



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 MARCH, 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 9th February 2022. (Pages 11 - 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. **74379: Mount Sandford Green, Barnstaple, Devon, EX32 9LB** (Pages 15 - 52)

Reserved matters application for Phases 2C to 6 inclusive) of residential development comprising of 125 units with design and layout revisions to 50 units approved under Reserved Matter Application 65414 (Outline permission 60487). Report by the Lead Planning Officer (Majors) (attached).

7. **74592: Land to the West of Portmore Golf Course (known as Mount Sandford Green) Barnstaple, Devon** (Pages 53 - 62)

Notice of an application to modify a planning obligation under Regulation 3 of the T & C P (modification of planning obligations) Regulations 1992 in respect of applications 54923, 59666 and 60487 Mixed use development comprising 250 dwellings together with 2.8 HA Innovation Park. Report by the Lead Planning Officer (Majors) (attached).

8. **74436: Lower Twitchen, Burrington, Umberleigh, Devon, EX37 9LU** (Pages 63 - 72)

Single storey ground floor side extension together with small side entrance porch to improve accessibility to the property. Report by the Senior Planning Officer (attached).

9. **74469: Lower Twitchen, Burrington, Umberleigh, Devon, EX38 9JU** (Pages 73 - 80)

Listed Building Consent for single storey ground floor side extension together with small side entrance porch to improve accessibility to the property. Report by the Senior Planning Officer (attached).

10. **Appeals Report** (Pages 81 - 92)

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 beeped). **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).



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NORTH DEVON COUNCIL

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club Main Room - Barnstaple Rugby Club on Wednesday, 9th February, 2022 at 10.00 am

PRESENT: Members:

Councillor Ley (Chair)

Councillors Chesters, Davies, Fowler, Gubb, Jenkins, Mack, Mackie, Prowse, D. Spear, L. Spear, Tucker, Walker (substitute for Leaver), and Yabsley

Officers:

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

Also Present:

Councillors Biederman, Cann and Knight

97. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Leaver (substitute Councillor Walker).

98. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 12TH JANUARY 2022.

RESOLVED that the minutes of the meeting held on 12 January 2022 (circulated previously) be approved as a correct record and signed by the Chair.

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

The Chair advised the Committee that an application at Lee Bay was coming to committee in April and that a site visit might be needed.

100. DECLARATION OF INTERESTS

The following declarations of interest were made:

Councillor Mack – personal interest in planning application 73681 as his partner was a Parish councillor.

Councillor Yabsley – personal interest in planning application 73681 as he was a member of the Devon County Council’s Highways and Traffic Orders Committee.

101. 73681: LAND WEST OF MEAD PARK, FREMINGTON / BICKINGTON

The Committee considered a report in respect of planning application 73681: Land West of Mead Park, Fremington/Bickington (circulated previously) by the Lead Planning Officer (South).

The Lead Planning Officer (South) advised the Committee of a correction to the net gain of biodiversity across the site as being just over 13% not the 12.25% as stated in the report (agenda page 69, second paragraph).

Julie Adnams-Hatch (objector) addressed the Committee.

The Corporate and Community Services Officer read a statement from David and Kate Barnett (objectors) to the Committee.

Andrew Rowe (applicant) addressed the Committee.

Councillor Knight (adjoining Ward Member) addressed the Committee.

Councillor Biederman (Devon County Councillor) addressed the Committee.

Councillor J Cann (Ward Member) addressed the Committee.

In response to a question on the refusal of an application in a nearby location siting BAR22 as the reason. The Legal Advisor advised the Committee that each application was looked at on its own merits.

In addition the Service Manager (Development Management) advised that the two applications had very material differences. The refused application was for the development of two open market dwellings. The refusal was at a point in time when the Local Plan was still emerging. In reference to further comments made in respect of the above and of a further housing application in Braunton, allowed at appeal in 2017, the officers highlighted material differences and timeline in relation to the then emerging local plan.

In response to questions from the Committee, the Lead Planning Officer (South) advised that:

- The air quality assessment was deemed not warranted by the Environmental Health Officer.
- Natural England were unable to make a conclusion around the impact of this development on the nearby SSSI area and bird activity. Their report does go on to suggest that this could be dealt with by educating users on their actions; in terms of impact to birds, this could be mitigated by a planning condition as detailed in the report.

- The lack of a five year land supply for housing within North Devon and Torridge resulted in the balance of housing need required being a material consideration in forming a decision to approve, unless any adverse impacts of doing so significantly and demonstrably outweighed the benefits.

The Legal Advisor added that the Environmental Health Manager's response to there not being a need for an Air Quality Assessment could be found on page 29 of the agenda, second to last paragraph.

RESOLVED (7 for and 7 against, Chair's casting vote made it 8 for) that the application be APPROVED as recommended by the Lead Planning Officer (South).

102. 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.

In response to a question on the provision of a report detailing the number of appeal decisions that had gone against the Council and details of the costs. The Service Manager (Development Management) advised the Committee that she would bring quarterly statistics reports to Committee as soon as the software was set up to extract the information.

Chair

The meeting ended at 12.08 pm

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

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Application Report

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



Application No: 74379
Application Type: Reserved matters
Application Expiry: 11 March 2022
Ext Of Time Expiry:
Publicity Expiry: 30 December 2021
Parish/Ward: LANDKEY BARNSTAPLE/ NEWPORT LANDKEY
Location: Mount Sandford Green
Barnstaple
Devon
EX32 9LB
Proposal: Reserved matters application for Phases 2C to 6 (inclusive) of residential development comprising of 125 units with design and layout revisions to 50 units approved under Reserved Matter Application 65414 (Outline permission 60487)
Agent: Woodward Smith Chartered Architects
Applicant: Loosemore Chartered Building Company
Planning Case Officer: Ms J. Watkins
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations
Decision To consider an extant outline that was granted prior to national and local guidance being adopted on biodiversity and to consider the biodiversity and landscape measures now proposed
Level/Reason for Report to Committee:

Site Description

The site is bounded on two sides by roads with the A361 to the northwest and Landkey Road to the south.

To the east is the Portmore Golf Course and the group of properties at Whiddon Park (Whiddon Park House, The Barn, Pear Tree Cottage, The Mews, Forest House, Amber House and The Court). To the south west on the northern side of Landkey Road are a group of five properties (Merrymeet, Trewiddon, Falconia, 1&2 Northgate). To the south and on the opposite side of the road is a well-established ribbon of development which primarily sits at a higher level to the road.

The site falls north from the Landkey Road which runs along its southern boundary and from east to west towards the watercourse in the North West corner. The site comprises Grade 2 and 3a agricultural land which is amongst the best and most versatile agricultural land within North Devon.

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Two phases of development have been undertaken and are now called Garden Green and The Lawns. These new properties run adjacent to the Newport/Landkey Road.

Recommendation

APPROVAL

Legal Agreement Required: Yes – S111

Planning History

Reference Number	Proposal	Decision	Decision Date
54923	Outline application for mixed use development comprising of 250 passivhaus dwellings together with 2.8 ha innovation park (further amended plans & information) at land west of Portmore Golf Course, (Known As Mount Sandford Green), Barnstaple	Outline +S106 Approval	18 August 2014
59566	Variation of condition 3 (approved plans) to exclude land to the rear of 1 & 2 Northgate from within the red outline attached to outline planning permission 54923 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park at Landkey Road, Barnstaple	Approve With Deed Of Variation	30 November 2015
60487	Variation of condition 6 (design & development standards) attached to outline planning permission 59566 (mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park) to allow amended supporting statement incorporating design & access statement at Mount Sandford Green, Barnstaple	Outline +S106 Approval	21 June 2016
60488	Reserved matters application for erection of 22 dwellings (phase 1 - the lawns) (outline planning permission 60487 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park)(amended plans and description) at Mount Sandford Green, Barnstaple	Reserved Matters Approval	24 June 2016
63188	Approval of details in respect of discharge of condition 3 (footway/cycleway) attached to planning permission 60488 at Mount Sandford Green, Parcel D1 Msg, Landkey Road, , Barnstaple	Discharge Of Condition Approve	4 August 2017

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Reference Number	Proposal	Decision	Decision Date
63179	Approval of details in respect of discharge of conditions 12 (archaeology), 27 (ground contamination) & 30 (works programme) attached to planning permission 60487 in respect of phase 1 (reserved matters permission 60488) at Mount Sandford Green, Landkey Road, Barnstaple	Discharge Of Condition Approve	20 September 2017
64260	Outline application for erection of two dwellings together with erection of single garage for existing dwelling (some matters reserved) at garden of 2 Northgate, Landkey Road, Barnstaple	OL Approval	14 March 2018
65414	Reserved matters application for erection of 93 dwellings (phase 2/3 - The Gardens, The Green, Mount Sandford Green & The Woods) and agreement of revised masterplan (condition 4), archaeology (condition 12) of outline planning permission 60487 (mixed use development comprising of 250 dwellings together with 2.8 ha innovation park) (amended plans - description & additional information) at Mount Sandford Green, Barnstaple	Full Planning Approval	21 December 2018
71973	Reserved matters application for the erection of 11 residential units (following outline approval 54923) to agree amended plans which vary design of approved plots (reserved matters approval 65414) at Sub Phase 2b, Mount Sandford Green, Barnstaple	Approved	30 September 2020

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area	Within constraint
Chivenor Safeguard Zone	Within constraint
Class III Road	
Critical Drainage Area	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Unclassified Road	

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Constraint / Local Plan Policy	Distance (Metres)
Within 100m of Adopted Local Green Space: BAR19(1) Portmore Golf Course	Within constraint
Within 50m of Adopted New or Upgraded Road: BAR04 Mount Sandford Green	Within constraint
Within Barnstaple North Development Boundary ST06	Within constraint
Within Adopted Employment Allocation:BAR04Mount Sandford Green	Within constraint
Within Adopted Housing Allocation: BAR04 Mount Sandford Green	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within:, SSSI 5KM Buffer in North Devon,	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
BAR - Barnstaple Spatial Vision and Development Strategy	
BAR04 - Mount Sandford Green	
DM01 - Amenity Considerations	
DM02 - Environmental Protection	
DM03 - Construction and Environmental Management	
DM04 - Design Principles	
DM05 - Highways	
DM06 - Parking Provision	
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	
ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres	
ST10 - Transport Strategy	
ST12 - Town and District Centres	
ST14 - Enhancing Environmental Assets	
ST17 - A Balanced Local Housing Market	
ST18 - Affordable Housing on Development Sites	
ST21 - Managing the Delivery of Housing	
ST22 - Community Services and Facilities	

Consultees

Name	Comment
Arboricultural Officer Reply Received 23 November 2021	The proposal has not been accompanied by an appropriately detailed arboricultural impact assessment (AIA) and associated arboricultural method statement (AMS) and associated tree [and hedgerow] protection plan (TPP). These details are required as per condition 15 of the outline planning consent 60487. I would suggest that we direct the applicant to submit the appropriate information in order that the local planning authority can effectively fulfil its duties under 197a of the Town and Country Planning Act and that the application is not determined without the appropriate level of information.
Arboricultural Officer	Views awaited in respect of AIA and TPP
Barnstaple Town Council Reply Received 17 December 2021	RECOMMEND: Refusal (NC) The application does not give adequate consideration to the provision of street trees or active travel
Building Control Manager	No response
Councillor C Leaver	No comments about the application only the determination route
Councillor D Luggar Reply Received 8 December 2021	Would like the following addressed: <ul style="list-style-type: none"> • major expansion of sites • increase in traffic • noise pollution • further development puts hedgerows/trees that need protection with TPOs and hedge retention orders
Councillor G Lane	No response
Councillor L York	No response
DCC - Development Management Highways	No response

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Name	Comment
<p>DCC - Historic Environment Team</p> <p>Reply Received 1 December 2021</p>	<p>The overarching planning consent (application 64087) for this development is conditional upon a programme of archaeological work being undertaken in mitigation for the impact upon the archaeological resource - Condition 12. A limited programme of archaeological work has already been undertaken across the site and has demonstrated that there is an area of archaeological potential with regard to possible prehistoric settlement within the northern part of the area subject to this reserved matters application. As such, further archaeological mitigation is required. I would therefore advise that the applicant is made aware of this requirement and that an appropriate programme of archaeological mitigation is implemented - in accordance with the Written Scheme of Investigation submitted to comply with Condition 12 on the outline planning consent - and undertaken in advance of any development commencing with regard to this reserved matters application. I will be happy to discuss this further with you, the applicant or their agent.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 9 December 2021</p>	<p>Thank you for this application, police have no objections in principle to the overall design and layout proposed, which will on the whole, provide both active frontages and good overlooking to the new internal streets. The predominate use of back to back rear gardens is also noted and supported. However, as there appears to be no mention within either the Design & Access or Planning Statements of security or crime prevention measures per se, it is not known if these key matters have been considered for the scheme or where they have been implemented. Therefore, to assist from a designing out crime, fear of crime and disorder perspective please find the following information, advice and recommendations:-</p> <p>All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2016. As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company.</p> <p>The proposed site wide boundary and plot separation treatments are noted as is the intention to define front gardens with for example railings or planting.</p> <p>Any shared rear access paths must also be secured with a lockable gate, fitted as flush to the building line as possible. This does not remove the need for each individual plot to have their own lockable gate into the rear garden.</p>

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Name	Comment
	<p>Where existing hedgerow and banking is likely to comprise new rear garden boundaries then it must be fit for purpose. They should be of both, sufficient height and depth to provide a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.</p> <p>From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, including any proposed future residential and community facility phases (school) and designed that it is convenient and practical to use thus reducing the level of any unplanned parking elsewhere throughout the development. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.</p> <p>Communal areas, such as playgrounds, toddler play areas, seating facilities have the potential to generate crime, the fear of crime and anti-social behaviour. Play areas should ideally be designed so that they can be secured at night. This is to reduce the amount of damage and graffiti that occurs after dark, the type of fencing and security measures will need to vary to suit the particular area. As a minimum requirement, fencing at height of 1200mm must be included to discourage casual entry, provide a safe clean play area and reduce damage to the equipment. Consideration should be given to a single dedicated entry and exit point to ease parental/guardian control and supervision. Any planting in or around the play area must not reduce surveillance opportunities or provide hiding places.</p> <p>Multi-use games areas and artificial playing surfaces, usually with lighting for night time use, are expensive facilities that are often targets for intrusion, vandalism and misuse. They need to be carefully planned, managed and protected using all appropriate guidelines and specifications. I can find no details of any proposed boundary treatments for the indicated MUGA, therefore, it is recommended consideration is given to fully enclosing the playing surface with 3m fencing. If flood lighting is to be provided it must be vandal resistant and installed so as not to impact on near-by residents. Any access gates must be installed in such a way that no climbing aid is provided and they can be secured when the facility is not in use. It is recommended any storage for play and sports equipment, should where possible, be provided within the proposed community building. Initial generous storage provision should help to avoid future need for additional outbuildings which</p>

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Name	Comment
	<p>are more vulnerable to attack. Suitable access and turning for emergency vehicles as close to the MUGA as possible should also be provided.</p> <p>Any landscaping should not hinder or impede natural or formal surveillance of the facilities as this is likely to increase the opportunity for nuisance and anti-social behaviour, particularly in and around the MUGA.</p>
Environment Agency	No response
<p>Environmental Health Manager</p> <p>Reply Received 2 December 2021</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Air Quality Impact Assessment The Design and Access Statement states the proposals relate to an amended 50 units to approval 65414 (Outline permission 60487) and a further 125 units totalling 175 units. The Council's Air Quality Supplementary Planning Document stipulates a requirement to provide an Air Quality Impact Assessment (AQIA) for developments of more than 62 residential units in order to assess whether significant operational phase air quality impacts are likely to arise. The document also includes screening thresholds for larger construction sites in relation to construction phase impacts.</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 Environmental Noise The proposals would introduce dwellings close to the busy and noisy A361 highway. I recommend the Applicant be asked to provide an environmental noise assessment that considers the potential for environmental noise sources to impact the proposed residential development.</p> <p>The assessment should be prepared by a suitably qualified and experienced person (Member of the Institute of Acoustics or equivalent) and demonstrate a 'good acoustic design' approach having regard to relevant standards and guidance including that contained within ProPG: Planning and Noise 2017 and BS8233:2014 Guidance on sound insulation and noise reduction for buildings. The assessment should take account of all potentially relevant sources of significant environmental noise during the day</p>

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Name	Comment
	<p>and at night and consider impacts within the proposed dwellings and at outside amenity areas. The assessment report should include recommendations for mitigation where relevant, including in relation to changing the proposed layout of the site if appropriate.</p> <p>3 Land Contamination I believe land contamination issues were satisfactorily addressed for the site under Application 63179. As such, I do not expect land contamination issues to arise in relation to the proposals.</p> <p>I recommend the following condition be included on any permission to address the possibility of unexpected contamination being encountered during development works.</p> <p>4 Construction Phase Impacts In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the construction phase of the development I recommend the following conditions be imposed</p> <ul style="list-style-type: none"> - Construction Environmental Management Plan Condition - Construction Hours Condition
<p>Environmental Health Manager</p> <p>Reply Received 16 February 2022</p>	<p>I have reviewed the Soundguard Acoustics BS8233:2014 Environmental Noise Impact Assessment dated 3 February 2022. The assessment considers potential environmental noise impacts affecting the proposed housing, having regard to relevant standards and guidance. The report concludes that no significant adverse noise impacts are likely to arise. However, the report finds that housing closest to A361 highway is likely to experience levels of traffic noise that are, at times, above recommended 'good' guideline levels.</p> <p>The report states that improvement towards a 'good' level of acoustic design can be achieved if the relevant facades of dwellings closest to the A361 are fitted with good quality windows and acoustic trickle ventilators and if 1.8m high close boarded acoustic fencing is installed along the perimeter boundary and garden spaces between the road and dwellings on the western perimeter of the development such as to screen ground floor living spaces and external amenity areas.</p> <p>I accept the findings of the report and recommend that the above modest mitigation measures be incorporated in order to achieve a 'good' level of acoustic design for the development. I recommend a condition be imposed along the lines of the following to address this improvement: Noise Mitigation Condition</p>

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Name	Comment
<p>Heritage & Conservation Officer</p> <p>Reply Received 9 December 2021</p>	<p>The development will urbanise the setting of the listed buildings, but this is an issue that cannot now be addressed as outline permission has been given. The houses nearest the listed buildings on Evergreen Way are standardised two storey designs, repeated along the street. The materials are non-traditional; cement roof tiles and weatherboarding. The opportunity to create a distinctive and more complimentary scheme which reflects the character of the listed buildings rather better could be pursued, and would have a lesser impact on the significance of the listed buildings through effect on setting.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 16 December 2021</p>	<p>The accommodation details submitted with the application state at total of 48 affordable dwellings (36 (75%) Social Rent and 12 (25%) Shared Equity) out of the total of 240 dwellings. This equates to 20% affordable housing provision. 20% is as per the viability appraisal. It will be necessary to have an appropriate review clause and any triggers for this would need to be agreed with Plymouth City Council who carried out the independent viability assessment.</p> <p>The proposed property size mix states:- Social Rent:- 1 bed x 4 units; 2 bed x 23 units; 3 bed x 7 units; 4 bed x 2 units. Shared Equity:- 1 bed x 0 units; 2 bed x 6 units; 3 bed x 6 units; 4 bed x 0 units. The combined totals for Social Rent and Shared Equity are therefore stated as:- 1 bed x 4 units (8.5%); 2 bed x 29 units (60.5%); 3 bed x 13 units (27%); 4 bed x 2 units (4%).</p> <p>North Devon Council's affordable housing dwelling mix requirement is:- 1 bed - 30-35%; 2 bed - 35-40%; 3 bed - 20-25%; 4 bed - 5-10%.</p> <p>The proposed number of 1 bed and 4 bed units are therefore below the requirement. The proposed number of 2 bed units is above the requirement. The proposed number of 1 bed units is significantly below the requirement, there should be a minimum of 14 units and only 4 units are proposed. This needs addressing as the need for 1 bed units is high.</p>
<p>Landkey Parish Council</p> <p>Reply Received 2 December 2021</p>	<p>No comment on application but raised concerns regarding the delivery of the access onto the Portmore Roundabout. Increased traffic from this development is causing problems at the Landkey Junction.</p>
<p>Natural England</p>	<p>Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice</p>

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Name	Comment
Reply Received 6 December 2021	<p>which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.</p> <p>The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.</p>
Open Space Officer Reply Received 26 November 2021	<p>The outline application (54923) secured the following: Off-site Contribution - £297,000 Payments to be made prior to occupation of 50th, 100th, 150th and 200th dwellings We've received - £24,750 on 18/10/21 On site POS includes: LAP, LEAP, MUGA & informal pos</p> <p>The MUGA and informal open space will be delivered under this application (Phase 5/6). Please can the application provide details of the quantum of open space to be provided and also an open space plan identifying these areas? I cannot see plans for the MUGA, please can a detailed design be submitted, with access/egress. This should be 800sqm, macadam MUGA, fenced.</p>
Open Space Officer Reply Received 15 February 2022	<p>I attach a revised calculation, which generates a total requirement of 19,115.36 sq.m so they are delivering adequate provision.</p> <p>Confirmation the MUGA will be macadam surface with line markings as per the drawing. Suitable macadam footpath to both access points</p>
Recycling & Commercial Services	No response
South West Water Reply Received 9 December 2021	No objection or comment
Sustainability Officer	<p>1. Plans appear to illustrate Devon Hedgebanks A, B, C and D, however the Planting Specification only refers to Hedgebank A? The Plan should either be clear that all proposed hedgebanks are X or provide a clear differentiation between proposed hedgebanks</p>

Name	Comment
<p>Reply received 16 February 2022</p>	<p>A – D within the planting specification. The BMP does not show any distinction between different stretches of hedge provision.</p> <p>2. The Planting Specifications on each Plan should include a hedgebank cross section in accordance with https://devonhedges.org/wp-content/uploads/2015/11/8_Hedge-Creation-1.pdf</p> <p>3. The Planting Specifications all include a ‘Woodland Edge Specification’ but there is no indication what this refers to on the Plans or within the BMP.</p> <p>4. The BMP Fig 2 (pg23) clearly identifies areas proposed for New Species Rich Grassland and Wildflower Planting, however the Plans only identify front/rear garden grass and provides no grassland specification for the public areas.</p> <p>5. Plots 13 to 20 appear to utilise the existing woodland edge within the residential curtilage. The BMP identifies this habitat as a Wildlife Corridor and I would suggest that the proposed hedgebank to the north is continued only the eastern boundary and connecting to the retained hedgerow to the south. This will clearly delineate residential curtilage from the woodland edge and prevent the retained habitat being subjected to residential management. This approach has been taken on the western boundary to the rear of the community parking and plots 9-15.</p> <p>6. Condition 17 specifically requires a lighting plan and hedgerow buffers plan. The BMP 5.2.1 states ‘a lighting plan adopting these measures will be implemented to ensure sensitive lighting and suitable dark hedgerow/ woodland edge buffers are provided to allow for the continued functionality of these habitats for commuting and foraging bats during the operational phases of the development’. I am concerned that the prescribed <0.5 lux corridors at the eastern and western boundaries cannot be maintained under the current Plans and would query how the lighting plan would seek to demonstrate this. Introduction of the eastern boundary hedgebank (5 above) may help at the eastern woodland edge. The western boundary has the proposed hedgebank to reduce illumination of the western boundary, but any external lighting in the community parking must be low level bollards and not street lamps which would illuminate the woodland beyond the hedgerow.</p> <p>7. The BMP Fig 2 states ‘retained hedgerows on site will be protected by suitably robust immovable fencing ...protected from removal via a restrictive covenant’. The Plans only appear to illustrate the required MoE on Plots 9 – 18. Where this MoE is required the Plans should demonstrate that an appropriate extent</p>

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Name	Comment
	of separation is maintained to ensure that the retained habitat is not degraded. 8. The BMP s7 and s8 should be revised to include a framework for periodically reporting the results of monitoring and any required remediation works to the LPA.
Sustainability Officer	Views awaited in respect of amended plan which address the above points
The Fire Officer	No response

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
0	0	2	0	N/a

- Insufficient evidence to satisfy the requirements relating to biodiversity
- Little consideration has been given to the creation of ecological networks through the central area of the development.
- Native species should be utilised in the street tree planting scheme in order to provide permeable pathways through the development for native insect species & under sown with wildflower grassland & Native bulb planting
- Species rich turf mix should be utilised in all grassland within residential curtilage.
- Species rich wildlife meadow should be created in areas of public open space.
- Design change that separates the hedgerows from gardens (including light spill)
- Native species should be utilised in the shrub planting scheme.
- A Building for Healthy Life Assessment scores 5 ambers
- Failed to use independent design review
- Fails to deliver the appropriate arboricultural information

Considerations

Proposal Description

The principle of residential development on this site was established by outline application 54923 as amended by 59566 and 60487. Whilst the outline permission is for 250 units, the site capacity is shown at 240 units.

The following outline conditions are on-going controls over the development:

- Condition 14 Implementation and Maintenance of Approved Landscape Proposals
- Condition 15 Tree Protection
- Condition 16 Delivery of Open Space
- Condition 18 Open Space Management
- Condition 26 Infrastructure delivery
- Condition 28 Unexpected Contamination

Conditions 31 - 34 Highway works
Condition 37 - 39 Foul Drainage
Condition 40 Surface Water Drainage
Condition 44 Construction Times

All matters were reserved at the outline stage including access. This application needs to accord with the outline approval.

Other conditions have been discharged in relation to Phases 1 and 2 and a further discharge of condition application will be required for this phase to cover lighting strategy, utilities and waste management (4), archaeology (12), ground contamination (27), drainage (35 & 36), programme of works (30) and a Construction Management Plan (41).

Detailed highway drawings have been submitted which address conditions 29 and 30.

The Section 106 signed in relations to the outline requires:

1. 30% affordable housing (see application 74592 which look at the %)
2. LAP/LEAP/MUGA – or payment in lieu of full on site delivery
3. £297,000 off site POS contribution (recalculated on the RM)
4. Roundabout works – delivered
5. £100,000 towards widening the existing footway cycleway from the development to Newport Crossroad's payable on 80th dwelling
6. Travel vouchers – value £300
7. 3m combined footway cycleway across the site frontage
8. Ecological management plan
9. Bus stop and shelter
10. Man Co re POS and surface water drainage

The s106 requires the submission of the Affordable Housing Scheme to be agreed by the Proper Officer. This is a matter separate from the reserved matters. The layout plan identifies the affordable housing units sited in groups across the phases.

Two other reserved matters applications have been granted permission. The first was for 22 units, now known as The Lawns (phase1) (60488). This has been completed and is shown below

Figure: the Lawns (complete)



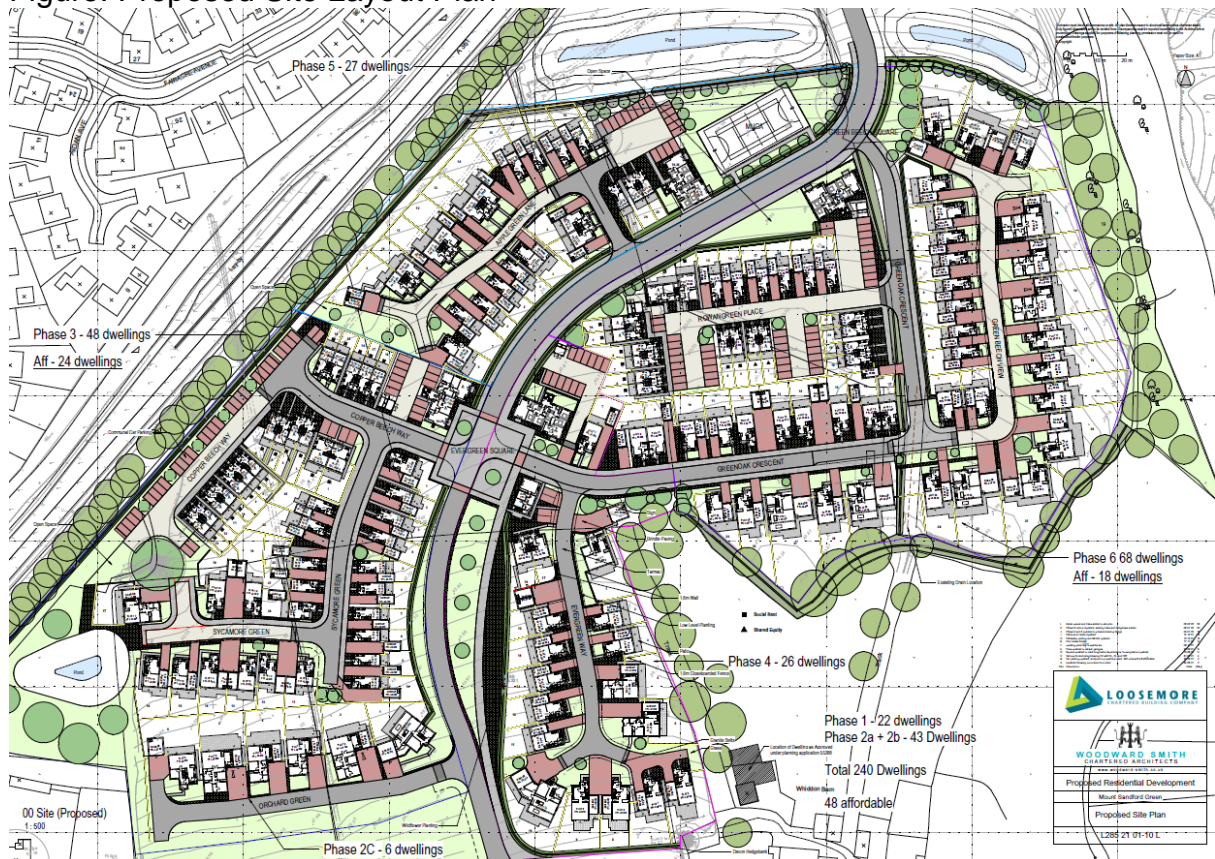
Application 65414 (as amended by 71973) granted reserved matters permission for 93 Units now known as The Green (phase 2&3). The LEAP is within the green corridor that runs east to west through the site. 43 houses have been delivered on site (including six affordable units) as shown below:

Figure: Phase 2 the Green



This is a reserved matters application for 125 units for Phases 2c to 6 (inclusive).

Figure: Proposed Site Layout Plan



The scheme makes positive revisions to the reserved matters approved under 65414 in respect of the approved 50 units to the north of the central green zone. The approved layout was 'centred' around a large car parking court for the affordable units. The scheme in hindsight was road and car park dominated and did not maximise private garden space.

Figure: Approved Layout



Proposed Layout Phase 2c and 3



This reserved matters application is dealing with – access, appearance, landscaping, layout and scale.

The access point onto the Landkey Road was established by the first reserved matters application for 22 units (60488) and has been constructed. The access into these phases is from the established estate road and forms a continuation of the main spine road with side roads forming a new street hierarchy of side roads and cul de sacs.

The first phases of development did not provide any affordable units due to the cost of opening up the site and providing infrastructure.

Application 74592 considers the proportion of affordable units to be provided.

The proposed housing mix is as follows:

Phase	Units	Total	Affordable						Open Market		
			Social Rent (75%)			Shared Equity (25%)			Total	Beds	Units
			Total	Beds	Units	Total	Beds	Units			
1	22	71	0	1 Bed	0	6	1 Bed	0	65	1 Bed	0
2a/2b	43			2 Bed	0		2 Bed	0		2 Bed	15
2c	6			3 Bed	0		3 Bed	6		3 Bed	8
				4 Bed	0		4 Bed	0		4 Bed	34
				5 Bed	0	5 Bed	0	5 Bed	7		
				6 Bed	0	6 Bed	0	6 Bed	1		
3	48	169	36	1 Bed	4	6	1 Bed	0	127	1 Bed	0
4	26			2 Bed	23		2 Bed	6		2 Bed	60
5	27			3 Bed	7		3 Bed	0		3 Bed	46
6	68			4 Bed	2		4 Bed	0		4 Bed	17
				5 Bed	0		5 Bed	0		5 Bed	3
				6 Bed	0		6 Bed	0		6 Bed	1

Planning Considerations Summary

- Principle of Development and how it links to the Masterplan
- Reserved Matters – Appearance/Scale and Layout
- Amenity
- Impact on Heritage Assets
- Reserved Matters – Access

- Reserved Matters landscaping
- Ecology
- Other matters

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 Torridge Local Plan. The relevant Policies are detailed above.

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

Principle of Development and how it links to the Masterplan

This site is allocated for development under Policy BAR04 of the NDTLP.

- 1) Land at Mount Sandford Green, (about 9.5 hectares) as identified on Policies Map 1, is allocated for a sustainable, high quality, mixed use development that includes:
 - (a) approx. 175 dwellings, the size and tenure of which will be reflective of local needs;
 - (b) approx. 2.8 hectares of land for economic development at the northern part of the site; and
 - (c) provision within the site for physical infrastructure, community facilities, and green infrastructure required by the development.
- 2) The site will be developed to deliver the following site specific development principles:
 - (a) create a distinctive, safe, sustainable, high quality urban extension and new neighbourhood for Barnstaple;
 - (b) provide new business opportunities with good access to the A361;
 - (c) enhance and make connections to the existing network of local and strategic green infrastructure through and around the site, including provision of new or improved grade separated pedestrian and cycle links across the A361;
 - (d) provide a mix of house types, tenures and sizes of open market and affordable homes contributing towards the identified local needs;
 - (e) provide a sustainable water strategy that reduces water usage, manages surface water runoff through water storage and sustainable drainage systems to reduce the risk of flooding along the Coney Gut and elsewhere in Barnstaple; and
 - (f) safeguard the historic setting of the listed buildings at Whiddon.
- 3) The transport and connectivity strategy for the site will:
 - (a) provide a new junction on the A361 to deliver the primary vehicular access to the development with a secondary vehicular access to the development from Landkey Road; and

- (b) facilitate connections for pedestrians and cyclists between the proposed development and Fairacre Avenue to improve opportunities for sustainable travel choices within and around Barnstaple to reduce reliance on the private motor car.

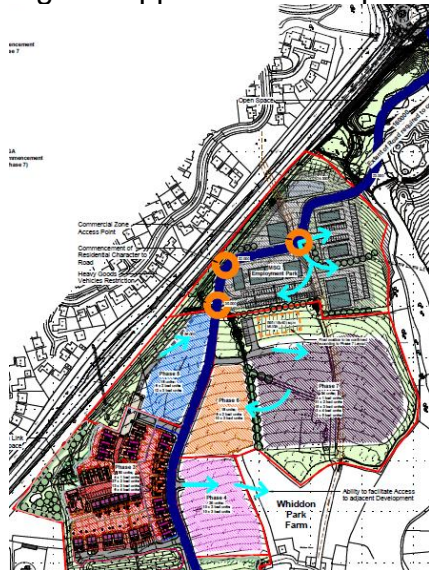
The principle of development is now well established both by adopted policy and by the outline permission. The Committee will be aware that the housing figures in the Local Plan are not maximums. The outline allows up to 250 units to be delivered.

As the scheme has been evolving the Masterplan (208A and 33F) has been updated showing how each housing phase plus the employment land will be delivered. The Masterplan also shows the highway connections, public open space strategy and affordable housing delivery.

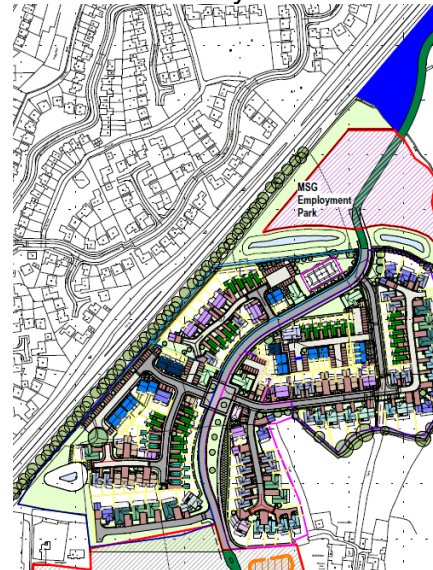
The Masterplan revisions were fully part of application 65414 and have been the subject of full public consultation.

The main principles of the Masterplan were to deliver a phased housing development with points of access from a central spine road. The Masterplan indicated that hedges would be retained as provided for in the ecological reports and showed how the required quantum of informal and formal open space as set out in the outline approval could be provided. The Masterplan is a high level strategy. Issues such as road alignment are determined at the reserved matters stage.

Figure: Approved Masterplan: 208A



Revised Delivery Plan 33F



As can be seen above the alignment of the spine road has been refined to run more centrally through the site avoiding the sharper turns shown in 208A. The developable areas are very similar. The main change is a realignment of some of the informal space from above the fields next to Amber House and the Barn to more publicly accessible areas along the main access road and between the housing site and the employment area (the open space section of this report considers overall quantum). There has been some concern expressed that the approved masterplan and landscape strategy is not being adhered with. Landscaping will be discussed below.

The plan shows six, rather than seven phases of development. Of these two have been delivered.

Reserved Matters – Appearance, Scale and Layout

The application is supported by a Design and Access Statement and addendum which deals with Crime and Disorder and Sustainability and a Building for a Healthy Life Assessment.

Layout

The design and layout of the development should be considered against Policies ST02, ST04, ST05(1), DM01, DM04 of the local plan and the National Design Guide.

Some of the key design decisions have been how best to align development with the network of hedges that cross the site and how to use create character areas and focal points. The Building for a Healthy Life Assessment considers this in detail.

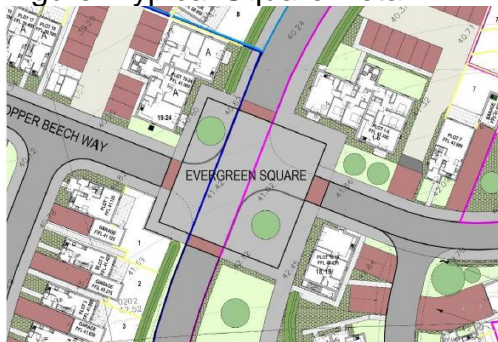
The proposal is being delivered as Phases 2C (6 dwellings), Phase 3 (48 dwellings), Phase 4 (26 dwellings), Phase 5 (27 dwellings) and Phase 6 (68 dwellings).

In respect of the layout the question to be answered is whether it provides an acceptable standard of housing in respect of the development management criteria of the NDTLP. As land remains a valuable resource, its effective and efficient use will ensure that an adequate number of properties are delivered without the need for additional sites and further green field land to be released.

The current site entrance runs parallel to the lane that used to serve Whiddon Park but which is now part of the pedestrian network. This hedge provides a strong green feel to the site and this has now been replicated with a spine road design enclosed by areas of green infrastructure, hedges and terminating in open space containing the MUGA. The Design and Access Statement describes this as a 'Landscape Boulevard featuring street trees'.

This has meant that development areas are primarily served by side roads with features buildings placed at junctions to create visual interest along the access road. By removing a multiplicity of access points from the main spine road will also lessen on road parking as residents who wish to park outside their homes will do so on the side roads instead. The spine road is further calmed by the formation of a 'square' which will assist with pedestrian movement as well as slow down traffic speeds.

Figure: Typical Square Detail



The layout ensures that each property has a privately enclosed rear garden area which will allow for on plot bin storage.

The layout results in character areas and focal points to help create distinctiveness as set out within the National Design Guide.

Scale

New development must be of high quality and integrate effectively with its surroundings to positively reinforce local distinctiveness and produce attractive places to live and to accord with the design principles of policies ST04 and DM04 and with part 12 of the NPPF.

The proposals are similar in scale to that of Phase 1 and 2. The dwellings are a mixture of single and two storey building. Four feature 3 storey blocks are located at key vistas around the public squares.

Figures: Location and Design of Feature Buildings



In terms of scale the reserved matters show an appropriate form of development using a primarily two storey house design with some single and three storey blocks used at strategic points to create visual interest.

Appearance

Figure Plots 1-17 Greenoak Crescent



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The house types are similar to the earlier phases. A greater variation is being introduced in respect of the use materials but still using a similar palette and design language within house types:

- Walls
 - Cedral Weatherboard Fibre Cement Panel (Grey Green C06 / Slate Grey C18 / Blue Grey C10/ Dark Grey C15 / Violet Blue C62)
 - Thin Coat Render System - Dove White
 - Facing Brickwork (Ibstock Staffordshire Blue / Ibstock Bradgate Medium Grey)
- Windows - uPVC - Anthracite Grey (RAL 7016) or White (RAL 9016)
- Front/Rear Doors - uPVC - Composite Anthracite Grey or Composite White White (RAL 9016)
- Roof Natural Slate or Marley Edgemere - Anthracite

Plots specific designs are being used to emphasis key corners to allow greater and physical visual articulation and oversight of the public realm.

Figure: The Kelly House Type



The street scenes are being created with variety in terms of roof construction and the use of gables or hips

Figure: Plots 20-24 Phase 3 Sycamore Green



The house types also include gable ends and a variety of porch types.

Figure: Plots 11-16 Phase 3 Sycamore Way



Cladding colour have also been varied, again to ensure that the street scene has visual interest.

Figure Plots 5 to 10 Phase 6 Rowangreen Place



Site levels have been considered to ensure that the sloping nature of the site is addressed, which combined with the use of different building typologies ensures there is variety in the roofscape within the proposed side roads.

Figure: Plots 1 to 5 in Phase 4 Evergreen Way



Garages are either attached or set back from properties. This also provides greater scope for on plot parking.

The Sustainability Statement states that each dwelling will be 30% more energy efficient than current Building Regs providing lower energy running costs. The 30% improvement is based on air tight, highly insulated timber frame house design and a 4KW PV panel system. All dwellings have Electric Vehicle charging points and potential for battery storage. Solar panels are shown on the appropriate facing roof scape.

Amenity

Policy DM01 of the NDTLP requires that development should secure or maintain amenity appropriate to the locality with special regard to the likely impact on neighbours, future occupiers, visitors on the site and any local services. The relationship to existing properties is one consideration.

Figure Plot B at Northgate shown next to Plot 6 Orchard Green (not to scale)



To the rear of 1 and 2 Northgate planning permission has been granted for in outline two dwellings (64260). Plot 6 of Orchard Green would be to the north east. The garages have been placed on the Northgate side of the proposed unit which further enlarges the wall to wall separation distance. With the intervening vegetation would not result in an unacceptable relationship.

Figure Extract of Site Plan next to Amber House at Whiddon



To the southeast are the properties at Whiddon Park. Planning permission has been granted for a dwelling in the curtilage of The Barn now constructed as Amber House. This would be the nearest property to the development but is one which has been designed to orientate to the west so amenity issues are not envisaged. Again there is an intervening hedge.

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 existing neighbour, given the 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 through appropriate design DM04 of the NDTLP.

Noise

Policies DM02 considers atmospheric pollution and noise and DM03 considers Construction and Environmental management of development.

The conditions attached to the outline permission control construction management (41) and the timing of construction activities (44) so do not need to be repeated. The CMP will deal with fugitive dust and air bourn pollution.

Environmental Health have requested a Noise Report given that these phases of development will run parallel to the A361. The report concludes:

BS8233:2014 indicates that, with closed, good quality double glazed windows, fitted with acoustic trickle ventilators then the highest standard of 'good' can be met in night-time sleeping situations and the highest standard of 'good' is met is for daytime resting and living.

BS8233:2014 indicates that, with partially open windows for normal ventilation then the highest standard of 'good' can be met for daytime living conditions and a 'reasonable' standard is met for daytime resting and night-time sleeping.

No exceedance of the BS8233:2014 'good' or 'reasonable' threshold for daytime or night-time living, resting, or sleeping condition is occurring in either the windows open or windows closed conditions and no significant further acoustic mitigation strategy is required other than those outlined in Section 9 of this report. (*This*

refers to the use of acoustic trickle ventilation on facades facing the A361 and the use of a 1.8m close boarded timber fence to garden spaces on the perimeter with the A361)

No significant sleep disturbance is expected by individual noise events, such as passing HGV traffic, in bedrooms at night. Individual events are below the internal threshold at which sleep disturbance becomes likely according to the threshold criteria of BS8233 and ProPG. This suggests that any noise with the potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening, and difficulty getting back to sleep is avoided and is therefore considered to be below the threshold of 'Significant Observed Adverse Effect'.

The noise levels in external spaces will meet a 'reasonable' BS8233:2014 criteria in the gardens of Applegreen Lane which are partially screened by boundary fencing and a higher standard of 'good' for the external amenity spaces of Cooper Beech Way where building screening provides additional benefit.

It is considered that with good Acoustic Design that compliance with BS8233:2014 and the vision of NPSE can be met and 'no significant adverse impacts on health and quality of life' are expected for the future occupants. The approaches also support the National Planning Policy Framework (NPPF) by ensuring that noise impact is mitigated so that it will not give rise to 'significant adverse impacts on health and quality of life'.

All conditions achieve BS8233:2014 'good' or 'reasonable' thresholds for both internal assessment and external amenity spaces.

Environmental Health have concluded that the report and recommendations are acceptable subject to conditions.

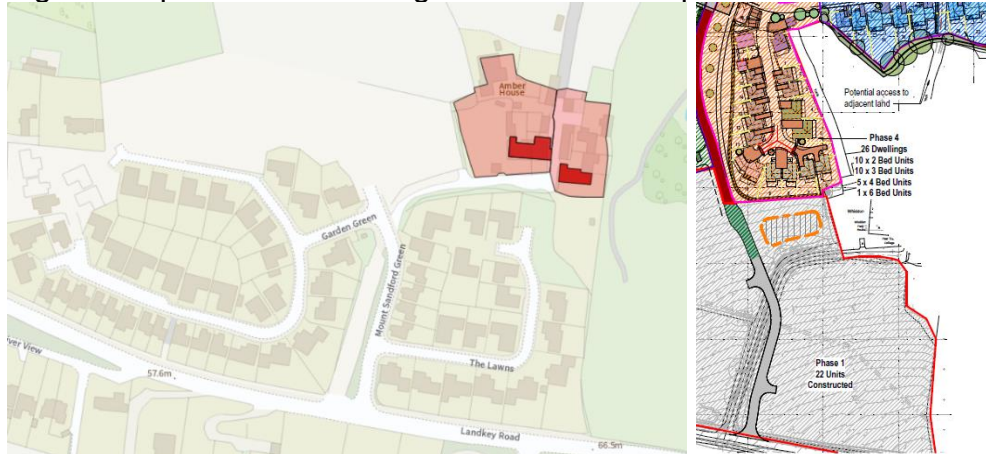
Setting of Historic Assets

In considering whether to grant planning permission which affects the setting of a listed building the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

Policies ST15 and DM07 of the NDTLP require development to 'preserve and enhance' heritage assets and great weight should be afforded to such protections. The Conservation Officer recognises that the development will urbanise the setting of the listed buildings, but this is an issue that cannot now be addressed as outline permission has been given. The closest designated heritage assets are Whiddon Park House and East Whiddon (shown in red on the map extract below).

To the west of Whiddon Park is the area of open space and the LEAP (marked in a dotted line on the second plan extract below). Similarly on Phase one an open area lies to the south of East Whiddon. This helps retain some openness to approaching views and sets new development away from the boundaries with these listed buildings.

Figure: Map of Listed Buildings and extract site plan



The houses nearest the listed buildings on Evergreen Way are of two storey designs, repeated along the street. The roofscape has been amended to natural slate. The rear elevations are rendered.

Figure Plots 6 to 100 Evergreen Way



Given that permission has been given to erect a certain quantum of development on these fields, the original setting cannot be preserved. The design revisions in part address the comments of the Conservation Officer. It is considered that the benefits of housing delivery outweigh the harm which falls within the less than substantial bracket.

A limited programme of archaeological work has already been undertaken across the top of the site and has demonstrated that there is an area of archaeological potential with regard to possible prehistoric settlement within the northern part of the area subject to this reserved matters application. As such, further archaeological mitigation is required. A separate discharge of condition application has been requested.

Reserved Matters – Access

Policies ST10, DM05 and DM06 of the NDTLP require development to safe and suitable access for all road uses, 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.

In that the outline approves permission for 250 units, the traffic generated by 240 units falls within this previous decision. At the outline stage the impact on the highway network was not severe which is the test in the NPPF.

The reserved matters are supported by detailed highway plans (s38) including levels and cross sections. The position and design of this access has previously been agreed with the Highway Authority and has been constructed on site.

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In respect of connection to the roundabout it was been agreed that 135 units could be accessed of the southern access (Phases 1-4) i.e. from Landkey Road. This reserved matters application is showing that Phases 1-4 result in the construction of 145 units.

Delivery of the permeable access route from south to north will commence at the beginning of Phase 5 and would need to be delivered before any unit post Phase 4 is occupied. This will address Landkey Parish Council's concern about the impact on the existing Landkey junction with the A361.

Whilst the employment area does not have reserved matters approval, no part of the employment land will be occupied until a Heavy Goods Restriction is in place limiting southern movements to Landkey Road.

DCC Highways views are still awaited in respect of this application along with their recommended conditions. Previously they have indicated that a capacity study of the Newport Crossroads is required to demonstrate that permeability from the roundabout to the Newport Road will not result in a severe highway impact. The LPA can still require such a study as part of the employment land reserved matters. At this stage the residential scheme is being served from the Newport/Landkey road until the connecting road to the roundabout is provided. It is agreed that employment traffic should be directed to the roundabout via a weight restriction but a choice of routes to the residential area would spread traffic movements across the network.

Parking

Paragraph 105 of the NPPF recognises that parking standards for residential and non-residential development should take account of a number of factors including 'the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles', this is again re-iterated at paragraph 110(e). Policy DM06(1) clearly sets out that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs

It is proposed to provide each dwelling with 2 car parking spaces primarily on plot or in small car parking courts. The Building for a Healthy Life sets out the targets for electric charging points (this is mandatory in Building regs now) and on site battery storage using renewable energy.

Cycle Parking

Cycle parking will generally be provided within the curtilage of the dwellings or garages. For dwellings without a garage, secure cycle parking will be available within proximity to the properties, or designated cycle storage will be provided in communal stores.

The Town Council have raised a concern that the application does not 'give adequate consideration to active travel'. The outline planning permission secures a 3m footpath/cycle route across the site frontage and payment to improvements to existing infrastructure.

The proposed development accords with national and local transport policies TRA5 and TRA6. The layout can be provided with suitable access and without detriment to the safe operation of the local transport network.

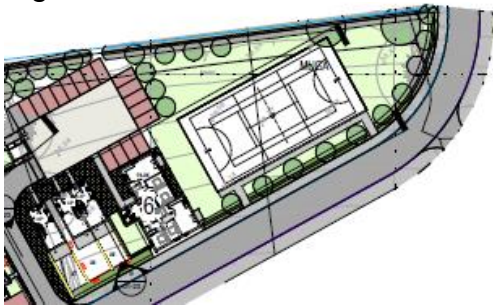
Reserved Matters landscaping and open space

The local plan identifies green infrastructure requirements through policy DM10, stating development will provide new accessible green infrastructure, including public open space and built facilities. This RM application stems from outline planning permission which was agreed primarily under the terms of the former North Devon Local Plan.

Open Space and Play Facilities

The S106 agreement secured a LEAP, LAP and a MUGA, with location to be agreed at the RM stage. The LEAP is to be delivered as part of the Phase 2 works and sits within the green corridor that runs east west across the site dividing Phase 1 and 2 from this reserved matters application. This reserved matters application provides the MUGA and a continuation of on-site informal open space.

Figure: Plan of MUGA



The layout provides informal open space supported by additional planting around the site edges and along the main spine road terminating in the proposed MUGA. These green areas along the road allow for the provision of new hedgerows and street trees clear of the highway which was a request of the Barnstaple Town Council and Devon Wildlife Trust.

Revised plans of the MUGA have been received which provide an appropriate surface finish and means of enclosure as required by the Parks and Designing Out Crime Officers.

As part of the outline, the off-site contribution was defined as at least £297,000 to be recalculated (audited) at the RM stage. Parks have provided a revised calculation, which generates a total requirement of 19,115.36 sqm so they are delivering adequate on site provision as detailed in the schedule below.

Open Space Specifications		
FUNCTION	AMOUNT (approx)	
LAP	15635 sq.m	19258 sq.m
LAP (*)	3623 sq.m	
LEAP	600 sq.m	
MUGA	600 sq.m	
Total	20458 sq.m	

The contribution towards off site sports and recreation remains unaltered.

Green infrastructure & 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).

The AIA and TPP have been submitted to support the landscaping plans. The comments of the Arboriculturalist are awaited but will be reported to Planning Committee.

Condition 17 of the outline requires:

The recommendations set out in the ecological report submitted as part of the application shall be implemented in accordance with a Biodiversity Management Plan (BMP) which shall be submitted as part of the reserved matters application. The BMP shall include:

- (a) Description and evaluation of features to be managed.
- (b) The details of habitat creation and enhancement.
- (c) The details of mitigation for protected species (such as bat tiles, wooden soffits and access points and suitable non-tyvac clad, pitched loft spaces and the installation of bird nest boxes).
- (d) A lighting plan and hedgerow buffers plan.
- (e) Aims and objectives of future management and the on-going monitoring and remedial measures to ensure the effectiveness of the BMP.

The BMP shall include trigger points for implementation and shall be carried out as agreed and thereafter the identified areas shall be managed in accordance with condition (18) below.

Reason:

To sustain and conserve the character, distinctiveness or quality of the biodiversity of the site. To allow the continued ecological functionality of this habitat and avoid adverse impacts on bats.

A BMP has been prepared for this application. This BMP takes into account the Ecological Appraisal (Green Ecology, 2012a) and Bat Activity Survey Report (Green Ecology, 2012b) submitted as part of the outline planning application. An updated walkover survey of habitats within the Site boundary was undertaken in accordance with Joint Nature Conservation Committee's Phase 1 Habitat Survey methodology (JNCC, 2010), extended to assess the potential for protected and notable species, in February 2022.

The update walkover survey confirms there are no significant changes to habitats supported by the Site and their potential to support protected and notable species remains the same. Therefore, and in accordance with the outline consent, the recommendations for mitigation avoidance and enhancement measures remain applicable for Phase 2C, 3, 4, 5 and 6 of this development

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A landscape strategy has been developed from the findings of a landscape assessment and ecological appraisals with the aim of integrating the development within its landscape setting and to mitigate for impacts. The development will include habitat creation that compensates for loss of habitat of ecological value such as hedgerows, as well as enhancing the Site for people, flora and fauna, with the aim of achieving a net gain for biodiversity. The design includes the retention of the woodland and stream biodiversity corridor and provides a coherent ecological network between the development and wider area.

The revisions requested by the Sustainability Officer have been secured and his further consultation response and any conditions will be reported to Planning Committee.

A summary of loss and gains is provided in Table 5 below.

Habitat	Loss	Gain	Description/ Location
Hedgerows	889m	939m	<ul style="list-style-type: none"> 👉 435m of hedgerow will be retained; 👉 889m of hedgerow will be lost including hedgerow that have already been removed as part of previous phases; 👉 Net gain of 50 linear metres of native species-rich Devon hedgebank forming green corridors between the development area and Public Open Space (POS); 👉 Other retained hedgerows will be enhanced by planting native species such as oak, hazel, field maple, dog rose and elder in any gaps and with a sensitive management regime.
Grassland	6.4ha of improved grassland	0.6ha species-rich grassland within POS 0.05ha of wildflower planting Amenity grassland within gardens	<ul style="list-style-type: none"> 👉 Loss of 6.4ha sheep grazed improved grassland of low ecological value; 👉 0.6ha new grassland within POS to include meadow mixes such as Emorsgate EM1 or similar; 👉 0.05ha of wildflower planting within Phase 4 to be seeded with a wildflower mix such as Emorsgate EM1F or similar; 👉 Additionally front and back gardens will be seeded with an amenity grassland mix.
Woodland	0.06ha of young plantation woodland	None	<ul style="list-style-type: none"> 👉 Loss of 0.06ha of young plantation woodland of low ecological value; 👉 Woodland corridor east of the Site to be retained.
Scattered Trees	2no.	75no.	<ul style="list-style-type: none"> 👉 Five scattered trees to be retained; 👉 Most tree removal will be those associated with hedgerows; 👉 New tree planting will take place across the Site including native species.
Water bodies	None	79m ²	<p>The POS will include a pond which will be designed to be wildlife friendly. This includes:</p> <ul style="list-style-type: none"> 👉 Stepped sides and bases to basins rather than vertical; 👉 Seeding of wetland meadow mixes such as Emorsgate EM8 around the basin.

The BMP details the measure in respect of bird, bat and hedgehog mitigation.

Increased light levels along linear landscape features such as hedgerows may have an adverse impact on commuting and foraging bats using the Site. To avoid impacts, sensitive lighting will be implemented across the Site. Any proposed external lighting will be installed with the following principles:

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- The key bat corridor along the eastern boundary (woodland edge) will be kept dark (<0.5 lux) for commuting and foraging bats;
- Additionally, a wildlife corridor will be kept dark (<0.5 lux) along the western boundary (new Devon hedgebank), linking wildlife corridors from previous phases;
- Lighting will only be used where it is required and lighting intensity and column height will be the minimum necessary for purpose;
- Lighting will be directional, shaded downwards and designed to avoid overspill into dark corridors or other semi-natural vegetation using luminaires with a tight optical control and cut-off (flat glass), using narrow spectrum light sources that emit minimal UV, blue or white wavelengths instead of mercury or metal halide lamps;
- All exterior lighting on the buildings must be kept to a minimum, use low wattage bulbs, shaded downwards and must not be directed towards the hedgerows or bat boxes.
- A lighting plan adopting these measures will be implemented to ensure sensitive lighting and suitable dark hedgerow/ woodland edge buffers are provided to allow for the continued functionality of these habitats for commuting and foraging bats during the operational phases of the development.

In terms of the location of the site, it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area 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 in order to mitigate the impacts of development. The applicant has agreed to submit a payment via Section 111. This amounts to £23,750 for the residual of the unconsented development

Other Matters

Flood Risk and Drainage

The outline conditions control drainage and a discharge of condition application will be required to agree the matters conditioned.

Contamination

Condition 28 of the outline approval deals with 'Unexpected Contamination' and hence does not need to be repeated on the reserved matters. A discharge of condition application will be needed to discharge general contamination assessment. No remediation was found necessary at the Phase1/2 stage of development.

Conclusion

Policy ST01 indicates that 'Councils will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The Plan identifies the site as an allocated site for growth which has already achieved outline approval. The principle is already agreed.

The starting point for consideration of this site is whether the **reserved matters** are acceptable.

Environmentally the development will be read within the landscape terms as an extension to the built form of the edges of Barnstaple. There will be a loss of some existing hedgerows that subdivide the site as the land package contains a multiplicity of smaller fields. The ecological value of each has been assessed. The landscaping plan provides a net gain in hedgerows and retains strong north south and east to west green corridors to support biodiversity and ecology as well as creating opportunities for informal recreation.

The visual impact will be most noticeable from adjoining properties and the roads that pass the site and from across the valley at Forches. Mitigation in the form of retaining some hedges and a comprehensive landscaping would partly reduce these impacts over time and beyond a local context, but not negate them completely. The improved variety in roof scape materials will also provide a better visual feel to the development.

Residents who adjoin the site are not considered adversely affected due to the separation distances to warrant a recommendation of refusal.

The economic benefits of the proposal include the creation of jobs in the construction process, the addition of spending power to the local economy and the new homes bonus.

Social benefits would include meeting general housing needs but would not meet the requested affordable housing level (see application 74592). The delivery of housing in itself must be given significant weight. Housing development on this allocated site would help contribute towards the Council's 5 year housing land supply.

The application is considered to accord with the outline approval and the adopted development plan. Approval of the application is therefore recommended subject to the completion of a s111 re the SAC payment.

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

APPROVAL

Legal Agreement Required: Yes - S111

With the following conditions with delegated authority to add any conditions recommended by the consultees whose responses are awaited and to amend the plans list as appropriate.

Conditions

1. The development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (i) 3 years from the date of the outline permission (60487): or
 - (ii) 1 year from the approval of the final reserved matters for the residential scheme

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 and to ensure housing delivery in light of the viability issues affecting the site

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details (unless varied during the S38/S278 process or in response to the discharge of the following conditions or to address other issues that arise during the course of construction):

L285 21 01 01 Site Location received on the 12/11/21

L285 21 01 10L Site Plan received on the 14/02/22

L285 21 01 19 B Street Elevations Evergreen Way received on the 14/02/22

L285 21 01 20D Street Elevations Phase 2c And 3 A1 received on the 14/02/22

L285 21 01 21C Street Elevations Copper Beech Way received on the 14/02/22

L285 21 01 22A Street Elevations Evergreen Square received on the 14/02/22

L285 21 01 23C Street Elevations Applegreen Lane received on the 14/02/22

L285 21 01 24 C Street Elevations Greenoak Crescent received on the 14/02/22

L285 21 01 25C Street Elevations Rowangreen Place received on the 14/02/22

L285 21 01 26B Street Elevations Greenbeech View received on the 14/02/22

L285 21 01 27F House Type Site Plan received on the 14/02/22

L285 21 01 28E Landscape Strategy Phase 2c And 3 received on the 14/02/22

L285 21 01 29C Landscape Strategy Phase 4 received on the 14/02/22

L285 21 01 30D Landscape Strategy Phase 5 received on the 14/02/22

L285 21 01 31C Landscape Strategy Phase 6 received on the 14/02/22

L285 21 01 32D Landscape Strategy Phase 6 G.b.v received on the 14/02/22

L285 21 101 Bike And Bin Store Plans And Elevations received on the 12/11/21

L285 21 201 Single Garage Plans And Elevations received on the 12/11/21

L285 21 202 Single Garage Plans And Elevations received on the 12/11/21

L285 21 203 Double Garage Plans And Elevations A3 received on the 12/11/21

L285 21 204 Double Garage Plans and Elevations received on the 12/11/21

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L285 21 205 Single Garage 2 Units Plans And Elevations received on the 12/11/21
L285 21 206 Single Garage Rear Door Plans And Elevations received on the 12/11/21
L285 21 301 The Honeydew Plans And Elevations received on the 12/11/21
L285 21 401 The Amethyst Plans And Elevations received on the 12/11/21
L285 21 501 The Brunswick Plans And Elevations received on the 12/11/21
L285 21 601 The Myrtle Plans and Elevations received on the 12/11/21
L285 21 701 The Mallard Plans And Elevations received on the 12/11/21
L285 21 801 The Castleton Plans And Elevations received on the 12/11/21
L285 21 901 The Palmer Plans And Elevations received on the 12/11/21
L285 21 1001 The Dartmouth Plans And Elevations received on the 12/11/21
L285 21 1101A The Kelly Plans And Elevations received on the 14/02/22
L285 21 1202 The Holly Garden Room Plans And Elevations received on the 12/11/21
L285 21 1201 The Holly Detached Garage Plans And Elevations received on the 12/11/21
L285 21 1501 The Sage Plans And Elevations received on the 12/11/21
L285 21 1301 The Emerald And Jade Plans And Elevations received on the 12/11/21
L285 21 1401 The Viridian And Evergreen Plans And Elevations received on the 12/11/21
L285 21 1402 The Viridian And Evergreen 19 24 Plans And Elevations received on the 12/11/21
L285 21 1601 A The Forest Plans And Elevations received on the 14/02/22
L285 21 1602 A The Forest 2 Units Plans And Elevations A1 received on the 14/02/22
L285 21 1603A The Forest - Plot 1 received on the 14/02/22
L285 21 1604A The Forest - Plots 11-12 received on the 14/02/22
L285 21 1801 The Greengage Plans and Elevations received on the 12/11/21
L285 21 1701 The Harlequin 2 Units Plans And Elevations A1 received on the 12/11/21
L285 21 1901 The Mint 1 Unit Plans And Elevations received on the 12/11/21
L285 21 1902 The Mint 2 Units Plans And Elevations received on the 12/11/21
L285 21 1903 The Mint 3 Units Plans and Elevations received on the 12/11/21
L285 21 2001 The Olive 1 Unit Plans And Elevations A1 received on the 12/11/21
L285 21 2002 The Olive 2 Units Plans And Elevations received on the 12/11/21
L285 21 2003 The Olive 3 Units Plans And Elevations received on the 12/11/21
L285 21 2101 MUGA _ Plans and Elevations received on the 14/02/22
003 1025P3 External Levels Plan - Sheet 1 received on the 14/02/22
003 1026P3 External Levels Plan - Sheet 2 received on the 14/02/22
003 1101P2 Highway Layout Plan - Sheet 1 received on the 14/02/22
003 1102P2 Highway Layout Plan - Sheet 2 received on the 14/02/22
003 1131P2 Section 38 Layout Plan - Sheet 1 received on the 14/02/22
003 1132P2 Section 38 Layout Plan - Sheet 2 received on the 14/02/22
003 1201 P1 Highway Long Sections - Sheet received on the 14/02/22
003 1202P1 Highway Long Sections - Sheet 2 received on the 14/02/22
003 1203P1 Highway Long Sections - Sheet 3 received on the 14/02/22
003 1204P1 Highway Long Sections - Sheet 4 received on the 14/02/22

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L285 - Phase 2C Accommodation And Materials Schedule Ph2c received on the 12/11/21

L285 - Phase 3 Accommodation And Materials Schedule Ph3 received on the 12/11/21

L285 - Phase 4 Accommodation And Materials Schedule Ph4 received on the 12/11/21

L285 - Phase 5 Accommodation And Materials Schedule Ph5 received on the 12/11/21

L285 - Phase 6 Accommodation And Materials Schedule Ph6 received on the 12/11/21

L285 Schedule Of Materials received on the 12/11/21

L285 Accommodation OM & Aff received on the 12/11/21

L285 OM & Aff received on the 12/11/21

And the Biodiversity Management Plan February 2022 Ref 0057-BMP-SL
Building for Life Assessment
Design and Access Statement and addendums
(‘the approved documents and plans’).

Reason

The plans and details provide an acceptable form of development which address conditions raised by outline planning permission 60487 and deviation from these could impact on highway and community safety, heritage assets, the street scene and amenity.

3. The development shall be carried out in accordance with Infrastructure Delivery Plan drawing number L285 21 01 33 F unless otherwise agreed in writing by the Local Planning Authority:
 - (a) This shall provide for the connection of the internal estate road to the Portmore Roundabout before the occupation of any dwelling after number 145 within Phases 5 and 6 of the housing scheme and any part of the employment scheme
 - (b) The delivery of the affordable housing provision in line with the house size and tenure breakdown
 - (c) The delivery of the identified quantum of open space

Reason

To ensure that the strategic access arrangements are completed within a reasonable time in order to limit the impact on the Landkey Road, to ensure that the site is provided with adequate open space to meet the needs of resident and that affordable housing addresses identified housing needs.

4. Within twelve months of the first occupation of the first dwelling in any phase of the development all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junctions, access, retaining wall and visibility splay works shall be wholly completed in accordance with the agreed plans and details.

Reason

To ensure that the access arrangements are completed within a reasonable time.

5. The reserved matters shall be undertaken in accordance with the recommendations contained in the Biodiversity Management Plan February 2022 Ref 0057-BMP-SL

Reason

To maintain the ecological site interest and to safeguard and enhance local biodiversity in both the short and longer term.

6. Noise mitigation measures described within section 9 of the Soundguard Acoustics BS8233:2914 Environmental Noise Impact Assessment dated 3 February 2022 shall be implemented in full and the agreed noise mitigation measures incorporated within the development to the written satisfaction of the local planning authority.

Reason

To protect the amenity of residents from the potential effects of noise.

Informatives

1. The development is controlled by the following conditions attached to outline planning permission 60487:

Condition 14 Implementation and Maintenance of Approved Landscape Proposals

Condition 15 Provision and implementation of an Arboricultural Method Statement [AMS] and Tree Protection Plan [TPP]

Condition 17 Biodiversity

Condition 26 Infrastructure

Condition 28 Unexpected Contamination

Conditions 31/32/33/34 Highway Works

Condition 36 Foul Drainage

Condition 40 SUDs

Condition 44 Construction Times

2. The above consent and the outline application requires the submission of further details to be approved either before works commence or at identified phases of construction in respect of a lighting strategy , utilities and waste management (4), archaeology (12), ground contamination (27), drainage (35 &36), programme of works (30) and a Construction Management Plan (41).

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.gov.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

3 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 addressing the comprehensive delivery of infrastructure, ecology, drainage and design issues.



 Lynton House, Commercial Road, Barnstaple, EX31 1EA	74379 - Mount Sandford Green, Barnstaple EX32 9LB	Copy Supplied to Accompany Planning Committee Report Scale: 1:2500 Date: March 2022
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Application Report

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



Application No: 74592
Application Type: S106 Discharge or Modification
Application Expiry: 11 March 2022
Ext Of Time Expiry: 11 March 2022
Publicity Expiry: 7 February 2022
Parish/Ward: LANDKEY BARNSTAPLE/NEWPORT LANDKEY
Location: Land to the West of Portmore Golf Course (known as Mount Sandford Green)
Barnstaple
Devon
Proposal: Notice of an application to modify a planning obligation under Regulation 3 of the T & C P (modification of planning obligations) Regulations 1992 in respect of applications 54923, 59666 and 60487 Mixed use development comprising 250 dwellings together with 2.8 HA Innovation Park
Agent: Woodward Smith Chartered Architects
Applicant:
Planning Case Officer: Ms J. Watkins
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations
Decision: Variation to a previous committee decision
Level/Reason for Report to Committee:

Site Description

The site is bounded on two sides by roads with the A361 to the northwest and Landkey Road to the south.

To the east is the Portmore Golf Course and the group of properties at Whiddon Park (Whiddon Park House, The Barn, Pear Tree Cottage, The Mews, Forest House, Amber House and The Court). To the south west on the northern side of Landkey Road are a group of five properties (Merrymeet, Trewiddon, Falconia, 1&2 Northgate). To the south and on the opposite side of the road is a well-established ribbon of development which primarily sits at a higher level to the road.

The site falls north from the Landkey Road which runs along its southern boundary and from east to west towards the watercourse in the North West corner. The site comprises Grade 2 and 3a agricultural land which is amongst the best and most versatile agricultural land within North Devon.

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Two phases of development have been undertaken and are now called Garden Green and The Lawns. These new properties run adjacent to the Newport/Landkey Road.

Recommendation

APPROVAL

Legal Agreement Required: Yes - Deed of Variation

Planning History

Reference Number	Proposal	Decision	Decision Date
54923	Outline application for mixed use development comprising of 250 passivhaus dwellings together with 2.8 ha innovation park (further amended plans & information) at land west of Portmore Golf Course, (Known As Mount Sandford Green), Barnstaple	Outline +S106 Approval	18 August 2014
59566	Variation of condition 3 (approved plans) to exclude land to the rear of 1 & 2 Northgate from within the red outline attached to outline planning permission 54923 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park at Landkey Road, Barnstaple	Approve With Deed Of Variation	30 November 2015
60487	Variation of condition 6 (design & development standards) attached to outline planning permission 59566 (mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park) to allow amended supporting statement incorporating design & access statement at Mount Sandford Green, Barnstaple	Outline +S106 Approval	21 June 2016
60488	Reserved matters application for erection of 22 dwellings (phase 1 - the lawns) (outline planning permission 60487 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park)(amended plans and description) at Mount Sandford Green, Barnstaple	Reserved Matters Approval	24 June 2016
63188	Approval of details in respect of discharge of condition 3 (footway/cycleway) attached to planning permission 60488 at Mount Sandford Green, Parcel D1 Msg, Landkey Road, , Barnstaple	Discharge Of Condition Approve	4 August 2017

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Reference Number	Proposal	Decision	Decision Date
63179	Approval of details in respect of discharge of conditions 12 (archaeology), 27 (ground contamination) & 30 (works programme) attached to planning permission 60487 in respect of phase 1 (reserved matters permission 60488) at Mount Sandford Green, Landkey Road, Barnstaple	Discharge Of Condition Approve	20 September 2017
64260	Outline application for erection of two dwellings together with erection of single garage for existing dwelling (some matters reserved) at garden of 2 Northgate, Landkey Road, Barnstaple	OL Approval	14 March 2018
65414	Reserved matters application for erection of 93 dwellings (phase 2/3 - The Gardens, The Green, Mount Sandford Green & The Woods) and agreement of revised masterplan (condition 4), archaeology (condition 12) of outline planning permission 60487 (mixed use development comprising of 250 dwellings together with 2.8 ha innovation park) (amended plans - description & additional information) at Mount Sandford Green, Barnstaple	Full Planning Approval	21 December 2018
71973	Reserved matters application for the erection of 11 residential units (following outline approval 54923) to agree amended plans which vary design of approved plots (reserved matters approval 65414) at Sub Phase 2b, Mount Sandford Green, Barnstaple	Approved	30 September 2020

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area	Within constraint
Chivenor Safeguard Zone	Within constraint
Class III Road	
Critical Drainage Area	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Unclassified Road	

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Constraint / Local Plan Policy	Distance (Metres)
Within 100m of Adopted Local Green Space: BAR19(1) Portmore Golf Course	Within constraint
Within 50m of Adopted New or Upgraded Road: BAR04 Mount Sandford Green	Within constraint
Within Barnstaple North Development Boundary ST06	Within constraint
Within Adopted Employment Allocation: BAR04 Mount Sandford Green	Within constraint
Within Adopted Housing Allocation: BAR04 Mount Sandford Green	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within: SSSI 5KM Buffer in North Devon	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
BAR04 - Mount Sandford Green	
ST17 - A Balanced Local Housing Market	
ST18 - Affordable Housing on Development Sites	

Consultees

Name	Comment
Barnstaple Town Council Reply Received 4 February 2022	RECOMMEND: Refusal (NC) The reduction in affordable housing contradicts intentions within the original application and is also unacceptable against evidenced need in the area.
Councillor C Leaver	No response
Councillor D Luggar	No response
Councillor G Lane	No response
Councillor L York	No response
Housing Enabling Officer	Responded at pre-application stage. Formal comments awaited
Landkey Parish Council Reply Received 3 February 2022	Recommended REFUSAL. There is a need for affordable homes in the area and the proposal seeks to unreasonably and considerably reduce the required percentage of 30%.

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	1	0.00	0.00

- Loss of around 24 much needed affordable homes.
- Developers are being allowed to shirk their responsibility
- The profit from this development will be in excess of Eight Million Pounds.
- Fails to meet a local need.
- The housing crisis has resulted in thousands of families either struggling to or utterly unable to continue living in our community.
- Key worker recruitment problems
- Breakdown of family cohesion and support networks
- Loss of community spirit
- Mental health problems
- Indirect discrimination against lower income social groups
- Loss of educational attainment for children and young people -60% of relocated students over the age of 12 suffer from serious mental health challenges when trying to settle into a new school.

Considerations

Proposal Description

This application seeks to vary by agreement the proportion of affordable houses being delivered at Mount Sandford Green

The proposal is that of the 240 dwellings, 192 will be Open Market and 48 will be Affordable Homes (20%). This includes 36 Social Rent Properties (75% of all Affordable Homes).

Viability summary

- Gross Development Value 62,465,067
- Total Costs 54,456,879
- Development return 8,008,188
- Development return as % of GDV 12.82%

Government Guidance is:

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies.

A draft Deed of Variation has been submitted.

Planning Considerations Summary

- Whether the proposed level of affordable housing is acceptable

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 Torridge Local Plan. The relevant Policies are detailed above.

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

The Council aims to seek the delivery of housing to meet projected needs. This site reached an approval as a challenge to our five year housing land supply in 2014/5 (54923/59566).

It was since recognised as an allocation in the NDTLP as part of policy BAR04.

We have now gone full circle with the recent Burwood appeal decision. We recognise that we 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.

When application 54923/59566 was approved a s106 was signed which secured a quantum of social benefits. At the point when the agreement was signed the developer must have been confident that this was an acceptable and deliverable package. Whilst there has been a time lapse since this agreement, we have seen other unallocated green-field sites deliver the full requested s106 package as well as other allocations that are not delivering a policy compliant figure. As a Council we have to be convinced that our community is getting the best from this scheme.

There is no mechanism to review this agreement formally but the applicant can seek a Deed of Variation by agreement and hence this application.

Given the Council's position with regards to housing delivery we need to facilitate delivery.

The full Viability Appraisal has been reviewed by our appointed advisors Plymouth City Council (PCC).

PCC concluded that *'the evidence does support the case that 30% affordable housing is not viable and it would be unlikely for any developer to bring forward the remaining housing'*.

and

'we consider that the provision of 20% affordable housing across the seven phases and the provision of all previous infrastructure is a balanced position that is very likely to result in the future delivery of the remaining housing on the site with suitable returns

Agenda Item 7

against risk for the developer and the planning system securing benefit in the public interest

Should the Local Planning Authority be minded to reduce the s106 requirements placed on the scheme it would be appropriate for them to consider including an upward only review mechanism where a share in any profit above the expected value on future phases going towards additional affordable housing or infrastructure delivery. Review before the completion of phase 6 before the commencement of phase 7 could be a reasonable point in time, allowing any additional affordable housing units to be provided in phase 7.

Conclusion

In our opinion the provision of 20% Affordable Housing across phases 1-7 represents a reasonable position at this pre-application stage, but is the minimum that we would recommend the Local Planning Authority pursue. We also believe that the MUGA can be retained alongside providing 20% Affordable Housing. Careful consideration should be had to including an upward review mechanism in any negotiated s106. It is very likely, in our opinion, that the developer would continue delivery on the site with this level of affordable housing and infrastructure.

In order to provide some reassurance that delivery will occur across the full site a revised reversed matters application has been submitted for every phase and is accompanied by a delivery plan (74379).

In terms of delivery, the first phase did not deliver any affordable housing. 6 units have been delivered in Phase 2.

The remaining affordable units are now proposed to be delivered within the rest of the site.

Figures: Tables showing affordable housing delivery

Phase	Units	Total	Affordable						Open Market		
			Social Rent (75%)			Shared Equity (25%)			Total	Beds	Units
			Total	Beds	Units	Total	Beds	Units			
1	22			1 Bed	0		1 Bed	0		1 Bed	0
2a/2b	43			2 Bed	0		2 Bed	0		2 Bed	15
2c	6	71	0	3 Bed	0	6	3 Bed	6	65	3 Bed	8
				4 Bed	0		4 Bed	0		4 Bed	34
				5 Bed	0		5 Bed	0		5 Bed	7
				6 Bed	0		6 Bed	0		6 Bed	1
3	48			1 Bed	4		1 Bed	0		1 Bed	0
4	26			2 Bed	23		2 Bed	6		2 Bed	60
5	27	169	36	3 Bed	7	6	3 Bed	0	127	3 Bed	46
6	68			4 Bed	2		4 Bed	0		4 Bed	17
				5 Bed	0		5 Bed	0		5 Bed	3
				6 Bed	0		6 Bed	0		6 Bed	1

SHARED EQUITY (25%)							
Phase	Beds						Total
	1	2	3	4	5	6	
1	0	0	0	0	0	0	0
2a-2b	0	0	6	0	0	0	6
2c	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0
6	0	6	0	0	0	0	6
Total (2c/6)	0	6	0	0	0	0	6
TOTAL (1/6)	0	6	6	0	0	0	12

SOCIAL RENT (75%)							
Phase	Beds						Total
	1	2	3	4	5	6	
1	0	0	0	0	0	0	0
2a-2b	0	0	0	0	0	0	0
2c	0	0	0	0	0	0	0
3	0	17	5	2	0	0	24
4	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0
6	4	6	2	0	0	0	12
Total (2c/6)	4	23	7	2	0	0	36
TOTAL (1/6)	4	23	7	2	0	0	36

The guidance provided by Plymouth City Council does recognise that in order to ensure that the site continues to be built out that a lower level of affordable housing should be considered. The VA and the Plymouth City Council review has been considered by the Housing Enabling Team. In June 2021 they 'accept that only 20% instead of 30% on phases 1-7 is considered viable. I am also concerned about actual delivery of such units and hope they can put our minds at rest by starting to deliver now with phase 3 and Live West'. Live West are their favoured affordable housing delivery partner.

The applicant has provided the attached delivery statement

'The submission of these two planning applications sought to provide continuity on site and therefore the delivery of the remainder of the site is as follows:

- *Phase 2c Orchard Green 6 OM dwellings commence work April/May 2022 complete end 2022 early 2023.*
- *Phase 3 Sycamore Green and Copper Beech Way, which comprises of 24 affordable homes and 24 OM will commence Oct/Nov 2022 and complete Jan 2024.*
- *Phases 4-6 will follow on these dates as per the delivery infrastructure plan in application number 74379'.*

The time limit for implementing 74379 has also been foreshortened to encourage delivery. Half of the affordable homes will be delivered by January 2024. The applicant further states that he 'has been working closely with a RSL to make sure all the housing sizes and design are up to the latest standards, as soon as planning permission is granted then we have permission we move things forward with them.'

The applicant is required to agree the Affordable Housing Scheme with the Proper Officer (Housing Enabling) as part of the existing s106 commitment.

Housing Enabling have requested a review mechanism to allow for the values to be tested as set out in the Plymouth City Council Review. With regard to the review mechanism, it will be slightly more complicated than normal given the relationship to development that has already occurred and it will be important to agree on what certain assumptions will be fixed in the s106 for the review. We will ask Plymouth City Council to continue to assist us with this process. The review mechanism would be secured as part of the Deed of Variation

Conclusion

Whilst it continues to be disappointing that our allocated sites are not delivering policy compliant schemes, the reality of the last few years is that building costs and infrastructure costs and the impact of Covid is affecting delivery. In order to ensure that this site continues to deliver housing and the much needed affordable housing units, approval of the application is therefore recommended subject to the completion of a Deed of Variation with a review mechanism at the end of Phase 5 to see if affordable housing numbers can be increased as part of Phase 6.

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


APPROVAL

Legal Agreement Required: Yes – Deed of Variation

Inserts

- 1) Location Plan
- 2) Delivery Statement for Mount Sandford Green received 17 February 2022



 **74592 - Mount Sandford Green, Barnstaple EX32 9LB** Copy Supplied to
Accompany Planning
Committee Report

Lynton House, Commercial Road,
Barnstaple, EX31 1EA Scale: 1:2500
Date: March 2022

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Application Report

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



Application No: 74436
Application Type: Full application
Application Expiry: 20 January 2022
Ext Of Time Expiry:
Publicity Expiry: 28 January 2022
Parish/Ward: BURREINGTON/CHULMLEIGH
Location: Lower Twitchen
 Burrington
 Umberleigh
 Devon
 EX37 9JU
Proposal: Single storey ground floor side extension together with small side entrance porch to improve accessibility to the property
Agent: Robert Davies John West Ltd
Applicant: Mr and Mrs J Short
Planning Case Officer: Mrs D. Butler
Departure: N
EIA Development:
EIA Conclusion:
Decision The agent is an NDC Councillor
Level/Reason for Report to Committee:

Site Description

Lower Twitchen is a two storey dwelling located in an isolated rural location. The property is grade II listed dating from the 18th century but has been subject to some modern alterations. The property sits in a spacious plot with private amenity space, parking and turning. The property is set at a lower ground level in comparison to the upper garden and parking area with the garden sloping up from the rear of the dwelling.

Recommendation

APPROVAL

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
74469	Listed Building consent for single storey ground floor side extension together with small side entrance porch to improve		

Agenda Item 8

Reference Number	Proposal	Decision	Decision Date
	accessibility to the property at Lower Twitchen, Burrington		
16359	Proposed erection of conservatory at Lower Twitchen Farm, Burrington	Full Planning Approval	12 January 1993
16360	Listed Building Application proposed erection of conservatory at Lower Twitchen Farm, Burrington	Approval	12 January 1993
20715	Proposed extension to farmhouse at Lower Twitchen Farm, Burrington	Full Planning Approval	28 July 1995
20716	Listed Building Application proposed extension to farmhouse at Lower Twitchen Farm, Burrington	Approval	28 July 1995
21793	Proposed alterations and extension to dwelling (amended design to 20715 & 20716) at Lower Twitchen Farm, Burrington	Full Planning Approval	23 April 1996
21794	Listed Building Application proposed alterations and extension to dwelling (amended design to 20715 and 20716) at Lower Twitchen Farm, Burrington	Approval	23 April 1996
66591	Extensions & Alterations To Dwelling at Lower Twitchen, Burrington	Approved	21 August 2019
66592	Listed Building Application For Extensions & Alterations To Dwelling at Lower Twitchen, Burrington	Approved	21 August 2019

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Class III Road	
Landscape Character is: 3H Secluded Valleys	Within constraint
Listed Building Adjacent: 1307 EH Ref 1209936 Lower Twitchen, Twitchen Lane, Burrington	Within constraint
Listed Building Curtilage (Adjacent to)	Within constraint
Listed Building Curtilage (within)	Within constraint
Listed Building: 1307 EH Ref 1209936 Lower Twitchen, Twitchen Lane, Burrington	Within constraint
Public Right of Way: Footpath 212FP8	Within constraint

Agenda Item 8

Constraint / Local Plan Policy	Distance (Metres)
Unclassified Road	
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Listed Building Grade: II	
DM01 - Amenity Considerations	
DM02 - Environmental Protection	
DM04 - Design Principles	
DM05 - Highways	
DM07 - Historic Environment	
DM08 - Biodiversity and Geodiversity	
DM08A - Landscape and Seascape Character	
ST01 - Principles of Sustainable Development	
ST02 - Mitigating Climate Change	
ST15 - Conserving Heritage Assets	

Consultees

Name	Comment
Burrington Parish Council	This application was discussed at the Parish Council meeting, councillors recommend approval of this application.
Councillor K Davies	No comments as the Ward member is also the applicant/agent.
DCC - Public Rights Of Way	No comments received.
Heritage & Conservation Officer	I do not consider that this proposal will cause harm to the significance of the heritage asset.
Reply Received 21 December 2021	

Neighbours

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

Considerations

Proposal Description

This application seeks detailed planning permission for a single storey ground floor side extension together with small side entrance porch to improve accessibility to the property.

Planning Committee

The application has been submitted by Cllr Davies who is acting agent and as such it is considered that it should be determined by Planning Committee.

Planning Considerations Summary

- Principle of development
- Design
- Heritage
- Amenity
- Landscape Impact
- Ecology

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 Torridge Local Plan. The relevant Policies are detailed above.

Section 16 of the Listed Building Act, 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 setting or any features of special architectural or historic interest which it possesses.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

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

Principle of development

Policy DM25 supports residential extensions where the scale, form and design are in keeping with the main dwelling and there is no impact on amenity. The principle of the extension is therefore accepted.

Design

Both paragraphs 83 and 124 of the NPPF support good design and the integration of new development into the natural, built and historic environment. Policy DM04 of the NDTLP also requires good design.

Permission has previously been granted for extensions and alterations however these have not been implemented. The revised proposals under this application are modest and remove the first floor element.

Agenda Item 8

The proposed development is for a ground floor rear extension to the kitchen to create a utility room and relocate the WC. There will also be small porch added to the side. This will enable a better living arrangement and better levelling of the site.

The pictures below show the existing side and rear elevations:



The proposed extension would be moderately scaled at around 3m x5m cut into the existing bank. The roofline would follow the existing with 3 new rooflights added. One North facing window and one of the existing door openings will be filled with glass blocks to improve the amount of natural light in the space. The exterior walls will be rendered with a slate roof. The proposed porch would be flat roof measuring 1.25m by 2m and finished in timber with a grey roof. Externally due to the ground levels a new retaining wall will be required with the paths levelled.

The overall design, scale, materials and positioning of the proposed extension and alterations would be in keeping with the character of the existing dwelling.

Heritage

Paragraph 193 of the NPPF and policy DM07 of the NDTLP states that great weight should be given to the conservation and enhancement of any heritage asset and its setting. The property is grade II listed with some 19th century remodelling. The Heritage Officer has advised that the proposals would not result in any harm to the significance of the building.

Amenity

Policy DM01 seeks to protect the amenity of any neighbours. The closest residential property is Higher Twitchen 45m away to the north. Due to the level changes and intervening planting it is not considered there would be any impact on amenity in accordance with policy DM01.

Landscape Impact

Policy DM08A states that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes. The property is not within a designated landscape and due to the surrounding topography is not visible from the wider area.



The proposed works will only be visible from the rear and side of the dwelling and even then most of it will be screened by the surrounding planting and ground level as shown in the above picture. The development would not result in any wider landscape impact.

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).

The NPPF and policy DM08 of the NDTLP states that adverse impact on protected species should be avoided where possible and sufficient mitigation used. The works would not result in changes to the existing roof and as such there is no requirement for a wildlife report to be submitted. The applicants have agreed as per the previous approval for a condition relating to the provision of a bird box to provide some biodiversity enhancement.

Conclusion

The overall scale, design and materials of the proposed extension would be in keeping with the existing dwelling. The works would protect the historic core of the main dwelling and would not harm any features of significance. There is sufficient separation from any neighbouring dwelling to ensure there is no harm to amenity. The provision of a bird box will also ensure there is a biodiversity gain from the works. The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

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

APPROVAL

Legal Agreement Required: No

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

Agenda Item 8

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

2134 18 100 Topographical Survey received on the 25/11/21
2729 Rdjwl Xx Xx Dr A 0017 Block Plan received on the 25/11/21
2729 Rdjwl 01 Zz Dr A 0025 Floor, Elevation and Section Proposed received on the 25/11/21
(‘the approved plans’).

Reason

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

3. The proposed development shall be constructed in accordance with the following schedule of materials:

Walls: Rendered and timber cladding
Roof: Natural Slate, GRP coloured grey
Windows and doors: Timber

Reason

In the interests of the appearance of the development and locality and the setting and character of the listed building in accordance with Policies DM04 and DM07 of the North Devon and Torridge Local Plan.

4. Prior to the extension hereby approved being brought into first use, a bird box shall be sited on either the south or west elevation of the dwelling and shall be retained thereafter.

Reason

To achieve net gains in biodiversity in compliance with Policies DM08 and ST14 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

Informatives

1. The building is of an age where materials containing asbestos may have been used in its construction or subsequent modification. The building should be checked for such materials prior to works commencing by a competent person. Where found, materials containing asbestos must be treated and, where relevant, disposed of in accordance with current legislation and guidance.
2. **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 and has imposed planning conditions to enable the grant of planning permission. This has included considerations of the design, scale, amenity, impact on the listed building and impact on the wider area



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Application Report

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



Application No: 74469
Application Type: Listed Building Consent
Application Expiry: 20 January 2022
Ext Of Time Expiry:
Publicity Expiry: 28 January 2022
Parish/Ward: BURREINGTON/CHULMLEIGH
Location: Lower Twitchen
 Burrington
 Umberleigh
 Devon
 EX37 9JU
Proposal: Listed Building Consent for single storey ground floor side extension together with small side entrance porch to improve accessibility to the property
Agent: Robert Davies John West Ltd
Applicant: Mr and Mrs J Short
Planning Case Officer: Mrs D. Butler
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations
Decision The agent is an NDC Councillor
Level/Reason for Report to Committee:

Site Description

Lower Twitchen is a two storey dwelling located in an isolated rural location. The property is grade II listed dating from the 18th century but has been subject to some modern alterations. The property sits in a spacious plot with private amenity space, parking and turning. The property is set at a lower ground level in comparison to the upper garden and parking area with the garden sloping up from the rear of the dwelling.

Recommendation

APPROVAL

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
74436	Single storey ground floor side extension together with small side entrance porch to		

Agenda Item 9

Reference Number	Proposal	Decision	Decision Date
	improve accessibility to the property at Lower Twitchen, Burrington		
16359	Proposed erection of conservatory at Lower Twitchen Farm, Burrington	Full Planning Approval	12 January 1993
16360	Listed Building Application proposed erection of conservatory at Lower Twitchen Farm, Burrington	Approval	12 January 1993
20715	Proposed extension to farmhouse at Lower Twitchen Farm, Burrington	Full Planning Approval	28 July 1995
20716	Listed Building Application proposed extension to farmhouse at Lower Twitchen Farm, Burrington	Approval	28 July 1995
21793	Proposed alterations and extension to dwelling (amended design to 20715 & 20716) at Lower Twitchen Farm, Burrington	Full Planning Approval	23 April 1996
21794	Listed Building Application proposed alterations and extension to dwelling (amended design to 20715 and 20716) at Lower Twitchen Farm, Burrington	Approval	23 April 1996
66591	Extensions & Alterations To Dwelling at Lower Twitchen, Burrington	Approved	21 August 2019
66592	Listed Building Application For Extensions & Alterations To Dwelling at Lower Twitchen, Burrington	Approved	21 August 2019

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Class III Road	
Landscape Character is: 3H Secluded Valleys	Within constraint
Listed Building Adjacent: 1307 EH Ref 1209936 Lower Twitchen, Twitchen Lane, Burrington	Within constraint
Listed Building Curtilage (Adjacent to)	Within constraint
Listed Building Curtilage (within)	Within constraint
Listed Building: 1307 EH Ref 1209936 Lower Twitchen, Twitchen Lane, Burrington	Within constraint
Public Right of Way: Footpath 212FP8	Within constraint

Agenda Item 9

Constraint / Local Plan Policy	Distance (Metres)
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Listed Building Grade: II	
DM07 - Historic Environment	
ST15 - Conserving Heritage Assets	

Consultees

Name	Comment
Burrington Parish Council	This application was discussed at the Parish Council meeting, councillors recommend approval of this application
Councillor K Davies	No comments as the Ward member is also the applicant/agent.
DCC - Public Rights Of Way	No comments received.
Heritage & Conservation Officer Reply Received 21 December 2021	I do not consider that this proposal will cause harm to the significance of the heritage asset.

Neighbours

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

Considerations

Proposal Description

This application seeks Listed Building consent for a single storey ground floor side extension together with small side entrance porch to improve accessibility to the property.

Planning Committee

The application has been submitted by Cllr Davies who is acting agent and as such it is considered that it should be determined by Planning Committee.

Planning Considerations Summary

- Heritage Impact
- Ecology

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 Torridge Local Plan. The relevant Policies are detailed above.

Section 16 of the Listed Building Act, 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 setting or any features of special architectural or historic interest which it possesses.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

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

Heritage Impact

Paragraph 193 of the NPPF and policy DM07 of the NDTLP states that great weight should be given to the conservation and enhancement of any heritage asset and its setting.

Lower Twitchen is a grade II listed building dating from the 18th century. At its core is a traditional farmhouse, which appears to have been remodelled in the early 19th century. The proposals contained in these applications relate to the rear of the house, and include a single storey rear extension and new side porch.

The proposed extension would be moderately scaled at around 3m x5m cut into the existing bank. The roofline would follow the existing with 3 new rooflights added. One North facing window and one of the existing door openings will be filled with glass blocks to improve the amount of natural light in the space. The exterior walls will be rendered with a slate roof. The proposed porch would be flat roof measuring 1.25m by 2m and finished in timber with a grey roof. Externally due to the ground levels a new retaining wall will be required with the paths levelled.

The following alterations are demonstrated on the proposed plans and are set out in the Design and Access Statement:

- The existing retaining wall, porch and interconnecting flat roof will be removed.
- A new retaining wall will be constructed and outside access paths levelled.
- A utility room coming off from the kitchen will be added, with a sliding door between them to connect the two spaces.
- A small stud partition will create a pantry in the utility, creating more storage.
- 3 new rooflights will be added to ensure the maximum amount of daylight is provided in each space, as well as a North facing window and one of the existing

door openings will be filled with glass blocks to improve the amount of natural light in the space.

- New utility units and sink will be added to the utility.
- The internal wc wall will be infilled and will form part of the utility/ pantry area.
- A small porch will be added to the side extension, this will improve access into the house and work more effectively for the client. The porch incorporated a shallow external cupboard to accommodate the existing water purification system.

The proposals would not harm any features of historic significance and the traditional core of the building will be retained. It is not considered that there would be any impact on the significance of the heritage asset and there are no objections to the proposal.

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).

The NPPF and policy DM08 of the NDTLP states that adverse impact on protected species should be avoided where possible and sufficient mitigation used. The works would not result in changes to the existing roof and as such there is no requirement for a wildlife report to be submitted. The applicants have agreed as per the previous approval for a condition relating to the provision of a bird box to provide some biodiversity enhancement.

Conclusion

The proposed development would not result in any harm to the features of historic significance and would be in keeping with the traditional materials of the dwelling. The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

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

APPROVAL

Legal Agreement Required: No

Conditions

1. This Listed Building Consent is granted subject to the condition that the works to which it relates must be begun not later than the expiration of three years beginning with the date on which the Consent is granted.

Reason

The time limit condition is imposed in order to comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

2134 18 100 Topographical Survey received on the 25/11/21

2729 Rdjwl Xx Xx Dr A 0017 Block Plan received on the 25/11/21

2729 Rdjwl 01 Zz Dr A 0025 Floor, Elevation and Section Proposed received on the 25/11/21

('the approved plans').

Reason

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

3. The proposed development shall be constructed in accordance with the following schedule of materials:

Walls: Rendered and timber cladding

Roof: Natural Slate and GRP coloured Grey

Windows and doors: Timber

Reason

In the interests of the appearance of the development and the impact on the setting and character of the listed building in accordance with Policy DM07 and of the North Devon and Torridge Local Plan.

4. Prior to the extension hereby approved being brought into first use, a bird box shall be sited on either the south or west elevation of the dwelling and shall be retained thereafter.

Reason

To achieve net gains in biodiversity in compliance with Policies DM08 and ST14 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

Informatives

1. INFORMATIVE NOTE: -

The Planning [Listed Buildings and Conservation Areas] [England] [Amendment] Regulations 2003

SUMMARY OF REASONS FOR THE DECISION TO GRANT LISTED BUILDING CONSENT.

The Local Planning Authority considers that listed building consent should be granted as it does not consider that permitting the proposed works would conflict with its duty under Section 16 of The Planning [Listed Buildings and Conservation Areas] Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.





North Devon Council

Report Date: 25th February 2022

Topic: Planning and Enforcement Appeal Decisions received since last report to Planning Committee. See Agenda for Planning Committee held on 9th February 2022.

Report by: Sue Thomas – Senior Planning Support Officer (Appeals)

1. INTRODUCTION

1.1. This report is to inform Planning Committee Members of the Planning and Enforcement Appeal Decisions received from the Planning Inspectorate.

2. RECOMMENDATIONS

2.1. That Members and other interested parties note the appeal decisions reported.

3. REASONS FOR RECOMMENDATIONS

3.1. The Appeal Decisions are reported for general information and to enable consideration of any implications they may have on future cases.

4. REPORT

4.1 Appendix A - Planning Enforcement Appeal Decision re 12309 – Creation of access, land on south side of Shirwell Road, Shirwell, Barnstaple EX33 4JH. This Appeal was originally Dismissed on 18th January 2022 and was included in the Appeals Report on the Agenda for the last Planning Committee. The Inspectorate has since issued an amended Appeal Decision to correct the address quoted at paragraph 9 from “Hillcrest” to “Carousel”. The appeal was consequently Dismissed on 2nd February 2022.

4.2 Appendix B - Planning Appeal Decision re 72669 – Erection of 2 bed holiday lodge to include alterations/improvement to access, land adjoining Newbridge House, Bishops Tawton EX32 0EW. Appeal Dismissed on 9th February 2022.

4.3 Appendix C - Planning Appeal Decision re 73222 – Erection of wood clad structure for use as an equipment store, The Old Quarry, Corilhead Road, Braunton EX33 2EW. Appeal Dismissed on 9th February 2022.

5. RESOURCE IMPLICATIONS

5.1. Where an application by the appellant for an award of Appeal Costs is successful it is expected that this will be paid from the Planning budget (financial resource implication)



5.2. Where an application by the LPA for an award of Appeal Costs from the appellant is successful it is expected that this will be paid into the Planning budget (financial resource implication)

5.3. There may be a financial implication if Consultants are employed to confirm that any claim for Appeal Costs is reasonable/acceptable (financial resource implication)

5.4. There may be a call on NDC staff (Planning/Legal) to confirm that any claim for Appeal Costs is reasonable/acceptable (staffing resource implication)

6. EQUALITIES ASSESSMENT

6.1. There are not any equalities implications anticipated as a result of this report.

7. ENVIRONMENTAL ASSESSMENT

7.1. It is considered by the Author that, as this report is simply to advise Planning Committee Members and other interested parties of recent Planning and Enforcement Appeal decisions, there are no Environmental implications arising from its contents.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: - Positive as will learn lessons to reduce potential costs awards against the Council

8.1.2. Improving customer focus and/or – Positive as will learn lessons for future consideration

8.1.3. Regeneration or economic development – Positive as will learn lessons for future consideration

9. CONSTITUTIONAL CONTEXT

9.1. Article of Part 3 Annexe 1 paragraph: - Not applicable

9.2. Referred or delegated power? – Not applicable

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

11.1 Planning Inspector's Appeal decision re 12309 (Appendix A)

11.2 Planning Inspector's Appeal decision re 72669 (Appendix B)

11.3 Planning Inspector's Appeal decision re 73222 (Appendix C)



12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Sue Thomas – Senior Planning Support Officer (Appeals) - Planning, Housing & Health

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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: 02 February 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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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 18 January 2022.

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 dating from the 1990s submitted by the occupants of Carousel 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 Burrige. 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



Appeal Decision

Site visit made on 1 February 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Appeal Ref: APP/X1118/W/21/3283696

Land adjoining Newbridge House, Bishops Tawton EX32 0EW

- 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 Brian Sims against the decision of North Devon District Council.
 - The application Ref 72669, dated 21 December 2020, was refused by notice dated 30 March 2021.
 - The development proposed is new build, 2 bedroom holiday lodge/log cabin. Alteration/improvement to access. Provision of electric vehicle charging point.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is an appropriate location for the development.

Reasons

3. The first part of Policy DM18 of the North Devon and Torridge Local Plan 2018 (LP) seeks to guide tourism accommodation to the most accessible larger population centres. The second part of the Policy also supports additional accommodation elsewhere, where one of 3 criteria are met. The first criterion relates to existing tourism, visitor or leisure attractions; the second to the conversion of existing buildings. Neither of these apply.
4. The third criterion supports new accommodation where it improves facilities for or diversifies the range or improves the quality of existing tourism accommodation. The Council say that this must relate to existing accommodation at the site of the proposal, to reflect the general policy of development restraint in the rural area. Indeed, unlike part 2, part 1 of Policy DM18, relating to the larger centres, makes reference to diversification of accommodation across northern Devon, generally.
5. Prior to the application, the Council advised the appellant of a wider policy interpretation where the relevant criterion could relate to existing accommodation in the wider area. I understand that, historically, some applications may have been determined on that basis. I, therefore, understand the appellant's frustration that the interpretation has since changed.
6. However, while I have been well apprised of the dispute surrounding the Council's advice to the appellant, there is no substantive evidence to counter the Council's reasoned policy interpretation in respect of this appeal. As such,

there are no grounds for me to reach a contrary view on this key aspect of the planning merits.

7. In any case, the Policy also requires a proposal to improve the quality of accommodation in the area. I acknowledge support from a reputable letting agent who is confident that there would be demand. There are also limited accommodation opportunities in the immediate area, although the rationale for the search area used in evidence, has not been explained.
8. In any case, while nearby accommodation may not be log cabins or may not provide for electric vehicle charging, the evidence does not demonstrate that the proposal would provide a substantially different offer that would meaningfully diversify tourism accommodation. Furthermore, at the site visit, I observed continuous road noise and views of traffic crossing the nearby river bridge. Thus, although the generally undeveloped landscape and outlook from the accommodation is undoubtedly attractive, it is not particularly tranquil or remote.
9. I, therefore, find that the proposal would not improve facilities for nor diversify the range of existing tourism accommodation. As such, it is contrary to LP Policy DM18 that seeks to control the location of new tourism accommodation and the appeal is dismissed.

M Bale

INSPECTOR



Appeal Decision

Site visit made on 1 February 2022

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Appeal Ref: APP/X1118/W/21/3284120

The Old Quarry, Corilhead Road, Braunton, Devon EX33 2EW

- 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 Scott Delaney against the decision of North Devon District Council.
 - The application Ref 73222, dated 21 April 2021, was refused by notice dated 21 July 2021.
 - The development proposed is a wood clad structure for use as equipment store.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development is appropriate in a rural location.

Reasons

3. The site is a former quarry cut into steeply rising land at the edge of Braunton, and classified as countryside in the North Devon and Torridge Local Plan 2018 (LP). While the proposed development would not be visible from outside the quarry, LP Policy ST07 seeks to limit development 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.
4. LP Policy DM14 permits small scale economic development in the countryside, but the appellant has confirmed that the building would not be used for commercial purposes. Therefore, this policy, and those policies of the National Planning Policy Framework that seek to support the rural economy, are of little relevance and provide no support for the proposal. There is no clear economic and social need, so the appeal turns on whether the proposal is development necessarily restricted to a countryside location, under LP Policy ST07.
5. The building is said to be needed to store forestry related equipment and other tools for managing the woodland, and to improve safety around the quarry, including for children and pets. Items have previously been stolen from the site and there is no on-site secure facility available. The appellant has no storage at his residence, so must use facilities elsewhere. However, I have little detailed information about the off-site arrangements, which have clearly been adequate until now. Moreover, the extent or regularity of any management activities, any associated travel movements, or requirement for on-going storage of forestry equipment is not clearly demonstrated.

6. Although Policy ST07 is a strategic policy and the proposal is for a small building, the Policy seeks to control the distribution of all development across the plan area. Ultimately, in the absence of a clear need, it has not been demonstrated that a countryside location is required for this building. Accordingly, the proposal is contrary to LP Policy ST07.
7. I understand that there may be other nearby parcels of land where storage facilities have been permitted, but these have little to do with the requirements for storage at this site. Conditions could be used to restrict the use, but on the basis of my findings, the building would still be unnecessary development in the countryside, so the policy conflict would remain.
8. I, therefore, conclude that the appeal is dismissed.

M Bale

INSPECTOR