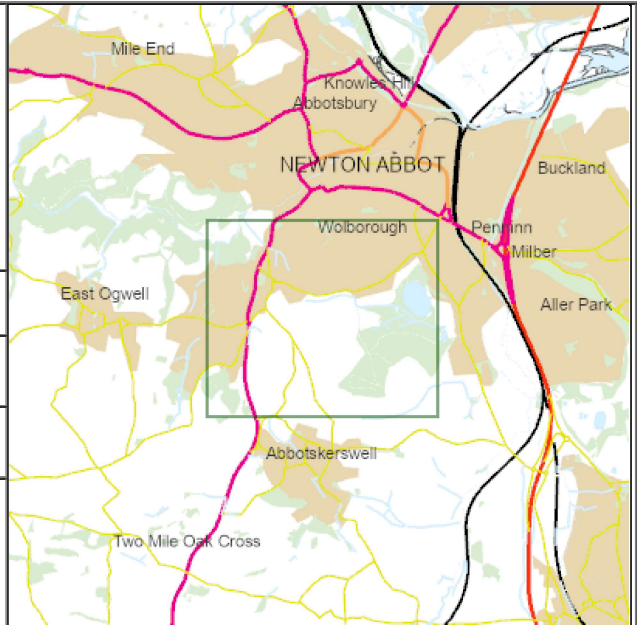


Planning Committee Report

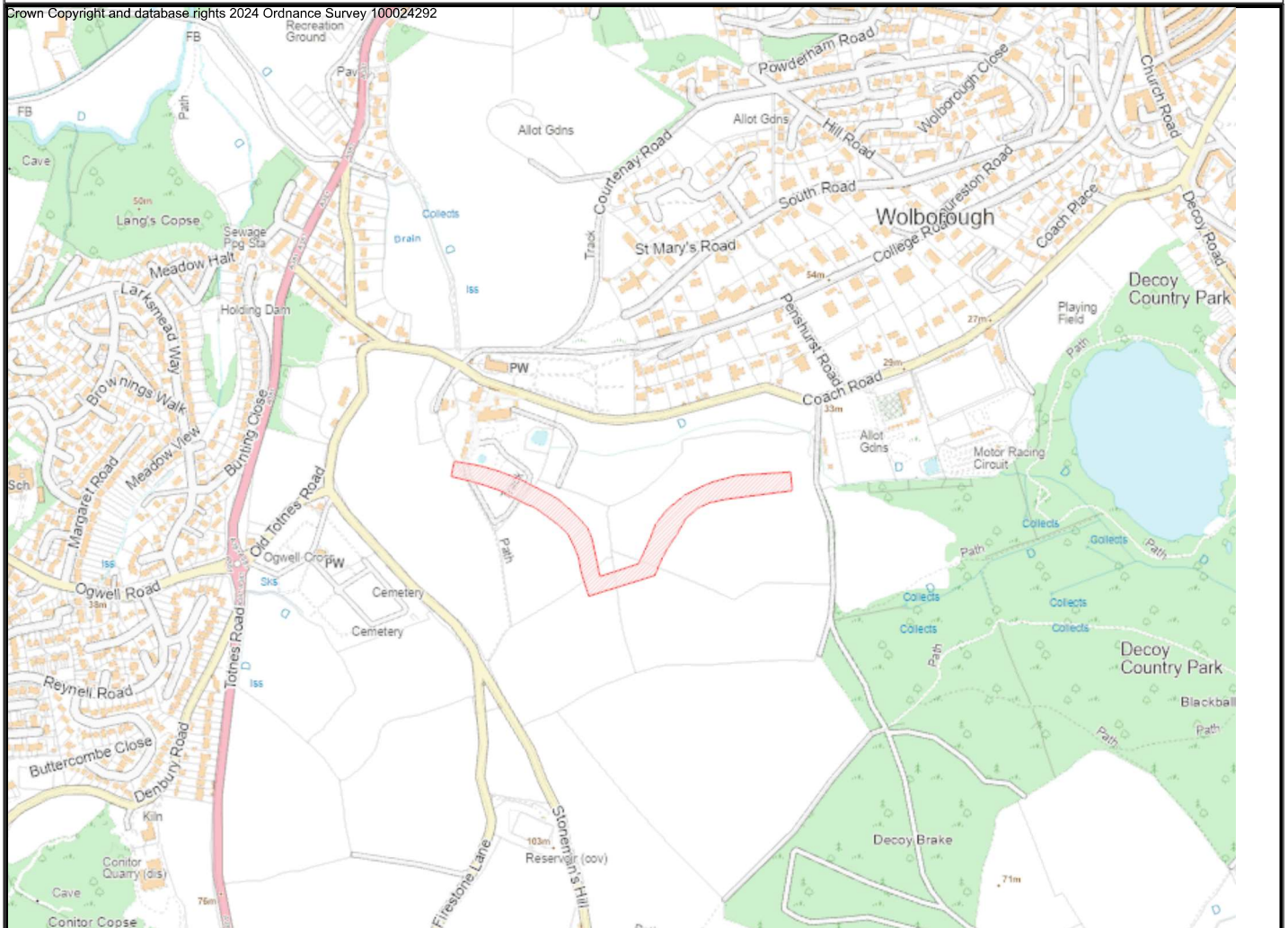
Chairman: Cllr Colin Parker

Date	23 September 2024
Case Officer	Patrick James
Location	Wolborough Barton Coach Road Newton Abbot Devon TQ12 1EJ
Proposal	Approval of reserved matters (appearance, layout, scale and landscaping) for a section of road (Phase 2.1) of the approved development in accordance with Condition 1 of outline permission 17/01542/MAJ (APP/P1133/W/18/3205558)
Applicant	Vistry Homes Limited Baker Estates Limited And The Rews
Ward	College
Member(s)	Cllr Janet Bradford, Cllr Liam Mullone
Reference	23/00597/MAJ



[Online Details and Documents](#)

RECOMMENDATION: RESERVED MATTERS APPROVAL



1. REASON FOR REPORT

The Head of Development Management considers that the application merits oversight by the Planning Committee.

2. RECOMMENDATION

THAT RESERVED MATTERS APPROVAL BE GRANTED subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:

Date Received	Drawing/reference number	Description
22 May 2024	19545-PHL-02-13 REV I	Highway Profiles Sheet 1 of 3
22 May 2024	19545-PHL-02-14 REV J	Highway Profiles Sheet 2 of 3
22 May 2024	19545-PHL-02-15 REV J	Highway Profiles Sheet 3 of 3
22 May 2024	19545-PHL-02-31 REV B	Cross Sections
22 May 2024	959-07	Phase 2 Infrastructure RMA Tree Pit Detail in verge
20 May 2024	959-01F	Phase 2 Infrastructure RM Application Boundary
20 May 2024	19545-PHL-02-27 REV A	Footway Gradients
20 May 2024	19545-PHL-02-23 REV K	Road Appearance Sheet 1 of 3
20 May 2024	19545-PHL-02-22 REV D	Site Clearance Plan Sheet 3 of 3
20 May 2024	19545-PHL-02-21	Site Clearance Plan Sheet 2 of 3
20 May 2024	19545-PHL-02-20 REV D	Site Clearance Plan Sheet 1 of 3
20 May 2024	19545-PHL-02-16 REV O	Forward & Junction Visibility Sheet 1 of 3
20 May 2024	19545-PHL-02-09 REV O	Extent of Adoption Sheet 1 of 3
05 Jul 2024	19545-PHL-02-25 REV I	Road Appearance Sheet 3 of 3
05 Jul 2024	19545-PHL-02-18 REV L	Forward & Junction Visibility Sheet 3 of 3
05 Jul 2024	19545-PHL-02-11 REV L	Extent of Adoption Sheet 3 of 3
05 Jul 2024	959-DB10A	Phase 2 Infrastructure RMA Landscape Section Details
11 Jul 2024	19545-PHL-02-01 REV O	Highway Layout Sheet 1 of 3
11 Jul 2024	19545-PHL-02-03 REV O	Highway Layout Sheet 3 of 3
12 Jul 2024	19545-PHL-02-02 REV R	Highway Layout Sheet 2 of 3
12 Jul 2024	19545-PHL-02-05 REV T	Swept Path Analysis-Bus
12 Jul 2024	19545-PHL-02-06 REV P	Swept Path Analysis Sheet 1 of 3
12 Jul 2024	19545-PHL-02-10 REV O	Extent of Adoption Sheet 2 of 3
12 Jul 2024	19545-PHL-02-17 REV N	Forward & Junction Visibility Sheet 2 of 3
12 Jul 2024	19545-PHL-02-24 REV K	Road Appearance Sheet 2 of 3
15 Jul 2024	959-DB013	Infrastructure RMA Tree Pit Detail Primary Road
15 Jul 2024	959-DB02 REV J	Phase 2 Infrastructure RMA Landscape Proposals
15 Jul 2024	959-DB03J REV J	Phase 2 Infrastructure RMA Landscape Proposals

15 Jul 2024	959-DB04 REV J	Phase 2 Infrastructure RMA Landscape Proposals
15 Jul 2024	959-DB09 REV A	RM2 Infrastructure Render
15 Jul 2024	959-DB10 REV B	Phase 2 Infrastructure RMA Landscape Section Details
09 Aug 2024	19545 PHL-01-06 Rev B	Hard Landscaping Details

REASON: In order to ensure compliance with the approved drawings.

NB: The conditions attached to the outline permission, and the obligations secured under the s106 legal agreement remain in force.

3. INTRODUCTION/BACKGROUND

- 3.1. This application seeks the approval of the second set of reserved matters to be submitted following the allowance of the appeal on the grounds of non-determination of the hybrid permission by the Secretary of State (SoS) as below:

Application Number: 17/01542/MAJ

Site Address: Land at Wolborough Barton, Coach Road, Newton Abbot TQ12 EJ

Development: HYBRID application comprising:

Outline proposal for mixed use development comprising circa 1210 dwellings (C3), a primary school (D1), up to 12650 sq m of employment floorspace (B1), two care homes (C2) providing up to 5,500 sq m of floorspace, up to 1250 sq m of community facilities (D1), a local centre (A1/A3/A4/A5) providing up to 1250 sq m of floorspace, open space (including play areas, allotments, MUGA) and associated infrastructure (Means of Access to be determined only); and

Full proposal for a change of use of existing agricultural buildings to hotel (C1), restaurant (A3) and bar/drinking establishment (A4) uses, involving erection of new build structures, construction of an access road and parking, plus other associated conversion and minor works.

- 3.2. The Secretary of State allowed the appeal and granted planning permission on 3rd June 2020, subject to conditions and 2 legal agreements.
- 3.3. This application limits itself to seeking the approval of Reserved Matters for appearance, layout, scale and landscaping for 2 joined sections of road, approximately 720m length in total. To the west would lie an approximately 400m length of the main link road through the wider site. Joining this, and stretching to the east, would be an approximately 320m length of 'primary' road to serve areas of residential development.

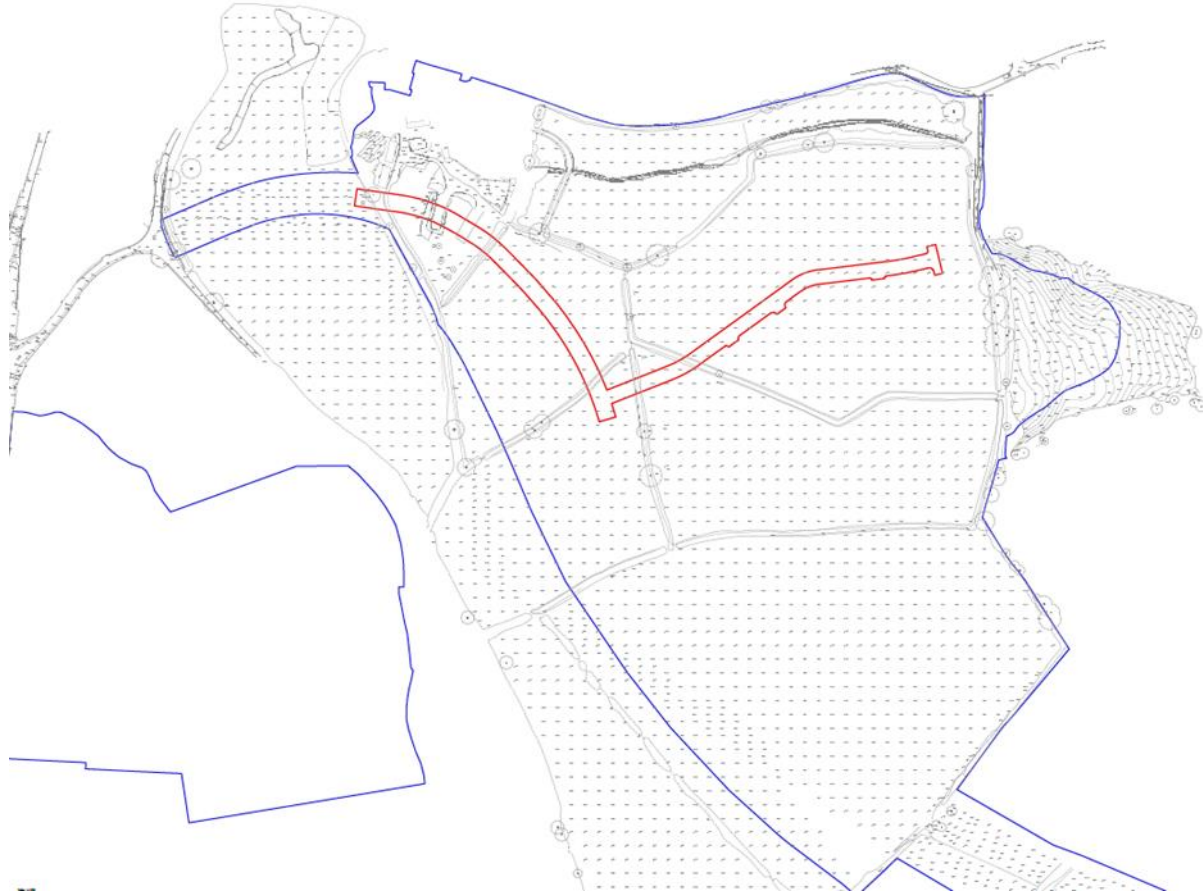


Figure 1: Site Location Plan.

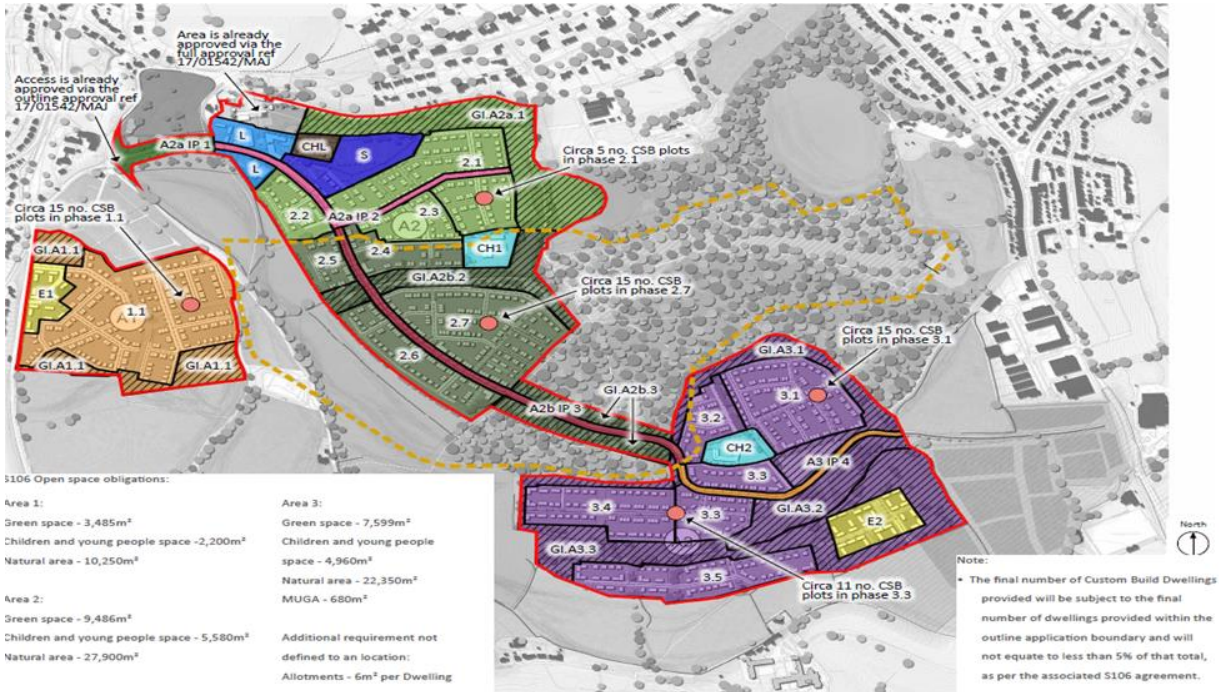


Figure 2: Approved Phasing Plan (17/01542/COND2)



Figure 3: Context Plan.

3.4. Area 2, Infrastructure Phase 2 is defined within the site-wide phasing plan required by outline Condition 5 of the outline permission, and as approved under application reference 17/01542/COND2, as above in Figure 2.

3.5. The plans above (Figures 2 & 3) provide information of the surrounding development that this road would serve. Moving from West to East on figure 2:

- the light blue area ('L') is to be the local centre, with a selection of shops. The application for the approval of the reserved matters has recently been submitted and is currently undergoing the validation process.
- The dark blue area ('S') is to be the primary school. Outline details of this area have recently been submitted to Devon County Council's education department, in line with the clauses of Schedule 2 of the s106 legal agreement entered into as part of the outline permission. It should be noted too that provision of the school is additionally the subject of Condition 28 attached to the outline permission;
- green area 2.1 is the subject of currently-live application for the approval of the reserved matters ref. 24/00220/MAJ, for 150 homes. It is hoped that this application will come before a meeting of the Committee in the near future;
- green areas 2.2 and 2.3 are the subject of currently-live application for the approval of the reserved matters reference 23/01310/MAJ, for 94 homes, to be considered at the August Planning Committee meeting; and,
- green hatched area GLA2a1 is the subject of a recently-submitted application for the approval of the reserved matters, ref. 24/00694/MAJ relating to public open space, green infrastructure and drainage infrastructure.

- 3.6. Being submitted by the consortium of developers responsible for the main part of the wider site, the current application limits itself to the details relating to a longer section of road that connects to the western end of the main link road as approved under ref. 22/02069/MAJ at meeting of this Committee in March this year. For clarification, 'Access' insofar as it relates to the western site entrance, was approved at the outline stage and so is not a matter reserved for consideration now.
- 3.7. 'Scale' is defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as: *'the height, width and length of each building proposed within the development in relation to its surroundings.'*
- 3.8. Notably 'scale' is included within the list of reserved matters for which approval is hereby sought. However, as there are no buildings within this phase, there is no scale to be approved.
- 3.9. On this basis then the matters to be assessed in response to this application are considered to be:
- The extent to which the submission accords with the outline part of the hybrid permission
 - Layout
 - Appearance (inc. heritage)
 - Landscaping
 - Biodiversity/Habitat Regulations Assessment (HRA)
 - The climate crisis/carbon reduction
 - Other matters
 - Consideration of objections
 - Conditions
 - Planning balance & conclusion

4. DESCRIPTION OF SITE

- 4.1. The site – in plan a shallow 'V'-shape - runs approx. east-west – across parts of 5 hedge-bound fields that lie to the south of Newton Abbot town, and to the east of the village of Ogwell. More specifically, the site runs between the dwellings and barns of Wolborough Barton farmstead to the west, and almost to Magazine Lane ("Newton Abbot Footpath 3") which runs north-south to the east, and which forms the western boundary of Decoy Country Park.
- 4.2. The land is undulating, set at circa 51m above Ordnance datum (AOD) at the west end, rising to circa 56m AOD in the central section, and then running down to circa 35m AOD at the east end.
- 4.3. The grade I listed Parish Church of St Mary the Virgin stands on high ground (c63m AOD) to the north-east, within part of the Wolborough Hill Conservation Area. The site is considered to lie within the settings of both of these heritage assets.

- 4.4. A further public footpath - Newton Abbot Footpath 5 – runs approx. north-south across the main axis of the proposed road, adjacent to the west end of the application site.

5. SITE HISTORY

17/01542/MAJ (18/00035/NONDET) - Mixed use (hybrid application) proposal involving: Outline - Mixed use development comprising up to 1,210 dwellings (C3), a primary school (D1), up to 12,650 sq. m of employment floorspace (B1), two care homes (C2) providing up to 5,500 sq. m of floorspace, up to 1,250 sq.m of community facilities (D1), a local centre (A1/A3/A4/A5) providing up to 1,250 sq. m of floorspace, open space (including play areas, allotments, MUGA), and associated infrastructure. (Means of Access to be determined only) Full - Change of use of existing agricultural buildings to hotel (C1), restaurant (A3) and bar/drinking establishment (A4) uses, involving erection of new build structures, construction of an access road and parking, plus other associated conversion and minor works. – ALLOWED on APPEAL (3rd June 2020) by the (then) Secretary of State.

22/02069/MAJ - Approval of details for phase 2 link road in accordance with condition 1 of outline planning permission 17/1542/MAJ (approval sought for appearance, layout, scale and landscaping)
- RESERVED MATTERS APPROVAL (22 March 2024)

22/00810/MAJ - Approval of reserved matters pursuant to outline planning permission 17/01542/MAJ for residential development of 236 dwellings (Use Class C3), public open space including allotments and children's play space, a surface water attenuation feature and associated landscaping and infrastructure - PENDING CONSIDERATION.

23/01310/MAJ - Reserved matters application, pursuant to outline planning permission 17/01542/MAJ, for the construction of 94 dwellings (Parcel 2.2 and Parcel 2.3), public open space and children's play space, pedestrian and vehicular links and associated landscaping and infrastructure- PENDING CONSIDERATION.

24/00220/MAJ - Reserved matters application pursuant to outline planning permission 17/01542/MAJ for the construction of 150 dwellings (Phase 2.1) (approval sought for the access appearance, landscaping, layout and scale) – PENDING CONSIDERATION.

24/00694/MAJ - Reserved matters application pursuant to outline planning permission 17/01542/MAJ for the construction of public open space, green infrastructure and drainage infrastructure (Area 2a Public Open Space and Green Infrastructure Phase 1). Approval sought for appearance, landscaping, layout and scale - PENDING CONSIDERATION

17/01542/COND1 - Discharge of outline Condition 6 (masterplan and design code) on planning permission 17/01542/MAJ. – APPROVED (23rd June 2023)

17/01542/COND2 - Discharge of outline Condition 5 (phasing plan) on planning permission 17/01542/MAJ. – APPROVED (21st December 2023)

17/01542/COND3 – Partial discharge of outline Condition 18 (archaeological work) on planning permission 17/01542/MAJ – APPROVED (28th December 2022)

17/01542/COND4 – Partial discharge of outline Condition 19 (geotechnical assessment) on planning permission 17/01542/MAJ – APPROVED (14th February 2023)

17/01542/COND5 - Discharge of full Conditions 3 (drainage report), 11 (highways), 13 (CEMP), 15 (arboricultural report), 16 (archaeological report), 17 (contamination report) & 19 (ecological mitigation) on planning permission 17/01542/MAJ – APPROVED (24th May 2023)

17/01542/COND6 – Partial discharge of outline Condition 9 (Low emissions strategy) on planning permission 17/01542/MAJ – APPROVED (9th January 2024)

17/01542/COND7 - Discharge of outline Condition 10 (surface water drainage strategy) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND8 - Discharge of outline Condition 17 (partial - tree survey) on planning permission 17/01542/MAJ – APPROVED (11th January 2024)

17/01542/COND9 - Discharge of outline Condition 14 (CEMP) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND10 – Discharge of outline condition 12 (external lighting) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND11 - Discharge of outline conditions 16 and 17 (tree and hedge protection) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND12 – Discharge of conditions 7 (ecological mitigation) and 8 (LEMP) – APPROVED (8th May 2024)

17/01542/COND13 – Discharge of condition 15 (highway details)– APPROVED (22nd May 2024)

17/01542/COND14 – Discharge of condition 10 (surface and ground water drainage) – APPROVED (11th June 2024)

17/01542/COND15 – Discharge of condition 28 (education provision) – PENDING CONSIDERATION

17/01542/AMD1 - Non material amendment (adjustment to wording of Condition 6) to planning permission 17/01542/MAJ – WITHDRAWN

17/01542/AMD2 - Non material amendment (adjustment to wording of Condition 6 masterplan and design code) to planning permission 17/01542/MAJ – APPROVED (1st July 2022)

17/01542/AMD3 - Non-material amendment (adjustment to wording of Condition 25 custom and self-build design code) to planning permission 17/01542/MAJ – APPROVED (23rd October 2023)

17/01542/AMD4 - Non-material amendment (adjustment to wording of Condition 4) to planning permission 17/01542/MAJ- APPROVED (8th January 2024)

6. PLANNING CONSIDERATIONS

The extent to which the submission accords with the outline part of the original hybrid permission.

- 6.1. Condition 6 (Masterplan and Design Code) required that a Masterplan and Design Code should be formulated broadly in accordance with the Design and Access Statement, the outline permission's Illustrative Masterplan (Ref: 141204I 02 02 k), and the Parameter Plan 141201 P01 Rev B. Such Masterplan and Design Code were the subject of application ref. 17/01542/COND1, and they were approved on 23rd June 2023. The condition requires that any application for the approval of reserved matters should comply with the approved Design Code.



Figure 4: Illustrative Master Plan approved at outline.



Figure 5: Parameter Plan extracted from the outline.



Figure 6: Approved Design Code Masterplan (extract)

- 6.2. It can be seen from the above plans that the route of the section of the link road that is the subject of the current application is broadly consistent across the plans.
- 6.3. Subject to the further analysis (below), in the light of the relationship of the submission to the approved Design Code masterplan it is considered that the reserved matters applied for do accord with the requirements of the outline part of the original hybrid permission.

Layout

- 6.4. Layout is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 as *the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development*.
- 6.5. The layout has been assessed by officers against the considerations of Building for a Healthy Life, as embedded in the National Planning Policy Framework December 2023 (the NPPF) at para 138. The submission scores highly in this regard. In particular the layout of the scheme would invite trips to be made by bicycle/foot, and feature street trees.
- 6.6. It is considered that the layout positively responds to the existing topography, given the parameters of the outline permission.
- 6.7. The highways as here applied for accord with the design and access statement of the outline, and the approved Design Code. In particular, the carriageway of the road is flanked by both a 2m wide footway and a 3m wide cycle/pedestrian path, each separated by a vegetated margin as shown on lateral section plan drawing reference 959-DB10A.
- 6.8. It is considered that the scheme aligns well with the thrust of Teignbridge Local Plan 2013-2033 (TLP) Policy S9 (Sustainable Transport) in guiding future occupants away from dependence upon private motor cars, and instead towards cycling and walking as transport modes of choice.
- 6.9. It is noted that initially the Highway Authority had raised some concerns and sought additional details in respect of the proposal. The main concerns related to the proximity of the staggered junctions, and the crossing of individual dwelling driveways over the cycleway. This resulted in potential conflict between users. Revised plans have been submitted to address these issues. It is proposed for the green verges to be relocated with the cycleway to be sited directly adjacent to the highway in areas of potential conflict. Such approach is designed to allow for improved visibility for vehicles emerging from the driveways, as well as creating separation of cycleway users and the driveways. The staggered junction arrangements have remained in the latest revisions. In consultation with the Highway Authority the revised proposals are considered to be acceptable. The road design is compliant with Manual for Streets. The staggered junction arrangement whilst not optimal, is acceptable from a highway safety point of view, this is because the relevant section of the road is a no through route (with traffic levels likely to be reduced). In respect of the interactions between driveways and the cycleway, the amended design reduces the risk of conflict between users sufficiently. Consequently, it is concluded that the proposal would not result in an adverse impact upon highway and traffic safety.

- 6.10. Lastly the layout would be both legible and permeable, in a manner conducive to cycling and walking. It is considered that the details relating to layout accord with TLP Policies S2 and NA3; and Newton Abbot Neighbourhood Development Plan (NANDP) Policies NANDP2, NANDP4.

Appearance (inc. heritage)

- 6.11. *Appearance - the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour, and texture.*
- 6.12. Mindful of the site's location within the settings of both the grade I listed Parish Church of St Mary the Virgin and the nearest part of the Wolborough Hill Conservation Area to the north, consideration must be given to the impact of materials and texture of the development (as above). Little has been submitted in this regard thus far. However, it is considered that these details fall within the scope of outline Condition 15 (full highways details).
- 6.13. The comments of Historic England are noted – but they must be seen in the context of the allowance of the appeal by the Secretary of State. His analysis in his decision (paragraphs 20, 23 and 24) with regard to the heritage impacts of the wider scheme is noted and concurred with for this phase, i.e., that the appearance of the road would have a neutral impact upon the character and appearance of the Wolborough Hill Conservation Area. Similarly, it is considered that the appearance of the road within the setting of the church would have a less-than-substantial harm on that asset. This harm will be returned to in the discussion of the planning balance below.

Landscaping

- 6.14. *Landscaping - the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.*
- 6.15. No trees would need to be felled for these reserved matters. Conversely, in terms of new planting, the Landscaping plan indicates that 32 new trees would be planted to line the road. Details of the trees to be planted have been supplied. These include hazel, beech, whitebeam, lime, ornamental pear and acers.
- 6.16. With regard to grassland cover, the plans specify that a diverse flowering lawn mix will be deployed, together with a mix of 5 different grasses. It is noted that the landscaping details accord with the suggestions of TDC's Biodiversity officer.
- 6.17. As above, details of the materials for the hard landscape features of the road are the subject of Condition 15 (full highways details) attached to the outline.

Biodiversity

- 6.18. The environmental impact of the overall development proposal was considered at the outline stage with reference to the submitted environmental statement. Impacts on levels of biodiversity are subject to the control exerted through Conditions 7 (Ecological Mitigation Strategy) and 8 (Landscape and Ecology Implementation and Management Plan).
- 6.19. With regard to the recently introduced requirement for assessment using the DEFRA biodiversity net gain metric, as the original hybrid permission pre-dates its introduction, there is no requirement.
- 6.20. To conclude, it is considered, subject to the controls as specified within the relevant conditions attached to the original hybrid permission, that the proposal would accord with development plan policy and national guidance with regard to biodiversity.

Habitat Regulations Assessment/Greater Horseshoe Bats

- 6.21. The site lies within the Landscape Connectivity Zone of the South Hams Special Area of Conservation (SAC). As part of the assessment of these reserved matters attention has had to be given to amending the design so as to ensure that no harm to Greater Horseshoe Bats would result.
- 6.22. For the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) Teignbridge District Council has consulted Chrissy Mason MSc MCIEEM, Lead Planning and Technical Ecologist of Burton Reid Associates.
- 6.23. She is of the view that, subject to the approval of an appropriate lighting scheme prior to installation being in place in accordance with the requirements of Condition 12 (lighting), and subject to the works being undertaken strictly in accordance with the submitted document, it can be concluded that the proposals will not adversely affect the integrity of South Hams SAC alone or in combination with other plans or projects.
- 6.24. Natural England have been re-consulted and concur with this assessment.
- 6.25. Accordingly, for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) Teignbridge District Council hereby adopts the conclusion dated 8th April 2024 of Chrissy Mason MSc MCIEEM, Lead Planning and Technical Ecologist, Burton Reid Associates as its own and, as Competent Authority, is able to conclude that there will be no effect on the integrity of the South Hams Special Area of Conservation (SAC).

The climate crisis/ carbon reduction

- 6.26. TLP S7 - Carbon Emission Targets, seeks a reduction in carbon emissions per person in Teignbridge of 48% by 2030. Policy EN3 - Carbon Reduction Plans, requires major developments to indicate how the carbon reduction will be achieved, including consideration of materials, design, energy, water, waste, travel and so on.
- 6.27. The site is well-related to the services and job opportunities of the town. Cycle access largely separated from the carriageway would be provided both east and west. Pedestrian access would also be provided in this manner, and additionally north-

south via Footpath 5 and, via a link to be provided within the adjacent green infrastructure phase, via Footpath 3 (Magazine Lane). In line with parameter plans 4035 020 Rev A and 14.1204 P01 Rev B as referred to in Condition 6, cycle connectivity to and from the town would be similarly facilitated.

- 6.28. In addition, the plans include pro-active planting, primarily for amenity impact, but which would also serve to help reduce rates of climate change.
- 6.29. The recommendations made by the Authority's Climate Change Officer are noted. The request for provision of details on the sourcing of materials is considered to go beyond what can be considered at reserved matters stage and as a matter of principle should be secured at outline stage when the actual planning permission is granted. In respect of the recommendation for pedestrian/cyclist warning signs and markings at junctions it is considered that such details can be agreed under Condition 15 of the outline. Finally, in respect of the location of the bus stop within a lay-by, the Highway Authority has raised no objections to such arrangement. In any case the inclusion of the lay-by is beneficial in this location as the bus stop would be serving the Local Centre where buses are likely to stop for longer periods. The location of the bus shelter as shown on the submitted plans is considered appropriate as it is on the edge of the cycle and thus would limit conflict between future users.
- 6.30. The scheme has thus taken opportunities to limit its impact.

Other matters

- 6.31. There are considered to be no immediately adjacent neighbours for whom the approval of these reserved matters (as opposed to the approval of the original hybrid permission by the Secretary of State in 2020) would have a material impact.

Consideration of objections

- 6.32. It is noted that a number of the points raised in objection do not limit themselves to consideration of the reserved matters for which approval is here being sought, but instead address the principle of the development, or express concern relating to matters controlled through conditions attached to the original hybrid permission.
- 6.33. In particular, a concern has been raised relating to work on an intended NA3 Masterplan document, to have formed part of the local plan, having been discontinued - and that this in turn would lead to harmful, piecemeal development.
- 6.34. In contrast the officer view is that the 2 masterplans secured by conditions attached to the Wolborough Barton original hybrid permission (covering the site of the current reserved matters application) and that similarly secured for the adjacent Langford Bridge original hybrid permission, together serve to guide the development process across the entire NA3 allocation. All subsequent applications for reserved matters approval are required to be assessed against these (congruent) masterplans.
- 6.35. Furthermore, additional environmental protection is secured by the numerous conditions attached to the original hybrid permission which inter alia seek to address the climate crisis and biodiversity levels.
- 6.36. Notably the Wolborough Fen Site of Special Scientific Interest (SSSI) is protected through Condition 20 of the outline permission; a Construction Environmental

Management Plan is required through Condition 14; and impacts on wildlife through Conditions 7 (Ecological Mitigation Strategy); 8 (Landscape and Ecology Implementation and Management Plan); and 12 (Lighting).

6.37. The express concerns of Natural England, TDC's Biodiversity officer (subsequently withdrawn), the Devon Wildlife Trust and others with regards to the integrity of the Wolborough Fen are noted. An updated response from Natural England has been provided raising no objection to this application and highlighting the Local Planning Authority's (LPA) responsibility as a public body to conserve and enhance the special features of the SSSI. This matter was explored in depth as the public enquiry that culminated in the Secretary of State's (SoS) decision of 3rd June 2020. Noteworthy within the text of the decision is paragraph 82 of the Inspector's report to the SoS, which reads:

6.38. *"Both the Council and NE have now withdrawn their previous objection in relation to impact on Wolborough Fen SSSI and agree that this issue can appropriately be dealt with by planning condition."*

6.39. The current objections should be read in the light of both this earlier withdrawal and the specific wording of the relevant condition, No 20. It is important to be mindful of the exact wording of Condition 20 - and that it covers the Wolborough Fen SSSI hydrological catchment, and not the entirety of the area covered by the decision of the Secretary of State. The extent of the boundary of the hydrological catchment has been agreed by Natural England at the Appeal Stage

6.40. Bearing in mind the wording of the condition, this application is located wholly outside of the hydrological catchment of the Wolborough Fen SSSI, therefore its requirements do not apply to this part of the development.

6.41. The 'Groundwater representation'. A representation was received on 16th August. On the basis that planning officers would have had very little time – if any – to properly consider its contents, and furthermore, that the representation had not been provided to either the Applicant or Natural England for their consideration and response (if any), on the advice of the Council's Head of Legal and Democratic Services (Monitoring Officer), the appearance of this application before the Planning Committee was deferred. Its contents and the officer response are discussed below. The points raised by the contributor are addressed below in turn and using the headings of the representation itself.

1. Qualifications and Experience of Reviewer

6.42. The extensive range of scientific qualifications and accreditations of the contributor is noted. Also noted is that these qualifications and accreditations do not extend into the legal or professional town planning spheres.

2. Groundwater Dependence of Wolborough Fen SSSI

6.43. Assertions accepted.

3. Surface Water Catchments and Groundwater Catchments

6.44. The documents to which the contributor refers were available to the Inspector, and in turn the Secretary of State (SoS) at the time of the appeal. The contributor asserts that

the use of the hydrological catchment as a proxy for the groundwater catchment is 'scientifically unsound'. Nonetheless such use was expressly accepted by Natural England (see 'NE response to PINS 8 Feb 2019', saved under the reference for the appeal, but also under the reference for this application, for convenience.). It is considered that advice of Natural England is properly to be afforded greater weight than the views of the contributor.

4. Potential for Development Impact on Groundwater Regime and Wolborough Fen SSSI

6.45. (This paragraph has no concluding assertion)

5. Use of Impact Mitigation Measures to Protect Groundwater Regime and Wolborough Fen SSSI

6.46. The contributor concludes that, "*if the development goes ahead, it will increase the risk to the SSSI. And the only way to avoid increasing risk to the SSSI is to not proceed with the development.*"

6.47. This risk was considered by the Inspector and in turn the SoS at the time of the appeal. It was determined at that time that the attachment of, and control to be exerted through Condition 20 would ensure that such risk would indeed be avoided.

6. Condition 10 and 20 and LPA Interpretation

6.48. Regarding Condition 10 (sustainable surface water and ground water drainage - SuDS), the interpretation of the contributor that this condition is primarily focused upon surface water run-off issues (i.e. rather than wider environmental or ecological concerns) is accepted. The officer view is that the application of the condition to the whole application site is approach is consistent with and symptomatic of the purpose of the condition.

6.49. Regarding Condition 20 (protection of the Wolborough Fen SSSI) the contributor again queries the use of the hydrological catchment as a boundary marker. In response the officer comments at (3) above should again be referred to. Secondly, the very existence of Condition 20, and its focus upon the environmental and ecological protection specifically of the Fen catchment clearly implies and differentiates itself from the 'drainage' focus of Condition 10 applied in contrast to the whole site. The officer view is that the 2 conditions should be viewed as working together as a pair, as part of the planning permission as a whole. This is in contrast to the more articulated interpretation of the contributor.

6.50. (Lastly - for the avoidance of doubt - it is assumed that the word 'derogation' in the text is a typographical error, and that the contributor instead possibly intended the word instead to read, 'degradation'.)

7. Summary and Conclusions

6.51. This is made up of 13 bullet points ('bp's), as below:

- bps1 – 6: agreed
- bp7: "*SUDS infiltration schemes are however not being used in the final drainage scheme designs for the Access Road and Phase 2.1, and therefore*

the potential for impact on the Fen SSSI is not being reduced, mitigated or avoided”.

Not accepted, as the current application sites lie outside the accepted-by-Natural England catchment boundary of the Fen.

- bp8: *“The decision by the developer to not use SUDS infiltration schemes is due to ground investigations demonstrating infiltrations schemes are likely, at least locally, to not work and not reduce flood risk. Flood risk reduction is therefore being prioritised before environmental protection.”*

Not accepted – both flood risk reduction and environmental protection are being addressed.

- bp9: *“Any drainage scheme the developer uses which excludes infiltration may impact on the Fen SSSI. If the developer cannot for reasons of feasibility use infiltration SUDS techniques, then the only way to be certain to avoid the potential for impacts on the SSSI is not to progress with the development.”*

Not accepted, at least for areas outside the accepted-by-Natural-England catchment boundary of the Fen.

- bp10: *“Development conditions require the drainage schemes to be sustainable – the current designs are clearly not environmentally sustainable and therefore the schemes do not meet Condition 10.”*

Not accepted. Discussed at (6) above.

- bp11: *“The Development conditions require the development to not have an adverse impact on the integrity of the Wolborough Fen SSSI. The Local Planning Authority (LPA) has defined the area which could impact the SSSI as limited to the hydrological catchment of the SSSI, yet the LPA and Natural England recognise the SSSI is a groundwater dependent ecosystem.”*

This assertion is incorrect. It is not the Local Planning Authority (LPA) that has defined the area which could impact the SSSI as being limited to the hydrological catchment of the SSSI; this was instead defined by the Planning Inspector appointed by the SoS, as advised by Natural England themselves.

- bp12: *“The LPA and Natural England rely on an early ‘working’ assumption based on little data, on the hydrological and hydrogeological catchments of the SSSI being coincident, despite the developer’s own consultants i) disagreeing with this opinion and ii) recognising that impacts to neighbouring groundwater catchments may impact the Fen SSSI.”*

Nonetheless, permission has been granted by the highest authority in the land, and in turn the lawfulness of the permission was tested – and found to be sound - through the courts. (Judgment *Abbotskerswell Parish Council v Secretary of State for Housing, Communities & Ors* [2021] EWHC 555 (Admin) (11 March 2021).

- bp13: *“The wording of Condition 20 is therefore not only technically incorrect in assuming the hydrological catchment management will protect the SSSI, but consequently Condition 20 will not achieve its objective, which is to protect the SSSI. Development compliance with Condition 20 will not protect the SSSI from development activities associated with the Access Road and/or Phase 2.1.”*

The contributor’s view conflicts with that of Natural England and the SoS. The latter two together form the higher authority.

- 6.52. The contributor’s final conclusion is that *“the only logical conclusion to ensuring avoidance of impact from the development on the ‘integrity of the Wolborough Fen SSSI’ is not to progress with the development.”*

Officer Conclusion

- 6.53. The representation makes a number of contentions relating to the potential impact of the development upon the Wolborough Fen SSSI.
- 6.54. The application for the development, supplemented by an Environmental Statement was granted outline planning permission by the Secretary of State following a public enquiry, supported by and subsequent to extended and extensive advice from Natural England (the nation’s non-departmental public body responsible for ensuring that England’s natural environment, is protected and improved.)
- 6.55. A legal challenge to this granting of permission was subsequently mounted and dismissed at the High Court.
- 6.56. In accordance with Natural England’s advice, the application was granted subject to 2 conditions, Nos 10 and 20 intended to, firstly, prevent harm from surface water run-off; and secondly, to prevent harm to the Fen.
- 6.57. These protections remain in place.
- 6.58. The current applications for the approval of reserved matters, here limited to the appearance, landscaping, layout and scale of the development are those matters before Members now.
- 6.59. Notwithstanding the contentions made within the Groundwater representation, it remains the very firm view of your officers that there is no lawful impediment preventing the consideration – and, were the Committee to be so minded - the approval of the details of the **appearance, landscaping, layout and scale** of the development as now sought.

Planning balance & conclusion

- 6.60. There is very little, if any deviation from the approved parameter plans, Masterplan and Design Code.
- 6.61. Third party objections and concerns have been noted and considered throughout the determination of this application and where material, have been either adequately addressed by the proposal through the submission of amended drawings and reports, or are the subject of existing conditions.

- 6.62. A planning balance must be taken. The site is part of the wider NA3 allocation, and significant weight must be given to the approval of the reserved matters for this section of road unlocking the potential of the wider site to meet the pressing housing needs of our community, both open market and affordable.
- 6.63. On the other hand, and in line with paragraphs 205 and 208 of the NPPF, where a development proposal would lead, as here, to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against these public benefits.
- 6.64. Whether or not the identified less than substantial harm to the significance of the Grade-I listed St Mary the Virgin church is outweighed by the public benefits of approving the reserved matters of the development the proposal has indeed been considered. In accordance with the Section 66 duty (Planning [Listed Buildings and Conservation Areas] Act 1990), considerable weight is attributed to the harm, particularly bearing in mind the asset's high status.
- 6.65. However, it is considered that the benefits of approving the reserved matters for this phase of the wider site are collectively sufficient to outweigh the identified less than substantial harm to the significance of the Grade-I listed St Mary the Virgin Church, particularly taking into account the importance of unlocking the delivery of the wider scheme to the future growth and economic prosperity of the community. It is considered that the balancing exercise under paragraph 208 of the NPPF is therefore favourable to the proposal, and that these reserved matters should be approved.

7. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

NA3 Wolborough

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S3 Land for Business, General Industry and Storage and Distribution

S5 Infrastructure

S6 Resilience

S7 Carbon Reduction Plans

S9 Sustainable Transport

S10 Transport Networks

S14 Newton Abbot

WE2 Affordable Housing Site Targets

WE3 Retention of Affordable Housing

WE4 Inclusive Design and Layout

WE11 Green Infrastructure

EN1 Strategic Open Breaks

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

Submission Local Plan 2020-2040

In accordance with Paragraph 48 of the NPPF it is considered that the following policies are relevant and hold a degree of weight in decision making for this application:

GP3 Settlement Limits and the Countryside
GP5 Neighborhood Plans
DW1 Quality Development
DW2 Development Principles
DW3 Design Standards
EN4 Landscape Protection and Enhancement
EN6 Flood Risk and Water Quality
EN11 Important Habitats and Features
EN15 South Hams SAC
EN16 Trees, Hedges and Woodlands

Newton Abbot Neighbourhood Development Plan 2016-2033

NANDP2 Quality of Design
NANDP3 Natural Environment and Biodiversity
NANDP4 Provision of Cycle/Walkways
NANDP5 Provision of Community Facilities
NANDP11 Protection of Designated and Non-Designated Heritage Assets.

Material Considerations: National Guidance

National Planning Policy Framework (December 2023)
National Planning Practice Guidance (2014 onwards)
The National Design Guide (2019)
Building for a Healthy Life (2020)
The National Model Design Code Parts 1 and 2, (2021)

8. CONSULTEES

The most recent consultation responses below are summarised where appropriate; full comments and older responses are available on the online file.

Historic England (3rd May 2024)

The element of road under discussions continues to be presented as an independent element within the middle of the site. However, the plans submitted under the reserved matters scheme have been superimposed onto the layout drawings for the road. This has been helpful in providing greater context to the alignment of the road and its relationship to the wider site.

Historic England has [continued] concerns regarding the application on heritage grounds. These concerns relate to the prominence of the road within views of the church. The council should identify opportunities to avoid and minimise that impact through the design process.

Natural England (30th May 2024)

No objections to this application with recommendation that the LPA determine the in the context of its responsibilities as a public body to conserve and enhance the special features of the Wolborough Fen SSSI.

Natural England (5th September 2024)

Natural England remain concerned relating to the impact of groundwater upon the Wolborough Fen Special Site of Scientific Interest (SSSI). Please ensure that whilst we have not made an objection, our concerns are noted in any officer report. In determining this application you should refer to the planning conditions attached to the outline consent, and any technical reports if necessary. It is the responsibility of the Local Planning Authority to ensure that the proposal does not damage the SSSI.

DCC Highways (12th July 2024)

Satisfied that the amendments to the drawings make the RM application acceptable to the Highway Authority.

DCC Lead Local Flood Authority (10th June 2024)

No in-principle objections raised.

DCC Lead Local Flood Authority (23rd August 2024)

As mentioned within the 16th August 'Groundwater representation', we as the LLFA would need to ensure that the proposed development would not increase surface water flood risk. For infiltration to work, we need to ensure that the proposed infiltration feature would be located at least 1m from the highest seasonal groundwater level. The planning application is outside of the Fen Catchment. For the proposed attenuation option and its associated impact to the Fen catchment, I think Natural England would be in a better position to advise. I am sure that Natural England would like to consider the water quality from the proposed development site should [an] infiltration option be used.

TDC Biodiversity (14th May 2024)

Accept, therefore, that it is necessary and appropriate to leave discussion of the fen's hydrology until considering applications located within the hydrological catchment area. By which time the applicant will have gathered the necessary, knowable, data to inform the necessary suite of mitigation measures, which will be submitted as part of these applications.

Biodiversity Consultant (re HRA/Greater Horseshoe Bats – 8th April 2024)

Considers that the previous Habitat Regulations assessment (HRA) advice regarding compliance with lighting conditions is applicable to other road sections, in order to ascertain that proposals would not adversely affect the integrity of South Hams SAC and provided that these applications are materially similar as determined by the case

officer. If the application includes significant habitat or landscape changes, further SHRA advice should be sought to confirm that detailed proposals are in accordance with previous HRA assessment work.

Biodiversity Consultant (re HRA/Greater Horseshoe Bats – the previous advice, for info – 6th February 2024)

With an approved lighting scheme in place and SAC Greater Horseshoe Bat assessment and mitigation measures required on approved and proposed development within the SAC consultation area, it was concluded the proposed phase 2 link road would not adversely affect the integrity of South Hams SAC alone or in combination with other plans or projects. It is noted that Natural England in its consultation of 10 July 2023 NE Ref. 438971 concurred with this conclusion. It is considered that, with the approval of an appropriate lighting scheme prior to installation in place, in accordance with discharge of 17/1542/MAJ Condition 12 (lighting) then the conclusion that the submitted proposals will not adversely affect the integrity of South Hams SAC alone or in combination with other plans or projects remains unchanged.

Devon Wildlife Trust (7th June 2024)

Devon Wildlife Trust would like to register serious concerns relating to insufficient evidence secured to inform approval of reserved matters.

Devon Wildlife Trust, as the long-term manager of Wolborough Fen SSSI, has responsibility for meeting SSSI favourable condition (sic). The above approval, in the absence of evidence fulfilling the conditions as laid out by the Secretary of State (3 June 2020), risks undermining our ability to ensure the future health of this protected site.

Particular concerns regarding the application's failure to address condition 6(j) – Design Code and condition 20 – Wolborough Fen SSSI Catchment. It is claimed that the Fen SSSI integrity is potentially influenced by both surface and ground water. On that basis, detailed investigations to define the catchment and satisfy the aforementioned conditions is required before this application can be approved.

Devon Wildlife Trust (20th August 2024)

Devon Wildlife Trust (DWT) has today read and considered the 16th August, 'Groundwater representation'. This has reinforced DWT's outstanding concerns regarding the absence of evidence required to inform the approval of reserved matters and subsequent developments that may impact the ecohydrological resilience and integrity of Wolborough Fen SSSI.

TDC Climate Change Officer (28th June 2024)

Following recommendations made:

- Details of how decision making in respect of choice of materials has been used to reduce the proposal's embodied carbon emissions.
- Recommended provision of cyclist and pedestrian warning signs at road crossings.

- Recommended that the bus stop should be accommodated within the carriage way rather than as a lay-by to reduce conflict across the cycleway.

9. REPRESENTATIONS

A total of 70 third party representation have been received (of which many feature duplicated content). All are of objection. Comments have been received in particular from the CPRE (now to be known as the Countryside Charity), the Wolborough Residents Association (WRA) and the Newton Abbot and District Civic Society (NADCS).

It should be noted too that many of the representations address issues that range beyond the details of the matters reserved for determination, to instead make reference to issues relating to the principle of the outline permission that was granted by the Secretary of State. The main points of objection raised include the following:

- concerns that replacement planting does not go far enough; concerns regarding the limited information regarding drainage;
- particular concern expressed regarding the need for the protection of the Fen;
- reference made to the conditions attached to the outline permission;
- please can, as far as possible, the current trees and hedgerows be preserved;
- the proposed link road goes straight through Wolborough Fen, thus compromising this nationally threatened habitat. Case Officer note: This is incorrect. This section of the road does not. Nor does it lie within the surface water catchment area of the Fen.]
- the conditions attached to the outline permission granted by the Secretary of State must be adhered to;
- key statutory bodies have expressed the view that this application is premature and incomplete or they express concerns/objections;
- Wolborough Fen is a fragile ecosystem which supports rare plants and invertebrate animals, an outlier which makes it important for genetic diversity. That is why it is designated as an SSSI, and Teignbridge should protect and be proud to have this nationally important asset;
- this application is premature in its submission because it cannot be properly considered as part of a comprehensive scheme for the site;
- the longitudinal gradient of the proposed road is at the maximum recommended by Devon County Highways for the central section of the road submission and the adjacent cycleway exceeds the required longitudinal gradient;

- construction will likely impact on hydrology; the run-off from the road will carry particles of brake dust and carbon from tyres and emissions which will contaminate the Wolborough Fen;
- the proposal would impact on the setting of St Mary's Church;
- concern expressed regarding the impact of the proposal upon Cirl Buntings and Greater Horseshoe Bats; and
- concerns expressed regarding the piecemeal approach to the entire NA3 development.
- Lastly, a representation was received on 16th August, ("The Groundwater representation") that raised a number of issues. This has been dealt with in Section 6 above.

10. TOWN COUNCIL'S COMMENTS

No objection, providing the conditions as set out by the Secretary of State are met.

11. COMMUNITY INFRASTRUCTURE LEVY

This type of development is not liable for CIL and therefore no CIL is payable.

12. ENVIRONMENTAL IMPACT ASSESSMENT

In determining the appeal for non-determination of the 'host' outline planning application considered under references 19/00239/MAJ and 18/00035/NONDET, the (then) Secretary of State took into consideration the Environmental Statement submitted with the planning application and also all of the consultation responses and representations received, in accordance with Regulation 3 (4) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

The current application, which seeks reserved matters approval, is considered in compliance with the outline planning permission for the purposes of EIA. The need for a further EIA has therefore been "screened out" for this application as the proposals, with the mitigation secured by the Conditions and s106 Obligations as detailed within the outline planning permission and the conditions imposed, would not give rise to any significant environmental effects within the meaning of the Environmental Impact Assessment Regulations 2017.

13. 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.

Head of Development Management

