

# PLANNING COMMITTEE REPORT

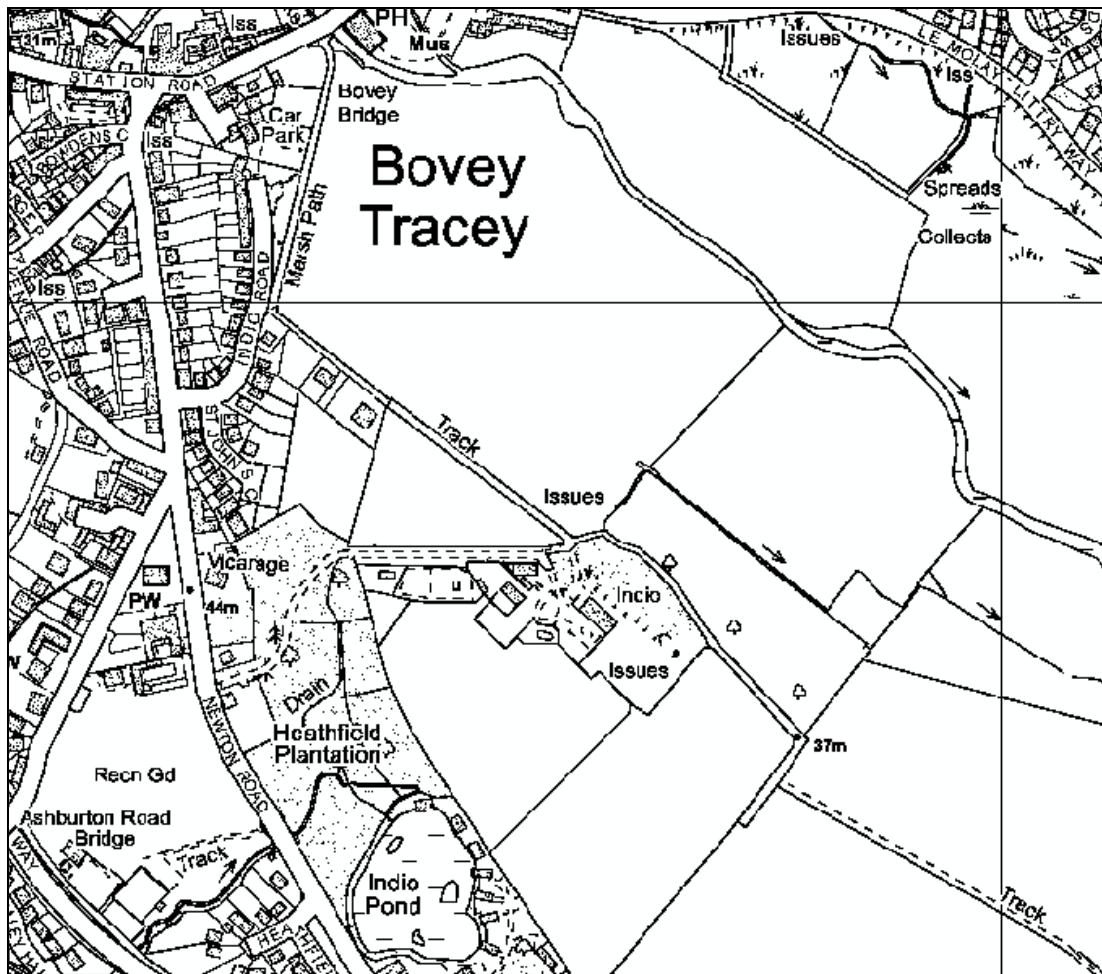
## 15 May 2018

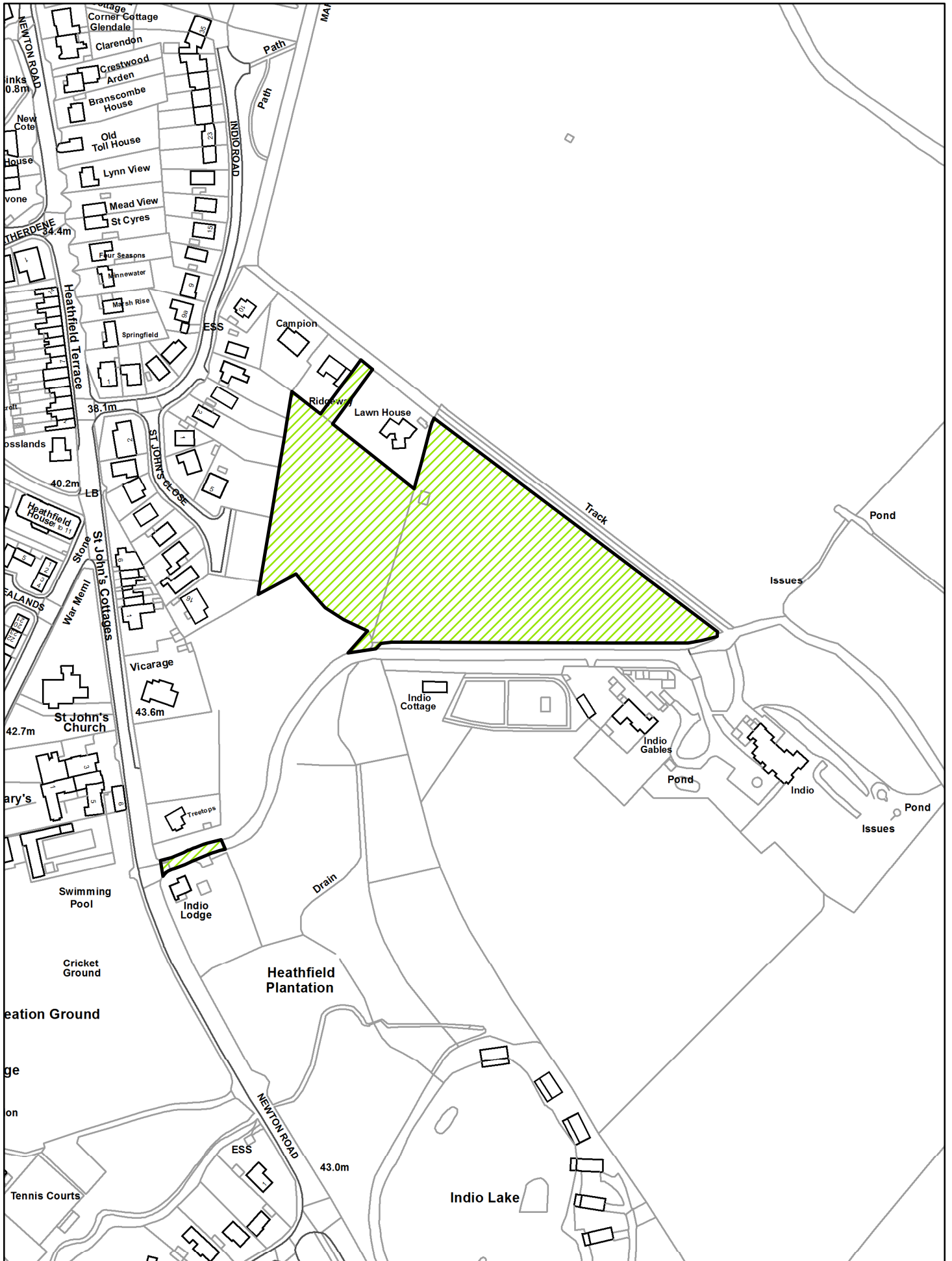
CHAIRMAN: Cllr Dennis Smith



Teignbridge  
DISTRICT COUNCIL  
South Devon

<b>APPLICATIONS FOR CONSIDERATION:</b>	<b>BOVEY TRACEY - 17/02118/MAJ - Land north of Indio House, Newton Road - Outline planning application for up to 30 dwellings and associated works (means of access to be determined only)</b> <b>and</b> <b>BOVEY TRACEY - 17/02275/FUL - Widening of existing residential driveway and alterations to access</b>	
<b>APPLICANT:</b>	Kach Developments	
<b>CASE OFFICER</b>	Rosalyn Eastman	
<b>WARD MEMBERS:</b>	Councillor Gribble Councillor Kerswell Councillor Morgan	Bovey
<b>VIEW PLANNING FILE:</b>	<a href="https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=17/02118/MAJ&amp;MN">https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=17/02118/MAJ&amp;MN</a>	





## 1. REASON FOR REPORT

At Planning Committee on 17 April 2018, Members resolved that:

*“Permission be refused on highways and heritage grounds but decision deferred to consider an Officer’s report on refusal options.”*

## 2. RECOMMENDATION

As previously, Members are recommended to grant permission for both applications

### **In relation to application 17/02118/MAJ**

Subject to the completion of a Section 106 Agreement to secure:

1. 30% affordable Housing, 70% Affordable: 30% Intermediate, accessible and adaptable provisions to be discussed, and,
2. 5% Custom or Self-Build Housing,

PERMISSION BE GRANTED subject to the following conditions:

1. Approval of details to be obtained (Phased)
2. Reserved Matters to be submitted within 3 years (Phased)
3. Commencement within 2 years of Reserved Matters Approval (Phased)
4. Development to proceed in accordance with approved plans
5. Archaeological fieldwork/investigations to be undertaken prior to commencement of development and findings to be lodged with Devon County Council
6. Exterior lighting restrictions – including street lighting
7. No works to be undertaken to private drive. No service runs to be located under drive. A scheme for maintenance and management of the drive should be in place prior to first occupation
8. No development to commence until scheme for junction with Newton Road agreed, no occupation until scheme is in place
9. Construction Management Plan – to ensure safe access and no damage to protected trees or listed buildings/structures and incorporating an arboricultural watching brief
10. Tree Protection during construction
11. Open space and landscaping provision and management
12. Approval of a foul and surface water drainage scheme including tree protection
13. Landscaping scheme to support biodiversity
14. Provision of bat/bird boxes
15. No tree to be removed without confirmation of bat roost presence and subsequent necessary mitigation being addressed
16. Buffers to northern boundary to be incorporated into scheme layout – including landscape reinforcement and appropriate boundary treatments
17. Provision of Waste Audit Statement

### **In relation to application 17/02275/FUL**

PERMISSION BE GRANTED subject to the following conditions:

1. 5 year time limit for implementation
2. Development to be carried out in accordance with approved plans

3. Surface material details and sections including detailed works specification demonstrating no harm to trees other than those authorised for removal
4. Construction Management Plan – to ensure safe access and no damage to protected trees or listed buildings/structures and incorporating an arboricultural watching brief
5. No tree to be removed without confirmation of bat roost presence and subsequent necessary mitigation being addressed
6. Tree protection during works

### **3. DESCRIPTION**

- 3.1 This Report addresses only the “implications” of a resolution to refuse planning permission for the subject proposals on highways or heritage grounds. For all other matters relating to the application, please see the appended Main Report from 17 April 2018 Planning Committee.
- 3.2 The application site is allocated for Development in the Teignbridge Local Plan and the text supporting the allocation indicates “multiple access options”.
- 3.3 As noted in the main report, the allocation of the site for development means that the impact of the proposal on drainage, biodiversity and heritage matters was considered acceptable in principle. There are no drainage or biodiversity objections to the proposals and no supportable reasons for refusal on these grounds – as correctly identified by Members at the last Committee.
- 3.4 The question at issue is whether the proposal that is before us is one that meets the requirements of the Policy and the Plan read overall, or whether there is some aspect of the proposal that indicates that, whilst the principle is acceptable, the specific applications before the Committee should be refused. Officers would strongly advise members that seeking to refuse the applications on “in principle” grounds is likely to be considered unreasonable by a Planning Inspector – leaving the Local Planning Authority at risk of having a Costs Award made against it.
- 3.5 The options available to Member are therefore:
  1. To refuse the applications on highway safety grounds; AND/OR
  2. To refuse the applications on heritage grounds; OR
  3. To approve the applications as set out or as amended by Members.

- 3.6 These are considered in turn below.

#### Option 1: A highway safety based refusal

- 3.7 Following Committee, an initial speed survey has been undertaken by the Applicant team. In line with the relevant guidance, this suggests that visibility splays of 40 metres to the left and 46 metres to the right should be achieved for the site. The Applicant has submitted a plan outlining how this can be achieved.
- 3.8 In addition, in response to the concerns raised about the physical works that may be required to deliver the necessary visibility splays, an updated indicative plan has been submitted.
- 3.9 The Applicant team submit that:

- A speed survey has been undertaken in accordance with current guidance TA 22/81 Vehicle Speed Measurements on All Purpose Roads. The survey recorded speeds on Newton Road at the access to Indio House between 9.05 – 10.05am. The 85<sup>th</sup> percentile (with wet weather speed correction factor) results were 31.5 m.p.h. heading into Bovey Tracey and 33.85 m.p.h. travelling out.
- The current speed limit along Newton Road is 30 m.p.h., which would require visibility splays of 43 metres in each direction in accordance with Manual for Streets (MfS). The speed survey results would mean a reduction in the required visibility at the junction with Newton Road (in accordance with MfS) to the left from the access to 40 metres and an increase to 46 metres to the right. This could easily be achieved at the site, through a reduction in the carriageway width of Newton Road. Research (TRL Report 661) has shown that there is a correlation between reduced road widths and speeds.

Potential off-site works to the junction with Newton Road

- Any works to improve the junction with Newton Road would be subject to agreement with Devon County Council, and addressed through a Section 278 agreement to carry out works in the existing highway.
- An indicative plan showing potential off-site works to Newton Road was prepared by the Applicants and included within the TA submitted as part of the application. Attached is an amended plan which has taken on board comments from Members relating to carriageway treatments. This shows no white lining or radii kerbing, the use of conservation/countryside kerbing, with delineation kerb of 12mm upstand to define the edge of the carriageway, the introduction of a verge instead of paved area and the provision of a pedestrian drop crossing.

3.10 These proposals have been put to Devon County Council who confirm that they would not support refusal of the application. Devon County Council has also confirmed that the access drive does not need to be adopted, but does need to be of an acceptable standard. It is Devon County Council's view that the access drive could in its current state be considered acceptable to serve the development.

3.11 In relation to pedestrian and cycle access, the plans as submitted show a crossing point on Newton Road to reach the pavement to enable residents to walk into the Town Centre or elsewhere in safety. The developer's team has also confirmed that they would be interested in exploring the possibility of a link onto Marsh Path towards the town centre, but ownership issues are a barrier to this at present.

3.12 With the conditions detailed in the recommendation above in place, it is not considered that there are any highway safety reasons for refusal of the development. Should Members decide otherwise, the Highway Authority would not support the Council at a subsequent appeal.

#### Option 2 – A Heritage Based Refusal

3.13 As outlined above, it is not considered appropriate to refuse the applications on the basis that development of the allocated site would have an unacceptable impact on the listed Indio House itself. The principle of development of the site has already been agreed through its allocation in the Local Plan.

3.14 The Design and Heritage Team Leader's Consultation response confirms the Local Planning Authority's view that the entrance gate piers are curtilage listed structures.

- 3.15 The response outlines that the principle of development of the sort described in the application is likely to be acceptable (“the entrance arrangement is well designed...” “low key density towards the southern side is to be welcomed...”)
- 3.16 In addition to these points, the response also raises concerns relating to works that do not form part of this application but over which the Local Planning Authority does still have control as the scheme develops – in particular through the removal of some Permitted Development Rights as included in the recommendation above and through the TPO approvals process should additional tree works be required.
- 3.17 Following Committee, the Applicant team has reiterated:
- The existing drive is a minimum of 3.8 metres - 4.2 metres in carriageway width which is sufficient to serve the proposed number of units and is of good construction (tarmac over granular sub-base material).
  - With the exception of the minor widening of a short section of the driveway (proposed through application ref. 17/02275/FUL), no works are proposed to the existing driveway as part of the applications.
  - The driveway could be provided to an adoptable standard. If the driveway is not adopted by Devon County Council, then a management company would be set up for the up-keep of the roads, as well as for SUDs areas and for landscape and tree management. This management company would be handed over to an experienced managing agent on completion of the last residential sale. As part of the sale contract of every property on site, the purchasers would be contracted to make contributions to the management company to cover all costs including for the roads and the managing agent costs. Part of their contribution would be used as a fund that would build up and be used to enable other works that may arise.
- 3.18 Taking these facts together there are two potential remaining heritage concerns:
1. The potential for physical damage to the curtilage listed gate piers, and,
  2. The impact of the use of the driveway on the designated heritage asset (and the rural character of the site)
- 3.19 Taking these in turn:
- 3.20 Whilst Officers accept that with more use of the entrance there is a greater likelihood that accidents could occur, it has been demonstrated that a fixed wheelbase refuse track can adequately pass through the gateway and this possibility does not represent a robust reason for refusal of the applications. The Construction Management Plan required by recommended Condition 9 could provide a physical means of temporarily safeguarding the piers.
- 3.21 With no physical works proposed to the driveway – other than those specified in the applications – it is hard to understand from a planning perspective what the “development” is that is causing harm to the designated heritage asset. The use of the drive as a residential driveway will continue as presently and no works to the driveway are proposed. Devon County Council have confirmed that the access drive is acceptable in its current form as a private drive to serve the development. There can be no reason why additional works would be required at this time.
- 3.22 It is therefore not considered that just the use of the driveway to serve a greater number of residential units is a supportable reason for refusal. This is particularly

the case when the principle of development at this site has been found to be acceptable in heritage terms through the Local Plan.

- 3.23 The plans have been discussed with the Design and Heritage Team Leader again following receipt of the various clarifications from the Applicant team.
- 3.24 Whilst it would be that Officer's preference for an access to be taken from St John's Close, with the confirmation that no works would be required to the access drive to allow the site to be accessed – meaning that the formal drive / avenue would be intact – the concerns detailed in the formal application response have been allayed. The removal of a small number of protected trees away from the avenue is considered regrettable but understandable. Whilst concerns remain regarding the “experience” of the drive, in the absence of any development on the drive (either operationally or as a material change of use), there are no reasons for refusal of the application on this basis.
- 3.25 Following on from these discussions, it is recommended that the conditions requiring a scheme for the safe access to the site to be agreed should also be agreed by the Local Planning Authority to allow consideration of the potential of these works to impact on the curtilage listed boundary structures to be fully considered. This should include materials, levels etc. and this is incorporated into the recommendation above (Condition 8).
- 3.26 In view of the additional information submitted by the Applicants, and the further advice of the Design and Heritage Team Leader, Officers do not consider that any defensible reasons for refusal of the proposals on heritage grounds exist.
- 3.27 In making this recommendation, Officers are mindful of the duty as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings, their settings and features of special architectural or historic interest which they possess, and have given them considerable importance and weight in the planning balance.

#### Summary and Conclusions

- 3.27 Members deferred formally making their decision on the subject applications at Committee on 17 April 2018 in order to allow consideration of an “options” report in relation to possible reasons for refusal on highways and heritage grounds.
- 3.28 As outlined above, Officers do not consider that there are any reasonable reasons for refusal relating to either heritage or access and highway safety grounds. Officers are not therefore in a position to recommend reasons for refusal.
- 3.29 The site is allocated in the Development Plan and therefore the principle of development taking place at the site is considered acceptable. Additional information has been submitted in the light of Committee's suggested issues for refusal (highways and heritage). This has resulted in the Highway Authority clarifying that it would not support refusal of the application and the Design and Heritage Team Leader's concerns being allayed. It is our strong advice therefore that in order to avoid exposing the Council to an award of costs at appeal, the proposals should be approved as set out above.

## Statutory/common law duty for the planning committee to give reasons for decisions

- 3.30 The duty of a Planning Committee to give reasons where they disagree with the recommendations from officers has been considered by the higher courts in several decisions in recent years, and in particular by the Supreme Court in the December 2017 decision of *Dover DC v Campaign to Protect Rural England (Kent)*, which concerned the grant of planning permission against the recommendation of officers. In the Dover decision the Supreme Court noted (in part) that:

*“Public authorities are under no general common law duty to give reasons for their decisions; but it is well-established that fairness may in some circumstances require it, even in a statutory context in which no express duty is imposed”.*

*“Members are of course entitled to depart from their officers' recommendation for good reasons, but their reasons for doing so need to be capable of articulation, and open to public scrutiny. There is nothing novel or unduly burdensome about this”.*

- 3.31 As a consequence of the decision of the Supreme Court decision summarised above, it is recommended that in all cases where the planning committee disagrees with the recommendation of officers and decides to refuse or grant planning permission, detailed reasons for the refusal or grant should be recorded in the Minutes, and the reasons should refer to applicable and relevant national and local planning policies.

## **4. CONSULTEES & REPRESENTATIONS**

2 additional letters of representation have been received raising no new substantive issues.

Devon County Council (Highways) - With the information now received from PCL Planning with the speed survey results, the Highway Authority would not be able to recommend refusal on highway grounds. Although there is little doubt that an alternative access would be better.

With regards the internal access drive, this does not require to be adopted but it does require to be to an acceptable standard in order to satisfy the Advance Payment Code.

For other responses and representations – See Appended Report and Planning Online <https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=17/02118/MAJ>

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

No additional comments received – See appended Report

**Business Manager – Strategic Place**



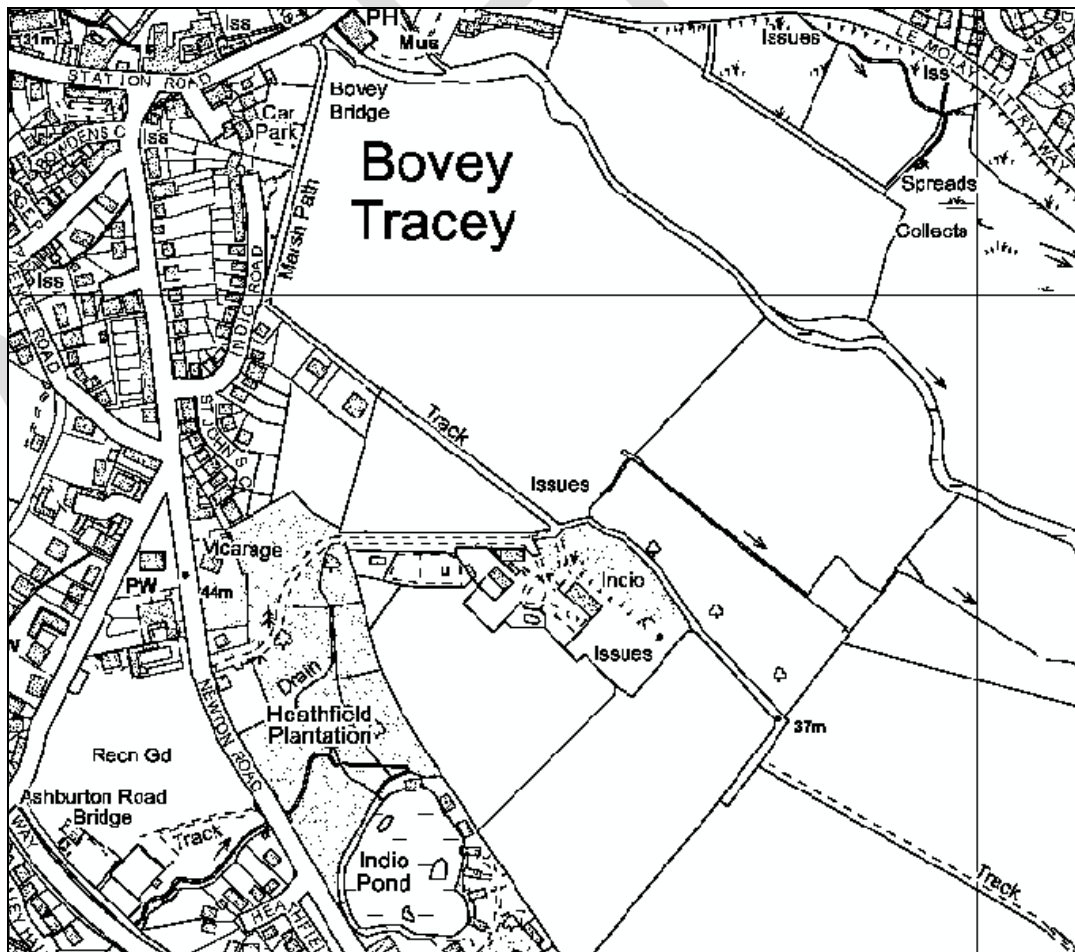
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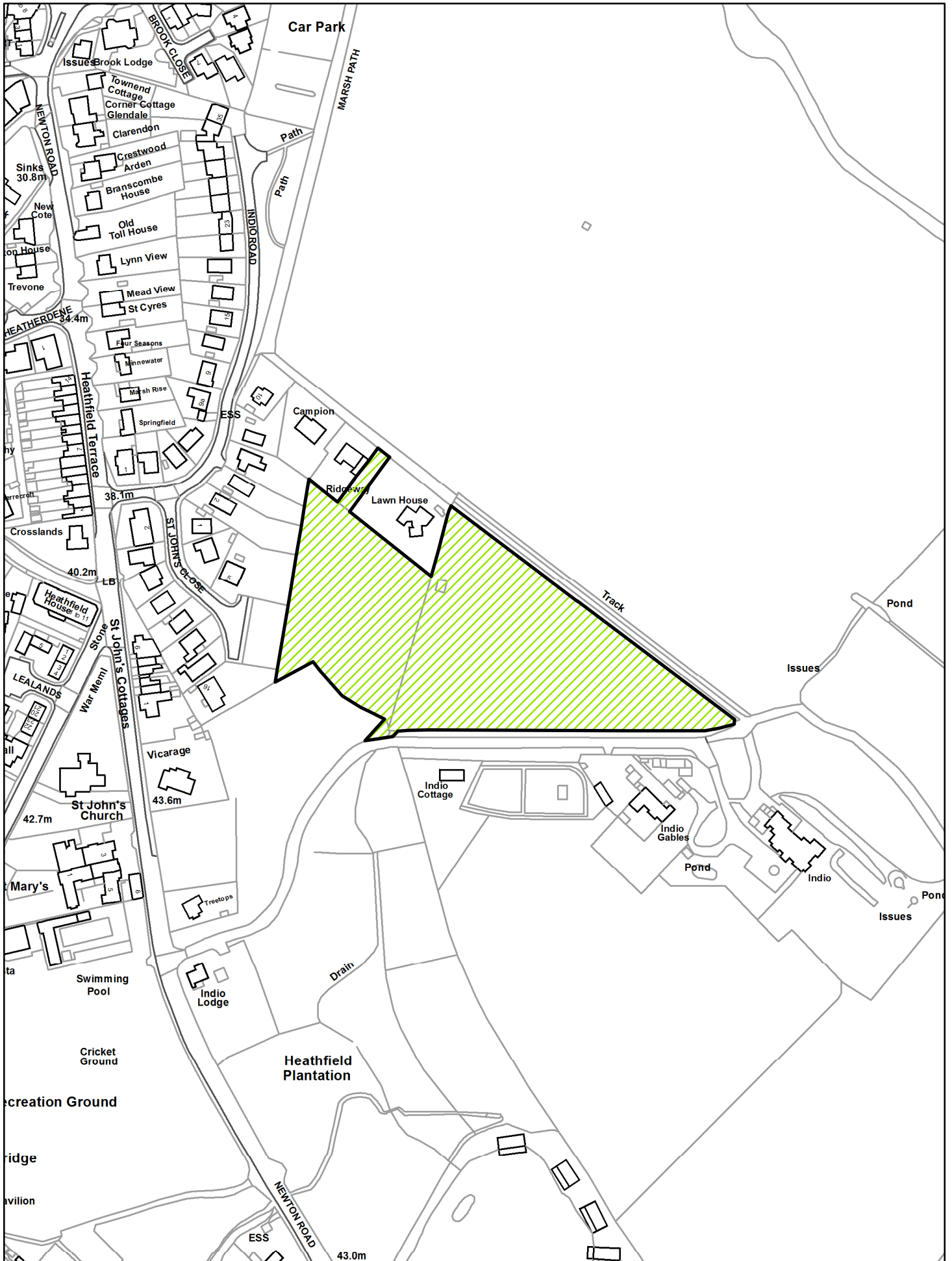
## 17 April 2018

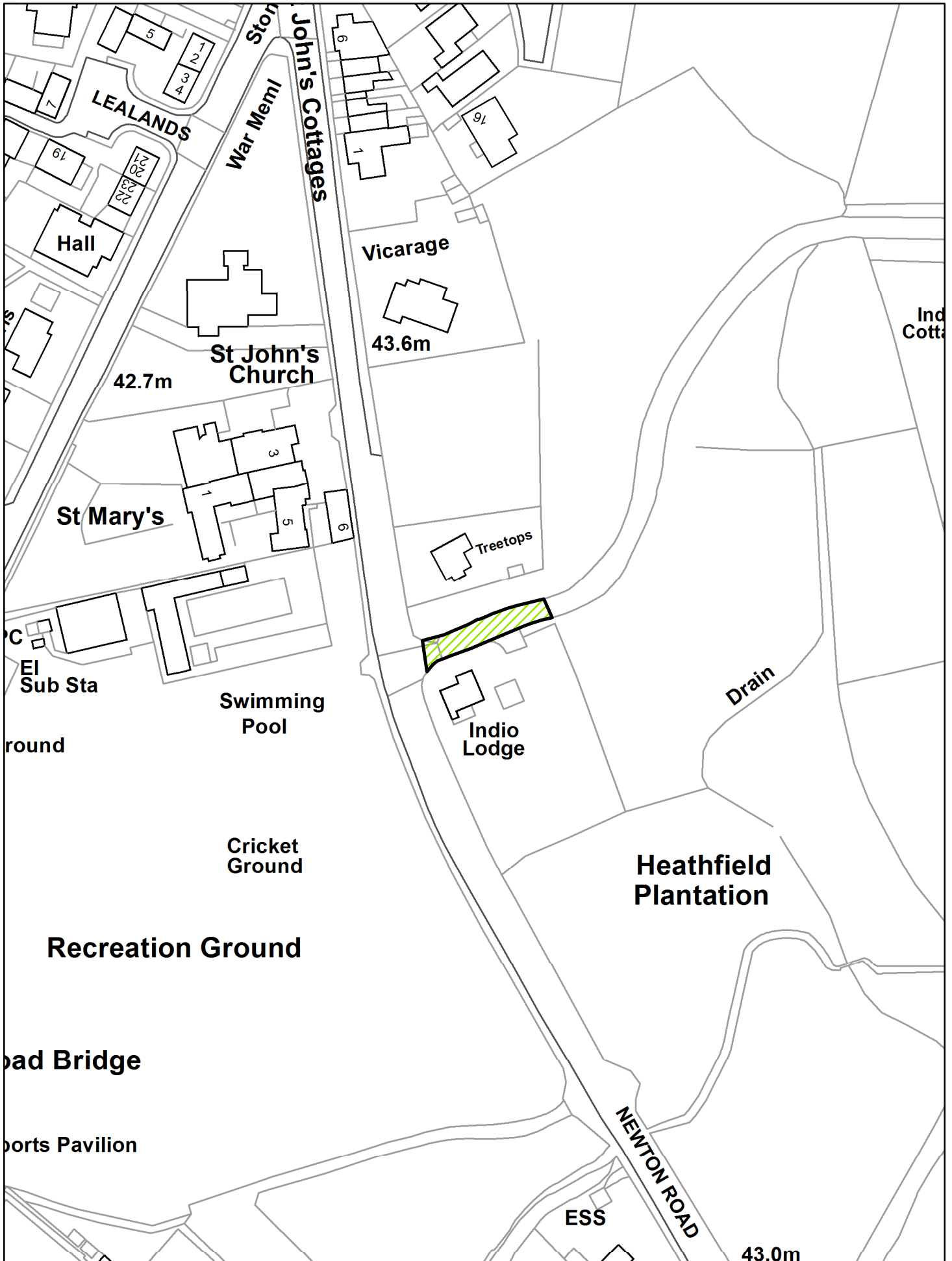
CHAIRMAN: Cllr Dennis Smith



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## **1. REASON FOR REPORT**

Councillor Morgan has requested Committee consideration if the recommendation is one of approval due to planning concerns relating to:

- i) Loss of important wildlife/habitat/vegetation
- ii) Effects on the setting of a listed building
- iii) Effects on traffic

## **2. RECOMMENDATION**

### **In relation to application 17/02118/MAJ**

Subject to the completion of a Section 106 Agreement to secure:

1. 30% affordable Housing, 70% Affordable: 30% Intermediate, accessible and adaptable provisions to be discussed, and,
2. 5% Custom or Self-Build Housing,

PERMISSION BE GRANTED subject to the following conditions:

1. Approval of details to be obtained (Phased)
2. Reserved Matters to be submitted within 3 years (Phased)
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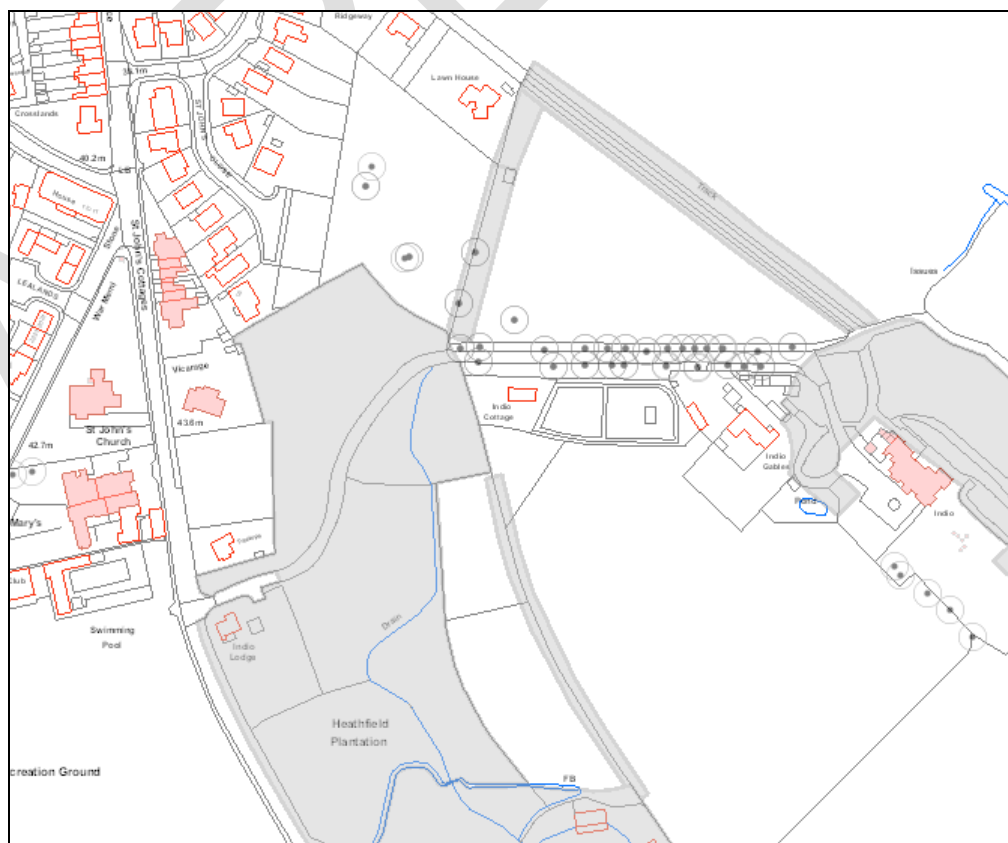
5. No tree to be removed without confirmation of bat roost presence and subsequent necessary mitigation being addressed

6. Tree Protection during works

### 3. DESCRIPTION

#### Site Description

- 3.1 The site at Indio House is allocated in the Local Plan under Policy BT2A: North of Indio House. It extends to approximately 1.5 hectares of land that is currently not in active use but has been used for low-key grazing in the past.
- 3.2 Indio House is Grade II listed. Some pillars in the garden of the house (to its south east) are separately listed grade II.
- 3.3 The gate pillars and walls at the site entrance are considered to be curtilage listed structures.
- 3.4 A cluster of listed buildings associated with St Johns Church (II\*) is present on Newton Road.
- 3.5 The woodlands adjacent to the site are subject to a woodland Tree Preservation Order. The boundary hedges within the site are similarly subject to TPOs.
- 3.6 Listed Buildings are shown on the extract below in pink/red whilst Tree Preservation Orders are marked with circles/in grey.



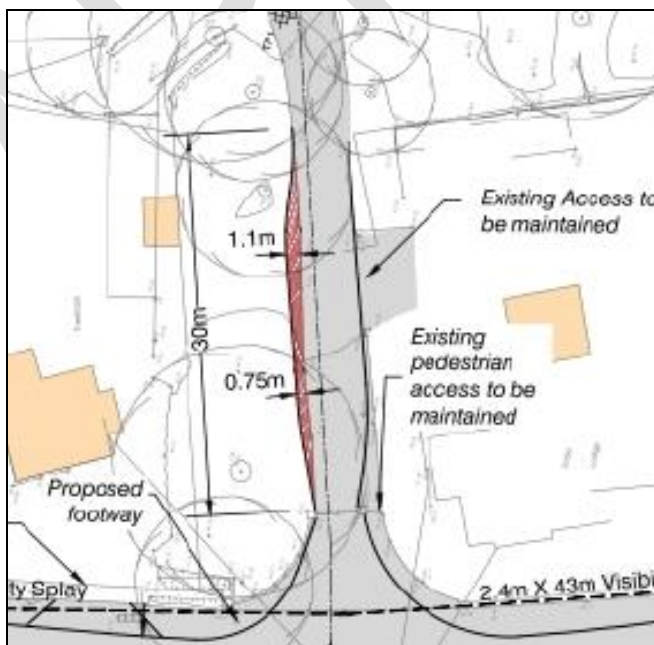


- 3.7 A number of residential properties on Indio Road and St Johns Close back onto the site. There are also properties accessed off Marsh Path or the Indio House drive that could be affected by the proposals.



The proposal

- 3.8 There are two elements to the proposal:
1. The creation of a passing space through widening the surface of the carriageway by approximately 1 metre at the Indio House entrance to allow vehicles to pass one another should they meet at this point on the drive (17/02275/FUL)



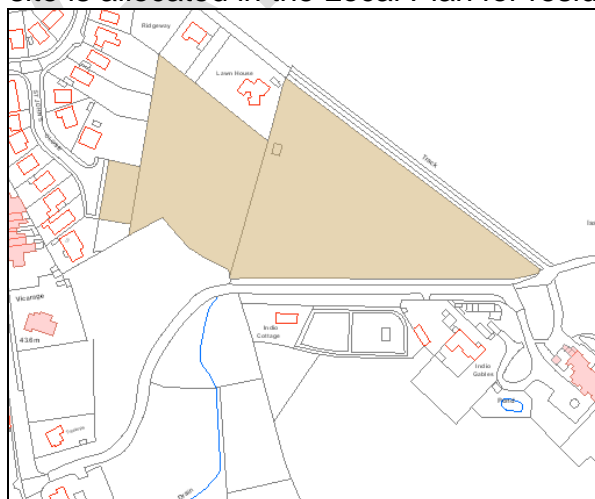
2. An application for the development of up to 30 dwellings on the allocated site, with access only for approval at this time (17/02118/MAJ).



- 3.9 The access would be taken at an existing field gate and would then pass over the existing Indio House driveway.
- 3.10 With the exception of those under 17/02275/FUL, no works are proposed to the existing driveway.
- 3.11 The creation of the passing bay at the front of the site would lead to the loss of 3 protected trees whilst the creation of an access into the development site would lead to the loss of a further 3 trees.
- 3.12 Any additional tree removal would require further permission.

#### The principle of the development

- 3.13 The principle of the residential development must be considered acceptable – the site is allocated in the Local Plan for residential development under Policy BT2A.



3.14 In summary, Policy BT2A allocates the site for:

- a) At least 45 homes with a target of 30% affordable homes
- b) Measures to address the site's sensitive ecological, built environment and landscape setting
- c) A safe pedestrian and cycle access to the Town Centre, and,
- d) A bespoke Greater Horseshoe Bat Mitigation Plan

3.15 The supporting text to the Policy highlights that the site has "*a number of access options, however any road access should have regard to the character of the listed Indio House and driveway*".

3.16 The applicant has agreed to the provision of 30% affordable housing and the delivery of 5% custom build, in line with the Local Plan, and conditions and obligations as detailed above are considered sufficient to ensure that the proposal is policy-compliant in other respects.

3.17 The comments of the Housing Enabling Officer in respect of the provision of accessible dwellings, etc., are noted and will be discussed with the applicant during Section 106 negotiations.

3.18 Overall, it is considered that the proposal is acceptable in principle. Whilst the policy proposes "At least" 45 homes, further analysis of the particular constraints of the site suggests this is not feasible if mature trees are to be retained on site and adequate buffers to site boundaries are to be provided. The benefits of delivering a quality development on the site are considered to outweigh the benefits of delivering a higher number of dwellings.

3.19 Clearly, more detailed consideration will need to be given to matters relating to design and orientation of dwellings, etc., at the reserved matters stage but, at this outline stage, Officers are content that the principle of the development is acceptable.

3.20 This is considered further below in relation to technical and other considerations.

#### Heritage Considerations

3.21 In coming to a recommendation, Officers are mindful of the duty as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings, their settings and features of special architectural or historic interest which they possess, and have given them considerable importance and weight in the planning balance.

3.22 As noted above, Indio House itself is Grade II listed and there is a cluster of listed buildings on Newton Road and therefore development here must have the potential to impact on the setting of these designated heritage assets. Weight is given, in coming to our recommendations as detailed above, to the conservation of these assets.

3.23 As a comparison and for background to addressing heritage matters for an allocated site, it is worth considering the Inspector's Report in relation to NA2, Whitehill (application reference 14/01797/MAJ). In that case, as well as Grade II



Whitehill House, the relevant designated heritage asset was the Grade I Highweek Church. At his paragraph 77 the Inspector commented, and the Secretary of State agreed:

*“There can be no doubt, therefore, that the proposal would have an impact on the setting of the Church, and, because it would involve some encroachment into its prominent hill-top setting, its significance. It is however, important to place this impact in its proper context. The appeal site is part of a wider tract of land allocated for development through LP Policy NA2. The allocation has been examined and gone through a process of comparison with other prospective sites. In that context, it appears to me axiomatic that some impact on the setting, and thereby the significance, of the Church must have been factored in when the allocation was found sound. There can be no in-principle objection to the development of the appeal site and the proper question to address is whether there is anything in the design of the scheme that makes the impact more harmful than it should be?”*

- 3.24 In relation to the subject proposals, which similarly relate to an allocated site whose context would have been considered by the Local Plan Inspector, at this outline stage – and taking account of what the Plan says about multiple possible access options – Officers consider at this stage that there is nothing in the design of the scheme that makes its impact more harmful than it should be.
- 3.25 The site has two realistic access options – through St Johns Close or along Indio House Drive. If at the allocation/plan-making stage it was considered that use of the drive would have caused harm to the significance of the heritage asset then the Policy and its supporting text would have made this clear. As it is, we have a policy context that describes “a number” of access options and therefore the allocation must have considered the benefits of the proposal. It is therefore not considered appropriate to “force” the development to be accessed through St Johns Close. It is not considered that this is necessary to avoid harm to heritage assets as the acceptability of “multiple” access options was considered in allocating the site.
- 3.26 A Heritage Assessment prepared by Cotswold Archaeology has been submitted in support of the proposals.
- 3.27 This Statement presents a detailed history of the development of the area and clearly describes the tight, immediate setting for the listed building and the limited intervisibility between the house itself and the development site. It also notes the contribution of the driveway to the setting of the house including the curtilage listed gateway structures.
- 3.28 The Statement suggests that “much” of the original significance of the avenue/ driveway has been reduced as the driveway serves an additional 3 residences and has therefore lost its character as a private driveway.
- 3.29 In the Officer’s view, this overstates the change as whilst the drive does serve multiple dwellings, it is quiet and activity levels are low.
- 3.30 The Statement also considers the impact of the proposed development on the setting of the designated heritage assets – importantly the II\* St John’s Church. It concludes that the development site does not make any significant contribution to the setting of the St John’s group of assets despite the very limited intervisibility between the two.

- 3.31 This is accepted.
- 3.32 The Statement concludes that the key elements of the setting of Indio House that contribute most to its significance will not be altered by the proposed scheme and that the changes would not cause harm to the significance of Indio House through changes to its setting. The development site falls outside the “designed views” relating to the house.
- 3.33 Both the Design and Heritage Team Leader and the Landscape Officer raise concerns about the possibility of works being required to upgrade the driveway that are not described in the application. No such works are proposed at this time and the application must be dealt with as presented. Control over possible future works exists through consideration of protected trees and potentially listed building consent applications. These concerns, whilst fully understood and supported, cannot at this time form part of a reason for refusal of the subject applications.
- 3.34 The concern about loss of landscape separation from Indio House and other development is understood. The proposals however include a single access point and design measures will be considered at the reserved matters stage to ensure minimum impact on the “privacy” of Indio House.
- 3.35 Whilst the access drive will be used to enter the site, the character of the drive will remain unaltered with the dense planting and tree coverage not affected by the proposal.
- 3.36 In considering the proposal against the Policy in the Local Plan and part 12 of the NPPF, as well as the requirements of statute as set out above, it is considered that the designated heritage asset of Indio House together with its curtilage listed structures, associated buildings and setting will be conserved by the proposals.
- 3.37 The development is within the setting of Indio House: however it is considered that the development site and its approach, whilst important, are not key to the setting of the asset or its significance.
- 3.38 The site is allocated and its development will lead to significant public benefit. The development will also leave the designated asset in its optimum viable use – indeed the development should secure the future of the designated asset and the key elements of its setting.
- 3.39 The limited works to create a small area of widening inside the gateway are not considered to have any impact on the setting of the curtilage listed structures at the site entrance.
- 3.40 Overall, the impact of the proposal on designated and undesignated heritage assets is considered to give rise to less than substantial harm that is outweighed by the benefits of the development and there are not considered to be any heritage reasons for refusal of this proposal.

#### Archaeology

- 3.41 The proposed development lies in an area of archaeological potential with regard to the Indio Pottery works. The submitted Heritage Statement considers the potential

for archaeological remains including drawing on geophysical work that has previously been undertaken for the site.

- 3.42 The geophysical survey of the site has identified anomalies that are indicative of archaeological features within the application area.
- 3.43 However, as noted by Devon County Council Archaeology, it is not possible to understand the significance of these features or indeed the efficacy of the geophysical survey without intrusive archaeological investigations. As such, the information submitted in support of this application is not sufficient to enable a full understanding of the significance of the below ground heritage assets within the application area or of the impact of the proposed development upon these assets.
- 3.44 The Statement concludes that it is likely that the potential for any remains is limited. Any features of archaeological origin would not be greater than low significance. This is an outline scheme and it is considered that the applicant has met the requirements of the NPPF paragraph 128 in having undertaken a desk-based assessment and field evaluation by geophysical survey. Paragraph 128 of the Framework requires that the information provided is proportionate and '*no more than is sufficient to understand the potential impact of the proposal on their significance*'.
- 3.45 Notwithstanding the concerns raised by Devon County Council's Historic Environment Team, at this stage, it is considered that for an allocated site where the principle of development is considered acceptable, the question will be what level of field evaluation is required to support the development.
- 3.46 It is not considered that it is necessary for fieldwork to take place prior to outline planning permission being granted. A condition is therefore recommended above that the fieldwork takes place prior to reserved matters being submitted in order that, if necessary, the reserved matters layout can be informed by the archaeology.
- 3.47 There are not considered to be any archaeological reasons for refusal of either application proposal at this time.

#### Access Considerations

- 3.48 The immediate site access junction is considered acceptable. A suitable access for 30 dwellings will be able to be accommodated with the junction layout shown, or one similar, whilst leaving suitable access for existing drive users.
- 3.49 The junction of the existing driveway to Indio House can be improved through the minor works proposed in 17/02275/FUL.
- 3.50 The relationship between the site access point and Newton Road is not considered acceptable at present.
- 3.51 Further information in relation to speeds on Newton Road and therefore appropriate visibility splays has been requested by Devon County Council. However as the works to improve the access are proposed to be addressed through a Section 278 Agreement rather than an application for planning permission, those discussions need to take place outside the planning application process.

- 3.52 Works to this junction though may be able to be secured through a Highways Agreement with Devon County Council (a Section 278 Agreement to carry out works in the existing highway). Such works do not also require planning permission.
- 3.53 A condition is proposed above requiring the completion of a scheme to improve visibility at the Newton Road junction to be agreed prior to commencement of development and to be in place prior to any dwellings being occupied.
- 3.54 The concerns of Devon County Council are noted: however at present no works are proposed to the highway through applications that are with us for consideration.
- 3.55 A condition is also proposed above that requires a scheme to ensure satisfactory management and maintenance of the access driveway is in place prior to occupation of any dwelling. This will not permit works to the driveway without the necessary consents being in place but should ensure that consideration is given to the maintenance liability that will arise through the proposals.
- 3.56 Devon County Council do not offer comment on the small scale widening proposed under 17/02275/FUL.
- 3.57 There are considered to be no highway reasons for refusal of the proposals at this time.

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

- 3.58 The protected trees and hedges throughout and surrounding the site will ensure that the development of the site will be quickly assimilated into the landscape.
- 3.59 Whilst this small area of green field will be lost to development, its discrete and well screened location is such that, subject to design and lighting considerations, it is considered that it can be accommodated within the wider landscape without having any unacceptable impact on the area. It is, of course, allocated for development by the Local Plan anyway.
- 3.60 A small number of trees are proposed to be lost in relation to each application but, on balance, these losses are considered acceptable in relation to the development overall.
- 3.61 References are made in the Ecology Report to a far greater number of trees potentially requiring removal.
- 3.62 Granting permission for the subject applications does not grant consent for further tree removals. Separate consent would be needed for any additional tree removals.
- 3.63 The concerns of the Tree Officer in relation to works to the driveway are noted and understood, but, as outlined previously, permission is being given only for the works identified in the applications and not for any works to upgrade the driveway.
- 3.64 There are not considered to be any arboricultural or landscape reasons for refusal of the applications at this time.

Impact on ecology/biodiversity

- 3.65 The site is located within a Strategic Flyway for the Greater Horseshoe Bat. It is necessary for the Local Planning Authority as Competent Authority for the purposes of the 2017 Habitat Regulations to consider whether the proposals would have a “likely significant effect” on their own or in combination with other plans and projects on the integrity of the designated European site.
- 3.66 Updated guidance and research from Natural England suggests that the flyway may not be as wide as once considered in this location and so it is not considered likely that the proposal would have a likely significant effect on the South Hams SAC.
- 3.67 The site is however well used by at least 12 species of bats – including through trees being used as roosts and hedgerows acting as flyways. Very limited Greater Horseshoe Bat activity was however reported in this area – supporting the research findings of Natural England.
- 3.68 It is important that the design of the development respects these significant routes and provisions and does not unacceptably impact upon them. This will be achieved through leaving hedges and tree belts largely intact and through managing on site lighting where possible to minimise light spill onto hedgerows.
- 3.69 Bats, and birds, are very good at adapting to some elements of changing environment and it is therefore proposed to include a condition requiring the equivalent of 1 nest/roost box per dwelling to be provided at the site in order to deliver a degree of biodiversity enhancement through the development.
- 3.70 In addition to bats and birds, the grassland here forms part of a mosaic of habitats within the wider area. It is suggested that landscaping schemes for the site look to support biodiversity rather than necessarily presenting a manicured “garden” appearance and the inclusion of insect-attracting species in landscaping proposals is detailed in the conditions above.
- 3.71 There are no ecological reasons for the refusal of either application.

#### Land Drainage/Flood Risk

- 3.72 A scheme setting out one way in which drainage could be achieved at the site has been received. This shows that the site could be developed with no unacceptable impact on flood risk on or off-site. Devon County Council has raised some concerns about this scheme in relation to their guidance and best practice and dialogue about this is ongoing.
- 3.73 Any further developments in this technical dialogue will be reported to Members should an update be received. However, at this time whilst there may be some disagreement about the details of the proposed drainage solution, it is clear to Officers that there is a drainage solution available for this site and therefore a condition is proposed to ensure that adequate drainage is achieved and Devon County Council are ultimately content with what is proposed.
- 3.74 In addition, the construction of drainage runs could have impacts on protected trees around the site. Method Statements for the installation of drainage will be required to ensure that harm is avoided.

3.75 There are not considered to be any drainage reasons for refusal of either application at this time.

#### Other matters

3.76 Residents living near the site have raised concerns about the impact of the proposals on their amenity. At this stage, whilst an illustrative layout has been submitted in support of the application to demonstrate that the scale of development proposed is capable of being accommodated on site, it is not considered that the proposals in principle will give rise to an unacceptable impact on the occupiers of any neighbouring property. Again it should be stressed that the site is allocated for residential development in the Local Plan.

3.77 At the reserved matters stage when layout, scale and appearance are being considered, these matters will of course be considered in detail to ensure no unacceptable impact on residential amenity occurs.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S19 (Bovey Tracey)

WE7 (Custom Build Dwellings)

EN5 (Heritage Assets)

EN8 (Biodiversity Protection and Enhancement)

EN9 (Important Habitats and Features)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

BT2A (North of Indio House)

### Devon Waste Plan

### National Planning Policy Framework

## **7. CONSULTEES**

Full consultee responses are available via the Council's website using the following link: [www.teignbridge.gov.uk/planningonline](http://www.teignbridge.gov.uk/planningonline)

### Teignbridge Housing Services -

Affordable housing @ Overall 30 dwellings 30% = 9 Affordable dwellings

N.B. if overall dwelling numbers are reduced any decimal of .5 or over would be rounded up.

Affordable housing quantum will be assessed on a percentage basis of overall dwelling numbers.

The site has a level topography which would potentially allow for some accessible/adaptable housing delivery (including affordable housing) on site, which should be

valued as a premium option for the development of site BT2A. The provision of housing which is better future-proofed through the high level Building Regulations (Part M Level 2) is needed across all housing market sectors.

Any Affordable Housing requirements would be required to be provided on the basis of a 70:30 split rent to intermediate/shared ownership - with local connection cascades.

Locations of the affordable housing should be based on small group clusters. In this case this is likely to be best delivered as 2 clusters.

The affordable housing mix should be representative of the overall housing mix – unless otherwise negotiated with the Enabling Team on the basis of local housing needs.

The requirements would be secured through appropriate Section 106 clauses to ensure affordable housing provision in accordance with policy requirements and now factored into clauses of a new Section 106 template.

Environmental Health – Contaminated Land - Following submission of additional information, confirm no objections.

Environmental Health – Air Quality - No objections.

Biodiversity Officer - No response received.

Tree Officer - It is understood the application site is to be accessed by the existing drive, it is further understood the drive will have to be brought up to a standard that will be adopted by the local highway authority.

No information has been supplied within the application detailing the proposed work required to bring the drive up to an adoptable standard.

As the drive is outside the red line for development, a tree preservation order application will be required to undertake significant work to the existing drive and/or install services as roots from protected trees will be affected.

Any tree preservation order application will have to provide full details of proposed work to the drive, details of services and the work involved to install the services.

The proposed access to the site will require the removal of two protected trees. While one of the trees is of indifferent quality, when viewed collectively, and together with surrounding trees, they form part of a protected woodland area that contributes significantly to the visual amenity of the area. The incremental removal of trees has the potential to have a detrimental effect upon the visual amenity provided by the woodland

Owing to the above significant justification is required if these protected trees are to be felled.

As no information has been submitted to explain how the site will be accessed via an adopted highway from Newton Road, and as no assessment has been submitted discussing the actual or potential impact to protected trees adjacent to the existing drive, and as any significant work to the existing drive will require a tree preservation order application, the applicant has failed to show how the site will be accessed.

Owing to the above, and in the absence of details of how the site will be accessed the justification required to fell protected trees has not been produced, accordingly there is an arboricultural objection to the application.

### **17/02275/FUL**

While the trees are of indifferent quality, when viewed collectively, and together with surrounding trees, they form part of a protected woodland area that contributes significantly to the visual amenity of the area.

#### Landscape Officer

- Further information is required on how the drive can be upgraded to an adoptable standard.
- Concern that works necessary to get the drive up to an adoptable standard will have an adverse impact on the historic landscape setting of Indio House.
- Justification that the later, serpentine section of the drive, is of value to the historic setting of the heritage asset.

Team Leader - Design and Heritage - I object to accessing the allocation site from the existing access to Indio House as this will be harmful to the designated heritage asset, its curtilage and approach.

- The site can be accessed from St Johns Close and harm avoided
- The rural character and significance of the historic building group of Indio House, the lodge, gateway, gardener's cottage, stables and carriage drive would change in a detrimental manner through opening out the drive and intensification of use. The small, intimate group of historically-related buildings would change from several buildings to perhaps 45 plus buildings.
- There is a lack of information on the upgrading of the drive to meet adoptable standards.

The passing place, removal of trees, opening out of the drive would be detrimental to the approach to Indio House.

### **17/02275/FUL**

A heritage statement has not been included with this application to describe the effect of the development on heritage assets or their setting even though it is the drive to grade II listed Indio House and there are nearby designated heritage assets including a grade II\* building. I am considering this as a stand-alone application, not in conjunction with application 17/02118/MAJ.

The gateway arrangement forms a group of listed buildings with St Johns Vicarage (Grade II), Church of St John (Grade II\*), St Mary (Grade II) and 1-6 St Johns Cottages (Grade II).

The entrance arrangement and lodge (1907) have architectural merit in themselves and the entrance arrangement bears some similarities to the work of Thomas Mawson, though they are not ascribed to him. There is insufficient evidence to determine whether the other buildings along the drive such as the Lodge. etc., would be within the curtilage of Indio House. There is no detail on the historic landscape or possible archaeology which may include the history of the site in relation to ceramics.



The drawings provided lack detail on the effects of the proposal on the piers and walls. 1:500 drawings are very basic and they should show accurately the three piers at the gateway and two end piers on the walls with sections. I would expect a measured, levelled survey of the entrance piers, surrounding walls, gates, drive and railings to have been provided. (NPPF para 128).

It should be confirmed that the piers, gates and walls are not to be altered which would require listed building consent. The arrangement is a strong asset to Indio House and the character and appearance of the area and nearby designated assets. The base of the walls has been carefully built of red brick with likely stone plinths at the base of the piers; raising the floor level to provide a raised pavement at a higher level would be detrimental. However providing a flush pavement of natural stone flags, preferably salvaged, would be acceptable, subject to detail; concrete flags would be a harsher material and not complimentary. There is no detail of any additional road signs or lighting that might accompany this. I would not object to some widening of the drive for the better use of the residents.

If the Case Officer is minded to approve the scheme I would request that larger scale details are provided to show no alteration to the walls and piers and further details of the pavement including proposed site levels and sections to show how it meets the base of the wall and piers. I would also request that the materials and bond of paving slabs are agreed

Devon County Council (Archaeology) - The proposed development lies in an area of archaeological potential with regard to the Indio Pottery works. The geophysical survey of the site has identified anomalies that are indicative of archaeological features within the application area. However, it is not possible to understand the significance of these features or indeed the efficacy of the geophysical survey without intrusive archaeological investigations. As such, the information submitted in support of this application is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the pottery known to operate in the vicinity and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. The requirement for further information on the heritage assets within the site is in accordance with the Teignbridge Local Plan and paragraph 128 of the National Planning Policy Framework (2012). The additional information required to be provided by the applicant would be the results of an archaeological field evaluation to investigate the nature of any anomalies identified by the geophysical survey and to test the efficacy of the survey itself.

The results of this work would enable the presence and significance of any heritage assets present to be understood along with the impact upon such assets. It would also enable an informed and reasonable planning decision to be made by your Authority.

Historic England - The application site is allocated within the adopted Teignbridge Local Plan 2013-2033. It sits within the former landscape of the grade II listed Indio House, a substantial 19th century house set within notable grounds. Its lodge, to

the west of the house, forms part of a historic group along with the grade II\* listed St John's Church and grade II listed Vicarage, as well as a number of other designated assets, creating a cohesive and attractive streetscape. Later infill development has occurred between it and the main bulk of the settlement to the north but the area has retained a sense of its rural character and the naturalistic landscaping around the house.

The proposed site is located to the north of the historic drive between the house and the lodge and with the provision for 30 dwellings. We appreciate that the current application is outline with only the means of determining access to be agreed. We would stress the need for an appropriate assessment of the historic environment, as required under Para 128, NPPF. This should assess the impact of not just the access but also what constraints the site might hold in terms of the historic environment. By granting consent, this establishes the principle of development and we would stress the importance of an appropriate assessment, to ensure that the impact of the proposed development on the historic environment is fully understood and can be mitigated accordingly. Provisions over the historic environment are also set out under the policy BT2A(b). Further assistance can be found in the *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets*. Historic England's interest is in respect of the grade II\* listed St Johns Church. This should form part of any analysis for the site but through an initial desk based assessment, we consider the impact to be limited. We would suggest that you seek the advice of your conservation officer, to advise you regarding the impact on-site along with any other impacts identified to the historic environment as a result of the proposals. This will need to be considered in line with chapter 12, NPPF.

Devon Gardens Trust - The Gardens Trust object to the above application which affects Indio House, an historic designed landscape of importance in the local context of Devon and is on the Devon Gazetteer of Parks and Gardens of Local Special Historic Interest.

#### **17/02275/FUL**

This relates to the junction of the existing drive and Newton Road together with a 30 metres stretch of the drive leading east from the junction.

This proposal would result in the felling of three oak trees the trees form part of a protected woodland. The proposed widening of the drive and the loss of the trees would seriously affect the character and appearance of the heritage asset of Indio House.

We would anticipate that further alterations to the narrow carriage drive would be necessary to provide adequate access for the 30 dwellings. This would further adversely impact on the significance of the heritage asset. We would therefore suggest that access should be from St Johns Close, the road to the north of the site.

In conclusion, we are concerned about the adverse visual impact of the proposed development which would cause substantial harm to the significance of Indio House and its setting. We recommend that your authority should refuse consent for this proposal in its present form as it clearly conflicts with national planning policy with regard to the conservation of the historic environment.

Devon and Somerset Fire and Rescue - Confirm that the road width appears adequate.

Devon County Council (Flood and Drainage) - Raise concerns with regard to submitted drainage strategy (but does not highlight any fundamental drainage issues)

South West Water - Provide a standardised response relating to the provision of clean water and the separation of surface/foul water from the site for disposal.

Natural England - Based upon a revised (and more accurate) Sustenance Zone for the Chudleigh greater horseshoe bat roost (based upon roost, rather than SSSI boundary), the development site would fall outside the Chudleigh Sustenance Zone and would not therefore be considered as habitat supporting the Chudleigh greater horseshoe bat roost. The proposals are also relatively small scale in terms of potential wider landscape connectivity impacts. With this in mind a standard Natural England response is appropriate.

Our advice regarding risk has evolved since our previous earlier advice, and the previous development was also significantly larger.

Devon Wildlife Trust - We have concerns about the effect of this proposed development on the Greater Horseshoe Bats in this area.

We believe, therefore, that the development site should be considered as valuable habitat supporting bats associated with the Chudleigh SAC roost.

Devon County Council (Minerals) - The Policies Map that accompanies the Devon Minerals Plan includes the application site within a Mineral Safeguarding Area (MSA) for industrial minerals (in this case, ball clay).

Policy M2 of the Plan seeks to safeguard mineral resources within a MSA from sterilisation or constraint by non-mineral development, but allows for such development where specified criteria are met.

Criterion (d) allows for development for which there is an overriding strategic need, with paragraph 3.3.10 of the Minerals Plan stating that allocation of land within an adopted Local Plan will normally amount to such a need. As the application site is allocated for housing through Policy BT2A of the Teignbridge Local Plan, this criterion is met.

In addition, it is considered that the constraints imposed by the site's relationship with existing housing and the listed building at Indio House mean that extraction of ball clay within or close to the site is unlikely to be feasible or economic, and that criterion (a) of Policy M2 is also met. I therefore confirm that Devon County Council has no objection on mineral safeguarding grounds.

Policy W4 of the Devon Waste Plan requires that applications for major development be accompanied by a Waste Audit Statement, with the County Council's Waste Management and Infrastructure SPD providing guidance on the scope of a Statement. Paragraph 4.2.8 of the SPD recognises that a full Waste Audit Statement is more appropriate at the reserved matters stage but recommends

that an outline application be accompanied by an indication of the measures that will be used to minimise waste.

It is recommended that the applicant be requested to provide a brief statement at this stage outlining the measures to be taken for the minimisation and management of waste from the construction and operational phases and that, in the event of outline permission being granted, a condition be included requiring a full Statement at the reserved matters stage.

Devon County Council (Highways) - This is an outline application for 30 dwellings with access only to be determined, although the County Highway Authority should be satisfied that a safe and suitable access to the proposed dwellings is being provided, therefore further information will be required on how the access and visibility splays into the development will be achieved.

The access is off Newton Road, which in this area is a C Classified Road, and the speed limit is 30 m.p.h., although possibly the speeds are higher than 30.

The access as it is has very poor visibility, the applicant has put forward a proposal to push out the access by way of introducing a footway to the north and continuing this footway to link in with existing footway. To the south is another footway which goes nowhere and serves no benefit other than improving the visibility.

The visibility splays are proposed to be 2.4 metres x 43 metres in both directions which does meet the guidance in Manual for Streets 1 and 2 for a speed limit of 30 m.p.h.

Devon County Council Carried out a speed survey at this location back in 2003 and the 85 percentile showed the speed of traffic in this area was in excess of 44 m.p.h. Therefore an up to date speed survey would need to be undertaken to ensure that 43 metres visibility is adequate and safe for this proposal.

Therefore the County Highway Authority cannot comment further until this information has been provided.

No comments to make on the widening of the private driveway

## **6. REPRESENTATIONS**

17/02118/MAJ

36 contributors: 29 objections, 4 comments and 4 letters of support

17/02275/FUL

6 contributors: 1 comment and 5 objectors

raising the following issues:

1. Do not see the harm in further development in Bovey Tracey
2. Support the need for new housing in Bovey Tracey
3. Questions need for new homes but would welcome provision of smaller properties if new homes are required. Supports quality developments
4. Concerns about locations of service runs
5. Not opposed to site development but concerned about access

6. Highlighting potential civil concerns relating to access arrangements
7. Raising wildlife impact/survey concerns including the need for additional survey to be undertaken
8. Need for local infrastructure improvements
9. Need for traffic calming
10. Need to respect local character
11. Concerned for impacts on St John's Close and Indio Road residents both during construction and afterwards
12. Impact on protected trees
13. Access safety and highway impact concerns
14. Impact on the setting of Indio House
15. Impact on the gate posts
16. Safety for cyclists
17. Impact on protected trees
18. Impact on dwellings on Marsh Lane
19. Concerns about Inappropriate lighting
20. Pedestrian safety
21. Safety on Marsh Lane
22. Surface water and foul sewerage capacity
23. Construction access impacts and feasibility

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

### **17/02118/MAJ**

The Town Council does not support this application for the following reasons:

- i) adverse impact on wildlife, habitats, trees, hedges and other vegetation
- ii) harm to rare plants or animals
- iii) capacity of physical infrastructure (e.g. public drainage)
- iv) harmful to the setting of a Listed Building (Indio House) and its curtilage
- v) The site has significant archaeological and heritage value. This proposed development could damage this important asset
- vi) Increased traffic generation

Members of the Town Council were also keen to ensure that vehicular access is not taken from Marsh Path.

### **17/02275/FUL**

The Town Council does not object to this application

## **8. COMMUNITY INFRASTRUCTURE LEVY**

This is an outline application. CIL liability will be calculated when the reserved matters application is submitted. CIL contributions could however be £200-250,000, of which 15% (£30,000 plus) would be due to Bovey Tracey Town Council.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

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

**Business Manager – Strategic Place**