



Public Document Pack

North Devon Council
Brynsworthy Environment Centre
Barnstaple
North Devon EX31 3NP

K. Miles
Chief Executive.

PLANNING COMMITTEE

A meeting of the Planning Committee will be held in the Barnstaple Rugby Club Main Room - Barnstaple Rugby Club on **WEDNESDAY, 9TH FEBRUARY, 2022 at 10.00 am.**

(NOTE: A location plan for the Barnstaple Rugby Club is attached to the agenda front pages. From the 7 May 2021, the law requires all councils to hold formal meetings in person. The council is also ensuring that all venues used are Covid secure and that all appropriate measures are put in place. There are a limited number of spaces available for members of the public to attend. Please check the Council's website for the latest information regarding the arrangements that are in place and the requirement to book a place 2 working days prior to the meeting.)

[Planning applications - addressing the planning committee \(northdevon.gov.uk\)](http://northdevon.gov.uk)

NOTE: Please note that copies of letters of representation have been placed on North Devon Council's website and are also available in the Planning Department.

ALSO: A break at lunchtime may be taken at the discretion of the Committee dependent upon the speed of progress of determining the planning applications on the agenda.

PARKING: Please note that the Rugby Club is a pay and display car park (£1.70 all day). Other nearby car parks are located at Mill Road Car Park (adjacent to the Rugby Club – 40p per hour, maximum stay 3 hours), Fairview (£1.70 all day) or Rolle Quay (£1.10 per hour for 1 – 4 hours. 5 hours - £5.60, 6 hours - £6.80, 7 hours - £8.00, 8 hours - £9.20).

Members of the Planning Committee

Councillor Ley (Chair)

Councillors Chesters, Crabb, Davies, Fowler, Gubb, Jenkins, Leaver, Mack, Mackie, Prowse, D. Spear, L. Spear, Tucker and Yabsley

AGENDA

1. Apologies for absence
2. To approve as a correct record the minutes of the meeting held on 12th January 2022. (Pages 9 - 14)
3. Items brought forward which in the opinion of the Chair should be considered by

the meeting as a matter of urgency

4. Declaration of Interests

(Please complete the form provided at the meeting or telephone the Corporate and Community Services Team to prepare a form for your signature before the meeting. Items must be re-declared when the item is called, and Councillors must leave the room if necessary)

5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information)

PART A

6. **73681: Land West of Mead Park, Fremington / Bickington** (Pages 15 - 128)

Outline application for up to 80 homes and access arrangements, including affordable housing, open space, landscaping, biodiversity net gain and associated infrastructure with some matters reserved (appearance, landscaping, layout and scale) (attached).

7. **Appeals Report** (Pages 129 - 140)

To consider the appeals report (attached).

PART B (CONFIDENTIAL RESTRICTED INFORMATION)

Nil.

If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253

NOTE: Pursuant to Part 3, Annexe 1, paragraph 1 of the Constitution, Members should note that:

"A Member appointed to a Committee or Sub-Committee who:

- (a) Arrives at a meeting during the consideration of an item; or*
- (b) Leaves a meeting at any time during the consideration of an item;*

Shall not:

- (i) propose or second any motion or amendment; or*
- (ii) cast a vote*

in relation to that item if the Committee or Sub-Committee (as the case may be):

- (c) Is sitting in a quasi-judicial capacity in relation to that item; or*

(d) *The item is an application submitted pursuant to the Planning Acts and, in such a case, the Member shall also leave the room if at any time the public and press are excluded in respect of that item."*

REGISTERING TO SPEAK

- If you wish to address the Planning Committee you should contact the Committee Administrator in advance of the Committee on 01271 388253 or speak to them just before the meeting commences.

WHAT HAPPENS AT COMMITTEE?

- The Chairman will introduce himself/herself
- The Planning Officer will present his/her report
- The Chairman will call out the names of individuals who have registered to speak
- Speakers will be **restricted to 3 minutes each** (which is timed and bleeped). **A maximum of six supporters and six objectors of the application may speak at committee.** The applicant or agent and representative of the parish council may also speak at committee.
- ***Once public participation has finished, the Planning Officer will be given the opportunity to respond or to clarify any points that have arisen from the public participation exercise***
- The Members of the Committee shall then debate the application (**at this point the public shall take no further part in the debate**)

WHEN SPEAKING

- State clearly your name, who you are representing and whether you are supporting or objecting to the application
- Speak slowly, clearly and loud enough for everyone to hear you, and direct your comments to the Chairman and the Committee
- Try to be brief, avoid being repetitive, and try to prepare what you want to say beforehand.

WHAT HAPPENS NEXT?

- ***A record of the decisions taken at the meeting is produced (known as the "minutes of the meeting")***
- The minutes of the meeting are published on the Council's Website:
www.northdevon.gov.uk



**APPOINTMENT OF SUBSTITUTE MEMBERS
AT MEETINGS OF THE PLANNING COMMITTEE**

In accordance with the North Devon Council Constitution, a Member or Leader or Deputy Leader of a Political Group, appointing a substitute shall notify the Proper Officer of the name of his/her substitute. **Notification by a Member purporting to be a substitute Member will not be accepted.**

In the case of a substitution to the Planning Committee, the substitute Member shall sign and lodge this certificate with the Corporate and Community Support Manager confirming the acceptance of the appointment and that they have completed all Planning training modules provided to Members.

DATE OF PLANNING COMMITTEE: [Insert date]

For completion by Member of the Planning Committee requiring a substitute

I, Councillor..... [print name], hereby declare that I appoint
Councillor [insert name of substitute Member] to substitute for
me at the above mentioned meeting of the Planning Committee:

[signature]..... [date].....
OR

For completion by Leader/Deputy Leader of a political group nominating a substitute

I, Councillor..... [print name of group Leader/Deputy Leader],
hereby declare that I appoint Councillor [insert name of
substitute Member of same political Group] to substitute for Councillor
.....[insert name] at the above mentioned meeting of the Planning
Committee.

[signature]..... [date].....
AND

For completion by substitute Member accepting appointment of substitute

I, Councillor [print name], hereby confirm that I
accept the appointment of Substitute for the above mentioned Planning Committee and
hereby confirm that I have undertaken all appropriate Planning training modules in
relation to the same.

[signature]..... [date].....

**NOTE: FORM TO BE COMPLETED AND RECEIVED BY CORPORATE AND COMMUNITY SUPPORT
PRIOR TO THE COMMENCEMENT OF THE MEETING**

North Devon Council protocol on recording/filming at Council meetings

The Council is committed to openness and transparency in its decision-making. Recording is permitted at Council meetings that are open to the public. The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chairman of the meeting will make sure any request not to be recorded is respected.

The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chairman of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person filming should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be recorded. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be recorded must advise the Chairman at the earliest opportunity.
5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

Notes for guidance:

Please contact either our Corporate and Community Services team or our Communications team in advance of the meeting you wish to record at so we can make all the necessary arrangements for you on the day.

For more information contact the Corporate and Community Services team on **01271 388253** or email memberservices@northdevon.gov.uk or the Communications Team on **01271 388278**, email communications@northdevon.gov.uk.

The Barnstaple Rugby Club full address is: Barnstaple RFC, Pottington Road, Barnstaple, EX31 1JH.

At the traffic lights at the end of Rolle Street on the B3149 turn either left or right onto Mill Road according to the direction that you are travelling from. Follow the road along and turn right onto Pottington Road.

The Rugby Club is located on your left. Please note that the Rugby Club is a pay and display car park (£1.70 all day). Other nearby car parks are located at Fairview (£1.70 all day) or Rolle Quay (£1.10 per hour for 1 – 4 hours. 5 hours - £5.60, 6 hours - £6.80, 7 hours - £8.00, 8 hours - £9.20).



1.02.22

NORTH DEVON COUNCIL

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club Main Room - Barnstaple Rugby Club on Wednesday, 12th January, 2022 at 10.00 am

PRESENT: Members:

Councillor Ley (Chair)

Councillors Chesters, Davies, Fowler, Gubb, Jenkins, Leaver, Prowse, D. Spear, L. Spear, Tucker and Yabsley

Officers:

Service Manager (Development Management), Lead Planning Officer (Majors), Legal Advisor and Solicitor

Also Present:

Councillors Cann, Knight and Walker

88. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Crabb, Mack and Mackie.

89. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 8TH DECEMBER 2021

RESOLVED that the minutes of the meeting held on 8th December 2021 (circulated previously) be approved as a correct record and signed by the Chair.

90. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY

The Chair advised that there were no urgent items to discuss.

91. DECLARATION OF INTERESTS

There were no declarations of interest announced.

92. 64051: CROSS PARK FARM, BURRINGTON, UMBERLEIGH,

EX37 9LA

The Committee considered a report by the Lead Planning Officer (Majors) (circulated previously).

The Lead Planning Officer (Majors) addressed the Committee and advised that:

- The site was an allocated site within policy BUR 01 of the Joint North Devon and Torridge Local Plan (JNDTLP).
- The inclusion of the agricultural complex conversion brought the total proposed dwellings to 16.
- The scheme was fully compliant for Section 106 contributions and affordable housing provision.
- A coachhouse/terrace with a parking court would provide a formal enclosed area to this part of the site.
- No technical solution to the issue of surface water drainage had been provided.
- The Environment Agency (EA) had concerns regarding the foul drainage proposal as the route would cross land owned by a third party.
- The EA confirmed they would be satisfied if a condition were applied to prevent any building from commencing until the drainage solution had been confirmed.
- The drainage scheme would be re advertised.
- The NDTJLP set the access to the site from Meadow Park.

Michael Horton (objector) and Maggie Horton (objector) addressed the Committee.

The Corporate and Community Services Officer read statements from Bernard Cook and Leslie Parker (objectors) to the Committee.

Mr Waldrige (applicant) and Mr P Mears (agent) addressed the Committee.

In response to questions from the Committee, the Lead Planning Officer (Majors) confirmed that:

- The application started with a smaller number of units but this would not be an effective use of the site. The Authority could not secure affordable housing on sites of five dwellings or fewer. The allocation was always intended to be a larger site (than five dwellings). Even if the smaller number had been agreed additional phases would have come forward to deliver the whole site
- The Conservation Officer was involved in the design process which resulted in the coach houses as the impact on Meadow House was a material consideration
- Devon County Council as Lead Drainage Authority had no concerns regarding the site but did require technical details of the surface water drainage scheme.
- Drainage had not previously been within the remit of Planning Authorities but was now included in the recommendation.

RESOLVED (unanimous) that the application be approved as recommended by the Lead Planning Officer (Majors) subject to:

- (a) delegated authority being given to the Planning Manager to secure the updated drainage information (surface and foul) and that such revised details be the subject of public advertisement, neighbour notification and consultation with the EA and DCC Lead for Flood Risk and Drainage Authority, Parish Council and Ward Member and;
- (b) that if on receipt of the responses to this process the Ward member was not satisfied that the drainage details were acceptable that the application be returned to Planning Committee for consideration.

93. 72675: ST JOHNS GARDEN CENTRE, ROUNDSWELL, BARNSTAPLE, EX31 3FA

The Committee considered a report by the Senior Planning Officer (circulated previously).

The Service Manager (Development Manager) addressed the Committee and advised that:

- The extant planning permission for the site was for the relocation of the St John's Garden Centre, subject to amendments.
- The application had previously been deferred due to concerns which were
 - To see if there was appetite to resolve the highways issues.
 - To seek to improve sustainability on site.
 - To look at the character and Identity of the proposal.
- In response to these three issues, the Service Manager (Development Manager) confirmed that:
 - The applicant team had tried to work with Devon County Council Highways (DCCHW) to come to an alternative solution aside from the extant permission where £200,000 had been paid to deliver a Toucan crossing but DCCHW had provided no evidence to the Planning Authority to consider. The applicant team had provided advice from Queens Counsel regarding this lack of evidence and the implications for the Local Planning Authority in terms of making a decision without sound evidence.
 - It was apparent from the previous planning committee meeting that the proposed Garden Centre and fuel station were not giving concerns but that the resulting increase in pedestrians along the route, from the Drive-Thru and retail units, was the key issue.
 - The possibility of preventing pedestrians from crossing the A39 had been explored but DCCHW commented that this would require a Stopping-Up Order, for which no certainty could be provided, and could not be a condition on any planning approval.
 - This was not a standard fuel station and was the first of its kind on this main route. The emphasis was on electric vehicles. The number of

electric charging points provided would increase to 15. There was an emphasis on future electric chargers but there would be a requirement to provide some petrol/diesel initially although this would be on a smaller scale than traditional fuel stations with a much smaller fuel tank.

- The applicants had considered carefully, wooden cladding and greening for the site, albeit there were limited options available. The surrounding developments were commercial, with many having flat roofs. It was not considered out of context when compared with the Node Cowork building on the opposite site. It was considered that a pitched roof would increase the overall mass and bulk.

Richard Fritter (supporter) and Oliver A'Court (supporter) addressed the Committee.

The Corporate and Community Services Officer read a statement from Grant Allen (objector) to the Committee.

David Onions (agent) addressed the Committee.

Councillor Walker (Ward Member for an adjoining ward addressed the Committee).

Councillor Knight (Ward Member for an adjoining ward addressed the Committee).

Paul Young, Highways Officer of DCC Highways addressed the Committee in response to a request from the Committee. He advised the Committee:

- He objected to the application and disagreed with the developers', consultants' and Queens Counsel's findings.
- DCC, the Police Authority and the Parish Councils had raised concerns over the plans.
- The £200,000 paid by the applicant to DCC had been set aside and did not oblige DCC to provide a toucan crossing. The principle for a crossing of that type was considered no longer acceptable.

In response to a question from the Committee, the Service Manager (Development Management) advised that the Heritage Officer had confirmed their conclusion that the development provided 'less than substantial harm'.

RESOLVED (6 for, 5 against) that the application be approved as recommended by the Senior Planning Officer subject to the arrangements for the discharge of condition 43 being amended to "That prior to the commencement of the development the details of the design of the toucan crossing across the A39 shall be submitted and called-in to the Planning Committee for consideration".

94. ADJOURNMENT OF MEETING

RESOLVED that it being 12.45 a.m. the meeting be adjourned for a ten minute comfort break and reconvene at 12.55 a.m.

95. 73606: NORTH DEVON LEISURE CENTRE, SEVEN BRETHERN BANK, BARNSTAPLE, EX31 2AP

Councillor Knight (Ward Member) addressed the Committee.

RESOLVED, that it being 1.00 pm the meeting continue in order for the remaining business to be transacted.

The Committee considered a report by the Lead Planning Officer (Majors) (circulated previously).

The Lead Planning Officer (Majors) addressed the Committee and advised that:

- The car park was approximately a twelve minute walk to the town centre.
- The expectation was that travel into the town centre would be on foot or by bicycle as the site was so close that there would be little point in driving in.
- It was a green-led solution for what was partially a brown field site.
- The capping of the ground levels could alleviate flood and contamination risk.
- A full Section 106 was part of the recommendation
- There were no Highways objections.

In response to questions from the Committee, The Lead Planning Officer (Majors) advised:

- No additional cycleways or paths had been included as the existing 'Tarka trail' extended along the river front.
- The nearest bus stop was at the station. There was no requirement to install additional bus stops as the site was not on the bus route.
- The Barnstaple Fair organisers were satisfied with the alternative site proposed for the fair.

RESOLVED (9 for, 1 abstained) that the application be APPROVED as recommended by the Lead Planning Officer (Majors).

96. APPEALS REPORT

The Committee noted a report by the Senior Planning Support Officer (circulated previously) regarding planning and enforcement appeal decisions received since those reported at the last meeting of the Committee.

Chair

The meeting ended at 1.30 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG

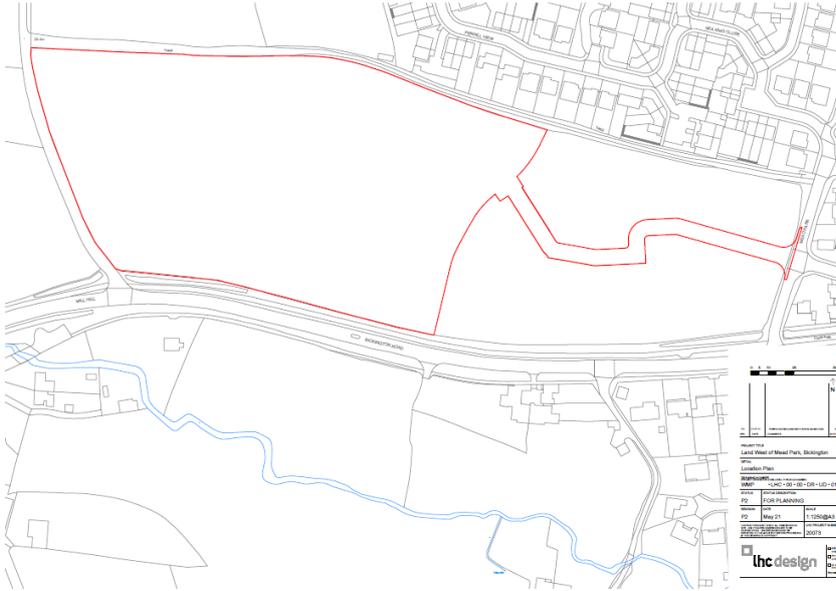


Application No: 73681
Application Type: Outline application
Application Expiry: 25 February 2022
Ext Of Time Expiry: 25 February 2022
Publicity Expiry: 24 September 2021
Parish/Ward: FREMINGTON/BICKINGTON
Location: Land West of Mead Park
Bickington
Barnstaple
Devon
Proposal: Outline application for up to 80 homes & access arrangements, including affordable housing, open space, landscaping, biodiversity net gain and associated infrastructure with some matters reserved (appearance, landscaping, layout and scale)
Agent:
Applicant: Mr Andrew Rowe
Planning Case Officer: Mrs J. Meakins
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations
Reason for Report to Committee: At the request of Councillor Walker for the following reason:

‘The development is on land forming the split between Bickington and Fremington. There are no houses opposite. Bickington Road is congested. The land is good agricultural land. The proposals goes against BAR22, ENV1 and paragraph 17 of the NDTLP.’

Site Description

The site is located directly to the west of the existing built form of the village of Bickington. The site is accessed from an earlier phase of residential development accessed off of Mead Park to the east which was approved subject of a planning appeal (NDC ref 60985 and included at appendix 1). Below is the location plan submitted with the application.



The site is an area of agricultural field bounded by established hedgerows to the north and west, a fence and trees to the south and at present is open towards the development taking place to the east.

The land slopes gently to the north where it cumulates in a ridge to the northern side of the Public Right of Way which runs east-west within a lane to the north of the site. This PROW provides direct access to the Tarka Trail via links from Penhill Lane and Mead Park to the north. The OS extract below shows the contours showing the local land form and the Public Rights of Way in the locality with the site within the dashed red line.



In terms of the surrounding context, farmland extends to the north of the site and to the west beyond Penhill Lane towards Fremington Pill. To the north-east of the site is a residential development granted on appeal (NDC reference 56492 and included at appendix 2), and similarly to the east, which is cited above. The South of the site lies

the B3233 known locally as Bickington Road in this location. A line of mature evergreen trees defines part of the boundary and beyond the road to the south is further farmland. The site lies outside of any defined development boundary which lies directly adjacent to the east and is located in an area designated by the North Devon and Torridge Local Plan (NDTLP) as a Green Wedge; which seeks to control development to prevent the coalescence of settlements. The site lies outside of any Nationally Designated Landscape or Wildlife designation, however lies 146 metres east of the Taw/Torridge Estuary Site of Special Scientific Interest (SSSI) and within the Zone of Influence for recreational impacts on the Braunton Burrows Special Area of Conservation (SAC).

Recommendation

APPROVED

Legal Agreement Required: Yes

Planning History

Reference Number	Proposal	Decision	Decision Date
60985	Outline Application for the erection of up to 61 dwellings, including affordable housing, areas of open space & landscaping, new vehicular access & associated site infrastructure at land west of Mead Park, Bickington, Barnstaple, Devon, EX31 2PE	Appeal Allowed	18 August 2016
63356	Variation of conditions 4 (approved plans) & 10 (access) attached to planning permission 60985 (outline application for the erection of up to 61 dwellings, including affordable housing, areas of open space & landscaping, new vehicular access & associated site infrastructure) to allow revised parameters (access, building heights, site areas & density) at land west of Mead Park, Bickington, Devon	OL Approval	22 September 2017
64378	Reserved matters application for erection of 61 dwellings (outline planning permission 63356) at land west of Mead Park, Bickington, Devon	Reserved Matters Approval	17 April 2018
64513	Approval of details in respect of discharge of condition 5 (tree and hedgerow protection), condition 6 (ecological impact assessment), condition 7 (surface water drainage), condition 8 (archaeological work) and condition 10 (construction & layout works) attached to planning permission 63356 at land west of Mead Park, Bickington, Barnstaple, North Devon	Discharge Of Condition Approve	15 June 2018

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Reference Number	Proposal	Decision	Decision Date
71028	Approval of details in respect of discharge of condition 9 (construction management plan) attached to planning permission 60985 (outline application for erection of up to 61 dwellings) at Mead Park Close (land west of Mead Park), Bickington, Barnstaple, EX31 2PE	Approved	28 January 2020
71097	Submission of details (Travel Pack) required by Unilateral Undertaking dated 2nd December 2016 in respect of application 60985/63356 at Land at Mead Park, Bickington, Devon	Approved	13 February 2020
71027	Approval of details in respect of discharge of conditions 3 (lighting scheme) and 4 (LEAP fencing & bin details) attached to planning permission 64378 (reserved matters for erection of 61 dwellings) at Mead Park Close (land west of Mead Park), Bickington, Barnstaple, EX31 2PE	Approved	18 February 2020
71042	Submission of details (Affordable Housing, Public Open Space & Drainage) required by Unilateral Undertaking under Section 106 dated 2nd December 2016 in respect of application 60985/63356 at Land West of Mead Park, Bickington, Devon	Withdrawn	12 March 2020
71468	Variation of Condition 2 (approved plans) and removal of condition 4 (LEAP) attached to planning permission 64378 (reserved matters application for erection of 61 dwellings (outline planning permission 63356) to allow for an amended layout at Land West of Mead Park, Bickington, Barnstaple, Devon, EX31 2PF	Approved	28 August 2020
72205	Variation of Condition 2 (approved plans) and Removal of condition 3 (lighting strategy) attached to planning permission 71468 to allow lighting strategy to be within the list of approved plans at Land to west of Mead Park, Bickington, Devon, EX31 2PF	Approved	17 November 2020
72204	Approval of details in respect of discharge of conditions 7 (surface water drainage) attached to planning permission 63356 at Land West of Mead Park, Bickington, Devon, EX31 2PF	Approved	18 November 2020

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Reference Number	Proposal	Decision	Decision Date
73306	Submission of details (Travel Plan, Open Space Management Plan, Drainage Scheme & Affordable Housing Scheme) required by Unilateral Undertaking under Section 106 dated 2nd December 2016 in respect of application 60985/63356 (amended description) at Land to west of Mead Park, Bickington, Devon, EX31 2PF	Approved	15 July 2021
ENQC/0010/2021	Extension of construction hours Monday to Friday from 8am till 6pm to 7.30am - 8pm and also 7.30am - 1pm Saturdays - ref details in Construction Management Plan submitted for planning application 71028 (approval of details in respect of discharge of condition 9 (construction management plan) attached to planning permission 60985 (outline application for erection of up to 61 dwellings) at Land to west of Mead Park, Bickington, Devon, EX31 2PF	Enquiry Closed	4 August 2021
73892	Application for a non-material amendment to planning permission 72205 in respect of replacing of screen walls proposed between plots 18-19 and 29-30 with close board fence on enclosures plan and amend all stone walls from cast stone to a cock and hen detail at Land to West of Mead Park, Bickington, Barnstaple, Devon, EX31 2PF	Approved	13 September 2021

Constraints/Planning Policy

Constraint / Local Plan Policy

Adopted Green Wedge:Muddlebridge Policy Ref:BAR22
 Advert Control Area Area of Special Advert Control
 Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.
 Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m
 Class III Road
 Critical Drainage Area
 Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes
 Unclassified Road
 Within Adopted Coast and Estuary Zone
 Within Adopted Unesco Biosphere Transition (ST14)
 Within Braunton Burrows Zone of Influence

Distance (Metres)

Within constraint
 Within constraint

Agenda Item 6

Constraint / Local Plan Policy

Within:, SSSI 500M Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant

Distance (Metres)

Within constraint

Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant

Within constraint

Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA

Within constraint

SSSI Impact Risk Consultation Area

Within constraint

SSSI Impact Risk Consultation Area

Within constraint

- DM01 - Amenity Considerations
- DM02 - Environmental Protection
- DM03 - Construction and Environmental Management
- DM04 - Design Principles
- DM05 - Highways
- DM06 - Parking Provision
- DM07 - Historic Environment
- DM08 - Biodiversity and Geodiversity
- DM08A - Landscape and Seascape Character
- DM10 - Green Infrastructure Provision
- ST01 - Principles of Sustainable Development
- ST02 - Mitigating Climate Change
- ST03 - Adapting to Climate Change and Strengthening Resilience
- ST04 - Improving the Quality of Development
- ST05 - Sustainable Construction and Buildings
- ST07 - Spatial Development Strategy for Northern Devon's Rural Area
- ST08 - Scale and Distribution of New Development in Northern Devon
- ST09 - Coast and Estuary Strategy
- ST10 - Transport Strategy
- ST14 - Enhancing Environmental Assets
- ST15 - Conserving Heritage Assets
- ST17 - A Balanced Local Housing Market
- ST18 - Affordable Housing on Development Sites
- ST21 - Managing the Delivery of Housing
- ST23 - Infrastructure

Consultees

Name	Comment
Arboricultural Officer	11/08/2021 12:38 - Jenni,
Reply Received 11 August 2021	The outline proposal and masterplan appear to have taken appropriate consideration of the arboricultural constraints (trees and hedges on and offsite) and as such the development proposed has the potential to lead to an overall enhancement of the sites

Agenda Item 6

Name	Comment
	<p>contribution to tree and hedgerow cover through the provision of new planting.</p> <p>Should you be minded to grant planning consent I would however suggest that you impose appropriate conditions to;</p> <p>i) secure a detailed arboricultural impact assessment and associated arboricultural method statement and tree protection plan to ensure that the existing trees and hedgerows are appropriately protected during the course of construction; and</p> <p>ii) secure a detailed landscape and ecological management plan to secure appropriate delivery and future management of the proposed soft landscaping and ecological enhancement of existing features.</p>
Councillor H Walker	See call in above.
Councillor J Cann	No comments
Councillor W Topps	No comments
<p>DCC - Childrens Services</p> <p>Reply Received 1 September 2021</p>	<p>1/09/2021 08:54 - Dear Planning,</p> <p>In assessing the education requirements from the above application, I have applied Devon County Councils education section 106 policy, available via: https://new.devon.gov.uk/planning/planning-policies/pupil-place-planning</p> <p>Devon County Council has identified that the proposal of up to 69 dwellings will generate an additional 17.25 primary pupils and 10.35 secondary pupils which would have a direct impact on Barnstaple primary and secondary schools.</p> <p>In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:</p> <p>We have forecast that local primary schools have capacity for 6% of the pupils expected to be generated by development coming forward in the area and therefore DCC would request for the remaining 94% of pupils. Therefore, Devon County Council will seek a contribution directly towards additional education infrastructure at the local primary that serve the address of the proposed development. The contribution sought towards primary provision is 4,563 per 2+ bedroom dwelling (based on the DfE</p>

Name	Comment
	<p>new-build rate of 19,417 per pupil x 94%). For the maximum of 69 family-type dwellings, the contribution sought for primary would be 314,847.</p> <p>As new primary provision is required, DCC also need to request a proportionate primary land contribution of 10sqm per family-type dwelling from this development. Based upon a land value of 1,105,000 per hectare, this land contribution would equate to 1,038.70 per dwelling (based on 1,105 per dwelling x 94%) and would be used to contribute to the procurement of the new school site. For the maximum of 69no 2+ bedroom dwellings the contribution sought for land would be 71,670.</p> <p>We have forecast that secondary schools have not got capacity for the number of pupils likely to be generated by the proposed development and therefore a contribution towards secondary education is required. The contribution sought for secondary provision is 3,376.94 per 2+ bedroom dwelling (based on the DfE extension rate of 22,513 per pupil). For the maximum of 69 family-type dwellings, the contribution sought for secondary would be 233,009. These contributions will relate directly to providing additional education facilities for those living in the development.</p> <p>In addition, a contribution towards Early Years provision is needed to ensure delivery of statutory provision for 2, 3 and 4 year olds. A contribution of 17,250 would be required (based on a calculation of 250 per dwelling). This would be used to provide early years provision for children likely to be generated by the proposed development.</p> <p>All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to contributions requested should be applied from this date.</p> <p>The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.</p> <p>In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed 500.00 where the agreement relates solely to the education contribution. However, if the agreement involves</p>

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	<p>other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 6 October 2021</p>	<p>1) The proposed development is considered to exacerbate existing highway capacity issues at the A3125/B3233 Junction (Cedars) and the A3125/Old Torrington Road Junction (ESSO Garage). As a consequence, the proposal is considered to be contrary to the National Planning Policy Framework (July 2021), in particular, paragraph 110 (d) and paragraph 111, as no mitigation measures are proposed to the junctions and, consequently, the residual cumulative impact upon the road network is considered to be 'severe'</p> <p>Updated Highways comments received 19/01/2022: In light of identified in-principle schemes of improvement at the A3125/B3233 Junction (Cedars) and the A3125/Old Torrington Road Junction (ESSO), the following formula has been applied to arrive at a highway contribution requirement to be directed towards, specifically, the ESSO Garage junction. To convert dwellings to vehicle movements: 80×4.364 (daily dwelling trip rate) = 349.12, say 350 no. vehicle movements. A total of 151 no. vehicle movements have a direct impact upon the Cedars and ESSO Garage junctions (57% west to Bideford and 43% east to Barnstaple). Thus, converting these movements to dwelling numbers: $151/4.364 = 35$ no. dwellings @ 1936.55p per dwelling = 67,779.25p total. If the contribution is agreed by the applicants I can confirm the highway objection is withdrawn.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 1 September 2021</p>	<p>Recommendation: Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.</p> <p>Observations: The applicant has proposed to manage surface water within an attenuation pond before discharging into the surface water sewer (constructed as part of the eastern development). The applicant has also proposed a swale to manage exceedance flows within the west of the site. The applicant has proposed to vary the side slopes of the basin. The side slopes should be suggested at this stage. The applicant has noted that the side slopes will be a maximum of 1 in 3, however, this does not confirm the variation. The applicant should indicate the maximum length of 1 in 3 slope, and also indicate the likely lengths and locations of gentler slopes. The MicroDrainage model outputs currently determine a freeboard level less than 300mm. However, the</p>

Name	Comment
	<p>applicant has confirmed within the Flood Risk Assessment (Rev. initial issue; dated 26th February 2021) that the freeboard level will be at least 300mm. If planning permission is granted for this site, the applicant will need to demonstrate freeboard levels of at least 300mm at the next stage of planning.</p> <p>The applicant has noted that the capacity of the off-site surface water sewer has been assessed. The applicant should submit calculations or model outputs to demonstrate that the surface water sewer has capacity.</p> <p>The applicant has noted pollution mitigation indices above the mitigation indices for a pond. Only a pond appears to be proposed, therefore, the applicant must confirm what other features are proposed. The applicant has noted additional features to be assessed at the next stage of planning. The applicant should confirm these features at this stage if possible (at this stage of planning, the applicant could note types of features and confirm that additional features will be constructed upstream of the pond).</p> <p>The total developable area (2.072ha) noted on the Preliminary Drainage Layout (01-PDL-2001; Rev. initial issue) is slightly lower than the developable area (2.222ha) used within the long-term storage calculation.</p> <p>The applicant must clarify this area.</p> <p>The applicant must confirm how the exceedance flows within the east of the site shall remain within the site and not be routed towards the north-eastern access road.</p> <p>The applicant should confirm the depth of permanent water within the attenuation pond. The applicant should plant the attenuation pond with native planting.</p> <p>Updated response 23/12/2021:</p> <p>Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:</p> <p>Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:</p> <ul style="list-style-type: none"> (a) A detailed drainage design based upon the approved Flood Risk Assessment. (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted. (c) Proposals for the adoption and maintenance of the permanent surface water drainage system. (d) A plan indicating how exceedance flows will be safely managed at the site.

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	<p>No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.</p> <p>Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.</p> <p>Observations: Following my previous consultation response (FRM/ND/73681/2021; dated 1st September 2021), the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 4th October 2021, for which I am grateful. The applicant should submit the revised MicroDrainage model outputs to the Local Planning Authority for their review. The applicant has remodelled the system to demonstrate that a freeboard of 300mm has been designed.</p> <p>The applicant has also noted that the side slopes will likely be 1 in 3 to 1 in 4. However, the applicant may be able to achieve 1 in 5 slopes in places. 1 in 5 slopes should be assessed.</p> <p>The applicant has confirmed that the existing sewer has capacity to receive additional flows from the site at the proposed discharge rate.</p> <p>The applicant must assess additional features upstream of the pond. A SuDS Management Train provides opportunities for interception losses, as well as treatment of water.</p>
<p>DCC - Public Health</p> <p>Reply Received 19 August 2021</p>	<p>The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance) which was jointly prepared by NHS England and Devon County Council.</p> <p>In preparing this response, it is noted that in policy ST08: Scale and Distribution of New Development in Northern Devon states: "(1) Development will be focused at the Sub-regional, Strategic and Main Centres to increase self-containment through sustainable growth that provides balanced housing markets within environmental limits and increases access to jobs, health, education etc."</p>

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	<p>The CCG's concern is that Fremington Medical Practice is already over capacity within its existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The surgery already has 7,308 patients registered and this new development will increase the local population by a further 181 persons.</p> <p>Taking this into account and drawing upon the document "Devon Health Contributions Approach: GP Provision document" which was agreed by NHS England and Devon County Council, the following calculation has been made:</p> <p>Methodology for Application 73681</p> <ol style="list-style-type: none"> 1. Residential development of 80 dwellings 2. This development is in the catchment of the Fremington Medical Practice which has a total capacity for 6,996 patients. 3. The current patient list size is 7,309 which is already over capacity by 312 patients which equates to 104% of capacity. 4. The increased population from this development = 181 <ol style="list-style-type: none"> a. No of dwellings x Average occupancy rate = population increase b. $80 \times 2.26 = 181$ 5. The new GP List size will be 7,489 which is over capacity by 493 <ol style="list-style-type: none"> a. Current GP patient list + Population increase = Expected patient list size b. $7,308 + 181 = 7,489$ (493 over capacity) c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6 6. Additional space required = 14.46 m² <ol style="list-style-type: none"> a. The expected m² per patient, for this size practice = 0.08m² b. Population increase x space requirement per patient = total space (m²) required c. $181 \times 0.08 = 14.46$ m² 7. Total contribution required = £46,285 <ol style="list-style-type: none"> a. Total space (m²) required x premises cost = final contribution calculation b. $14.46 \text{ m}^2 \times \text{£}3,200 = \text{£}46,285$ (£579 per dwelling). <p>Could you please acknowledge the CCG's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future s106 Agreement with the Developers.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 13 August 2021</p>	<p>It is appreciated that at this time it is an outline application, as such I am unable to comment in depth as the Proposed Site Plan does not reveal many, if any, details that would be of concern to the police.</p> <p>With a proposal of this size, areas of concern tend to be in relation to defensible space, clear ownership of property, including parking spaces, defensible planting, preventing conflict with youths and ball</p>

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	<p>games etc, desire lines and unwarranted permeability allowing potential offenders to wonder unchallenged.</p> <p>Public and private space should be clearly defined and areas of ambiguity avoided with appropriate boundary treatments provided. How dwellings address green space is important. They should provide frontage to such space and not have rear gardens backing onto these areas. Similarly, they should also address new streets and other public realm areas positively to ensure good natural surveillance.</p> <p>The need for Public Open Space (POS) is fully appreciated, as long as it does not run the risk of becoming a problem area or capable of having a negative impact on quality of life issues for residents. POS would preferably be positioned centrally to a development or be sited so it will be well overlooked so as to not undermine the safety and security of those living nearby or users of the space.</p> <p>Mere residual space or land that cannot or is awkward to develop should not be considered as being suitable or appropriate as public open space.</p> <p>Pedestrian links require careful consideration, as from an offenders perspective, these will provide a legitimate excuse for being in the area without fear of being challenged or noticed. Too much permeability in a development makes controlling crime and anti-social behaviour very difficult as it allows easy intrusion around the development by potential offenders and does not serve the community. All planned routes should be needed, well used by generating adequate footfall, well overlooked, for example, not running to the rear of dwellings and well-integrated. Research confirms that inappropriate access can create hiding places and give anonymity to offenders enabling them to familiarise themselves with an area, search for vulnerable targets, offend and escape. Crime is always easier to commit where there is little or no chance of an offender being challenged or recognised.</p> <p>Levels of anti-social behaviour will also be correspondingly high in designs that reduce residential influence.</p> <p>Whilst residential vehicle parking may be considered as a matter for later discussion, how it will be implemented must be considered fully as early as possible. Whilst a mix of solutions would be expected, if these include rear parking courts then it should be made clear that such spaces must be small, safe and be well overlooked from commonly habited rooms, with active frontages included. Adequate lighting of such courts should be mandatory.</p> <p>Whilst the above can really only be fully addressed once more detail is known, even at this early stage, the principles of and attributes of Crime Prevention Through Environmental Design (CPTED) should be considered as they play a key role to ensuring a safe and sustainable community.</p>

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	<p>Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.</p> <p>Structure: Places that are structured so that different uses do not cause conflict</p> <p>Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.</p> <p>Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community</p> <p>Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019</p> <p>Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.</p> <p>Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB. should be recognised quiet early on in the planning process, this enables safe and sustainable communities.</p>
Environment Agency	No reply received.
<p>Environmental Health Manager</p> <p>Reply Received 20 August 2021</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Air Quality</p> <p>In accordance with the Council's Air Quality Supplementary Planning Document, there will be a need for the applicant to provide an Air Quality Impact Assessment (AQIA) to assess whether any significant impacts on local air quality have the potential to arise including as a result of increased traffic flows associated with operation of the development.</p> <p>The AQIA should be prepared by a suitably qualified air quality specialist, having regard to relevant standards and guidance including that contained in the EPUK & IAQM document: Land-use Planning and Development Control: Planning for Air Quality - January 2017. The assessment should include recommendations for any further assessment or mitigation required where relevant.</p> <p>2 Land Contamination</p> <p>I have reviewed the Geotechnical Investigation and Contamination Assessment Report by Ruddlesden Geotechnical dated 25 January 2016. The report concludes that the levels of contamination recorded in the investigation are not potentially harmful to human</p>

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	<p>health given the proposed end use or to the water environment and no further action or specific remedial measures are required. However, any unexpected contamination discovered during development works should be reported.</p> <p>Given the above, I recommend the following condition be imposed:</p> <p>- Contaminated Land (Unexpected Contamination) Condition Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework</p> <p>3 Construction Environmental Management Plan</p> <p>I have reviewed the undated Cavanna Homes Construction Environmental Management Plan (CEMP). The document sets out the management measures to be adopted during development of the site and notes that some aspects, such as traffic access arrangements and a construction site plan, are still to be confirmed. Also, the Air Quality Impact Assessment (see above) may identify specific mitigation measures for inclusion in the CEMP.</p> <p>Apart from areas where further details are awaited, the document is acceptable for the purposes of addressing construction phase impacts from an Environmental Health perspective.</p> <p>I recommend an updated, finalised CEMP be provided at reserved matters stage and, once agreed, the plan should be implemented under a suitable planning condition.</p> <p>Update following clarification on information required 17/12/2021: The additional information provided addresses my query and I accept that there is no requirement to provide an AQIA.</p>
<p>Fremington Parish Council</p> <p>Reply Received 8 September 2021</p>	<p>It was resolved to recommend REFUSAL. The development is on land forming the split between Fremington and Bickington, properties on the other side of Bickington Road were rejected for this reason. There are highways issues with the already congested Bickington Road. The land is also classed as good agricultural land and the proposal goes against BAR22, ENV1 and Paragraph 17 of the North Devon and Torridge Local Plan. The Parish Council</p>

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	would refer NDC to the Appeal Decision on Planning Application 60985.
Heritage & Conservation Officer Reply Received 31 August 2021	This site lies to the east of the Muddlebridge Conservation Area. Development of the existing agricultural fields will have an effect on the wide setting of the Conservation Area, changing this from farmland to suburban housing. This will lessen the ability to appreciate the heritage asset in anything like its original context.
Housing Enabling Officer Reply Received 25 August 2021	<p>The proposed site is outside and adjoining the Barnstaple development boundary in the Local Plan. It is situated within land identified in Policy BAR22: Green Wedges of the Local Plan. If Planning determine that the proposed site is acceptable in planning terms then although generally Policy ST19: Affordable Housing on Exception Sites of the Local Plan would apply in this location, due to the current absence of a 5 year housing land supply 30% affordable housing provision would apply.</p> <p>The tenure mix would need to be at least 75% social rent (in accordance with policy) and the remainder intermediate (shared ownership, intermediate rent or discounted sale).</p> <p>Property sizes for affordable housing should aim to meet or exceed the "Technical housing standards - nationally described space standard", which can be accessed at https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard (see "Table 1 - Minimum gross internal floor areas and storage (m2)" of the Department for Communities and Local Government document).</p> <p>The attached table shows the policy requirement for dwelling mix & occupancy levels. Registered providers require housing to be built to National Space Standards; these are indicated on the table.</p> <p>The supply and demand for 4 bed 8 person units and challenges around the use and allocation of 4 bed 6 person units has been reflected in our consultation responses in which we state a requirement for four bed eight person dwellings at 124 square metres.</p> <p>Devon Home Choice (DHC) shows there are 202 households living in the parish of Fremington registered as being in need of affordable housing for rent as of July 2021. Not all households tend to register themselves on the housing register as they don't think that they will have the opportunity to be housed so this figure is often significantly higher. It should be noted that although DHC data identifies the number of households living within the parish in housing need, it does not always provide sufficient information to</p>

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	<p>firmly establish how long households have been resident in the parish or if they wish to remain in the parish; it is a snap shot in time and people's circumstances can change extremely quickly. In addition, some households may seek affordable home ownership options (shared ownership/discounted sale). We don't hold data on numbers of households requiring some form of affordable housing for sale.</p> <p>Local connection on all affordable housing, whether rented or for sale. First cascade to Fremington parish, second cascade to the adjoining rural parishes (Instow, Tawstock and Horwood, Lovacott and Newton Tracey), and third cascade to the whole of North Devon District Council's area.</p> <p>The affordable homes should be pepperpotted throughout the site in clusters of no more than 6-10 units.</p> <p>The affordable homes should be designed and of the same material and construction as the open market - including car parking.</p>
<p>Natural England Reply Received 19 January 2022</p>	<p>Thank you for your consultation email dated and received on 18 January 2022 relating to the above proposal. Based on the information provided we have the following comment.</p> <p>1.European Designated sites Braunton Burrows Special Area of Conservation (SAC) – HRA required</p> <p>The application site is within the Zone of Influence (Zol) for the Braunton Burrows SAC within which impacts of residential and tourist development on the SAC would arise in the absence of appropriate mitigation. Further evidence submitted following your Joint Local Plan Habitats Regulations Assessment indicates that it would not be possible to reach a conclusion of 'no likely significant effect' for housing in this location, in combination with other residential/tourist development within the Zol.</p> <p>SUMMARY OF NATURAL ENGLAND'S ADVICE FURTHER CONSIDERATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES</p> <p>There is the potential for the application to affect European Sites. The consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.</p>

Name	Comment
	<p>Further consideration is also required regarding the potential indirect impacts on the Taw Torridge Estuary Site of Special Scientific Interest (SSSI).</p> <p>Our more detailed advice on this and other environmental matters is provided below.</p> <p>North Devon Council and Torridge District Council have adopted the 'Braunton Burrows Special Area of Conservation Mitigation Strategy (2021)' whereby impacts can be avoided and mitigated through financial contributions in order to avoid significant effects of recreational impacts on the Braunton Burrows SAC from new housing/tourist developments within the Zol.</p> <p>Natural England therefore advises that you:</p> <ul style="list-style-type: none"> • Undertake an Appropriate Assessment² of the proposal and any mitigation proposed, prior to determining the application. Natural England is a statutory consultee at Appropriate Assessment. • Seek agreement from the applicant on funding of a package of measures (currently £190 per unit) which will permit you to reach a conclusion of no adverse effect on integrity before granting permission. Your Authority should not grant permission until such time as this mitigation has been secured. <p>The Conservation Objectives for the Braunton Burrows SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.</p> <p>The Culm Grasslands Special Area of Conservation (SAC) – no further assessment required</p> <p>This site appears to be a departure from the Joint North Devon and Torridge Districts Local Plan (JLP). Your Authority's JLP Habitat Regulations Assessment (HRA) considered whether there would be air quality impacts on the Culm Grasslands SAC associated with housing development allocated in the JLP. The development site is not allocated in the adopted plan and is therefore classed as a 'windfall site'.</p> <p>The Council's HRA of non-plan led development concluded no effect on site integrity as a result of additional growth (over and above the allocated sites) of up to 10,000 dwellings in-combination with the Local Plan. This application can therefore screen out from any further assessment (The Council should be keeping track of non-plan led development numbers).</p> <p>2. Nationally Designated sites The Taw Torridge Estuary Site of Special Scientific Interest (SSSI) – further consideration required</p>

Name	Comment
	<p>The site is not allocated for development in the adopted Development Plan and falls within the Coast and Estuary Zone (Policy ST09) and a green wedge (Policy Bar22). It is in close proximity to the Taw Torridge Estuary SSSI which is notified for its overwintering bird interest and intertidal habitats. Further information about the notified special interest of SSSIs can be found at www.magic.gov.uk</p> <p>SSSI bird interest – Based on the information provided, the habitats present are of limited value for use as a high tide roosting and foraging area and the overwintering bird surveys indicate the development site is unlikely to support significant numbers of birds associated with the SSSI.</p> <p>However, data gathered through the Taw Torridge Estuary High Tide Roost and Recreational Impacts study³, of which your Authority is a partner, provides evidence of recreational impacts on important high tide roosts and on birds feeding through all states of the tide.</p> <p>The estuary birds are particularly sensitive during the winter and during stopovers on annual migrations, throughout which time they must build up energy reserves. Any disturbance that causes them to take flight, especially repeatedly, reduces foraging time and causes additional energy expenditure. This can result in a reduction in fitness making it a challenge to survive the winter.</p> <p>Plan led development has the potential to affect the SSSI by virtue of the associated recreational activity on and around the estuary contributing cumulatively to disturbance and displacement effects on the overwintering water birds on the estuary.</p> <p>North Devon Council will need to consider any planning decision in light of this new evidence highlighting the importance of the estuary for overwintering birds. A strategic approach to recreational disturbance on the estuary would secure better environmental outcomes.</p> <p>If your authority is minded to grant permission, suitable mitigation measures should be agreed and secured via condition to reduce disturbance to over wintering birds. This should include but not be limited to interpretation packs for all households and information panels on the proposed foot and cycle connection the Tarka Trail.</p> <p>Caen Valley Bats SSSI – no objection subject to mitigation This application site is outside the roost sustenance zone of the Caen Valley Bats SSSI, notified for its Greater Horseshoe bat colony and outside any known strategic flyways or flight paths. However, Greater Horseshoe bats are known to cross the river from north to south and fly along the Tarka Trail.</p> <p>The Ecological Appraisal (EA) highlights that Greater Horseshoe bats were recorded along the northern and western boundaries. A wildlife sensitive lighting scheme should be designed to avoid light</p>

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	<p>spill (<0.5 lux) on to retained habitats creating 'dark zones' where development is in close proximity to linear foraging habitats. Based on the information provided, Natural England is satisfied that there is not likely to be an adverse effect on the designated site subject to a detailed lighting scheme being secured via condition.</p> <p>3. Landscape This proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment (LCA) and the policies protecting landscape character in your local plan, particularly ST09 coast and estuary strategy and BAR22 green wedges.</p> <p>4. Protected species We have not assessed this application and associated documents for impacts on protected species. Natural England has produced standing advice⁴ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances. The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting. They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.</p> <p>5. Biodiversity enhancements Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the NPPF⁵ and within the Defra 25-year Environment Plan. Policy ST14 of the Joint Torridge and North Devon Local Plan also expects all development to provide a net gain in biodiversity.</p> <p>An evidence-based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions⁶ (under Section 40 NERC Act, 2006). Biodiversity metrics are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds, but the Environment Act sets a minimum 10% threshold.</p> <p>We would recommend incorporating nest sites for swallow, house martin, house sparrow, swift boxes and bat boxes into the design</p>

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	<p>of new buildings and using native plants in landscaping schemes as they provide better nectar and seed sources for bees and birds. The use of SuDS to manage surface water run-off can also contribute towards green infrastructure by increasing biodiversity value. Amenity value can also be increased with careful design to manage risk (CIRIA). The RSPB/WWT7 has produced a guide for developers and planners on designing and managing SuDS features that are also good for wildlife. We would recommend that management of the SuDS is included in an ecological management plan as maintenance of these features is key to a properly functioning system.</p> <p>6. Soils and Land Quality From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 174 of the National Planning Policy Framework). For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils. We would however draw your attention to the Agricultural Land Classification information that is available on the Magic website on the Data.Gov.uk website which indicates the 3.37ha site to be predominantly Grade 2 best and most versatile agricultural land. Consequently, we advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.</p> <p>Should the application change, or if the applicant submits further information relating to the impact of this proposal on designated sites, Natural England will be happy to consider it, and amend our position as appropriate.</p>
<p>Open Space Officer</p> <p>Reply Received 17 August 2021</p>	<p>This application generates a requirement in line with policy DM10. I attach an initial calculation based on the 77 units proposed. I note the illustrative masterplan shows on site provision of amenity open space and a LAP. Please can you provide the quantum of each typology of open space so I can look to offset this provision against the calculation.</p>

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Planning Policy Unit Reply Received 7 September 2021	<p>Thank you for consulting the Planning Policy team concerning the above outline application for the erection of up to 80 dwellings and associated infrastructure. I note this application has been submitted following pre-application enquiries.</p> <p>Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. As you are aware, the Council have a recently adopted Local Plan (October 2018) which was</p>																																																																																																																																						

Name	Comment
	<p>considered by the Inspector to be 'Sound' and in general conformity with the NPPF; therefore, policies in the Local Plan are up to date. The NPPF is a material consideration in planning decisions as is the fact that North Devon, at this present time cannot clearly demonstrate a 5 year supply of deliverable housing sites.</p> <p>The site is outside the defined development boundary for Barnstaple where Policy ST07(4) will apply. In the Countryside, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location. As the site is outside the defined development boundary for Barnstaple it is therefore within the undeveloped part of the coastal and estuarine zone where Policy ST09(7) will apply. Paragraph 4.39 of the Local Plan recognises that 'the undeveloped parts of this coastal zone are a finite resource and their unspoilt character, appearance and tranquillity will be protected against development not related to the coast or not providing benefits for the local community' although being within the undeveloped coast is not considered to be a clear reason for refusal in terms of footnote 7 of paragraph 11(d) and the presumption in favour of sustainable development but paragraph 174(c) makes it clear that the 'character of undeveloped coast should be maintained'.</p> <p>You will also be aware that the site is within the identified 'Green Wedges' where Policies BAR(l), BAR22 and FRE(i) will apply, the purpose of which in this instance is to protect the individual identities of Barnstaple and Fremington. Within the 'Green Wedges', development that could lead to or contribute towards the coalescence of these settlements will be resisted.</p> <p>To support the green wedges policies (BAR22) and in recognition of appeal decisions in Bickington, North Devon Council commissioned an addendum (January 2018) to the Green Wedge Report (June 2016) to ascertain to what extent, if any, of the land to the north of B3233 between Mead Park and Penhill can be developed without compromising the aims of the Green Wedge policy BAR22. For information, this document was prepared by David Wilson Partnership who interestingly, prepared the 'Landscape and Visual Assessment (January 2021) report used to inform the proposed 'Illustrative Masterplan' for this current outline application so I would hope there was a level of consistency between the two documents. The 2018 report concluded, 'approval of Mead Park ph1 led to a situation where the western boundary of Bickington was not well connected to landscape features or topography. Further approvals at Mead Park Phase 2 and the Cavanna Homes site are more connected to existing field patterns, topography and the pattern of development locally. As a result,</p>

Name	Comment
	<p>there is now a defensible boundary to the west of Bickington that relates well to its landscape context and defines the edge of the settlement within its landscape setting. The report continues, 'further development westwards from either site would dilute the strong landscape context of the settlement boundary and would lead to harm to the landscape setting and identity of Bickington. With development of the Cavanna Homes site, there are still areas between Fremington and Bickington where there is no inter-visibility between the settlements and where the traveller is entirely within undeveloped countryside with little influence from surrounding built up areas. If development were to encroach westwards of the Cavanna site, this important characteristic of the Green Wedge would be lost'.</p> <p>This stance was also supported by the appeal Inspector for Mead Park (Phase I - (APP/X1118/W/16/3154193)) where at paragraph 19 he states 'although the southwest corner of the proposed development would be a short distance to the west of Brookfield House it would be opposite the western edge of the curtilage of this property and thus this would mark a logical end point for the western extent of the proposed development'.</p> <p>I note from the attached Planning Statement (paragraph 4.8) where the author has helpfully set out the conclusions of the baseline study and I quote:-</p> <ul style="list-style-type: none"> • Development of the site would impinge on areas covered by policies of the Local Plan partly aimed at protection of landscape character. The site sits within the Green Wedge policy area. Site location, outline layout and proposed mitigation will help to integrate the site into the surrounding landscape and ensure that the policy's landscape objectives can be fulfilled; • Development will not lead to the coalescence of Bickington and Fremington and will not lead to the loss of their separate identities. The landscape features and characteristics of the Green Wedge area will not be markedly affected by development; • The site sits just within the Coast and Estuary Zone (CEZ), in an area defined as undeveloped coast. Development would not detract from the special character and qualities of the Estuary, including its tranquillity and sense of remoteness. It would not have a significant adverse impact on the experience of people using the National Cycle Network or the South West Coast Path where they run through the estuary; • In the host landscape area, the development would be seen as an extension to the existing edge of Bickington. It has been designed in outline to mitigate adverse impacts on local landscape features, character, and quality.

Name	Comment
	<p>I will leave it with you as the decision taker on this particular matter but from a policy perspective there does appear to be some conflict between the conclusions from the David Wilson Partnership report dated January 2018 that supported the Local Plan designation of a 'Green Wedge' as well as the conclusions of the appeal Inspector for Mead Park Phase I and their report of January 2021, supporting this outline application that appears to reach a different conclusion. You may wish to agree with the Planning Statement that development of this site will not lead to the coalescence of Bickington and Fremington and their separate identities are still maintained as Penhill Lane on the western boundary (leading to Penhill) would form a more natural definitive and defensible boundary. However, BAR22 is clear in that development will be resisted where it could lead to or contribute towards the coalescence of these settlements and in my opinion new housing in this location would contribute further to the erosion of this green gap between Bickington and Fremington. However, as I have set out above regarding proposals within the undeveloped coast, although the site is within the identified 'Green Wedge' it is not considered to be a clear reason for refusal in terms of footnote 7 of paragraph 11(d) and the presumption in favour of sustainable development.</p> <p>Following the Burwood appeal decision in Torridge, the Councils recognise that they are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1st April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031. I recognise the base date for this assumed housing supply is April 2019 and although the Council has not updated that position to April 2021, from a policy perspective I do not see that the 4.23 year supply would have improved to a position that we could confidently demonstrate a 5 year supply of deliverable housing sites.</p> <p>Therefore, National planning policy (Footnote 8, National Planning Policy Framework (NPPF)) establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development (paragraph 11(d), NPPF as a material consideration), should be applied for decision-taking involving applications for housing.</p>

Name	Comment
	<p>If there is no clear reason to refuse an application based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called tilted balance (Paragraph 11(d)(i), NPPF). From a policy perspective, the lack of a 5 YHLS is a material planning consideration and I would suggest you must apply significant weight in the tilted balance to a proposal of up to 80 homes as I am of the opinion that it could make a substantial contribution to the Councils shortfall in deliverable housing sites although I note the application is in outline only so I must question what level of contribution this site would make to meet the Council's shortfall in its 5 year supply of deliverable housing sites. I note from the submitted 'Planning Statement' at paragraph 3.23 that 'In terms of delivery, our client would anticipate that they would be on site by the summer/autumn year 2022, with a view of developing the full complement of houses within two and a half years'.</p> <p>If you are minded to support this application then for the site to be considered deliverable you must be satisfied that this statement offers clear evidence that housing completions will begin on site within five years. As set out with the adopted SHLAA methodology (update March 2014) and guided by the expert knowledge of the Stakeholder Panel it is stated that 'a series of assumptions on lead-in times for differing sizes of development have been prepared. The assumptions apply to sites that are under the control of a developer and relate to the period from the developer obtaining control of the site, through to commencement of dwelling construction. It is the intention that the following guidelines will be applied to the assessment of sites where such circumstances exist'. For a development of 50 plus dwellings has an assumed period of commencement to be 3 years whereas in this particular instance the site is not under the control of the developer but the statement in paragraph 3.22 would suggest a period of commencement of between 12-15 months from the submission of this outline application as opposed to any potential approval date. The timings also do not include a period to determine any future reserved matters application and the execution of any pre-commencement conditions. Whilst this anticipated timetable is of course welcomed in terms of seeking to address the Council's shortfall in its 5 YHLS, I must question whether this timetable is in fact feasible considering some of the stages that in my opinion, still need to be resolved before delivery can start on site. I would suggest the 3 year period is still relevant as the Inspector for the Burwood appeal suggested that (paragraph 57) 'clear evidence should not just consider the planning matters but also the technical, legal and commercial/financial aspects of delivery assessed'. I do however accept that the potential developer of this site is currently</p>

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Name	Comment
	<p>delivering 61 homes on adjoining land to the east so commencement can conceivably be pushed forward but you must still question these delivery timings in line with the concerns set out above.</p> <p>I would also wish to understand when ownership will be transferred to the developer? The housing trajectory on delivery should be clear and suitably conditioned or through the s106 as again, the Inspector at the Burwood Lane, Torrington appeal considered that email confirmation from the developer is not good enough. Also, if you are minded to support this outline planning application then to help ensure the proposal is implemented in a timely manner, consideration should be given to only granting a 1 year (12 months) or at the very most 18 months outline approval as supported by paragraph 77 of the NPPF (where this would not threaten viability) rather than the standard 3 years. In terms of the build-out rate, I accept a period of 2.5 years would be in line with the adopted SHLAA although a slightly longer period to that envisaged by the appeal Inspector who, at paragraph 59 of the Burwood appeal referred to the nationally identified build-out rate of 43 dph which would suggest the site should be delivered in approximately 18-24 months.</p> <p>The Councils currently accept that clause (2) of Policy ST21 is triggered on the basis that at this point in time it is not possible to demonstrate that completions are above 90% of that which was required for the previous monitoring year and that there would be an appropriate recovery demonstrated for the next two years. As the proposal for housing lies outside of defined settlement boundary for Barnstaple, the provisions of Clause (2) and associated criteria of Policy ST21 should be applied and considered.</p> <p>Should you be minded to support this outline planning application then I will outline the policy requirements.</p> <p>Policy ST18(1a) of the Local Plan will expect housing developments over the threshold to provide on-site delivery of affordable housing equal to 30% of the total number of dwellings (gross). In this instance there should be an on-site requirement of at least 24 affordable dwellings. Also, you must be assured that the proposed housing mix will meet the identified housing need in accordance with Policies ST17. Page 180 of the HEDNA (CE21) provides guidance on the mix of bed sizes by tenure that would be appropriate to help meet identified housing needs. For information, Part (1) of the policy could be used to seek particular forms of housing where there is evidence of need. I have provided an extract from the HEDNA (Table 114: Recommended Housing Mix –</p>

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Name	Comment																
	<p>page 214) which identifies the recommended housing mix across the Plan area.</p> <table style="margin-left: 40px; border-collapse: collapse;"> <tr> <td style="padding-right: 20px;">1 – bed</td> <td style="padding-right: 20px;">2 – bed</td> <td style="padding-right: 20px;">3 - bed</td> <td>4 - bed</td> </tr> <tr> <td>Market</td> <td>5-10%30-35%</td> <td>40-45%</td> <td>15-20%</td> </tr> <tr> <td>Affordable</td> <td>30-35%</td> <td>35-40%</td> <td>20-25% 5-10%</td> </tr> <tr> <td>All Dwellings</td> <td>15% 35%</td> <td>35%</td> <td>15%</td> </tr> </table> <p>The design and layout of the development should be considered against Policies ST02, ST03, ST04, ST05(1), DM01, DM04 and DM08A of the local plan and the National Design Guide. You may consider whether the site should be considered by an independent Design Review Panel as advocated by paragraph 133 of the NPPF. It is also worth noting that criterion 2 of DM04 will expect all major residential proposals such as this, to be supported by a Building for Life 12 assessment (updated to Building for a Healthy Life – July 2020) where the developer must minimise ‘amber’ scores and avoid ‘red’ scores. I welcome that the agent has submitted a BfHL statement in accordance with Policy DM04(2) and that it has shown the development will achieve 12 ‘green’ scores albeit I would wish to see this being critically examined to ensure the intentions of policy DM04 are delivered. The site is within a ‘critical drainage area’ where you must ensure that the development incorporates additional water storage areas compared to normal urban drainage systems in accordance with Policies ST03, BAR(p) and FRE(e) of the adopted Local Plan.</p> <p>As set out in paragraph 6.5 of the Local Plan, ‘all development will be expected to provide a net gain in biodiversity where feasible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support ‘biodiversity offsetting’ to deliver a net gain in bio-diversity off-site’. If there is some loss of existing habitat then this should be mitigated against by providing additional planting on or off site. The Defra metric should be used to ensure there is an overall net gain in biodiversity. It is worth noting that part of the hedgerow along the northern boundary is a ‘key network feature’ within the wider biodiversity network and you should ensure its retention and enhancement. As the site is within the Braunton Burrows SAC Zone of Influence, the applicant will be liable for a financial contribution towards the long term management and maintenance of the Special Area of Conservation. All issues around ecology should be considered against ST14 and DM08 including the response from Mark Saunders.</p> <p>Policy ST14(d) seeks to conserve the best and most versatile agricultural land (Grades 1, 2 and 3a) as it is considered to be a limited environmental resource. Evidence would suggest the site is</p>	1 – bed	2 – bed	3 - bed	4 - bed	Market	5-10%30-35%	40-45%	15-20%	Affordable	30-35%	35-40%	20-25% 5-10%	All Dwellings	15% 35%	35%	15%
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Name	Comment
	<p>principally Grade 2 which is considered to be higher grade agricultural land.</p> <p>The site is within the landscape character type 3A: Upper Farmed Wooded Valley Slopes where the overall strategy is 'to protect the landscape's strong rural character and historic sense of place. The farmed landscape comprises a rich mosaic of fields bounded by an intact network of species-rich Devon hedges. Valued farmland and woodland habitats are managed and extended, with opportunities for Green Infrastructure links to settlements pursued'. Policies BAR(I), BAR22 and FRE(i) seeks to protect the open landscape character between Fremington and Bickington in order to help maintain their separate identities. Clearly, development of this greenfield site will continue to erode this green gap further as well as the undeveloped part of the Coastal and Estuarine Zone.</p> <p>Paragraph 13.68 of the adopted Local Plan clearly sets out that new development will be required to make provision for public open space, recreation, sports facilities and green infrastructure and where possible, such facilities should be provided on site as an integral part of the development. Therefore, you must ensure the proposal delivers green infrastructure in accordance with Policy DM10 and the standards as set out in Table 13.1 together with guidance from the consultation response of Richard Slaney.</p> <p>The western boundary of the site is in close proximity to the eastern boundary of Fishleigh Wharf, Muddlebridge Conservation Area which forms part of the Fremington Quay Conservation Area Character Appraisal. In accordance with Policy DM07(1), I note the application is accompanied by a Heritage Statement to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. All issues around any potential impact on the designated heritage asset should be considered against Policies ST15 and DM07 together with the response from Collette Hall.</p> <p>Policy BAR20 seeks to enhance the strategic green infrastructure network within and around Barnstaple. Criterion (a) requires improved footpath and cycle links to the Tarka Trail from Pottington, Sticklepath and Bickington whereas criterion (b) seeks to deliver an enhanced cross-town cycle route across Barnstaple. I would suggest that if this site is considered acceptable then it should contribute towards the delivery criterion (a) and (b) of Policy BAR20. You must therefore ensure that the necessary cycle / footpath routes are delivered and connections made between adjoining developments. All highway issues should be considered against Policies ST10, BAR, BAR20, FRE(h), DM05 and DM06 of the Local Plan.</p>

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Name	Comment
	<p>The delivery of necessary infrastructure to serve the development should be considered against Policies ST23 and BAR. Future construction and environmental management of the site should be considered against Policy DM03.</p> <p>I maintain our policy position from the pre-application enquiry in that I would suggest the acceptability of this site to deliver housing is finely balanced between the Council not being able to clearly demonstrate a five year supply of deliverable housing sites and the potential erosion of the 'Green Wedge' between Barnstaple (Bickington) and Fremington, contributing towards the coalescence of these individual settlements.</p> <p>I trust the above policy advice is of assistance to you but should you wish to discuss the matter further then please do not hesitate to contact me.</p>
<p>Planning, Transportation & Environment</p>	<p>No reply received.</p>
<p>Recycling & Commercial Services</p>	<p>No reply received.</p>
<p>South West Water</p>	<p>With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.</p> <p>Clean Potable Water South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.</p> <p>Foul Sewerage Services South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.</p> <p>The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:</p> <p>www.southwestwater.co.uk/developers</p>

Name	Comment
	<p>Surface Water Services</p> <p>The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):</p> <ol style="list-style-type: none"> 1. Discharge into the ground (infiltration); or where not reasonably practicable, 2. Discharge to a surface waterbody; or where not reasonably practicable, 3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable, 4. Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation) <p>Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body via public surface water sewers is acceptable and meets with the Run-off Destination Hierarchy.</p> <p>I further note that the Phase 1 sewer networks are currently still not adopted, therefore South West Water is unable to adopt drainage elements from the application site that will discharge to the currently private sewer networks, prior to discharging to public sewers. The applicant is encouraged to speak to South West Water for early stage discussions - I refer to the Pre Design Stage 1b Assessment service which can be applied for. This is a free service, applicable where an applicant intends for a development to be adopted by South West Water. It can be found on the following webpage link, under the paragraph on Codes for adoption: www.southwestwater.co.uk/developer-services/sewer-services-and-connections/adoption-of-new-sewers-or-pumping-stations/</p> <p>I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.</p>
<p>Sustainability Officer</p> <p>Reply Received 17 September 2021</p>	<p>Ecology</p> <p>The submitted Ecological Impact Assessment (EA) has been informed by a desk study, Extended Phase-1 Habitat survey and Phase 2 surveys including hedgerow assessments undertaken in 2020 and 2021. Recent site assessments and protected species surveys are considered appropriate updates of previous surveys of</p>

Name	Comment
	<p>the site including wintering bird and bat activity surveys undertaken by EAD Ecology in 2015 and 2016.</p> <p>The site forms the western part of an agricultural field comprised of poor semi-improved grassland with patches of tall ruderal. There are adjacent species-rich hedgerows to the north and west, a line of trees with a road beyond to the south and development under construction to the east which includes the delivery of a double hedgerow on that sites western boundary. The layout has clearly been designed to buffer sensitive ecological receptors, including boundary hedgerows and bat commuting routes from the proposed development. The submitted Illustrative Masterplan, Landscape Strategy and Ecological Constraints and Opportunities Plans are appropriately detailed to inform the Outline application and ensure that green corridors are delivered around all site boundaries and in particular the northern boundary hedgerow (a North Devon Key Network Feature) would be retained and buffered. The landscape strategy indicates habitat creation, including native tree and shrub planting, wildflower meadow seeding and wetland creation as part of the drainage proposals.</p> <p>The submitted Defra 2.0 Biodiversity Net Gain metric demonstrates that the proposals have potential to deliver a 12.25% net gain of 'area based' biodiversity units and would mitigate the loss of on-site habitat and provide enhancement. The BNG calculation would benefit from a revision seeking to estimate the extent of linear based habitat which would result from the proposed development. While no loss of linear features is anticipated, the proposed native hedgerow on the southern boundary and management and enhancement of the existing northern and western boundaries would result in a demonstrable increase in biodiversity value (I have already asked the applicants Ecologist to revise this oversight which should result in a revised EA or addendum). The submitted Landscape Strategy should also be revised to clearly annotate the extent of the 'proposed native hedge' on the southern boundary. Any hedge at this location should be specified in the form of a Devon hedge bank. The development to the east is delivering a double hedge bank on the eastern boundary and it is agreed that this should not be considered within the submitted BNG. Any subsequent detailed application will be expected to provide a Biodiversity Net Gain Compliance Statement including a fully revised metric demonstrating at least a 10% net gain in area and linear habitats.</p> <p>Biodiversity net gain may be mandatory by the time this scheme goes for decision and it should be stressed that 10% net gain is not treated as a target but as a minimum to be exceeded. There are many ways not only the public green spaces but also the streetscape and private plot planting can have high value to native</p>

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Name	Comment
	<p>fauna and heightened biophilic appeal. Linear habitats and corridors, even narrow ones, for bats, birds, reptiles, and amphibians, could potentially criss-cross the development, providing additional local rural character and further biodiversity gains. Currently there appears to have been little thought given to the built form and the public square and a clearer demonstration of integrated habitat and landscape proposals would be beneficial.</p> <p>Potential impacts on protected species are appropriately assessed. The site supports common and widespread bat species with low numbers of greater horseshoe bats recorded. The EA concludes that boundary habitats are used for foraging and commuting and that a public realm lighting design will be necessary to ensure that lighting impacts on bats and other nocturnal wildlife are minimised through maintenance of dark corridors (<0.5lux). The submitted Masterplan clearly demonstrates that the required minimum of 5m dark corridors from all existing boundary features can be accommodated with the exception of the site entrance on the eastern boundary. The EA states lighting would be designed to maintain a dark corridor along the northern and western boundaries of the site and this should also be extended to the area west of the eastern boundary and with particular consideration given to the lighting associated with the point of access from the adjacent development to the east.</p> <p>Mitigation for the loss of protected species commuting and foraging areas will be achieved through the delivery of the submitted Landscape Plan to enhance site boundaries and provide key habitats within proposed open space. The proposed Non Intervention Habitat Zone will be expected to be specified in detail in a Landscape and Ecological Management Plan (LEMP) in any subsequent detailed application. Further protected species enhancements include building integrated bat and bird boxes at a ratio of 0.5 boxes per unit, hedgehog passes in all garden close-board fencing and 10 heavy duty dormouse nest boxes installed in retained hedgerows prior to commencement of habitat removal. A Construction Ecological Management Plan (CEcoMP) would be produced to detail measures to ensure habitat and species protection during construction.</p> <p>Local Plan Policy ST14 seeks to conserve the best and most versatile agricultural land (Grades 1, 2 and 3a) as it is considered to be a limited environmental resource. Evidence would suggest the site is principally Grade 2 which is considered to be higher grade agricultural land and should therefore be weighed against the proposal.</p> <p>Taw/Torridge Estuary SSSI</p>

Name	Comment
	<p>The site lies within a Natural England 'SSSI Impact Risk Zone' for Taw-Torridge Estuary SSSI, for residential developments of 50 or more houses. The EA states that potential effects on the Taw-Torridge Estuary SSSI are not anticipated as a result of the proposed development alone and that no in-combination recreational effects are anticipated. The EA concludes that the site offers negligible value to over wintering birds associated with the SSSI and that no specific mitigation at the Fremington Pill roost is necessary. However, the EA does not appropriately consider the cumulative effect of increased visitors to the wider estuary. Any subsequent detailed application will be expected to specify how the importance and sensitivities of the SSSI roosts will be conveyed to the developments residents. This should include but not be limited to interpretation packs for all households and information panels on the proposed foot and cycle connection the Tarka Trail.</p> <p>The Masterplan illustrates a link from the development to Penhill Lane which in turn links to the Tarka Trail. There are further nearby routes via Fremington Quay and east of Penhill to the Tarka Trail and therefore residents would have a range of options available to them. Further thought should be given to embracing the landscape and the wildlife that lives in it, particularly in the north west corner around the Penhill Lane connection. The proposed development will add to the pressure placed on estuarine biodiversity by recreational pressure, which has been demonstrated to already be very high in the area. The proposal should seek to complement and buffer the adjacent landscape and habitats, but also provide supplementary inland habitat for some of the key species of the nearby SSSI, whilst also reducing recreational pressure on the Tarka Trail. The area identified for a community orchard and Local Area for Play may be better designed in order to feature, for example a wetland and scrubland mosaic if soil conditions allow. Opportunities should also be considered for the area to provide circular routes for walkers and dogs offering an alternative to Penhill Lane and the Tarka Trail. The introduction of water features could be used as a separator between areas containing disturbance-sensitive wildlife and walkers.</p> <p>Consideration should be given to highlighting the intended ecosystem services provision function of each part of the masterplan. This would be a useful way of ensuring that there is the maximum effective multi functionality. The biophilic appeal of a landscape is a key ecosystem service in urban development that adds significant value to schemes and sells properties.</p> <p>Braunton Burrows SAC In terms of the location of the site, it is within the Zone of Influence (ZOI) identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area</p>

Name	Comment
	<p>Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution of £190 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972.</p> <p>Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of these impacts on the SAC and the scope for mitigation. North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence.</p> <p>Landscape The site is outside the defined development boundary for Barnstaple and is therefore within the undeveloped part of the coastal and estuarine zone. The Local Plan recognises that 'the undeveloped parts of this coastal zone are a finite resource and their unspoilt character, appearance and tranquillity will be protected against development not related to the coast or not providing benefits for the local community' The site is also within the identified 'Green Wedge' the purpose of which is to protect the individual identities of Barnstaple and Fremington. Within the 'Green Wedge' development that could lead to or contribute towards the coalescence of these settlements will be resisted.</p> <p>The site is within the landscape character type 3A: Upper Farmed Wooded Valley Slopes where the overall strategy is 'to protect the landscape's strong rural character and historic sense of place. The farmed landscape comprises a rich mosaic of fields bounded by an intact network of species-rich Devon hedges. Valued farmland and woodland habitats are managed and extended, with opportunities for Green Infrastructure links to settlements pursued'. Local Plan Policies BAR(l), BAR22 and FRE(i) seeks to protect the open landscape character between Fremington and Bickington in order to help maintain their separate identities. Development of this greenfield site will continue to erode this green gap and the</p>

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Name	Comment
	<p>undeveloped part of the Coastal and Estuarine Zone while introducing a more abrupt urban edge at Penhill Lane.</p> <p>I broadly support the conclusions of the submitted LVIA in terms of sensitivity of landscape character and visual receptors, magnitudes of change and resultant overall effect. The LVIA provides a detailed site appraisal, including consideration of landscape and visual effects. The LVIA states that it has informed the illustrative Masterplan, however there are no specific design recommendations within the LVIA itself. The LVIA appropriately identifies the key features relevant to landscape/visual effects including the sensitivity of the narrow lane and rural countryside to the west. The proposal includes a swathe of landscape on the west and north of the site to reduce the impact on land to the west. Development is downslope of the high point of the site, adjacent to the northern hedge line and is set back from the B3233, thus protecting the existing landscape feature trees along the road and allowing space for succession planting. Detailed design and building alignment will be expected to reduce visual impact of long-distance views from north of river, through orientation of roofs and use of visually recessive materials.</p> <p>I broadly support the LVIA conclusions that the outline layout and proposed mitigation will help to integrate the site into the surrounding landscape, would not detract from the special character and qualities of the Estuary, including its tranquillity and sense of remoteness and would not have a significant adverse impact on the experience of people using the National Cycle Network or the South West Coast Path where they run through the estuary.</p> <p>In considering the impacts of development on the Green Wedge the LVIA concludes that the development would be seen as an extension to the existing edge of Bickington and will not lead to the coalescence of Bickington and Fremington or the loss of their separate identities. In reaching this conclusion the LVIA is overly reliant on the sites position within the Green Wedge and that the landscape features and characteristics of this particularly area are already heavily influenced by urban development to the east and north. Notwithstanding the expansive nature of successive development to the east and north, the iterative erosion of the Green Wedge and the already significant urbanisation of the area to the west of Mead Park, very little urban influence is evident when looking east from the area surrounding the junction between Penhill Lane and Bickington Road. Therefore the western extent of the site clearly contributes to the rural nature of the remainder of the Green Wedge at Muddlebridge and provides an area of transition when travelling east as the topography rises towards the</p>

Name	Comment
	<p>western boundary of the Cavanna site and the built form of Bickington comes into view.</p> <p>The LVIA seeks to dismiss the conclusions of the Green Wedge Report (2016) addendum (2018), produced by the same consultant, which states that as a result of consented development to the east and north there is now a defensible boundary to the west of Bickington that relates well to its landscape context and defines the edge of the settlement within its landscape setting. Although not related to any existing western boundary habitat, the introduction of a double hedge bank as part of application 60985 (Cavanna Homes) provides a clear settlement boundary which is readily apparent from Bickington Road. The Addendum states that ‘further development westwards from either site would dilute the strong landscape context of the settlement boundary and would lead to harm to the landscape setting and identity of Bickington. With development of the Cavanna Homes site, there are still areas between Fremington and Bickington where there is no inter-visibility between the settlements and where the traveller is entirely within undeveloped countryside with little influence from surrounding built up areas. If development were to encroach westwards of the Cavanna site, this important characteristic of the Green Wedge would be lost’. This stance was also supported by the appeal Inspector for Mead Park (Phase I - (APP/X11118/W/16/3154193)) where at paragraph 19 he states ‘although the southwest corner of the proposed development would be a short distance to the west of Brookfield House it would be opposite the western edge of the curtilage of this property and thus this would mark a logical end point for the western extent of the proposed development’.</p> <p>The LVIA would benefit from further discussion on the effects of the proposed development on the Green Wedge both to the east and west of Penhill Lane. This should include the potential increase in inter-visibility between Fremington and Bickington and the encroachment of urban influence to the area surrounding Muddlebridge.</p> <p>Reply to further information 15/12/2021: Nothing further to add on the Landscape/Green Wedge Addendum. As you can see my initial response was for my substantive discussion on the apparent conflict between Inspectors comments and the submitted LVIA.</p> <p>It is noted that we are not in receipt of any subsequent revisions to the Masterplan which would indicate that any of my initial recommendations have been incorporated into a more comprehensive scheme. This specifically in relation to open</p>

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	<p>space/habitat enhancement provision and mitigation for potential impacts on the Estuary SSSI.</p> <p>The BNG Addendum confirms that insufficient linear habitat provision will lead to a net gain below the target of 10%. It is unclear whether further opportunities to achieve the required 10% will be considered onsite or whether the applicant wishes to secure appropriate offsite biodiversity units through a broker such as the Biosphere Reserve.</p> <p>Updated reply following further information 05/01/2022: As you can see I have been sent a revised LS for Mead Park and am content that the details resolve the lack of net gain in linear features as identified in my previous response.</p>

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
2	0.00	9	0.00	0.00

There have been 9 public objections to the above scheme and 2 general comments provided through the consultation process which raise the following matters:

- Loss of 'Green Wedge' between Fremington and Bickington
- Pressure on road networks
- Impact on local healthcare
- Lack of school provision
- Opportunist application based on absence of 5 year housing land supply
- Won't be delivered in 5 years
- Stability of land
- Agricultural land value lost
- Impact on ecology, habitat and protected sites
- Inadequate drainage
- Air pollution
- Loss of land for carbon capture
- Impact on water table

These are discussed in the main considerations below.

Considerations

Proposal Description

The application seeks outline planning permission development of 80 no. dwellings and approval of details for access, with all other matters reserved.

The development includes a mix of 2, 3, and 4+ bedroom dwellings, on-site public open space, landscaping and biodiversity mitigation and enhancements, affordable housing,

sustainable drainage solutions and access to alternative modes of travel as indicated in the planning submission and indicative plans. The below shows the indicative site layout and an aerial visualisation submitted as part of the scheme:



The development submission includes a parameters plans which indicates development at a maximum of 2.5 storeys and areas defined for dwellings and green space.

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torrridge Local Plan. The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

Planning Considerations Summary

The main considerations in the determination of the application are:

- 1) Principle of development
- 2) Character and appearance
- 3) Heritage and Archaeology
- 4) Highway considerations
- 5) Ecology
- 6) Amenity Impacts
- 7) Flood Risk and Drainage
- 8) Infrastructure requirements
- 9) Planning balance

1) Principle of development

The site is located in an area defined in the NDTLP as countryside which is outside of any defined settlement or identified settlement boundary. As such it falls to be considered against Policy ST07 (4) of the NDTLP copied below:

'4) In the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.'

Whilst the development of 80 family dwellings, with 30% affordable units would carry both social and economic benefits consistent with the above. Given that allocated sites exists undeveloped in the locality, this development does not necessarily require a rural location and does not include building re-use and as such is contrary to the above policy.

As such it is necessary to assess the other material considerations in relation to the development below:

Five year housing land supply

The Councils; being North Devon and Torridge jointly, recognise that in light of the Burwood appeal decision in Torrington ([APP/W1145/W/19/3238460](#)), they are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1st April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031.

Therefore, National planning policy (Footnote 8, National Planning Policy Framework (NPPF)) establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most

important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development (paragraph 11(d), NPPF as a material consideration), should be applied for decision-taking involving applications for housing.

If there is no clear reason to refuse an application based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called *tilted balance* (Paragraph 11(d)(i), NPPF).

The lack of a 5YHLS only results in proposals for housing needing to be considered in accordance with the Presumption and not all applications for other forms of development. The lack of a 5YHLS will be a material consideration that will affect the weight that should be afforded to particular policies of the NDTLP; such as the provisions of ST06 and ST07 and in particular the application of development boundaries.

Departure from the Local Plan and the presumption in favour of 'Sustainable Development'

For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS.

Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. Due weight should be given to policies, according to their degree of consistency with the NPPF; the closer the policies in the plan are to the policies in the NPPF, the greater the weight that may be given to them.

The Presumption is set out in two parts;

First stage of the Presumption is to check if the policies of the NPPF that protect areas or assets of particular importance give a clear reason to refuse the development that is proposed (Paragraph 11(d)(i) and Footnote 6, NPPF). This is only done by reference to the provisions of the NPPF and not the NDTLP. There needs to be a clear reason to refuse and not simply that it affects one or more of those areas or assets.

If there is no clear reason to refuse based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called tilted balance (Paragraph 11(d)(i), NPPF).

The courts have concluded that the application of the tilted balance takes into account both the provisions of the NPPF and development plans as relevant and when taken as a whole. As such it can include the consideration of the relevant provisions of the development plan (NDTLP) and not only the provisions of the NPPF. The decision taker will however need to assess the weight to be given to development plan policies, including whether or not they are in substance out-of-date and if so for what reasons.

The application is contrary to the Development Plan policy ST07 as the site lies outside the designated development boundary as identified in the NDTLP, however the Local Planning Authority therefore needs to determine whether there are material considerations which would override the Development Plan in permitting this development. In this instance, the absence of a 5YHLS would indicate that Policy ST07 is out-of-date, only in so far as it relates to housing applications in locations which would otherwise be deemed as sustainable; subject to the consideration and application of the tilted balance against any policy conflicts identified in relation to other development plan policies and whether these conflicts and impacts result in both significant and demonstrable harm.

It is noted that this site, lies directly west to the development boundary for Barnstaple, and on land allocated as Green Wedge (Policy BAR 22) in the adopted NDTLP. The adjacent housing site to the east which is under construction was also a non-plan led site which was lost at appeal in 2016 (NDC reference 60985), however the NDTLP, adopted in 2018 has now included this site within the development boundary. It is also noted that the development to the North was also granted at appeal in 2015; and that both cases were considered in the context of an absent 5YHLS.

It is also noted that the application site, whilst not brought forward as a site allocated in the current NDTLP, has been subject of assessment as part of the Strategic Housing Land Availability Assessment (SHLAA) reference **SHA/FRE/591** and it was considered as being 'not currently developable' which was justified as follows: *The site is outside of the defined development boundary for Barnstaple. Although the site is considered to be reasonably well related to existing residential development to the east, further housing development to the west would have an adverse impact on the surrounding landscape and green wedge between the settlements of Fremington and Bickington.*

The above factors are material in the consideration of the proposals in the context of the 'presumption in favour of sustainable development.

Deliverability

The intention to deliver the development is a matter for consideration in the context of Policy ST21 of the NDTLP, as the presumption in favour of sustainable development can only be considered to carry sufficient weight, where there is a realistic prospect of the development being delivered; in part or in whole, within the prescribed 5 year period.

In consultation with the Planning Policy Team they offer the following commentary in respect of deliverability:

'From a policy perspective, the lack of a 5 YHLS is a material planning consideration and I would suggest you must apply significant weight in the tilted balance to a proposal of up to 80 homes as I am of the opinion that it could make a substantial contribution to the Councils shortfall in deliverable housing sites although I note the application is in outline only so I must question what level of contribution this site would make to meet the Council's shortfall in its 5 year supply of deliverable housing sites. I note from the submitted 'Planning Statement' at paragraph 3.23 that 'In terms of delivery, our client would anticipate that they

would be on site by the summer/autumn year 2022, with a view of developing the full complement of houses within two and a half years’.

If you are minded to support this application then for the site to be considered deliverable you must be satisfied that this statement offers clear evidence that housing completions will begin on site within five years. As set out with the adopted SHLAA methodology (update March 2014) and guided by the expert knowledge of the Stakeholder Panel it is stated that ‘a series of assumptions on lead-in times for differing sizes of development have been prepared. The assumptions apply to sites that are under the control of a developer and relate to the period from the developer obtaining control of the site, through to commencement of dwelling construction. It is the intention that the following guidelines will be applied to the assessment of sites where such circumstances exist’. For a development of 50 plus dwellings has an assumed period of commencement to be 3 years whereas in this particular instance the site is not under the control of the developer but the statement in paragraph 3.22 would suggest a period of commencement of between 12-15 months from the submission of this outline application as opposed to any potential approval date. The timings also do not include a period to determine any future reserved matters application and the execution of any pre-commencement conditions. Whilst this anticipated timetable is of course welcomed in terms of seeking to address the Council’s shortfall in its 5 YHLS, I must question whether this timetable is in fact feasible considering some of the stages that in my opinion, still need to be resolved before delivery can start on site. I would suggest the 3 year period is still relevant as the Inspector for the Burwood appeal suggested that (paragraph 57) ‘clear evidence should not just consider the planning matters but also the technical, legal and commercial/financial aspects of delivery assessed’. I do however accept that the potential developer of this site is currently delivering 61 homes on adjoining land to the east so commencement can conceivably be pushed forward but you must still question these delivery timings in line with the concerns set out above.

I would also wish to understand when ownership will be transferred to the developer? The housing trajectory on delivery should be clear and suitably conditioned or through the s106 as again, the Inspector at the Burwood Lane, Torrington appeal considered that email confirmation from the developer is not good enough. Also, if you are minded to support this outline planning application then to help ensure the proposal is implemented in a timely manner, consideration should be given to only granting a 1 year (12 months) or at the very most 18 months outline approval as supported by paragraph 77 of the NPPF (where this would not threaten viability) rather than the standard 3 years. In terms of the build-out rate, I accept a period of 2.5 years would be in line with the adopted SHLAA although a slightly longer period to that envisaged by the appeal Inspector who, at paragraph 59 of the Burwood appeal referred to the nationally identified build-out rate of 43 dph which would suggest the site should be delivered in approximately 18-24 months.

The Councils currently accept that clause (2) of Policy ST21 is triggered on the basis that at this point in time it is not possible to demonstrate that completions are above 90% of that which was required for the previous monitoring year and that

there would be an appropriate recovery demonstrated for the next two years. As the proposal for housing lies outside of defined settlement boundary for Barnstaple, the provisions of Clause (2) and associated criteria of Policy ST21 should be applied and considered.'

The developer has acknowledged the above concerns however has a house builder engaged and is committed to developing the development within the timescales involved above. It has been discussed shortening the commencement timescale condition to 1 year and reference has been made to the appeal decision allowed at Chivenor Cross (reference 71660) in September 2021 which states at paragraph 30:

'30. The Council has suggested that reserved matters should be submitted within one year, to ensure speedy delivery. However, that leaves little time to sell the site to a developer and prepare an acceptable reserved matters application. A short time period introduces an element of risk to the development process that could dissuade developers and ultimately prevent development occurring. I cannot be certain, therefore, that a shorter time period would facilitate an earlier contribution to housing delivery and may, in fact frustrate it. Therefore, I have imposed standard conditions in this respect.'

In light of the above, whilst the Council's Planning Policy Team express some concern over delivery timings, the developer has agreed to a two year period for submission of reserved matters shortened from the standard 3 years, and with the evidence presented; the developers commitment to progress a policy compliant Section 106 requirements and recent appeal cases, would suggest that the development proposed is deliverable within a 5 year timescale and therefore would be a considerable contribution to the Councils shortfall in housing. Significant weight is therefore afforded to this in the context of applying the presumption in favour of sustainable development.

Summary

In light of the above, given the proposal is a departure from the adopted development plan, with an absence of 5 year housing land supply as a material consideration of significant weight, an assessment of the proposal in relation to Section 38(6) of the PCPA2004 and the Presumption will be combined, drawing together into a combined Planning Balance conclusion at section 9 of this report. The subsequent sections of the report will seek to demonstrate the following:

- a) whether the proposal is in accordance or conflict with specific policies and provisions of the development plan;
- b) if necessary, whether there are material considerations (including the Presumption) that mean that a decision should deviate from the specific policies and provisions of the development plan;
- c) how the proposal fairs against the two elements of the presumption in favour of sustainable development; and
- d) therefore whether it should be approved or refused.

2) Character and Appearance

Landscape

The application site lies in Local Character Type (LCT) 3A 'Upper farmed and wooded valley slopes' as set out in Devon County Council's assessment of LCTs. The special qualities of this LCT include an open landscape with important vantage points and uninterrupted vistas and narrow sunken lanes and species rich hedgebanks.

The site is located to the north of Bickington Road with the landform rising gently Northwards where the site would meet the edge of new residential development in the north-east and east approved subject of the aforementioned appeals with open farmland to the north/north-west bounded by hedges, with Penhill Lane to the west severing the site, and the settlement of Bickington from the hamlet of Muddlebridge, and the wider countryside which makes up the gap between Fremington and Bickington. The southern edge of the site is defined by a line of mature evergreen trees with some smaller deciduous trees within. There are clear views of the site from within existing developments north and east of the site as well as from Bickington Road and the Public Right of Way (PROW) which runs east to west beyond the northern hedge boundary of the site.

The site is also located in an area defined as undeveloped coast as defined in Policy ST09 of the NDTLP, whereby new development will be supported '*where it does not detract from the unspoilt character, appearance and tranquillity of the area, nor the undeveloped character of the Heritage Coasts, and it is required because it cannot reasonably be located outside the Undeveloped Coast and estuary*'.

As part of the consultation exercise the Council's Sustainability Officer comments on the proposals in respect of landscape. The initial response is detailed below:

'The site is outside the defined development boundary for Barnstaple and is therefore within the undeveloped part of the coastal and estuarine zone. The Local Plan recognises that 'the undeveloped parts of this coastal zone are a finite resource and their unspoilt character, appearance and tranquillity will be protected against development not related to the coast or not providing benefits for the local community' The site is also within the identified 'Green Wedge' the purpose of which is to protect the individual identities of Barnstaple and Fremington. Within the 'Green Wedge' development that could lead to or contribute towards the coalescence of these settlements will be resisted.

The site is within the landscape character type 3A: Upper Farmed Wooded Valley Slopes where the overall strategy is 'to protect the landscape's strong rural character and historic sense of place. The farmed landscape comprises a rich mosaic of fields bounded by an intact network of species-rich Devon hedges. Valued farmland and woodland habitats are managed and extended, with opportunities for Green Infrastructure links to settlements pursued'. Local Plan Policies BAR(1), BAR22 and FRE(i) seeks to protect the open landscape character between Fremington and Bickington in order to help maintain their separate identities. Development of this greenfield site will continue to erode this green gap further as well as the undeveloped part of the Coastal and Estuarine Zone.

I broadly support the conclusions of the submitted LVIA in terms of sensitivity of landscape character and visual receptors, magnitudes of change and resultant overall effect. The LVIA provides a detailed site appraisal, including consideration of landscape and visual effects. The LVIA states that it has informed the illustrative Masterplan, however there are no specific design recommendations within the LVIA itself. The LVIA appropriately identifies the key features relevant to landscape/visual effects including the sensitivity of the narrow lane and rural countryside to the west. The proposal includes a swathe of landscape on the west and north of the site to reduce the impact on land to the west. Development is downslope of the high point of the site, adjacent to the northern hedge line and is set back from the B3233, thus protecting the existing landscape feature trees along the road and allowing space for succession planting. Detailed design and building alignment will be expected to reduce visual impact of long-distance views from north of river, through orientation of roofs and use of visually recessive materials.

I broadly support the LVIA conclusions that the outline layout and proposed mitigation will help to integrate the site into the surrounding landscape, would not detract from the special character and qualities of the Estuary, including its tranquillity and sense of remoteness and would not have a significant adverse impact on the experience of people using the National Cycle Network or the South West Coast Path where they run through the estuary.

In considering the impacts of development on the Green Wedge the LVIA concludes that the development would be seen as an extension to the existing edge of Bickington and will not lead to the coalescence of Bickington and Fremington or the loss of their separate identities. In reaching this conclusion the LVIA is overly reliant on the sites position within the Green Wedge and that the landscape features and characteristics of this particularly area are already heavily influenced by urban development to the east and north. Notwithstanding the expansive nature of successive development to the east and north, the iterative erosion of the Green Wedge and the already significant urbanisation of the area to the west of Mead Park, very little urban influence is evident when looking east from the area surrounding the junction between Penhill Lane and Bickington Road. Therefore the western extent of the site clearly contributes to the rural nature of the remainder of the Green Wedge at Muddlebridge and provides an area of transition when travelling east as the topography rises towards the western boundary of the Cavanna site and the built form of Bickington comes into view.

The LVIA seeks to dismiss the conclusions of the Green Wedge Report (2016) addendum (2018), produced by the same consultant, which states that as a result of consented development to the east and north there is now a defensible boundary to the west of Bickington that relates well to its landscape context and defines the edge of the settlement within its landscape setting. Although not related to any existing western boundary habitat, the introduction of a double hedge bank as part of application 60985 (Cavanna Homes) provides a clear settlement boundary which is readily apparent from Bickington Road. The Addendum continues, 'further development westwards from either site would dilute the strong landscape context of the settlement boundary and would lead to harm to the landscape setting and identity of Bickington. With development of the

Cavanna Homes site, there are still areas between Fremington and Bickington where there is no inter-visibility between the settlements and where the traveller is entirely within undeveloped countryside with little influence from surrounding built up areas. If development were to encroach westwards of the Cavanna site, this important characteristic of the Green Wedge would be lost'. This stance was also supported by the appeal Inspector for Mead Park (Phase I - (APP/X1118/W/16/3154193)) where at paragraph 19 he states 'although the southwest corner of the proposed development would be a short distance to the west of Brookfield House it would be opposite the western edge of the curtilage of this property and thus this would mark a logical end point for the western extent of the proposed development'.

It is identified above, that the proposal will result in changes to landscape character which require consideration in the context of Policies ST14 and DM08A of the NDTLP. These require development to conserve/preserve and enhance the local distinctiveness and landscape qualities of the area. It is considered from the assessment by the Sustainability Officer that the conclusions on magnitude of change identified in the LVIA are broadly agreed, however there is some conflict in views regarding the conclusions of the LVIA against the Green Wedge Report prepared by the same Landscape Architects on behalf of the LPA in 2016.

The inspector's comments from the 2016 appeal decision for the development to the east is of relevance in this instance and relevant paragraphs are copied below:

31. Notwithstanding the weight to be given it is necessary to consider the proposal against Policy BAR22. The policy itself indicates it is designed to protect the individual identities of these settlements. Within the Green Wedge it indicates that development which could lead to or contribute to coalescence will be resisted.

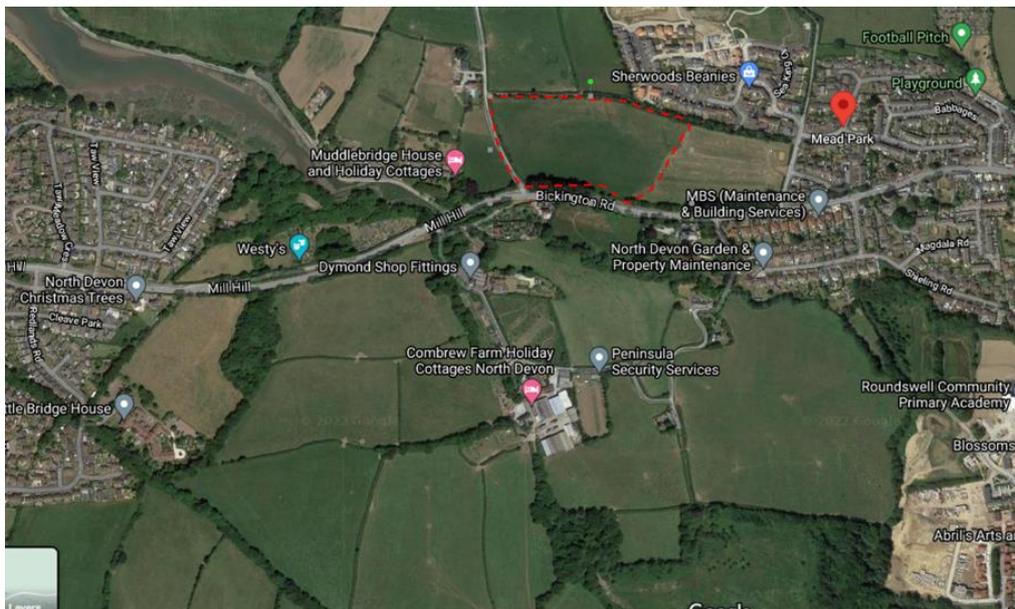
32. It is agreed that due to the distance and topography between Bickington and Fremington the development of the appeal site would not lead to any visual coalescence as there would be no intervisibility, similarly there would be no physical coalescence. Thus any harm would be caused by the extension of Bickington into the wedge. The appeal site would be surrounded on three sides by built development and, while this would be on a downslope on a currently undeveloped field, would not materially affect the individual identities of the two settlements as separate settlements. There would still be a positive leaving of one settlement, a travelling through undeveloped countryside without experience of either settlement, and then arrival at the second settlement.

It is firstly noted that Policy BAR22 is not a housing supply policy, yet refers to the physical form of development upon the ground and matters of landscape preservation; it is therefore considered up-to-date in the context of the NPPF. The policy is copied below for reference:

***'Policy BAR22: Green Wedges
Green wedges between Barnstaple and the villages of Fremington and Landkey are identified on Policies Maps 1, 4 and 51 to protect the individual identities of these settlements. Within these green wedges, development***

that could lead to or contribute towards the coalescence of these settlements will be resisted.'

The wording of the policy, interpreted in its plain English sense, is unambiguous in its objectives; to prevent physical coalescence; *the process of coming or growing together to form one thing or system*, of Bickington and Fremington in this instance. The aerial map below shows the physical relationship of the settlements in the context of the site (dotted red below):



It is clear that there is the physical extension of the development on this site extending closer to Fremington which is defined on its eastern boundary by Taw View above. However there remains a physical gap of farmland and allotments, a watercourse and two lanes which separate the application site from Fremington therefore it cannot physically coalesce with Fremington, however as observed by the Sustainability Officer above the Green Wedge Report states: *'further development westwards from either site would dilute the strong landscape context of the settlement boundary and would lead to harm to the landscape setting and identity of Bickington. With development of the Cavanna Homes site, there are still areas between Fremington and Bickington where there is no inter-visibility between the settlements and where the traveller is entirely within undeveloped countryside with little influence from surrounding built up areas. If development were to encroach westwards of the Cavanna site, this important characteristic of the Green Wedge would be lost'*.

Whilst the above argues any development will erode the characteristics of the wedge it could conversely be argued that the development further west, by an extent of 180 metres (as measured by the built form indicated on the masterplan), yet enclosed by a physical road boundary which pre-exists in Penhill Lane, and strongly landscaped, whilst extending the experience of the built form of Bickington, does not take this to a point of being a physical coalescence and therefore is not overtly contrary to BAR22. However, in conclusion, whilst there is argument to be had around the semantics of Policy BAR22, this policy is guided by the advice of the Green Wedge Report. Therefore there would be a physical extension of Bickington towards Fremington, however not resulting in a physical coalescence, however which is identified as a degree of harm to

landscape character and therefore stands to be contrary to landscape policy objective of Policies ST14, DM08A, ST09 and BAR22.

It is identified above, that the proposal will result in changes to landscape character which require consideration in the context of Policies ST09, ST14 and DM08A of the NDTLP. These require development to conserve/preserve and enhance the local distinctiveness and landscape qualities of the area.

As such, the above clearly conflicts with policy objectives to conserve or preserve and enhance landscape character, matters which will therefore need to be weighed in the planning balance, in relation to other material consideration at Section 9 in reaching the recommendation. It is however noted the site is outside of any statutory landscape designation and is partially seen in to context of other built form. As such, moderate weight is afforded to the identified harm arising from the proposals.

General Design

In terms of general design and layout issues, the application is made in outline with matters of scale, appearance, landscaping and layout saved for consideration at reserved matters stage. Some consideration of layout has been necessary in relation to habitat provision and landscape impact, however at this stage, it is not possible to consider the final form of development. An indicative masterplan has been considered, albeit in the event approval is recommended, this plan would not form a detailed basis for guiding building design or layout of the reserved matters.

The application has attracted comments from the Designing out Crime Officer which are based upon the indicative plans and refers to the need for any subsequent reserved matters application to follow Secure By Design guidance cited in the response.

Furthermore, Policy DM04 (2) of the NDTLP states: *'All major residential proposals will be expected to be supported by a Building for Life 12 (BfL12)(117)(or successor) assessment. High quality design should be demonstrated through the minimisation of "amber" and the avoidance of "red" scores.'*

A BfL12 assessment has been supplied as part of the application and it is acknowledged it can be difficult to assess a scheme purely based upon an outline scheme and indicative layout. The LPA would question the extent of green scores given the indicative layout only and would advise that some of these currently unknown aspects should have been scored amber at this stage to indicate that they hadn't yet been achieved however it appears feasible that they could. The LPA can see no clear reason at this stage why any red scores should have been attracted and it will be key for this assessment to be re-run at reserved matters stage in order to ensure that the highest number of green scores can be achieved to comply with the above policy and provide the highest quality development.

3) Heritage and Archaeology

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act states that in considering whether to grant listed building consent for any works the Local Planning Authority shall have special regard to the desirability of preserving the building or its

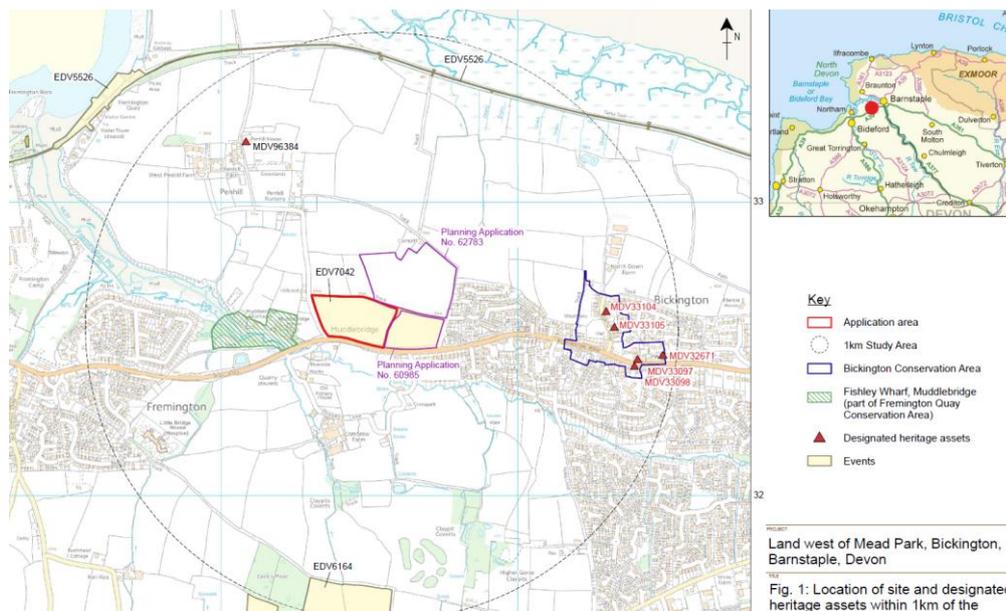
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setting or any features of special architectural or historic interest which it possesses. The same duty is repeated relating to planning permissions affecting listed buildings at Section 66 of the Act and applies to all decisions concerning listed buildings.

A designated heritage asset can be a listed building (including curtilage listed building), Conservation Area, Registered Park or Garden or Scheduled Ancient Monument. Local planning authorities have specific duties to make informed planning decisions on how development impacts on Heritage Assets and their settings.

The Act enshrines a strong presumption against harm to the significance of a heritage asset. If harm is likely to be caused by a proposal, paragraphs 194-202 of the NPPF will need to be applied. Policies ST15 and DM07 of the NDTLP apply to the development where they require development to 'preserve and enhance' heritage assets and great weight should be afforded to such protections.

The application is accompanied by a Heritage Statement which assesses the proposals in relation to impact on heritage assets, including buried Archaeology. The extract from the Heritage Statement below shows the nearest heritage assets within a 1km radius of the site:



The report concludes that the proposed development will not result in any changes to the significance of the heritage assets, which principally refers to the Conservation Area at Muddlebridge hatched green in the above plan. In consultation with the Councils Heritage and Conservation Officer (HCO) they have identified harm in the change in context.

The comments of the HCO are copied below:

'This site lies to the east of the Muddlebridge Conservation Area. Development of the existing agricultural fields will have an effect on the wide setting of the Conservation Area, changing this from farmland to suburban housing. This will lessen the ability to appreciate the heritage asset in anything like its original context.'

The comments above identify a degree of less than substantial harm to the asset and suggest the trigger of paragraph 202 of the NPPF, whereby this harm is required to be assessed in the balance against public benefits of the proposals.

It is clear that a conflict with Policies ST15 and DM07 of the NDTLP and duty of Section 66 of the above act exists in that the development is not considered to 'preserve or enhance' the setting of heritage assets, namely the context of Muddlebridge Conservation Area, however the harm identified is less than substantial, albeit this harm will be assessed giving great weight to the assets conservation as advised by the NPPF paragraph 199, and this will therefore be required to be considered in the balance with the public benefits of the scheme in section 9 of this report.

Archaeology

Buried archaeology has been considered as part of the application within the heritage statement. This concludes that the site is of low archaeological value. No objection has been raised by the County Archaeologist in pre-application discussion and they have not commented at application stage. As such archaeology is considered to have been appropriately assessed and does not raise any conflicts in relation to Policies ST15 and DM07 of the NDTLP or the NPPF.

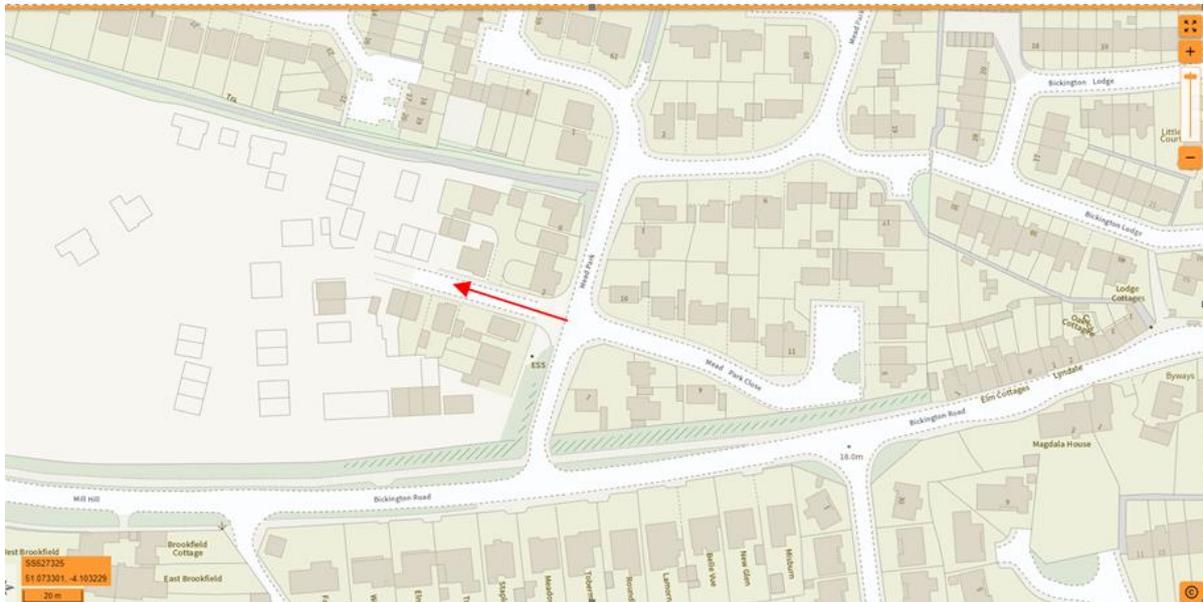
4) Highway considerations

Policies ST10, DM05 and DM06 of the NDTLP require development to safe and suitable access for all road users, providing sufficient access to alternative modes of travel to reduce the use of the private car, to safeguard strategic routes and provide appropriate transport infrastructure across the area to ensure the above is achieved. This is further enshrined in chapter 9 of the NPPF.

The application is presented with a transport assessment and seeks approval of the proposed access point into the development site under construction to the east as identified in the plan below:



This then links into Mead Close with access via the main junction onto the B3233 to the south shown in the plan below with the red arrow showing how the site would be accessed:



In terms of the findings of the transport assessment and position of the applicant, the assessment provides trip data for the site and concludes the following points:

- 9.3 The existing highway network provides pedestrian and cycle routes along Bickington Road, with pedestrian crossings at junctions joining Bickington Road. Bickington Road is also fully street lit between Fremington and Cedars Roundabout.
- 9.4 Accident data shows there whilst a number of incidents have occurred between the site and Cedars Roundabout, there are no discernible patterns that might suggest any deficiency in highway infrastructure at this location.
- 9.5 It is considered that there are good opportunities for journeys from the site to be made by sustainable modes of travel and it is therefore considered that the site would provide an accessible location for development and take up the opportunities for sustainable transport as required by the NPPF. It is clear that this is a conclusion with which the Planning Inspector agreed, given their comments that "the centre of Bickington [...] is within walking distance" and "safe and suitable access is achievable".
- 9.6 The site will be accessed from the consented Phase I of the development, via a continuation of the internal spine road. The principal access roads within the development are proposed to be between 4.8m and 5.5m in width with 2.0m footways on either side; with additional areas of shared space to encourage lower vehicle speeds.
- 9.7 The level of parking provided will appreciate that provided for the adjacent sites, considered to be suitable by virtue of their consented planning permission.

- 9.8 The results of the trip generation exercise illustrate that traffic from the proposed development would be very low, with approximately one additional movement every 1-2 minutes.
- 9.9 Capacity analysis has been undertaken on key junctions requested by DCC. The results of the analysis show that the existing highway network would satisfactorily accommodate the additional traffic arising from the proposed residential development, and that the level of additional trips would be well within the natural daily variation of traffic flows.
- 9.10 A Framework Travel Plan has been provided, setting out a comprehensive package of measures to promote the use of sustainable forms of transport for journeys to and from the site.
- 9.11 In conclusion, the site is considered to provide a sustainable location for development, where safe and suitable access for all users can be achieved, in line with requirements set out in the NPPF. The development traffic would not cause any severe impacts on the local highway network, and the cumulative residual traffic impact of the scheme is considered to be acceptable in light of the requirements of the NPPF.

These conclusions are broadly mirrored by the discussions in the appeal decision in relation to the development to the east (60985) paragraphs 34-40.

In consultation with the Highway Authority an objection has been raised as cited below:

'1) The proposed development is considered to exacerbate existing highway capacity issues at the A3125/B3233 Junction (Cedars) and the A3125/Old Torrington Road Junction (ESSO Garage). As a consequence, the proposal is considered to be contrary to the National Planning Policy Framework (July 2021), in particular, paragraph 110 (d) and paragraph 111, as no mitigation measures are proposed to the junctions and, consequently, the residual cumulative impact upon the road network is considered to be severe.'

The reason for refusal stated above was supplied with no written rationale as to why the conclusions of the Highway Authority run contrary to that of the supplied Transport Assessment which identified no junction capacity issues arising from this development and makes clear the site has good access to alternative modes of transport. The Case Officer has repeatedly asked the Highway Officer to provide further justification for the conclusions supplied and empirical evidence held by the County Council as to a lack of capacity along the route identified countering the studies of the applicant.

The Highway Officer verbally advised the Case Officer on 18th January 2022 that there is now a costed scheme for improvement works in the area whereby developer contributions could hypothetically facilitate these improvements, details which have now been supplied and a contribution of £67,779.25 is payable and the Highway Authority confirm in their reply that agreement to this contribution would remove the Highway objection which has been raised.

The applicant has supplied full evidence of its conclusion that this development would not have highway safety implications based upon the capacity on the surrounding road network and that it is located in a highly sustainable location where access to bus services, and walking and cycling routes are excellent, and is within desired walking distances as prescribed in Manual for Streets and by the Chartered Institute of Highways and Transportation (CIHT), to a primary school and other local centre facilities. These can be promoted through Travel Plans and secured via condition or Section 106 if necessary. Despite this conclusion, the applicant have agree to the above financial contribution toward improvement to the highway network and as such the proposal demonstrates full compliance with Policies ST10 and DM05 of the NDTLP and paragraph 111 of the NPPF.

5) Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

In respect of ecology, Policy ST14 (Enhancing Environmental Assets) of the NDTLP, requires quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to:

- (a) providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;*
- (b) protecting the hierarchy of designated sites in accordance with their status;*
- (c) conserving European protected species and the habitats on which they depend; (d) conserving northern Devon's geodiversity and its best and most versatile agricultural land...*
- (i) conserving and enhancing the robustness of northern Devon's ecosystems and the range of ecosystem services they provide;*

This is further enshrined in development management Policy DM08 (biodiversity and geodiversity) whereby this policy provides detailed criteria on the above consideration in relation to the assessment of planning applications. Paragraph 179 and 180 of the NPPF also seek the same set of objectives in respect of the above and reiterates the statutory duties.

Protected species and Biodiversity Net Gain

The Ecological assessment work accompanying the application acknowledges the potential impacts on a number of species and provides appropriate details in the commentary of mitigation and enhancement required to negate any impacts arising from the development and provides an overall enhancement on site. This has not attracted any objections from the Council's Sustainability Officer.

The applicant has provided as part of the scheme an indicative masterplan that shows large areas of landscaping to the west and north which act as both strategic

landscaping in reducing impacts of the development on landscape as well as providing for appropriate levels of biodiversity net gain. There has been some discussion around the BNG calculations with the Sustainability Officer during the processing of the application however this has cumulated in a revised landscape strategy (see below) being supplied as well as updated calculations.



These calculations show a clear net gain of biodiversity across site stated as 12.25% net gain in Habitat Units and a 6.12% net gain of Linear (hedgerow) Units. Subject to securing by a Landscape and Ecological Management Plan on any subsequent reserved matters application, this therefore is considered to comply with NDTLP objectives in ST14 and DM08 as well as NPPF objectives for BNG at paragraph 180.

Taw and Torridge Site of Special Scientific Interest

The location of the site is identified by the Sustainability Officer and Natural England as having potential recreational impacts on the above designated site, and consequently overwintering birds, as detailed in the Natural England response.

Whilst impact is identified, both consultees identified suitable routes for mitigation through design and education mechanisms such as that cited by Natural England below:

'If your authority is minded to grant permission, suitable mitigation measures should be agreed and secured via condition to reduce disturbance to overwintering birds. This should include but not be limited to interpretation packs for all households and information panels on the proposed foot and cycle connection the Tarka Trail.'

As such, subject to conditions it is considered any impacts can be suitably mitigated.

Habitat Regulations Assessment

In relation to the Special Areas of Conservation (SAC) being the Braunton Burrows SAC and Culm Grassland SAC, the response by Natural England highlighted the need for an appropriate assessment to be carried out in relation to the Habitat Regulations in order

to ascertain whether significant effects were likely to result from the proposals. The LPA have previously commissioned a strategic assessment which demonstrates that new residential development of up to 10,000 non-plan led dwellings could occur before significant effects would be deemed to result on the Culm SAC.

In terms of Braunton Burrows SAC, as North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence. Strategic HRA/AA, Strategic Impact Assessment, Visitor Surveys, Identified Zone of Influence (Zol) and Visitor Impact Mitigation Strategy undertaken on behalf of the LPA have established that the site is within the established Zol and therefore any development is considered likely to contribute towards an unacceptable cumulative effect of visitor impacts as defined in the Strategic Impact Assessment. On this basis the applicant has been advised that a contribution of £190 per unit will be sought towards the implementation of the Mitigation Strategy which will be secured through the section 106 agreement.

Best and Most Versatile Agricultural Land

Policy ST14 (d) and Paragraph 174 (b) of the NPPF recognises the natural capital associated with the Best and Most Versatile Agricultural Land (BMV) which is land classed as 1-3a as defined by the glossary to the NPPF and classed by the Agricultural Land Classification Map South West Region produced by the Ministry for Agriculture Fisheries and Food (MAFF), subsequently superseded by the Department for Environment, Food, and Rural Affairs (DEFRA).

The land is classed as ALC 2 therefore is considered to be BMV in the context of the above assessment and policy provisions. It is acknowledged that the land has a high quality in terms of its value to agriculture, however it is a small parcel of land, severed from larger agricultural holdings.

This issue was addressed in relation to the appeal site to the east and it was accepted that a loss of BMV land would occur however given wider locational factors, sustainability issues and absence of 5YHLS this matter could be afforded limited weight.

In the absence of a 5YHLS and needing to consider the presumption in favour of sustainable development, sites of higher grade land close to sustainable settlements are preferential to lower grade sites being isolated from other development resulting in potential landscape harm and with inappropriate links to existing facilities and services resulting in environmental harm.

As such, whilst the land is considered to have an environmental and economic value attributed to agricultural production and ecological value, the benefits in terms of the appropriate location for development (particularly given the deficit in a 5 year housing land supply) along with significant economic and social implications, are such that, on balance, the loss of 3.37 ha of BMV agricultural land is justified in this instance and conditions are imposed to ensure appropriate re-use of soil in line with Natural England advice.

6) Amenity impacts

NDTLP Policy DM01 requires that development should secure or maintain amenity appropriate to the locality with special regard to the likely impact on neighbours, the operation of neighbouring uses, future occupiers, visitors on the site and any local services. Furthermore Policy DM02 requires development to safeguard against hazards, and pollution.

Noise

In terms of the impacts of noise arising from the developments construction phases, given the background noise levels and the restrictions available through a Construction and Environmental Management Plan (CEMP), and limiting construction hours through planning conditions, the amenity of the nearest neighbouring residential dwellings to the north and east would be appropriately maintained. It is noted that Environmental Health have raised no concerns in respect of noise during or post construction and are content with conditions relating to the CEMP and construction hours. As such this would comply with Policies DM01 and DM02 of the NDTLP.

Air quality

In consultation with Environmental Health the below comment were initially made in respect of air quality:

'In accordance with the Council's Air Quality Supplementary Planning Document, there will be a need for the applicant to provide an Air Quality Impact Assessment (AQIA) to assess whether any significant impacts on local air quality have the potential to arise including as a result of increased traffic flows associated with operation of the development.'

The AQIA should be prepared by a suitably qualified air quality specialist, having regard to relevant standards and guidance including that contained in the EPUK & IAQM document: Land-use Planning and Development Control: Planning for Air Quality - January 2017. The assessment should include recommendations for any further assessment or mitigation required where relevant.'

The applicant has subsequently directed the EHO to further information in the submitted Transport Assessment that demonstrates that the development does not meet the necessary thresholds for the submission of a form Air Quality Impact Assessment which is agreed with the EHO in follow up replies. As such the proposals area considered to meet the requirements of Policies DM01 and DM02 of the NDTLP and the requirements of the Air Quality SPD.

Land contamination and stability

The application is accompanied by a geo-technical and geo-environmental report which deals with the above issues. In terms of land stability, the site is comprised of gently sloping land in agricultural use. Land stability is not an issue at the site and construction methods can be used which would deal with the soil and land conditions at the site. In terms of land contamination, the geo-environmental assessment confirms that there are no known contaminants at the site and radon gas risk is low. The Environmental Health Officer (EHO) comments on this matter confirming they have no objections and therefore advising that a reactive condition to deal with any unforeseen contamination

discovered during the construction phase, should be imposed. Subject to this condition the requirement of policy DM02 of the NDTLP are satisfied.

Residential Amenity

In terms of neighbouring residential amenity, such as the ability for dwellings to be delivered on site whilst preventing any overlooking, overbearing or loss of light to the nearest neighbours north east of the site. Given the indicative layout show, height parameters and separation distances involved, it is considered that dwellings can be delivered on this site whilst maintaining appropriate amenity to existing dwellings in the area, therefore in compliance with Policy DM01 and DM04 of the NDTLP.

Construction and Environmental Management Plan

The EHO has also agreed the submitted Construction and Environmental Management Plan is sufficient to mitigate construction impacts on all aspects of amenity.

7) Flood Risk and Drainage

NDTLP Policy ST03 requires that development takes account of climate change to minimise flood risk. Policy DM04 requires development to 'provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rain water'.

The proposed development would include connection to the existing foul sewer and the provision of a series of SUDs measure throughout the site, as shown on the indicative plans.

A Flood Risk Assessment and Drainage Strategy has also been submitted in support of the planning application which notes that the proposed development and accesses would all be located in Flood Zone 1.

The County Council's Flood Risk Management Officer has been consulted on the application and raised an initial objection concerns because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered.

Subsequently further information has been submitted to demonstrate that, whilst a detailed layout has not yet been fixed, that the site is capable of dealing with the surface water generated on the site, particularly as the site does not provide adequate infiltration rates to support natural infiltration measures, however the Lead Local Flood Authority (LLFA) is content sufficient data and design measures in the form of an attenuation pond and swales will adequately deal with surface water on site subject to conditions.

In light of the above, the LLFA have no objection to the outline scheme proposed and drainage volumes demonstrated as part of the submission and detailed design will be secured by reserved matters. Conditions are suggested by the LLFA. As such the scheme would comply with Policies ST03 and DM04 of the NDTLP and climate change objectives of the NPPF.

8) Infrastructure requirements

Highways

In order to comply with Policies ST10 and DM05 of the NDTLP, a financial contribution of **£67,779.25**, based on up-to 80 dwellings, towards schemes of improvement at the A3125/B3233 Junction (Cedars) and the A3125/Old Torrington Road Junction (ESSO).

Open Space

In order to comply with Policy DM04 and DM10 of the NDTLP, open space provision on and off-site must be secured at outline stage via a section 106 agreement.

The on-site requirement is **5776.672m²**. This would be secured by the approved plans and section 106 agreement whereby a management company would be responsible for the long-term upkeep of the area and they would be made publically available at the earliest opportunities through the development of the site.

In terms of the off-site contribution which is off-set by the on-site amount this amounts to **£160,992** based on the indicative layout of 77 units. These monies would be secured via S106 and used to deliver a named project within the local area.

Education

Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards education facilities and capacity. The County Councils response with respective amounts is copied below:

'Devon County Council has identified that the proposal of up to 69 dwellings will generate an additional 17.25 primary pupils and 10.35 secondary pupils which would have a direct impact on Barnstaple primary and secondary schools.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

*We have forecast that local primary schools have capacity for 6% of the pupils expected to be generated by development coming forward in the area and therefore DCC would request for the remaining 94% of pupils. Therefore, Devon County Council will seek a contribution directly towards additional education infrastructure at the local primary that serve the address of the proposed development. The contribution sought towards primary provision is 4,563 per 2+ bedroom dwelling (based on the DfE new-build rate of 19,417 per pupil x 94%). For the maximum of 69 family-type dwellings, the contribution sought for primary would be **314,847**.*

*As new primary provision is required, DCC also need to request a proportionate primary land contribution of 10sqm per family-type dwelling from this development. Based upon a land value of 1,105,000 per hectare, this land contribution would equate to 1,038.70 per dwelling (based on 1,105 per dwelling x 94%) and would be used to contribute to the procurement of the new school site. For the maximum of 69no 2+ bedroom dwellings the contribution sought for land would be **71,670**.*

*We have forecast that secondary schools have not got capacity for the number of pupils likely to be generated by the proposed development and therefore a contribution towards secondary education is required. The contribution sought for secondary provision is 3,376.94 per 2+ bedroom dwelling (based on the DfE extension rate of 22,513 per pupil). For the maximum of 69 family-type dwellings, the contribution sought for secondary would be **233,009**. These contributions will relate directly to providing additional education facilities for those living in the development.*

*In addition, a contribution towards Early Years provision is needed to ensure delivery of statutory provision for 2, 3 and 4 year olds. A contribution of **17,250** would be required (based on a calculation of 250 per dwelling). This would be used to provide early years provision for children likely to be generated by the proposed development.*

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to contributions requested should be applied from this date.

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

*In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed **500.00** where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.'*

Affordable Housing

The scheme is required to deliver 30% affordable housing in order to accord with Policy ST18 of the NDTLP. This will be comprised of a tenure split of 75% social rent and the balance as intermediate housing, will be pepper potted across the site and will in the first instance provide for locally identified need with as cascade approach in accordance with good, inclusive design principles require by the NDTLP and NPPF. This will be secured by the Section 106 agreement.

National Health Service

Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards Healthcare facilities. The NHS have been consulted on the application and require the contribution towards expanding Fremington Medical Practice of **£46,285**.

Braunton Burrow SAC Mitigation Contribution

A sum of **£15,200** would be payable via Section 106 towards to mitigation of recreational impact identified to the Braunton Burrow SAC as a result of the appropriate

assessment and mitigation strategies commissioned by the LPA in communication with Natural England.

9) Planning Balance

In summary, the Council has undisputed lack of a 5 year housing land supply. Paragraph 11 (d) of the NPPF establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development should be applied for decision-taking involving applications for housing in North Devon. The lack of housing supply is a significant matter in favour of the proposal and carries substantial weight.

Landscape impacts are considered to be localised, reducing in magnitude at a wider context and not impacting on any designated landscape. The encroachment of the development into the green wedge is identified as resulting in the extension of the settlement closer to Fremington however is not representative of physical coalescence. It is considered with appropriate landscaping secured at reserved matters stage the impacts will reduce landscape impact throughout the lifetime of development and soften the transition between Bickington and Fremington with this extra development further west. This issue is therefore afforded moderate weight.

In highway terms the Highway Authority consider the development would result in additional pressures to the highway network and a financial contribution is agreed to improve the local highway network providing capacity for the development. The design and location of the access proposed is considered to be acceptable.

The ecological impacts from development can be mitigated through appropriate construction management, and monitoring along with green infrastructure provision on site. The development also achieves adequate biodiversity net gain and impacts on nearby designated site can be made accepted via condition and contributions.

The amenities of local residents can be appropriately safeguarded through the parameter plans and conditions imposed in relation to noise, land contamination and construction measures.

The site can appropriately deal with surface water run-off in accordance with Environment Agency and DCC Flood Risk advice and national requirements.

The site would result in less than substantial harm of heritage assets in the locality identified as sharing their setting with the site and significant weight is afforded to this matter. However given the public benefits of the provision of housing, including up to 24 affordable dwellings and employment arising from construction, the benefits would outweigh the harm in this instance.

Turning to the NPPF and the 3 dimensions of sustainability, and this the presumption in favour of sustainable development;

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The economic benefits of the proposal would be strong, including the creation of jobs, the addition of spending power to the local economy and the new homes bonus.

Social benefits would include meeting general housing needs and affordable housing needs, which given the areas current housing crisis is of significant benefit and afforded significant weight.

Environmentally the impact of development would be moderate in landscape terms and significant in heritage terms, however mitigation exists which would reduce these impacts over time and beyond a local context, but not negate them entirely.

The location of the site with alternative transport modes offers the potential for reductions in car use, which would be an environmental benefit.

As such considered as a whole, with the significant weight attributed to the Council's absence of a 5 year housing land supply, the site is sustainable in NPPF terms, and that the provisions of paragraph 11 of the NPPF are engaged. Paragraph 11(d) of the NPPF is clear that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Given the above discussion it is considered, on balance, that there would not be significant and demonstrable harm in landscape, or heritage, which would outweigh the substantial benefits attributed from the provision of much needed housing, including a significant element of affordable housing on an otherwise sustainable site. As such with the imposition of appropriate conditions and S106 obligations the balance is considered to be, on balance in this instance, to fall in favour of the proposal.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life
THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

APPROVED

Legal Agreement Required: Yes

Conditions

1. a) In the case of any reserved matter, application for approval must be made not later than the expiration of two years beginning with the date on which this permission is granted ; and

b) The development to which the permission relates must be begun not later than whichever is the later of the following dates:
 - (I) the expiration of three years from the date on which this permission is granted; or
 - (II) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

The time limit condition is imposed in order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the, appearance, landscaping, layout, and scale of the development on the site (hereinafter referred to as 'reserved matters') have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.

Reason

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Part 3, Article 6 (b) of the Town and Country Planning (General Development Procedure) Order 2015.

3. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
20073 LHC 00 00 DR UD 01 01 P2 Location Plan received on the 22/07/21
0410 PHL-2201A Highway Access Plan received on the 23/06/21
20073 LHC 00 00 DR UD 01 03 P1 Parameter Plan received on the 23/06/21
(the approved plans').

Reason

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

4. As part of the first reserved matters application a detailed phasing plan for the whole site shall be submitted to the local planning authority for approval in writing. The phasing plan shall include details of:
 - a) intended number of market and affordable dwellings for each phase; and,
 - b) general locations and phasing of key infrastructure including, surface water drainage, green infrastructure, community facilities and access for pedestrians, cyclist, buses and vehicles.

- c) Chronological timing of delivery of dwellings in any given phase.
The development shall be carried out in accordance with the approved phasing plan.

Reason

To enable the development to be delivered in controlled phases and to ensure delivery contributes to the deficit in 5 year housing land supply to accord with the provisions of Paragraph 11 (d) of the National Planning Policy Framework.

- 5. No more than 80 residential dwellings (Use Class C3) shall be constructed on the site pursuant to this planning permission.

Reason

To restrict the use of the site to that which is permitted by this planning permission and compatible with the surrounding area and to provide appropriate facilities across the development for the needs of the community.

- 6. As part of any subsequent reserved matters applications, a detailed landscape and ecological management plan (LEMP) shall have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:

- (a) A description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management;
- (b) A biodiversity impact assessment in accordance with the North Devon UNESCO World Biosphere Reserve Offsetting Strategy 2013-2018 / DEFRA Methodology
- (c) Aims and objectives of management;
- (d) Appropriate management options for achieving aims and objectives;
- (e) Prescriptions for management actions;
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);
- (g) Details of the body or organization responsible for implementation of plan;
- (h) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;
- (i) Means of reporting of landscape and ecological monitoring results to the Local Planning Authority and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and

implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the scheme. The development shall be implemented in accordance with the approved details.

Reason

In order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

7. Provision and implementation of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP)

No works or development shall take place until a scheme for the protection of the retained trees and hedges [BS5837: 2005 section 7 - Arboricultural method statements (AMS) and the tree protection plan (TPP)] has been agreed in writing with the by the Local Planning Authority and these works shall be carried out as approved LPA.

This scheme shall include:

- (a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (RPA) in accordance with paragraph 5.2.2 of BS5837: 2005 of every retained tree and hedge on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees and hedges to be removed shall also be clearly indicated on this plan and marked with a dashed outline.
- (b) a tree survey schedule in accordance with paragraph 4.2.6 of BS5837: 2005.
- (c) a tree work schedule for all the retained trees and hedges in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations.
- (d) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- (e) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- (f) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).

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- (g) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- (h) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (paragraph 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.
- (i) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
- (j) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees.
- (k) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of 'No-Dig' construction.
- (l) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc.) on site.
- (m) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.
- (n) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (paragraph 9.2.3 of BS5837).
- (o) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).
- (p) the timing of the various phases of the works or development in the context of the tree protection measures.
- (q) no retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge, be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)]
- (r) If any retained tree, or hedge is removed, uprooted or destroyed or dies, another tree or hedge shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

Reason

To safeguard the appearance and character of the area in accordance with Policies DM04 and DM08A of the North Devon and Torridge Local Plan.

8. The development hereby approved, and any subsequent reserved matter application shall be carried out in strict accordance with the recommendations contained within the Ecological Impact Assessment prepared by EAD Ecology dated May 2021 and addendum Ecological Impact Assessment prepared by EAD Ecology and dated 12th October 2021.

Reason

In the interest of safeguarding ecological interests and achieving a net gain in biodiversity in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, the biodiversity objections of the National Planning Policy Framework and the statutory duties of the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

9. As part of any reserved matters application submitted to the Local Planning Authority, the developer, working in conjunction with a suitably qualified ecologist shall provide details of a scheme to limit disturbance to overwintering birds. For the avoidance of doubt this should include but not be limited to interpretation packs for all households and information panels on the proposed foot and cycle connection the Tarka Trail.

Reason

In the interest of safeguarding protected species and their designated habitat in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, the biodiversity objections of the National Planning Policy Framework and the statutory duties of the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

10. Where practical, top soil from the site will be stored and re-used on site in garden and landscape areas.

Reason

To support the retention and re-use of soil in terms of sustainability and in accordance with the Policy DM08 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

11. All proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of

construction shall be submitted to the Local Planning Authority as part of the reserved matters application.

Reason

To ensure that adequate information is available for the proper consideration of the detailed proposals to comply with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

12. The occupation of any building in an agreed phase of the development shall not take place until the following works have been carried out:
 - (a) The carriageway including the vehicle turning head to serve that building shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - (b) The footways and footpaths which provide that building with a direct pedestrian route to an existing highway maintainable at public expense has been constructed up to and including base course level;
 - (c) The visibility splays have been laid out to their final level;
 - (d) The street lighting for the roads and footpaths applicable to (a) and (b) above has been erected and is operational;
 - (e) The car parking and any other vehicular access facility required for the building by this permission has been completed;
 - (f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - (g) The street nameplates for (a) above, have been provided and erected.

Upon occupation, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained.

Reason

To ensure that adequate facilities are available for the traffic attracted to the site to comply with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

13. Prior to occupation of the first dwelling the developer shall have submitted to and had agreed in writing with the Local Planning Authority, a sustainable travel plan which has been designed in conjunction with a suitably qualified Highways consultant. The approved details shall be implemented at the stages identified in the submitted document.

Reason

To ensure the uptake of sustainable modes of travel consistent with the sustainable location of the site to fulfil the requirements of Policies ST10 and DM05 of the North Devon and Torridge Local Plan and highways objectives of the National Planning Policy Framework.

14. Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.

Reason

To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework

15. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:

- (a) Monday - Friday 08.00 - 18.00,
- (b) Saturday 09.00 - 13.00
- (c) nor at any time on Sunday, Bank or Public holidays.

Reason

To protect the amenity of local residents in accordance with Policies DM01 and DM02 of the North Devon and Torridge Local Plan.

16. As part of any subsequent reserved matters application, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environment Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:

- (a) measures to regulate the routing of construction traffic;
- (b) the times within which traffic can enter and leave the site;
- (c) the importation and removal of spoil and soil on site;
- (d) the removal /disposal of materials from site, including soil and vegetation;
- (e) the location and covering of stockpiles;
- (f) details of measures to prevent mud from vehicles leaving the site and must include wheel-washing facilities
- (g) control of fugitive dust from earthworks and construction activities; dust suppression
- (h) a noise control plan which details hours of operation and proposed mitigation measures;
- (i) details of any site construction office, compound and ancillary facility buildings
- (j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;
- (k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.

The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and monitored by the applicants to ensure continuing compliance during the construction of the development.

Reason

To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway to accord with Policies DM01, DM02 and DM05 of the North Devon and Torridge Local Plan.

17. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment.
- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason

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

18. As part of the first reserved matter application, a waste audit statement shall be submitted to the Local Planning Authority for approval in writing. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.

Reason

To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document.

Informatives

1. The above consent requires the submission of further details to be approved either before works commence or at identified phases of construction.

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To discharge these requirements will mean further formal submissions to the Authority on the appropriate forms, which can be completed online via the planning Portal www.planningportal.co.uk or downloaded from the Planning section of the North Devon Council website, www.northdevon.gov.uk

A fee may be required [dependent on the type of application] for each separate submission [if several or all the details are submitted together only one fee will be payable].

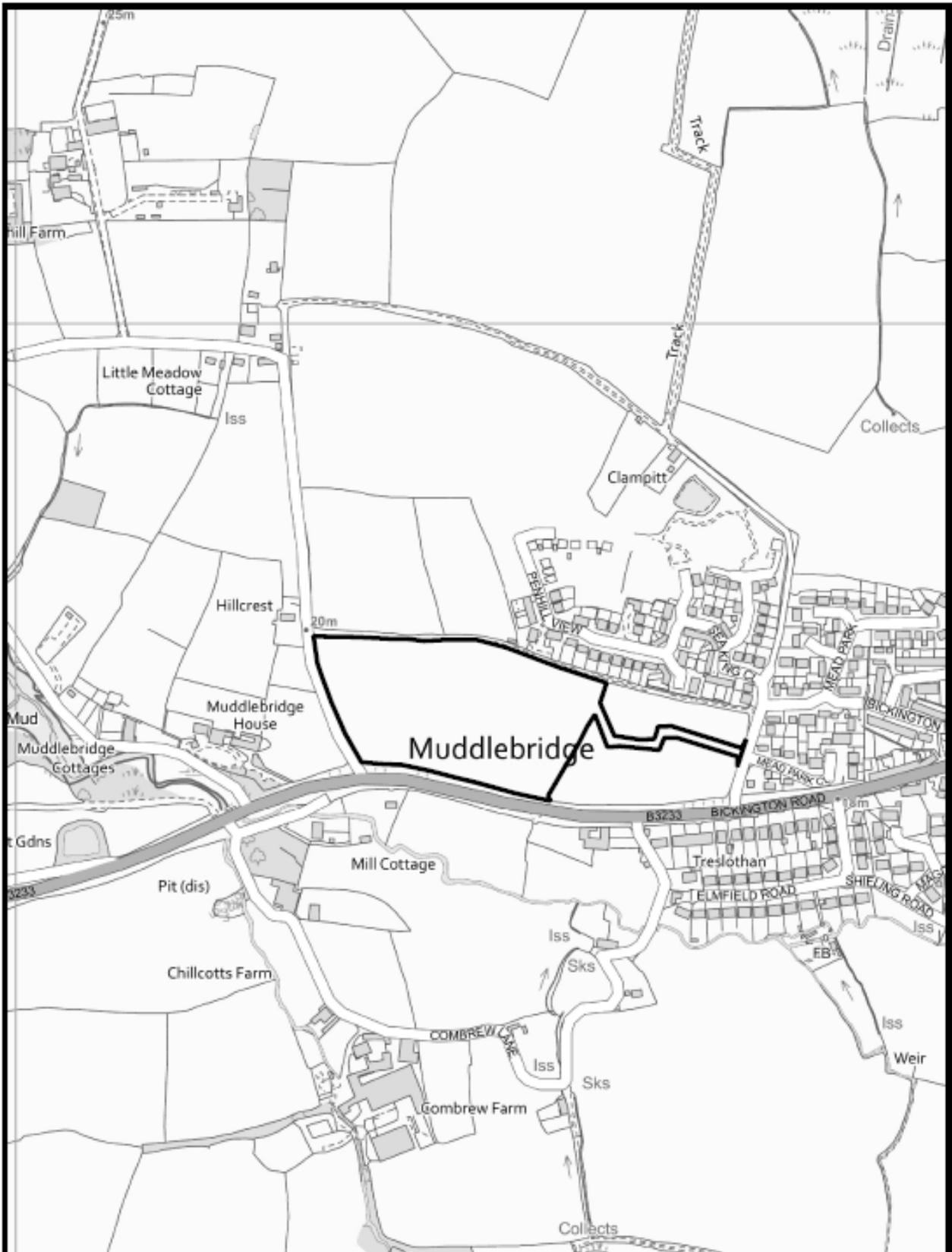
Further details on this process are available on the Planning section of the Council's website or by contacting the Planning Unit at Lynton House, Commercial Road, Barnstaple.

2. The development to which this permission relates is the subject of an agreement under, inter alia, Section 106 of the Town and Country Planning Act 1990.
3. The developer is advised as part the development to use an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and Natural England recommend that this is followed.
4. **Statement of Engagement**
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission. This has included seeking further information. The LPA has been required to apply the titled balance in regard to Paragraph 11 (d) of the National Planning Policy Framework and in this instance, on balance, it is considered that the environmental harm to landscape, heritage assets and the highway network is not considered to be significant and demonstrable harm when considered in the balance with the Council's absence of a 5 year housing land supply.

Appendices

- (1) Location Plan
- (2) Appeal Decision 60985
- (3) Appeal Decision 56492

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Lynton House, Commercial Road,
Barnstaple, EX31 1EA

73681 - Land west of Mead Park, Bickington

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Appeal Decision

Inquiry held on 6, 7 & 9 December 2016

Site visit made on 8 December 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 January 2017

Appeal Ref: APP/X1118/W/16/3154193

Land west of Mead Park, Bickington, Barnstaple

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Cavanna Homes (South West) Limited against North Devon District Council.
 - The application Ref 60985, is dated 6 April 2016.
 - The development proposed is construction of up to 61 No dwellings, including affordable housing, areas of open space and landscaping, a new vehicular access and associated site infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of up to 61 No dwellings, including affordable housing, areas of open space and landscaping, a new vehicular access and associated site infrastructure at land west of Mead Park, Bickington, Barnstaple in accordance with the terms of the application, Ref 60985, dated 6 April 2016, subject to the terms of the Planning Obligation dated 2 December 2016 and the terms of the Supplemental Planning Obligation dated 20 December 2016, and the conditions in the Schedule to this decision.

Procedural matters

2. The application was made in outline with access for consideration; I have considered the appeal on this basis. A series of plans showing the parameters against which the development would be completed were also submitted and I have taken these into account as they formed part of the application. An illustrative layout was also submitted and I have considered that plan on this basis.
3. Following the lodging of the appeal the Council resolved that, had it been in a position to do so, it would have refused the application. Although in a single putative reason for refusal this noted that the site was on high quality agricultural land and considered that the proposed development would perceptively erode and alter the rural character of the strategically important gap between settlements and would, with other permitted development, cumulatively impact highway infrastructure. It concluded that the benefits of the proposal did not outweigh the harms caused and as such the proposal was contrary to various policies in both adopted and emerging development plans.

4. Following the exchange of proofs of evidence the appellant provided a rebuttal proof on highway matters, which led to the Council withdrawing that element of the reason for refusal relating to highways. The Council did not call its proposed highway witness. However, local residents who attended the Inquiry expressed their objections on this issue.
5. The putative reason for refusal referred to a number of different policies in both the North Devon Local Plan 1995 – 2011 (the NDLP) and in the emerging North Devon and Torrington Local Plan 2011 – 2031 (the NDTLP). However, the evidence presented to the Inquiry on behalf of the Council only raised objections in relation to Policy ENV1 of the NDLP and Policy BAR22 of the NDTLP and in light of this I will concentrate on considering the proposal against these two policies although all relevant policies are material to my decision.
6. The Inquiry opened on the same day as the Hearings into the NDTLP concluded. The Examining Inspector (ExI) gave a verbal statement at the Hearing, and a transcript was provided to the Inquiry. Following the ExI's statement the Council accepted that it could not demonstrate unequivocally a five year supply of housing land. The ExI's formal note was made available to the Inquiry before it closed.
7. The appeal was accompanied by a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) by way of a Unilateral Undertaking dated 2 December 2016. This was discussed at the Inquiry. In light of these discussions the appellant indicated that it wished to submit revised planning obligations and this was done through a Supplemental Planning Obligation, dated 20 December 2016. The Council made final comments based on those revisions to which the appellant responded. I will discuss this below. Where I refer to 'the Obligation' this should be taken as being the two Obligations together.

Main Issues

8. In light of the above, the main issues are:
 - the effect on the character and appearance of the area;
 - the effect on highway safety;
 - whether the proposal would result in an unacceptable loss of the best and most versatile agricultural land;
 - whether the proposal makes adequate provision for affordable housing and infrastructure; and
 - whether there are any other material considerations, including the housing land supply situation and the benefits of the proposal, which would indicate that the proposal should be determined otherwise than in accordance with the terms of the development plan.

Reasons

Character and appearance

9. The appeal site forms the eastern part of an agricultural field to the west of the village of Bickington, which forms the western part of the built-up area of Barnstaple. The appeal site rises from south to north across the width of the

- site and the land form also rises to the east, although dropping slightly at the eastern end. To the east is an area of built up development, Mead Park, with the properties adjacent to the appeal site consisting of two storey dwellings.
10. To the south of the appeal site is the B3233, Bickington Road, which runs through the village of Bickington to the next village of Fremington to the west. On the northern highway verge of Bickington Road is a bank and on that are three groups of trees. The eastern group is the most significant being made up of a mixture of pines, leylandii and sycamores some 20 m high. The trees have a 'gap' between the bank and the lowest canopy which allows views under the canopy onto the appeal site. On the opposite side of Bickington Road is a row of bungalows, and the property known as Brookfield House, with Combrew Lane running between Brookfield House and the bungalows. Brookfield House is a large two storey property with its boundary surrounded by an approximately 2 m high wall.
 11. To the north of the appeal site is a bridleway contained between two Devon bank hedgerows. This marks a ridge within the landform to the north sloping down to the Taw estuary. Immediately to the north of the appeal site and the hedgerow and bridleways is an area currently being developed for housing. This area was originally granted planning permission on appeal¹ as Mead Park, Bickington. To avoid confusion with the current appeal site this was referred to as the 'Wainhomes' site and I will use this nomenclature.
 12. The western boundary of the appeal site is not currently defined on the ground. There are thus views from the Bickington Road further to the west across the appeal site through the gaps between the groups of trees to the existing development in Mead Park and Mead Park Close. The development at the lower end of Mead Park is side-on to the road, but the two properties at the higher end face the appeal site. There are also views across the appeal site through a gated entrance into the appeal site in the northeast corner to the south and west and from the south from Bickington Road and the properties on the opposite side to the ridgeline.
 13. The proposal is to define the western boundary with a double hedgerow with a new right of way between. However, the proposal would involve a gap through this to facilitate an access through to the remaining agricultural field to the west. This is shown on a "Parameters Plan – Access"² and illustrative layout as being approximately two-thirds along the length of the proposed western boundary to the north. Given that access is for consideration at this outline stage and the "Parameters Plan – Access" is incorporated within the application drawings this location would be fixed.
 14. The Wainhomes development can be seen from Bickington Road above and, to a limited extent during the winter months when the Inquiry took place, through the double hedgerow. However, being set some distance away from Bickington Road it does not intrude significantly into views from Bickington Road.
 15. The residential development of the appeal site would change its character. This would be particularly marked in short distance views from Mead Park and from the properties on the south side of Bickington Road where development would be seen in the gap under the canopies of the trees. The application was

¹ APP/X1118/A/14/2224465

² Drawing 15113 L01.02 revision B

accompanied by a Landscape and Visual Impact Assessment (LVIA) and this described these effects as "major" from Mead Park and "moderate" from the properties on Bickington Road in both Year 1 and Year 15 following construction. I would agree with these conclusions on these short distance views.

16. There was some discussion at the Inquiry as to the location of the western boundary, with the landscape witness for the Council describing it as "random" as it did not follow any existing features. In one sense this is the case, but there would be some logic to the proposed location.
17. The northwest corner of the proposed development is located to the south of the southwest corner of the Wainhomes development and both would extend a similar distance along the right of way. There would thus be no further encroachment into the countryside west of this point.
18. The southwest corner would be on the opposite side of Bickington Road opposite the entrance of Brookfield House to the west of that property. Under the terms of the NDLP Combrew Lane marks the edge of the development boundary of Bickington with the bungalows to the east within the development boundary and Brookfield House and its curtilage outside and in the countryside. The development boundaries "encompass the main built up area together with any peripheral sites that are either proposed or committed for new development"³ with the purpose being "to control and regulate the growth of a settlement"⁴. This means that some properties outside the development boundary could, in visual and functional terms, still form part of the settlement. My conclusion in travelling along Bickington Road from the west was that Brookfield House itself formed part of the settlement of Bickington as the first property on the south side of Bickington Road notwithstanding that it fell outside the development boundary in terms of the NDLP. The nearby road furniture with signs indicating 'Bickington' are read as such and do not have a significant effect on the wider landscape or character of the area.
19. Although the southwest corner of the proposed development would be a short distance to the west of Brookfield House it would be opposite the western edge of the curtilage of this property and thus this would mark a logical end point for the western extent of the proposed development.
20. The appeal site lies in Local Character Type (LCT) 3A 'Upper farmed and wooded valley slopes' as set out in Devon County Council's assessment of LCTs. Here the special qualities include an open landscape with important vantage points and uninterrupted vistas and narrow sunken lanes and species-rich hedgerows. The creation of the new hedgerows with the new right of way between would be in keeping with this characteristic.
21. From the west the new double hedgerow would restrict views of the proposed properties and the new development would interrupt the existing views of the properties in Mead Park across the appeal site through the gaps between the groups of trees. However, the hedgerows would take some time to establish, and there would be a gap through them for the new access to the remaining agricultural field. As noted above the point of the gap is fixed and thus it could not be seen clearly from Bickington Road due to the angle of view. I therefore

³ Paragraph 3.35 of the NDLP

⁴ paragraph 3.34 of the NDLP

- conclude that the provision of additional landscaping in the form of a woodland belt, as suggested by the Council officers in their recommendation to the Council, to mitigate the effects of the development on views from the west while beneficial is not necessary.
22. There is an existing gated field entrance in the northeast corner of the appeal site which is at a slightly lower level than the highest point of the appeal site as there is a slight crown to the land form. The public rights of way network passes this and there would be the loss of a view across the appeal field and beyond. However, this view is only glimpsed and consequently, while marked in the locality, would not be significant when looked at in overall terms.
 23. From the south the development would be harmful to views from the dwellings and from Bickington Road. However, the introduction of both understorey and succession planting along the southern part of the site would mitigate the effects of the development both in the medium and in the longer term when the existing trees come to the end of their natural lifespans.
 24. Policy ENV1 of the NDLP indicates that development in the countryside will only be permitted if three criteria are met. Firstly, a rural location is required, secondly, it provides economic and social benefits to the local community, and, thirdly, it protects the countryside's beauty, diversity of its landscape and historic character, the wealth of its natural resources and its ecological, recreational and archaeological value. I will discuss the first two criteria later in this decision as part of the planning balance.
 25. Among the main parties there was agreement that the only issue for consideration against Policy ENV1 was that relating to the countryside's beauty. However, local residents were also concerned about a loss of recreational value, in the sense that as an open field this added to the rural experience for those using Bickington Road and the rights of way network in the area. It seems to me that the term 'recreational value' refers to the actual use of a piece of land for recreation, rather than being an ancillary feature of another purpose, in this case the beauty of the land as a piece of countryside. I am therefore satisfied that the proposal would not result in harm to the recreational value of the land as currently it is not in a recreational use.
 26. Pulling this together the residential development of the site would be harmful to the character and appearance of this section of the countryside and would interrupt views across this part of the LCT. However, this harm would be localised to the immediate environs of the site and would be limited in extent in the area affected and time until new planting had become established and had partially ameliorated the effects of the development.
 27. The Council was also concerned about the effect of the development on a Green Wedge which is set out between Bickington and Fremington in the emerging NDTLP in Policy BAR22. The Council maintains that as the ExI did not specifically criticise this policy in her comments this policy should be given more than limited weight in this decision.
 28. The Council suggested that Policy BAR22 was designed to prevent a loss of the rural setting of Bickington and this appears as an objective to the policy in the supporting text⁵ rather than in the policy itself. However, this aim seems to

⁵ Paragraph 10.93

- duplicate the issue I have assessed under Policy ENV1 of the NDLP and no additional weight should be given to this harm.
29. The NDTLP is an emerging plan and the ExI has made clear in her comments that the Councils "will need to carry out further work in order to make the Plan sound"⁶. Paragraph 216 of the National Planning Policy Framework (the Framework) indicates that weight may be given to emerging plans according to the stage they have reached in their preparation, the extent that there are unresolved objections, and the degree of consistency with the policies of the Framework.
 30. While policies to protect gaps between settlements would accord in general terms with the Framework, the plan has not yet reached a stage where the policies within it can be given considerable weight as it has not yet been found sound, or could be made sound subject to specific, and already defined, appropriate modifications. In addition there are remaining objections. In light of this Policy BAR22 can only be given limited weight.
 31. Notwithstanding the weight to be given it is necessary to consider the proposal against Policy BAR22. The policy itself indicates it is designed to protect the individual identities of these settlements. Within the Green Wedge it indicates that development which could lead to or contribute to coalescence will be resisted.
 32. It is agreed that due to the distance and topography between Bickington and Fremington the development of the appeal site would not lead to any visual coalescence as there would be no intervisibility, similarly there would be no physical coalescence. Thus any harm would be caused by the extension of Bickington into the wedge. The appeal site would be surrounded on three sides by built development and, while this would be on a downslope on a currently undeveloped field, would not materially affect the individual identities of the two settlements as separate settlements. There would still be a positive leaving of one settlement, a travelling through undeveloped countryside without experience of either settlement, and then arrival at the second settlement.
 33. Consequently, the proposed development would have a harmful effect on the character and appearance of the area, but this harm would be limited. It would therefore be contrary to Policy ENV1 of the NDLP and Policy BAR22 of the NDTLP both as set out above. It would also be contrary to paragraph 17 of the Framework in that would not recognise the intrinsic character and beauty of the countryside, nor conserve the natural environment.

Highway safety

34. As noted above the Council no longer objects to the proposal on this ground. However, local residents objected about two particular elements, being the general increase in traffic in the area and thus congestion, and secondly the accessibility of the site to the Bickington village centre, particularly for those with mobility issues.
35. The application was accompanied by a Transport Statement and this was supported by further evidence in the proof and rebuttal proof submitted to the Inquiry. These all show that while there would be an increase in traffic on the

⁶ ExI's note HD15 page 1, third paragraph.

- network, this would only be minimal within the overall amount of traffic and that would have only a negligible effect on the Cedars roundabout which is of particular concern. In light of this I am satisfied that the amount of traffic caused by the development would not lead to severe residual impacts, which is the test set out in paragraph 32 of the Framework if development is to be prevented on transport grounds.
36. I am also satisfied that emergency vehicles would be able to access the site if necessary as drivers will stop and allow such vehicles to pass.
37. The centre of Bickington with its shops and other local facilities is a short distance to the east along Bickington Road and within walking distance. To pedestrians (including those using wheelchairs and buggies) there are two routes, either dropping down Mead Park to Bickington Road and then along the pavement adjacent to that road, or travelling through Mead Park and then using a metalled but unlit footpath down to Bickington Road. I am satisfied that non-wheelchair users, including those in buggies, would be able to use both routes. Clearly there should be safe and suitable access for all people, as set out in paragraph 32 of the Framework. While the footpath route would not be suitable for everyone using wheelchairs, access to the village centre would be available by dropping down to Bickington Road and then using the existing pavement. This would provide a safe and suitable access and this route is not materially further than the other.
38. Concern was also expressed about the width of the pavement outside a row of dwellings on the north side of Bickington Road between the Mead Park junction and the village centre. However, this is an existing situation and those using the pavement have to give way to one another and this would continue. The increase in pedestrian traffic from the proposal would not be material and I am therefore satisfied that safe and suitable access is achievable.
39. The Public Sector Equality Duty contained in the Equality Act 2010 requires that due regard should be had to the three equality principles set out in section 149 of that Act. I am satisfied that requiring those with mobility issues to use the pavement beside Bickington Road does not affect any one group more than any other as the unlit route is less commodious and therefore does not discriminate, prevent advancement of opportunity or inhibit good relations between groups.
40. I am therefore satisfied that the proposal would not be prejudicial to highway safety. It would therefore comply with Policy TRA6 of the NDLP which requires development to have safe access onto and egress from the highway and that the functioning of the road network or the safety of highway users is not harmed. It would also comply with Policy ST10 of the NDTLP in that it would ensure that access to development is safe and appropriate. It would also comply with paragraph 32 of the Framework as set out above.

Best and most versatile agricultural land

41. The appeal site is made up of Grade 2 Agricultural Land which represents part of the best and most versatile agricultural land.
42. The signed Statement of Common Ground between the appellant and the Council accepted that only limited weight can be given to the harm arising from the loss of the best and most versatile agricultural land at the appeal site given

the prevalence of the best and most versatile agricultural land between Fremington and Bickington and in the wider surroundings. In line with my Colleague who considered the Wainhomes appeal I concur with this assessment for the same reason and will consider this in the planning balance below.

43. Therefore, the proposal would be contrary to Policy ENV7 which seeks to protect the best and most versatile agricultural land. However, in the terms of paragraph 112 of the Framework it has not been demonstrated that, within the overall context of the amount of the best and most versatile agricultural land in the vicinity, this proposal would be a significant development of such land.

Affordable housing and infrastructure

44. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the Obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
45. Regulation 123 of the CIL Regulations also states a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure where five or more separate planning obligations provide for the funding or provision of that project or provide for the funding or provision of that type of infrastructure.
46. Following the submission of a viability assessment the Council accepted that the appeal proposal could not deliver the full amount of affordable housing and contributions towards other infrastructure normally sought. This approach accords with the advice in the national Planning Practice Guidance (the PPG) that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations⁷.
47. I was advised at the Inquiry that the assessment was done on a broad brush analysis rather than on a more detailed approach such as one based on a discounted cash-flow. This means that there will inevitably be a 'margin for error' in relation to the figures. However, I am satisfied that the viability assessment shows the best evidence available at this time.
48. In providing affordable housing the proposal would assist in meeting the needs of the area for affordable housing which was part of the evidence submitted to the NDTLP examination on the overall housing need for the area. The Obligation uses the definition of Affordable Housing as set out in the Framework. The Council sought a more detailed definition particularly in relation to Intermediate Rent seeking it to be based on Local Housing Allowance rather than open market rent and asserts that the viability analysis was undertaken on this basis.

⁷ Reference ID 10-019-20140306

49. While the Glossary to the Framework makes clear that Intermediate housing is homes for rent or sale at a cost between social rent and market levels. As the Intermediate rent is defined in the Obligation as being at 80% of the open market rent I am satisfied that the Intermediate Housing would comply with national policy as set out in the Framework.
50. The Council also criticised the detailed drafting of the Obligation due to a lack of reference to prevent 'staircasing out' of the shared ownership dwellings as the appeal site lies in a designated rural area for the purposes of the Housing Act. Specific reference to this restriction is not necessary as it would duplicate the Housing Act, and I am therefore satisfied that this would not be necessary. The Council also criticised the timescales for the cascade provisions of the Obligation for shared ownership properties, but I am satisfied the one month provision should allow sufficient time for a new occupier to be secured. The appellant indicates that negotiations have been undertaken with a Registered Provider for them to take over the affordable housing. It is therefore highly likely that the affordable housing provision would be owned by a Registered Provider and there is no need for the recycling of staircasing payments via the District Council in the event that a Registered Provider did not own the properties.
51. Looking at the Obligation in the round in respect of affordable housing I am satisfied that the affordable housing is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development. As affordable housing does not represent infrastructure under the CIL Regulations Regulation 123 is not engaged.
52. The Planning Obligation provides for contributions towards education, both primary and secondary, in the area. As the existing provision is at capacity I am satisfied that the additional population from the development would exacerbate this situation and consequently the contributions are necessary. I am satisfied that they are directly related to the development and fairly and reasonably related in scale and kind to the development. As with all contributions for infrastructure I am advised that it complies with Regulation 123.
53. Similarly a contribution is provided for towards highways enhancements. This would be used towards relieving pressure at two junctions. Although the increase in traffic would be minimal, cumulatively development would have a harmful effect. I therefore find that this contribution is necessary. I am satisfied that it would be directly related to the development and fairly and reasonably related in scale and kind to the development.
54. The Obligation makes provision for a contribution towards a Toucan Crossing, a Toucan Crossing Commuted Sum, a payment towards a Traffic Regulation Order and a Travel Pack to encourage residents to use non-car modes. The Toucan Crossing would be provided to allow safe crossing of Bickington Road and this would encourage the use of non-car modes, including the use of the bus service along Bickington Road, and ensure that it was appropriately delivered. I am therefore satisfied a contribution towards the Crossing is necessary, as well as the other contributions to ensure its satisfactory delivery. It would directly relate to the development and would be fairly and reasonably related in scale and kind to the development.

55. While the Obligation does not include an interest rate provision in the event of late payment of any financial contribution there is still the requirement to deliver the obligations set out. I am therefore satisfied that the non-inclusion is not necessary to make the development acceptable.
56. Finally the Planning Obligation provides for the provision of a Woodland Belt to the west of the appeal site. This is to secure the double hedgerow and footpath and for the reasons set out above is necessary to make the development acceptable, would directly relate to the development and would be fairly and reasonably related in scale and kind to the development. As this would be the first Obligation for this piece of infrastructure it would comply with Regulation 123.

Housing land supply

57. The Framework in paragraph 47 indicates that to boost significantly the supply of housing Local Plans should meet the full objectively assessed needs for market and affordable housing. The NDLP does not meet this and thus, in line with paragraph 215 of the Framework it is not consistent with the policies of the Framework and thus the policies of this plan relating to the supply of housing are of limited weight.
58. To address this issue the Council, along with Torridge District Council, is promoting the NDTLP. However, with the conclusions of the ExI set out above the Council has indicated it is unable to demonstrate that it has a five year supply of housing land and thus in line with paragraph 49 of the Framework relevant policies for the supply of housing should not be considered up-to-date. This will include policies restricting housing to within development boundaries.
59. Because of the contemporaneous nature of the ExI's comments neither main party was able to calculate accurately what it considered the extent of the deficiency in the five year land supply, although all parties accepted her conclusions on what represented the full, objectively assessed needs for market and affordable housing, and there was also no dispute over the 'split' of housing to be delivered in North Devon and Torridge Districts.
60. The differences between the main parties were, in fact, not that marked relating principally to whether discount rates should be applied to unimplemented planning permissions of large sites, and whether one large site would provide for any completions within the next five years. However, the Council has conceded that it is unable to show a five year supply of housing land, and that the deficiency is at least 0.4 of a year. In my view this deficiency is not marginal and I therefore consider that it is not necessary to address these differences further.
61. The Council maintained that one of the reasons for the extent of the deficiency was due to the (in)actions of the development industry by not building out sites with planning permission. When there is a step-change in housing provision then there will be a 'lag' between planning permissions being granted and completions. Part of the reasoning for the 5% or 20% additional buffer is to ensure choice and competition in the market⁸. Although the NDTLP will resolve this issue it is clear that this is some months away from adoption⁹, and thus

⁸ See paragraph 47 of the Framework.

⁹ The Council has indicated that work to address the matters the ExI has identified should be concluded in July 2017, and there will be further elements to the process beyond that date before the Plan is adopted.

some time until the deficit is likely to be resolved. In the meantime, to ensure that the situation does not deteriorate, that further planning permissions will be needed on greenfield sites.

62. In light of the above I conclude that development plan policies for the supply of housing should be considered out-of-date and thus, in line with paragraph 14 of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Other matters

63. Local residents were concerned that this proposal would act as a precedent for future development in the area, and that the facilitative link was, in fact, a stalking horse for future development. It is clear that each case should be considered on its individual merits in the light of circumstances pertaining at the time of the decision. I am therefore satisfied that the proposal would not set an undesirable precedent for development on the land immediately to the west of the appeal site.
64. Local residents were concerned about the proposed density of the development and considered that it would appear cramped and out of character with the nature of development in the area. This is principally a matter for any application for reserved matters. However, I note that the application is for "up to 61 No dwellings" and the mix of housing, that is its size, is not fixed. This would ensure sufficient flexibility to ensure that the layout was appropriate.
65. Concerns were also expressed that any layout would not necessarily allow those with mobility problems to move within the site, or that there would be insufficient car parking spaces so that parking would straddle pavements, also affecting those with mobility issues. As the layout is reserved these are issues for any application for reserved matters.
66. Concern was also raised about drainage from the site, and in particular for surface water flooding across the appeal site to the dwellings on lower land on the south side of Bickington Road. The application was accompanied by a Flood Risk Assessment and this indicates that the site could be satisfactorily drained and I note that the Local Lead Flood Authority and Environment Agency had no objection to the proposal. Subject to an appropriate condition I am satisfied the site could be appropriately drained.
67. Finally, I note that Fremington Parish Council has been designated as a relevant body to allow it to promote a Neighbourhood Plan. However, this is still at a very early stage and no proposed policies were put to the Inquiry. Consequently there is no weight from any policies which can be put towards this decision.

Planning balance

68. The Framework indicates in paragraphs 6, 7 and 8 that the purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development has three roles, economic, social and environmental which cannot be undertaken in isolation because they are mutually dependent.

69. The provision of additional housing will be economically beneficial both during construction and when occupied. While the economic benefit during construction will be short-lived, that of occupation will be in the long-term and, overall, I give this significant weight. Similarly the provision of the housing would be socially beneficial and again is due significant weight, particularly due to the provision of affordable housing where there is an identified need. Against this should be weighed the agreed limited harm in both economic and social terms through the loss of a section of the best and most versatile agricultural land.
70. It is also clear that some of the additional housing needed to meet the full, objectively assessed needs of the NDTLP area will need to be constructed on greenfield sites and, that in line with footnote 11 to paragraph 47 of the Framework, such sites will need to be deliverable. There appear to be no particular impediments to construction on the appeal site meaning that it should be deliverable within the next five years and would thus make a meaningful contribution to housing delivery in the District. I therefore conclude that the proposal would comply with the first two criteria of Policy ENV1 of the NDLP set out above. It would still, however, be contrary to the third criterion of this policy as explained above.
71. The infrastructure provided under the Planning Obligation is to mitigate the effects of the development and therefore is of neutral weight in the overall balance.
72. I have found the proposal would be harmful to the environment through its effect on the character and appearance of the area, but that this harm would be limited in extent and would be partially ameliorated over time. The environmental harm from the loss of the best and most versatile agricultural land would also be limited. However, there would be no harm, environmental or social, through the development of the site to the green wedge between Bickington and Fremington. Due to the location of the site in close proximity to the settlement of Bickington with its facilities it would be in an accessible location and would be acceptable in terms of its effects on the highway network. Overall, there are no harms, either on their own, or cumulatively, which significantly or demonstrably outweigh the benefits of the development, when assessing the proposal as a whole against the policies of the Framework.
73. While the proposal would, overall, be contrary to the terms of the development plan in that it would represent development in the countryside, other material considerations indicate that the decision should be made contrary to that plan and consequently the appeal allowed and planning permission granted.

Conditions

74. I have considered the conditions put forward in the Statement of Common Ground against the requirements of the PPG and the Framework. The numbers of the conditions imposed are given in brackets. In addition to the standard timescale conditions (1, 2, 3), I have imposed a condition specifying the relevant drawings (4), including the parameters plans, as this provides certainty.
75. As layout is not for consideration as part of this proposal I consider that any condition relating to the levels of the proposed development should be dealt with at the reserved matters stage. Similarly, as landscaping is reserved

- conditions relating to the submission of landscaping details, implementation and management should be dealt with at the reserved matters stage. Details of lighting would form part of the layout.
76. Because of the need to protect the trees and hedgerows around the perimeter of the site to ensure the effect on the character and appearance of the area is minimised a condition is needed at this outline stage to ensure tree and hedgerow protection is provided and maintained during the construction period (5).
77. In order to protect the ecology of the area the mitigation measures set out in the Ecological Impact Assessment need to be delivered (6), and to ensure that appropriate surface water drainage is delivered to prevent an increase in flood risk a condition securing an appropriate scheme and its implementation is needed (7). As there is the potential for there to be archaeological remains on the site, a programme securing recording of such is necessary (8). However, given the previous use of the site for agriculture I am not satisfied that a condition relating to unexpected contamination is necessary.
78. In order to protect the living conditions of the occupiers of those living in the vicinity of the appeal site during the construction period, a Construction Method Statement is necessary. This should include details as to when development operations and deliveries may take place (9).
79. As access is for consideration I am satisfied that details of the extent of the access shown on the application drawings needs to be agreed in the interests of highway safety (10). However, as the remaining highways will form part of the layout, details of the construction of these, along with the timing of their delivery, should be dealt with at the reserved matters stage. Provision of parking and its delivery forms part of the layout and should therefore be dealt with at the reserved matters stage. Requiring surface water not to discharge onto the public highway is a duplication of powers under the Highways Act and is therefore not necessary.
80. Following the Written Ministerial Statement (the WMS) of 25 March 2015 technical standards for housing, including their energy performance, are covered under the Building Regulations. While the enhanced Housing Optional Technical Standards can be applicable the WMS makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case, the new Housing Standards post-date the relevant policy in the NDLP, and the NDLP has yet to reach an advanced stage. Consequently I do not consider such a condition is justified.
81. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

82. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 15113 L01.01 Revision A Site Location Plan
 - 15113 L01.02 Revision B Parameters Plan – Access
 - 15113 L01.03 Revision B Parameters Plan – Building Heights
 - 15113 L01.04 Revision B Parameters Plan – Site Areas & Density
- 5) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until tree and hedgerow protection measures have been erected on site in locations and in accordance with details submitted to and approved in writing by the local planning authority and subsequently agreed in writing by the local planning authority as complete. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made within that area without the prior written consent of the local planning authority.
- 6) No development shall take place until a timetable for the implementation of the mitigation measures set out in the Ecological Impact Assessment submitted with the application, including the submission of a Landscape and Ecological Management Plan, has been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until details of the proposed surface water drainage have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall not be occupied until all the surface drainage works have been carried out in accordance with the approved details.
- 8) No development shall take place until a scheme for the implementation of a programme of archaeological work has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;

- v) measures to control the emission of dust and dirt during construction;
- vi) a scheme for recycling/disposing of waste resulting from construction works;
- vii) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) No development shall take place on site until the detailed design, levels, gradient, materials and method of construction of the access shown on drawing number 15113 L01.02 Revision B has been submitted to and approved in writing by the local planning authority. No other part of the development hereby approved shall be commenced until this access has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway, with the ironwork to base course level, the visibility splays shown laid out, and the footway to the public highway constructed to base course level.

END OF SCHEDULE

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley, of Counsel assisted by Philip Robson, of Counsel,
instructed by the Solicitor to North Devon District
Council

He called

Nigel Evers DipLA CLI Director, Peter Brett Associates LLP

Peter Rowan DipTP
MRTPI Principal, Rowan Edwards

Graham Townsend MA
DipTCP LRTPI Development Enabling Officer, North Devon
District Council

FOR THE APPELLANT:

Wayne Beglan, of Counsel instructed by Elliot Jones, Boyer Limited

He called

Mark Flatman BA (Hons)
CMLI Dip LA Director, Liz Lake Associates

Ian Awcock CEng MICE Director, Awcock Ward Partnership
MCIHT MCIWEM

Robin Upton BSc (Hons)
MRTPI Director, WYG Planning & Environment

Elliot Jones BSc (Hons)
Dip TP MRTPI Director, Boyer Limited

INTERESTED PERSONS:

Maureen Bennet Local Resident

Cllr Rodney Cann District and Parish Councillor

Cllr Frank Biederman County, District and Parish Councillor

Hilary Pierce BEd (Hons) Local Resident

Cllr David Chalmers Parish Councillor and Local Resident

John Gulliver Local Resident

Julie Adnams Hatch Local Resident

CORE DOCUMENTS

CD1 Application Documentation
CD2 Additional information submitted post-submission
CD3 Consultation responses submitted in respect of application
CD4 Assessment of Landscape and Visual Impacts
CD5 Committee Report
CD6 Agreed Statement of Common Ground

- CD7 North Devon Local Plan 1995-2011
- CD8 North Devon and Torridge Local Plan 2011-2031 Publication Draft (June 2014)
- CD9 North Devon and Torridge Local Plan 2011-2031 (incorporating Proposed and Minor Changes) Track Change version (March 2015)
- CD10 North Devon and Torridge Local Plan 2011-2031 Publication Draft – Proposed Main Changes, Portfolio of Proposed Map and Figure Changes (March 2015)
- CD11 North Devon and Torridge Local Plan 2011-2031 Additional Proposed Main Changes (October 2015)
- CD12 North Devon and Torridge Local Plan 2011-2031 Additional Proposed Main Changes (February 2016)
- CD13 North Devon District Council Affordable Housing Code of Practice SPD (2004)
- CD14 North Devon District Council Public Open Space, Sport and Recreation Code of Practice (2004)
- CD15 North Devon and Torridge Local Plan 2011-2031 Topic Paper: Establishing an Objectively Assessed Need (OAN) and Housing Requirement (May 2016)
- CD16 North Devon and Torridge Local Plan 2011-2031 Topic Paper: Housing Land Supply (May 2016)
- CD17 Joint Housing Topic Paper for the Northern Peninsular Housing Market Area (May 2016)
- CD18 North Devon’s Five Year Housing Land Supply Statement as at 1 April 2016
- CD19 Northern Peninsular Housing Market Area Strategic Housing Market Assessment: the Implications of 2012-based Household Projections
- CD20 Northern Peninsular Housing Market Area Strategic Housing Market Assessment (SHMA) Update 2015
- CD21 Appeal Decision: Land at Birch Road, Barnstaple (APP/X1118/W/15/3021708)
- CD22 Appeal Decision: Land at Mead Park, Bickington, Barnstaple (APP/X1118/W/15/2224465)
- CD23 Appeal Decision: Land adjacent to the B3233, West Yelland, near Barnstaple (APP/X1118/W/15/3003545)
- CD24 North Devon and Torridge Local Plan 2011-2031 Topic Paper: Affordable Housing (May 2016)
- CD25 North Devon and Torridge Local Plan 2011-2031 Examination November 2016 – Written Statement – Matter 2: Housing (October 2016)
- CD26 North Devon and Torridge Local Plan 2011-2031 Councils’ response to the Inspector’s Request (EC05) regarding Topic Paper: Housing Land Supply (August 2016)
- CD27 Housing and Economic Needs Assessment – Torridge and North Devon Councils – GL Hearn (May 2016)

INQUIRY DOCUMENTS

- ID1 Completed Section 106 Planning Obligation dated 2 December 2016
- ID2 Summary of ID1
- ID3 List of Appearances put in on behalf of Appellant
- ID4 Opening Statement on behalf of Appellant
- ID5 Opening Statement on behalf of North Devon District Council

- ID6 Bundle of High Court decisions submitted on behalf of North Devon District Council
- ID7 Rebuttal Proof of Mr Awcock
- ID8 Transcript of Statement by Local Plan Inspector at conclusion of November/December 2016 Hearings
- ID9 North Devon District Council - Position Statement on Five Year Housing Land Supply
- ID10 List of Major and Minor Modifications submitted to the Local Plan Examination
- ID11 North Devon District Council - Position Statement on Transport Matters
- ID12 Appeals Decision: Land off Peter Destapeleigh Way, Nantwich (APP/R0660/A/13/2197532 and APP/R0660/A/13/2197529)
- ID13 Extract of Objection by Wainhomes (South West) Holdings Ltd to North Devon and Torridge Local Plan 2011-2031
- ID14 Replacement for Appendix GT 8 to Mr Townsend's Proof of Evidence
- ID15 Closing statement on behalf of North Devon District Council
- ID16 Inspector's Note to the Councils following the Closure of Hearings on 6 November 2016 [should read 6 December 2016]
- ID17 Closing Statement on behalf of Appellant

POST INQUIRY DOCUMENTS

- PID1 Email chain relating to Sustainable Travel Vouchers
- PID2 Completed Supplementary Section 106 Planning Obligation dated 20 December 2016
- PID3 Explanatory Note regarding PID2
- PID4 Comments of North Devon District Council on PID2 and PID3
- PID5 Comments by appellant on PID4
- PID6 Comments of North Devon District Council on PID5

Appeal Decision

Inquiry held on 3-5 March 2015

Site visit made on 5 March 2015

by David Spencer BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19/05/2015

Appeal Ref: APP/X1118/A/14/2224465

Mead Park, Bickington, Barnstaple, Devon EX31 2PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Cater of Wainhomes (South West) Holdings Ltd against the decision of North Devon District Council.
 - The application Ref 56492, dated 14 October 2013, was refused by notice dated 29 July 2014.
 - The development proposed is the erection of 59 dwellings, associated highway and landscape works together with provision of community open space and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 59 dwellings, associated highway and landscape works together with provision of community open space and associated infrastructure at Mead Park, Bickington, Barnstaple, Devon EX31 2PF in accordance with the terms of the application, Ref 56492, dated 14 October 2013, and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. A completed agreement under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted following the close of the Inquiry. The agreement would provide for public open space, the management of sustainable drainage and the delivery of affordable housing as well as financial contributions towards education and local transport infrastructure. As such the proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
3. Following the close of the Inquiry the transitional period under CIL Regulation 123(3) for S106 planning obligations designed to collect pooled contributions ended on 6 April 2015. Consequently, the Council was requested to clarify whether any proposed contributions from the appeal proposal would contribute to an infrastructure fund which may already have accrued five prior obligations entered into after 6 April 2010. No clarification was provided and as such my decision, where applicable, has taken a precautionary approach in respect of the five-obligation limit.
4. The S106 was submitted after the Inquiry following final deliberations to ensure that the proposed affordable housing sizes reflected local need. Whilst the overall number of affordable dwellings has remained the same, the scheme has

been amended to include a greater proportion of smaller affordable properties as sought by the Council's housing officer. This has resulted in minor changes to a small number of plots and amended plans were submitted. These amended plans do not materially alter the scale, layout, design and appearance of the appeal proposal and as such I am satisfied that no one would be prejudiced by my taking them into account.

Main Issues

5. The main issues in this appeal are:

- The effect of the appeal proposal on the landscape character and the value to be attributed to the landscape;
- The effect of the appeal proposal on the 'green wedge' between Bickington and Fremington; and
- Whether it is appropriate or not to release the site for residential development having regard to the housing land supply in North Devon.

Reasons

Policy Context

6. The development plan is the North Devon Local Plan 1995 to 2011 which was adopted in 2006 (the LP). Whilst the plan period has expired, it nonetheless remains that there are a number of saved development management policies, to which weight should be given. These policies exist alongside the National Planning Policy Framework (NPPF) which is a material consideration. North Devon Council is working jointly with Torridge District Council on an emerging North Devon and Torridge Local Plan, with a publication draft produced in June 2014 (the NDTLP). The timetable for the NDTLP will see further consultation in 2015 before examination and final adoption in 2016. Accordingly, only limited weight should be applied to the policies in the emerging NDTLP.

Landscape Character

7. The appeal site is part of a larger field in an area of countryside between the settlement of Bickington, which forms the western edge of the wider built-up area of Barnstaple, and the village of Fremington. Open fields sloping down to the estuary of the River Taw adjoin the site to the north with hedged fields to the west and south. The site adjoins Mead Park to the east, a 1970s residential estate consisting of single and two storey dwellings and the established cottages at Clampitts to the north-west corner of the site
8. The Council's reason for refusal refers to the "unsatisfactory relationship with existing development". The appellant submits that the Council's primary character consideration was the relationship of the appeal proposal to the adjoining housing. However, I am persuaded by the Council's submission that the wording of the refusal referred to the separation of the appeal site from the established built form with its wider landscape implications.
9. To a degree the existing housing at Mead Park influences the character at the appeal site at its eastern fringe. However, I do not share the appellant's submission that there is a wider residential character to the appeal location.

The appellant's Landscape and Visual Impact Assessment prepared by ACD¹ (the ACD LVIA) describes the appeal site from those viewpoints assessed in the vicinity of Mead Park as having a "rural character". From my observations of the site I share this assessment.

10. The topography of the appeal site is an important factor, being located where land slopes down from the brow of the ridge of the gentle escarpment rising from the shores of the estuary of the River Taw. Public bridleways form boundaries to the appeal site on three sides. These are largely enclosed by double banked boundaries including hedgerows. The field entrance to the appeal site on Mead Park and other gaps in the boundaries of the site provide views from these bridleways over a pastoral landscape towards the estuary.
11. In terms of the immediate surroundings, the appeal proposal would inevitably change the local landscape, particularly when viewed at Clampitts Cottages and for users of the bridleways adjoining the appeal site. Whilst the presence of boundary hedgerows and additional landscaping would have a filtering effect it nonetheless remains that the proximity and scale of the proposed dwellings would be conspicuous and activity associated with these dwellings would be perceptible. I therefore share the assessment of the ACD LVIA² that the appeal proposal would result in a significant effect from immediate viewpoints. There would also be an immediate loss of appreciable rural qualities, particularly for users of Bridleway No.24 to the south of the site.
12. Consideration also needs to be given to the effect on the wider landscape. The appeal site is at a point of transition between the undulating High Culm Ridges³, characterised by its patchwork of irregular sized pastoral field and notable woodland, and the Taw-Torridge Estuary⁴ a sweeping and largely tranquil landscape of water, mudflats, marshes and gradually rising open farmland. Whilst I accept that recent landscape characterisation assessment consistently identifies the appeal site within the upper farmed and wooded valley slopes it nonetheless remains that the land immediately to the north is assessed as being within the estuary landscape.
13. The hedgerow along the northern boundary of the appeal site delineates the two landscape character types. However, when following the topography, and importantly the ridge line coming up from the estuary, it is also the case that the appeal site can be read as part of the wider estuary landscape as reflected in earlier, albeit more broad-brush, landscape character work⁵. Particularly when viewed from the well-used Tarka Trail and South West Coastal Path a short distance to the north as well as from more distant public vantage points on the northern banks of the estuary⁶. In my view, landscape character does not abruptly change at subjectively assessed boundaries and there will be localised variations such that character areas at the edges will borrow from one another.
14. Accordingly, I do not share the appellant's view that the appeal site is firmly within the upper farmed and wooded valley landscape character type. It is

¹ LVIA prepared by ACD August 2013, ref WAIN18073LVIA Rev A

² ACD LVIA Viewpoints 9 and 10, pages 61 and 62

³ Landscape Character Type 3A in the 2012 Devon LCA and in the 2010 Joint LCA for North Devon and Torridge District Councils.

⁴ Landscape Character Type 4A in the 2012 Devon LCA and in the 2010 Joint LCA for North Devon and Torridge District Councils.

⁵ The Devon Landscape 2002

⁶ ACD LVIA viewpoints 1, 2, 4, 5, 19 & 21

located in a sweep of undeveloped pastoral landscape extending from the settlement of Bickington to the River Taw. By virtue of being on the estuary side of the ridge the appeal site is part of a landscape that has an open character with expansive views. It is also a predominantly undeveloped location. Other than the established development at Clampitts and North Down Farm, the vast majority of the settlement at Bickington is obscured from the estuary within a shallow valley behind the ridge line. There is a sense of remoteness at the appeal site, characteristic of the estuary landscape. Therefore, I am persuaded by the Council's evidence⁷ that the local landscape at the appeal site has a notably higher sensitivity to development compared with the appellant's assessments.

15. Whilst recent development at Mead Park breaches the ridge line, it is nonetheless of a scale and orientation which means that generally it is only the outline of the grey rooftops which are visible. By virtue of their low profile and mute colours these features are not prominent. In contrast the appeal proposal would occupy sloping land entirely on the estuary side of the ridge line. An appreciable number of dwellings would be positioned with their gable end towards the estuary, including a group of 2½ storey dwellings extending approximately 8 metres to their ridge height at the 24 metre contour level. As such there would be noticeable differences with generally single storey development at the adjacent Mead Park.
16. The appellant submits that the existing hedgerow boundary to the north of the appeal site together with intervening field boundaries in the lower sloping fields would extensively filter views of the proposed development. However, due to the slope of the site and the positioning of a notable number of dwellings above the sharp incline on the site from the 20 metre to the 24 metre contour I am not persuaded that the height and thickness of the northern hedge would significantly screen the taller parts of the development. Therefore I do not share the appellant's view that only "slivers of the roofline will be visible".
17. When viewed from the Tarka Trail and South West Coastal Path, public footpath No.86 and northern banks of the Taw estuary the appeal proposal would noticeably introduce a built development to the landscape where presently only isolated dwellings feature. Accordingly, the appeal proposal, certainly in its initial years, would be prominent in some views from the estuary. Furthermore, I do not accept that for most people moving through this landscape, particularly along the Tarka Trail and South West Coastal Path, the appeal proposal would be either missed or only obliquely viewed.
18. In arriving at this finding, I observed that the generally low level intervening field boundaries on the lower slopes offered little screening. Whilst there is some established vegetation along the Tarka Trail to the north of the appeal site, it is generally patchy leaving long open sections, elevated on an embankment, which afford clear views towards the appeal site. In particular I noted the clear visibility of the height of the conifers to the south of the appeal site above the hedgerows. As such I share the Council's evidence⁸ that the ridge height of certain dwellings would be comparable to these tree tops and therefore would be clearly visible above the existing hedgerow boundary to the appeal site.

⁷ Peter Leaver Proof of Evidence pages 23-25

⁸ Peter Leaver Proof of Evidence Appendix 1, Figure 3

19. The appellant submits that the hedgerow could be reinforced by further planting and landscaping within the proposed significant area of open space on the lower part of the appeal site. However, this would take some time to achieve a height that would provide effective screening. I was referred to the Guidelines for LVIA (3rd Edition) which advises a 15 year timeframe for the establishment of effective landscaping. Given the rising topography of the site and the height of some of the proposed dwellings I consider that it would take that period of time for the proposed landscaping to have any notable screening effect. Consequently, there would be a considerable period of time when the high gable ends and roof profiles of the appeal proposal would remain harmfully visible in the wider Taw estuary landscape.
20. In considering the landscape impact of the appeal proposal, the Council submits that the Taw estuary is a valued landscape for the purposes of paragraph 109 of the NPPF and as such the planning system should contribute to its protection and enhancement. I have carefully considered the Council's assessment of its value including the fact that it is one of a small number of estuarine landscapes between Land's End and Bridgwater Bay and the appreciable recreational value including the Tarka Trail and South West Coastal Path.
21. However, it nonetheless remains that the Taw Estuary is not covered by either a national or local landscape designation, including identification as an "area of great landscape value" in the LP, and the appeal site is not close to any such designations. I therefore consider that the Council's reference to an appeal decision in the Slad valley near Stroud⁹ offers little comparison to the circumstances at the appeal site. Furthermore, I find merit in the submission that to be of value, the landscape needs to be something more than the ordinary. I therefore generally share the assessment of the appellant¹⁰ that the landscape at the appeal location has a primarily local value. Accordingly, it is my judgment, based on the evidence before me, that the appeal site does not form part of a "valued landscape" which would benefit from specific protection in accordance with paragraph 109 of the NPPF.
22. Reference was made to suggested inconsistencies in the Council's approach to new housing development in the estuary landscape including the proposed allocation for 65 dwellings and subsequent resolution to grant planning permission¹¹ at site BAR7 in the emerging NDTLP, a short distance to the east of the appeal site, and a recommendation to approve 135 dwellings at West Yelland¹², a few miles to the west of the appeal site. In terms of the BAR7 site I observed that this is on the landward rather than estuary side of the ridge, such that development here would not be as widely visible as the appeal proposal. This topographical difference, in my view, significantly limits any comparison. I also observed the site at West Yelland which fronts onto the B3233 and occupies land sloping towards the estuary. However, intervening topography and notable blocks of woodland generally inhibit any strong inter-visibility to the estuary thus limiting comparison with the appeal site. As such I am persuaded that the Council has considered each of these sites on their own merits in terms of landscape impact and as such there is no notable inconsistency.

⁹ APP/C1625/A/13/2197307 & APP/C1625/A/14/2213711

¹⁰ Table TG1, pages 15-17 Clare Brockhurst Proof of Evidence

¹¹ Doc 4

¹² Doc 10

23. Whilst I am persuaded that the appeal site is not part of a valued landscape for the purposes of paragraph 109 of the NPPF, this does not mean there would be no harm to the landscape. However, it does affect the weight I can attribute to the harm identified. When taking all of the above into consideration, I conclude that there would be moderate harm to the landscape character at the appeal location. Accordingly, the appeal proposal would be contrary to LP Policy ENV1(c) in that it would not protect or enhance the beauty of the countryside or diversity of the landscape. Whilst I attach them only limited weight the appeal proposal would also be contrary to Policies ST09 and ST14 of the emerging NDTLP which seek to protect the local landscape character including the unspoilt estuary character. It would also not accord with paragraph 17 of the Framework which requires planning to take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside.

Green Wedge

24. The appeal site is part of an area of countryside which separates the communities of Bickington and Fremington. Whilst there are a number of public footpaths the principal public experience of this gap is from the B3233 road. From this road, the largely undeveloped, rural character can be appreciated including the undulating fields, small blocks of woodland, scattered dwellings and farmsteads and allotments. As such there is a clear separation of settlement between Bickington and Fremington.
25. In the context of past and planned development in Barnstaple the Council maintains that it is an established objective to maintain separation with Fremington and avoid harmful coalescence. In particular, paragraph 12.3 of LP in the context of preparing the growth strategy for Barnstaple refers to "the need to prevent the physical coalescence of its peripheral villages including Fremington." Paragraph 12.4 of the LP refers to guiding principles for the location of new development as part of the strategy for Barnstaple including the need to contain urban sprawl.
26. In my view these paragraphs are looking back to inform what has influenced the Barnstaple Action Plan section of the LP rather than setting out what will be applied going forward. Consequently, these objectives have not been translated into either a policy or the designation of 'important undeveloped gap' between Fremington and Bickington as part of the LP.
27. This omission is being addressed through the inclusion of Policy BAR22 in the emerging NDTLP. A first draft of BAR22 and its spatial expression on a draft policies map was presented in the publication draft NDTLP in June 2014 after the planning application was submitted but prior to its determination. This shows the appeal site within the green wedge between Barnstaple and Fremington. From the Council's submitted evidence¹³ I note that whilst there is some community support for a green gap at the appeal location I have very little evidence to explain how the specific boundaries of the green wedge have been delineated. Furthermore, the appellant has objected to Policy BAR22, which will require resolution through the plan-making process. Consequently, the weight that can be applied to BAR22 is limited.

¹³ Doc 11

28. In any event, Policy BAR22 as currently drafted does not present a moratorium on further development in the green wedge but seeks to resist development that could lead to or contribute towards the coalescence of Barnstaple and Fremington. To illustrate this point, reference was made to the housing allocation at BAR3 in the emerging NDTLP, off Tews Lane to the south of the B3233, which would extend the western edge of Bickington towards Fremington thus reducing the width of the 'green wedge' at this location.
29. When viewed from the B3233 and the footways along it, the appeal proposal would not result in a perception of the green gap shortening. This would be by virtue of its position beyond the ridge to the north and the presence of intervening trees and hedgerows. Additionally, in any limited views from the B3233 it would be largely seen against the houses at Mead Park. The appeal proposal would extend development west towards Fremington but even taking the worst case scenario of a reduction of approximately 120 metres, equivalent to some 15% of the gap at this point, it nonetheless remains that an extensive area of undeveloped land would separate Bickington and Fremington and physical coalescence would not occur.
30. I note the Council's concerns that policy BAR22 is intended to address a 'nibbling' effect, particularly in light of potential development pressures in this area identified through the Strategic Housing Land Availability Assessment and NDTLP processes. However, each proposal would need to be considered on its own merits in light of the key objectives of the emerging NDTLP Barnstaple Spatial Development Strategy at criteria (k) & (l) and policy BAR22 to resist coalescence and maintain the separate identities of settlements. In assessing the appeal proposal I am satisfied that it can be accommodated on the appeal site without visually and perceptibly eroding the gap between Barnstaple and Fremington.
31. I therefore conclude that there would not be a significantly harmful effect on the 'green wedge' between Bickington and Fremington. Whilst Policy BAR22 from the emerging NDTLP only has limited weight in my decision, I nonetheless find that the objectives of this policy would remain uncompromised by the appeal proposal.

Housing Land Supply

32. The submitted Statement of Common Ground identifies at paragraph 5.3 that it is an agreed matter that the Council cannot demonstrate a 5 year supply of deliverable housing land and consequently paragraph 49 of the NPPF is engaged. This was reaffirmed in an addendum paper¹⁴ submitted at the Inquiry. However, the parties disagree on the extent of the shortfall of housing land supply and the weight to be given to it in an overall balancing exercise.
33. Paragraph 47 of the NPPF requires local planning authorities to boost significantly the supply of housing including, ensuring that their Local Plan meets the full, objectively assessed need for market and affordable housing in the housing market area. In the absence of a recently tested Local Plan figure, the Council submits that there are six potential sources that could provide a basis to measure housing requirements for North Devon. Whilst the Devon Structure Plan and draft South West Regional Spatial Strategy figures have the benefit of having been tested they are now of some age and I am not

¹⁴ Doc 5

- persuaded that they represent, on their own, a sound basis for establishing the full, objectively assessed need. I have similar reservations about relying on the 2011 CLG household projections and note that the Planning Practice Guidance (PPG) advises that these outputs should primarily provide a starting point in estimating overall housing need.
34. The emerging NDTLP is informed by the 2012 SHMA¹⁵ and identifies a requirement for 418 dwellings per annum for North Devon. I appreciate this figure remains to be tested as part of the Local Plan process and is subject to objections but in the absence of any robust alternative I nonetheless consider it to be a reasonable reflection of objectively assessed housing need on which to evaluate whether or not there is a five year land supply in North Devon.
35. Using the NDTLP housing requirement from 2014-2019 and applying the Sedgefield methodology to tackle the undersupply, together with a 5% additional buffer, the Council asserts that it has a 4.9 year housing supply. Based on the same requirement but applying a 20% buffer for persistent under delivery would result in a supply of 4.2 years.
36. The appellant has submitted a detailed assessment of extant large sites with planning permission at 1 April 2014. From the evidence before me a number of these sites are in alternative uses, have delivery issues related to viability or long-lead in periods due to site constraints and/or infrastructure. The appellant submits that a total of 239 units should be discounted from the housing land supply. I consider this to be a reasonable assessment and it was not challenged by the Council at the Inquiry. Consequently the housing land supply at best would be 4.4 years.
37. I have also carefully considered recent housing delivery in North Devon. From the 2011 base date of the emerging NDTLP to the monitoring outturn for 2014 an annual average of 231 homes were completed. In the preceding five year period from 2006-2011 there was only one year where the emerging 418 dwelling figure was exceeded and the annual average housing completions over this period was 360 units.
38. The PPG¹⁶ is clear that identifying a record of persistent under delivery is a matter of judgment for the decision maker and advises that there is "...no universally applicable test or definition of the term." In the context of the evidence before me in this appeal, I consider that the above housing delivery record is one which can be reasonably defined as persistent under delivery. Accordingly, I share the appellant's submission that the 20% buffer in paragraph 47 of the NPPF should apply and consequently the supply of housing land in North Devon should be regarded as being only 3.8 years, which is a significant shortfall.
39. The Council submits that in the last 5 years only some 20% of extant consents for residential development are built out each year, such that it is contended that whilst the appeal proposal increases the potential for delivery it would not necessarily translate into increased delivery. It may well be the case that North Devon is a geographically small housing market with resultant implications for supply and demand but the evidence before me points to a

¹⁵ Strategic Housing Market Assessment: Torridge & North Devon Update. December 2012 (Prepared by Housing Vision)

¹⁶ PPG Reference ID:3-035-20140306

significant unmet housing need, exacerbated by a notable undersupply due to recent low levels of completions¹⁷.

40. This situation applies to Barnstaple, the largest settlement in the District and the focus in the emerging NDTLP for a significant quantum of housing development. In addressing the backlog of unmet housing need, the Council agrees that the Sedgefield method is appropriate for North Devon. I also heard at the Inquiry, that housing requirements in North Devon in the forthcoming consultation in the NDTLP are being increased in light of the duty to cooperate and the need to accommodate some of the housing requirement from the adjoining Exmoor National Park Authority. In this context, it is necessary that the ability of a proposed housing site to contribute to the housing supply is assessed proactively and positively rather than applying an assumption that it would be subject to "developer fatigue".
41. The appeal proposal is a full application and I have not been advised that its delivery is dependent on any significant up-front infrastructure investment or site preparation. The appellant is a regional house builder with a considerable focus in Devon and a track record of delivery. The scheme is for 59 units and allowing for lead-in times I have little doubt that this quantum of housing could be readily delivered within a five year timeframe by a single house builder. I therefore attach significant weight to the benefit that additional housing would be delivered on the appeal site.
42. For the reasons given above, I conclude that very substantial weight must be given to the serious and significant shortfall in housing land supply. Accordingly, paragraph 49 of the NPPF is engaged and the presumption in favour of sustainable development applies. Furthermore, relevant policies for the supply of housing are no longer considered up-to-date, including LP Policy HSG2 which focuses housing development within settlement boundaries.

Other Material Considerations

43. In addition to the substantial benefit of providing general market housing the appeal proposal would also provide 40% affordable housing, equivalent to 21 units. This exceeds the 30% figure proposed in the emerging NDTLP. The Council does not dispute the need for affordable housing but submits that it should not carry overriding weight. However, the outputs of the 2012 SHMA update, which presents the most recent assessment of affordable housing need in the District, show a significant projected requirement for affordable housing of some 3,000 units, which is compounded by the existing backlog in delivery. I also note from the North Devon Council Affordable Housing Delivery Plan 2012-2017 that there were 2,516 applicants on the Council's housing register in 2013, including 763 in Barnstaple. In addressing affordable housing need I note that recent delivery has fluctuated¹⁸ such that affordable housing output in Barnstaple has averaged at only 17 units per annum in the last 5 years.
44. I therefore share the findings of the SHMA at paragraph 7.9 which state that....
"Increasing the supply of affordable housing is the absolute priority and every means, however radical, should be explored to increase its supply. This is a particular imperative in North Devon where, by every indicator of need, the

¹⁷ Graph 1, page 9, Graham Townsend Proof of Evidence

¹⁸ Table 5, page 31, Stephen Harris Proof of Evidence

situation is acute and is worsening.” Accordingly, I attach significant weight to the benefit of the notable numbers of affordable units that would be delivered.

45. The appeal proposal would be located within walking distance of day-to-day facilities in Bickington and to bus stops which connect the appeal location with a 10 minute frequency of service to higher order facilities in Barnstaple and Bideford. Barnstaple is identified in the emerging NDTLP as Sub-Regional Centre which will be the focus for future growth in North Devon and will accommodate significant levels of development. In the context of the emerging spatial strategy and access to services the appeal site would be a sustainable location and I attach considerable weight to this benefit.

Other Matters

46. A number of properties on Mead Park face towards the appeal proposal and the proposed point of access. The appeal proposal would inevitably increase traffic along parts of Mead Park and alter the view from those properties which directly face the appeal site. A number of residents submit that the appeal proposal would adversely affect their living conditions in terms of noise and disturbance, loss of privacy and outlook. Whilst I accept that the appeal proposal would be noticeable when viewed from a number of properties, I do not find the relationship of the proposed development to be particularly oppressive. It would be separated by public bridleway No.22 and the retained established hedgerow on the eastern boundary to the appeal site. Given the degree of separation I am not persuaded that the majority of properties on Mead Park would experience a harmful loss of privacy or exposure to noise and disturbance, including from increased traffic flows on the initial approach on Mead Park.
47. The appeal site consists of predominantly grade 2 and 3a agricultural land and I observed that the higher part of the appeal site has been used for growing crops. However, the appellant submits that most of the land around Barnstaple is of similar grade and consequently future growth will inevitably result in the loss of best and most versatile agricultural land. I therefore attach only limited weight to the harm arising from the loss of agricultural land at the appeal site.
48. The appeal site is not the subject of, or in proximity to, any designated biodiversity sites and I note Natural England have not objected to the appeal proposal. The appellant has submitted an ecological assessment of the site which includes a number of mitigation measures for birds, bats and reptiles which could be secured by condition. Local residents however have referred to the North Devon Biosphere Reserve but the site is sufficiently removed from the reserve core and I have no firm evidence to find that the appeal proposal would have an adverse effect on the Biosphere Reserve.
49. Submissions have been received that the local highway network, particularly the B3233 Bickington Road towards Barnstaple town centre, cannot cope with the additional vehicle trips generated by the appeal proposal. Additionally, it has been suggested that congestion at peak periods on this road adversely affects the frequency and quality of the bus service, thus reducing the sustainability credentials of the site. I observed the AM peak period on a weekday and the notable queue lengths approaching the Cedars roundabout. However, whilst my site visit can only represent a snapshot, I observed that traffic flowed albeit at a very slow pace, including the buses, such that with local knowledge, I am satisfied that residents of the appeal site would plan

their bus journeys to account for these conditions. I also give weight to the fact that the local highway authority did not object to the appeal proposal.

50. I was also referred to the quality of footpaths and bus shelters in the vicinity of the appeal site. I accept that the direct footpath connection from the south-east corner of Mead Park to the B3233 is narrow with a poor alignment such that it would be unattractive and unusable to a notable number of residents. However, the alternative pedestrian route via the highway of Mead Park and along the B3233 would not represent a cumbersome detour and I find its overall width and quality to be adequate. As such it would provide a good pedestrian connection to local facilities. Similarly, I noted that the nearest bus stops in both directions are not in exposed locations and contain reasonable shelters. Accordingly, I am not persuaded that the quality of bus infrastructure reduces the sustainability of the site.
51. Residents at Clampitts have raised concern that their water supply crosses the appeal site. I have very few details but ordinarily public water supply across private land should be covered by an easement and any need to move the water supply or its damage during construction would be a matter for the appellant to resolve with the water company and residents. As such is not a matter before me. The appeal proposal includes a sustainable drainage solution (SUDS) including an attenuation basin in the north west corner of the site. Local residents have referred to a Wainhomes scheme at Feniton in Devon and concerns about the implementation of similar drainage at that site. However, I have very little evidence of the issues at Feniton and how comparable it is to Bickington. In any event I am satisfied that what is proposed is an appropriate drainage strategy for the appeal site, with the legal agreement providing details of how it would be managed going forward.

Local Infrastructure

52. The principal mechanism to secure the provision of local infrastructure would be a tri-partite S106 Agreement¹⁹ which has been signed and executed by the landowners, the Council and Devon County Council (DCC) in its capacity as both Local Education Authority and Local Highway Authority. In accordance with Regulation 122 of the CIL Regulations 2010 planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
53. The Agreement would make provision for community open space, including a locally equipped area for play, on the appeal site and provisions for its management and maintenance. It would also make provision for long term maintenance and management of the proposed SUDS within this area of open space. I am satisfied the proposed on-site public open space provision and its on-going management, together with that of the SUDS, are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
54. In addition the Agreement would involve contributions towards off-site multiple use games area provision and the provision and maintenance of off-site sports pitches and facilities in the vicinity of the appeal site. The sums involved in the

¹⁹ Doc 15

financial contribution are based on an established formula²⁰ and would appear to be reasonable. However, having had regard to CIL Regulation 123(3), I am mindful that after 6 April 2015 no more pooled contributions for a specific infrastructure type in respect of up to five separate planning obligations that relate to planning permissions granted for development since 6 April 2010 should be collected²¹. I have very little evidence on the number of contributions that have been pooled for multiple use games areas and sport pitches and facilities in what would be the CIL charging area. As such I cannot be certain that the five obligation threshold has not been breached. Therefore, I am unable to give any weight to the financial contributions as they relate to off-site sports provision.

55. The Second Schedule of the Agreement would also make provision for affordable housing. This too is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. These provisions of the Agreement therefore comply with the CIL Regulations and so I have taken them into account in making my decision.
56. The Agreement also seeks a contribution per dwelling towards highway capacity improvements, notably the B3233/A3125 junction at the nearby Cedars roundabout and /or the A361/A377 Bishops Tawton roundabout. As set out above Cedars roundabout negatively affects traffic flows along the B3233 Bickington Road. I note the submission from DCC that as a strategic junction it would be unreasonable for any one development to improve it and as such a pooling approach is sound. However, I have very little information as to the timeframe for any improvement at the Cedars roundabout, and whether contributions from the appeal site will add to or are likely to be supplemented by contributions sourced from other developments and other transport funding sources. The same applies to the Bishops Tawton roundabout together with evidence to explain how development at the appeal site relates to this more distant road junction. Accordingly, I am not persuaded that this element of the highway contribution is necessary to make the development acceptable in planning terms. As such I have not taken it into account.
57. The Highway contribution also includes £50,000 to provide a puffin crossing on the B3233 together with a commuted sum for £14,000, which I have assumed is for maintenance. The B3233 is a relatively busy road and there are presently no dedicated pedestrian crossings. Provision of a puffin crossing would enhance connectivity to the westbound bus stop and the wider residential area of Bickington. In this context the financial contribution is necessary to make the development acceptable in planning terms and so I have taken it into account in making my decision.
58. The Agreement also provides for a number of other transport related contributions. I accept that the provision of a travel pack and a sustainable travel voucher for each dwelling would be necessary given the potential for residents of the site to use the local bus service. I also accept that a maintenance contribution for trees planted on land to be adopted as highway would also be necessary. Accordingly, I have taken these into account in making my decision. In contrast I have very little evidence as to justification for a traffic regulation order in Mead Park. Additionally, given the proximity of

²⁰ Doc 13

²¹ Planning Practice Guidance Ref ID: 25-099-20140612

existing bus laybys and shelters on the B3233 I have no details, and no one was able to advise me at the Inquiry, as to the location or justification for and additional bus shelter and layby in the vicinity of the appeal site. I have therefore not taken these elements into account in making my decision.

59. The Agreement also provides for £208,620 for the provision and/or improvement of primary education facilities. I was assured at the Inquiry that such a contribution was necessary and I was referred to case law²² on the evidential threshold for planning obligations. However, I do not consider the threshold to be as low as anecdotal evidence and I therefore requested, by exception, for additional justification to be submitted, following the close of the inquiry, given the substantial sum involved. No additional justification was forthcoming, and whilst I accept that the appeal proposal would generate residents of a primary school age, it nonetheless remains that I have no compelling evidence that the existing local primary education infrastructure could not accommodate the demand arising from the 59 dwellings. Accordingly, I am not persuaded that the financial contribution is necessary to make the development acceptable in planning terms. As such I have not taken it into account.
60. I therefore conclude that the effects of the proposal on the provision of affordable housing, on-site open space, SUDS, pedestrian crossings and sustainable travel would be acceptable by virtue of the provisions within the submitted planning obligations.

Conclusions and Planning Balance

61. The Council cannot demonstrate a 5 year supply of deliverable housing land. In such circumstances its housing supply policies should be considered out of date, including LP Policy HSG2. The Council has referred me to recent case law²³ which reaffirms that neither paragraph 49 or 14 of the NPPF prescribes weight to be given to policies in a plan which is out of date. Accordingly, the weight will vary according to the circumstances including the extent to which policies actually fall short of providing for the required 5 year supply and the prospect of development soon coming forward to make up the shortfall.
62. Having considered the evidence before me, I have found that, notwithstanding its lack of scrutiny through a Local Plan examination, the housing requirement in the emerging NDTLP, informed by the latest 2012 SHMA, provides a cogent basis for considering a housing land supply that reflects objectively assessed need in North Devon. In this context, and accepting the appellant's submissions to discount delivery on some larger constrained sites and to adopt a 20% buffer for persistent under delivery, I find that the District only has a 3.8 year housing land supply. The consequence of this is twofold. Firstly, it significantly reduces the weight to be given to the out-of-date housing supply policies in any balancing exercise and secondly it means paragraph 49 of the NPPF is engaged and the presumption in favour of sustainable development applies.
63. Paragraph 7 of the NPPF identifies three strands to sustainable development, economic, social and environmental. These dimensions should be sought

²² Derwent Holdings Ltd v. Trafford Borough Council, Tesco Stores Ltd & Lancashire CCC [2011] EWCA Civ 832

²³ Crane v. SSCLG & Harborough District Council [2015] EWHC 425 (Admin)

- jointly and simultaneously through the planning system however that does not mean a scheme must contribute to all three roles equally.
64. The appeal proposal would perform an economic role, albeit short term, in that it would provide employment during the construction phase. In the longer term residents are also likely to contribute to local services, thus spending money in the local economy.
65. In terms of the social role, given the serious and significant shortfall in deliverable housing land I have found the contribution of both the market housing and affordable housing to be a very substantial benefit weighing in favour of the proposal. Other social benefits include the provision of on-site community open space and a locally equipped area for play. The proposal would also make a contribution to a puffin crossing over the busy B3233 road and would enhance wider highway safety.
66. I accept that in environmental terms the scheme is more finely balanced. It would extend the built-up area of Barnstaple at its western periphery where, by virtue of being on the estuary side of a ridge, it would have an adverse effect on the landscape of the Taw Estuary, particularly when viewed from the nearby Tarka Trail and South West Coastal Path. It would also substantially alter the rural character of the site and how it is experienced from adjacent public bridleways. The overall harm to the landscape would be moderate, taking into account that the appeal site does not form part of a valued landscape for the purposes of paragraph 109 of the NPPF and would be mitigated over time by landscaping. I also accept that there would be some limited harm from the loss of best and most versatile agricultural land.
67. However, looking at the environment in the round, I give moderate weight to the benefit that the green wedge between Bickington and Fremington would not be visually or perceptibly eroded and that the objective of avoiding physical coalescence would remain uncompromised. The appeal proposal would offer other environmental advantages including its sustainable location which would reduce the overall need to travel and the potential to safeguard and enhance biodiversity on the site, particularly on the sizeable area of community open space. These are environmental aspects which all weigh in its favour such that when assessed against the landscape harm, the overall environmental effect could be reasonably considered to be neutral.
68. I also accept that the proposal by virtue of being in the countryside would conflict with LP policy HSG2, however, the weight to be attributed to this policy is greatly reduced by the shortfall in terms of providing a 5 year supply of deliverable sites. Nor am I persuaded, given the latest timetable for the emerging NDTLP that there is an imminent prospect of development coming forward to make up the shortfall.
69. I therefore conclude that the moderately adverse impact on the estuary landscape and the conflict with LP policies would not significantly and demonstrably outweigh the benefits that have been identified. In these circumstances I conclude that the appeal scheme would represent a sustainable form of residential development for which there is a presumption in favour of at paragraphs 14 and 49 of the NPPF.

70. I have had regard to all other matters raised, both in the oral and written representations, but have found nothing to change my conclusion that this appeal should be allowed.

Conditions

71. A number of conditions were tabled at the Inquiry²⁴, which the local planning authority considers would be necessary if the appeal were to be allowed. I have considered these in the light of the PPG. For clarity and to ensure compliance with the PPG, I have amended some of the suggested wordings.
72. In addition to the standard time limit condition, the imposition of a condition requiring that the development is carried out in accordance with the approved plans is considered necessary for the avoidance of doubt and in the interests of proper planning. For similar reasons, and to ensure the necessary completion of the affordable housing, a condition requiring the submission of, and adherence to, a Phasing Scheme for the constituent parts of the development is also necessary. I have also imposed conditions requiring the approval of external materials and the timely provision of means of enclosure and bin storage areas for each dwelling which I consider necessary in the interests of the visual amenities of the area.
73. Conditions relating to the submission and implementation of hard and soft landscaping details are also necessary in the interests of the character and appearance of the area. I consider that the details for the open space, locally equipped area for play and street furniture throughout the scheme can reasonably be discharged through these conditions and do not need to be conditioned separately. Given the presence and importance of adjoining hedgebanks, which contain a number of notable tree specimens, a condition to protect these features during construction and for a reasonable period following the completion of the development is necessary to assimilate the development into the landscape and to safeguard the character and appearance of the area.
74. A condition requiring an ecological mitigation and management plan is necessary in the interests of protecting and enhancing the biodiversity value of the site. Conditions requiring the submission of further details for the highways and their implementation are necessary in the interests of highway safety. I have however simplified the suggested conditions such that it now requires a programme for the making up of the roads and footways to be agreed between the parties. To reduce the risk of flooding and to ensure the site can be adequately drained I have also imposed a simplified condition requiring the design of a detailed surface water drainage system to be approved before development starts and that the agreed solution is completed prior to the first occupation on the site.
75. Conditions requiring a construction management plan to be agreed with the Council before development starts and to limit the hours of construction and deliveries at the site are also necessary to minimise the impact on the living conditions of neighbouring residents during the construction period. Finally, a condition requiring the dwellings are constructed to Sustainable Homes Code

²⁴ Doc 9

Level 3 is also necessary to ensure the dwellings are energy efficient and appropriately constructed. The Council also suggested a condition requiring a scheme for the assessment and mitigation of noise. The appeal site is not a noisy location and I have little evidence as to why it would be required. I therefore do not consider such a condition would be necessary.

David Spencer

INSPECTOR.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley, Of Counsel

Instructed by the Solicitor
to North Devon District Council.

He Called

Peter Leaver BA(Hons), DipLD, CMLI

Director, David Wilson Partnership Ltd

Graham Townsend MA DipTp, LRTPI

Development Enabling Officer, North
Devon District Council

Peter Rowan DipTP, MRTPI

Director, Rowan Edwards Town
Planning & Architecture

FOR THE APPELLANT:

Sasha White, Of Queen's Counsel

Instructed by Mr Stephen Harris of
Emery Planning

He Called

Clare Brockhurst BSc(Hons) CMLI

Partner, Tyler Grange LLP

Stephen Harris,
BA(Hons), MRTPI, MRICS

Director, Emery Planning

INTERESTED PARTIES

Cllr Rodney Cann
Maureen Bennett
John Gulliver
Cathy Chick
David Ayley

Ward Councillor
Local Resident
Local Resident
Local Resident
Local Resident

DOCUMENTS Submitted during the Inquiry

- 1 St. Austell Appeal Decision APP/D0840/A/14/2222789
- 2 Wincanton Appeal Decision APP/R3325/A/12/2170082
- 3 Addendum to Appendix 3 'Photographs' of Peter Leaver Proof of Evidence
- 4 Committee Report, Masterplan and section drawings for Planning Application Ref 56351 on emerging Local Plan allocation BAR7.
- 5 Addendum to Statement of Common Ground on Housing Land Supply dated 3 March 2015
- 6 High Court Judgment of Crane v. SSCLG & Harborough District Council [CO/2468/2014]
- 7 Statement of objection from Maureen Bennett
- 8 Statement of objection from Councillor Rodney Cann
- 9 Suggested conditions from the Local Planning Authority
- 10 Committee Report and site plan for Planning Application Ref 57663, Land adjacent to the B3233, West Yelland.
- 11 Evidential base for emerging Local Plan policy BAR22
- 12 Design Guide on Refuse Storage for new Residential Properties, North Devon District Council 2008
- 13 Provision of Public Open Space, Sport and Recreation Code of Practice, North Devon District Council 2004

DOCUMENTS submitted after the Inquiry

- 14 Email from North Devon Council re justification for highway and education contributions, dated 16 March 2015.
- 15 Signed and Executed S106 Agreement
- 16 Updated plans list and amended drawings for plots 8-13, 14-16, 21-25, 29-31 and 41-44.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - The Following Plans are all prefixed W 242 13:

Site Plan Proposed 20 N; Materials Schedule 06; Site location plan 01A; Existing plan – topographical survey 02A; Site section 22A; Site section 23A; Plot 1 - floor plans 30D; Plot 1 – elevations 31D; Plot 2 - floor plans 32B; Plot 2 – elevations 33B; Plots 3-6 - floor plans 34B; Plots 3 -6 – elevations 35B; Plots 3-6 – elevations 36B; Plot 7 - floor plans 37B; Plot 7 – elevations 38B; Plots 8-13 - floor plans 39D; Plots 8-13 – elevations 40D; Plots 14-16 floor plans 41D; Plots 14-16 elevations 42D; Plots 17-20 floor plans 43B; Plots 17-20 elevations 44B; Plots 21-25 floor plans 45E; Plots 21-25 elevations 46E; Plot 26 - floor plans 47B; Plot 26 – elevations 48B; Plot 27 - floor plans 49B; Plot 27 – elevations 50B; Plot 28 - floor plans 51B; Plot 28 – elevations 52B; Plots 29-31 floor plans 53D; Plots 29-31 elevations 54D; Plots 32-35 floor plans 55B; Plots 32-35 elevations 56B; Plot 36 - floor plans 57B; Plot 36 – elevations 58B; Plot 37 - floor plans/elevations 59B; Plot 38 - floor plans/elevations 60B; Plot 39 - floor plans/elevations 61B; Plot 40 - floor plans/elevations 62B; Plots 41-44 ground floor plans 63D; Plots 41-44 1st floor plans 64D; Plots 41-44 elevations 65D; Plots 41-44 elevations 66D; Plots 45-46 floor plans 67B; Plots 45-46 elevations 68B; Plots 47-48 floor plans 69B; Plots 47-48 elevations 70B; Plots 47-48 elevations 71B; Plot 49 - floor plans/elevations 72B; Plot 50 - floor plans/elevations 73B; Plot 51 – floor plans/elevations 74B; Plot 52 - floor plans/elevations 75B; Plot 53 - floor plans/elevations 76B; Plot 54 - floor plans/elevations 77B; Plot 55 - floor plans/elevations 78B; Plot 56 - floor plans/elevations 79B; Plot 57 - floor plans/elevations 80B; Plot 58 - floor plans 81B; Plot 58 – elevations 82B; Plot 59 - floor plans/elevations 83B; Single garage, option 1 100; Single garage, option 2 101; Double garage, option 102; Twin garage, option 1 - 103A; Twin garage, option 2 - 104A; Twin garage, option 3 - 105A; Twin garage, option 4 - 106A;

 - 0050/PHL/200/A - Preliminary Long Sections;
 - 0050/PHL/100/C – Preliminary Highway Layout;
 - 0050/PDL/100/C – Preliminary Drainage Layout;
 - 0050/ATR/100/B - Refuse Vehicle Tracking;
 - 0050/PHL/001/A – Proposed Footway;
 - 18073-10A - Landscape Masterplan; and
 - 18073-03a - Tree Protection Plan.
- 3) No development shall take place until a Phasing Scheme has been submitted and approved in writing by the Local Planning Authority. The Phasing Scheme shall detail the timetable for the overall development, including the implementation and completion of the public open space and the delivery of the internal estate road. No work other than the provision of roads and infrastructure shall be undertaken on any

- subsequent phase of development unless the affordable dwellings with the previous phase have been completed. Development shall be carried out in accordance with the approved Phasing Scheme.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; footpaths, location and design of the locally equipped area for play including surface treatment, fencing and landscaping; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; as well as any works to enhance wildlife habitats where appropriate. If applicable, these details will also extend to cover areas of open space to be adopted by the Council. Such areas shall be agreed in writing prior to development commencing. In addition an implementation timetable shall be submitted to and approved in writing before development commences. All hard and soft landscape works shall be carried out in accordance with the approved details. The hard landscape works shall be carried out prior to the occupation of any part of the development or in accordance with the phasing programme agreed with the local planning authority.
 - 6) All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 7) In this condition "retained tree, hedge and shrub" means an existing tree, hedge or shrub, which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the completion of development.
 - i) No retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations.

- ii) If any retained tree, hedge or shrub is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of protective barriers and any other measures identified as necessary for the protection of any retained tree, hedge or shrub shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 8) No development shall commence until an ecological mitigation and management plan has been submitted to and approved in writing by the Local Planning Authority. It shall make provision for any required surveys prior to each phase of construction and shall make provision for bat and bird boxes and for the management of the public open space to enhance the biodiversity interest. The development shall be carried out in accordance with the approved details.
- 9) No dwelling shall be occupied until the means of enclosure and bin storage area for that dwelling have been provided in accordance with the approved details.
- 10) No development shall commence until plans and particulars showing the detailed proposals for all the following aspects have been submitted to and approved in writing by the Local Planning Authority:
- (i) the width, alignment, gradient and type of construction proposed for the roads, footways and access(es) including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting, surface materials, the method of disposing of surface water, and details of a programme for the making up of roads and footways;
 - (ii) the means of access within the site, including the layout, construction and sight lines; and
 - (iii) the alignment, height and materials of all walls and fences and other means of enclosure where they abut or are adjacent to road, footpath or access.
- Development shall be carried out in accordance with approved details.
- 11) Within twelve months of the first occupation of the first dwelling in any agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junctions, access to driveways, verges, retaining walls and visibility splay works shall be completed in accordance with the approved details.
- 12) No development shall take place until drainage plans and information for the disposal of surface water and foul sewage have been submitted to

and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the first dwelling is occupied and thereafter retained and managed in accordance with the approved details.

- 13) No development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - iv) routes and timings for the loading and unloading of plant and materials
 - v) storage of plant and materials used in constructing the development
 - vi) the importation and removal of spoil and soil on site
 - vii) wheel washing facilities
 - viii) the location and covering of stockpiles
 - ix) details of any site construction office, compound and ancillary buildings
 - x) a point of contact and details of how complaints would be addressed
 - xi) measures to control the emission of dust and dirt during construction
- 14) No demolition, construction works, collections or deliveries shall take place at the site outside of 0800hours to 1800hours Mondays to Fridays and 0900hours to 1300hours on Saturdays or at any time on Sundays or Bank Holidays.
- 15) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Schedule Ends.

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Planning and Enforcement Appeals Report

Strategic Development & Planning
Place Services
North Devon Council
Lynton House, Commercial Road, Barnstaple, EX31 1DG

REPORT TO: Planning Committee

COMMITTEE DATE: 9th February 2022

TOPIC: Planning and Enforcement Appeal Decisions received

REPORT BY: Sue Thomas – Senior Planning Support Officer (Appeals)

Please find attached copies of the Planning and Enforcement Appeal decisions received since those reported at the last Planning Committee Meeting. If Members wish to discuss any of the cases at the Planning Committee Meeting please would they email planningappeals@northdevon.gov.uk or telephone Sue Thomas on 01271 388296 by 12 noon on 7th February 2022

Appendix

- A. Planning Appeal Decision re 72770 – Conversion of first floor flat and offices/store into 3 flats, The Stores, 1 Ty-nant, St Mary's Road, Croyde, EX33 1LF - Appeal Dismissed and Appellants Application for Costs Refused – 18th January 2022
- B. Planning Enforcement Appeal Decision re 12309 – Creation of access, land on south side of Shirwell Road, Shirwell, Barnstaple EX33 4JH

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Appeal Decision

Site visit made on 21 December 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/X1118/W/21/3281827

The Stores, 1 Ty-Nant, St Marys Road , Croyde EX33 1LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Joel Briggs of Merchant Holdings against the decision of North Devon District Council.
 - The application Ref 72770, dated 11 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is the conversion of first floor flat and office/store into 3 flats.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Joel Briggs of Merchant Holdings against North Devon District Council. This application is the subject of a separate Decision.

Main Issues

3. Although the Council has given two reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify a single main issue.
4. The main issue in this appeal is whether the proposed development provides for adequate parking provision and the effect of those proposed parking arrangements on highway safety.

Reasons

5. The appeal site is located within the core of the village at Croyde, adjacent to the junction which joins Hobb's Hill, Jones's Hill and St Mary's Road, and comprises a substantially scaled building which, at the time of my visit, appeared to include a restaurant at ground floor level. The evidence before me indicates that the first floor of the appeal building comprises a flat with office and stores.
6. Planning history for the site indicates that recent appeals¹ (the Recent Appeals) considered a retrospective application for the conversion of the first floor at the appeal building into three, one bedroom, flats. In the Recent Appeals, the Inspector considered parking provision with regards to Policy DM06 of the

¹ Appeal References: APP/X1118/C/19/3241357 & APP/X1118/W/19/3241182

- North Devon and Torrington Local Plan (2018) (the Local Plan). The appeal scheme before me similarly seeks the conversion of the first floor into three separate one bedroom flats.
7. Criterion (1) of Policy DM06 of the Local Plan requires that developments provide an appropriate scale and range of parking to meet anticipated needs having regard to; accessibility and sustainability of the site, availability of public transport, provision of safe walking and cycling routes, and the specific scale and type of development.
 8. Based on the evidence before me and observations made on my site visit, by reason of the accessibility of the site within the core of the village and due to the public transport links within the village that would be available to occupants of the appeal scheme, I would concur with the Inspector in the Recent Appeals that, given the wording of Policy DM06 of the Local Plan, there would be a need to provide off highway parking and that one space for each of the three flats is appropriate to meet the needs of the development.
 9. Within the Recent Appeals, the Inspector considered the proposed provision of off highway parking at a public car park within the village, and which proposed the use of parking permits. The Inspector found that in the absence of any workable mechanism for ensuring that residents obtained such permits, the appeals were dismissed. The Appellant has put it to me that the concerns of the Inspector in the Recent Appeals have now been addressed by providing off highway parking at the appeal site.
 10. Within the appeal submissions, the Appellant maintains that the plans submitted in support of the planning application showed that three parking spaces are to be provided on existing hardstanding at the front of the appeal building. In determining the planning application, the Council considers that the supporting information provided indicated that only two parking spaces had been included on the relevant plans. In this regard, I have considered the submissions and concur that the plans do not provide a clear indication that an area which appears to be of different dimensions, located abutting a wall which separates the site from St Mary's Road, was to be allocated as a parking space.
 11. Nonetheless, I accept the details provided by the Appellant in the course of this appeal that the number of boxed off areas shown on the submitted location plan relate to parking spaces. The Appellant's appeal submissions confirm that three spaces are to be provided on site and, in this respect, I find that the appeal scheme does provide one parking space for each of the three proposed flats. Consequently, the appeal scheme would accord with the provisions of criterion (1) of Policy DM06 of the Local Plan with regards to the number of spaces to be provided for the scheme as a whole.
 12. Amongst other matters in respect of the protection and enhancement of public rights of way, Policy DM05 of the Local Plan concerns highway safety. Notwithstanding the above compliance with the provisions of Policy DM06 of the Local Plan with regards to the adequacy of the numbers of parking spaces to be provided, the supporting text to Policy DM05 of the Local Plan explains that development must provide for adequate parking that actively aims to reduce the likelihood of inappropriate parking on the highway which could conflict with the aims of Policy DM05 of the Local Plan.

13. Specifically, criterion (1) of Policy DM05 of the Local Plan provides that all developments must ensure safe and well designed access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.
14. In respect of matters of highway safety, the Inspector in the Recent Appeals found that, in the absence of adequate off highway parking provision, development would have been likely to lead to on highway parking by future residents which, given the narrow nature of the local road network and the high degree of parking stress that is experienced within the village during holiday periods, would interfere with the free flow of traffic and thereby be detrimental to highway safety.
15. Whilst noting above that the appeal scheme is similar to that considered within the Recent Appeals with regards to the number of residential units, the present proposal is substantively different in that the required parking is to be provided on site.
16. In terms of the proposed layout, and in acceptance of the appeal scheme providing three dedicated parking spaces at the site for future residents, the appeal submissions provide confirmation that there would be sufficient room for resident's private vehicles to turn within the site, thereby allowing for those vehicles to exit the site in forward gear.
17. However, there is concern that the provision of parking spaces at the appeal site would result in the loss of space used to serve the existing commercial premises. I acknowledge the Appellant's submissions that such a loss of parking for the commercial premises is a commercial decision on their part and, in this regard, it could be said that some customers of the existing commercial enterprise could utilise, for example, the public car park which is located within the village. However, in my view it is unlikely that the position would be the same with regards to deliveries and other needs of the commercial enterprise, where the public car park would not be conveniently located, and that would be likely to result in on highway parking close to the site.
18. As noted by the Inspector in the Recent Appeals, whilst there is some on highway parking provision within the village, pressure for its use during summer would be intense. Given the above and the relatively narrow nature of the local road network, I find it likely that short term on highway parking would occur and that such parking would interfere with the free flow of traffic and cause danger to highway users including cyclists and pedestrians, in conflict with the aims and provisions of Policy DM05 of the Local Plan.
19. Further to the above, whilst I note that the Appellant maintains that safety would be improved by closing the access point for vehicles where Hobb's Hill, Jones's Hill and St Mary's Road meet, this would result in vehicles being funnelled into a point close to the proposed access and where there would be increased and significant potential for conflict between vehicles, and between vehicles and pedestrians. In this respect, blockages are likely to be caused when vehicles entering the site meet vehicles seeking to exit the site and at a point where customers would be likely to be exiting from the adjacent post office. I therefore find that the appeal scheme would not provide safe access and egress from the site.

20. In summary, I find that whilst the appeal scheme would accord with the provisions of Policy DM06 of the Local Plan in respect of the specific number of parking spaces, the proposal would conflict with Policy DM05 of the Local Plan with regards to highway safety. Consequently, the proposed development would conflict with the policies of the development plan when taken as a whole. Furthermore, the appeal proposal would be contrary to the National Planning Policy Framework (July 2021) which provides that development should be refused where there is an unacceptable impact on highway safety. In my view, the social and economic benefits arising from the proposed additional contribution towards local housing supply, would be significantly and demonstrably outweighed by the adverse impact of the proposal on highway safety.

Other Matters

21. The evidence before me indicates that the appeal site is located within the zone of influence of the Braunton Burrows Special Area of Conservation (the SAC). However, given my overall conclusion on the main issue as above, it has not been necessary for me to consider this matter any further in this instance.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR



Costs Decision

Site visit made on 21 December 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Costs application in relation to Appeal Ref: APP/X1118/W/21/3281827 1 Ty-Nant, The Stores, St Marys Road, Croyde EX33 1LF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Joel Briggs of Merchant Holdings for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for the conversion of first floor flat and office/store into 3 flats.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Parties in planning appeals and other planning proceedings normally meet their own expenses.
3. The PPG includes examples of unreasonable behaviour, by planning authorities. Amongst other things, this can include, "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis" and "persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable".
4. On the first of these issues and in relation to whether the Council provided only vague, generalised or inaccurate assertions, the reasons for the refusal set out in the decision notice are complete and precise, and further confirms the policies of the North Devon and Torridge Local Plan that it is maintained the proposal would conflict with. These reasons have been substantiated by the Council in its Officer Report.
5. As has been set out in the appeal decision, whilst the additional details and confirmation contained within the Appellant's submissions with regards to the specific numbers of parking spaces to be provided on site are acknowledged, the location plan provided in support of the planning application was not entirely clear regarding the number of vehicle parking spaces to be provided on site. The submitted location plan includes a number of boxed off areas within the forecourt area, two of which appear to be provided immediately to the front of the appeal building. However, there is a third boxed off area on the plan which appears to have different dimensions and by reason of the supporting

- information provided, in my view it is not clear whether that third space is intended for future residents' parking or whether the area would be retained for other commercial uses in respect of the forecourt area.
6. Accordingly, I do not consider that the Council failed to properly evaluate the application. Nonetheless, I have accepted the details provided by the Applicant within the appeal submission that three parking spaces would be provided at the site and have determined the appeal on that basis.
 7. For the reasons set out in the appeal decision I too have concerns regarding the impact of the now proposed parking on highway safety. I came to that decision having regard to all the evidence and representations submitted. Specifically, the reason for refusal is clear and, as outlined in the consultation from Devon County Council Development Management Highways, relates to the provision of parking on site which, it was maintained, would result in the loss of parking for existing commercial uses at the site thereby encouraging short term parking on highway to the detriment of all users of the road.
 8. In respect of whether the Council persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, the main parties have referred me to recent appeals concerning the site and which are described within the appeal decision.
 9. Whilst it will be seen from the appeal decision that the respective developments were similar, they differed in the arrangements for parking provision. Consistent with the Inspector in those recent appeals, I have found that one off highway parking space for each of the proposed flats would be appropriate. However, the recent appeals only considered the impact of providing off site parking, and consequently did not consider the potential impact on highway safety that could arise from loss of existing spaces to serve commercial enterprises at this location, in the event that parking for future residents was provided on site.
 10. It therefore does not necessarily follow that the Inspector in those recent appeals indicated that a proposal where on site parking was to be provided would be acceptable, but rather considered the proposed provision of off site parking which, for the reasons given in those appeals, was found to not provide sufficient spaces for future residents. Consequently, I do not consider that the Council have acted unreasonably with regards to vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis or in respect of persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
 11. For the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Spencer-Peet

INSPECTOR

Appeal Decision

Site visit made on 4 January 2022

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/X1118/C/21/3282288

Land on the South Side of Shirwell Road, Shirwell, Barnstaple, Devon, EX31 4JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Alistair Curd against an enforcement notice issued by North Devon District Council.
 - The enforcement notice, numbered 12309, was issued on 28 July 2021.
 - The breach of planning control as alleged in the notice is within the last four years unauthorised operational development consisting of the creation of an access onto a classified road.
 - The requirements of the notice are
 - 1 Reinstatement an earth bank to a height and width equivalent to that found either side of the access as to permanently close the access. The approximate position is shown hatched in blue in the red edged location plan attached to the notice;
 - 2 Seed the earth bank with an appropriate grass/wildflower mix such as Emorsgate EH1 Hedgerow Mixture; and
 - 3 Plant and maintain a native mixed species hedgerow on top of the bank in accordance with the enclosed Native Mixed Species Hedgerow Planting and Maintenance Specification.
 - The periods for compliance with the requirements are, for step 1, within 3 months; and for steps 2 and 3, within 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be varied by
 - i) the deletion of Steps 1, 2 and 3 in their entirety and their replacement with the words "Restore the land to its condition before the development took place through the reinstatement of the earth bank to its previous dimensions together with its seeding with an appropriate seed mix and the planting of a native mixed species hedgerow on top of the bank";
and
 - ii) the deletion of the periods for compliance in its entirety and its replacement with the words "The period for compliance with the requirements is four months".

Subject to the variations the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act, as amended.

Preliminary Matters

2. In his submissions the appellant has made reference to a previous field access gate in the same or similar location to the present one. Although the appeal has only been made on ground (a), I am required to have regard to any 'hidden' grounds of appeal, which in this case includes a ground (c) appeal, which I consider below, having invited the comments of the parties.

The Notice

3. I have a duty to get the notice in order. The requirements should specify the steps necessary to remedy the breach of planning control. They should not be vague or uncertain but on the other hand cannot require a recipient to 'comply or seek compliance', since that would introduce uncertainty. Whilst Step 2 does not require use of a particular grass/wildflower mix but only suggests Emorsgate hedgerow mixture, Step 3 requires the planting and maintenance of a native species hedgerow in accordance with a specification. No reference is made of the removal of the earth bank in the allegation, only the creation of an access onto a classified road, although it is implicit that removal of the earth bank forms part of the operational development. Accordingly, the requirements of the notice should be simplified to "Restore the land to its condition before the development took place through the reinstatement of the earth bank to its previous dimensions together with its seeding with an appropriate seed mix and the planting of a native mixed species hedgerow on top of the bank." I shall vary the requirements of the notice accordingly and vary the compliance period as a consequence. I am satisfied that neither party would suffer any injustice as a result of this action.

The site and relevant planning history

4. The appeal site is on the A39, a Class 1 road which is subject to the national speed limit, and consists of a field that slopes steeply to the roadside. The access subject to the notice is located in the corner of the site opposite a dwelling known as Carousel which is on the other side and at a lower level to the road.
5. The unauthorised field access gate is set back from the highway, sufficient for a two vehicles to be clear of the highway. The access is ramped and appears to consist of stone and earth, which the appellant states is hardcore. No drainage is evident. To the east of the access a visibility splay has been created by the removal of a hedgerow but to the west, visibility is restricted by the adjacent property which is outside the appeal site.
6. Retrospective planning permission was refused in May 2021 (73107) on the grounds of highway safety through the restricted visibility in one direction allowing run-off to enter the road and the neighbouring property.

The appeal on ground (c)

7. This ground of appeal is that there has not been a breach of planning control.
8. The appellant's reference to a previous field access gate in the same or similar location to the present one is confirmed in letters of support to this effect. These are from Mr Williams, from whom the appellant acquired the field and who refers to an overgrown derelict gate, and from A&B Contractors (Devon)

- Ltd who state that they used the gate to gain access to the field with farm machinery.
9. The Council has carried out an extensive investigation but could find no evidence of an access gate. The Council's submitted aerial images dating back to 1999 and photographs submitted by the occupants of Hillcrest from 1985 and 1990 do not show the presence of a field gate access. Other local residents confirm that historically no field gate existed.
 10. The onus of proof rests with the appellant where legal grounds are concerned and the level of proof is on the balance of probability. Although the evidence from the previous owner and from the contractor indicate that there was a gate no specific details have been made available and the evidence has not been provided by way of a Statutory Declaration. Consequently the weight I attach to the appellant's evidence is limited, particularly in view of the existence of an earlier field gate being contradicted by the Council and local residents. The existence of an earlier field gate has not therefore been demonstrated on the balance of probability.
 11. The appeal on this ground fails.

The appeal on ground (a)

12. An appeal on ground (a) is that planning permission should be granted and the main issue is the effect of the unlawful access on highway safety.
13. The appeal site (and the adjoining farmer's land) can also be accessed by vehicles from a track that runs to the rear of residential properties in a small settlement known as Burridge. This provides vehicular access to a private garage at the west end of the track and a number of occupants of the dwellings have pedestrian gates onto the track. The track also provides vehicular access to the adjoining farmland. Visibility in both directions from the access track onto the A39, which is 30mph restricted, is satisfactory.
14. It is apparent from a number of representations received that the appellant's farming practices associated with his herd of Dexter cattle and the agricultural traffic using the lane, together with surface water run-off from the field, has led to complaints by some of the residents, including the involvement of Environmental Health and the Environment Agency.
15. In order to avoid further disputes with his neighbours, and to provide a wider access for vehicles to access the field, the appellant initially investigated the opportunity to create an access about halfway along the roadside boundary and subsequently through the reinstatement of a claimed previous access. The appellant acknowledges that rainwater run-off and mud caused by the unauthorised access has created problems, although he points out that this appears to be an issue for the neighbours opposite the appeal site that pre-dates the construction of the new access. Notwithstanding this he has created a bund to prevent any run-off washing directly onto the road and he states that he would be prepared to work with the highway authority to integrate other measures that would assist.
16. The limited visibility splay of 8 metres to the west of the access is unsatisfactory for this class of road and the speed of traffic. The highway authority advises that the relatively straight section of the A39 in this location allows overtaking manoeuvres of vehicles which requires 150 metre splays in

- both directions. The appellant's submitted plans shows that a visibility splay of 120 metres can be constructed to the east and that this would require the removal of the entire hedge, which would be more extensive than at present. This would further harm the character and appearance of this part of the open countryside. In addition the access is not a hard surface and there is inadequate drainage of surface water run-off leading to a highway safety issue.
17. The appellant has advised that the highway authority has indicated that if it can be established that the access is historical then this would effectively lift any highway objections regarding the substandard visibility. However, in view of my conclusion on the ground (c) appeal, this is not relevant.
18. I note also that whilst there would be less disruption to the residents of Burrige if the access subject to this appeal were to be approved, the existing authorised access would still remain and be capable of use. Additionally, I note that the appellant has some local support for the unauthorised access. Notwithstanding this and also the appellant's offer to improve drainage, or introduce a left turn only out of the field, these would not outweigh the adverse effect that the access has on highway safety.
19. The development fails to accord with Policies DM01 of the North Devon and Torridge Local Plan regarding amenity considerations, DM05 regarding highway safety and DM14 in respect of landscape quality in the local economy. It also conflicts with paragraphs 110 and 111 of the National Planning Policy Framework in respect of highway safety.
20. The appeal on this ground fails.

Conclusion

21. For the reasons given above I consider that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under s177(5) of the 1990 Act as amended.

P N Jarratt

INSPECTOR