The parking proposed in the development is considered to be sufficient.

- 3.129 The revised Waste Collection Strategy includes details of bin storage and collection points and a vehicle tracking diagram has been submitted demonstrating that a refuse vehicle can access the proposed parking court.

#### *Sustainable Transport Measures*

- 3.130 The site is also located a close distance to existing bus services with the existing stops close to the site being served by services at relatively high frequency.
- 3.131 The village offers a range of amenities, including a primary school, local shop, pubs, church and doctor's surgery. The A379 road and the London to Penzance railway line run along the banks of the estuary with Starcross railway station being situated on the line (approximately 400m to the east of the site). A small passenger ferry also operates across the estuary to Exmouth and there are frequent bus services to Exeter city centre, Newton Abbot and the surrounding towns.
- 3.132 In terms of cycling infrastructure, the proposed development is located a short distance, approximately 350m from the strategically important National Cycle Network (NCN) Route 2 (which is also a popular walking route): the Exe Estuary Trail. This strategic route links Starcross to all other towns & villages along the Exe Estuary, including a direct and safe cycle link to Exeter. It is important that the proximity to, and benefits of, being situated so close to this route.

#### *Obligations*

- 3.133 The Highway Authority has request for a contribution towards funding school transport. £3.31 per day x 2.1 pupils x 190 academic days x 5 years = £6,603.
- 3.134 Paragraph 56 of the NPPF sets out the tests which planning obligations are required to meet, which includes that they must be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Teignbridge's Planning Advice Note: The Use of Section 106 in Teignbridge (September 2019) sets out the use of Planning Obligations for infrastructure provision as permitted by Section 106 of the TCPA 1990. Also relevant when considering any contributions is the viability work underpinning the adoption of the CIL.
- 3.135 The requested contribution has been considered in detail and it is considered that the contribution towards secondary school transport can all be justified and would comply with the relevant tests.
- 3.136 Whilst education provision (e.g. school land and buildings) can be covered by CIL as infrastructure, school transport is not and therefore the requested contribution is justified. As set out in DCC Education Infrastructure Plan (revised) 2016-2033 the County Council will require contributions from developers where pupils arising from the development places an additional burden on home to school transport, taking into account the circumstances of the nearest provision and the scale of the development on a case by case basis. Contributions will be sought where development generates an additional need for home to school transport. In the main, this will be triggered by development that is located in areas where schools are outside of the statutory walking distances and/or do not have a safe walking route. There is no direct funding stream to support statutory home to school transport costs. As this would be the case in this instance, the requested contribution for secondary school transport is considered necessary.

## Green Infrastructure, Public Open Space and Play Provision

- 3.137 As previously set out, access to the development is taken at the north east corner from Brickyard Lane. The existing Brickyard lane play area located off Parkers Road, as edged and hatched in red on fig.3 below, would be removed to facilitate the site access. The current size of the formal play element is 556m<sup>2</sup>. The total area of the POS Transfer is approx. 998m<sup>2</sup> which includes the informal play west of the play area.
- 3.138 Templer Homebuild Limited holds an option to purchase the play area edged and hatched red on fig 3 below, exercisable until 20 September 2021. Part of the terms of the option agreement requires as follows:
- the loss of the existing play provision to be accommodated within the development site;
  - the play area to be constructed within eighteen months of completion of the purchase of play area;
  - the location must be agreed with TDC;
  - the replacement must be at least of equal size and of a similar or better standard than the existing play area; and
  - The replacement play area must contain the same number of play equipment items as the existing and be of good quality and which will comply with any other requirements imposed by the local planning authority

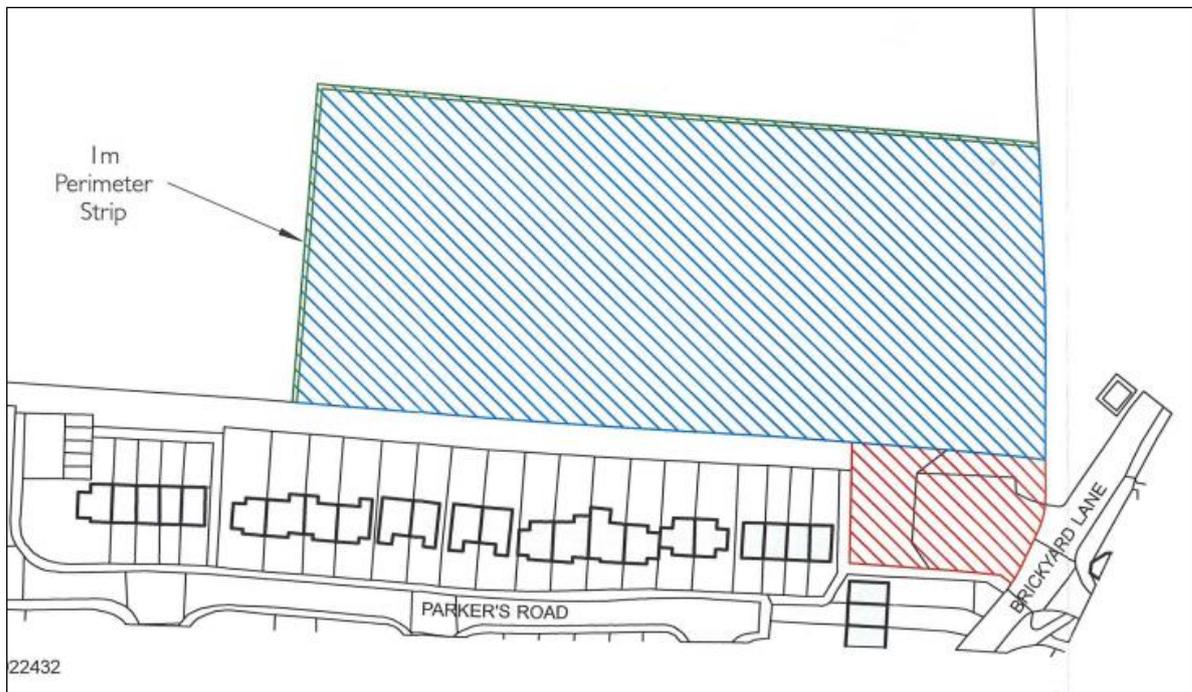


Fig.3: Site Plan showing extent in the Option Agreement

- 3.139 Policy WE11: Green Infrastructure requires, inter alia, that:
- d) residential development will provide at least 10 square metres (m<sup>2</sup>) per dwelling of childrens' and young persons' play space plus any specific requirements set out in a site allocation policy;

e) provision of about 100 square metres per dwelling of other forms of green infrastructure, including playing pitches, allotments, parks, biodiversity enhancement and natural greenspace;

f) Public open space should be designed as part of the overall green infrastructure and layout of the site, taking advantage of the potential for multiple benefits including enhanced play, wildlife, sustainable urban drainage, tree planting and landscape provision. The form and function of green infrastructure will reflect a site's characteristics, nature, location and existing or future deficits;

3.140 This amounts to 200m<sup>2</sup> for children's' and young persons' play based on a net gain of 20 dwellings. The table below sets out the existing and proposed Public Open Space:

Type of POS	Existing (m <sup>2</sup> ) (approx)	Proposed (m <sup>2</sup> ) (approx)	Increase in provision over existing (m <sup>2</sup> )
Formal Play Area/LEAP	556	700	114
Informal Play Area	334	POS 1: 903 POS 2: 385 = 1288	954

3.142 As set out above, the proposed locally Equipped Play Area (LEAP) measures 700m<sup>2</sup>. The existing play area measures 556 m<sup>2</sup>. The replacement LEAP is 144m<sup>2</sup> bigger than the existing play area and therefore meets the requirement of the Option Agreement. There is a requirement of 200m<sup>2</sup> based on a net gain of 20 dwellings under policy WE11 and therefore there is a 56m<sup>2</sup> shortfall in the size of the LEAP area.

3.143 In addition to the LEAP, the applicant is proposing incidental (non-equipped) public open space (POS), to south and west of the LEAP in the form of grassed areas and landscaping. The increase in provision over existing is 954 m<sup>2</sup>. However, a 3.2m maintenance easement is also provided to the ditch on the north boundary to maintain access as well as an ecological buffer at the south and west boundaries. Taking these factors into account, and that this is a small site of 20 affordable houses, it is considered that the informal play requirement under WE11 f) is satisfactory.

3.144 Ownership of the LEAP is intended to be returned to the Council once installed and equipped as per the option agreement. The POS would be retained and maintained separately by the Registered Housing Provider. The management of the POS and other incidental areas in the site will be incorporated into the legal S106 Obligation.



Fig.4: Site Plan showing proposed LEAP and two areas of POS

- 3.145 In terms of the equipment to be provided in the LEAP, the applicant has confirmed they will replace like for like (but new), in addition to any WE11 requirement and the details of which will be secured by condition (type, specification, location etc.) A minimum level of equipment has been provisionally agreed with the TDC Play Area Project Officer. Given the condition of the existing play area equipment, there is a high potential that details will be secured offering an improvement on the existing quality of play. This is considered to offer a benefit to the wider community.
- 3.146 As requested by the TDC Play Area Project Officer, the applicant has confirmed that:
- a. No underground services or structures would affect the siting of the equipment
  - b. The flood risk at entrance to the site would not impact on the play area (also confirmed by TDC Drainage Engineer)
  - c. Any maintenance access corridors for the stream would not limit the size of the play area (please see maintenance buffer in Fig.x above)
  - d. The position of any access to the underground surface water storage and confirmation would not impact on the functioning or size of the play area.
  - e. The tree root protection zones would not adversely impact the play area.
  - f. As shown on the submitted plans, the drainage attenuation tank would not be under the proposed LEAP, it is under the informal open space (POS grassed area) that would be maintained by the Registered Housing Provider. There would therefore be no disruption to the play equipment in the event that work to the tank was needed and no liability for the Council to make good the grassed area if work needed to be done to the tank
- 3.147 Whilst the Project Play Area Officer has indicated a preference for the informal and informal play areas to sited adjacent to one another without an access road bisecting and would also like to see a larger informal play area; subject to the

conditions requested being imposed on any approval, they have raised no objections to this application in respect of the Option Agreement or WE11 requirements.

- 3.148 This application would replace an existing play park and informal play area with new equipment and the measures to maintain the watercourse to the north would reduce the likelihood of flooding of the POS which has been an issue in the past. These are considered to be benefits to this development, however, it is also acknowledged that the new POS has its formal and informal play areas bisected by the road. While design measures would be incorporated to facilitate this area being used as a shared space, this is recognised to be a shortcoming, albeit a minor one.
- 3.149 Therefore, on balance, the proposed development is considered to offer an acceptable level of informal and informal space in the development, which satisfies the requirements of the Option Agreement and is acceptable with regards to the requirements of policy WE11 (Green Infrastructure).

#### Flood Risk and Surface Water Drainage

- 3.150 Policy S6: Resilience requires development to take account of likely climate change impacts in assessing the flood risk of developments.
- 3.151 There has been a significant number of objections to the application, including a signed petition, raising concerns with regards to local flooding in this area and runoff from this particular field in to the highway and existing play area, and there has been a history of flooding in this area. Photos have also been submitted showing standing water in the field. The level of public concern about flooding is a material consideration.

#### *Flood Risk*

- 3.152 A Flood Risk Assessment (FRA) and Drainage Strategy has been submitted with the application which considers the implications of the development in terms of flood risk and water management for the site and proposes recommendations for a drainage strategy.
- 3.153 The majority of the site, as identified on Environment Agency (EA) Maps, lies within Flood Zone 1 (land assessed as having a less than 1 in 1,000 annual probability of river flooding), however, a small area in the north eastern corner of the site is identified as being within the tidal Flood Zone 2 (FZ2) (land assessed as having between a 1 in 1,000 and 1 in 100 annual probability of river flooding) and Flood Zone 3 (FZ3) (land assessed as having a greater than 1 in 100 annual probability of flooding). The extension of FZ2 (light blue hatch) and FZ3 (dark blue hatch) are shown in Fig.5 below.

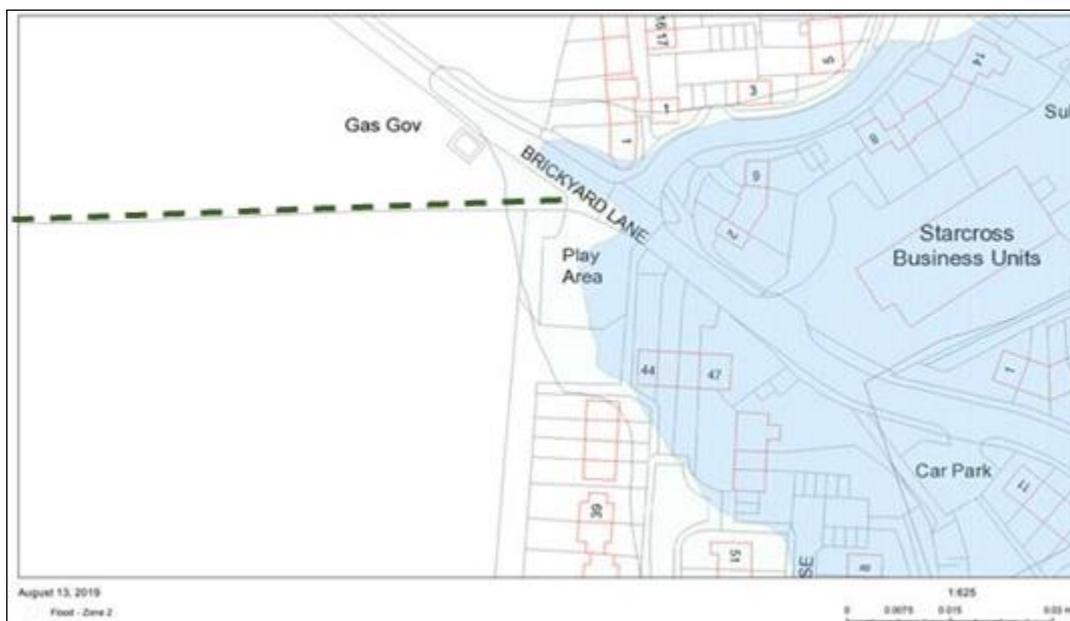


Fig.5: Site Plan showing extent of Flood Zone 2 (light blue shade) and Flood Zone 3 (dark blue shade) and location of the existing watercourse.

- 3.154 Further assessment of the Flood Risk within the area has been undertaken using data from the Environment Agency model data. It should be noted that the available tidal flood zone mapping and the outputs from the available model do not include the presence of the Starcross and Cockwood tidal defence scheme. The scheme reduces the risk of tidal flooding to the community, taking account of climate change and sea level rise, up to 2049.
- 3.155 It is recognised that over the lifetime of the development there is a potential for the scheme to be overtopped if no intervention is provided to the defences and therefore a design tidal flood level (with a suitable addition of freeboard) has been established to define the safe finished floor level for the development.
- 3.156 There is also a small watercourse which flows from west to east around the northern perimeter of the site, discharging to a 500mm culvert, as shown dashed in green at Fig 5 above. The FRA has assessed the flood risk associated with the minor watercourse in terms of flow capacity and risk of blockage and proposes improves to the watercourse through the provision of re-profiled channel within the area of the LEAP/Public open space to provide additional capacity up to the 1 in 100 year event.
- 3.157 The EA has been consulted on the application and following the submission of an updated FRA have withdrawn their previous objection, subject to the imposition of conditions requiring the development to be undertaken in accordance with the approved FRA which includes floor levels of the development set no lower than 4.92 metres Above Ordnance Datum (mAOD) and re-profiling of the ordinary watercourse channel adjacent to the proposed LEAP/play area (as shown dashed in green at Fig.5).
- 3.158 As the site access road is proposed partly in a location within Flood Zone 2 and 3, the Sequential Test must be applied in accordance with the National Planning Policy Framework (NPPF) (paragraphs 100-102). Providing that the Sequential Test

can be satisfied, consistent with wider sustainability objectives, the Exception Test must also be applied and passed.

- 3.159 Following discussions with the Highway Authority and applicant, it is Officer Opinion that there are no alternative viable vehicle access points into this site and therefore a route through FZ2 and FZ3 must be explored.
- 3.160 Given the principal access will be located within an area of flood risk within the future (post 2049), an assessment of future Access and Egress routes has been provided within the FRA to demonstrate that safe Access and Egress can be provided. The FRA and follow up correspondents states that a legal pedestrian and vehicle emergency access right exists along the edge of the field to the south of the site to Staplake Lane (as shown on figure 6 below), and that this emergency access route would only be constructed at the future time when sea levels rise and climate change begin to affect the site. As this Access and Egress route is effectively off-site, it will need to be controlled through a Section 106 Agreement (S106), in the same way off-site highway works are controlled for example.
- 3.161 The TDC Drainage Engineer and Emergency Planner has confirmed that the Emergency Flood access which is being proposed is acceptable in terms that it can be phased and an access can be provided to the site when climate change and sea level rise will become an issue.



Fig.6: Site Plan showing emergency site access and egress route (for future consideration)

- 3.162 It is recognised by both the EA and TDC Drainage Engineer that the access is only predicted to flood in the year 2049 when the existing tidal defence barriers are predicted to be overtopped due to sea level rises and climate change. Therefore, only in the unlikely event that the Starcross defences are not continued to be raised and maintained, would there be a scenario where the main access site be blocked by flood water and an Emergency Access and Egress route required.
- 3.163 The TDC Drainage Engineer has agreed it would be appropriate that a suitable clause is provided in the Section 106 that allows a mechanism for a review, design and provision of the access and egress route under the best available information in 2049. It may be that by 2049, flooding may be reduced at the entrance and only pedestrians access is required or vice versa and a review mechanism to allow the access and egress route to be designed under the best available information at the time is considered to be a reasonable approach. However, this access point would need to be vehicular and not pedestrian as set out in the FRA to allow emergency service vehicles to enter the site in times of emergency.

- 3.164 The applicant has also confirmed the safeguarding of a 3.1m wide vehicular route should it be required in the future for emergency vehicular access which addresses the EAs concerns about the emergency access route being initially proposed as pedestrian only.
- 3.165 A requirement of the S106 would also include a requirement for an information pack to be provided to residents that details the above information and procedures of what to do during a flood emergency in the form of a Flood Warning and Evacuation plan. If in 25 years it becomes apparent that the emergency access is required, then the S106 Obligation would require the applicant to submit the construction and implementation details described above together with a Flood Warning and Evacuation plan.
- 3.166 Therefore, in this instance, it is considered that the Sequential Test has been passed as there are no practical, suitable and deliverable alternative locations for the proposed access road to be sited, nor would the internal roads serving the development be within Flood Zones 2 or 3. The technical flood risk details, as set out in the FRA, also demonstrate that the Exception Test has been passed.

#### *Drainage*

- 3.167 In addition to addressing the flood risk matters associated with the proposed development, the developer is required to provide a suitable Sustainable Drainage Scheme to deal with surface water.
- 3.168 The application proposed the provision of underground surface water attenuation tanks designed to mimic greenfield runoff rates, i.e. surface water runoff from the would be attenuated, held back, so that it does not exceed the existing rate that the fields release water from the site. It is proposed that the tanks would be maintained in perpetuity by the applicant or a suitably controlled management company.
- 3.169 DCC Leading Local Flood Authority (LLFA) has raised no in principle objections, subject to conditions requiring full drainage design and management.
- 3.170 In terms of resident objections regarding poor drainage in the area and historic flood events, the TDC Drainage Engineer has confirmed that the current open space/play area is known to have historic drainage issues. There is an identified flood exceedance route associated with the watercourse/culvert which when blocked would result in flooding. The EA and DCC Drainage Engineer have requested conditions which would require this watercourse to be re-profiled (as detailed above) and provision to allow future maintenance. These measure would assist in safeguarding the replacement play area from flooding.
- 3.171 The Environment Agency has not raised any concerns that the proposed development would result in any measurable increase in frequency of flooding to third party land post development compared to predevelopment.
- 3.172 Therefore, subject to a condition which requires the developer to accord with the principles of the SuDS, it is considered that the scheme is in accordance with Policy EN4 (Flood Risk) of Teignbridge Local Plan.

### Sustainable Development / Carbon Reduction

- 3.173 Teignbridge District Council declared a climate emergency aiming to be carbon neutral by 2025. Policies S7 and EN3 of the Local Plan set out requirements for new development to reduce carbon emissions and provide a carbon reduction plan to indicate how this could be achieved. Policy S7 states the Council seeks to achieve a reduction in carbon emissions by 42% by 2030. This application was submitted in 2018, prior to the updated calculator being prepared.
- 3.174 The Climate Change Officer has been consulted and has recommended the imposition of a condition requiring a Carbon Reduction Plan to be submitted prior to first commencement of the development which sets out how the requirements of policy S7 will be achieved
- 3.175 Policy W4 of the Devon Waste Plan requires that major applications are accompanied by a waste audit statement to demonstrate how waste from the construction and operational stages will be sustainably managed. A Waste Audit Statement has been provided which sets out how waste generated from the dwellings would be managed.
- 3.176 The requirement for refuse collection points within 10m of adopted roads is set out in the submitted plans and refuse collection plan. The main estate road is to be adopted giving easy access for refuse collection. Two general collection points are provided in locations where parking courts aren't to be adopted, serving plots 10 to 14 and 17 to 20. All remaining plots would collect from the adopted roadside in front of each home. All plots are provided with areas in rear gardens to store bins. The TDC Waste Officer has confirmed these details are acceptable. They are also considered, in design terms, to meet the requirements of the National Design Guide.
- 3.177 Further information is required to ensure that the requirements of Policy W4 are met in respect to the construction elements of this development.
- 3.178 It is recommended that a condition of this permission is imposed that requires the submission of a Waste Audit Statement which would deal with construction waste in accordance with Policy W4 of the Devon Waste Plan. It is also recommended that a condition is imposed requiring the development to be undertaken in accordance with submitted refuse collection plan

### Other matters

- 3.179 Letters of representation have raised concerns about the capacity of local infrastructure to accommodate 20 houses, in particular the Doctors Surgery. The NHS has not requested a contribution and there is no other evidence to suggest why a contribution towards heathy care is necessary to make this development acceptable in planning terms.
- 3.180 WE7 (Custom Build Dwellings) requires Custom and Self Build Housing (CSB) to be provided on developments in excess of 20 units. The previous scheme of 32 fell within the Policy WE7 requirement. The revised scheme for 20 dwellings is not required to provide any CSB housing.

## The Planning Balance

3.181 In the determination of this application Members will need to balance the benefits of the development against the harms identified. These can be summarised as follows, with Officer suggested weighting set out:

- The proposal would provide 20 homes, all of which would be affordable housing. Having regard to the impetus to increase the supply of housing of all types which is explicit in the Framework, and the identified need for such housing in the District, it is recommended that Members attribute the provision of affordable housing, very substantial weight. The TDC Housing Enablers have also offered strong support for this development and the social and community benefits that would arise in bringing this site forward.
- The proposal involves the loss of a veteran Oak tree which the wider community would like to see retained. The Oak Tree also has amenity benefits and has other ecological value. For this reason, it is suggested the loss of the tree is attributed significant weight. However, the proposal also offers an extensive replacement planting scheme to compensate for the loss and therefore on balance it is suggested this is reduced to great weight.
- The proposal includes a replacement play area, which would offer new equipment and an improved drainage scheme in a play area which has a history of flooding. These aspects of the development represent an improvement for users in the wider local area. However, as set out in letters of representation, the LEAP and kick about area are presently sited immediately adjacent to one another and the new arrangement would divide the LEAP and kick about area with the access road which the community consider to be a disadvantage. For this reason, it is recommended this benefit is attributed moderate weight.
- The proposal would bring some economic benefits through construction and through the additional spend generated by new residents, who would also help to sustain local services and it is recommended these benefits are attributed moderate weight.
- Highway improvements around the site are broadly necessary to offset the impacts of the scheme, however the new pedestrian formal crossing points would also be of benefit to the existing community and therefore it is recommended this matter can be attributed moderate weight.
- The biodiversity improvements are in effect mitigation measures to be set against the ecological impacts of the development and so it is recommended these carry no weight as a benefit.
- Having regard to the quantity and quality of the agricultural land on and adjoining the site and the size of the application site, it is recommended that little weight is attributed to the harm that would arise from its loss from agricultural production.
- The impact on local landscape and the character of the area in long views would be limited. In close views from within Starcross (as set out in the LVIA) these would be limited in the long term but may have significant short-term localised impact. However, the view point is from a small number of vantage points

around the site and would lessen over time. The development offers a high quality environment with ecological buffers and tree planting and the development would be read in the context of this edge of settlement location. For this reason, it is recommended that little weight is attributed to this harm.

- Letters of representation have raised concerns about historic flooding in and around the site. Conditions relating to re profiling and maintenance of the existing watercourse would minimise the likelihood of its flooding and the EA and TDC Drainage Engineer are satisfied with this approach. There is also no evidence the proposed development, which will incorporate a SuDs drainage scheme, will cause flooding to neighbouring land.

### Conclusions

- 3.182 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the provisions of the Development Plan unless other material considerations indicate otherwise.
- 3.183 The application site is in a sustainable location and whilst the majority of the site is outside of the settlement boundary, it is located on the edge of the village and adjacent to existing residential development. Policy S21 defines Starcross as a village being an appropriate location for limited development which meets their social and economic needs, protects their rural character and is consistent with the need to minimise travel. The policy further states that the emphasis will be on the provision of affordable housing (amongst other criteria).
- 3.184 Policy WE5 is permissive of rural exception and therefore there is in principle policy support for the proposed development.
- 3.185 The applicant has worked pro-actively with the Council, over a 3 year period, to produce a revised scheme which meets the various competing demands of the Local Plan policy. This has been a very challenging site to progress and its development will lead to the delivery of 20 affordable dwellings in Starcross which is a significant benefit which weighs heavily in favour of the application in the planning balance. There is also strong support for this site to come forward as an affordable exception site by the TDC Housing Enabling Team.
- 3.186 The harm that would arise to landscape and the character of the area, taken together with the loss of the Oak Tree, agricultural land and re-located play area would not significantly and demonstrably outweigh the very substantial benefits the scheme would provide in relation to affordable housing provision and other identified benefits.
- 3.187 The proposal would amount to sustainable development when assessed against the Framework, taken as a whole and is also shown to accord with policies of the Teignbridge Local Plan.
- 3.188 Therefore, subject to the proposed conditions and obligation set out above, it is recommended that planning permission be granted.

## **4. POLICY DOCUMENTS**

### **Teignbridge Local Plan 2013-2033 (TLP)**

S1A (Presumption in favour of Sustainable Development)  
S1 (Sustainable Development Criteria)  
S2 (Quality Development)  
S4 (Land for New Homes)  
S5 (Infrastructure)  
S6 (Resilience)  
S9 (Sustainable Transport)  
S11 (Pollution)  
S22 (Countryside)  
WE1 (Housing Plan, Monitor and Manage)  
WE2 (Affordable Housing Site Targets)  
WE4 (Inclusive Design and Layout)  
WE5 (Rural Exceptions)  
WE7 (Custom Build Dwellings)  
WE11 (Green Infrastructure)  
EN2A (Landscape Protection and Enhancement)  
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)  
HT1 (Heart of Teignbridge – Movement)  
HT3 (Heart of Teignbridge – Green Infrastructure)

### **Devon Waste Plan**

W4 Waste Prevention

### **National Planning Policy Framework (2019)**

### **National Planning Practice Guidance**

## **5. CONSULTEES**

5.1 The application was submitted in 2018 and has been through numerous phases of consultation. The most relevant and up-to-date are listed below. A full set of complete responses is available to view on the Council's website.

### **TDC Biodiversity FINAL COMMENTS (02/02/2021)**

#### **SUMMARY**

A suite of conditions and an increased Habitat Regulations contribution are required to satisfy Habitat Regulations requirements and avoid impacts to other wildlife.

## **DESIGNATIONS/ISSUES**

The site is close to the Exe Estuary SPA and Dawlish Warren SAC. I have revised the Appropriate Assessment in light of the new layout and lower number of houses proposed. The AA concluded that a suite of conditions are required, plus a Habitat Regulations Contribution of £876 per dwelling (index linked) secured via a S106 agreement.

The revised layout includes an increased amount of habitat for curlew buntings. In light of this, a curlew bunting contribution is no longer required.

## **POLICIES THAT APPLY**

NPPF including paragraphs 170, 175, 176 and 177

177: The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

Teignbridge Local Plan Policies:

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

## **CONDITIONS AND OBLIGATION REQUIRED**

A S106 Agreement Clause is needed to:

Secure a Habitats Mitigation Contribution of £876 per dwelling (Index-Linked). This is a total of £17,520 for 20 houses.

Phasing Plan

Prior to commencement including site clearance, a Construction Phasing and Timing Plan shall be submitted to and approved in writing by the local planning authority. The plan shall provide details of how works shall be phased and timed to avoid potentially disturbing construction activity coinciding with the peak period of SPA bird use (November to February inclusive).

CEMP

Prior to commencement including site clearance, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall provide details of:

- Measures to prevent pollution of surface water and watercourses;
- No construction work to take place at night, to avoid disturbance to SPA birds and bats. Works shall commence at least 30 minutes after sunrise and cease at least 30 minutes before sunset each day;
- No lighting to be left on at night;
- Works compounds to be located away from existing and new hedges and wildlife buffer zones;
- Works compound lighting to be warm-white, PIR-activated, security lighting only, on short timers (1 minute maximum), directed away from existing and new hedges, and wildlife buffer zones;

- Measures to protect biodiversity during site clearance and construction, including timing of any vegetation clearance and escape routes for animals that might fall into excavations;

Once approved, the Plan shall be implemented.

REASON: For the benefit of legally protected and priority wildlife.

A pre-commencement condition is needed as site clearance may cause damage.

### LEMP

Prior to commencement including site clearance, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall provide details of:

- A new hedge bank and wildlife buffer zone to be created along the western and southern boundaries, prior to commencement of other works on site. The hedge bank to consist of a Devon bank, topped with a native-species hedge, this bank to be separated from the rest of the development by a 3+m wide grassy buffer zone;
- A 1.8+m high opaque fence/screen which, during construction and for the first five+ years of the operational phase, shall supplement the new hedgebank to ensure effective screening against disturbance to SPA birds in the wider field. The fence/screen should be of a biodegradable material such as reed or hazel and should be removed once the hedge has grown into an effective screen;
- Existing hedges and trees to be retained;
- Tree and Hedge Root Protection Zones and Wildlife Buffer Zone Protection Zone to be established before commencement, including site clearance, and maintained until development works are complete;
- Planting schedules for new hedges, trees, shrubs, climbers and other planting, including species mix, spacing, protection and establishment details;
- New hedgerows shall be planted with at least five native woody species, predominantly thorny species, including blackthorn, hawthorn, dog rose, hazel, elder, oak and field maple. The hedgerows shall be maintained to develop into dense and bushy structures, a minimum of 2m tall and 2m wide;
- The retained eastern hedgerow is to be enhanced through appropriate management, creating a dense and bushy structure a minimum of 3m tall and 2m wide;
- Seeding, establishment and management of the wildlife buffer zone vegetation, wildlife area and other areas as wildflower-rich and tussocky grassland;
- Seeding, establishment and management of other grassland areas, including species-rich flowering lawns to be created in private gardens and any short grass communal/ amenity areas with lower footfall pressure;
- Habitat piles/hibernacula to be created to provide sheltering and basking habitat for reptiles and invertebrates;
- Ten bat, ten swift and ten house martin boxes plus 20 bee bricks to be installed integral to the buildings. Details shall include the design, location, height and aspect of the boxes/ bricks.
- The location of 13cm x 13cm hedgehog access holes to be provided in the base of every curtilage boundary, to permit free movement for hedgehogs between gardens and other areas.

Once approved, the Plan shall be implemented.

REASON: to provide compensation and enhancements for legally protected and priority species and other wildlife.

A pre-commencement condition is needed as site clearance may destroy features that should be retained.

#### Follow Wildlife Report

The works, including site clearance, shall proceed in strict accordance with the precautions, avoidance, mitigation, compensation and enhancement measures described in the Ecological Appraisal Report, including appointment of an Ecological Clerk of Works (by Green Ecology, dated November 2020; see especially sections 4 and 5).

REASON: For the benefit of legally protected and priority wildlife.

#### SUDS

Compliance with submitted and approved details of SuDS (or other surface water disposal method) and foul sewage disposal, to EA/industry standards.

REASON: To avoid pollution and increased flow impacts on the Exe Estuary SPA.

#### Lighting Scheme

Prior to any construction above the damp proof course level, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show how light spill onto new and old hedges, the Wildlife Area and the Wildlife Buffer Zone will be minimised and be of appropriately 'warm' wavelengths (colour temperature of 3000K or less, wavelengths of 550nm or more). The development shall be delivered in strict accordance with Lighting Scheme.

REASON: In the interests of SPA birds, light-sensitive bats and other wildlife.

#### Monitoring

Prior to any construction above the damp proof course level, a Wildlife Monitoring Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Monitoring Scheme shall be designed to ascertain the effects of the development on SPA birds during both the construction and operational phases. The Scheme shall also specify a programme of reporting to the local planning authority and a means for securement of additional mitigation measures, if monitoring shows additional mitigation to be needed. Once agreed, the Scheme shall be implemented.

REASON: In the interests of SPA birds.

### **TDC Housing Enablers Final Comments 29.03.2021**

This scheme is fully supported by the housing enabling team as it will provide much needed affordable homes in a location where the opportunities for alternative sites are limited'

The housing mix of 20 affordable rented homes comprise of 14 rented properties and 6 shared ownership properties which would meet a need for housing as set out in Policy WE5.

### **TDC Senior Arboriculture Officer (04/12/2020)**

I refer to the above application and can advise as follows:-

Provided the Council's Landscape officer is content with the layout and proposed landscape scheme, there are no arboricultural objections to the proposal.

### **TDC Landscape Final comments (25/03/2021)**

#### **SUMMARY**

I am now satisfied with the landscape proposals.

#### **JUSTIFICATION**

I write in response to Robin Upton's email dated 27<sup>th</sup> January 2021, in which he responds to my earlier recommendation that a more substantial effort - such as in the form of a group of oak trees - would be a more fitting replacement for the loss of the oak tree at the site entrance.

I note that, in the response and accompanying planting plan, changes to the planting have been proposed that include:

- additional tree planting that will deliver a loose group of 4 oaks;
- that the replacement oak at the entrance is a sizable specimen;
- and that constraints prevent further tree planting.

As a consequence of these amendments, I am content that, as far as possible, my recommendation has been addressed.

I also note the clarification that a hedge, rather than hedge bank is shown at the perimeter of the site and that the management, as shown in the schedules, is suitable. I can confirm that I am happy with this.

### **TDC Environmental Control (17/08/2018)**

I refer to the above application and request the following condition to reflect the conclusions in the contaminated Land assessment.

#### **Unsuspected contamination**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to, and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Development shall not thereafter proceed unless in strict accordance with the measures identified in the approved remediation strategy and verification plan. Prior to occupation to occupation of any part of the permitted development, a verification

report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.

### **Reason**

To ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

### **TDC Waste (26/09/2020)**

I have had a look at the revised plans and I am happy that the waste collection vehicles should be able to access and turn on the site safely. I am also happy with the bin collection points that have been allocated for the properties with the private car parking areas to present their containers on collection day. All of the other properties should be able to present their containers directly at the kerbside.

### **TDC Drainage (as Emergency Planner) (14/11/2019)**

In consideration whether there is safe access and egress from the site, as clarified within the submitted FRA and by the Environment Agency, the primary vehicle access into the site lies within Flood Zone 3 and potentially affected by flood risk from ordinary watercourse which flows west to east on the Northern boundary. The proposed pedestrian access from the site is also identified at risk from flooding. However no detail is provided on depth\velocity or hazard of the associated flooding at the access location. This information is required as the basis of understanding whether safe access and egress exists over the lifetime of the development.

It is expected that vehicular access to allow emergency services to safely reach the development during the design flood conditions is also required. The lack of safe vehicular access and egress conflicts with the advice given in the PPG to the NPPF that 'vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required' (paragraph 039) and it will remain the case whether or not a flood emergency plan is in place.

The PPG also recommends that the emergency services are unlikely to regard development as safe it increases the scale of any rescue that might be required. A suitable emergency vehicular access should also be proposed.

At this stage it cannot be determined if the proposal are safe in accordance with the guiding principles of the PPG.

Should the applicant be able to address the above points, the applicant should also consider a development of an outline flood emergency plan (with further detail to be agreed at the detailed design stage) in support of the submitted flood risk assessment. As per paragraph 163 of the NPPF (together with footnote 50), safe access and escape routes should be included as part of an Emergency Plan. The Emergency Plan should be provided as part of the FRA, or as a separate document accompanying the FRA. Due to the nature of the proposed access and egress proposals this is an important component of the safety of the proposed development. This document should be used to demonstrate that the development and its occupants remain safe during flooding events throughout its lifetime.

## TDC Drainage (13/02/2021)

Further to the revised Flood Risk Assessment which has been agreed by the Environment Agency I am comfortable that the Emergency Flood access which is being proposed is acceptable in terms that it can be phased and an access can be provided to the site when climate change and sea level rise will become an issue. It is recognised that Starcross flood defences will be provided up to 2049, If in the unlikely event that the defences aren't increased then the provision of the Emergency Access and Egress route would need to be provided.

The FRA states that the vehicle access at the entrance at this time will be slightly impeded however it is recognised that this is likely to be impassable should the modelled flood events occur in the future. The FRA also states that the emergency route would be pedestrian only and I believe in the main part this will be a pedestrian only route, however provision should be made that in an absolute emergency a vehicle could gain access along the route.

In other locations a 3.1 m wide track would facilitate this with restricted bollards to prevent access. Given that this is a likely event that is likely to occur in the future, it would seem sensible that a suitable clause is provided in the Section 106 that allows a mechanism for a review, design and provision of the access and egress route under the best available information in 2049. It may be that by 2049, flooding may be reduced at the entrance and only pedestrian access is required or vice versa and I believe that a review mechanism to allow the access and egress route to be designed under the best available information at the time to be the best mechanism. Would this be possible under a 106 agreement?

Generally we would suggest a condition in which a Flood Warning and Evacuation plan is submitted prior to first occupation:

Prior to first occupation of the development hereby approved, a Flood Warning and Evacuation plan which shall contain;

- (a) *the necessity of including the building on the Environment Agency's Flood Warning system,*
- (b) *trigger levels for evacuation,*
- (c) *the location of safe refuge within the property,*
- (d) *the access and egress route in the event of a flood*

*This emergency plan will then be made available to future occupants of the development within the sales or tenancy pack.*

However in this case there will need to be a phased approach, arguable this only becomes an issue when we reach 2049, however as the site is generally protected by defences it may be sensible that there is a FWEP document made available at this stage together with the approved FRA to occupants so they are aware of the general flood risk within the vicinity and the need to understand what to do if flood warnings etc. are issued for the area particularly with the minor watercourse within the site or any issues with the installed defences (such as failure or gates not closed etc.). Would you be happy to consider a condition to cover this point? Attached is an example of FWEP for the applicants consideration.

Within paragraph 5.6 of the FRA, re-profiling the channel to enable additional capacity and maintenance, I note it suggests *potentially be achieved*, this work should be committed to. I believe this has been considered within the layout and the landscape plans etc. which refer to this maintenance corridor but would be good to seek clarity on this point it will be re-profiled as per the FRA. This may be more of point for Estates/Green Spaces, but future responsibility of the stream corridor, if proposed to fall back to TDC we would want this re-profiled channel and maintenance access agreed.

Overall I have no objection in principal considering that the FWEP can be secured by a condition, re-profiled stream corridor is committed to and appropriate wording in the S106 is provided to secure the review, design and provision of some form of access and egress *should* it be required.

### **TDC Drainage Engineer 25/03/2021**

Confirmed a Flood Warning and Evacuation Plan (FWAP )would not be required in the short term. Once the ditch has been re-profiled and the Stracross scheme is given protection until 2049, there is little value in requiring a FWAP at this stage, this should be included in the S106 which covers the Design, Construction and Implementation of the a 3.1m Emergency Vehicle/Pedestrian access route which is supported by a Flood Warning and Evacuation Plan.

## **5.9 TDC Project Play Officer**

### **Provides advice / requirements regarding design / form and content of proposed play space.**

#### **PLAY AREA REQUIRMENTS**

At this stage the Council has not confirmed if the play area and or POS will be transferred back to the Council. In any case the play area has to equal or greater than the existing play area exercised in the option agreement. Therefore unlike other planning applications the Council should and can be more specific in relation to the minimum design standards set.

As a starting point for the new play area design I thought it would be appropriate to provide the Councils minimum specification requirements we have adopted as a council to ensure minimal maintenance is required – The information has been taken from a play area tender and sets out requirements in relation to – play equipment; safety surfacing; – fencing and gate etc.....

#### **Play equipment**

- 2 one bay cradle swing with anti-wrap chains
- 2 one bay junior flat swing with anti-wrap chains
- 1 toddlers multi play
- 1 junior multi play
- 1 inclusive roundabout
- 1 inclusive seesaw
- Litter bin
- Play signage

### **Hard landscaping** –

- Central seating area and tree
- Interconnecting surfacing between equipment to prevent ground erosion (porous material – safety matta would be the only acceptable grass mat option)
- One pedestrian access gate
- One combined vehicle and pedestrian access gate
- Signage
- Bowtop fence (play safe)

### **Soft landscaping**

Soft landscaping is required to :-

- soften the appearance of the play area
- provide sensory and practical design solutions
- promote biodiversity

for example:

play elements/formal boundary treatments and to remove the requirement for formal physical play barriers needed.



Yes to natural Barriers



No Formal barriers

Please note the play area would fall into a LEAP & LLAP play area and the attached design code should be used to facilitate that specific play requirement.

### **TDC Custom Build Project Officer (20/06/2019) (on larger scheme)**

#### **Custom build housing – policy background**

Adopted in 2014, Local Plan Policy WE7 requires at least 5% of dwellings on sites of 20 units or more to be secured as serviced plots for purchase by self or custom builders. This 5% requirement is additional to any % required for Affordable Housing through Local Plan policy.

**Custom and Self Build Supplementary Planning Document (SPD)** Adopted in 2016, the Council's SPD provides detailed guidance setting out the council's objectives and expectations for delivering Custom and Self Build housing.

## Policy requirement

I met with the applicant and set out a number of options for meeting the policy requirement of 2 custom build plots within the proposal. Options discussed included delivering either market or affordable custom or self build housing as:

- serviced plots
- watertight shells
- turn-key custom build

Despite the Council's flexible approach to delivery options and willingness to work with the applicant, the applicant continues their argument that Policy WE7 in relation to custom build should not be applied to this development and that incorporating such plots would render the site unviable and therefore not deliverable.

They also argue that in omitting the custom build requirement, the provision of 50% affordable housing more than compensates for this omission.

In response to the applicant's points:

1. 'Policy WE7 in relation to custom build should not be applied to this development'

I have sought the view of Spatial Planning colleagues who confirm they are of the opinion that Policy WE7 DOES relate to rural exception sites.

The wording of Policy WE7 requires custom and self build plots to be provided on all sites of more than 20 dwellings. It does not state that this requirement only relates to market dwellings nor does it state that there are exceptions to this requirement, such as Rural Exception Sites. Therefore, the proposal should incorporate 5% custom and self build plots – whether they are provided on the open market or as affordable plots.

2. 'incorporating such plots would render the site unviable and therefore not deliverable.'

The submitted scheme progressed to an advanced stage in terms of layout and viability over a significant time period, with Spatial Planning input only being sought at the latter stages of the proposal. Notwithstanding this, the applicant was aware of the Local Plan Policy custom build requirement from the outset and if viability concerns existed these could have been addressed with Spatial Officers earlier in the scheme development process.

3. 'omitting the custom build requirement, the provision of 50% affordable housing more than compensates for this omission.'

In determining the application, Officers should consider the weight contained within Local Plan Policy WE7 and WE3:

### **WE7 Custom Build Dwellings**

***4.22 By ensuring availability of custom build plots this policy help local residents develop their own lower cost market housing, supporting the local economy by providing work for local builders and tradesmen, increasing the diversity of housing supply, and encouraging sustainable construction methods.***

**4.23 Custom build delivered as affordable housing in partnership with a Housing Association or other registered provider should comply with requirements set out in Policy WE3 of this plan.**

**WE3 retention of Affordable Housing:**

*Affordable housing is required to have the following restrictions through planning conditions or obligations or another legally defensible limitation:*

*a) the occupation is restricted to households in need of affordable housing in accordance with appropriate officially published criteria such as those used by the Housing Authority for social and affordable rent housing and the Homes and Communities Agency for intermediate housing;*  
*b) the price or rent is limited to no more than 80% of the market levels in perpetuity. Where this is not possible, for example where the right to acquire applies, receipts must be recycled for alternative affordable housing provision;*  
*c) where an acceptable registered provider cannot be secured to take ownership of affordable housing, a cascade of potential providers will be agreed, including registered providers, Teignbridge District Council, Community Land Trusts and finally sale with Devon occupancy restrictions;*  
*and*

***d) Custom build housing which meets a-c above will be considered affordable housing.***

**Summary**

For the reasons set out above I object to the current proposal. However I remain willing to work with the applicant to identify a policy compliant scheme which meets a range of affordable housing solutions including custom and self build.

**DCC Highways (09/12/2020) – FULL DCC Response**

Observations (15/02/2019):

The site is accessed off an unclassified County Route which is restricted to 20 MPH. There are no personal injury collisions which have been reported to the police in this area between 01/01/2013 and 31/12/2017.

The access to this development has been discussed with the Highway Authority prior to the application being submitted and it does meet with the guidance of Manual for Streets 1 & 2. The applicant has supplied a plan FIG4.1 showing the visibility splays.

Brickyard Lane from the proposed access south is 5.5 metres wide and has a footway on both side in part. The footway from the access from the site will be via Parkers Road, the application also shows a direct access from Parkers Road to the new proposed play park. Brickyard Lane does have the facility for cars to park along both sides of the road which normally helps to reduce speeds in the area. This end of Brickyard Lane is restricted to 20 MPH.

Brickyard Lane from the proposed access north is 3 metres wide and has no footways, there are 2 accesses to the allotment areas along this road. There is no access to any Public Rights of Way along this road. This end of Brickyard Lane is restricted to 30 MPH. Although this road is narrow in part there are no passing

places and the road does widen as it passes Brickyard Cottages and again once it opens up in to Staplake Road. The number of dwelling proposed in this application would not justify asking for passing places along this 400 metre section of road.

The route the pedestrians would make from the proposed development to the school would be into Parkers Road, then into Cookson Road coming out on to New Road, then along New Road and the desire line would be to cross over to the school. As part of this application it a formal crossing points at this location and the footway on the opposite side adjacent to the school is narrow and would require widening to make this a safe suitable route for all users.

There has been a number of concerns raised with regards local flooding in this area and runoff from this particular field in to the highway, and there has been a history of flooding in this area therefore the drainage strategy for this development would require further information. A full report including CCTV of the highway drainage will be required to be undertaken to ensure the existing system is capable of taking the additional surface water. And if this is not the case then an agreed solution to ensure this development does not add to the existing surface water issues in this area

The Transport Assessment submitted shows trip rate figures have been taken from TRICS database which a is nationally accepted database. The number of trips are low at peak times and would not cause a severe impact on the highway network.

The junction from Staplake Road on to the A379 has been assessed in the Transport Assessment for capacity which has meets the guidance requirements. Although the junction has not been assessed for safety. This junction has very limited visibility to the West and has a bus stop opposite the junction which also raises concern if cars are moving out of the junction to gain visibility and could possibly in conflict with vehicles overtaking a stopped bus. Therefore mitigation would be required to make this junction safe.

This is a full application the internal layout is being determined. The highway layout as you go into the site shows a crossing point for pedestrian to access the LEAP area, this needs to show the details of this crossing point to ensure it is a safe and suitable crossing. Further along beside plot 32 there is no turning head this will need to be addressed. There is a shared surface home zone at the end of the development.

This Development will be with the 20 MPH area therefore this development may require a Traffic Order to ensure this is 20 MPH and a contribution for this will be required and to be secured within a S106 agreement.

As this is a full application further drawing showing cross section and long section of the development and a drawing will be required to ensure the development layout will meet the requirements of the Devon County Council Design Guide and Manual for Streets 1 & 2.

Therefore the Highway Authority recommend refusal for lack of information:

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, road layout, highway safety and surface water drainage, Contrary to the National Planning Policy Framework

## **Further information received from the Applicant on Technical Note 01 Section 2**

The request is for a crossing point on New Road between Brickyard Lane and Cookson Road. There are no existing safety issues with regards the existing pedestrian crossing, this is a request for an additional crossing point with a dropped kerb and tactile paving to encourage the pedestrian walking from the new development to cross in a safe location. This would also include the widening of the footway to the south adjacent to the school approximately 30 metres.

Section 2.5 The route from the development which the applicant is proposing does not have a footway on the development side of the road for approximately 70 metres, there is no proposal to deliver a footway here and the applicant has not put forward a proposal for a crossing point at this location.

Section 2.8 The County highway Authority has not asked for a controlled crossing as part of this development.

Section 3 Visibility splays have been measured off Google Earth and the write of this report has not been to site. The visibility splays are poor and my comment remain the same and highway safety could be affected by encouraging more movement through a substandard junction and increasing the level of risk onto a A class road

### **31st May 2019 Further Information received**

The Applicant has submitted a Drawing SK04 which shows the proposed footway to be widened alongside Starcross School in New Road, and the formal crossing point with dropped kerbs which is acceptable and makes a safe route to school from the development.

A full report including CCTV of the highway drainage has still yet to be submitted and agreed.

As this a Full Application The County Highway Authority (CHA) will require a need a drawing showing the extend of adoptions and include the Street Lighting proposal, outlined by a solid red line for S38 purposes.

There appears to be 2 areas which terminate without a turning head or anything. The new native hedgerow to the site boundary cuts the road off, can this be explained?

The CHA would prefer blacktop than block paving and general arrangement Drawing showing kerb heights and surfacing will be required.

The drainage plan is slightly unclear. Some of the manholes, do not meet the manholes in the key and what are is being put forward Devon County Council oto adopt is this only gully's and connections? If so this needs to be shown on the S38 drawing.

The private drive coming off the access road 2 does not show a refuse vehicle entering. Although this is private, the access still needs to be suitable for the fire brigade. A bell-mouth access could be considered. There are no tactile or formal crossings shown.

Therefore the Highway Authority recommend refusal for lack of information:

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, road layout, highway safety and surface water drainage, Contrary to the National Planning Policy Framework

### **17th July 2019 Further information received**

The Applicant has submitted Drawing Number WE04733 - 003 Rev D, this drawing shows the tactile paving required which is acceptable.

Drawing Number WE04733 Fire Engine swept paths, the applicant as stated that the terminated areas at the boundary is an area which is envisaged that it will be connected to the further field therefore the first turning head will be the main access road and the fire engine can turn in this area, therefore this is acceptable.

The location of gullies, manholes, kerb heights, surface materials and street lighting will be within the site will be dealt with through the technical check at Section 38 stage if the application is approved. Although a suitable condition will be recommended.

All the site drainage is to be connected into South West Water system and not into the Highway Drainage which has been accepted by Devon County Council Flood Management Team, therefore CCTV of the existing highway System is no longer required.

The off site highway works Drawing SK04, Drawing SK05 to secured through a Section 106 Agreement.

### **Following further information from the applicant**

The scale of the site has been amended from 32 dwellings to 20. The previously agreed access arrangements remain the same as shown on drawing WE04733-C-003 Rev E.

The agreed off site Highway works shown on drawing SK04 Rev A are still proposed but those shown on SK05 Rev A are no longer required. The improvement works include provision of a new non-signalised pedestrian crossing facility at New Road to connect with Starcross Primary School. This is to be secured as part of a 106 Agreement.

On drawing WE-04733-C-003 Rev E the tactile paving at the bell mouth do not line up. This will need to be amended but this can be done as part of the Section 38 process. A 38 drawing will need to be provided showing revised tactiles, gullies and connections, and street lighting. A suitable condition will be recommended.

**Recommendation: THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION**

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including: (a) the

timetable of the works; (b) daily hours of construction; (c) any road closure; (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance; (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits; (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases; (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority; (h) hours during which no construction traffic will be present at the site; (i) the means of enclosure of the site during construction works; and (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site (k) details of wheel washing facilities and obligations (l) The proposed route of all construction traffic exceeding 7.5 tonnes. (m) Details of the amount and location of construction worker parking. (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority. REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

### **DCC Education (20/11/2020)**

The application above has been reviewed in light of recent revisions. Please see the updated response below.

Regarding the above planning application for 20 dwellings, Devon County Council has identified that the proposed increase of 14 family type dwellings would generate an additional 3.5 primary pupils and 2.1 secondary pupils which would have a direct impact on Starcross Primary school and Dawlish Secondary School.

There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development. Therefore a contribution towards education infrastructure will not be sought.

It has been noted that the amended plans letter dated 18/11/2020 to TDC states that as the development is now 100% affordable housing, a transport contribution is no longer applicable. As set out in DCC's Education Infrastructure Plan, affordable housing does generate a need for additional education facilities (both infrastructure and transport) within specific localities and is therefore included within contribution calculations. DCC therefore does seek a contribution towards secondary school

transport due to the proposed development site being further than 2.25 miles from Dawlish Community College. The costs required are as follows: -

## 2.1 Secondary pupils

£3.31 per day x 2.1 pupils x 190 academic days x 5 years = £6,603

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the cost of transporting children from Starcross to Dawlish Community College. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

It is anticipated that the school transport contribution would be provided through S106.

### **DCC Lead Local Flood Authority (LLFA)(15/12/2020)**

Recommendation: We have no in-principle objections to the above planning application, from a surface water drainage perspective. If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning conditions are imposed:

- No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage (FRA & DS) Strategy, Brickyard Lane, Starcross, report ref WE04733/FRA v4 dated 23/10/2020.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations: The applicant has resubmitted the application due to a change in layout. The drainage layout is similar to before so we have no objection in principle and have recommended a condition with a list of requirement for the detailed design stage. The applicant is restricting flows to greenfield rates which also meets the requirements for long term storage. We would recommend that the use of

bioretention areas and tree pits are fully explore at the detailed design stage in line with s1.2.1 of the approved FRA and DS

### **DCC Historic Environment Officer (19/10/2018)**

I refer to the above application. The HET has now received further information regarding this application in the form of a geophysical survey report. In light of this new information I would like to withdraw my previous objection and recommend that no further archaeological mitigation is required.

### **Natural England (06/01/2021)**

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We concur with the findings of the Third Iteration of the Appropriate Assessment and consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Exe Estuary Ramsar site and Special Protection Area
- That adverse effects on the integrity of Dawlish Warren SAC can be mitigated through a Habitats Mitigation contribution being secured.

In order to mitigate adverse effects on the protected site bird populations and make the development acceptable, the following mitigation measures should be secured: Submission and approval of:

- A Construction Phasing and Timing Plan to avoid the peak periods of SPA bird use of November to February inclusive;
- A Landscape and Ecological Management Plan (LEMP) to include maintenance and management of the buffer zone;
- A Construction Environment Management Plan (CEMP);
- A monitoring scheme which shall monitor the effects of the proposal on SPA birds during other construction and operational phases, including mechanism for additional mitigation if monitoring demonstrates this is necessary to prevent adverse effects on protected sites.

In addition:

- A minimum 3 metre wide buffer zone between development and the western and southern Page 2 of 2 site boundaries shall be created. Within this zone a Devon bank topped by a dense hedgerow shall be planted and an opaque minimum 1.8m high fence screen shall be erected prior to the start of construction;

We advise that appropriate planning conditions or obligations should be attached to any planning permission to secure the proposed ecological mitigation measures.

### **Disturbance of SPA birds**

If the proposed planning condition wordings change in effect from those set out in the above Appropriate Assessment please consult us again.

## Habitats Regulations Assessment - Recreational Impacts on European Sites

This development falls within the 'zone of influence' for the Exe Estuary SPA/Ramsar and Dawlish Warren SAC as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SPA and SAC due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured.

### **Environment Agency (09/02/2021)**

Environment Agency Position We have reviewed the updated flood risk assessment (Clarkebond, October 2020) and are able to withdraw our objection to the proposal, subject to the inclusion of the following conditions in any planning permission:

Condition The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment prepared by Clarkebond (dated October 2020) and the following mitigation measures detailed within the FRA:

1. Finished floor levels shall be set no lower than 4.92 metres Above Ordnance Datum (mAOD)
2. Re-profiling of ordinary watercourse channel adjacent to the LEAP/Public Open Space

Reason To reduce flood risk to the development.

#### Access and Egress

The FRA has identified that the tidal flood hazard rating at the site entrance would represent a 'Danger for most – includes the general public' by the year 2060 and a 'Danger for all – includes the emergency services' by the year 2115. The FRA states that a legal pedestrian access right exists along the edge of the field to the south of the site to Staplake Lane, and that this emergency pedestrian access route would only be End 2 constructed at the future time when sea levels rising as a result of climate change begin to affect the site. We note that the Planning Practice Guidance associated with the National Planning Policy Frameworks states that 'vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required' (paragraph 039). Therefore, we recommend you refer the application to your Authority's Emergency Planner for their view on whether or not this future arrangement could be acceptable.

### **RSPB (14/08/2018)**

The RSPB objects to this application because it will result in loss of habitat for at least one curlew breeding territory. There is insufficient information to assess if the various proposed mitigation measures, including provision of a 550m<sup>2</sup> wildlife area, new hedgerow and 3m wildlife corridor to west and south of the proposed development, will be delivered. Currently these measures are set out as recommendations only (*Ecological Appraisal* (Green Ecology, July 2018) and *Design and Access Statement* (Grainge Architects, 30 July 2018)). There is insufficient information on how these proposed habitats will be managed and no information on who will deliver this management, over what period and what financial arrangements will be in place to secure this. The application is a full one, so it seems reasonable that those details be provided with this application as, in their absence (and with experience of lack of delivery of on site mitigation habitat management in other developments), we can have no confidence that mitigation management will be implemented or provide any suitable replacement habitat.

The RSPB will comment further pending submission of those details. Alternatively, the applicant could commit to make a financial contribution to Teignbridge District Council for the delivery of replacement curlew breeding habitat elsewhere in the district.

We consider these comments accord with the approach set out in the current *Wildlife and development guidance note: curlew* (Devon County Council, Teignbridge District Council and Torbay Council, October 2017), and Teignbridge Local Plan 2013-2033 policy EN11 *Legally Protected and Priority Species* re providing appropriate mitigation and compensation.

### **RSPB (05/09/2018)**

Further to the previous comments in relation to curlews, the RSPB also has concerns with regard to potential for loss of habitat that is used by waterfowl that are part of the designated interest of the Exe Estuary Site of Special Scientific Interest, Special Protection Area and Ramsar site.

Information from the wintering curlew surveys reported in the *Ecological Appraisal* (Green Ecology, July 2018) highlighted that the field does host some waders during winter and this appears connected with high tide (see extract in red below). We have also been contacted by local residents who have records of wading birds and Brent geese on the application field/adjacent fields in winter. The application field has some value therefore as functionally linked habitat. In our view, this raises the issue of cumulative loss of relatively low-level high tide roosting/feeding areas around the estuary. We recommend therefore that there should be an assessment of likely significant effect of the proposed development on the SPA and Ramsar site. We consider that the loss of the function of this field as a high tide refuge and potential feeding area should be considered in combination with other such losses (to other developments) around the estuary.

This approach would be consistent with Teignbridge District Council policy EN10 *European Wildlife Sites*.

Extract from *Ecological Appraisal* (Green Ecology, July 2018)

Curlew *Numenius arquata* (a red listed BoCC species, an SPI and a DBAP species) and oystercatcher *Haematopus ostralegus* (a wader listed within the winter assemblage that is of

international importance at Exe Estuary as an SPA and an amber listed BoCC species) were recorded foraging in the neighbouring field to the west of the Site and 17 oystercatcher flew over the Site 9th December 2016. By coincidence, this was conducted close to the time of high tide.

Flocks of up to 27 curlew were noted foraging on the Site and wider field compartment on 4th and 16th January 2017. Oystercatcher were also heard calling north of the Site on 4th January.

No further waders were recorded foraging on Site.

### **RSPB 11/10/2018**

Further to the RSPB's previous comments of 14 August and 5 September (below), I hope these additional comments and recommendations are helpful.

There is a risk that this development, both on its own and in combination with other such developments around the estuary, could result in the loss of significant high tide refuges for the estuary's protected waterbirds.

There is a lack of co-ordinated information on what land around the Exe Estuary is used as high tide refuges and feeding areas by species that are designated features of the Exe Estuary SPA, ie. functionally linked land. It is not therefore currently possible to assess the significance of the loss of the application site for waterbirds.

The Exe Estuary Wetland Bird Survey (WeBS) counts do not assess all undeveloped terrestrial land adjacent to the estuary for its usage by waterbirds, though WeBS does attempt to cover Dawlish Warren, some Powderham Estate land north of Palmer's Wood, Powderham and Exminster Marshes and then on the East side, land around the Clyst and between Lypstone and Exmouth.

In our view, for Teignbridge District Council to determine whether there is a likely significant effect from this development proposal, it needs to understand how birds use land around the whole estuary at high tide. Only with that information will it be possible to determine the relative value of individual fields.

However, in relation to this application, we appreciate that the test of reasonableness needs to apply – what data is it reasonable to expect this proposal to provide in order to inform the Council's decision? We recommend the Council requires the following before being in a position to determine this application:

- Waterbird surveys (SPA individual and assemblage species) in the application field, adjacent fields - and other suitable land within 0.5km of Starcross Include Oak Meadow golf course.
- Ideally simultaneous counts, or at least all within the period of 1 hour either side of high tide. Counts at the application field to cover high tide.
- Two counts per month throughout October-March inclusive.
- Ideally, one of each monthly count to coincide with dates of WeBS core counts on the estuary (this winter: 14 October, 11 November, 9 December, 20 January, 17 February and 24 March), to enable comparison of bird species and numbers on application field with numbers on the estuary.
- Survey of each field need only be as long as is necessary to count and ID all birds using that field and record how they are using the field (roosting or

feeding) but a minimum of 30 minutes per field to get peak counts of individual species using it is recommended.

### **Wales and West Utilities (17/08/2018)**

Wales & West Utilities acknowledge receipt of your notice advising us of your planning application.

Please find enclosed a copy of the requested plan and our general conditions for guidance. The plan must be printed in A3 size and will also need to be produced in colour. **A hard copy is available upon request.**

Gas pipes owned by other GT's and also privately owned may be present in this area. **You must not build over any of our plant or enclose our apparatus.**

### **Devon Wildlife Trust (19/08/2018)**

We appreciate the wildlife concerns expressed by your Biodiversity Officers comments (dated 11.9.18) on this planning application and support all of her recommendations.

## **6. REPRESENTATIONS**

6.1 The representations received in respect of the original submission in 2018 (and subsequent revisions) for 32 dwellings (50% Affordable Housing provision) are summarised below (see case file for full representations):

- A petition signed by 29 residents at Parkers Road, Brickyard Lane, New Road, Meadow View and Warboro Terrace
- 77 letters of objection
- 27 letters of comment
- 2 Objections by CPRE (Campaign to Protect Rural England). These raise the following planning related matters
- 2 letters of support

### ***Petition, Objections and comments***

*Highway safety* – Brickyard Lane not suitable for additional traffic (32 houses means 64 vehicles), conflict with other road users (pedestrians, cyclist's dog walkers, and children), visibility at the access, traffic congestion, and parking capacity on the road – the transport document does not acknowledge that while Brickyard Lane road is 5.5m wide it is often parked with vehicles down both sides and therefore it is essentially a single way carriageway, there is no footpath at the section of Brickyard Lane where access is proposed, insufficient parking provided within the development, harm via construction traffic movements

*Drainage and flooding* – site is in a flood plain, already drainage problems in the area, Starcross is vulnerable to climate change and sea level rises. This development would remove some natural water catchment features such as trees, hedges and wetland. Foul drainage, sewage system not suitable

*Impact on local services* – the primary school does not have capacity, pressure on the Doctors Surgery which already have waiting lists, the only amenities are a shop and chemist.

*Ecology* – Bats in the field, wintering birds including curlews, oystercatchers, Canada Geese and lapwings, surveys and evidence provided by the RSPB ignored, development of the field will result in the loss of a wildlife habitat. The ecology surveys do not mention wading birds or waterfowl. The development is contrary to the Exe Estuary Management Guidelines, the survey methods used in the ecology surveys were not sufficient

*Trees/landscaping* – Loss of the Oak tree which is over 100 years old which supports a range of wildlife, re-planting with an acorn or sapling is not sufficient, important site and should go to a Design Panel especially given the AGLV designation. Landscape visual impacts.

*Play area* – its location requiring children to cross the new access road is not safe, loss of existing play area should be avoided, replacement is not of same quality due to road cutting between the play area and kick about area

*Location of site* – if the development were to be located at the other side of Parkers Road it could make use of the existing dead end enabling the Tree and play areas to be retained

*Need* – there are other available sites to provide social housing (Generals Lane), tourists should not be coming and we should protect our countryside from this, this application is just about money, CPRE – support the provision of 50% AH but there is no proven need for the market housing, 60% of homes being built in Devon are not for local families. Housing figures should be based on the most up-to-date ONS figures (i.e 2016 not 2014)

*Residential amenity* – impact of traffic and location of the access,

*Agriculture* – loss of agricultural land

### **Support**

Need - Great idea for some much needed housing for the local community

- 6.2 In addition to the representations set out above, 42 letters of representation and 3 letters of comment have been received in respect of the revised submission in November 2020 for 20 dwellings (100 % affordable housing). The representations raise the following additional issues which are summarised below (see case file for full representations):

*Principle* – if 20 dwellings are approved it will inevitably lead to more. Site is not allocated in the local plan for housing.

*Highways* – The author of the Transport Assessment did not visit the site. The reduction from 32 to 20 makes no difference in terms of traffic impacts.

*Landscape Impact* – The development does not enhance the landscape quality or character of the area. The views of the landscape from the upper end of Staplake Road and around to the upper end of Staplake Lane are stunning. This area of the

village is the main recreational area for the parishioners and it would impact visually on people's enjoyment. Light pollution in the dark skies.

*Loss of trees* – removal of the Oak should be avoided, it is a carbon capture in times of global warming. The ecological and arboricultural assessment of the Oak Tree is not sufficient. A TPO should be placed on the Oak Tree

*Ecology* - Loss of habitat via removal of the Oak Tree, loss of habitat for migratory and estuary birds. The measures suggested to replace wildlife habitat cannot ensure that breeding birds will not be permanently disrupted by the building works. Also, the planting of new trees will not provide the same ecosystem benefits as established trees do in the time-frame in which scientists are telling us we have to mitigate the negative effects of climate change and biodiversity loss.

*Flooding*: The Starcross Flooding and the Community Report 2020 refers to the site as being a 'holding pond'. There is an existing flooding problem in Starcross, block drains are also not cleared. Floods in 2012 were not appropriately managed. The FRA is only a desk based document. The development will cause flooding to neighbouring properties.

*Residential Amenity* – loss of privacy

*Climate* – The dwellings should be carbon neutral

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

### **7.1 Starcross Parish Council (13/09/2018) Overall recommendation – Objection**

The majority of our concerns are classed as RESERVATIONS which we would like TDC to address in the planning process. In addition, we are concerned that this application does not meet the development requirements set out in the TDC Local Plan for land designated as an AGLV in a number of areas namely: 5. Loss of trees; 6. Loss of ecological habitats; 14. Loss of public visual amenity. There is one OBJECTION to the loss of the Oak tree which the Parish Council unanimously agreed should be preserved and resulted in us deciding on an overall objection to the application.

### **7.2 Starcross Parish Council (11/01/2021) Overall recommendation- No objection:**

There will be a negative impact on wildlife and soil quality due to the loss of the T1 Oak and it is recommended that developers liaise with TDC Tree Officers to seek ways to mitigate this including the planting of mature oaks to rebuild habitats more quickly. Council request that contractor's vehicles be directed to and from the site via New Road to Cockwood rather than via the village route.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

8.1 The CIL liability for this development is Zero as the CIL rate for this type of development is Zero (100 % Affordable Housing) and therefore no CIL is payable.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

9.1 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.

## **10. CARBON/ CLIMATE IMPACT**

- 10.1 The Carbon and Climate impact of this development has been considered in the Observations section of this report, and subject to conditions, the development is considered to satisfactorily address these matters.

## **11. HUMAN RIGHTS ACT**

- 11.1 The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **Business Manager – Strategic Place**