

E-mail: comsec@teignbridge.gov.uk

12 July 2021

PLANNING COMMITTEE

A meeting of the **Planning Committee** will be held on **Tuesday, 20th July, 2021** in the **Council Chamber - Forde House TQ12 4XX** at **10.00 am**

PHIL SHEARS
Managing Director

Membership:

Councillors Bradford, Clarence, Colclough, H Cox, Eden, Goodman-Bradbury (Vice-Chair), Haines (Chair), Hayes, J Hook, Jeffery, Kerswell, MacGregor, Nuttall, Nutley, Patch, Parker and Peart

Please Note: The public can view the live streaming of the meeting at [Teignbridge District Council Webcasting \(public-i.tv\)](#) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

AGENDA

Part I

1. **Apologies for absence.**

2. **Minutes** (Pages 3 - 40)
To confirm the minutes of the last meeting.

3. **Declarations of Interest.**

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

4. **Chair's Announcements**

5. **Public Participation**

The Chairman to advise the Committee on any requests received from members of the public to address the Committee.

6. **Planning applications for consideration - to consider applications for planning permission as set out below.**

a) 21/00762/FUL - Land at Mamhead (Pages 41 - 58)

b) 20/00647/MAJ - Indio House (Pages 59 - 128)

7. **Appeal Decisions - to note appeal decisions made by the Planning Inspectorate.** (Pages 129 - 130)

If you would like this information in another format, please telephone 01626 361101 or e-mail info@teignbridge.gov.uk

PLANNING COMMITTEE**15 JUNE 2021****Present:**

Councillors Bradford, Clarence, Colclough, H Cox, Goodman-Bradbury, Haines, Hayes, J Hook, Jeffery, Kerswell, MacGregor, Nuttall, Patch, Parker and Peart

Members in Attendance:

Councillor Dewhirst

Apologies:

Councillors Eden and Nutley

Officers in Attendance:

Christopher Morgan, Trainee Democratic Services Officer

Ian Perry, Principal Planning Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Monika Szegedi, Planning Support Officer

Beth Tipton, Administrative Assistant

Suzanne Walford, Planning Solicitor

Public Speakers

Adam James

Lisa Noble

Jonathan Barnes

Nicole Stacey

Phil Carrodus

Simon Merrett

Karen Whitelaw

Eloise Rokinilov

Paul Sowdem

45. ELECTION OF CHAIR

It was proposed by Councillor Goodman-Bradbury and seconded by Councillor Nuttall that Councillor Haines be elected Chair of the Planning Committee.

A vote was taken – see attached. Some votes were not picked up due to technical issues.

Resolved

Councillor Haines be elected Chair of the Planning Committee.

46. MINUTES

It was proposed by Councillor MacGregor and seconded by Councillor Parker that the minutes be agreed as a correct record.

A vote was taken – see attached. Some votes were not picked up due to technical issues.

Resolved

That the minutes be agreed as a correct record.

47. DECLARATIONS OF INTEREST.

Councillor Parker declared an interest in application 20/00647/MAJ due to his association with neighbours. He did not speak or vote on this item.

48. ELECTION OF VICE-CHAIR

It was proposed by Councillor Haines and seconded by Councillor Parker that Councillor Goodman-Bradbury be elected Vice-Chair.

A vote was taken – see attached. Some votes were not picked up due to technical issues.

Resolved

That Councillor Goodman-Bradbury be elected Vice-Chair.

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

a) 20/01961/FUL - Maize House, Highweek, Newton Abbot (Pages 19 - 20)

The Principal Planning Officer presented the application to the Committee.

Public Speaker, Supporter - Spoke on:

- Minimal impact
- Focus on appeasing ecological concerns
- High quality and well-proportioned design
- Statutory consultants accept the proposals

Comments from Councillors included:

- Parish Council has some concerns regarding overdevelopment
- No planning reasons for refusal

It was proposed by Councillor Haines and seconded by Councillor Nuttall that permission be granted as set out in the report.

A vote was taken – see attached. Some votes were not picked up due to technical issues.

Resolved

That permission be granted subject to the following conditions:

1. Standard time limit
2. Accord with plans
3. Protected Tree watching brief
4. Adherence to measures set out in Ecology Statement
5. No external lighting
6. Provision of Bat boxes
7. PD removal – openings in south elevation & roof extensions – neighbour amenity
8. Access/parking complete & EV Ready prior to occupation
9. Securing delivery of enhanced insulation and energy efficient measures as per updated Design and Access Statement

b) **21/00698/HOU 6 Belvedere Road, Newton Abbot (Pages 21 - 22)**

The Principal Planning Officer presented the application to the Committee.

It was proposed by Councillor Parker and seconded by Councillor MacGregor that permission be granted as set out in the agenda report.

A vote was taken - see attached.

Resolved.

1. Development to commence within 3 years.
2. Development to be carried out in accordance with the approved drawings.
3. Undertake precautions and recommendations of the ecology report.
4. First floor windows below 1.7m from ffl shall be obscure glazed

c) **21/00706/HOU 71 Coombe Vale Road, Teignmouth (Pages 23 - 24)**

The Principal Planning Officer presented the application to the Committee.

Public Speaker, Supporter – Spoke on:

- Relieve pressure on street
- Neighbouring properties have similar parking facilities
- Guests are encouraged to travel by train
- Use of electric parking station and solar panels
- Design is similar to other properties in the area

Comments from Councillors include:

- Concerns over parking
- Off road parking in area refused by Committee before.

Planning Committee (15.6.2021)

- Concerns over wall and pavement
- Contrary to policies S1, S2 and WE8
- Detrimental to the characteristics of the area.
- No objections from Town Council
- Improved space

The Principal Planning Officer informed the Committee that he could find very little information on parking area applications on Combe Vale Road. He also advised that the planning system doesn't control which vehicle would be used in the parking space, and that compared to elsewhere in Devon the road is not overly narrow.

It was proposed by Councillor J Hook and seconded by Councillor Clarence that permission be granted as set out in the report.

A vote was taken – see attached.

Resolved

That permission be granted subject to the following conditions:

1. Development to commence within 3 years.
2. Development to be carried out in accordance with the approved drawings.
3. Undertake precautions and recommendations of the ecology report.
4. The installation / commissioning of solar panels and EV to be carried out.

d) **21/00308/HOU Little Court, Kenton (Pages 25 - 26)**

The Principal Planning Officer presented the application to the Committee.

Public Speaker, Supporter – Spoke on:

- New buildings are single storey and so not visible to the church
- Attractive fit for setting
- Planning inspector did not consider the impact on Belle View as a reason for refusal

Comments from Councillors include:

- Negative impact on amenities
- Contrary to Kenton Neighbourhood Plan policies KBHE1 & 2 and K ENV3, and Teignbridge Local Plan policy WE8
- Increased footprint from previous application
- What material will be used in the application?

The Principal Planning Officer informed the Committee that slate would be used for the roof and that a sample would be provided to ensure the quality of the material.

It was proposed by Councillor J Hook and seconded by Councillor Haines that permission be granted as set out in the report.

A vote was taken – see attached.

Resolved

That permission be granted subject to the following conditions.

1. Standard 3 year time limit for commencement of development;
2. Development to be carried out in accordance with the approved plans;
3. Prior to its installation, a sample or details of the slate to be used on the building shall be submitted to and approved in writing by the Local Planning Authority
4. The building shall not be occupied at any time other than for purposes ancillary to the residential use of the host dwelling

e) **20/00647/MAJ - Indio House, Bovey Tracey (Pages 27 - 28)**

Councillor Parker declared an interest in application 20/00647/MAJ due to his association with neighbours. He did not speak or vote on this item.

The Principal Planning Officer presented the application to the Committee.

Public Speaker, Objector – Spoke on:

- MG5 status of grassland
- Ecological value of site
- QC opinion
- Similar case in North Devon
- Application is against local plan

Public Speaker, Objector – Spoke on:

- Increased CO2 emissions
- MG5 grasslands
- Ecological impact cannot be covered by bat and bird boxes
- Declaration of climate emergency

A statement was read out in place of an additional supporting public speaker.

Points covered include:

- Housing association has provided similar successful schemes in the area
- Strong demand for affordable housing
- High build quality
- Marketed to local families
- Close to bus routes
- Low carbon air source heat pumps

Public Speaker, Supporter – Spoke on

- Principle of development
- The application is for reserved matters
- Retention of some grassland
- Ecological buffer zone
- High quality and affordable housing

Planning Committee (15.6.2021)

- Compliant with policies including S2

Comments from Councillors include:

- Declaration of climate emergency
- Negative impact on ecology
- Not enough time to consider all documents
- Buffer zone is too small
- MG5 grasslands
- Biodiversity loss
- Loss of trees
- Not enough site inspection notice
- Site untouched for 100 years
- Flood risk
- Poor visibility
- Objections of Town Council
- Lack of drainage plan
- Lack of solar panels
- Good reputation of developers
- No administrative error
- Grasslands mentioned by inspector
- Climate emergency declaration came after the previous decision
- High quality grassland
- Non approval recommended in some areas
- Lack of ecological audit
- Request for another site visit
- Poor access
- Grassland issue may not have been discussed in the past including at site inspection

The Principal Planning Officer advised the Committee that the site has no special designation and that protections would come from becoming an SSSI, however even planning permission can still be granted. He also advised that protection should've been sought during the local plan or during the appeal.

It was proposed by Councillor MacGregor and seconded by Councillor H Cox that decision be deferred until the next meeting. Another site visit would also be held.

A vote was taken – see attached.

Resolved

That decision be deferred until the next meeting.

f) **20/00802/MAJ Halcyon Road Car Park, Newton Abbot (Pages 29 - 30)**

The Principal Planning Officer introduced the application. He also updated the Committee, noting a drainage condition, 4 parking spaces which would be EV infrastructure ready, and the cycle parking condition.

Planning Committee (15.6.2021)

Public Speaker, Objector – Spoke on:

- Overly domineering/ large
- Loss of privacy
- Overlooking
- Not in keeping with character of area
- Presumptuous to assume guests will not stay in room
- Carbon increase
- Mental health impact
- Effect on parking

Public Speaker, Objector – Spoke on:

- Contradicts policy EN1
- Design is not in keeping with the town, better design in Paignton
- Recent bankruptcy proceedings by Travelodge
- Construction of additional housing would provide more jobs
- More suitable locations elsewhere

Comments from Councillors include

- Need for a new hotel
- Parking in cattle market
- Increase in tourism and spending
- Low carbon project
- In proximity to public transport and entertainment
- Parking lost will be replaced
- Use of Air source heat pumps and solar panels
- Limited use of carbon materials
- Energy efficient lighting
- EV charging stations
- Current car parking is unattractive
- Uncertain on design – the Principal Planning Officer advised that the building is not as dark as it appeared on the CGI concept
- Positive use of town centre space
- Opinions on the design are subjective and vary
- Only 6 windows could be considered overlooking
- No conditions can be included which restrict times of occupation of rooms – this was also clarified by the Principal Planning Officer
- Loss to parking will only be temporary
- Building design is good compared to the multi storey car park and other surrounding buildings
- Premier inn still has spaces
- Building is not attractive
- Sun may be blocked from nearby houses
- Loss of theatre may discourage tourism
- Commercial need
- It is up to Travelodge to determine commercial viability

It was proposed by Councillor J Hook and seconded by Councillor Parker that

permission be granted as set out in the agenda report.

A vote was taken – see attached.

Resolved

That permission be granted subject to the following conditions.

1. Commencement within 3 years
2. Works in accordance with the approved plans
3. Materials samples to be submitted and approved
4. Hard surfacing details to be submitted and approved
5. Works in accordance with the Flood Risk Assessment
6. Zebra crossing to be installed at grade to allow overland waterflow
7. Unsuspected contamination management
8. Construction Management plan including noise control measures to be submitted and approved
9. Noise, vibration and odour report to be submitted and approved. Any necessary mitigating measures to be carried out prior to first occupation
10. Lighting plan to be submitted and approved
11. Operating terms to be submitted and approved including timing of deliveries and waste collections
12. Swift nesting facilities to be integrated into the building; details to be submitted and approved
13. Parking to be provided prior to occupation and thereafter retained
14. Two electric vehicle (EV) charging points and four spaces that are EV infrastructure ready to be made available prior to occupation and thereafter retained
15. Cycle parking provision prior to first occupation and thereafter retained
16. Submission, approval and implementation of a travel plan
17. Landscape implementation within first planting season following completion
18. No occupation until the works to the vehicular access have occurred and the pedestrian crossing has been relocated
19. Submission of:
 - A detailed drainage design based upon the approved Flood Risk Assessment Newton Abbot, Travel Lodge P1.03 Document Ref - NWTN-ACM-TL-RP-100003 dated August 2019
 - Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted
 - Proposals for the adoption and maintenance of the permanent surface water drainage system.
 - Evidence that there is agreement in principle from SWW to connect into their system.

g) **E2.15.25, Ipplepen (Pages 31 - 32)**

The Principal Planning Officer introduced the TPO.

Councillor Dewhirst, the ward member, spoke on this application. He declared an interest due to being the director of a nearby caravan site.

Comments from Councillors include

- Planning permission has been granted for lodges in the area
- Woodland has high amenity value
- Trees had almost been cut down previously
- What will happen to the trees where the lodges will go?

In response to member's comments, the Principal Planning Officer clarified that officers will determine the retention of trees in the discussed area, and that he would discuss retention with the tree officer.

It was proposed by Councillor Haines and seconded by Councillor MacGregor that the TPO be approved in a modified form.

A vote was taken – see attached.

Resolved

The District of Teignbridge (Ross Park Caravan Park) Tree Preservation Order 2021 is confirmed in a modified form.

h) **E2.28.68, Teignmouth (Pages 33 - 34)**

The Principal Planning Officer introduced the TPO. He explained that there was a class Q application that had permission on site, but the trees were at risk and that the site had new owners.

Comments from Councillors included:

- The line of trees is very visible and would provide a visual amenity to an approved application in the area

It was proposed by Councillor Haines and seconded by Councillor MacGregor that the TPO be approved in an unmodified form.

A vote was taken – see attached.

District of Teignbridge (Doveteign no. 3) Tree Preservation Order 2021 is confirmed unmodified.

i) **E2.30.32, Chudleigh (Pages 35 - 36)**

The Principal Planning Officer introduced the TPO.

Public Speaker, Objector

- Agricultural Officer did not inspect the trees individually
- Tree survey of area won't be undertaken by Council
- Appendix 1 does not appear in 2012 regulation
- Life expectancy and viability is wrong in report

- Ash dieback in trees

The Principal Planning Officer informed the Committee that the Agricultural Officer is well qualified and would have taken on board what he had seen on site.

Comments from Councillors include:

- Concerns about leaving trees unprotected
- Ash dieback trees can be removed subject to TPO procedures

It was proposed by Councillor MacGregor and seconded by Councillor H Cox that the TPO be approved in a modified form.

A vote was taken – see attached.

Resolved

The District of Teignbridge (Land around Saffron Court) Tree Preservation Order 2021 is confirmed in a modified form

j) **20/00296/ENF Higher Colleybrook Farm (Pages 37 - 38)**

The Principal Planning Officer introduced the application.

Comments from Councillors include:

- Lack of planning permission
- Caravan is contrary to local plan
- Will we give them a period of notice? – The Chair clarified that they would receive one.
- Is the use as a restroom and livestock a legitimate use of the site?
- The original occupants of the caravan who were using it for these reasons are no longer present.

The Principal Planning Officer advised the committee as to what is considered a caravan and that if there is a change of use for the caravan then it must attain planning consent.

It was proposed by Councillor Peart and seconded by Councillor Haines that the enforcement notice be issued as in the report's recommendation.

A vote was taken – see attached.

Resolved that

1. An enforcement notice be issued; and
2. In the event of the notice not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution.

50. APPEAL DECISIONS - TO NOTE APPEAL DECISIONS MADE BY THE PLANNING INSPECTORATE.

Planning Committee (15.6.2021)

The Committee noted the appeals made by the Planning Inspectorate

The meeting started at 10.05 am and finished at 1.40 pm.

Chair
Cllr Mike Haines

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Voters	11	For	10	Against	1
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Clr Colclough-Ambrook					
Clr Goodman-Bradbury-DawlishCNE					
Clr H Cox-Ashburton Buckfast					
Clr Hayes-NA Bushell					
Clr J Hook-NA Bushell					
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Clr Nuttall-Kenn Valley					
Clr Parker-NA Buckland & Milber					

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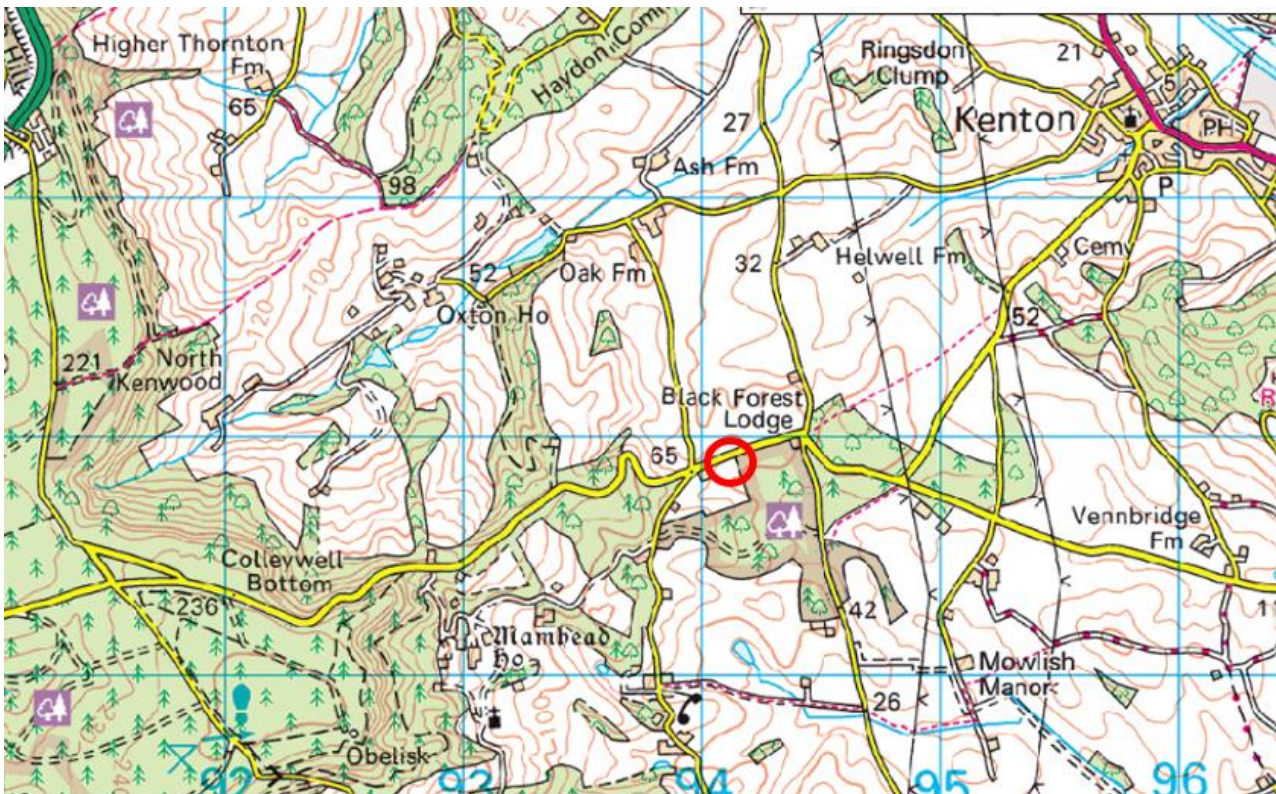
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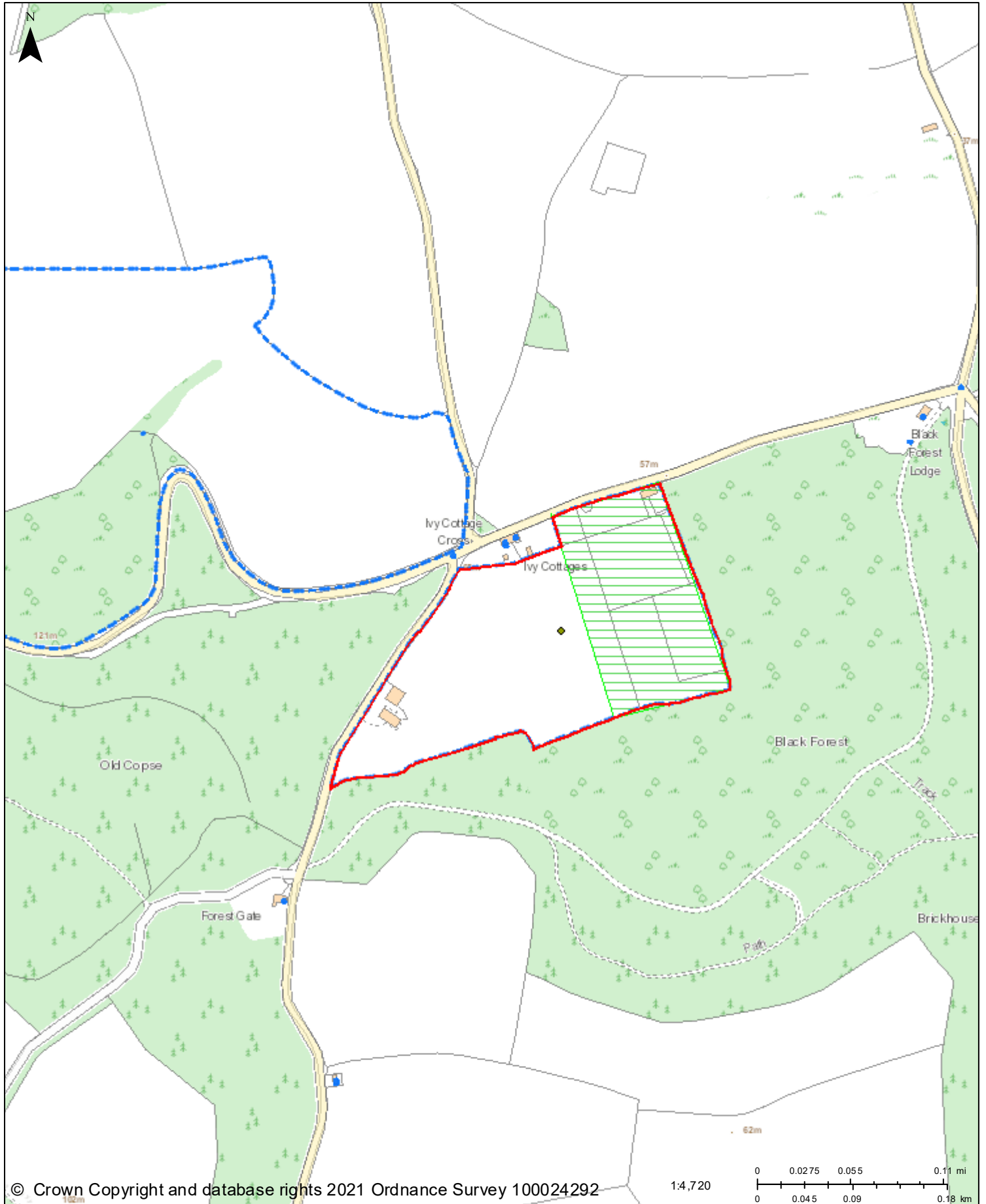
PLANNING COMMITTEE REPORT

CHAIRMAN: Cllr Mike Haines



APPLICATION FOR CONSIDERATION:	MAMHEAD - 21/00762/FUL - Land At NGR 294030 81786, Mamhead - Use of land for two gypsy and traveller pitches including two mobile homes, one day room and new driveway	
APPLICANT:	Mr Small & Ms Ineson	
CASE OFFICER	Jennifer Joule	
WARD MEMBERS:	Cllr Alan Connett	Kenton With Starcross
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=21/00762/FUL&MN	





1. REASON FOR REPORT

This application has been called to Committee by Cllr Connett for the following reasons:

The proposed park homes are out of keeping with the area and contrary to Teignbridge Local Plan EN2A. The application does not take account of Policy EN5 or describe how the potential impact will be mitigated. The application does not establish a need as described in policy WE6a – that a five-year supply of permitted or allocated pitches does not exist. The application is contrary to Teignbridge Local Plan Policy WE6c.

The application site is in an Area of Great Landscape Value, in close proximity to Grade II listed buildings and within the wider setting of the national asset of Mamhead Park and Gardens.

Policy SWE1 provides for further pitches and a start has been made on this development.

2. RECOMMENDATION

The application is recommended for approval subject to the following conditions:

1. Standard three year time limit
2. Standard plans condition
3. Restriction of occupancy to members of the G&T community
4. Details of the new hedgerow planting shall be submitted to and agreed by the LPA and the hedgerow then planted prior to the first bringing of the caravans on to the site.
5. Details of the day room materials shall be submitted and agreed by the LPA prior to first use on site.
6. Mobile Homes shall conform to definition of a caravan and external materials and appearance of the caravans shall be limited to either wood or a wood-effect.
7. No external lighting other than motion-activated, low-lumen, directed down lighting.
8. The development shall proceed only in accordance with the recommendations of the ecology report.
9. Drainage of the site shall be by soakaways unless otherwise agreed with the LPA.
10. Visibility splays shall be provided, laid out and maintained in accordance with submitted plans.

3. DESCRIPTION

3.1 SITE DESCRIPTION

- 3.1.1 The application site is located in an area of countryside to the west of Starcross and to the north east of Mamhead. It is immediately south of the principal Starcross-A380 road and is to the east of Ivy Cottage. Black Forest mixed plantation lies immediately to the east of the site.

- 3.1.2 The red line plan for the site covers the northern section of the field area between the road and the woodland to the east. The field is currently used for grazing alpacas and is laid to grass. There are a small number of related agricultural buildings along the northern boundary of the site.
- 3.1.3 It is proposed to locate two caravans and a 'day room' to the north western corner of the field, with an access track running along the northern boundary to the existing field access. The alpacas will remain and the applicants will continue to farm at the site as they have done for approximately 15 years.
- 3.1.4 To facilitate access to the site it is proposed to alter the existing access point by removing two sections of hedgerow and shifting the access point to the west by 5m. Replacement planting is proposed.
- 3.1.5 The site is designated as an Area of Great Landscape Value. It lies c. 100m from the grade II Ivy Cottages and is immediately adjacent to the Mamhead grade II* Registered Park and Garden. The Park and Garden wraps around this site but the focus of the Park and Garden is to the south west of the site where it encapsulates the Grade I Mamhead House.
- 3.1.6 This site has one previous planning application of relevance – reference 20/02046/FUL - which proposed the same development: Use of land for two gypsy and traveller pitches including two mobile homes, one day room and new driveway. That application was withdrawn towards the end of the determination period. This revised applicaiotn seeks to overcome concerns raised and the agent has since employed the services of a transport consultant and made amendments to the scheme such that it is now recommended for approval.

3.2 KEY PLANNING CONSIDERATIONS

3.2.1 PRINCIPLE OF THE DEVELOPMENT

- 3.2.1.1 The site is located outside any settlement boundary and within the open countryside, as defined by Local Plan Policies S21A and S22.
- 3.2.1.2 Policy WE6 Homes for the Travelling Community permits gypsy and traveller pitches in the open countryside provided certain criteria are met. There are 6 criteria which are addressed in turn as follows:

a) Five year supply of permitted or allocated pitches

The 2021 Gypsy and Traveller Five Year Land Supply Statement indicates there is currently a five year supply of pitches. As of 1st April 2021 there was a supply of exactly 6 years. This supply is however considered very vulnerable to changes and fluctuations in delivery and this, together with the inherent difficulties in providing new sites for members of the Gypsy and Traveller Community in good locations means that there is a significant material benefit to granting permission for appropriate sites, such as the subject one, even where a five year supply exists.

b) (not considered – this is not a Travelling Showpeople plot)

- c) Access within approximately 30 minutes by sustainable means to a primary school, with exceptions to be clearly justified.

The closest primary school to the site is located in Kenton, 1.6 miles from the site. There are no suitable public transport options for access to the school as the site is not located on a bus route, and the closest bus stop is in Kenton itself. It would be possible to walk to the school in approximately 30 minutes and there is a public right of way for some of the route. However, the main highways to be used for the remainder of the route are unsafe for pedestrians given the national speed limit of the roads and the lack of any pavement. It would also be possible to cycle along these roads but the same concerns would remain with small children regularly making use of the high-speed highways.

Despite its proximity to Kenton Primary School, the site actually lies within the catchment area of Gatehouse Primary School in Dawlish. Gatehouse is 3.7 miles from the application site.

The Devon County Council Transport Coordination Officer, Kieran Maher, has been contacted to understand what transport options would be available for any future children to Gatehouse Primary School. The Case Officer was advised that, as the site is more than 2 miles from Gatehouse, as well as the nearest secondary school, free transport would be provided for any children at the site for both primary and secondary education. It is expected that this would be by taxi. Both schools would be too far to access by walking and, although cycling would be an option, it is considered likely that the free transport would be taken advantage of.

The agent has pointed out that point c) of Policy WE6 was not applied to other recently consented gypsy and traveller sites, such as the Haldon Ridge and Teigngrace site. It is suggested that these set a precedent for the application of this policy.

It is therefore noted that access within approximately 30 minutes by sustainable means to a primary school is not possible from this site. However, it is considered that there is justification for an exception from this policy on the basis that Devon County have confirmed free transport would be provided to the catchment school. Members may recall that careful consideration was given to access matters in Teigngrace and the site at Haldon Ridge was subject to very special circumstances / material considerations of its own that weighed in favour of approval.

On balance it is therefore considered that there is no reason to refuse the application having considered point c) of WE6.

- d) Occupation is limited to those meeting the definition of Gypsies and Travellers.

It has been confirmed via the Gypsy and Traveller Forum response and the Project and Policy Coordinator for Travelling and Vulnerable Communities that the applicants meet the definition of Gypsies and Travellers set out within Planning Policy for Traveller Sites. A Condition is recommended to secure this.

- e) Any business use is limited to 50% of the developable area of the site.

No business use is proposed within the meaning of this policy criterion – the applicants will continue their agricultural activities within the wider landholding.

- f) Will not affect the integrity of the South Hams SAC.

The Biodiversity Officer has commented on the application and does not object and recommends conditions which will make the application acceptable in ecological terms. This element of the Policy is therefore considered to be met.

3.2.1.3 The principle of the development of the site for a gypsy and traveller residential use is guided principally by Local Plan Policy WE6. The key criteria for this application is point c), whether the site can achieve sustainable access to a primary school. It is considered that, on balance, sufficient justification for a departure from this requirement has been provided and point c) is therefore met.

3.2.1.4 In addition to Local Plan policy, a material consideration is the Government's Planning Policy for Traveller Sites. This guidance sets out that the following matters require consideration in the determination of applications for traveller sites:

- a) the existing level of local provision and need for sites

The local authority is currently able to demonstrate a five year supply of sites, and allocated through the current Local Plan a site at Haldon Forest, which lies in close proximity to this proposal, as well as requiring delivery through strategic site allocations at SWE1 and NA1.

However, on the basis of the representations submitted, the Case Officer has some concern with the relevance of the five year supply for local gypsy and traveller communities. The Devon County Council Project and Policy Coordinator for Travelling and Vulnerable Communities makes clear that site choice is highly restricted for travelling groups within Devon. Communities are reliant on the identification of private sites on a speculative basis to secure accommodation. The views of the Teignbridge Gypsy Forum are also noted where it is stated that the provision of self-funded private sites is currently the only route through which new pitches can be secured. Additionally, it is noted that the Teignbridge area is extensive, encompassing the Torbay edge to Tedburn St. Mary. Even if pitches are secured in one part of the District, this is not necessarily a guarantee that they will be suitable for communities or families with ties to other areas. The positive planning framework for unallocated private sites set out within the Government's Planning Policy for Traveller Sites is a material consideration and the ability to demonstrate a five year supply is therefore considered a neutral factor in the planning balance.

- b) the availability (or lack) of alternative accommodation for the applicants

From the information available to the local planning authority it is understood that the applicants currently live in Newton Abbot in settled accommodation. There is no information to suggest the applicants will be unable to find alternative accommodation should the application be refused.

- c) other personal circumstances of the applicant

The applicants own the land and currently use it to graze alpacas. A member of the applicant's family was granted a personal consent (secured with a S106) in 2009 to live at a site to the south west of the open field where this application is located. It is

understood that this application is therefore sought to live in close proximity to a family member.

3.2.1.5 It is therefore considered that there are material factors weighing in favour of the application, notably the applicant's personal connection to the site, and the general lack of available sites in the District.

3.2.1.6 Despite the availability of a 5 year supply of Gypsy and Traveller sites, there are strong reasons for the provision of two additional pitches for the Romany Gypsy community who struggle to secure accommodation within the District. Submissions to this application from TDC and DCC Officers with expertise this area are clear that the LPA should be looking to support applications for new Gypsy and Traveller accommodation, despite the 5 year supply, given the general lack of sites within the District and Devon as a whole, and in light of the fact that this is a self-supported site.

3.2.1.7 On balance, it is therefore considered that the principle of the development is a positive matter in the planning balance.

3.2.2 IMPACT UPON SETTING OF IVY COTTAGES (GRADE II) AND MAMHEAD PARK REGISTERED PARK AND GARDEN (GRADE II*)

3.2.2.1 The site is located to the east of Ivy Cottages, former estate cottages of Mamhead Park, and is directly adjacent to the Mamhead Registered Park and Garden, which wraps around the open field where the site is located.

3.2.2.2 As a result of the site being positioned in close physical proximity to these assets, and because of the link of the cottages to the Mamhead estate, the site is considered to lie within the setting of both the Park and Garden and the grade II cottages.

3.2.2.3 The Park and Garden derives its significance from its design under Capability Brown and its link with the grade I Mamhead House as well as a wide number of associated assets. It comprises formal and informal elements, with the plantation parts of the Park located to the north and north east of the Park and enclosing the wider estate. It is understood from the list description that the Black Forest part of the Park was described by Loudon in 1842 in Gardener's Magazine and therefore likely dates from either the late 18th Century or early 19th Century. Ivy Cottages are listed at grade II and are considered to derive their significance from both their vernacular character and historic links with the Mamhead estate.

3.2.2.4 For the following reasons the proposal is not considered to result in harm to either asset. This view has been formed following discussions with the Conservation Officer, Landscape Officer and two site visits during the course of the determination of the application.

1. Positioning the new units in the north east corner of the site lessens their impact on Ivy Cottages by protecting the wide body of open space around the Cottages, which in turn preserves their rural and tranquil setting.
2. The intervening distance and vegetation, including an orchard, between Ivy Cottages and the application site ensures little intervisibility, and as a result very little to no impact on the setting of the Cottages. This impact will be further lessened

by proposals to site a new hedgerow band along the western edge of the application site.

3. Although the site is considered to fall within the setting of Ivy Cottages as a result of the Cottages' historic association with the Mamhead Park and Garden, in visual terms the impact on the Cottages is therefore extremely limited. The impact is therefore not sufficient to result in harm to the setting of the listed assets.
4. Views of the application site in relation to the Registered Park and Garden are also very limited. The only public vantage point from which the application site will be seen against the Park and Garden is through the entrance gate of the other Gypsy and Traveller site in the south west of the field. Due to the surrounding topography of the area and the existing hedgerows to the north the site is extremely well screened. There are also no public rights of way within the Park and Garden from which the site can be seen.
5. The applicant has agreed to a condition which will control the external appearance of the caravan units in perpetuity, ensuring the LPA can retain control over the visual impact of the site. Wood or a wood-effect design will be required for any future units. In the limited views of the site that are available, the proposal will therefore have a suitable appearance and a low visual impact in the landscape. It will not, therefore, distract from nor harm the significance of the nearby listed assets including the Park and Garden.
6. There is an existing Gypsy and Traveller site in the south west corner of the same field as this site. That site has been designed in a sympathetic manner such that it blends effectively and is of very low visual impact. It is not considered to bring about any harm to the Park and Garden or Ivy Cottages. The proposal for this site is to replicate the style of caravan used. It is therefore considered that the pitch opposite sets an effective precedent for what can be achieved – it confirms that an unobtrusive and low impact site can be established with no harm to the adjacent heritage assets.

3.2.2.5 As a result, the proposal is considered to be in accordance with Policy EN5 as it will protect the area's heritage. The specific landscape impact of the proposal is considered further below.

3.2.2.6 In coming to this decision the council must be 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 the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.

3.2.3 IMPACT UPON THE CHARACTER AND VISUAL AMENITY OF THE AREA/OPEN COUNTRYSIDE

3.2.3.1 The site lies detached from any settlement, within a designated Area of Great Landscape Value and in the area of transition between the Haldon Ridge and Exe Estuary Farmland Landscape Character Areas. It has also historic landscape value in light of its proximity to the Registered Park and Garden.

3.2.3.2 By siting the development within the north eastern corner of the field, it will not be possible to see the site within public viewpoints from anywhere but the entrance to the existing Gypsy and Traveller site to the south west of the site. The local topography and existing mature hedgerows almost entirely screen the site.

- 3.2.3.3 In addition, it is proposed to plant a new hedgerow to the west of the site along the boundary of the curtilage. The details of this hedgerow will be secured through condition. This will further screen the site.
- 3.2.3.4 The Landscape Officer raised concern with the last application (which was withdrawn) on the basis that the site was visible from the public highways and that the character of the development proposed would: erode the rural, tranquil character of an Area of Great Landscape Value (AGLV); and dilute the historic landscape setting of Mamhead Park (2* listed Registered Park and Garden (RPG)) and the former estate cottages of 1 and 2 Ivy Cottages (grade 2 listed).
- 3.2.3.5 Having now visited the site and discussed possible mitigation with the agent and applicant, the Landscape Officer considers that the adverse effects that will result from the proposed development can be adequately mitigated in a way that reinforces the distinctive landscape character of the area. The Officer recommends two conditions be applied to the development which are noted above (amalgamated to one condition) and involve additional new hedgerow planting around the site. With this planting in place, it is considered that the site will be effectively screened and will meet the requirements of EN2A to conserve and enhance the qualities, character and distinctiveness of the locality.
- 3.2.3.6 A key area of concern with the last application (which was withdrawn) was the scale of the red line. The red line encompassed the full field in the ownership of the applicants. Whilst the plans indicated development would be located within the north eastern corner of the site, forms of visual clutter associated with residential occupation, which are not defined as development, could reasonably be sited anywhere within the red line area. This could include, for example, the creation of a private landscaped garden or car parking to the south of the site.
- 3.2.3.7 The Case Officer is therefore pleased to note that the red line for this application has been significantly reduced to encompass only the driveway and north eastern corner of the field. The area within the red line will benefit from a change of use to residential but the wider field, within the blue line, will not.
- 3.2.3.8 The development proposal is therefore considered to be in accordance with Policy EN2 as it will protect the area's distinctive landscape qualities and character. Improvements to the scheme, in the form of the additional hedgerow planting and cover of the shipping container, have been secured which will lessen its impact.

3.2.4 HIGHWAYS SAFETY

- 3.2.4.1 Concerns with access to the site were raised under the last application, which was subsequently withdrawn. It is understood that the applicants therefore sought the views of a transport consultant and liaised with DCC Highways in order to consider the visibility that could be achieved, and to consider the optimal design for the access point.
- 3.2.4.2 The visibility that can be achieved is shown on plan reference TDC1 rev B. Highways have no objection to the arrangement proposed as it is noted that speeds on this section of highway are typically lower than the speed limit of 60mph owing to the slightly winding and narrow nature of the highway at this point and the visibility splay distance can be achieved for a c. 50mph road.

3.2.4.3 In order to achieve the extended visibility splays beyond those of the last application it is now proposed to remove two partial sections of the hedgerow either side of the access (leaving sufficient in place to screen the site). 6 meters of hedgerow is to be removed from the western side and 28 meters of hedgerow to be reduced to 600mm in height to the east. (Additional hedgerow planting is proposed to off-set this loss.)

3.2.4.4 Subject to the maintenance of this visibility arrangement in perpetuity the Highways Officer is satisfied that safe access to the site can be achieved.

3.2.5 IMPACT ON RESIDENTIAL AMENITY OF SURROUNDING PROPERTIES

3.2.5.1 The closest residential properties to the site are Ivy Cottages c. 100m to the west and Black Forest Lodge c. 300m to the east. Given the intervening distances there are not considered to be any likely impacts on residential amenity as a result of the proposal.

3.2.5 IMPACT ON ECOLOGY/BIODIVERSITY

3.2.5.2 The application site is within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. More information about these regulations as they apply in this area can be found here <https://www.teignbridge.gov.uk/planning/biodiversity/exe-estuarydawlish-warren-habitat-mitigation/> .

3.2.5.3 In the absence of bespoke mitigation, a Habitat Mitigation Regulations contribution of £902 per additional dwelling is required to offset in-combination recreation impacts on the SPA and/or SAC. A net gain of two residential units is proposed, i.e. a total of £1,804 is required to be contributed.

3.2.5.4 To mitigate against impacts of the development on these habitats the applicant has elected to make an upfront Habitat Mitigation Contribution of £1,804. With this in place, the LPA, as Competent Authority, is able to conclude that there will be no effect on the integrity of the European site(s) such that this does not constitute any reason for refusal of the development.

3.2.5.5 The Biodiversity Officer has considered the development and recommends approval subject to the imposition of conditions which will prevent harm to nesting birds on site, possible use of the landscape area by bats and to secure the additional hedgerow planting.

3.2.5.6 It is therefore considered that, subject to the conditions recommended above, the development will meet the requirements of Policies EN8, EN9, EN10 and EN11.

3.2.6 DRAINAGE

3.2.6.1 The proposal will involve the laying of new impermeable surfaces at the site. The Drainage Officer has commented that a surface water drainage scheme should therefore be installed as part of the development.

3.2.6.2 It is the applicants' intention to install a soakaway system. The following condition is therefore recommended which will ensure any variation away from soakaways is agreed with the Drainage Engineer prior to bringing the caravans on to the site.

3.2.6.3 *Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the bringing of either of the two permitted caravans on to the site.*

REASON: To ensure a satisfactory and sustainable surface water drainage system can be provided before additional impermeable surfaces are laid out at the site.

3.2.7 CONCLUSION

3.2.7.1 When considering an application it is important to weigh the relevant factors within the overall planning balance.

3.2.7.2 In this case it is considered that the principle of the provision of two additional Gypsy pitches is a factor weighing in favour of the application. Although the District can demonstrate a five year supply of pitches, in all other respects Policy WE6 is considered to be met. There are strong material considerations for an application for a private pitch, including the difficulty for such families to find suitable sites, and there are personal connections which tie the applicants to this immediate area. In addition, the Government places significant weight on the provision of Gypsy and Traveller pitches through the Planning Policy for Traveller Sites.

3.2.7.3 Alongside the principle of the development are the matters considered above relating to heritage, landscape, highways, ecology and drainage. All of these points have been addressed during the course of the application and, after some amendments to the proposal, and the submission of additional information, all DCC and TDC Officers as well as the Case Officer are satisfied that no harm will occur and the proposal is in compliance with Local Plan Policy.

3.2.7.4 These factors are, however, neutral in the planning balance, as it is not considered that any benefits will arise from the proposals, but simply that no harm will occur.

3.2.7.5 Taking the planning balance as a whole, it is therefore considered that the principle of the development weighs in favour of the application, such that the application is recommended for approval.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033
S1A Presumption in favour of Sustainable Development
S1 Sustainable Development Criteria
S2 Quality Development
S22 Countryside
WE6 Homes for the Travelling Community
EN2A Landscape Protection and Enhancement
EN5 Heritage Assets

EN8 Biodiversity Protection and Enhancement
EN9 Important Habitats and Features
EN10 European Wildlife Sites
EN11 Legally Protected and Priority Species
EN12 Woodlands, Trees and Hedgerows

National Planning Policy Framework

National Planning Practice Guidance

Planning Policy for Traveller Sites

5. CONSULTEES

TDC Housing Enabling Officer

As indicated previously may I say that the appropriateness of this site is a matter for consideration in accordance with the Teignbridge Local Plan policies and one for the planning officers to weigh up based on the evidence.

However, I understand that the Devon County Council Gypsy and Traveller Liaison Service and the Teignbridge G and T Forum are supportive of this application as are the Housing Service.

The role of the Housing Services Enabling Team is to facilitate the delivery of G and T pitches across Teignbridge to meet evidenced need. The Local Plan sets a target of 70 pitches over the life of the plan (3.5 per year) Housing Services hold a waiting list.

To date there has been success in the delivery of the 15 New Traveller Rented Pitch Site at Haldon Ridge, Kenn and its additional three pitches. However no rented provision has been made to meet the evidenced need for Romany pitches despite good progress being made in various locations.

Therefore, when applications are submitted by the Romany community to meet its own need without recourse to public subsidy the Housing Enabling Team are supportive, as we are in this case.

DCC Policy and Project Coordinator (Vulnerable and Travelling Communities)

I am happy to make the following observations in line with National and County Policy, and observations following a site visit to the above location with the applicant on

Devon has only three local authority Gypsy sites: Sowton, Exeter; this site is a long-term residential site managed by Elim Housing, which holds a waiting list. Broadclyst, East Devon is managed by Elim Housing is leased by the County Council and offering new pitches are governed by the terms set by the landowner. Haldon, Teignbridge offers the only pitches for those identifying as New Travellers and is managed by Teign Housing.

Whilst accommodation for the settled community is increasing in the South West there is still little provision for Gypsy and Traveller families. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes. Due to this, it is becoming more essential for Gypsy and

Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.

Small private sites continue to be the best option for local planning and housing authorities in relation to accommodation for Gypsies and Travellers. Meeting this need in Devon is important if the number of unauthorised encampments and unauthorised developments are to reduce across the county, at the same time it allows local planning authorities to fulfil their responsibility to meet the accommodation need alongside other communities in Devon.

I can confirm Gypsy/Traveller status for the applicants.

The County Council has a range of responsibilities in these matters and, on education, health and welfare grounds this application is supported, recognising the lack of pitches available on authorised sites within Devon.

DCC Highways Officer

Previous observations from 30th April 2021.

The proposed site is accessed off a C classified County Route which is subject to the national speed limit for a single carriageway of 60mph. On driving the route, it is the opinion of the Highway Authority, that speeds are lower due to the nature of the road. There have been no personal injury collisions reported to/by the police between 01/01/2015 and 31/12/2019.

According to the application, the current access has been in use for the past 14 years. As it stands in its current form the visibility is below standard. However following a site visit, to measure the visibility, it is possible for the site to achieve approximately 215m to the left (west) and 205m to the right (east). This would be acceptable for the likely 85th percentile vehicle speeds. In order to achieve this the applicant would need to reduce the height of the hedgerow, within the visibility splay either side of the access, to 600mm in height. This would allow for some growth of the hedge and the applicant still being able to have adequate visibility. There are visibility splays shown on the newly submitted drawings but unfortunately the visibility splay lengths, if shown, are unreadable on screen. Please can the applicant confirm what these are.

The gateway, as shown on the site access plan, would need to be repositioned slightly further south to allow a vehicle to leave the site perpendicular with the C Class road, rather than at an angle. This would allow the full range of visibility splay to be utilised. Again, repositioning the gateway will allow a vehicle to fully leave the carriageway whilst opening/closing the gate.

The proposed use of the site is unlikely to increase the number of vehicle movements significantly and as such, will not have a severe impact on the Highway network.

Further details of the visibility splays and a drawing showing the revised gateway position will be required before a recommendation can be made.

Further observations following additional information from the applicant.

Drawing number PL02 shows that visibility of 151m can be achieved to the east of the site. This is more in line with a speed of 50 mph but is acceptable in this instance due to the likely speed of traffic and the limited number of increased vehicle movements. The situation shown on the drawing is certainly a vast improvement over the visibility that is currently available to the site. The gateway also appears to have been moved back to its original position.

So long as this visibility can be achieved and maintained in perpetuity then the Highway Authority has no objections to the proposal.

Recommendation for the following condition:

Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with drawing PL-02 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6m above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4m and the visibility distances along the carriageway of the public highway (identified as Y) shall be 151m in both directions. REASON: to provide adequate visibility from and of emerging vehicles.

TDC Landscape Officer

No objection on the proviso that a landscape condition requires the creation/establishment and management of hedgebanks at the entrance and within the site, the purpose being to screen the view of the development from the public highway and to knit the changes into the landscape patterns in a way that reinforces the distinctive landscape character of the area.

ASSESSMENT

This planning application is a resubmission of a previously withdrawn application ref 20/02046/FUL. I commented on this earlier application, raising concern that the site was visible from the public highways and that character of the development proposed would: erode the rural, tranquil character of an Area of Great Landscape Value (AGLV); and dilute the historic landscape setting of Mamhead Park (2* listed Registered Park and Garden (RPG)) and the former estate cottages of 1 and 2 Ivy Cottages (grade 2 listed).

Before the application was withdrawn I met the applicant's agent on site and discussed how best the development could be mitigated so as to minimise the adverse landscape effects and agreed an acceptable approach.

I note that the approach to the landscape works that I recommended has not been included in the new application and that instead there is an expectation that I will set out recommended landscape conditions to be followed. I am happy with this approach as long as the landscape works are followed through in the early stages of the development and not relied on until the end, for example, stipulate that details on landscape works shall be submitted for approval prior to work commencing on the site.

Subject to the requirement of the following landscape condition, I would be happy to recommend that the adverse effects that will result from the proposed development would be adequately mitigated in a way that reinforces the distinctive landscape character of the area.

Recommended landscape condition

- Construct/establish new hedgebanks at the site entrance in the position shown on the plan below, extending the hedgebank around the bell-mouth of the entrance so as to fully screen the development from the highway.

The hedgebanks shall be formed from an earth bank constructed to a minimum of 1.5m in height and 1.5m wide at the base.

The bank shall then be planted with a double, staggered row of mixed native species, 45cm between rows. Species to include 50% hazel, 20% field maple, 20% oak and 10% holly. The plants shall be 90-120cm tall transplants. The holly shall be container grown. The plants shall be set 45cm apart.

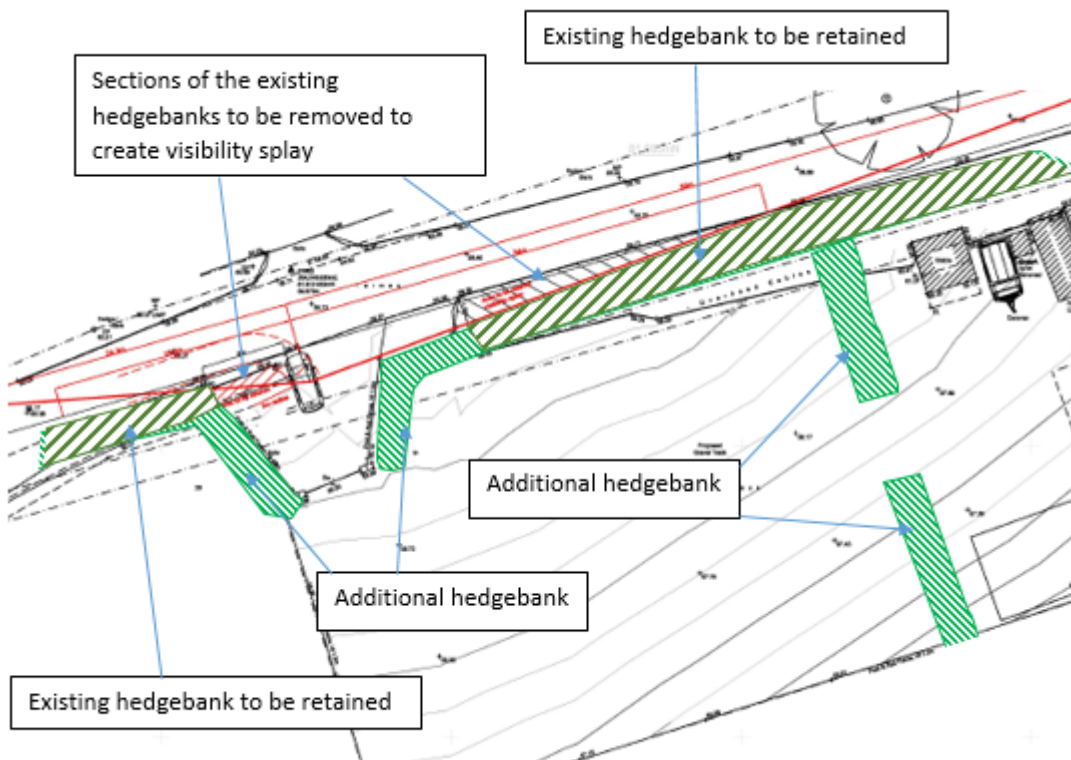
Once established the hedgebank shall be managed to match the remaining roadside boundary hedge but kept to a minimum height of 2.2m above ground level.

- Construct/establish new hedgebanks that runs perpendicular to the boundary hedge in the position shown on the plan below. The hedgebank will contain the domestic curtilage of the site and, additionally, add to the screening of the development and from the west – particularly the lower elevations.

The hedgebanks shall be formed from an earth bank constructed to a minimum of 1.2m in height and 1.2m wide at the base.

The bank shall then be planted with a double, staggered row of mixed native species, 45cm between rows. Species to include 50% hazel, 20% field maple, 20% oak and 10% holly. The plants shall be 60-90cm tall transplants. The holly shall be container grown. The plants shall be set 45cm apart.

Once established the hedgebank shall be managed to a minimum height of 1.8m above ground level.



TDC Biodiversity Officer

The site is within 10km zone of recreation influence for the Exe Estuary SPA and Dawlish Warren SAC. Within this zone all new residential accommodation developments, including traveller pitches, are required to contribute to measures to mitigate in-combination, increased recreation impacts on the SPA and SAC. The contribution is currently £902 per dwelling/pitch, so a total of £1,804 for this development. This can be paid in advance, or a Unilateral Undertaking can be signed guaranteeing the contribution prior to occupation.

The site is within the Landscape Connectivity Zone identified for the greater horseshoe bats of the South Hams Special Area of Conservation. This rare and legally protected species is particularly light averse, so a limit on external lighting is required. This will also benefit other wildlife species.

The protected species survey found two swallow nests in the stable. These should be retained and the door left open to permit ongoing access for swallows. The site is within a curlew breeding territory. However the proposal is thought unlikely to adversely affect this species.

There will be a loss of hedge and bank at the site entrance. New native-species hedging is proposed which will compensate for this loss of habitat and provide biodiversity enhancements as required by NPPF and Local Plan policy EN8. Please ask the applicant to submit details of the hedges to be planted, including species, size and density, plus information on planting and management. This could be required as an additional plan now, or conditioned.

Species protection measures should be followed during works and these are listed in the protected species report, the following of which should be conditioned.

CONDITIONS REQUIRED

Submission of details of proposed hedging, including species, size and density, plus information on planting and management.

The works, including any demolition and vegetation clearance, shall proceed in strict accordance with the precautions, measures and enhancements described in the protected species survey report (Moor to Sea Ecology, dated March 2021; see especially section 5 and Appendix 4).

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

No external lighting shall be installed on, or in association with, the new buildings, except for low-lumen, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any lights should be mounted at a height no greater than 1.9m from ground level, directed and shielded downward and away from the site hedges and trees. The lights should produce only narrow spectrum, low-intensity light output, UV-free, with a warm colour-temperature (3,000K or less) and a wavelength of 550nm or more.

REASON: For the benefit of legally protected, light averse bats.

TDC Drainage Engineer

The applicant is required to submit a surface water drainage management plan which

demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address: <https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>

Devon County Council Transport Coordination Officer, Kieran Maher

Telephone correspondence on 3rd June 2021 in relation to school transport

Teignbridge Council Gypsy Forum

Comments below are submitted on behalf of Teignbridge Gypsy Forum and we as a forum strongly support the application.

The site meets the criteria as set out by the planning requirements as regards to location sustainability and travel times to schools doctors and other amenities. The size of the site is in scale for the area and will not in any way be dominant within the local area.

As a Forum we dispute the site numbers used by Teignbridge Planning department regarding need. The numbers of authorised sites on paper differs greatly from the numbers which are actually built and useable at the present time. An example of this is in the village of Teigngrace where a site has permission for eight pitches but as yet only one has been built and will not be useable until the other seven have been completed. At the present time there is no time scale for the completion of this site.

If Teignbridge council planners are to argue the point that they have met the need perhaps they could show where there are pitches available and if they say as a council they have met the current need there would no longer be a list of families waiting for a pitch to become available for use.

Little progress other than one site for New Age travellers have been developed by the council since the gypsy forum began more than 15 years ago. The only sites that have been authorised for Romany Gypsy families have all been small private family sites which have all been self funded. In the past and still as to the present day Teignbridge Council representatives who attend the forum meetings see this as a way forward and show their encouragement and support for such applications.

This application is also a self funded small family site and should be given the backing of the planners and the planning committee on its own merits.

Comments to the previous (withdrawn) application from Historic England

Thank you for your letter of 9 December 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

6. REPRESENTATIONS

Two representations have been submitted to this application objecting to the application. One representation has been submitted by the Teignbridge Gypsy Forum in support of the application (the content of which has been copied in to this report above). Two additional comments have been submitted by the agent in the form of representations but providing additional information about the scheme.

The two objections identify the following points:

- Concern with road safety at the access point owing to high vehicle speeds and cyclists along this portion of the route
- The development would reduce the landscape value of the area
- It would be detrimental to the historic characteristics of Mamhead and the wider area
- Once permitted, the site could expand
- No objection to a development with a similar appearance to Small View (a log cabin style – located to the south east of this site and occupied by the applicant's relative)
- Increased activity in the area will impact biodiversity

7. TOWN / PARISH COUNCIL'S COMMENTS

None received

8. COMMUNITY INFRASTRUCTURE LEVY

This development is not liable for CIL because it is less than 100m² of new build that does not result in the creation of a dwelling.

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.

10. CARBON/ CLIMATE IMPACT

As a small scale (minor) development the proposal is considered likely to have a low environmental impact.

11. HUMAN RIGHTS ACT

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.

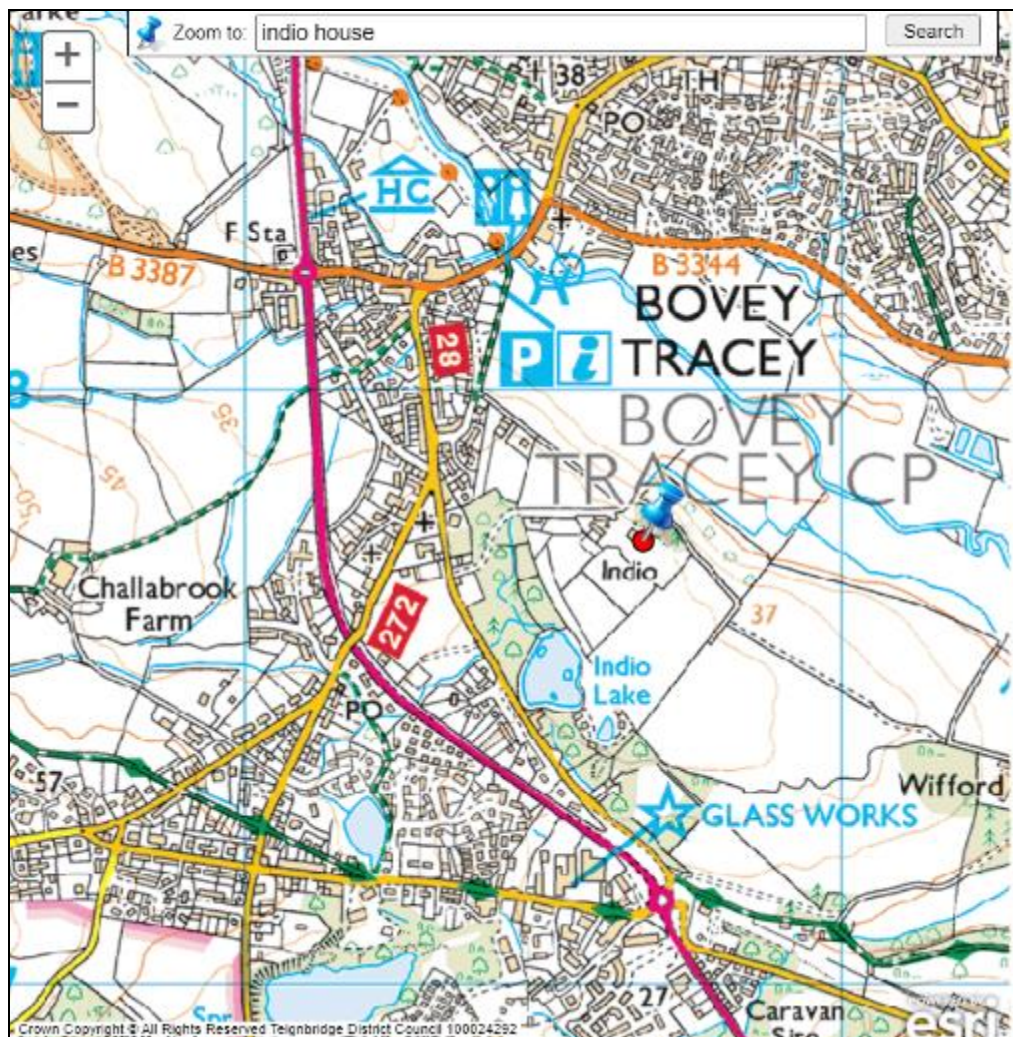
Business Manager – Strategic Place

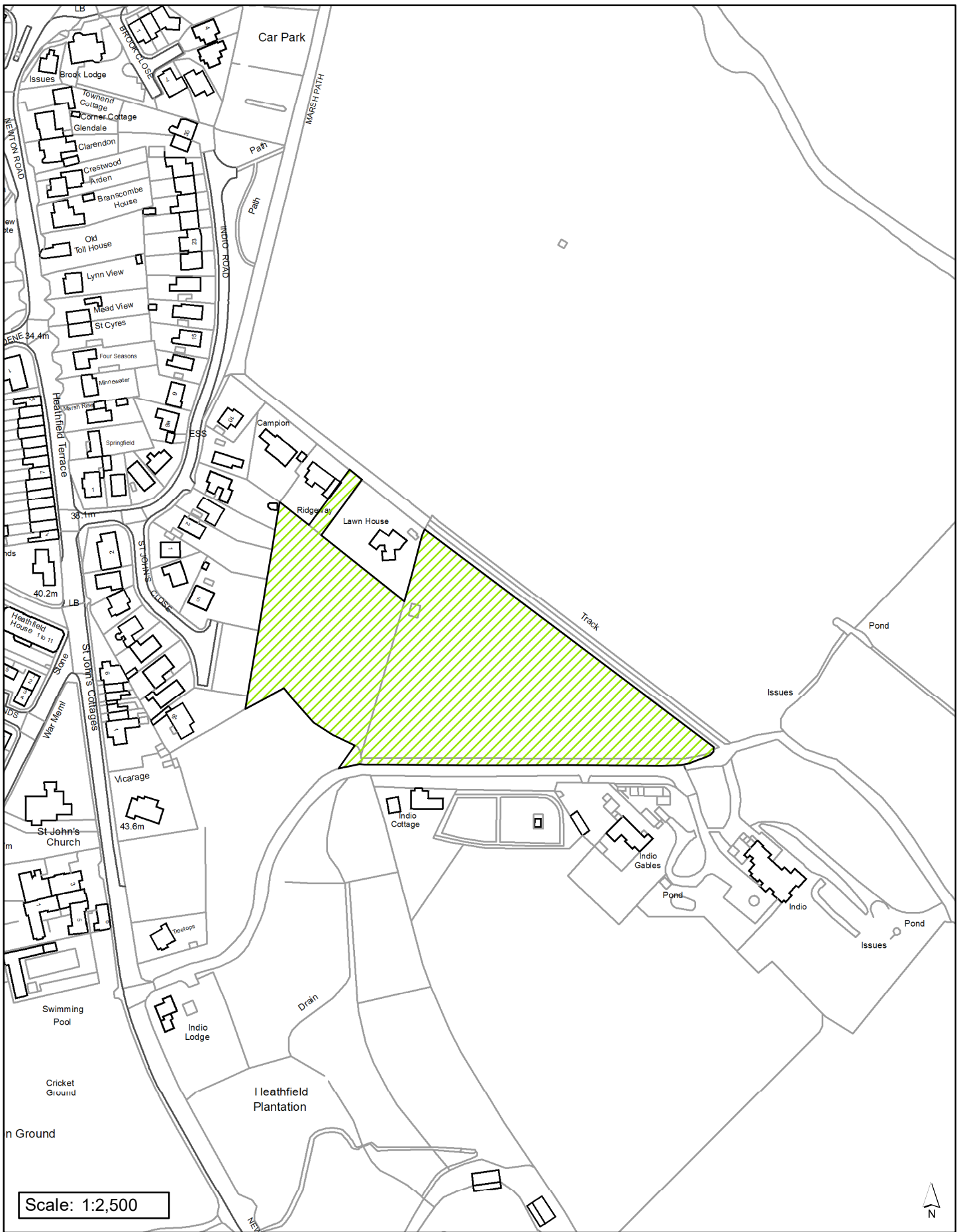
PLANNING COMMITTEE REPORT UPDATE FOLLOWING DEFERRAL

CHAIRMAN: Cllr Mike Haines



APPLICATION FOR CONSIDERATION:	BOVEY TRACEY - 20/00647/MAJ - Land North Of Indio House, Newton Road - Approval of details for 22 dwellings and associated works (approval sought for appearance, scale, landscaping and layout)	
APPLICANT:	KACH Developments	
CASE OFFICER	Kelly Grunnill	
WARD MEMBERS:	Cllr George Gribble Cllr Avril Kerswell Cllr Sally Morgan	Bovey
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=20/00647/MAJ&MN	





**20/00647/MAJ - Land north of Indio House,
Newton Road, Bovey Tracey TQ13 9BG**



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1. REASON FOR REPORT

1.1 At Planning Committee on 15 June 2021, Members resolved that:

Consideration be deferred until the next meeting to allow additional Members to visit the site.

1.2 The Committee Minutes for the 15 June 2021 Planning Committee meeting can be accessed at:

<https://democracy.teignbridge.gov.uk/documents/g2924/Public%20minutes%2015th-Jun-2021%2010.00%20Planning%20Committee.pdf?T=11>

2. RECOMMENDATION

2.1 RESERVED MATTERS BE GRANTED subject to 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 to be carried out in accordance with the approved plans/documents.
2. Development carried out in strict accordance with the approved planting scheme.
3. LEMP/Scheme for the long term management and maintenance of all landscaping and communal areas (i.e. boundaries, buffer area, landscaping, POS, formal and informal open space, grassland)
4. Protection of the retained grassland area during construction and thereafter as shown in areas A, B, C, and D including lifting and storing the existing grassland turf for relaying over the attenuation system and service runs as set out in submitted plans.
5. Hard boundary treatments shall be undertaken in accordance with the approved Materials schedule. Samples/details to be provided for brick and limestone wall.
6. Development to be undertaken in accordance with the external materials schedule. Samples for the tile hanging, slate, ridge tile and brick shall be submitted to and approved in writing by the Local Planning Authority
7. Notwithstanding the submitted plans, details of the architectural detailing, including door and window reveal, shall be submitted to and approved by the Local Planning Authority.
8. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved Site Plan
9. Refuse storage facilities shall be provided and thereafter permanently retained for storage of waste containers/bins in accordance with the approved Site Plan
10. 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.
11. Removal of permitted development rights for extensions, roof lights or dormer windows and upward extensions.
12. Removal of permitted development rights for wind turbines.
13. Tree protection during construction

3. DESCRIPTION

- 3.1 As set out above, at Planning Committee on 15 June 2021, Members resolved that consideration of the application should be deferred to allow Members to visit the site (8 July 2021). In addition, Members have had further time to review the application file and to fully consider the application submission and related planning history.
- 3.2 Therefore, this Committee Report only addresses matters raised in Committee Debate where it was considered additional clarity in our advice and position would assist the decision making process or which have been raised in representation since the Committee meeting. For all other matters relating to the application, please see the main Committee Report from 15 June Planning Committee which is appended to this report (Appendix 1).
- 3.3 As previously set out, the application site is allocated for development in the Teignbridge Local Plan 2013-2033 and outline planning permission for the development of the site (including details of means of access) was granted on appeal 4th December 2018.
- 3.4 This application seeks consent only for the Reserved Matters being appearance, landscaping, layout and scale.

Allocation of the Site

- 3.6 Letters of representation have raised questions regarding the allocation of the site (BT2A) in the TLP and whether full consideration was or should have been given to the status of the MG5 grassland at that time. It is suggested that this matter was overlooked which enabled the allocation to progress to adoption.
- 3.7 The Council is required to carry out Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) on the Teignbridge Local Plan as part of its preparation.
- 3.8 At Local Plan stage when allocations are considered, SA / SEA seeks to identify **likely significant effects** of development options using a standard methodology which enables reasonable alternative sites to be compared. The SEA is a legal process which focusses on key environmental assets or indicators such as legally protected and designated sites or species, tying with the Habitat Regulation Assessment (HRA) process. **The SA/SEA is a high level plan making process and does not include detailed on-site survey, so most sites may contain various non-designated wildlife or habitats which is not identified at plan making stage.**
- 3.9 The BT2A allocation has been examined and the allocation was found sound. There has been no omission at allocation stage with regard to how non-designated wildlife or habitat has been addressed.
- 3.10 It can also be accepted then that through the LP allocation there would always have been loss of MG5 grassland on site due to the allocation of the site for the development of at least 45 houses.

- 3.11 Officers consider there is nothing in the design or layout of the scheme that makes its impact more harmful than it should be against the backdrop of the site allocation.

Outline Planning Application

- 3.12 On 15 May 2018 outline planning permission for the development of the site for up to 30 dwellings (including access) was refused by the Planning Committee (against an Officer recommendation to approve).
- 3.13 Three questions have been raised regarding the outline application in respect of matters relating to ecology:
1. Whether the approved Ecology Report addresses all other non-designated wildlife matters and how biodiversity / ecology was reported to Members in the 2017 outline application.
 2. Whether the ecology survey links to the 2013 survey work under application 13/02292.
 3. Whether the Inspector was made aware of the MG5 grassland.

Approved Ecology Report and Outline Application Planning Committee Biodiversity / Ecology assessment

- 3.14 The approved Ecology Report builds on the previous ecology work at this site under the withdrawn 2013 application, with a specific focus on bats and birds.
- 3.15 The Officer report to Planning Committee addresses priority species such as bats and birds, as set out in the Ecology Survey which accompanied the application. The MG5 grassland was not raised within the Ecology Survey as a matter of importance.
- 3.16 The TDC Biodiversity Officer (10/11/2017) in dialogue with Natural England (NE), provided links to the 2017 outline application (17/02118) as well as the previous application for up to 122 dwellings (ref: 13/02292). In their email to Natural England, they request as follows:

Please would NE be able to give a view on:

- *Survey effort and the submitted bat mitigation plan– a previous application at the site 13/02292 carried out more extensive surveys of the wider site, which included the current application site. Those surveys are now over 3 years old and presumably out of date, though the current survey might be considered an update survey of those, so that full survey to South Hams guidance specification may not be necessary*
- *Minor development – the site is relatively limited in scale and lies towards the edge of the Sustainance Zone. However sizeable hedgelines and mature trees would be substantial features on a site scale and also anticipated to contribute to commuting routes for SAC bats within the Sustainance Zone. A Strategic Flyway is adjacent (centred on the river Bovey), the edge of which just covers part of the north eastern boundary hedge of the site.*

Please note there is an accompanying application 17/02275 (for access, which will entail a hedge breach) which will be relevant to the 17/02118 application.

Links to these, and to the previous 13/02292 are below.

There are other biodiversity matters on the site (other bat species and County Wildlife Site quality grassland habitat) for which TDC would refer to NE standing advice and the NPPF

Current application 17/02118

<https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=17%2f02118%2fMAJ>

Associated application 17/02275

<https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=17%2f02275%2fFUL>

13/02292 previous application

http://docimages.teignbridge.gov.uk/Planning/lq/GFPlanningDocuments.page?orq.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&Param=lq.Planning&viewdocs=true&SDescription=13/02292/MAJ

3.17 Natural England responded (04/12/2017) as follows:

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.

3.18 A formal response was received from Natural England (18/10/2017) which confirmed they had no objections the application and referred the LPA to its standing advice on protected species.

3.19 Letters of representation consider that the way the MG5 grassland was addressed in the outline application would have been materially different had the NE standing advice or NPPF (2012) guidance been applied.

3.20 The NE standing advice for protected species considers protected species such as reptiles, badgers, great crested newts etc. It does not refer to priority habits such as MG5 grassland.

3.21 The (archived) NPPF (2012) makes reference to priority habitats and species: *"Species and Habitats of Principle Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006"* which would include MG5 grassland.

- 3.22 Paragraph 117 of the NPPF (2012) states that to minimise impacts on biodiversity and geodiversity, planning policies should, inter alia: *promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.*
- 3.23 The above guidance is directed to plan making rather than planning applications. However, if this was applied to the outline application assessment then clearly the allocation for at least 45 dwellings under BT2A would have been balanced against promoting the preservation of the MG5 grassland.
- 3.24 **While this matter is not up for consideration under the current RMA, as the application already has outline planning permission,** it is clear that the quantum's proposed in the outline scheme are well below the at least 45 threshold set by the BT2A allocation and therefore offer greater opportunity for preservation of the MG5 grassland.
- 3.25 While this matter may not have been specifically raised in the report to Members, it is not considered that it would have altered the professional officer recommendation.
- 3.26 In terms of off-setting calculators and compensation for loss, at the time the Outline application was being considered, there is no evidence available to suggest that a request was made from Natural England/Defra for any net gain to be provided to mitigate the impacts of the development. It was intended that ecological enhancement and mitigation (i.e. landscaping, bat and bird box provision etc) were appropriate.

Whether the 2017 ecology survey under the outline consent (17/02118/MAJ) links to the 2013 survey work (13/02292) and therefore the latter are de facto approved documents.

- 3.27 This matter is covered in the previous report to Planning Committee on 15 June 2021 at paragraphs 3.88 – 3.90. Officer advice remains the same; the 2013 survey for a separate withdrawn application is not an approved document under the outline consent for up to 30 dwellings. The approved ecology survey is specifically referred to in the Inspector Decision Letter at condition 8.

8. The development shall be carried out in accordance with the mitigation strategy contained in the Ecology Report, Including Bat Survey And Greater Horseshoe Bat Mitigation Scheme, dated 6 September 2017.

Whether the Inspector was aware of the MG5 Grassland.

- 3.28 The LPA Appeal Statement for the outline planning application makes specific reference to the 2013 planning application (13/02292).
- 3.29 In addition to this, the TDC Biodiversity and NE responses (summarised above) were both sent to the Inspector as part of the appeal documentation.
- 3.30 It is therefore Officer view that the Inspector had sufficient ecology / biodiversity information available to them regarding this site when they considered the appeal proposals and concluded as follows (para 21):

“The ecological impact of the development can be adequately mitigated through conditions. There is a general concern about the loss of the meadow, however as the site is allocated within the LP, this general loss has already been considered in the local plan process.”

Whether the MG5 Grassland and other Non-designated Grassland can be addressed at RMA stage

- 3.31 A key question raised by Members at the previous Planning Committee (15 June 2021) was whether ecology, in particular the way the MG5 grassland has been addressed at outline stage and if this matter could be re-visited through the current RMA application. Officers are clear that it cannot and this was outlined in the original committee report and relayed to Members at the previous committee meeting.
- 3.32 In addition, for their own comfort, the applicant has sought counsel from a QC who has provided a legal opinion on the following three questions.
- a) *Whether the matters relating to the loss of MG5 grassland are legitimate grounds for objection to the RMA application*
 - b) *Whether there is any legal protection for the grassland (outside of the planning process) and therefore whether the applicants could cut/ spray/ plough the land; and*
 - c) *Whether the Council could require the RMA proposals to deliver ‘biodiversity net gain’, which would likely require some form of off-site compensation.*
- 3.33 The QC response to this the above is as follows ***“In summary, I consider that the answer to each of these questions is ‘No’. I agree with the reasoning on this issue in the Officer’s Report [to Members 15 June 2021], which is legally sound”***.
- 3.34 A full copy of the QC Opinion Letter is appended to this report (Appendix 2).
- 3.35 As set out above, and in the previous report to Planning Committee, the loss of MG5 grassland is not a legitimate ground for refusing the RMA. The Inspector’s decision on the appeal application was not challenged and therefore is required by law to be accorded all the effects of a valid decision. Officers of Teignbridge in seeking to provide Members with their best professional advice and opinion are clear on this point and have not changed their position since the original Planning committee.
- 3.36 The applicant has provided a legal view confirming that the matter of **ecology / loss of MG5 grassland cannot be re-addressed in the RMA**. The RMA scheme includes the mitigation (buffer along the northern boundary) that is required as part of the outline condition.
- 3.37 Members are advised to accept this legal view. Further, as set out by the applicant’s QC, the Council would be at risk of an award of costs, for unreasonable behaviour, if it were to refuse or continue to fail to determine the application on this ground.

Grassland retention/translocation

- 3.38 There would be a net loss of MG5 grassland as a result of this development. A grassland retention plan has been submitted as part of the application to show the areas of existing grassland that are proposed to be retained as part of the scheme. The submitted plan demonstrates that 35.9% of the existing grassland will be retained by the scheme. These retained areas will be managed in accordance with details set out in the LEMP that would be required to be submitted and agreed with the LPA as part of a suitably worded condition.
- 3.39 With regards to the areas of retained grassland over the attenuation crates, the applicant's ecologist has advised that the grassland would need to be taken up and re-laid in the right conditions and with appropriate care and attention, and there would need to be appropriate long-term management. It is proposed that work associated with the installation of the underground crates is undertaken early on in the project to enable the turf to be carefully taken up and immediately re-laid over the excavated area. This would avoid the need for any turf to be lifted and stored. The work would not be carried out during hot, dry weather and all re-laid turf would be thoroughly watered immediately upon completion. These measures would be set out in the LEMP.
- 3.40 In terms of human activity in the retained grassland areas, the applicant's ecologist has advised that there would need to be a great deal of human activity to harm the grassland, and this would only result from (excessive) trampling. The applicant has confirmed that they would agree to establish mowed pathways through the retained grassland area, and to leave other areas uncut (until this is required as detailed in the LEMP). This would incentivise residents / visitors to use the paths to access for example the natural play area, as most people wouldn't want to wander into damp/ tall grass. A plan could be provided as part of the LEMP to show the locations of paths.
- 3.41 As set out in the previous report to Planning Committee (15 June 2021) the retained areas shown in the grassland retention plan are considered to be reasonable provision and the approval of a LEMP as part of a suitably worded condition would ensure future management of the retained MG5 grassland areas.

Whether access can be addressed at RMA stage

- 3.42 Detailed access has been approved as part of the outline application and therefore **is not** a matter for consideration under the current RMA proposals. The access to the site, traffic generation and impact of this development on Indio House were all considered by the Inspector who found these matters to be policy compliant when approving the application.
- 3.43 Although there continues to be local objection to highway impact of this development, access was approved as part of the outline planning permission and cannot be revoked through this Reserved Matters application.

- 3.44 The RMA application does not include details relating to the specific access arrangement as these are matters which have been condition in the outline permission.

5. No development shall commence until an improvement scheme for the junction with Newton Road has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation, which at the latest shall be prior to the first occupation of any dwelling hereby approved.

- 3.45 This condition has not yet been discharged. The details are required to be submitted **prior to commencement of the development** and any Reserved Matters approval will remain to be subject to the conditions on the outline planning permission.

Design / materials approach

- 3.46 Letters of representation have raised concern regarding the design approach for the site and whether the scheme sites well with development at St Johns Close.
- 3.47 The design of the scheme has been carefully considered by the applicants to seek to ensure that the development responds positively to its context and has been amended during the course of the application to respond to comments provided by the Council's consultees, including landscape officer.
- 3.48 The appearance of the properties has sought to reflect the historic character of the town, Indio House and other properties near to the site, in terms of architectural style, design features, materials and finishes. The dwellings are proposed to be two-storey and traditional in scale form. A simple palette of materials is proposed, with properties to be constructed from high quality red brick which is characteristic of a number of properties in the town (including the nearby Pottery Road Conservation area) and ties in with the distinctive brick gateway entrance to the site. Chimney stacks have been incorporated on a number of units, reflective of the chimneys seen on Indio House and other properties in the locality. Window openings have sought to adhere to a conventional pattern of even sizes seen in some of the historic properties in the town. Natural slate roofs are proposed to all dwellings and red clay tile hanging on plots in key locations. Boundary features including natural limestone, brickwork walls, facing brickwork piers and park style railings and gates have been incorporated to complement existing features in the vicinity.
- 3.49 In terms of layout, the scheme has been designed to ensure the retention of existing trees, with development sited outside of root protection areas and houses positioned to avoid overshadowing. Larger, detached units have been sited towards the east, to reflect and complement Indio House and properties along Indio Drive. An ecological wildlife buffer has been incorporated along the northern/ eastern boundary in accordance with the outline condition, to ensure the tree/ hedge line is maintained and is suitable for use by bats. Generous areas of informal open space are proposed on site, incorporating an area of natural play, and will provide an attractive setting to the development. Additional landscaping including new hedgerows and planting will ensure that the development will assimilate successfully into its surroundings.

Environmental Impact Assessment (EIA)

- 3.50 A letter of representation has referred to the need for EIA screening and in particular, considers that the loss of the onsite habitat comprising unimproved grassland (NVC category MG5) would comprise EIA development that would have a significant effect on the environment.
- 3.51 The adopted Teignbridge Local Plan which allocates the site for residential development, was assessed by an Inspector and was informed by a Sustainability Appraisal (plus addenda). In the absence of any successful legal challenge to the Local Plan, it must be taken to have been fully compliant with the requirements of the Strategic Environmental Assessment Directive 2001/42/EC.
- 3.52 The process of EIA in respect of planning applications is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The regulations only apply to certain types of projects.
- 3.53 EIA 'screening' is a procedure used to determine whether a proposed project is likely to have significant effects on the environment and therefore should be subject to an Environmental Impact Assessment.
- 3.54 The local planning authority (or the Secretary of State as the case may be) determine whether the project is of a type listed in Schedule 1 or Schedule 2 of the EIA Regulations.
- 3.55 'Schedule 1' development covers very specific projects including airports, express roads and nuclear power stations/ reactors. Schedule 2 covers a wide range of developments (listed in column 1) and applicable thresholds (column 2). Residential sites fall under '10 – Infrastructure projects – urban development projects', where the applicable threshold is where it includes more than 150 dwellings or the overall area of the development exceeds 5 hectares. The application scheme would clearly fall well under this threshold.
- 3.56 The Planning Practice Guidance is clear that projects which are described in the first column of Schedule 2, but which do not exceed the relevant thresholds are not Schedule 2 development and would not therefore require Environmental Impact Assessment. These thresholds are applicable at all project stages.
- 3.57 The Officer's Report for the outline application (for up to 30 dwellings) clearly recorded that "Due to its scale, nature and location this development would not have significant effects on the environment and therefore is not considered to be EIA Development".
- 3.58 This Reserved Matters application seeks approval for the details of 22 dwellings, i.e. a smaller scale of development than was originally assessed at the outline application stage and again is well below the applicable thresholds (Schedule 2) and is not EIA development.
- 3.59 A multi stage screening process at outline planning and RMA stage has been undertaken and in both cases the screening opinion has been that the development would not have significant effects on the environment and is not EIA development.

3.60 A previous application for a much wider parcel of land (including the application site) that was proposed for up to 122 dwellings (ref: 13/000079/PEMAJ) was considered by the Council in 2013. A request for a screening opinion for or up to 150 dwellings was made (ref: 13/00582/SO) and the development was not considered to be EIA development.

Summary

3.61 Members deferred formally making their decision on the subject application at Committee on 15 June 2015 in order to allow time for a further Members site inspection to be undertaken and for further consideration of the sites planning history, the application documentation, and the status of the MG5 grassland.

3.62 Having undertaken a review, as detailed within this Deferral Report, of previously considered information, Officers's views have not changed. In addition, the applicant has sought counsel from a QC and their Legal advice is that the LPA cannot refuse to approve reserved matters on grounds going to the principle of the development itself. **The site is fixed by the Outline Permission and cannot be questioned at the RMA stage.** By implication, the same also applies to the loss of MG5 grassland associated with that development. Whether that loss ought to be compensated by off-site enhancements was a matter which bore upon the decision in principle to authorise the development at the outline stage. **As the Outline Permission was not challenged, it is required by law to be accorded all the effects of a valid decision.**

3.63 Officer's views accord with this Legal Opinion, and it is recommended that Members accept our advice, , as there is no reasonable grounds for refusal of this RMA relating ecology or loss / compensation of the MG5 grassland.

3.64 **Detailed access has been approved as part of the outline application and therefore is not a matter for consideration under the current RMA proposals.** The access to the site, traffic generation and impact of this development on Indio House were all considered by the Inspector who found these matters to be policy compliant when approving the application.

Trees

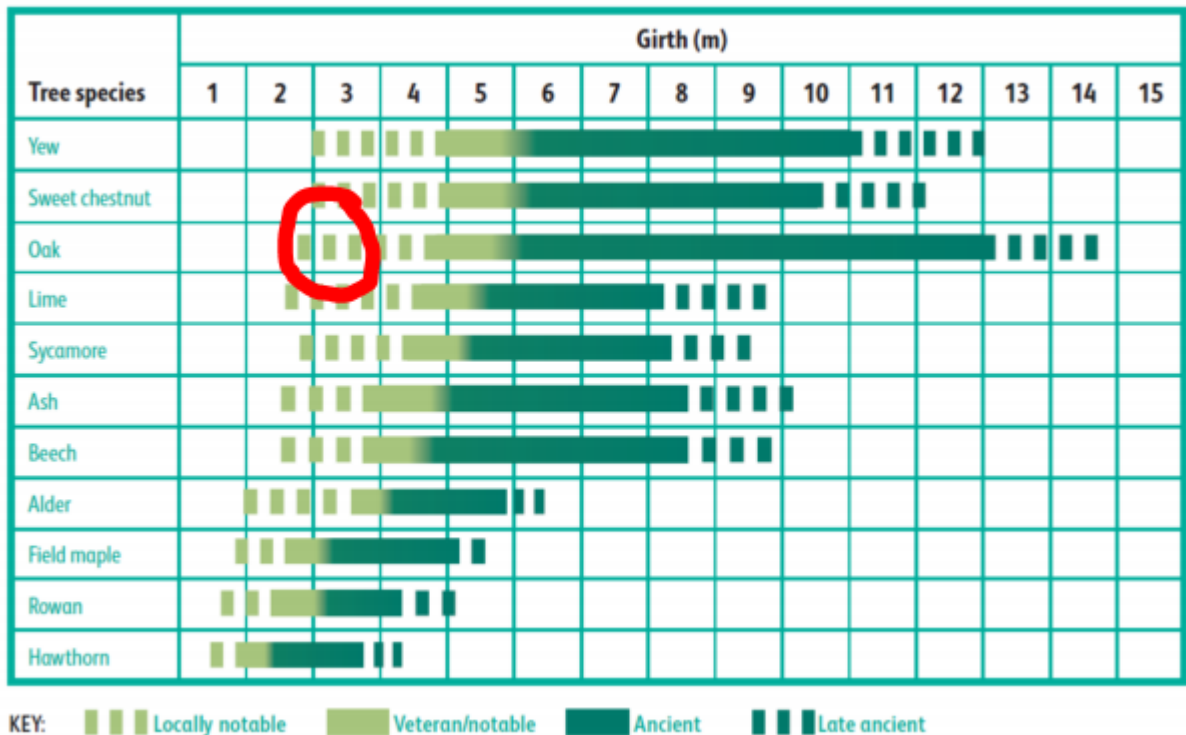
3.65 The applicant arboriculturalist has provided a response to the Woodland Trust and TDC Arboricultural Officer's comments regarding the impact off the development on T13 and the suggested RPA areas (see Consultees Section of this report):

- *The calculation of root protection area (RPA) is as recommended by BS5837, and The TDC Senior Arboricultural Officer is satisfied with the RPA set at 12m.*

Acknowledge Woodland Trust concerns for increasing the RPA to 15x stem diameter, however, this recommendation by the Natural England and Forestry Commission's standing advice (below) applies to veteran and ancient trees, and T13 lacks the features which could qualify it as such.

The Standing Advice guidance advises for definition of a veteran tree:

"measuring the tree's girth at breast height can be used as a rule-of-thumb guide to tree age and veteran status. Figure 1.3 in Lonsdale (2013) shows for eleven tree species how girth size relates to veteran/ ancient status", which is copied below:



T13 has an estimated stem diameter of 1000mm, which is around 3.1m circumference. Therefore, T13 falls within the locally notable definition (circled in red).

Therefore, although T13 is registered in the Ancient Tree Inventory it does not qualify as an ancient or veteran, although it is locally notable, and that therefore the 15x stem diameter recommendation is not strictly appropriate.

I am also of the opinion that if construction is undertaken as per the recommendations, with caution and under arboricultural monitoring, then it can be retained without damage, and can continue to grow into the built environment around it.

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.

- 3.67 Having reviewed the Woodland Trust response, and that of the TDC Senior Arboricultural Officer and the applicant's arboricultural evidence, Officer view is that the relationship to Plot 11 is satisfactory as set out in the report to Planning Committee 15 June 2021, subject to construction being undertaken in accordance with an approved tree protection plan/details.

4. CONSULTEES

- 4.1 Since the consideration of the application by Members at the Planning Committee on 15 June 2015, the following response has been received from DCC Leading Local Flood Authority (LLFA):

Our objection is withdrawn and we have no in-principle objections to the above planning application.

Following my previous consultation response FRM/TE/00647/2020, dated 09/06/21, the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 10th June 2021, for which I am grateful.

Email from Trace Design to PCL Planning dated 10th June 2021 RE: 20/00647/MAJ Indio House Bovey

The applicant has proposed a suitable surface water management strategy which uses an underground tank to restrict flows to greenfield rates. Attenuation takes place in the form of a tank due to the presence of root protection zones and viability issues. The runoff will discharge at a restricted rate into a tributary of the River Bovey.

4.2 Devon Waste Planning has also confirmed that it has no objections to the submitted Waste Audit Statement.

4.3 Woodland Trust (08/07/2021)

The Woodland Trust **holds concerns** regarding potential detrimental impact to a notable oak tree (T13/T26) listed as 217146 on the Ancient Tree Inventory. The oak tree in question is within close proximity to plots 4 and 11 on the application plans.

While notable trees are not afforded the same level of protection through national planning policy as ancient and veteran trees (Paragraph 175), they should still be identified, retained and afforded suitable buffer zones/root protection areas (RPA). Notable trees are recognised as those that do not hold the same level of value as ancient/veteran trees but have significant value to local persons and are likely to become veteran specimens if afforded appropriate space to grow and develop.

Whilst we note that some elements of the proposals within the RPA will be constructed using no-dig methods, we consider that notable trees should be afforded an un-encroached buffer zone amounting to 15 times the stem diameter, as recommended for ancient and veteran trees in Natural England and Forestry Commission's standing advice for ancient woodland and ancient and veteran trees (<https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>). The typical 12 times stem diameter as suggested in BS5837 guidelines should ensure that such trees have the minimum space required to maintain vitality but does not necessarily account for the rooting space needed in the future growth of larger mature trees.

4.4 TDC Senior Arboricultural Officer has reviewed the Woodland Trust consultation response (09/07/2021) and has advised as follows (in summary):

- Has previously requested that Plot 11 is deleted to improve the RPA for the above trees.
- With regards to the calculations used to determine the RPAs, is content that we follow the recommendations as set out in the British Standard, and is content with the information that the applicant has provided in support of the application.

5. REPRESENTATIONS

5.1 Since the consideration of the application by Members at the Planning Committee on 15 June 2015, 3 letters of objection have been received. Full copies of all representations are available on the application record. The new matters raised are summarised below:

- Concerned that the 15/06/2021 Planning Committee Report is in factually incorrect in stating that there is reference to the grassland in the George Bemment 2017 'Ecology Report including Bat Survey and GHS Bat Mitigation Scheme' submitted at Outline Application and the suggestion therefore, that information was available to the public and to the Planning Inspector when he granted the Appeal. There is no reference to the MG5 grassland.
- The ecology report was approved by the Planning Inspector on the assumption that the 'general loss' of the grassland would have been addressed at Local Plan allocation stage and yet searches and requests by the public for direction to this information have failed to provide ecological survey data for BT2A inclusion in the Local Plan.
-
- The proposals should be subject to the EIA regime.

6. TOWN / PARISH COUNCIL'S COMMENTS

6.1 No further representation from the Town Council received since the consideration of the application by Members at the Planning Committee on 15 June 2021.

7. COMMUNITY INFRASTRUCTURE LEVY

7.1 The application is liable for CIL which will be calculated when the CIL Liability Notice is issued.

7.2 The CIL liability for the custom build plots (Plot P6 and P7) will be calculated when the reserved matters applications are submitted for these plots.

8. ENVIRONMENTAL IMPACT ASSESSMENT

8.1 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.

9. CARBON/ CLIMATE IMPACT

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

10. HUMAN RIGHTS ACT

- 10.1 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.

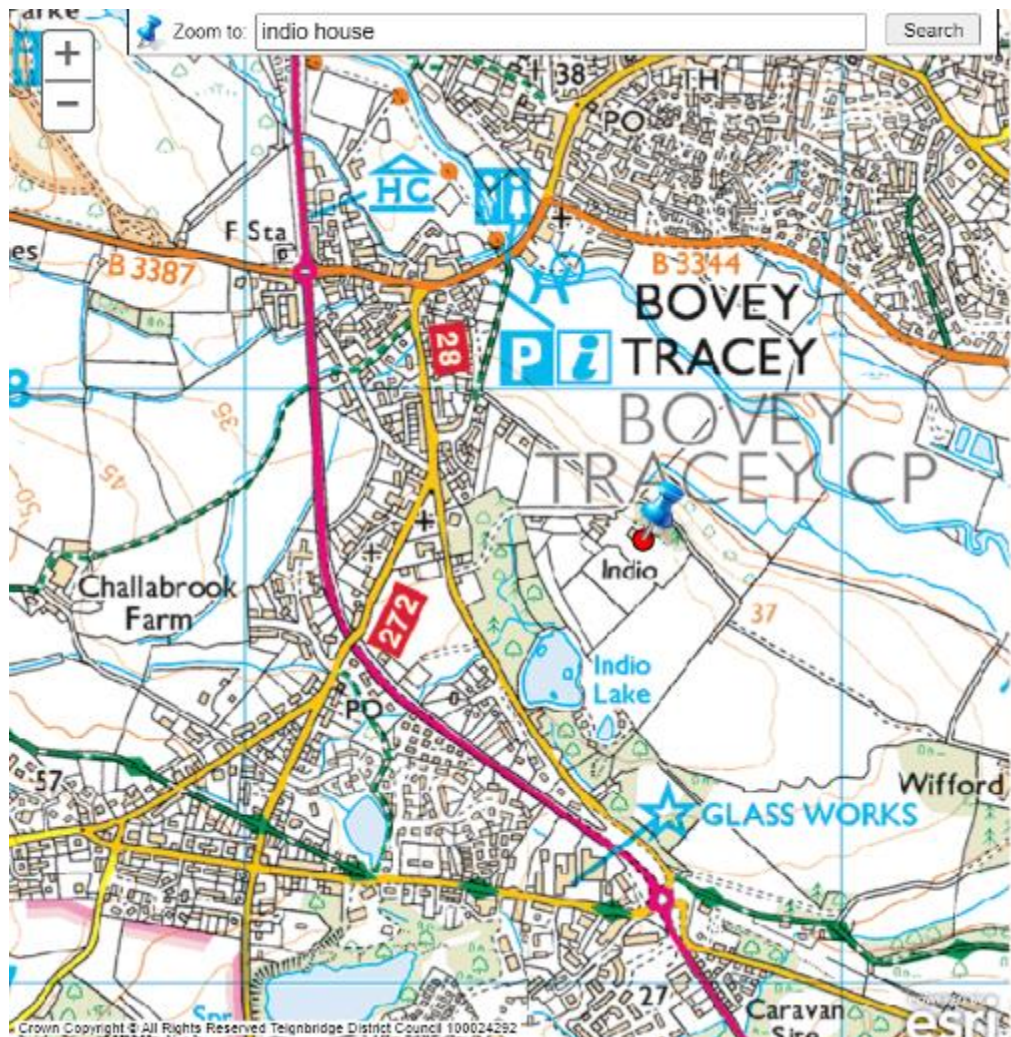
Business Manager – Strategic Place

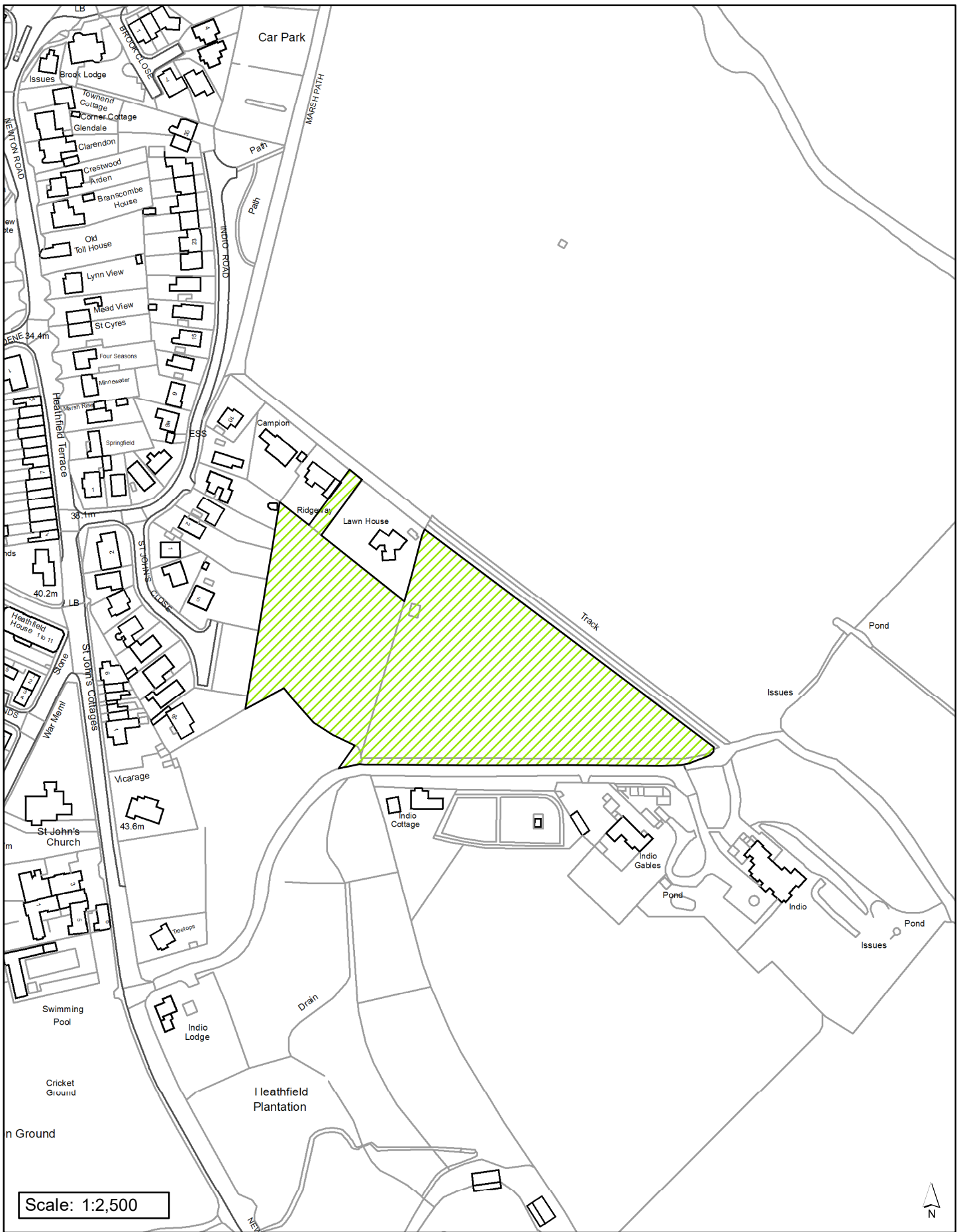
PLANNING COMMITTEE REPORT

CHAIRMAN: Cllr Mike Haines



APPLICATION FOR CONSIDERATION:	BOVEY TRACEY - 20/00647/MAJ - Land North Of Indio House, Newton Road - Approval of details for 22 dwellings and associated works (approval sought for appearance, scale, landscaping and layout)	
APPLICANT:	KACH Developments	
CASE OFFICER	Kelly Grunnill	
WARD MEMBERS:	Cllr George Gribble Cllr Avril Kerswell Cllr Sally Morgan	Bovey
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=20/00647/MAJ&MN	





**20/00647/MAJ - Land north of Indio House,
Newton Road, Bovey Tracey TQ13 9BG**



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1. REASON FOR REPORT

1.1 Councillor Kerswell has requested that this application be referred to Planning Committee for determination, if recommended for approval. The reason given is:

- Adverse impact on wildlife, habitats, trees, and other vegetation
- Harm to rare plants/animals
- Lack of infrastructure capacity
- Harmful to the setting of a listed building and its curtilage
- The site has significant archaeological and heritage value
- Increased traffic generation
- Overall impact on the environment following the Town Councils climate emergency declaration

2. RECOMMENDATION

2.1 RESERVED MATTERS BE GRANTED subject to conditions covering the following matters, and any additional matters relating to drainage or waste received in advance of consideration of the application by Committee the precise number and form of which to be determined by the Business Manager – Strategic Place under delegated Authority:

1. Development to be carried out in accordance with the approved plans/documents.
2. Development carried out in strict accordance with the approved planting scheme.
3. Scheme for the long term management and maintenance of all landscaping and communal areas (i.e. boundaries, buffer area, landscaping, POS, formal and informal open space, grassland)
4. Protection of the retained grassland area during construction and thereafter as shown in areas A, B, C, and D including lifting and storing the existing grassland turf for relaying over the attenuation system and service runs as set out in submitted plans.
5. Hard boundary treatments shall be undertaken in accordance with the approved Materials schedule. Samples/details to be provided for brick and limestone wall.
6. Development to be undertaken in accordance with the external materials schedule. Samples for the tile hanging, slate, ridge tile and brick shall be submitted to and approved in writing by the Local Planning Authority
7. Notwithstanding the submitted plans, details of the architectural detailing, including door and window reveal, shall be submitted to and approved by the Local Planning Authority.
8. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved Site Plan
9. Refuse storage facilities shall be provided and thereafter permanently retained for storage of waste containers/bins in accordance with the approved Site Plan
10. 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.
11. Removal of permitted development rights for extensions, roof lights or dormer windows and upward extensions.
12. Removal of permitted development rights for wind turbines.
13. Tree protection during construction

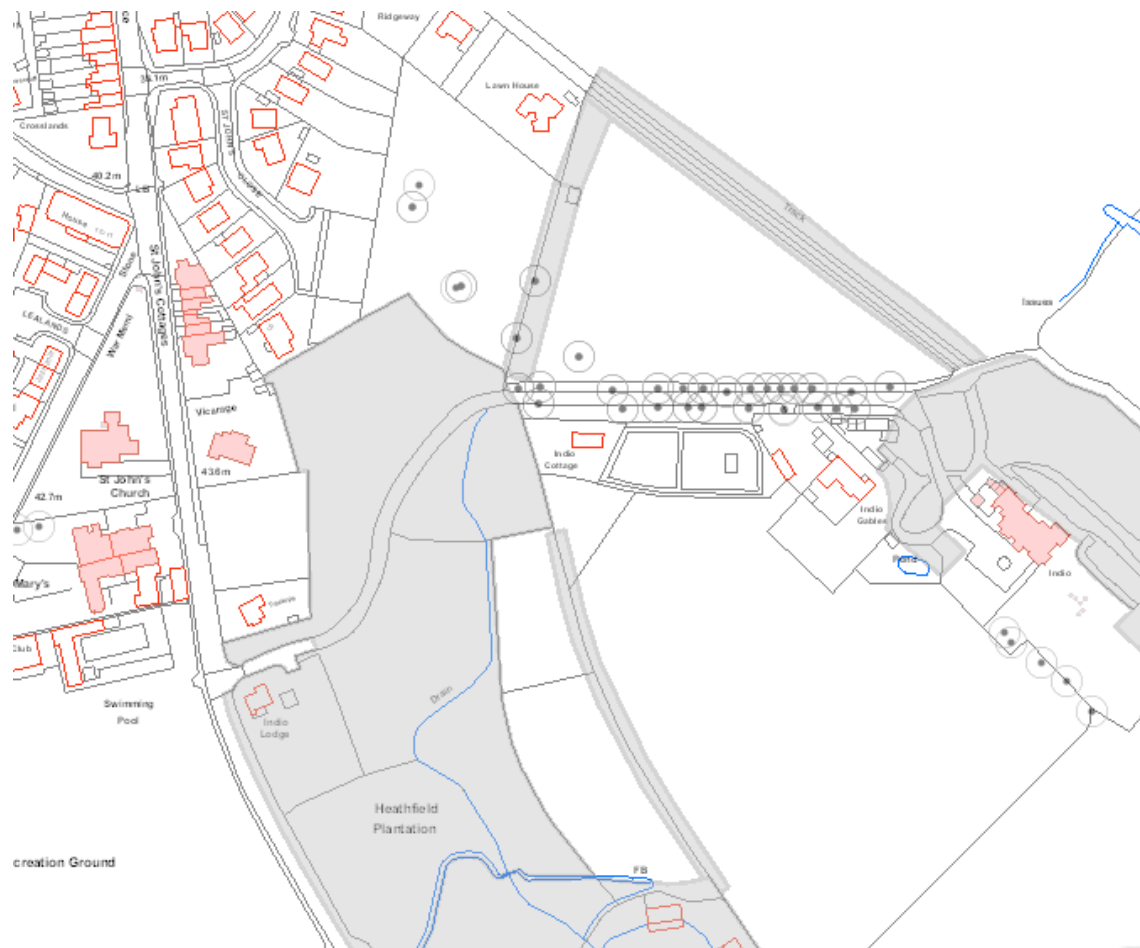
3. DESCRIPTION

Site Description

- 3.1 The application site lies to the north of Newton Road in Bovey Tracey. It extends to approximately 1.5 hectares in size and comprises the BT2A (North of Indio House) site allocation in the Teignbridge Local Plan 2013 - 33. The site is not currently 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 are in proximity to the proposals.

Background and Relevant Planning History

- 3.8 The application comprises the BT2A (North of Indio House) site allocation. Policy BT2A as set out in the Teignbridge Local Plan 2013-2033 allocates land for at least 45 homes.
- 3.9 On 15 May 2018 outline planning permission for the development of the site for up to 30 dwellings (including access) was refused by the Planning Committee (against an Officer recommendation to approve) for the following reasons:

1. The access drive does not conform to Devon County Council Highways requirements for a shared use residential road accessing over 25 homes, and it has not been demonstrated that it would be possible to bring it up to this standard without having a detrimental effect on the setting of and approach to Indio House, a Grade II Listed Building. The access drive is proposed to be unlit, with no pavements, no edge strips, no kerb stones, and has no structures or legal means for satisfactorily controlling parking along it. The proposal is therefore considered to be contrary to Policies S1 (Sustainable Development criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and the National Planning Policy Framework (NPPF); and,

2. The exit from the private drive onto Newton Road does not conform to the visibility requirements set out in the Manual for Streets and as such is considered

unsafe. The proposal is therefore considered to be contrary to Policy S1 (Sustainable Development Criteria) of the Teignbridge Local Plan 2013-2033 and the NPPF.

Pursuant to the refusal, an appeal was submitted to the Planning Inspectorate and the appeal allowed with outline planning permission being granted for up to 30 dwelling at this site, including an approval of the details for access.

3.10 The Inspector's decision can be summarised as follows:

"12. On this main issue I conclude that there is a good prospect that suitable alterations to the junction of the private drive with Newton Road could be achieved such that highway safety concerns would not arise. There would be no conflict with Policy S1 of the Teignbridge Local Plan 2013-2033 (the LP) which seeks to ensure development proposals perform well in terms of road safety."

"17. The site is allocated for housing in the development plan and it is reasonable to assume that the effect of housing on the setting of Indio House was part of the balance of considerations through the preparation and ultimately the adoption of the plan. There would not be any impact on the drive or the setting of Indio House in terms of built form as a result of the private drive being utilised for access purposes. The increased use of the drive would bring about a change to its character. However, with only up to 30 additional dwellings being served by it, the drive would still largely have a quiet character. This being the case, the development would not result in harm to the setting of Indio House."

"19. On this second main issue I therefore conclude that the private drive would be adequate to serve the development and that the setting of Indio House would not be harmed. There would be no conflict with Policies S1, S2, or EN5 of the LP."

3.11 In addition, to the Inspectors assessment of the development with regard to access, highway safety and setting of Indio House, the following key observation is also made which is pertinent to the current RMA consideration:

"21. There has been a general concern that housing development on the site would adversely affect the setting of Indio House. However, as I have indicated above, that would have been a matter considered through the preparation of the LP. This is not something that should be for reconsideration through the determination of a planning application or appeal. The ecological impact of the development can be adequately mitigated through conditions. There is a general concern about the loss of the meadow, however as the site is allocated within the LP, this general loss has already been considered in the local plan process."

3.12 The application was approved subject to conditions including (in summary):

- Submission or RMA for wider development and Custom Build properties
- An improvement scheme for the junction with Newton Road
- A programme of archeologically work, Construction Management Plan (CMP)
- Development to be undertaken in accordance with the approved ecology report, control of lighting to safeguard foraging paths for bats
- No trees to be removed without first being inspected by an ecologist,
- No works pursuant to this planning permission shall be undertaken to the private drive serving the site, including the provision of service run.

- The site layout proposals shall incorporate a buffer to the northern site boundary sufficient to support the maintenance of the tree/hedge line
 - The development hereby approved shall provide open space and landscaping in accordance with Policy WE11 of the Teignbridge Local Plan.
 - Reserved matters applications for the layout of any phase of the development (excluding any phase solely including self/custom build housing), shall include details of the proposed permanent foul and surface water drainage system as well as details of a temporary surface water drainage scheme for the construction phase.
 - Reserved matters applications for any phase of the development (excluding any phase solely including self/custom build housing), shall include a waste audit statement.
 - Prior to the occupation of any dwelling hereby approved details of a scheme for the maintenance and management of the private drive
- 3.13 In addition to the planning conditions, the outline planning permission is also subject to a Section 106 agreement. The Principal Agreement secures the following:
- Affordable Housing: 30% affordable housing at tenure split of 70% affordable rented and 30% affordable buy to be transferred to a Registered Provider. The S106 requires that two of the affordable units should be constructed to accessible and adaptable standard Approved Document M4(2) Category 2
 - Custom Build: Provision of 5% custom build plots, to be fully serviced. Plot passports to be provided to potential purchasers to include details on their size and any design and siting parameters.

Proposal

- 3.14 The application is made pursuant to the approved outline application and seeks Reserved Matter Approval (RMA) for the erection of 22 dwellings, including details for appearance, scale, landscaping and layout.
- 3.15 An accommodation schedule accompanies the application (red- Plots 1-5, 21 & 22 Affordable Housing, Blue Plots 6 & 7 – Custom Build plots, black Plots 8- 20, 23 & 24 – market housing):
- Plot 1 - three bed affordable rented semi-detached dwelling with GIFA of 93sqm
 - Plot 2 - two bed affordable rented semi-detached dwelling with GIFA of 79sqm
 - Plot 3 - two bed affordable rented semi-detached Building Regulations M4(2) Accessible & adaptable dwelling with GIFA of 79sqm
 - Plot 4 - one bed affordable rented ground floor semi-detached Building Regulations M4(2) Accessible & adaptable apartment with GIFA of 50sqm
 - Plot 5 - one bed affordable rented first floor semi-detached apartment with GIFA of 50sqm
 - Plot 6 - custom build plot
 - Plot 7 - custom build plot
 - Plot 8 - three bed open market detached dwelling with GIFA of 134sqm
 - Plot 9 - four bed open market detached dwelling with GIFA of 160sqm
 - Plot 10 - three bed open market detached dwelling with GIFA of 134sqm
 - Plot 11 - three bed open market detached dwelling with GIFA of 150sqm
 - Plot 12 - four bed open market detached dwelling with GIFA of 160sqm
 - Plot 13 - four bed open market detached dwelling with GIFA of 160sqm

- Plot 14 - four bed open market detached dwelling with GIFA of 160sqm
- Plot 15 - three bed open market detached dwelling with GIFA of 134sqm
- Plot 16 - three bed open market detached dwelling with GIFA of 134sqm
- Plot 17 - four bed open market detached dwelling with GIFA of 160sqm
- Plot 18 - four bed open market detached dwelling with GIFA of 160sqm
- Plot 19 - four bed open market detached dwelling with GIFA of 160sqm
- Plot 20 - four bed open market detached dwelling with GIFA of 160sqm
- Plot 21 - three bed affordable shared ownership semi-detached dwelling with GIFA of 93sqm
- Plot 22 - two bed affordable shared ownership semi-detached dwelling with GIFA of 79sqm
- Plot 23 - three bed open market detached dwelling with GIFA of 134sqm
- Plot 24 - four bed open market detached dwelling with GIFA of 160sqm

3.16 The proposed dwellings are two storey, traditional in form with natural slate roofs. They incorporate gabled, hipped and half hipped roofs, which are all present in the Bovey Tracey area. The application states that external brick is proposed to compliment the brickwork to the entrance walls and pillars to Indio House drive and the adjacent gate house. Red clay tile hanging has also been incorporated into some of the plots as well as some dummy chimney stacks to provide historic character that reflects that of Indio House. White upvc windows, French doors, rainwater goods, fascias, barge boards, and soffits are proposed. The front entrance doors and garages will be coloured as shown in the submitted plans.



3.17 The site is divided by a wildlife buffer which effectively separates the developed area into two sections. The properties would be arranged around the new road network, with dwellings sitting adjacent to or fronting onto areas of green infrastructure, informal play and the internal roads within the site.



- 3.18 Black tarmac access roads are used throughout the development with block paving used in the drives and parking areas to demarcate the private areas and to enhance the courtyard designs.
- 3.19 The development includes a variety of means of enclosure, consisting of traditional Devon planted banks, hedgerows, lime stone or brick wall walls and park style fencing.
- 3.20 An area of formal Public Open Space is provided directly to the west of the access road entering the site. Two further areas of informal space are provided to the west, centred around the mature trees.
- 3.21 Air source heat pumps are proposed to provide heating and hot water to the dwellings.
- 3.22 A drainage strategy accompanies this RMA.

Sustainability/Principle of the Proposed Development

3.23 The site relates to allocation BT2A (North of Indio House):

“A site of approximately 1.6 hectares is allocated for residential development at Indio House including:

- a) delivery of 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 adjoining the Grade 2 listed house and driveway, Dartmoor

National Park and any measures necessary to mitigate impacts on greater horseshoe bats;

- c) a safe pedestrian and cycle access to the town centre; and
- d) a bespoke Greater Horseshoe Bat mitigation plan for North of Indio House must be submitted to and approved before planning permission will be granted. The plan must demonstrate how the site will be developed in order to sustain an adequate area of non-developed land as a functional part of the foraging area within the SAC sustenance zone and adjacent to the strategic flyway used by commuting Greater Horseshoe Bats associated with the South Hams SAC. The plan must demonstrate that there will be no adverse effect on the SAC alone or in combination with other plans or projects.”

- 3.24 The principle of the development and the detailed means of access is established through the grant of outline planning permission (17/02118/MAJ) and through the site’s allocation within the adopted Local Plan under Policy BT2A.
- 3.25 The Reserved Matters application provides details for 22 homes, (with the two custom build plots still outstanding) in accordance with the outline consent which sets a maximum limit of 30 homes. The application includes the provision of custom build and affordable housing in line with the S106 attached to the outline permission, and details required to come forward as part of the reserved matter application have been submitted.
- 3.26 Overall the reserved matters submission is considered to comply with the obligations and requirements set out within the outline planning permission 17/02118/MAJ.
- 3.27 **Therefore, the principle has already been established and the key issues currently under consideration are the remaining reserved matters for which this proposal seeks approval - appearance, landscaping, layout and scale.**

Heritage Considerations

- 3.28 LP Policy EN5 deals specifically with heritage assets. To protect and enhance the area’s heritage, consideration of development proposals should take into account the significance, character, setting and local distinctiveness of any affected heritage asset, particularly those of national importance.
- 3.29 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest in which is possesses.
- 3.30 Reflective of that, the NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss should require clear and convincing justification.

- 3.31 In accordance with the National Planning Policy Framework, heritage assets are irreplaceable resources and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 184). As the Local Planning Authority, the NPPF states that we should take into account the ability of new development to make a positive contribution to the local character and distinctiveness when determining applications (paragraph 192) and that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation, irrespective of the level of harm (paragraph 193) and any harm to, or loss of, significance of a designated heritage asset should require clear and convincing justification (paragraph 194). Therefore, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the scheme (paragraph 196). The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (para. 197).
- 3.32 The NPPF defines the setting of a heritage asset as, 'The surroundings in which a heritage asset is experienced'. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 3.33 There is one Scheduled Monument, comprising *Bovey Potteries*. This Scheduled Monument does not lie within the site. There are no Registered Historic Parks and Gardens or Registered Battlefields located within the proposed development site or the study area. The site does not lie within a Conservation Area, although Bovey Tracey Conservation Area extends to within c. 360m to the north of the proposed development site.
- 3.34 The site is not considered to contribute to the significance of the Bovey Tracey Conservation Area, main area or Potteries Area, or the Bovey Potteries Scheduled Monument.
- 3.35 There are a number of listed buildings within 100 metres of the application site including:
- Grade II listed Indio House to the south east (approx. 60m)
 - Grade II Listed 6 Columns In Garden About 15M South-east Of Indio House
 - Grade II listed St Johns Vicarage
 - Grade II* St John the Evangelist Church
 - Grade II Listed 1-6 St Johns Cottages (fronting Newton Road)
 - Grade II Listed St Marys
 - Grade II Listed Direction Post
- 3.36 Letters of representation submitted have raised objection due to the harmful impact the development would have on heritage assets with particular reference to the setting of the Grade II listed Indio House.

- 3.37 The application is accompanied by a Heritage Statement which assesses the impact of this development on the historic environment.
- 3.38 As has been made clear in the Inspector's decision letter for the outline application, there can be no in-principle objection to the development of this allocated site as the impact upon setting is a matter that would have been considered through the preparation of the Local Plan. This is therefore not something that should be re-considered through the determination of the RMA. The proper question to address therefore is whether there is anything in the design or layout of the scheme that makes the impact more harmful than it should be.
- 3.39 The impact of the development with regard to "access" and shared use of the private driveway has already been considered by the Inspector at appeal and the pertinent paragraphs from the Inspector's Decision letter have been quoted in full at paragraphs 3.10 and 3.11 above.
- 3.40 The application site 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. While later infill development has occurred between it and the main bulk of the settlement to the north the area has retained a sense of its rural character and naturalistic landscaping around the house.
- 3.41 In terms of the design, form, layout of the proposed development and treatment to boundaries, this application has been subject to a number of revisions, led by the TDC Landscape Officer, in order to appropriately address setting and the site's context as described above. The revisions have included strengthening of soft boundaries, alterations to hard boundary treatments as well as to the design and external materials of the proposed dwellings.
- 3.42 Following the revisions to the development, the TDC Landscape Officer has raised no objections on landscape grounds. While evidently this site will make a change to the setting of nearby listed buildings, most notably the Grade II listed Indio House, this change is considered to have *less than substantial harm*.
- 3.43 The NPPF states that: "196. *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*"
- 3.44 Substantial weight is given to the public benefits of securing housing, in line with the Policy BT2A allocation, even in the presence of a healthy housing land supply. Against the development's 'less than substantial' impact to the setting of listed buildings, taking into account the design, layout, distances and buffer planting is afforded moderate weight, having regard to the duties under s66(1) of the LBCA Act. It is therefore concluded that the benefits of the proposal outweigh any heritage impacts.
- 3.45 For the reasons set out above, the proposed development is considered to be acceptable in terms of setting of those heritage assets set out above, having regard to the requirements of policy EN5 (Heritage Assets) of the Teignbridge Local Plan,

the NPPF and the statutory duty of the Council as set out under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Archaeology

- 3.46 The proposed development lies in an area of archaeological potential with regard to the Indio Pottery works.
- 3.47 Paragraphs 194 & 197 (mentioned above) of the NPPF are the pertinent policy background with regard to archaeology.
- 3.48 A requirement for further archaeological work has been imposed in the outline application under Condition 6:

6. No development shall commence until the implementation of a programme of archaeological work for the whole site has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 3.49 The impact of the development on archaeology has therefore been addressed under the outline application and with the imposition of Condition 6 this development is considered to be in compliance with paragraphs 194 & 197 of the NPPF.

Impact upon the character and visual amenity of the area

- 3.50 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 the local character and history, including the surrounding built environment and landscape setting. Paragraph 170 of the Framework requires development to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and respecting the intrinsic value of the countryside.
- 3.51 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.
- 3.52 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.

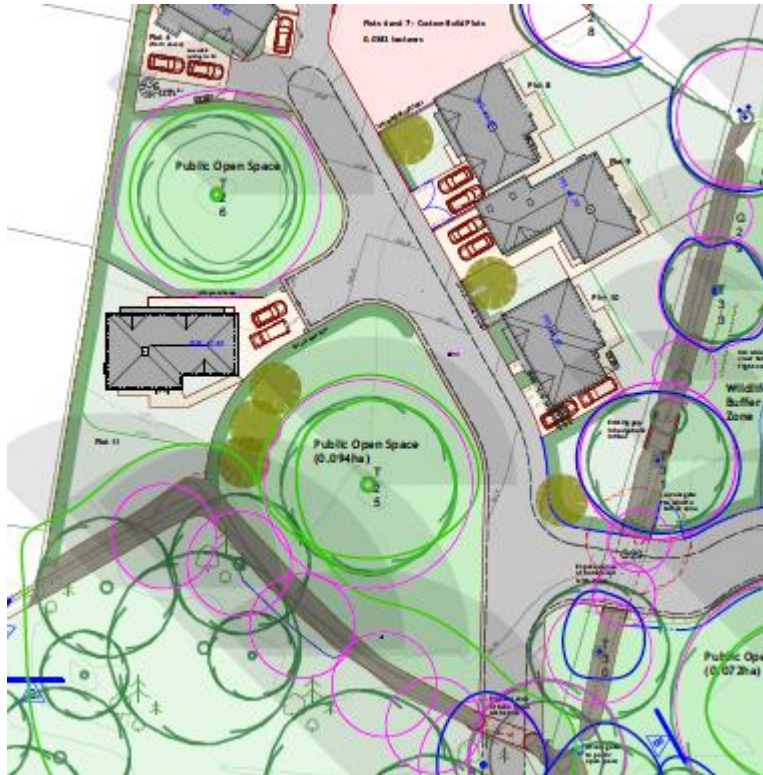
- 3.53 Letters of representation have raised concerns regarding the visual impact of this development and harm to the wider landscape.
- 3.54 The site presently consists of grassland bordered by hedgerows and trees, some of which have TPOs, and has as a rural/edge of settlement character
- 3.55 The site allocation policy BT2A sets out a housing target of at least 45 and therefore a minimum quantum is set as opposed to a maximum figure. Whilst some public representations received in respect of the scheme object to overdevelopment of the site, in this instance, outline planning consent for up to 30 homes has been given. The density of the development is also considered to be considered with the wider Bovey Tracey character.
- 3.56 The design, layout, landscaping and hard surface boundary treatment of the proposed development has been revised on a number of occasions since its initial submission in April 2020. The greatest effort has been made to design a development that sits into this historic context whilst also responding to the distinctive characteristics of this site.
- 3.57 The development has broken up into a series of external spaces, with denser development located at the western extent of the site with lower density at the eastern extent, comprising areas of courtyard with a strong avenue of trees along its southern extent. The courtyard forms also reflect traditional Devon farm courtyards.
- 3.58 As required by Condition 12 of the outline consent, the site layout proposals incorporate a 3m wide landscape buffer to the northern site boundary which includes a shrub planting zone of blackthorn, elder, hazel and quickthorn and retained grassland. Planting is also provided within the site as well as the retention of three mature trees (protected by a TPO). Hard boundaries include walls and estate fencing have been incorporated to reflect the character of Indio House.
- 3.59 Following revisions to this development, the TDC Landscape Officer has raised no objections to the scale, layout or quantum of the proposed development in landscape terms. The development will have inevitable impacts upon the landscape, through the change from an unbuilt landscape to one accommodating development, however, it is considered the development has been designed in a sensitive way that responds to the site.
- 3.60 The submitted details include a landscape management scheme for a 5 year period to ensure the landscaping establishes. It is recommended that a condition is imposed requiring long term management and maintenance of all communal landscaping and open space. In addition, it is considered that samples of some of the details set out in the submitted materials specification should be obtained prior to their use (for example the slate, brick and tile hanging, lime stone walls). A condition is therefore also recommended to secure these details.
- 3.61 The development, subject to imposition of the recommended conditions, is assessed to accord with Policies EN2A and Policy S2 of the TDC LP as well as National Design Guidance.

Trees

- 3.62 Letters of representation have been received raising concerns regarding the impact of this development on TPO trees. The Council's Tree Officer objected to the original submitted plans due to the relationship of the development to existing trees and impact on their RPA.
- 3.63 All of the TDC Senior Arboricultural Officers requirements have been addressed through a redesign and they do not consider that there would be any harmful incursion to RPA's though layout or that areas of earth mounds close to trees would cause any harm. However, the Tree Senior Officer has remained concerned about the location of the dwelling at Plot 11 to TPO Tree T26 (a mature Oak) as well as the potential of over shadowing of the garden serving Plot 11 from existing trees to the south of the site.
- 3.64 As such, the TDC Arboricultural Officer has requested the removal of Plot 11 entirely.



- 3.65 The applicant has advised that the removal of Plot 11 would impact upon the viability of the development and after considering various re-locations for the dwelling, it was agreed that Plot 11 could be substituted with the dwelling at Plot 9 which is a smaller property.



- 3.66 The plot substitution provides a development that fits more comfortably within the site, which is outside of the RPA, and allows a larger proportion of a garden available that wouldn't be over shadowed by trees.
- 3.67 While it is accepted that Plot 11 sits tight between two mature trees, given the significant constraints at this site and that the RMA development of 22 properties (plus 2 custom build plots) is already well below its BT2A up to 45 quantum and the 30 unit quantum approved at outline, it is considered, on balance, the revisions proposed are an acceptable compromise. The relationship to trees is not considered to offer a low amenity value to occupiers at Plot 11 such that reserved matters approval would be refused on this issue.

Impact on residential amenity of the occupiers of surrounding properties

- 3.68 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.
- 3.69 Residents living near the site have raised concerns about the impact of the proposals on their amenity. Concerns have been raised within the representations received regarding the potential for overlooking from the proposed houses and the overbearing impact.
- 3.70 The proposed development would be two-storey set at an appropriate distance from the neighbouring properties and separated by the retained hedgerow and trees and new buffer planting. 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.

- 3.72 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.
- 3.73 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.
- 3.74 Whilst a certain level of disruption during the construction phase is inevitable, the condition requiring the submission and approval of a Construction Management Plan (CMP) imposed in the outline permission would ensure that construction impacts are sensitively managed.
- 3.75 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.

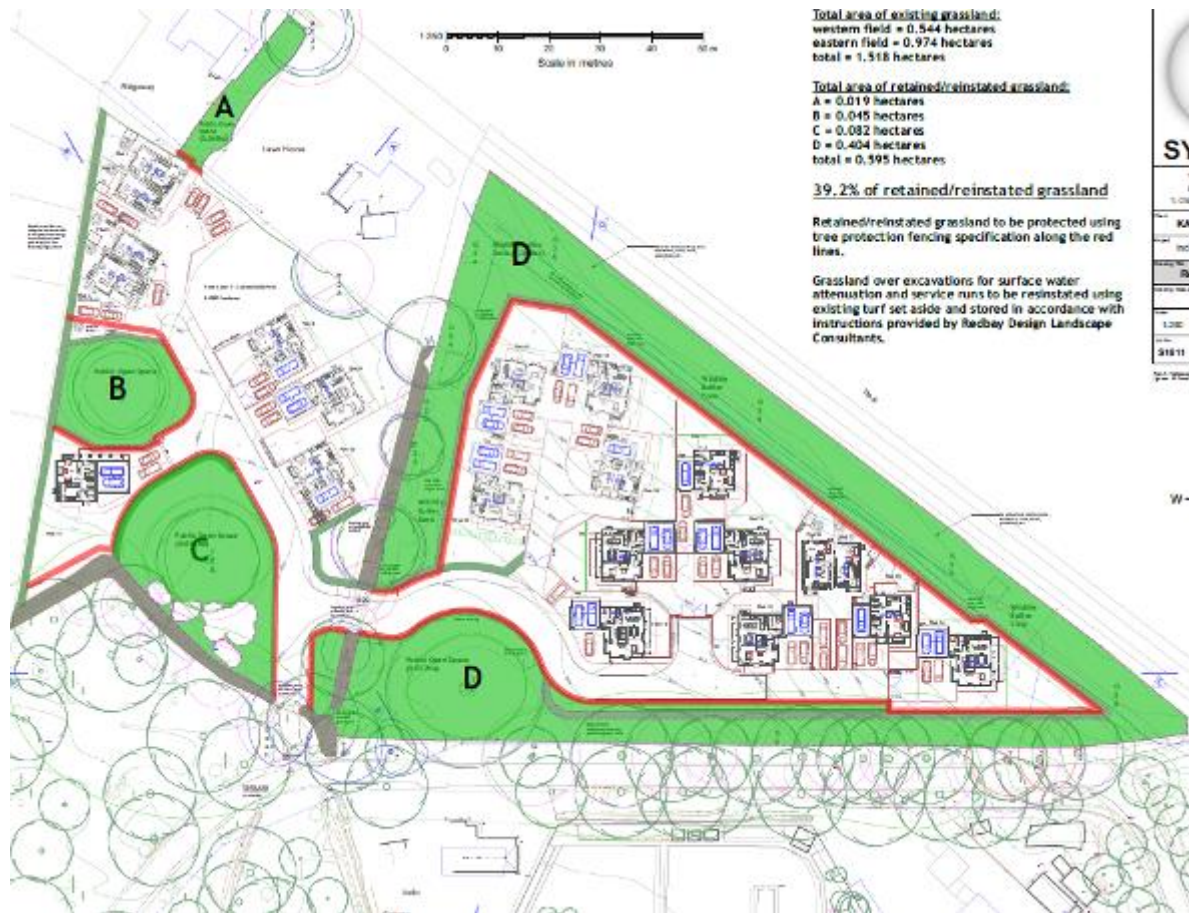
Ecology and Biodiversity

- 3.76 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.
- 3.77 The site lies within a strategic flyaway for Greater Horseshoe Bats associated with the South Hams SAC and adjacent to a sustenance zone. As such this development has been screened under The Conservation of Habitats and Species Regulations 2017 (as amended) for Likely Significant Effect on a European site.
- 3.78 Bat activity surveys were undertaken in 2013 and again in 2017. The TDC Biodiversity Officer has confirmed that the 2017 survey is still acceptable as no major changes are thought to have occurred that would affect the bats' use of the site.
- 3.79 As such, as competent authority, Teignbridge District Council concludes that there would **not** be Likely Significant Effects 'alone' or 'in-combination' on features associated with the South Hams SAC. A full Appropriate Assessment of the plan or proposal will **not** be necessary. Natural England has raised no objections to this screening conclusion.
- 3.80 The site is 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. The design of the development respects these significant routes and provisions and does not unacceptably impact upon them. Existing hedges and tree belts remain largely intact and Condition 9 of the outline application requires submission of details for all external lighting to minimise light spill onto hedgerows and safeguard foraging paths for bats. This condition has not yet been discharged and will be a matter for later consideration when details are formally submitted.

- 3.81 The proposed wildlife buffer zone has also been designed to accord with Condition 8 attached to Appeal Decision APP/P1133/W/18/3207470 - *“The development shall be carried out in accordance with the mitigation strategy contained in the Ecology Report, Including Bat Survey And Greater Horse-shoe Bat Mitigation Scheme, dated 6 September 2017.”*
- 3.82 Significant objection has been raised to the development of the site and the loss of County Wildlife Standard (CWS) MG5 grassland / priority habitat. The Devon Wildlife Trust has also raised objection to the loss of the MG5 Grassland.
- 3.83 TDC Biodiversity Officer in their initial consultation response for this application confirmed that application site has been identified as County Wildlife Site standard rich semi-improved to unimproved grassland (NVC category MG5), a priority habitat, the majority of which will be lost to the development. They note that there is reference to the grassland in the ecological survey (‘Ecological Report and Greater Horseshoe Bat Mitigation Scheme’, by George Bemment Associates, dated Sept 2017) approved in the outline application, which has re-submitted as part of the RMA proposals.
- 3.84 The approved Ecology Report concentrates solely on bats and other protected species and there is no discussion of providing compensation for the loss of the grassland.
- 3.85 It was therefore recommended by the TDC Biodiversity Officer that the applicant be required to submit a detail of proposed compensation for the loss of grassland habitat, accompanied by Biodiversity Metric calculations showing a net gain.
- 3.86 As set out previously, the Outline planning application was refused by the Planning Committee. The applicant appealed that decision and the Inspector allowed the appeal. The Biodiversity Officer’s consultation response on the outline application did not raise any significant issues of concern regarding the grassland and did not recommend any conditions/requirements/mitigation etc.
- 3.87 When the appeal was allowed the Inspector imposed a condition requiring the development to be undertaken in accordance with approved Ecological Survey (‘Ecological Report and Greater Horseshoe Bat Mitigation Scheme’, by George Bemment Associates, dated Sept 2017). **There was no requirement in the approved Ecological Survey or as part of the appeal decision that required the applicant to retain the grassland or to provide compensation.**
- 3.88 Letters of representation have suggested that ecology reports for an earlier development at this site (13/02292) are referred to in the outline approved Ecology Survey and therefore there is the ability at RMA stage for the LPA to require retention and/or compensation.
- 3.89 In 2013, application 13/02292 (which was for a larger area) submitted three ecological reports and a Bat and Dormouse Report by Bluebell Ecology:
- The July 2013 Preliminary Ecological Appraisal by Sunflower International recognises the diversity of the 2 ‘North of Indio’ fields, one of which, at the time was to be retained as POS. It recommends mitigation for species but not for habitats; and

- The November 2013 Preliminary Ecological Appraisal by Sunflower International recommends: “Such is the complexity of the site that a wildlife and habitat management plan will need to be produced for the site” and “5.2 The needs of the Local Authority could, I believe, be met by retention of as much of the old grassland as possible to the north of the main drive – particularly the north-western field that adjoins St Johns Close.” These two fields recommended for retention are of course the two fields that were later granted permission at appeal.

- 3.90 Having assessed all the available evidence and information, it is Officer view that the assessments undertaken in 2013 making recommendation to retain the two fields that are then allocated through the Local Plan and granted permission by the Inspector under the outline consent, is not sufficient grounding for now requiring off-site compensation for their loss, as this should have been addressed specifically in the Local Plan or the 2017 application and by the Inspector.
- 3.91 Imposing a requirement to compensate for the loss of the grassland at RMA stage would not be reasonable as it is not an issue that is specifically addressed though the approved Ecology Survey or a requirement of the Inspector in the conditions imposed at appeal. In addition to this, a financial contribution for the delivery of off-an off-site compensatory habitat would need to be secured though a S106 agreement and this cannot be imposed at RMA stage.
- 3.92 It is also important to note, that while this site is classified as a priority habitat, there is no protection for the grassland, the applicants could legally cut or spray the grassland and remove its current wildlife interest.
- 3.93 Notwithstanding the above, the greatest effort has been made to consider steps that can be taken within the scope of the RMA application. The following options have been discussed with the applicant and the TDC Biodiversity Officer
- a) Provide additional biodiversity within the site: The TDC Biodiversity Officer has advised they have secured everything they can and there is no room left for further biodiversity enhancements
 - b) Remove the area of grassland to be developed and translocate it to another site – The TDC Biodiversity Officer would require an available site for this to be undertaken. This approach would also be subject to conditions and require the applicant to work with a third party which would be out of the scope of the RMA application.
 - c) Retained areas of grassland that are not being developed and positioning of protective fencing before site before site clearance commences.
- 3.94 Taking into consideration the scope of the RMA application, it is considered that option c) provides the right solution and would provide some protection of the grassland that can be retained. Following this, the applicant has prepared a grassland retention and protection drawing (below).



- 3.95 The planting scheme has been updated to take account of the grassland retention. The TDC Biodiversity Officer has raised no objections to the grassland retention drawing and this approach to retaining the remaining grassland.
- 3.96 The northern boundary, where Area D is shown, would incorporate the proposed drainage attenuation tanks for the site drainage proposals. The planting scheme has also been revised to incorporate instructions for lifting and storing the existing grassland turf for relaying over the attenuation system and service runs.
- 3.97 Subject to conditions, it is considered that the proposed solution is a reasonable approach to retaining any remaining grassland and there are no ecological reasons for the refusal of this application.

Affordable Housing

- 3.98 The outline application is subject to a S106 agreement to provide 30% affordable housing with a tenure split of 70% affordable rented and 30% intermediate. The S106 requires that two of the affordable units should be constructed to accessible and adaptable standard Approved Document M4(2) Category 2.
- 3.99 The application includes 5 rented units and 2 shared ownership, including one of the one bed flats and a two bed house designed to M4(2). The proposal is therefore policy compliant and meets the requirements of the S106 agreement.
- 3.100 The TDC Housing Enabling Officer initially raised concerns regarding the size mix and layout of the affordable units and the parking arrangements. However, following significant improvements to the housing mix and distribution, the TDC Housing Enabling Officer has confirmed that they have no objections.

3.101 All AH units have on-plot parking except plots 1 and 2 which have off-plot dedicated parking close to the property frontage.



3.102 While it would be desirable to have this on-plot, it is not essential and the TDC Housing Enabling Officer has confirmed that this is not a matter we would seek to resist the proposals on or would deter a Registered Provider (RP) from taking the plots.

3.103 Another matter that has arisen is the relationship of the custom build plots to the AH units at Plots 1-5. It has been recently highlighted at another site where an RP has declined to take a number of affordable units on a site where they were close to custom build plots. The relationship at this site is better than this scheme, however, as the Custom Build Plots have a 5 year RMA period, concern is raised regarding heavy plant machinery servicing the custom sites while the AH units are occupied.

3.104 The TDC Housing Enabler has advised the impact could be minimised by providing the custom build plots as water tight shells. However, while the applicant would be agreeable to this, the S106 agreement requires the plots to have necessary services connections to the boundary, including access and utility services. The applicant has advised that they already have interest in the custom build plots and therefore it is likely that RMA applications would follow quickly. They have also discussed their AH provisions with their potential RP who have advised they are interested in these plots.

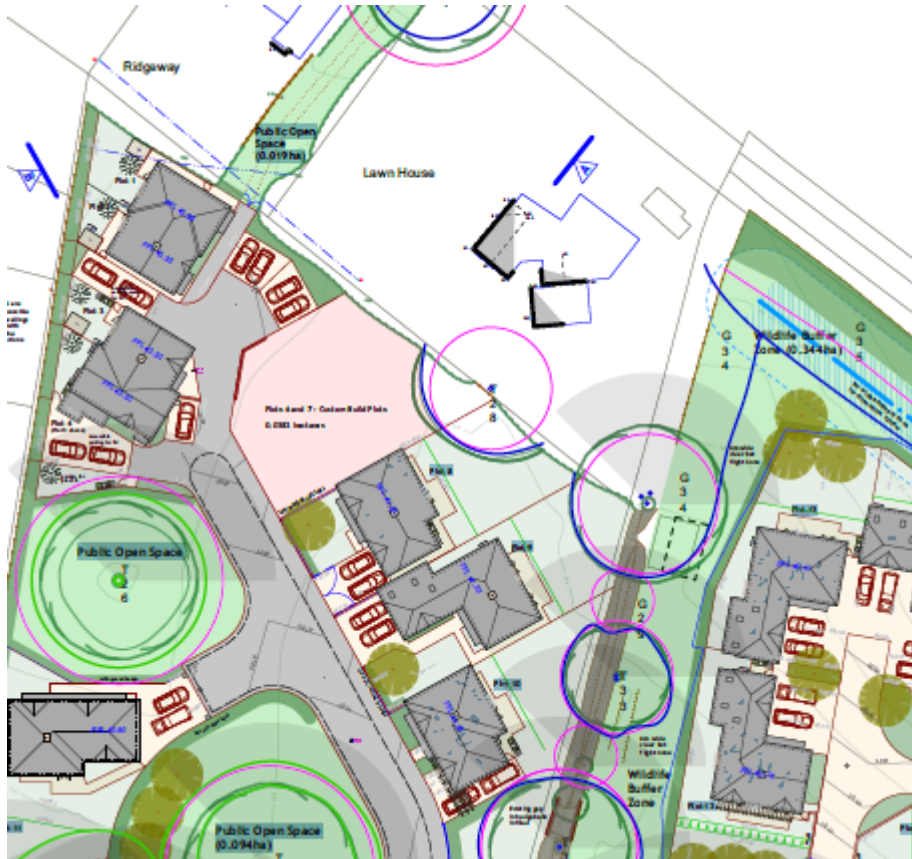
3.105 While it is accepted that there will be some disruption during the build process, it is considered there is reasonable separation. A condition of the outline application is for the submission of a Construction Management Plan and this can incorporate measures to manage to construction of the custom build plots also.

3.106 On balance, whilst it is acknowledged that the properties around the custom building will have some disturbance during the construction period, this will be for a temporary period and is not considered to be a reason to withhold RM approval.

3.107 For the reasons set out above, the proposed development is considered to accord with Local Plan policy WE4 (Inclusive Design and Layout).

Custom Build

- 3.108 The Section 106 agreement attached to the outline planning permission secured the provision of 5% custom build plots. With a development of 22 dwellings, this equates to 2 plots.
- 3.109 The 2 Custom and Self Build plots are situated in the north west corner of the site and are easily accessed from the internal road.

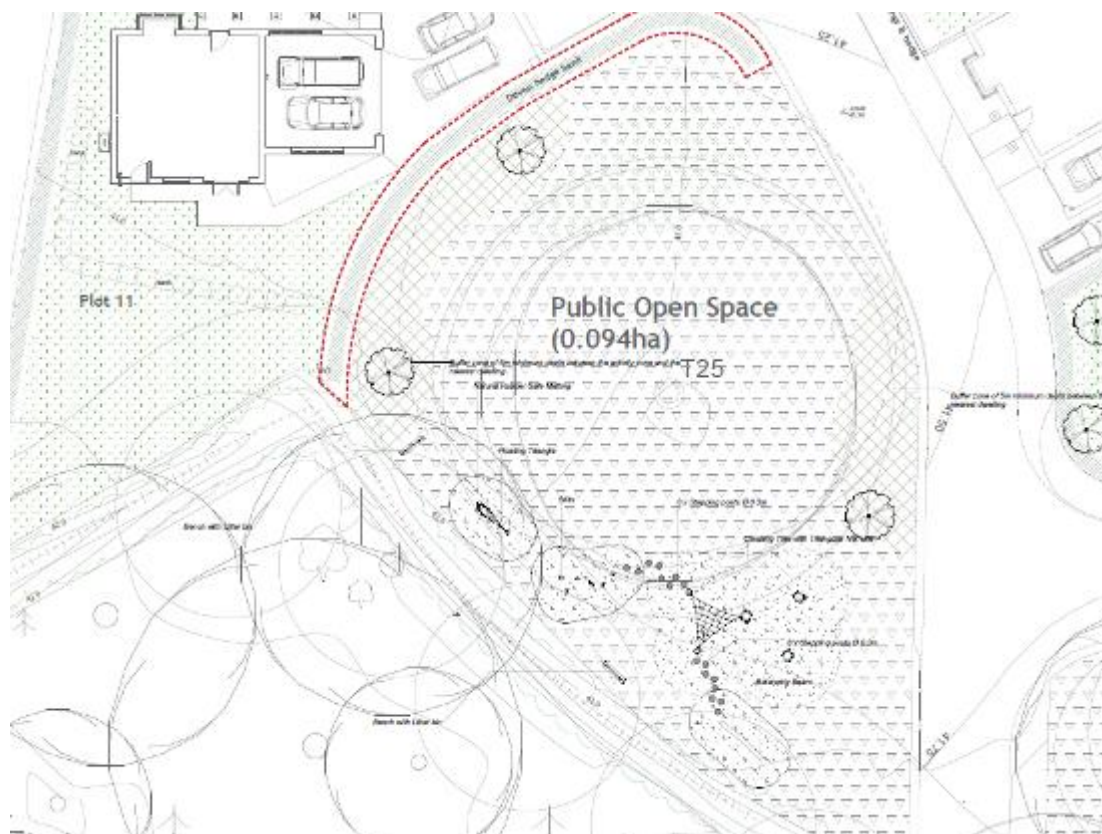


Open space

- 3.110 The requirements for open space and landscaping is set by a condition of the outline consent.
- 3.111 Condition 13 requires full details for open space and landscaping in accordance with Policy WE11. The condition states that these details shall include measures to support biodiversity enhancements to including the provision of bat/bird boxes and shall specify the amount, delivery specification, and management specification of the open space, play, and landscape provision as well as a timetable for their implementation.
- 3.112 Policy WE11: Green Infrastructure require, inter alia,:
- d) residential development will provide at least 10 square metres 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;

3.113 In this instance, the open space provided on-site includes a number of informal areas of formal and informal open space and green infrastructure.



3.114 An area of natural play is also indicated directly west of the sites access road entering into the site, as shown in the drawing below (adjacent to Plot 11). The site is gently sloping, however, the applicant has confirmed that a level access can be provided here. It is proposed to be surfaced with rubber safe matting, and includes a floating triangle, some stilts, stepping posts and a balancing beam. The landscaping planting plan sets out that the natural play area will be provided prior to occupation of 50% of the dwellings. Given the size of the development this is considered to be acceptable trigger for implementation.



Stepping posts CPCL The Children's Playground Company
Reference number : 2.004



Sits CPCL The Children's Playground Company
Reference number : 2.005



Climbing Tree Triangular Net Unit CPCL The Children's
Playground Company
Reference number : 2.043



Floating Triangle CPCL The Children's Playground Company
Reference number : 2.023



Balancing Beam CPCL The Children's Playground
Company
Reference number : 2.001



Bench CPCL The Children's Playground Company
Reference number : 0.001



Shaded Litter Bin - Playtable

- 3.115 The play area is well located to be screened from views from the listed Indio House. Taking into account the size of this development and the tree and ecological constraints within the site there are clear limitations to the size of formal play that can be provided, its location and type of equipment.
- 3.116 The proposed play area has been carefully designed to ensure it can be sited below a mature Oak trees without causing harm to its root protection area while providing an area of play that is well designed and balanced with the wildlife meadow area it sits within.
- 3.117 On balance, it is considered that the provision of formal and informal space provided satisfies the outline requirement. Condition 13 of the outline consent also requires a management specification and for the open space to be managed for the lifetime of the development. The planting scheme includes an establishment maintenance scheme for up to 5 years with details set out confirming a management company would be appointed to implement maintenance and management measures post construction. The principle of this approach is acceptable, however, further details are required to secure on-going management and therefore a condition is recommended to be imposed to obtain this.
- 3.118 The proposed development is considered to offer an acceptable level of informal space and play in the development, which satisfies the requirements of the outline application and is acceptable with regards to the requirements of policy WE11 (Green Infrastructure).

Highways

- 3.119 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.

Access and the outline consent

3.120 Detailed access has been approved as part of the outline application and therefore **is not** a matter for consideration under the current RMA proposals. The access to the site, traffic generation and impact of this development on Indio House were all considered by the Inspector who found these matters to be policy compliant when approving the application.

3.121 Although there has been strong local objection to highway impact of this development, access was approved as part of the outline planning permission and cannot be revoked through this Reserved Matters application.

3.122 In addressing access in the appeal, the Inspector imposed conditions of the outline application to ensure that works are not undertaken to the existing private drive which the development would be served from:

11. No works pursuant to this planning permission shall be undertaken to the private drive serving the site, including the provision of service runs.

3.123 A condition has also be imposed to ensure that the private drive is maintained and managed:

16. Prior to the occupation of any dwelling hereby approved details of a scheme for the maintenance and management of the private drive shall be submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented as approved for the lifetime of the development.

3.124 In addition, the outline application also requires an improvement scheme for the junction with Newton Road, prior to commencement of any development:

5. No development shall commence until an improvement scheme for the junction with Newton Road has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation, which at the latest shall be prior to the first occupation of any dwelling hereby approved.

3.125 The current Reserved Matters application accords with the approved access arrangements and includes details of the internal road network which are also considered to be acceptable.

3.126 Condition 7 attached to the outline planning permission requires a Construction Management Plan to be submitted to and agreed in writing prior to the commencement of development:

7. No development shall commence until a construction management plan has been submitted to and approved in writing by the local planning authority. It shall specify the following:

- *details, including plans, of tree protection measures and fencing;*
- *loading and unloading of plant and machinery;*
- *facilities for the storage of plant, machinery, and construction materials;*

- *the erection and maintenance of security hoardings and protection measures for the gates and piers at the junction with Newton Road;*
- *wheel washing facilities, and*
- *measures to control the emission of dust and dirt during construction.*
- *The development shall be carried out in accordance with the approved details.*

3.127 These conditions have not yet been discharged and any Reserved Matters approval will remain to be subject to the conditions on the outline planning permission.

3.128 The Highway Authority has requested further details before they can comment on access arrangements. These details will come forward when a submission is made to discharge the above conditions.

3.129 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). Visitor spaces have also been provided. The parking proposed in the development is considered to be sufficient.

3.130 It is therefore considered by Officers that the technical details of the application accords with Policy S1.

Cycle links

3.131 Policy BT2A requires c) a safe pedestrian and cycle access to the town centre.

3.132 Letters of representation, including from Bovey Tracey Town Council have raised concerns regarding the absence of a direct link

3.133 The applicant has advised that a link via Marsh lane has been explored, however, this is third party land and they do not have rights to create a route from the site using this lane.

3.134 In considering the outline permission, significant weight must be given to the fact that the Inspector did not impose any conditions requiring additional pedestrian and cycle links to be provided.

3.135 Having reviewed the Inspectors decision letter, it appears that the accessibility of the site was a consideration and the Inspector accepted that the existing drive serving Indio House would provide an adequate pedestrian and cycle link to the town centre:

“In my view, this route would allow for a pleasant walk or cycle from the appeal site to Newton Road. Pedestrians and cyclists would only be a little further from the town centre than would have been the case if an alternative access were utilised, such as through St John’s Close. The development would be located in an area with a semi-rural feel and, in this environment, the lack of street lighting along the private drive would not significantly discourage its use by those not traveling in vehicles.”

He also stated: *“On this second main issue I therefore conclude that the private drive would be adequate to serve the development and that the setting of Indio House would not be harmed. There would be no conflict with Policies S1, S2, or*

EN5 of the LP. Together these seek to ensure development is suitably located including in respect of accessibility by walking and cy-cling and meets the needs of pedestrians and cyclists, maintains the character and historic interest of the area, and takes account of the significance, character and setting of heritage assets. For similar reasons there would also not be conflict with the Framework.

3.136 It can therefore be concluded that the requirement of Policy BT2A c) has been considered at outline stage.

Drainage

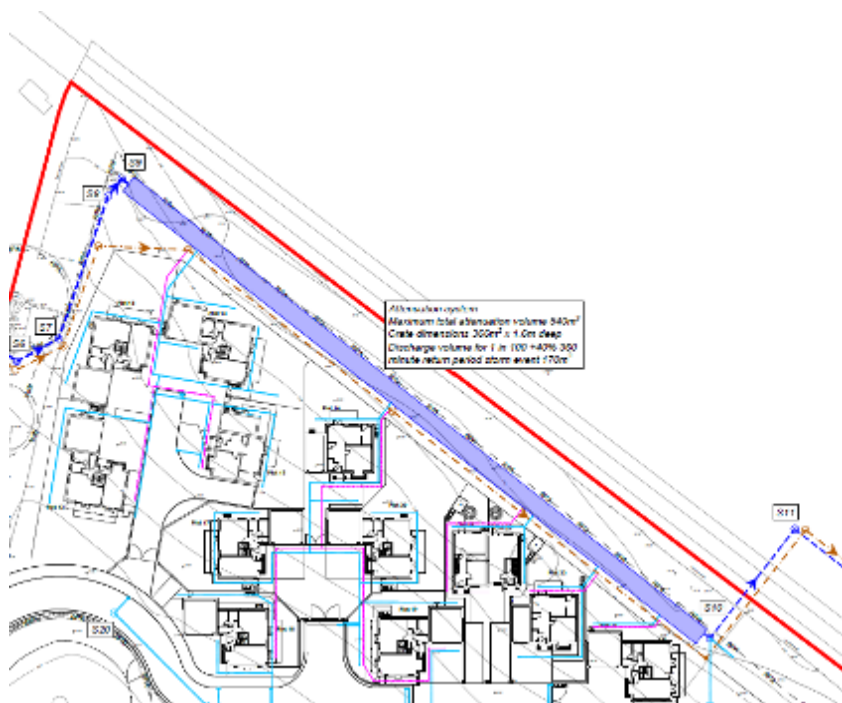
3.137 Policy S6: Resilience requires development to take account of likely climate change impacts in assessing the flood risk of developments.

3.138 Condition 14 imposed on the outline application required full details for foul and surface water to be submitted, to include details for the construction phase.

3.139 DCC Leading Local Flood Authority (LLFA) initially raised objection, requesting further information to be provided. In response, the applicant has submitted a revised drainage strategy.

3.139 A scheme setting out a drainage strategy 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.

3.140 The revised proposals incorporate an attenuation system in the form of underground creates along the northern boundary:



3.141 Consultations responses from DCC Leading Local Flood Authority (LLFA) and TDC Drainage are pending and further developments in this technical dialogue will be reported to Members.

3.142 There are not considered to be any drainage reasons for refusal of the application, subject to the requirement of Condition 14 being satisfied.

Sustainable Development / Carbon Reduction and Waste Audit

3.143 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 – updated to reflect national targets to 48%. The outline permission was granted prior to the updated calculator being prepared. It is recommended that a condition is imposed requiring the submission of a Carbon Reduction Plan to address this requirement however the inclusion of heat pumps is welcomed.

3.144 The TDC EV charging guidance document also requires that all new residential developments with off-street parking shall be supplied with passive EV charging. The definition of passive EV charging would include the provision of a connection point on the main electricity board and installation of cabling and ducting between the main board and an AC isolator installed in a suitable location ready for the future application of a 32A EV charger. It is recommended a condition is imposed to require passive EV charging in accordance with TDC guidance.

3.145 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. The outline application, under condition 16, requires a Waste Audit statement to be submitted. A Waste Audit Statement has been provided which sets out how waste generated from the dwellings would be managed. DCC Waste has made some observations in their consultation response which the applicant has addressed in a revised statement. An update will be made to Members at Planning Committee.

Summary

3.146 The application site is allocated for housing under Policy BT2A. Outline planning permission has also been granted at appeal for up to 30 dwellings. **There can therefore be no in-principle objection to the development of the site.**

3.147 The BT2A allocation has been examined and gone through a process of comparison with other prospective sites. In that context, **some impact on the setting, and thereby the significance, of nearby listed buildings must have been factored in when the allocation was found sound.** The proposed development is considered to be of an appropriate density for this site and is designed sensitively around existing mature trees, incorporating hedge and wildlife buffers. **Officers consider there is nothing in the design of the scheme that makes its impact more harmful than it should be.**

3.148 **Detailed access has been approved as part of the outline application and therefore is not a matter for consideration under the current RMA proposals.** The access to the site, traffic generation and impact of this development on Indio House were all considered by the Inspector who found these matters to be policy complaint when approving the application.

- 3.149 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. Whilst this small area of green field will be lost to development, its discrete and well screened location is such that, this development would be assimilated within the wider landscape without having any unacceptable impact on the area. While letters of representation have raised concerns regarding the impact of a housing development in the landscape, **significant weight must be given to the fact that this site is allocated for development by the Local Plan and it has outline planning permission for up to 30 dwellings.**
- 3.150 A small number of trees are proposed to be lost in relation the application but, on balance, these losses are considered acceptable in relation to the development overall. Granting permission for the subject application does not grant consent for further tree removals. Separate consent would be needed for any **additional** tree removals relating to TPO trees.
- 3.151 The site is located within a Substance Zone and adjacent to a Strategic Flyway for the Greater Horseshoe Bat. The Local Planning Authority as Competent Authority for the purposes of the 2017 Habitat Regulations has screened this development and has confirmed that there would be no “likely significant effect” on their own or in combination with other plans and projects on the integrity of the designated European site (South Hams SAC).
- 3.152 Significant local concern has been raised regarding the loss of CWS standard MG5 grassland, a priority habitat. While weight has been given to significant representation from residents and the Devon Wildlife Trust, **substantial weight has given to the outline application and the approved ecology survey that does not require any compensation to be delivered** and also the ability to provide any further compensation to address this matter under the scope of a RMA. The solution to retain the areas of grassland which will not be developed is considered a suitable solution for the site and the TDC Biodiversity Officer has raised no objections to the submitted grassland retention drawing.
- 3.153 It is also considered that the relationship of the development to surrounding residential properties is acceptable and that the proposals in their revised form offer a well-designed development that responds sensitively to the sites well landscaped and historic setting.
- 3.154 There is therefore an officer recommendation to grant reserved matter approval subject to the conditions set out in this report.

4. **POLICY DOCUMENTS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be taken in accordance with the Development Plan (DP) unless other material consideration indicate otherwise.
- 4.2 The DP policies relevant to this proposal comprises the Teignbridge Local Plan 2013-2031 (TLP), adopted in May 2014.

Teignbridge Local Plan 2013-2033

STRATEGY POLICIES

S1A (Presumption in favour of Sustainable Development)
S1 (Sustainable Development Criteria)
S2 (Quality Development)
S4 (Land for New Homes)
S6 (Resilience)
S7 (Carbon Emission Targets)
S9 (Sustainable Transport)

STRATEGY PLACES

S19 (Bovey Tracey)

WELLBEING – HOUSING

WE1 (Housing Plan, Monitor and Manage)
WE2 (Affordable Housing Site Targets)
WE4 (Inclusive Design and Layout)
WE7 (Custom Build Dwellings)

WELLBEING - INFRASTRUCTURE

WE11 (Green Infrastructure)

QUALITY ENVIRONMENT

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)
EN11 (Legally Protected and Priority Species)
EN12 (Woodlands, Trees and Hedgerows)

HEART OF TEIGNBRIDGE

HT1 (Heart of Teignbridge – Movement)
HT3 (Heart of Teignbridge – Green Infrastructure)

BOVEY TRACEY

BT2A North of Indio House

4.3 Other relevant policy/legislative considerations

Devon Waste Plan

National Planning Policy Framework

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

National Design Guide 2019

4.4 The Bovey Tracey Bovey Parish Neighbourhood Plan 2021-2033 (Pre-submission version) August 2020 is also a material consideration. The key policies are listed below:

- BPNP Policy H1 -Affordable housing
- BPNP Policy H3 -Provision of storage
- BPNP Policy H4 - Open space
- BPNP Policy H5 -Sustainable homes
- BPNP Policy LE1 – Protection and enhancement of landscape
- BPNP Policy LE2 – Tranquillity and dark skies
- BPNP Policy LE3 – Native hedgerows and Devon banks
- BPNP Policy LE4 – There shall be a net gain in priority habitat and species
- BPNP Policy LE5 – Wildlife-friendly development
- BPNP Policy LE7 – Protection of bat flyways
- BPNP Policy LE8 – Protection of views
- BPNP Policy LE12 – Provision of green infrastructure
- BPNP Policy LE15 – Sustainable energy
- BPNP Policy T1 - Highway Safety and Environmental Impact
- BPNP Policy T2 – Traffic Management
- BPNP Policy T3 - Sustainable Travel

5. **CONSULTEES**

5.1 The application was submitted in April 2020 and has been through numerous phases of consultation. The most up-to-date are listed below. A full set of complete responses is available to view on the Council's website.

TDC LANDSCAPE (26/05/2021)

The revised proposals have addresses all the earlier landscape comments and I have no further concerns.

TDC TREES (12/05/2021)

Provided plot 11 is deleted there are no arboricultural objections to the proposal.

TDC CONSERVATION (25/06/2020)

A pre-appeal Heritage Statement written in July 2013 and updated in July 2017 analyses the significance of Indio House and contribution to that significance made by its setting (4.3-4.10). Assessing that views to the NE, SE, and SW were important considerations in design the NW (the development area) was not. Despite contrary conclusions in 5.3 due to confusion whether the development was in the north west (here), or in the southwest (13/02292 MAJ) the overall contribution to setting is assessed as 'it is not anticipated that the proposed scheme will impact upon the significance of these assets through changes to setting' (5.7). This is somewhat perverse as it is clear from the Maps illustrated in the heritage statement that the house existed, and always existed since its construction in 1850 in its closely defined envelope; this is shown best in Figure 3 where the estate land in 1839 formed a cordon sanitaire around the house, which with the exception of a small area around Indio Road remains undeveloped to this day. The development is a clear incursion into the setting.

Despite the impact upon the house and its setting by the development the argument was lost at appeal (18/00041 REF), and indeed before at the local plan stage. The inspector ignored the counter heritage evidence, because in his decision 'it is reasonable to assume that the effect of housing on the setting of Indio House was part of the balance of considerations through the preparation and ultimately the adoption of the plan' (para 17); and more cogently 'There has been a general concern that housing development on the site would adversely affect the setting of Indio House. However, as I have indicated above, that would have been a matter considered through the preparation of the Local Plan. This is not something that should be for reconsideration through the determination of a planning application or appeal' (para 21). Thus, historic environment considerations, outside the archaeological condition for pre-commencement works, are nullified here.

This consultation report is written without the benefit of a site visit due to the current Covid-19 regulations.

TDC BIODIVERSITY (30/06/2020)

SUMMARY

There is a **biodiversity objection** primarily on the grounds of uncompensated loss of priority grassland habitat which also serves as bat foraging habitat. If the proposal is approved, biodiversity conditions will be needed.

ISSUES/DESIGNATIONS

Questions:

I am concerned at the potential for installation of the underground attenuation feature to damage tree roots from the northern boundary and for post-installation conflict as the proposed trees to be planted in the wildlife buffer zone grow. I believe the Tree Officer has also commented on this. Can the applicant supply further information to allay our fears?

The proposed location of the self-build plots is not clear from the block plan – are they included amongst the dwellings shown, or will they be in addition to this, eating into what the plans currently show as green space?

South Hams SAC and Bats

Two thirds of site is within the Sustainance Zone of the Haytor and Smallacombe SAC Roost. The rest of the site is within SAC Landscape Connectivity Zone. A Strategic Flyway (along the River Bovey /Bovey floodplain) abuts the northern site boundary. The 2017 bat activity survey found greater horseshoe bat activity mostly along the northern boundary (28 passes) and along the central hedge (10 passes).

I have undertaken a Habitat Regulations screening which concludes that a Significant Effect on the South Hams SAC is Unlikely.

Eleven+ other species of bat were also recorded, generally in much greater numbers than GH bats. There was again much activity along the northern and central hedges. This mirrored the results of the earlier, 2013, survey. Also, lesser horseshoe bats were found in quite high numbers for this rare species. Although the 2017 survey is now getting rather old, I am happy to accept it to inform the avoidance, mitigation and compensation measures needed and outlined in the report.

A number of trees were classed as having High potential as bat roosts, one with a confirmed pipistrelle roost. More detailed surveys must be undertaken once it is known which trees are to be felled/managed. Mitigation and compensation measures will be needed for impacts on any roosts found.

A suite of conditions is needed to secure retention and management of features used by bats and dark corridors to enable light-averse species to continue to use flyways. Green spaces retained on site may still be usable by some species for foraging, but there will be a net loss of foraging area.

CWS standard MG5 grassland / priority habitat

The two fields have been identified as County Wildlife Site standard rich semi-improved to unimproved grassland (NVC category MG5) This is a priority habitat, the majority of which will be lost to the development. There is no discussion of this in the Ecological Report which concentrates on bats and other protected species. There is no discussion of providing compensation for the loss of the grassland. Please invite the applicant to submit detail of proposed compensation for the loss of grassland habitat, accompanied by Biodiversity Metric calculations showing a net gain.

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 REQUIRED

If the Council is minded to approve the application, a suite of conditions will be required.

Compensation for grassland habitat loss

Prior to commencement, including site clearance, a Habitat Compensation Scheme shall be submitted to and approved by the Local Planning Authority. The Scheme shall include:

- Calculations of existing biodiversity units, units lost, units retained, units created, and net balance following Government's latest Biodiversity Metric;
- Detail of how net losses will be compensated, to achieve a net biodiversity gain in perpetuity. Details will include a management plan for creating and managing compensatory habitats, who will be responsible for ownership and maintenance and how this will be funded.

Once approved, the Habitat Compensation Scheme shall be implemented.

REASON: To ensure that net biodiversity gain is achieved for loss of priority grassland habitat.

A pre-commencement condition is required as site clearance could result in damage to habitats and features which should be retained.

General Measures

The works, including site clearance, shall proceed in strict accordance with the precautions, measures and enhancements described in the protected species survey report (by George Bemment Associates, dated 6 September 2017; see especially section 6).

To discharge this condition, the applicant must submit a letter from the bat consultant confirming that the required measures have been put in place and are acceptable and photographs of the bat/bird provisions in situ.

REASON: For the benefit of legally protected species.

Bat Roosts in Trees

Prior to removal, surgery or other works to any trees, the trees shall be assessed by a licenced bat worker for presence of bat roosts, including a climbing survey if necessary. For any roosts or potential roosts found the bat worker shall recommend appropriate mitigation measures and these shall be followed before, during and after works to the trees as appropriate.

To discharge this condition, the applicant must submit a letter from the bat consultant confirming that the required measures have been put in place and are acceptable and photographs of the bat/bird provisions in situ.

REASON: For the benefit of legally protected bats and bat roosts.

Lighting Scheme

Prior to commencement, including site clearance, a detailed Lighting Scheme shall be submitted to and approved by the Local Planning Authority. The Strategy shall be developed by a lighting engineer and ecological consultant and shall include:

- Lux contour plans showing existing and proposed light levels in and around the site;
- A map showing the dark areas that will be maintained on site, at 0.5 lux or below, for the benefit of bats and other wildlife. These shall include dark wildlife buffer zones along the northern, central and southern hedges;
- An evidence based assessment of light levels arising from the proposed development including fenestration, any external lighting and vehicle headlamps, comprising a written report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and around the site show by appropriate isolines;
- Details of how the dark zones and low overall light levels will be achieved, including;
- Absence of street lighting as far as possible;

- Specifications of the luminaires and that light colour temperatures shall not to exceed 2,700 Kelvin, wavelengths to be at least 550nm and no element of UV light. Mounting of lights no higher than 2m and positioned, angled and hooded away from dark areas. External lights to be timed PIR motion activated on short timers (2 minutes max) and set to react to large objects only (i.e. so as not to be triggered by bat and other wildlife);
- Minimisation of amount of fenestration facing towards dark zones, use of low-transmission glass (include product specifications), and placement and type of internal lighting to minimized light spilling towards dark zones;
- Use of opaque fences, walls and/or planting to provide further screening. Details of the proposed screening planting, its establishment and its future management to ensure dark areas in perpetuity, shall be provided;
- Where plot and other boundaries form part of the Lighting Scheme, the boundary specification needed to provide light screening shall be repeated in any submitted Boundaries Plan.

The Lighting Scheme shall be implemented and maintained as approved.

REASON: To protect light-averse bat species.

A pre-commencement condition is required as the lighting strategy may affect the site layout/footprint and as site clearance may destroy vegetation needed as part of the screening.

Construction Lighting

Works shall commence at least 30 minutes after sunrise and cease at least 30 minutes before sunset each day during the active season of bats (i.e. from April to October inclusive). No lighting shall be left on over-night during the construction phase.

REASON: To permit continued use of the site by light-sensitive bats.

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:

- Trees, hedges and other vegetation to be retained, including wildlife buffer zones and Public Open Spaces;
- Protection Zones for tree and hedge roots, and other retained vegetation, buffer zones and POSs to be established and fenced, before commencement including site clearance, and maintained until development works are complete;
- Location and design of bird and bat boxes to be erected;
- Tree, hedge and other planting to be undertaken for wildlife, light screening and landscaping - include planting schedules, species mix, spacing, protection and establishment details;
- Ongoing management scheme for retained and new vegetation, including management for wildlife and to maintain lighting screens;
- Details of who will undertake vegetation establishment and ongoing management;
- Type and locations of bat, bird and bee boxes to be incorporated into houses in clusters at appropriate locations and at a rate of one of each per dwelling;

- Locations of hedgehog holes to be incorporated into every boundary fence and wall.

Once approved, the Plan shall be implemented.

REASON: for the benefit of legally protected species of bats and other wildlife.

A pre-commencement condition is required as site clearance could result in damage to retained habitats and tree roots.

TDC BIODIVERSITY – SCREENING FOR LIKELY SIGNIFICANT EFFECT ON A EUROPEAN SITE (06/2020)

The application proposed the retention of the boundary hedges, with buffer zones. The ecological report explains that the applicant is adopting a dark skies policy for the site. Together these proposals will ensure that GHB bats are still able to follow site boundaries as commuting corridors. Despite the loss of much of the potential foraging habitat on site, it is very unlikely that this proposal would adversely affect the Integrity of the South Hams SAC

Teignbridge District Council concludes that there would **not** be Likely Significant Effects 'alone' or 'in-combination' on features associated with the South Hams SAC.

A full Appropriate Assessment of the plan or proposal will **not** be necessary.

TDC BIODIVERSITY (10/11/2020)

The quantum of compensation required for loss of grassland habitat has been agreed with the developer/developer's ecologist (4 biodiversity units). They are currently exploring ways of delivering this compensation with third parties. I will comment again when definite proposal has been submitted.

TDC BIODIVERSITY OFFICER (03/03/2021)

ISSUES

Offsetting Loss of Grassland Habitat

Discussions regarding the offsetting of loss of grassland habitat are still ongoing. I would ask that permission is not granted until a satisfactory solution has been agreed.

Planting Plans, Drawing numbers: 730/01 Rev B and 730/02 Rev B

It is proposed to plant a number of Beech (*Fagus sylvatica*), Sycamore (*Acer pseudoplatanus*) and English Oak (*Quercus robur*) to the back of the Wildlife Buffer Zone. The Oak are acceptable, but Beech will cast too dense a shade and Sycamore casts shade too early in spring and supports a limited range of invertebrate species.

Therefore please replace the Beech and Sycamore with a selection from: small-leaved lime, field maple, wild service tree, wild cherry, common hawthorn, domestic apple or domestic pear. I realise that most of these will make smaller trees than beech and sycamore, but as tall trees already exist behind I feel they will add structural as well as species variety.

Block Plan 201 Rev K and Block Plan 200 Rev C

These plans indicate that new hedges will be of yew throughout. This is at odds with the two Planting Plans (730/01 Rev B and 730/02 Rev B) which show most new hedges to be of a mix of native hedging plants.

I am happy for a 2.5-3m tall, dense, yew hedge to be grown between the Wildlife Buffer Zone and the development, to act as a screen and help maintain a dark bat flyway corridor. However, it would be preferable to have the mixed native hedging in the western half of the development to maximise wildlife potential and provide landscape/ amenity benefits.

Treatment of Hedge Against Wildlife Buffer Zones

The two Planting Plans seem to differ over the treatment of the hedge against the wildlife buffer zone, with 730/01 showing mixed natives while 730/02 shows yew. I have no objection to this difference, with a yew hedge running east-west and a mixed hedge running north-south, to provide illumination screens.

However, while these hedges are developing their full height (2.5-3m) and density, they must be supplemented with 2m tall opaque fences to provide effective illumination screens. Obviously the fence for the east-west hedge must be erected to the north of the hedge, so the hedging plants get enough sun to thrive. The fences should be removed when the hedges have reached the desired height and density. These factors should be recognised in the Landscape Plan Details and Notes 730/04 Rev B.

TDC BIODIVERSITY OFFICER (19/05/2021)

I have no objection to the submitted CEMP. It does not refer to any wildlife-specific measures, but I had not asked that it should.

TDC BIODIVERSITY OFFICER (25/05/2021)

No objections to the grass retention drawing.

TDC CUSTOM AND SELF BUILD (16/06/2020)

...

Numbers proposed

The reserved matters application form and plans show proposals for 24 dwellings. The applicant argues that the Local Plan allocation of at least 45 homes on the site is unachievable due to the reduced area of developable land available. The outline planning application and successful planning appeal referred to a figure of "up to 30 dwellings".

Were this proposed 24 dwelling scheme to be deemed acceptable it would only require provision of 1 custom build plot to be policy compliant. The submitted scheme makes reference to incorporating 2 custom build plots, however no further details are provided by the applicant.

Further information set out within the conclusion section below should be requested from the applicant.

Plot sizes

Evidence from the Teignbridge Register demonstrates demand from the custom and self build market is primarily for purchasing plots of suitable size for a detached 3 or 4 bedroom dwelling with garaging.

Phasing

The Council will work with the applicant to understand any challenges to the early phasing and release of the custom build element. Clause 2.2 of the S106 agreement requires the custom build plots to be fully serviced and market prior to occupation of 50% of the open market dwellings. The applicant must demonstrate that their phasing takes account of this clause.

...

Conclusion

Please request the applicant's team;

1. Identify the custom build plots
2. Provide a dimensioned red line boundary plan for the relevant plots, identifying plot boundaries suitable for purchaser conveyance purposes.
3. State the measured plot area in sq m
4. Provide a proving plan for each plot, indicating the potential siting and footprint of a suitably sized detached dwelling taking account of associated scaffold / parking / garaging requirements. A footprint from the developer's range of house-types is considered suitable for this purpose. The internal GIA should be stated.

Until these points are resolved **there is a custom build objection** to the current application. I remain keen to work with the applicant to achieve a policy compliant scheme.

TDC HOUSING ENABLER (20/07/2020)

TDC HOUSING ENABLING OFFICER (24/02/2021)

Overview

This response should be read in conjunction with a previous Enabling Team response dated July 2020.

Background

The previous Enabling Team response raised concerns about the appearance, size and on site location of the affordable units. We are grateful that the requested full schedule and breakdown of plot numbers and unit sizes has now been provided with this recently updated submission.

... affordable and market housing must be visually indistinguishable whilst allowing for buildings to be individual and have character. ...

Affordable and market dwellings should be intermixed within the site and concentrations of Affordable Dwellings should be avoided.

...

Conclusion

The application proposes a policy compliant quantum of affordable units and this is welcomed, as is the design of one of the one bed flats and a two bed house to M4(2) accessible and adaptable standard. We also acknowledge confirmation in your breakdown of plot sizes that the affordable units meet NDSS. However concerns remain regarding the mix and layout of the affordable units and the parking arrangements which do not seem to have been addressed. The parking arrangements for the terrace of rented affordable units do not appear to be compliant with requirements for accessible units given that the parking spaces are on the other side of the road. None of the parking spaces for the affordable units are on plot, in disregard of previous Housing Enabling comments and the parking arrangements help to create an impression of the affordable units as of much lower quality and amenity than the market homes.

The clustering of the terrace of much smaller affordable rented units does not meet the requirement for tenure blind design or integration. The breakdown of plot sizes and mix shows the 3 bedroom affordable units as semi-detached and 93sqm in size compared to the 3 bedroom open market house which is detached and has a floor area of 134sqm. The open market units are all detached 3 or 4 bedroom houses with garages and on-site parking which make them clearly distinguishable from the affordable homes. We are also concerned that the 2 self-build plots 6 and 7 are next to the rented units plots 1-5. Registered providers have raised concerns that construction traffic and noise from unbuilt/unfinished self-build units will have a detrimental effect on the quiet enjoyment of residents living in plots 1-5.

The Housing Enabling team are not minded to support the affordable provision as it is currently configured and would suggest that the design of the affordable provision is reconsidered. If this was also combined with the inclusion of some smaller market sale units, that would be more affordable for local people than the affordable homes could be more successfully integrated and appear less cramped and clearly identifiable.

DCC WASTE PLANNING (11/05/2021)

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement. This ensures that waste generated by the development during both its construction and operational phases is managed in accordance with the waste hierarchy, with a clear focus on waste prevention in the first instance. A key part of this will be to consider the potential for onsite reuse of inert material which reduces the generation of waste and subsequent need to export waste off-site for management. It is recommended that these principles are considered by the applicant when finalising the layout, design and levels. Within the Waste Audit Statement submitted, the applicant has made a good attempt to consider the targets for the reuse, recycling and recovery of waste as well as demonstrating the management of waste in accordance with the waste hierarchy.

However, the following points need to be addressed: We note that the applicant has provided information on the amount of demolition and excavation waste that is likely to arise. However, we request that this is done for the construction phase as well.

We note that the applicant has provided information on the type of demolition and excavation waste that is likely to arise. However, we request that this is done for the construction phase as well. The method for auditing the waste produce including a monitoring scheme and corrective measures if failure to meet targets occurs.

Provide detail of the waste disposal method including the name and location of the waste disposal site. We want to query the information provided in Figure 3 (Page 5) of the statement on the percentage of domestic household waste being sent to landfill. Our understanding is that all residual household waste generated in Teignbridge gets treated at the Exeter Energy from Waste site and therefore won't be diverted to landfill.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at:<https://www.devon.gov.uk/planning/planning-policies/minerals-and-wastepolicy/supplementary-planning-document>

DCC HIGHWAYS (22/05/2020)

...

The access currently has very poor visibility. Condition 5 states “No development shall commence until an improvement scheme for the junction with Newton Road has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation, which at the latest shall be prior to the first occupation of any dwelling hereby approved.” To date no application has been approved for this improved access by the local planning authority. The County Highway Authority need to be satisfied that a safe and suitable access to the proposed dwellings can be provided. Due to the site being

served off a private driveway it will not be eligible for adoption under a Section 38 Agreement and will have to remain private in perpetuity.

....

DCC ARCHAEOLOGY (28/05/2021 & 24/02/2021)

The consent granted at appeal for the outline planning application 17/02118/MAJ is conditional upon a programme of archaeological work being undertaken - Condition 6.

To date the Historic Environment Team is unaware that this condition has been discharged. As such, I would advise that the applicant is made aware of this outstanding requirement and that this condition needs to be discharged prior to commencing the development of the site.

....

DCC FLOOD AND COASTAL MANAGEMENT TEAM (LLFA) (30/06/2020)

Recommendation:

At this stage, we object to this planning application because we believe it does not satisfactorily conform to Policy EN4 (Flood Risk) of Teignbridge District Council's Local Plan (2013-2033). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant should submit information on the surface water drainage proposals for the site. Information on what we would require can be found in Section 10 of our SuDS for Devon Guidance (2017) found here

<https://www.devon.gov.uk/floodriskmanagement/planning-and-development/suds-guidance/>. We would be happy to provide another substantive response if additional information is submitted to the local planning authority.

NATURAL ENGLAND (08/09/2020)

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

NATURAL ENGLAND (25/02/2021)

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 08 September 2020.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which **significantly** affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

DEVON GARDENS TRUST (11/02/2021)

We objected to the previous application for outline development of 122 dwellings in August 2013 and the outline application for up to 30 dwellings in September 2013, both of which were refused by your Council. However, this is a reserved matters planning application in accordance with planning appeal reference: APP/P1133/W/18/3207470 that was allowed and planning permission granted on 4th December 2018. We do not wish to comment on the reserved matters.

6. REPRESENTATIONS

- 6.1 The application includes 64 letters of objection and comment (including an objection letter signed by 13 residents) and 9 letters of support. Full copies of all representations are available on the application record. The responses are summarized below:

Comments and objections

- Loss of valued landscape, harm the landscape character and appearance of the area
- Loss of protected (MG5) grassland
- No compensation for the loss of the grassland
- Inadequacy of ecological assessment
- The historic value of MG5 grassland has not been fully considered
- The land owner is already damaging the grassland on site
- Inspector was not given the full facts regarding the MG5 Grassland
- Article 2 of the General Development (Procedure) Order 2015 provides that the details that should be considered on a reserved matters – landscaping would allow the LPA to re-address the retention of the grassland
- The previous ecology report (under application ref: 13/02292/MAJ) should be adhered to
- Poor design, development is not visually attractive, the development will not improve the quality of the area
- Contrary to design, ecology and landscape policies
- The design and layout of the development does not respond to the historic context
- There is no ecological enhancement proposed in this development, contrary to policy
- While an “up to” figure has been given permission, this sets a maximum and not a minimum

- Harm to residential amenity, loss of privacy though overlooking, feeling of being blocked in and enclosed by this development
- Increase in noise from the development
- Disturbance of car lights at night
- Loss of grassland and impact on climate change
- Water run off from the development will cause flooding on adjoining land
- Highway safety, traffic volumes, congestion, conflict on the road and access, pedestrian use of the access is not safe
- No pedestrian or cycle links
- Not a sustainable location
- Impact on birds and bats and other protected species
- Existing infrastructure unable to support the development
- The outline permission should be re-assessed
- Impact on listed buildings and the historic environment
- Co omissions will increase
- Parking provision inadequate
- Discrepancy in statements made in supporting documents
- Services to access the site will have an impact on biodiversity and heritage
- Harm to the quiet tranquility of the area
- Regardless of land ownership, cyclist are likely to access third party land to find quicker routes into town
- Pedestrians walking the private lane would do so in the dark which is dangerous
- The quality of life of existing residents have not been considered in terms of the change in character of this site, movements, lighting, presence of properties and feeling overlooked
- Impact upon TPO trees

Support

- Great addition to the Town
- New homes are need
- Nice to see homes built within a lovely area
- Site is not in a flood plain
- This development will provide high quality housing
- More preferable development to other high density schemes
- This local builder has built on 2 sites in Bovey Tracey, the houses were well designed and of excellent quality and this site would be of the same standard. I therefore think this should be allowed to be built.

7. TOWN / PARISH COUNCIL'S COMMENTS

7.1. Bovey Tracey Town Council (18/05/2020)

- Adverse impact on wildlife, habitats, trees, and other vegetation
- Harm to rare plants/animals
- Lack of infrastructure capacity
- Harmful to the setting of a listed building and its curtilage
- The site has significant archaeological and heritage value
- Increased traffic generation

- Overall impact on the environment following the Town Councils climate emergency declaration

7.2. Bovey Tracey Town Council (22/02/2021)

Resolved:

Following discussions it was agreed to defer the application for consideration on 8th March 2021 and for the Town Clerk to:

- i) Further investigate parishioner/Biodiversity Officer concerns in relation to MG5 grassland – contacting CEBH/Devon Wildlife Trust for comments
- ii) Request further information/images to better display landscaping (if available)
- iii) Investigate reference to MG5 grassland in local and national plans

7.3. Bovey Tracey Town Council (08/03/2021)

- a) 20/00647/MAJ (Deferred) Approval of details for 22 dwellings and associated works (approval sought for appearance, scale, landscaping and layout); Land North of Indio House, Newton Road, Bovey Tracey.

Observations:

The Town Council continues to object to the application, making the following observations:

- i) MG5 Grassland – We support the Biodiversity Officer's objections in particular where it relates to the loss of MG5 grassland. The two fields are identified as County Wildlife Site standard rich semi-improved to unimproved grassland (category MG5) which is priority habitat, the majority of which will be lost to development. We are yet to understand from the documents submitted whether or not the applicant has committed to compensate for the loss of grassland elsewhere and therefore support the need for a Habitat Compensation Scheme to ensure that net biodiversity gain is achieved for any loss of priority grassland habitat. This is also echoed in the emerging Neighbourhood Development Plan (Policy LE4)
- ii) No suggestion of solar panels within the appearance and layout documents – Although it is noted that Air Source Heat pumps are proposed, currently the lack of solar PV is a missed opportunity (emerging Neighbourhood Development Plan Policy H5). This is the ideal opportunity to install, rather than retrospectively fit.
- iii) The emerging Neighbourhood Plan requires the provision of discrete cycle storage/ refuse and recycling storage that is both secure and aesthetically pleasing (Policy H3).
- iv) The emerging Neighbourhood Plan requires developments of above 10 units to be designed to maximise walking and cycling and to encourage health benefits which arise from access to green space (Policy H4). From the application this still appears an uncertainty due to ongoing discussions with landowners that a cycle/pedestrian link to Marsh Path will be successfully delivered.

8. COMMUNITY INFRASTRUCTURE LEVY

- 8.1 The application is liable for CIL which will be calculated when the CIL Liability Notice is issued.
- 8.2 The CIL liability for the custom build plots (Plot P6 and P7) will be calculated when the reserved matters applications are submitted for these plots.

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

- 11.1 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

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IN THE MATTER OF:

LAND AT INDIO HOUSE, BOVEY TRACEY, TEIGNBRIDGE DISTRICT

OPINION

I. INTRODUCTION

1. I am instructed by PCL Planning to advise Kach Developments in connection with their current application to Teignbridge District Council (“**the Council**”) for reserved matters approval (“**RMA**”), reference 20/00647/MAJ, in relation to residential development, comprising 22 dwellings, on Land to the North of Indio House, Bovey Tracey, Teignbridge District (“**the Site**”).
2. The Site was allocated for residential development “*of at least 45 homes*” by Policy BT2A of the Teignbridge Local Plan, which was adopted in May 2014.
3. The application for RMA was made pursuant to an outline planning permission (“**the Outline Permission**”) granted on appeal by Inspector K Taylor BSC(Hons) PGDip MRTPI in a decision letter (“**DL**”) dated 4th December 2018 (PINS reference APP/P1133/W/18/3207470). The Outline Permission is for “*up to 30 dwellings and associated works*” with all matters reserved except access.
4. At DL para. 25, the Inspector stated:

“A condition is necessary to control lighting to safeguard foraging paths for bats. It is also necessary to ensure any trees to be removed are inspected for the presence of bat roosts and mitigation secured if necessary. To prevent harm to the trees on and near the site it is necessary to prevent works, such as the provision of services, under the private drive and to secure an adequate buffer, with suitable landscaping, between the northern boundary and the proposed houses. It is necessary to secure adequate open space and landscaping within the site and that this incorporates biodiversity enhancements.”

5. Consistently with this, Condition 8 of the Outline Permission provides:

“The development shall be carried out in accordance with the mitigation strategy contained in the Ecology Report, Including Bat Survey And Greater Horseshoe Bat Mitigation Scheme, dated 6 September 2017.”
6. An objection to the application for RMA was submitted by the Council’s Biodiversity Officer on 30th June 2020, primarily based on the uncompensated loss of MG5 Lowland Meadow grassland at the site. Devon Wildlife Trust also objected in a letter dated 10th June 2021, as did a group of local residents whose names are at the end of an undated objection letter. I have been provided with and read all these objection letters.
7. The application for RMA was recommended for approval by the Council’s case officer, in a report (“**the Officer’s Report**”) prepared for the meeting of the Council’s Planning Committee on 15th June 2021. On the issue of ecology, the advice in the Officer’s Report included the following:

“3.87 When the appeal was allowed the Inspector imposed a condition requiring the development to be undertaken in accordance with approved Ecological Survey (‘Ecological Report and Greater Horseshoe Bat Mitigation Scheme’, by George Bemment Associates, dated Sept 2017). **There was no requirement in the approved Ecological Survey or as part of the appeal decision that required the applicant to retain the grassland or to provide compensation.**

3.88 Letters of representation have suggested that ecology reports for an earlier development at this site (13/02292) are referred to in the outline approved Ecology Survey and therefore there is the ability at RMA stage for the LPA to require retention and/or compensation.

3.89 In 2013, application 13/02292 (which was for a larger area) submitted three ecological reports and a Bat and Dormouse Report by Bluebell Ecology:

 - The July 2013 Preliminary Ecological Appraisal by Sunflower International recognises the diversity of the 2 ‘North of Indio’ fields, one of which, at the time was to be retained as POS. It recommends mitigation for species but not for habitats; and
 - The November 2013 Preliminary Ecological Appraisal by

Sunflower International recommends: "Such is the complexity of the site that a wildlife and habitat management plan will need to be produced for the site" and "5.2 The needs of the Local Authority could, I believe, be met by retention of as much of the old grassland as possible to the north of the main drive – particularly the northwestern field that adjoins St Johns Close." These two fields recommended for retention are of course the two fields that were later granted permission at appeal.

- 3.91 Imposing a requirement to compensate for the loss of the grassland at RMA stage would not be reasonable as it is not an issue that is specifically addressed though the approved Ecology Survey or a requirement of the Inspector in the conditions imposed at appeal. In addition to this, a financial contribution for the delivery of off an *[sic]* off-site compensatory habitat would need to be secured though a S106 agreement and this cannot be imposed at RMA stage.
- 3.92 It is also important to note, that while this site is classified as a priority habitat, there is no protection for the grassland, the applicants could legally cut or spray the grassland and remove its current wildlife interest.
- 3.93 Notwithstanding the above, the greatest effort has been made to consider steps that can be taken within the scope of the RMA application. The following options have been discussed with the applicant and the TDC Biodiversity Officer
- a) Provide additional biodiversity within the site: The TDC Biodiversity Officer has advised they have secured everything they can and there is no room left for further biodiversity enhancements
 - b) Remove the area of grassland to be developed and translocate it to another site – The TDC Biodiversity Officer would require an available site for this to be undertaken. This approach would also be subject to conditions and require the applicant to work with a third party which would be out of the scope of the RMA application.
 - c) Retained areas of grassland that are not being developed and positioning of protective fencing before site clearance commences.
- 3.94 Taking into consideration the scope of the RMA application, it is considered that option c) provides the right solution and would provide some protection of the grassland that can be retained. Following this, the applicant has prepared a grassland retention and protection drawing (below)."

8. Despite this advice, at the meeting on 15th June 2021, the Committee resolved to defer consideration of the application in the light of the ecology objections.
9. Against this background, I am asked to advise: on the following questions:
 - a. Whether the matters relating to the loss of MG5 grassland are legitimate grounds for objection to the RMA application
 - b. Whether there is any legal protection for the grassland (outside of the planning process) and therefore whether the applicants could cut/ spray/ plough the land; and
 - c. Whether the Council could require the RMA proposals to deliver 'biodiversity net gain', which would likely require some form of off-site compensation.
10. In summary, I consider that the answer to each of these questions is 'No'. I agree with the reasoning on this issue in the Officer's Report, which is legally sound.

II. ANALYSIS

Whether the matters relating to the loss of MG5 grassland are legitimate grounds for objection to the RMA application

11. It is well established that outline planning permission operates as the framework for approval of reserved matters pursuant to it. In particular:
 - a. Reserved matters may not be used to alter the nature of the development for which outline permission has been granted: see e.g. *Centre Hotels (Cranston) Ltd. v. Secretary of State for the Environment* [1982] J.P.L. 108
 - b. The local planning authority cannot refuse to approve reserved

matters on grounds going to the principle of the development itself, including the parameters approved by the outline planning permission. There are many cases that demonstrate this. A good example is *Proberun Ltd. v. Secretary of State for the Environment* [1990] 3 P.L.R. 79. In this case, outline permission had been granted by the Secretary of State on appeal, notwithstanding that it was clear that satisfactory access could not be provided on the site. The Court of Appeal held that the Secretary of State could not subsequently refuse an application for RMA on the ground of inadequate access, because it must have been in his contemplation when granting the outline permission that the only available access was unsatisfactory.

12. The principle of the development of “*up to 30 dwellings and associated works*” at the Site is fixed by the Outline Permission and cannot be questioned at the RMA stage. By necessary implication, the same also applies to the loss of MG5 grassland associated with that development. Whether that loss ought to be compensated by off-site enhancements was a matter which bore upon the decision in principle to authorise the development at the outline stage.
13. Consistently with this, the Inspector considered that ecological matters were relevant to the decision to grant the Outline Permission, hence the reasoning at DL para. 25 and the imposition of Condition 8. It is not open to objectors or the Council to contend that the Inspector’s reasoning and/or Condition 8 were inadequate in this respect. The DL was not challenged and therefore is required by law to be accorded all the effects of a valid decision.¹

¹ There is authority at the highest level to the effect that a public law decision, including in the planning and environmental context, is to be treated as having all the effects in law of a valid decision unless and until it is quashed by the High Court or an appellate court; it cannot be collaterally challenged in the context of a subsequent decision-making process. See *R (Noble) v. Thanet District Council* [2006] 1 P.& C.R. 13 per Auld LJ at paras. 42-61.

14. I therefore agree with the analysis expressed in the Officer's Report, quoted at para. 7 above, to the effect that the uncompensated loss of MG5 grassland is not a legitimate ground for objecting to the RMA application. The Council would face a real risk of an award of costs, for unreasonable behaviour, if it were to refuse or continue to fail to determine the application on this ground.

Whether there is any legal protection for the grassland (outside of the planning process) and therefore whether the applicants could cut/ spray/ plough the land

15. No. The Officer's Report is correct in this respect too.

Whether the Council could require the RMA proposals to deliver 'biodiversity net gain', which would likely require some form of off-site compensation.

16. No. For the reasons outlined at paras. 11-15 above, the effect on biodiversity of the principle of developing "up to 30 dwellings and associated works" at the Site was a matter for the outline stage and the decision at that stage cannot be questioned or undermined at the RMA stage.

17. Further, and in any event:

- a. there is currently no legal requirement for planning applications to demonstrate biodiversity net gain ("BNG"). Such a legal requirement may come into force in future if the Environment Bill obtains Royal Assent and is enacted, but the Bill is not yet law.
- b. NPPF para. 170(d) refers to "net gains" but does not require a specific %age BNG. Mere enhancement is sufficient. As to this, the Inspector's conclusion at DL25 that the open space and landscaping proposed "incorporates biodiversity

enhancements". It is not open to the Council or objectors belatedly to challenge this conclusion now.

III. CONCLUSION

18. I have nothing to add as currently instructed but would be happy to answer any further questions arising out of the advice above, if and when required.

CHARLES BANNER Q.C.

**Keating Chambers
15 Essex Street
London WC2R 3AA**

5th July 2021

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TEIGNBRIDGE DISTRICT COUNCIL

PLANNING COMMITTEE

CHAIRMAN: Cllr Mike Haines

DATE: 20 JULY 2021
REPORT OF: Business Manager – Strategic Place
SUBJECT: Appeal Decisions

1 21/00005/NON DET HACCOMBE WITH COMBE - 2 Brook Cottages Netherton

Appeal against non-determination of planning permission for 20/01158/FUL - Conversion and extension of redundant agricultural buildings to a dwelling including removal of mobile home and new vehicular access

APPEAL DISMISSED FOLLOWING NON DETERMINATION AND COSTS REFUSED

2 21/00010/NON DET KENTON - Dolphin Inn Fore Street

Appeal against the Non-determination of 20/00710/FUL - Demolish extensions, convert main building into two dwellings and construct a new public house

APPEAL DISMISSED FOLLOWING NON DETERMINATION AND COSTS REFUSED

3 21/00009/REF BOVEY TRACEY - Five Wyches Farm Bovey Tracey

Appeal against the refusal of application of prior approval of permitted development rights 20/01412/NPA - Application for Prior Approval under Part 3 Class Q (a) & (B) and paragraph W of the GPDO for change of use of an agricultural building from agricultural use to one dwelling

APPEAL DISMISSED FOLLOWING REFUSAL

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

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