



Planning Committee Report

Chairman: Cllr Colin Parker

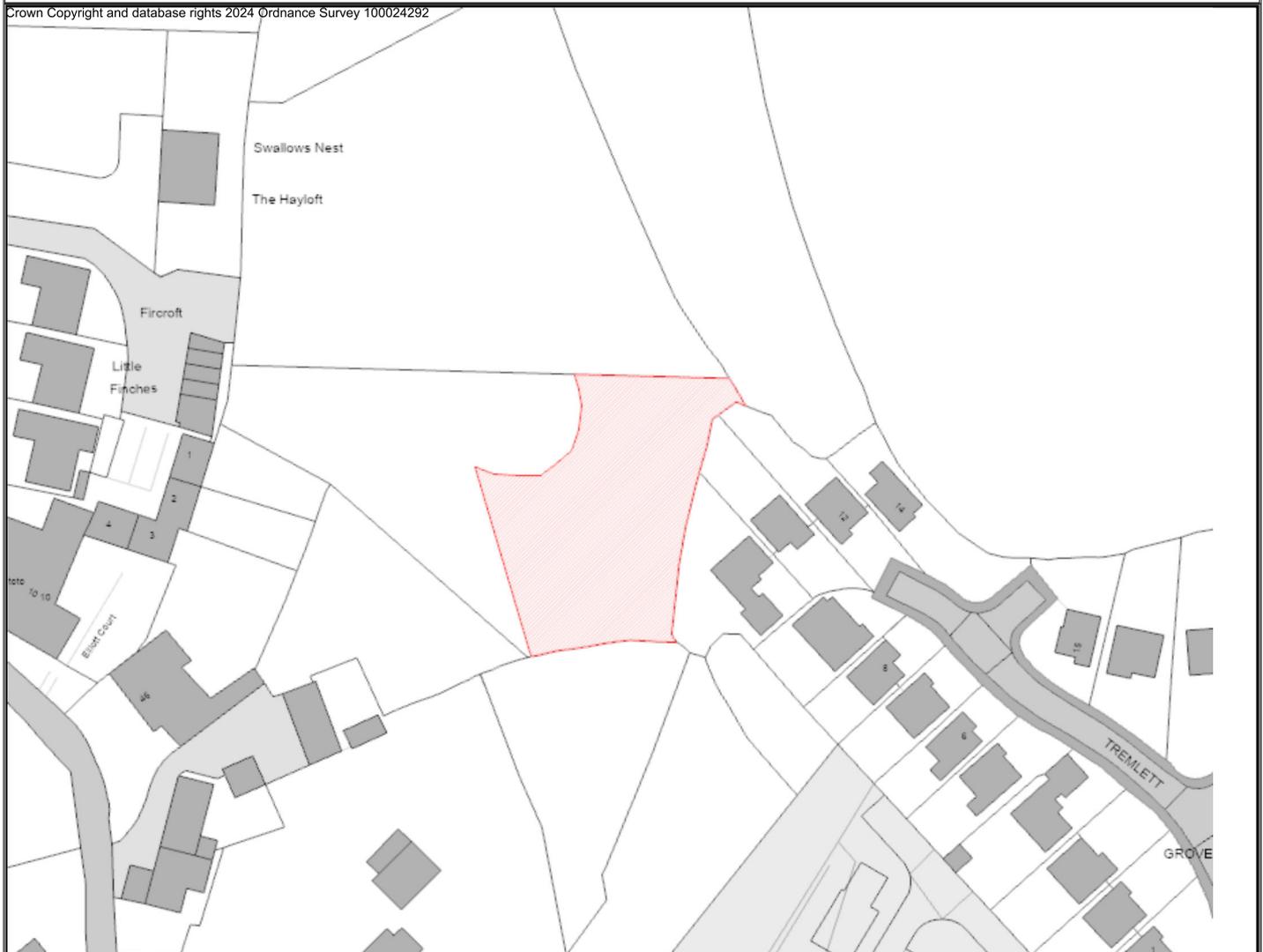
Date	23 July 2024
Case Officer	Gary Crawford
Location	Land North Of Tremlett Grove Ipplepen Devon
Proposal	Retention of earthworks
Applicant	Mr J Denno
Ward	Ipplepen
Member(s)	Cllr David Palethorpe
Reference	23/00703/FUL



[Online Details and Documents](#)

RECOMMENDATION: PERMISSION GRANTED

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1. REASON FOR REPORT

Ipplepen Parish Council have requested that this application is referred to the Planning Committee for determination due to ecological issues, drainage issues and tree preservation order (TPO) issues.

In light of wider planning history and considerations at the site, in this instance, officers consider committee consideration appropriate.

2. RECOMMENDATION

PERMISSION 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
20 Apr 2023		Application Form
20 Apr 2023		Location plan
03 Oct 2023	TLG-BPC-XX-XX-DR-C-08-51, REV. P07	Earthworks

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

2. Within one month from the date of this decision, the details of the grass and wildflower seed mix which shall be sown on the area of the site that has been raised shall be submitted to and agreed in writing by the Local Planning Authority. The grass and wildflower seed mix shall then be sown in accordance with the approved details within one month of these details being approved.

REASON: In the interests of biodiversity protection and enhancement, and in the interests of flood control.

3. All works on the site shall only be undertaken in daylight, to avoid impacts of artificial lighting on wildlife.

REASON: In the interests of biodiversity protection.

3. DESCRIPTION

The site

- 3.1 The application site relates to a field to the north of Tremlett Grove, Ipplepen. Planning permission was granted under application references 16/03177/OUT, 20/00522/REM and 21/02824/VAR for the erection of 6 open market dwellings and 2 affordable dwellings on nearby land at Tremlett Grove. The new dwellings granted permission under applications 16/03177/OUT, 20/00522/REM and 21/02824/VAR have been constructed and as a result of these construction works, surplus soil from the development was transported to this field to the north.
- 3.2 There is a large oak tree to the north of the application site and an ash tree to the south of the site, in the hedgebank on the rear boundary of No.11 Tremlett Grove which have both had tree preservation orders (TPOs) made against them since the submission of this application. There are two trees which are subject to a tree preservation order within the site where the new dwellings have been constructed following the planning permissions granted under applications 16/03177/OUT, 20/00522/REM and 21/02824/VAR. There are also two more trees which are subject to a tree preservation order in the field between the current application site and the site where the new dwellings have recently been constructed.
- 3.3 Although the application site adjoins the Ipplepen settlement limit, the site is located outside of the settlement limit and is designated as open countryside. The Ipplepen Conservation Area is situated approximately 35m to the west of the application site. The Grade II listed Northlands and Grade II listed Brooke House are located approximately 50m and 75m to the west and south west of the application site respectively.

The application

- 3.4 This application seeks permission for the retention of earthworks. As detailed above, surplus soil from the development approved under applications 16/03177/OUT, 20/00522/REM and 21/02824/VAR has been transported to the site. This application seeks retrospective permission to spread the surplus soil over the field and to re-seed the soil and return it to pasture. Subsequently, the ground levels of the field have been increased by approximately 700mm.

Main issues

The main issues for consideration are:

- Principle of the development;
- Impact on ecology/biodiversity;
- Impact on trees;
- Land drainage/flood risk;
- Impact upon the character and visual amenity of the area;
- Impact on residential amenity of surrounding properties;
- Impact on heritage assets;
- Carbon reduction; and
- Other matters.

Principle of the development

- 3.5 The application site is designated as open countryside in the Teignbridge Local Plan 2013-2033. Policies S1A and S1 of the Local Plan are not restrictive in relation to applications to alter ground levels, subject to policy criteria being met. Thus, the principle of the development is deemed to be acceptable, subject to compliance with other relevant policies of the Local Plan.

Impact on ecology/biodiversity

- 3.6 The Council's Biodiversity Officer initially raised a biodiversity objection to the proposed development in the consultation response dated 19 June 2023, pending the submission of wildlife survey information and restoration proposals. The Biodiversity Officer also requested that works should stop immediately and not be resumed until biodiversity and hydrology Impact and Restoration Assessments have been submitted and approved.
- 3.7 The applicant advised the Biodiversity Officer that they intended to proceed with works on the site imminently (i.e., before commissioning an ecological survey and mitigation report). As such, the Council's Biodiversity Officer visited the site on Monday 3 July 2023, with the Council's Senior Enforcement Officer, to inform whether a temporary stop notice should be served to prevent further works.
- 3.8 Following the site visit, the Biodiversity Officer commented that they were satisfied that no further ecological survey is required. However, the Biodiversity Officer advised that further works and site reinstatement must follow a number of recommendations:
- All works in the tipping field should only be undertaken in daylight, to avoid impacts of artificial lighting on wildlife.
 - Prior to undertaking any further works within the tipping field, the orange netting fence around the mature oak tree should be replaced with a fence according with Figure 2 of BS 5837 2012. The BS fence shall be erected around the outside of the maintained until all development has been completed to ensure there will be no incursion into the tree's root protection zone.
 - No works should be undertaken when the ground is wet, to avoid further impacts on vegetation, further rutting and further impacts to soil structure.
 - Tipping/spreading of spoil should extend no closer to the site hedges.
 - The drain should be repaired and the sump area back-filled.
 - Any spoil currently within the application site field should be relocated to and spread within the red line boundary.
 - All ruts should all be levelled.
 - Once the spoil has been levelled, topsoil should be reinstated and cultivated to give a rough tilth. The bare ground area should then be sown with a grass and wildflower seed mix reflecting the likely lost sward. Sowing and establishment should follow the seed supplier's advice.

- The selected mix should aim to contain a high proportion of the species recorded on site and should be agreed with the LPA prior to seeding.

3.9 Since the Biodiversity Officer provided the recommendations detailed above, the soil on the site has been spread within the red line boundary, the ruts have been levelled and the land drainage system has been repaired. As such, it is deemed that it is no longer necessary to require the fence around the mature oak tree or to include a condition which states that no works shall be undertaken when the ground is wet. However, it is considered necessary to include a condition with any planning permission requiring the ground area to be sown with a grass and wildflower seed mix reflecting the likely lost sward prior to the winter season. It is deemed necessary that the grass and wildflower seed mix should aim to contain a high proportion of the species that were recorded on site by the Biodiversity Officer and these details shall be agreed by the LPA prior to seeding. It is considered that subject to a condition to reinstate and establish the vegetation that was previously on the site prior to earthworks taking place, the proposal is acceptable with regards to its impact on ecology/biodiversity.

Impact on trees

- 3.10 The Council's Arboricultural Officer has visited the site and has advised that they considered the assumed root protection area for the protected oak tree in the north of the site (as shown on the drawings) is acceptable. The Arboricultural Officer recommends that a British Standard Root Protection Zone fence shall be erected around the root protection area of the oak tree before any further earthworks are undertaken, to ensure that there will be no incursion into the tree's root zone. As the soil has since been spread across the site, it is deemed that it is no longer necessary to require the fence around the mature oak tree.
- 3.11 As the protected ash tree to the south of the site is located in the hedgebank on the rear boundary of No.11 Tremlett Grove, the Arboricultural Officer has advised that roots of this tree are likely to grow along the side of the hedgebank rather than out into the field where the earthworks are proposed. As such, it is considered that the earthworks are unlikely to result in any adverse impacts upon this tree.

Land drainage/flood risk

- 3.12 Devon County Council's (DCC) Flood and Coastal Risk Management Team initially commented that they had no in-principle objection to this application at this stage, however, they requested that the applicant must submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. Following the submission of additional information during the course of this application, DCC's Flood and Coastal Risk Management Team withdrew their objection to the proposal and they commented that they have no in-principle objections to the development.

- 3.13 However, whilst withdrawing their objection to the proposal, DCC's Flood and Coastal Risk Management Team did recommend that the applicant extend the proposed swale to the eastern boundary of the site to ensure that the swale had a positive outfall discharge into the watercourse which runs along the south west boundary of the new dwellings have been constructed following the planning permissions granted under applications 16/03177/OUT, 20/00522/REM and 21/02824/VAR. The applicant however refused to extend the swale. As such, DCC's Flood and Coastal Risk Management Team advised that the applicant should consider some check dams before the swale is terminated to slow down any flow likely to be picked up by the swale and also that the applicant shall be responsible for any issues arising following the completion of the earthwork to ensure that no properties are put at risk of flooding.
- 3.14 Given the applicant's refusal to extend the swale to ensure that the swale had a positive outfall discharge into the watercourse which runs to the south west of the site and following representations from neighbouring properties which raised concerns with regards to surface water flooding from the site, advice was sought from Teignbridge District Council's Drainage Engineers with regards to the drainage impacts of the earthworks.
- 3.15 The provision of a swale/ditch with a bund from the application site to the watercourse to the south west of the site would have provided mitigation during the construction stage and provided a long-term protection should a similar issue arise in the future. However, as the construction of the swale/ditch with a bund would have been outside of the red line of the site location plan, a new application would be required for these works.
- 3.16 At the time of the submission of this application, officers were not aware of the presence of the land drainage system in the field located between the application site and the watercourse to the south west of the site. However, following a site visit, it was evident that an old clay pipe network was in existence in the site and likely with age and due to the recent construction activity that had taken place, the efficiency of the land drainage system had degraded.
- 3.17 The applicant advised the Council on 13 June 2024 that the land drainage system in the field adjacent to the application site has been repaired and the old clay pipe has been replaced with a new perforated pipe and stone surround and reconnected to the existing outfall to the watercourse to the south west. The Council's Drainage and Coastal Manager has been consulted on the Land Drainage Statement submitted by the applicant and he has advised that he considers that the upgraded land drainage system will act in a similar manner to the swale/ditch with a bund which was recommended by DCC's Flood and Coastal Risk Management Team. Consequently, the Drainage and Coastal Manager has commented that he would not have any further objections to the provision of any further formalised drainage system.

- 3.18 The Drainage and Coastal Manager has recommended that the new land drainage system should be maintained to ensure its efficiency and he has noted in his consultation response that on-site, the areas of ponding water have been resolved following construction of the new land drainage system. In addition, the Drainage and Coastal Manager has recommended that areas which have been used to facilitate the construction, i.e. the site compound and access tracks, should also be reinstated and grassed. It is recommended that informatives are included with any approval requiring the new land drainage system to be maintained to ensure its efficiency and also for the site compound and access tracks to be reinstated and grassed.
- 3.19 The Drainage and Coastal Manager has commented further that the land subject to this application has been filled with soil that has been generated from the site and is therefore 'local' and consistent to the underlying ground conditions. As such, once the land has established in accordance with the details proposed – i.e. rotovated and grassed, this land should maintain the runoff characteristics of the site in its natural state. The Drainage and Coastal Manager has recommended that this reinstatement and establishment of appropriate vegetation cover is provided as soon as possible before the winter season and it is recommended that a condition is included with any approval to secure this. Officers consider that this request would be covered by the ecology condition requiring the ground area to be sown with a grass and wildflower seed mix and as such, one condition would satisfy both the biodiversity and drainage requirements.
- 3.20 Given that the application site is to remain a permeable surface and given that the applicant has renewed the land drainage system in the area to mitigate any exceedance flows, the Drainage and Coastal Manager has raised objection to the proposals.

Impact upon the character and visual amenity of the area

- 3.21 It is considered that, on completion, other than the ground levels of the field having been increased by approximately 700mm, the rural character of the site would be retained. As such, it is deemed that the proposal complies with Policies S1, S2 and EN2A of the Teignbridge Local Plan 2013-2033 and IPP Policy 2 (Development in the Countryside) of the Ipplepen Neighbourhood Development Plan.

Impact on heritage assets

- 3.22 It is considered that, on completion, the works will not cause any harm to the setting of the nearby listed buildings or views into/out of the Conservation Area.

Impact on residential amenity of surrounding properties

- 3.23 Although the ground levels of the field having been increased by approximately 700mm, it is considered that the proposal does not result in any additional

overlooking or further loss of privacy upon the properties in Tremlett Grove which border the site than that which previously existed.

Carbon reduction

- 3.24 The transport cost/impact of waste removal is undoubtedly a key consideration leading to the applicant's chosen approach to spoil management at this site. The alternative to this application would be to remove surplus material using heavy vehicles through narrow lanes around Ipplepen, with its consequent increased carbon usage. The on-site solution is therefore likely to result in lower overall carbon emissions for a development that is seeking to deliver operationally efficient new homes.

Other matters

- 3.25 The Council's Environmental Health department have raised no objection to this development with regards to contaminated land.
- 3.26 Although it would appear that no licence to move the soil was granted by the Environment Agency (EA), the EA have commented that they consider that it is a small amount of soil of approximately 1000 tons which they deem to be a minor offence relatively in the scheme of waste offending; particularly in terms of soil wastes, as the soil has originated from a greenfield site. The EA have commented further that the impact to the existing field and its ecology should be considered and that this is a decision for the planning process as to whether this activity is acceptable or not. The EA have advised that should planning permission be refused, the developer will need to haul the waste soil to a permitted site.
- 3.27 Devon County Council's Minerals department have advised that the application site is within the Mineral Consultation Area for the limestone resource, with Policy M2 of the Devon Minerals Plan seeking to protect such resources from constraint by new development. However, in this case, the nature of the development will not place any increased constraint on the mineral resource, and Devon County Council therefore have raised no objection to the proposal in its role of mineral planning authority.
- 3.28 It is noted that the Council's Drainage Engineers commented on 22 May 2023 that they would advise that the LPA engage a Structural and/or Geotechnical Engineer on applications requiring a slope stability or structural engineering response. Due to the relatively flat levels of the site, it is considered that a slope stability or structural engineering response is not required for this application.

Submission Local Plan 2020-2040 (SLP)

- 3.29 On 14th March 2024 the Local Plan 2020-2040 was submitted to the Planning Inspectorate for examination. It is considered that development complies with the relevant policies of the SLP as noted in the policy documents section below.

Conclusion

- 3.30 The proposed development is considered to be acceptable and therefore it is recommended that planning permission be granted subject to conditions.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development
S1 Sustainable Development Criteria
S2 Quality Development
S7 Carbon Emission Targets
S22 Countryside
S23 Neighbourhood Plans
EN2A Landscape Protection and Enhancement
EN3 Carbon Reduction Plans
EN4 Flood Risk
EN5 Heritage Assets
EN7 Contaminated Land
EN8 Biodiversity Protection and Enhancement
EN9 Important Habitats and Features
EN10 European Wildlife Sites
EN11 Legally Protected and Priority Species
EN12 Woodlands, Trees and Hedgerows

Submission Teignbridge Local Plan 2020-2040

GP1 Sustainable Development
GP3 Settlement Limits and the Countryside
GP5 Neighbourhood Plans
H12 Residential Amenity
EN4 Landscape Protection and Enhancement
EN6 Flood Risk and Water Quality
EN8 Light Pollution
EN10 Biodiversity and Geodiversity
EN11 Important Habitats and Features
EN15 South Hams SAC
EN16 Trees, Hedges and Woodlands

Ipplepen Neighbourhood Development Plan

National Planning Policy Framework
National Planning Practice Guidance

5. CONSULTEES (Summarised)

TDC Biodiversity Officer:

Comments dated 19 June 2023

There is a biodiversity objection pending submission of wildlife survey information and restoration proposals. Works should stop immediately and not be resumed until biodiversity and hydrology Impact and Restoration Assessments have been submitted and approved.

Comments dated 4 July 2023

An ecological survey and mitigation report for the site should have been submitted with the application. In its absence I advised that works should cease until a survey had been undertaken and the report submitted. However, the applicant advised that they intended to proceed with works on the site imminently (i.e., before commissioning the survey). I therefore visited the site on Monday 3 July 2023, with the Council's Enforcement Officer to inform whether a temporary stop notice should be served to legally prevent further works.

Having assessed the site myself, I am happy that no further ecological survey is required. However, further works and site reinstatement must follow my mitigation/compensation requirements.

Given the applicant's/developer's stated inclination to undertake further works in the tipping field before the planning application is determined, they should be advised of these requirements as soon as possible. The requirements should also be conditioned, if planning permission is granted.

TDC Arboricultural Officer:

The Arboricultural Officer has visited the site and he has verbally advised that he considers that the assumed root protection area for the oak tree (as shown on the drawings) is acceptable. The Arboricultural Officer has also advised that roots of the ash tree on the southern boundary of the site are likely to grow along the side of the hedgebank rather than out into the field where the earthworks are proposed.

TDC Drainage Engineers:

Comments dated 22 May 2023

The applicant shall consult with the Environment Agency and Devon County Council Flood Risk Teams.

I would advise that the LPA engage a Structural and/or Geotechnical Engineer on applications requiring a slope stability or structural engineering response.

Comments dated 18 June 2024

Following the submission of the Land Drainage Statement by the applicant on 13 June 2024, the Council's Drainage and Coastal Manager has commented that given the application site is to remain a permeable surface and given that the applicant has renewed the land drainage system in the area to mitigate any exceedance flows, he has no objections to the proposal. The Drainage and Coastal Manager has recommended that the reinstatement and establishment of appropriate vegetation cover on the site is provided as soon as possible before the winter season.

TDC Environmental Health (Contaminated Land): No objections.

DCC Flood and Coastal Risk Management Team:

Comments dated 6 July 2023

Although we have no in-principle objection to the application at this stage, the applicant must submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Comments dated 26 September 2023

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

Environment Agency:

It is a small amount of soil ~1000 tons, a minor offence relatively in the scheme of waste offending; particularly in terms of soil wastes, as the soil has originated from a greenfield site. However, the impact to the existing field and its ecology should and appears to be, being considered. This is a decision for the planning process as to whether this activity is acceptable or not.

Ultimately should planning be refused then the developer will need to haul the waste soil to a permitted site (inert landfill or recovery). Equally, would the land have still belonged to the original landowner, the soil could have been moved to this field without a permit / authorisation from the EA/EPR (but still may have required planning permission) as the soil would not have been considered a waste.

DCC Minerals:

The application site is within the Mineral Consultation Area for the limestone resource, with Policy M2 of the Devon Minerals Plan seeking to protect such resources from constraint by new development.

In this case, the nature of the development will not place any increased constraint on the mineral resource, and Devon County Council therefore has no objection in its role of mineral planning authority.

6. REPRESENTATIONS

A site notice was posted at the site.

Letters of objection have been received from 25 households which have raised the following concerns:

- Impact on trees and hedges.
- Flood risk.
- Impact on biodiversity/ecology.
- Change of use of the land from agriculture to materials dump.
- No benefit to the community.
- The land should be restored to the condition it was in before the building works took place.
- No evidence that a licence to move the spoil outside of the development site has been issued.

7. TOWN / PARISH COUNCIL'S COMMENTS

Ipplepen Parish Council:

Object to the application due to ecological issues, drainage issues and TPO issues.

8. COMMUNITY INFRASTRUCTURE LEVY

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

9. ENVIRONMENTAL IMPACT ASSESSMENT

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

10. 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 Place and Commercial Services