

Application Report

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



Application No:	60823	Application Expiry:	30 April 2021
Application Type:	Full application	Ext Of Time Expiry:	30 April 2021
		Publicity Expiry:	16 July 2020
Parish/Ward:	Fremington / Instow		
Location:	Former Yelland Power Station Lower Yelland Yelland Barnstaple Devon EX31 3EZ		
Proposal:	Hybrid planning application: (A) Full application for the access, scale & layout of site including raising of the ground levels, site access works & highway infrastructure to site, together with purpose built bat building. (B) Outline application for 250 dwellings (Use Class C3(a)), Space of up to 3000sqm employment (Use Class E(g)(i) and E(g)(ii) was Use Class B1). Retail Space of up to 250sqm gross floorspace (Use Class E(a) was Use Class A1); Space for the Sale of food and drink of up to 2000sqm Gross floorspace (Use Class E(b) Was Use Class A3); Service and Community Space of up to 500sqm Gross floorspace (Use Class E(d) E(e), E(f) and F1(a), F1(b), F1(e), and F2(b)was Use Class D1 and D2); (C) all the associated infrastructure including removal of any contamination, roads, footpaths, cycleway, drainage (including attenuation works), flood defence works, landscaping & appearance, public open space, utilities & vehicle parking & including demolition of buildings (amended scheme & supporting documents) (Amended description)		
Agent:	Woodward Smith Chartered Architects		
Applicant:	Yelland Quay Ltd		
Planning Case Officer:	Ms J. Watkins		
Departure:	Y		
EIA Development:	Y	EIA Conclusion:	An environment statement has been submitted.
Reason for Report to Committee: Major application with significant public interest			

Site Description

This allocated site is located approximately 4km west of Barnstaple Town Centre within Yelland.

The site is accessed by vehicles via the B3233 along a private access road approximately 650m in length, and approximately 6m wide. This road forms the minor arm of a simple priority junction with the B3233. This access also serves a range of industrial units described within the planning history section of the report.

On the B3233, footways and street lighting are present for a length of 600m to the west. To the east, footways and street lighting are present all the way to Bickington and beyond to Barnstaple. A section of virtual footway is present along the northern boundary of the road to the west of the site access. This virtual footway links into the footway present 600m further to the west. There are no existing formal pedestrian crossings on the B3233 in the vicinity of the site.

There is an adopted pedestrian / cycleway approximately 2.5m wide alongside the eastern side of the access road, which links to the Tarka Trail immediately south of the site. The South West Coast Path extends along the northern site boundary and connects to the Tarka Trail both east and west of the site. The Tarka Trail provides a high quality, fully surfaced and traffic free walking and cycling route between Barnstaple and Bideford.

The surrounding area comprises open agricultural fields to the east and south, the existing residential dwellings associated with Yelland are further away to the south and south east adjacent to the main road. The River Taw and mudflats and saltmarsh grassland lie on the shoreline boundaries of the site. East Yelland Marsh lies to the east and Instow Barton Marsh to the west. To the south there is existing commercial and industrial premises forming Estuary Business Park, Flogas, Certas Energy and Sandbanks Industrial Park. There are a range of designations set out in the constraints part of the report below.

The Site extends to approximately 38.5 hectares (ha) of land in total and consists of an area of open space (ash beds) within the eastern section of the Site (approximately 26.8 ha) and a previously developed area (approximately 11.7 ha) in the western section of the Site where the former power station was located.

The current use of the site is for import and export of materials using the jetty as well as a concrete plant associated with a construction and groundworks business. Industrial buildings and the electric transformer site lie to the south west of the site. The majority of the site is 'brownfield' or previously developed land.

The site was formerly used as a power station (as set out in the planning history section of the report). As part of the works of decommissioning the ash beds associated with the former Power Station were capped. These are located on the eastern side of the development site.

Recommendation

Approved

Legal Agreement Required:- Yes

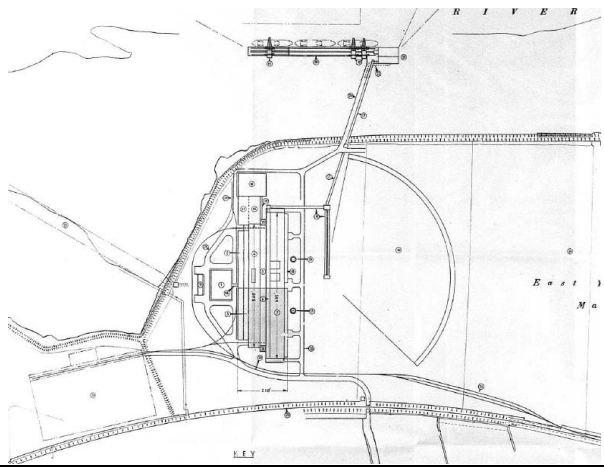
Planning History

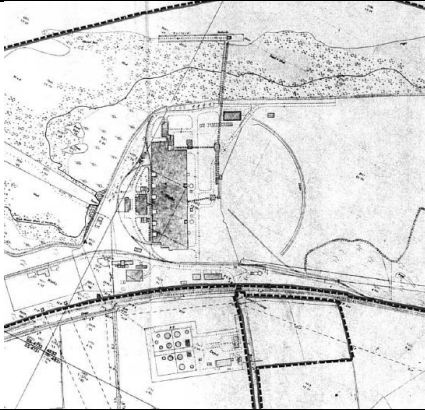
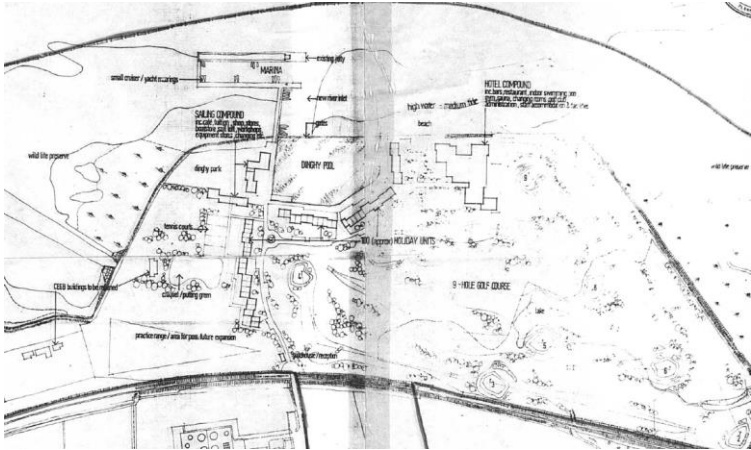


Figure 3.3 Yelland Quay Power Station viewed from South



Figure 3.2 Yelland Quay Power Station

Reference	Proposal	Decision & Date
NI 336	Proposed electricity generating station	DC 28.9.49
NI 705	Proposed extension to East Yelland Generating Station	DC 15.0.50
		
NI 814	Proposed sewage disposal plan	CC 26.0.50
NI 3999	Proposed raising height of chimneys	DC 11.02.60
NI 7546	Proposed extension to offices	UC 30.09.64
NI 11394	Proposed apprentices training building	UC 28.05.68
NI 17284	Proposed extension to power station chimneys	CC 23.01.73
83/1075/27/3	Proposed strengthening of existing tidal defence banks	CC 06.09.83
85/1607/27/3	Proposed disposal of refractory brickwork and bagged asbestos into former circulating water pump house and old ash tip	CC 10.03.86 Conditions required the tipping operation to cease within 2 years, the pumphouse to be sealed and capped and only materials stripped from the

Reference	Proposal	Decision & Date
		power station to be disposed of
86/715/27/4	Proposed change of use from general industrial use to commercial vehicle maintenance and repair	R 03.06.86
86/1642/27/1	Outline Application: Proposed demolition of existing buildings and removal of toxic materials and construction of hotel and holiday villas together with leisure facilities for sailing, golf, tennis and the creation of wildlife conservation area 	R 07.10.86
8223	Outline Application: Proposed recreational village inc. dwellings, craft workshops, studios, shops, pub & restaurant plus water features amenity areas & nature reserve by Daniel Homes and Taylor Woodrow Homes	W 05.09.97
24672	County Matter Application: Proposed restoration and capping of ash beds to prevent risk to public health Subject to completion of a Section 106 Agreement relating to the dedication of land for an off-site footpath/cycle path and for the future management of the nature conservation interests	Conditional planning permission granted by DCC 8 March 1999
29924	Application to the Secretary of State for Energy under Section 36 of the Electricity Act 1989 for the erection of a power station	W 09.09.03

Reference	Proposal	Decision & Date
29959	Proposed erection of horticultural development utilising greenhouses for fruit development (amended site plan)	W 24.11.03
44587	County Matters Application in respect of completion of capping of ash beds	DCC - CC 24.01.08
47291	County Matters Application in respect of completion of capping of ash beds - discharge of Condition 9 (plan for the restoration, management & aftercare of site) & Condition 10 (Japanese Knotweed control) attached to Planning Permission 02/44587/2007	NDC Recommend Approval 25.09.08

Jetty and Adjacent Land

Reference	Proposal	Decision & Date
NI 1832 *	Proposed sand and gravel extraction in Taw & Torridge Estuary	R
NI 4027 *	Proposed sand and gravel extraction in Taw & Torridge Estuary	R 14.03.60
NI 8759 *	Proposed sand and gravel extraction in Taw & Torridge Estuary	CC 17.03.66
25649	Application for a Certificate of Lawfulness for an existing use in respect of use of jetty for the mooring of ships and other vessels (amended description)	W 03.07.01
26209	County Matter Application in respect of proposed use of existing jetty and construction of storage facility for the export & import of minerals	DCC - CC 27.01.99
36809	County Matters Application in respect of alteration of Condition no. 1 of Approval 02/27/26209/98 to allow an additional five years for the commencement of storage facility for export and import of minerals	DCC - CC 22.04.04
33982	County Matter Application variation of Condition 16 of Planning Approval 02/27/24672/97 to expressly permit the exportation of the resulting processed material	DCC - R 03.12.02
37228	County Matter Application in respect of variation of Condition 1 of Planning Approval no. 02/27/24672/97 to extend permission for a further three years	DCC - CC 05.08.04
42289	County Matters Application in respect of variation of Condition 2 to amend location of storage facilities on the site	DCC - CC 21.07.06
44588	County Matters Application in respect of enlargement & continuation of use of transfer station	DCC - CC 14.02.08
48472	Siting of mobile concrete batching plant & ancillary portacabin control office	W 17.06.09

Reference	Proposal	Decision & Date
49098	County Matter Retrospective Application in respect of operation of mobile concrete batching plant with control office building	DCC - CC 11.12.09`
47967	Application Under Reg 3 Of The T & C P General Regulations 1992 Notification By Devon County Council In Respect Of Construction Of Footway/Cycleway	

Former Petrol Filling Station/Car Showroom

Reference	Proposal	Decision & Date
NI 13410	Proposed advertisement sign (5 Years)	CC 14.4.70
NI 2559	Proposed bus shelter	UC 3.7.56
NI 3076	Proposed re-siting of petrol pumps	CC 20.1.58
NI 4635	Proposed car sales site	UC 8.3.61
NI 5949	Proposed reconstruction of filling station	CC 25.2.63
NI 8777	Outline Application proposed oil distribution depot	R 22.4.66
74/78/27/3	Proposed canopy	CC 30.10.74
81/588/27/5	Proposed illuminated fascia sign for canopy	CC 9.6.81
3495	Proposed erection of dwelling and dependant relatives flat	R 29.3.88 Appeal Allowed 25.1.89
4474	Proposed storage extension to garage	CC 20.5.88
12072	Proposed erection of dwelling	R 10.7.90
30712	Outline Application in respect of erection of 3 no. dwellings together with formation of new accesses to Yelland Road (amended plans & description)	R 6.6.02 Appeal Allowed 6.7.01
32019	Outline Application in respect of erection of 6 no. dwellings together with formation of new access	Finally disposed of 25.11.11
40349	Variation of condition 3 of decision APP/X1118/A/01/1080654 in relation to planning application 30712 to extend time scale for a further 3 years	CC 3.8.05
58356	Retrospective Application For Change Of Use Of Land To Allow For Car Sales Business & Siting Of Portable Building (Amended Plans) (Amended Description)	CC – 13.05.20 temporary until 30/06/25

Leading to the site using the same access is the

- Yelland Sewerage Works
- Sandbanks Business Park - comprises 2 blocks of industrial units (64305) with one used as a Café (66207)
- Global House - B8 Storage and Distribution – (62076)
- Certas Energy site (oil tanks 61202)
- Flogas UK and CPL Distribution – Storage and Distribution (40570)
- Estuary Business Park – small units

To the west is the Electricity substation.

On the site is the concrete works and commercial landing jetty.

Constraints/Planning Policy

Constraints

	Distance (Metres)
Adopted Existing Strategic Footpath/Cycleway: Tarka Trail	Within constraint
Adopted Existing Strategic Footpath/Cycleway: South West Coast Path North	Within constraint
Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area	Within constraint
Chivenor Safeguard Zone	Within constraint
Critical Drainage Area	Within constraint
Historic Landfill Site: East Yelland Power Station	Within constraint
Historic Landfill Site: Old Pump House - Asbestos	Within constraint
Land is potentially contaminated with: Miscellaneous Power Facilities/ Electricity production & distribution/ Tanks/Cement/Lime/Plaster/Railways	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Landscape Character is: 4A Estuaries	Within constraint
Devon Character Area is: Taw Torridge estuary	Within constraint
Minerals and Waste Consultation Zone: Waste Consultation Zone	Within constraint
Public Right of Way: Footpath 227FP64/70	Within constraint
Public Right of Way: Footpath 235FP9	Within constraint
Site of Special Scientific Interest: Taw-Torridge Estuary	Within constraint
Tree Preservation Order: 327 - G1, The Former Power Station Site, Yelland Order 2000	Within constraint
Within Adopted Coast and Estuary Zone	Within constraint
Fremington Development Boundary ST07	
Within Adopted Mineral Conservation Area	Within constraint
Within Adopted Mixed Use Allocation: FRE02(1) Yelland Quay	Within constraint
Within Adopted Unesco Biosphere Buffer (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within Surface Water 1 in 100	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within Surface Water 1 in 30	Within constraint
SSSI Impact Risk Consultation Area	Within constraint

Planning Policy

North Devon and Torridge Local Plan

This previously developed site has long been allocated for redevelopment. Following the decision of the Electricity Board to close the station the site was allocated under Policy BE5 of the Barnstaple Local Plan for industrial purposes that will benefit directly from siting immediately adjacent to a riverfront and which cannot be reasonably accommodated elsewhere.

Policy FR7 of the superseded North Devon Local Plan (December 2000) specifically identifies Yelland Quay for industrial or quasi-industrial uses that require a coastal location or for tourism and recreational uses subject to safeguarding landscape, nature conservation and water environment interests. Policy FR4 required the retention of a storage and distribution area and jetty. The Policy was supported by a Development Brief adopted September 2000 as the Council identified a need to address public concerns over the future of Yelland Quay. The now superseded North Devon Local Plan (July 2006) under proposal FRE4 (Redevelopment of Yelland Quay) sought to encourage:

- A) An Industrial or Quasi Industrial Use that requires a Coastal Location;
- B) Recreational Uses; or
- C) Energy Generation and Ancillary Economic or Community Uses

As set out in the planning history section of this report the policy did not result in any successful applications to regenerate the site. The review of the Local Plan in 2013/14 arrived at the following vision: *the re-development of Yelland Quay to deliver infrastructure requiring a waterside location, water-compatible employment uses utilising the existing jetty and quay with supporting employment uses on land outside the flood zone to provide supporting services and facilitate local supply chains* (Ref North Devon and Torridge Local Plan Publication Draft June 2014 Policy FRE: Fremington and Yelland Spatial Vision and Development Strategy).

All the relevant policies in the emerging drafts of the current Local Plan can be accessed through the [Local Plan examination library](#) with relevant document numbers identified in this report.

The Local Plan had significant aspirations to increase the amount of employment land within North Devon. The publication draft (document SUB1 in June 2014) and pre-consultation draft (EB/CONS/3 in 2013) both had a two paragraph policy for Yelland Quay (FRE02). Para 1 related to the application site, with para 2 for land south of the Tarka Trail. Originally employment land and a football pitch were planned south of the trail alongside the access road. Para 2 included provision of a public car park for use by those accessing to the trail.

After publication, consultation occurred on some main changes proposed (SUB2 in March 2015) prior to submission for examination. This included deleting para 2 as employment land was no longer proposed (as overprovision). It also introduced the concept for **enabling development**.

It was recognised that the site was likely to remain unviable if proposed for economic development alone as it had for the last 15-20 years, unless enabling development was accepted. At the time of policy preparation it remained one of the largest derelict and vacant brownfield sites in northern Devon. (The Fremington Army Camp appeal decision (53147) dated 2/7/13 provided a solution for that site).

The policy was redrafted to provide a more proactive or flexible strategy to make some form of redevelopment viable. The supporting text was amended to facilitate a small amount of (residential/commercial) development as a means by which to add value and to help make the site viable; although flood risk, contamination and other constraints would still need to be avoided. The expectation at this point was a small amount of enabling development but it depended on the level of development required to make redevelopment viable i.e. sufficient enabling development to make the scheme viable.

During the plan consultation process, application 60823 (submitted 17/03/16) identified the scale of development that would be needed to make the site viable.

At the first set of Examination hearings (Nov 2016), the enabling development was discussed given the objections to the policy, including those from Natural England and RSPB relating to bird roosts.

Concern was raised that the current policy wording as submitted in June 2016 for '*water compatible economic development*' was unsound due to concerns regarding deliverability, notwithstanding that paragraph 10.194 '*will allow limited enabling development sufficient only to deliver a viable comprehensive regeneration of Yelland Quay incorporating water compatible economic uses*'.

This is further supported by paragraph 120 of the NPPF which encourages allocated land to be reviewed where it is considered there is no reasonable prospect of an application coming forward for the use allocated in the Plan, **where reallocating the land for a more deliverable use can help to address identified needs**.

Clarification was required by the Inspector about the upper case policy to set out precisely what was meant by '*enabling development*' in order to facilitate a deliverable development on this large previously developed site and clarifying the proposed components of any mixed use redevelopment. At the close of the initial Hearing Sessions in December 2016, the Council was guided by the Inspector to produce a set of main modifications (PMM/92 to PMM/94) for public consultation during July to September 2017.

The Inspector wanted the policy to say **how many homes** were proposed as part of the redevelopment, which linked back to the work that had to be undertaken on the overall housing numbers and 5 year land supply. By having a number this could then be included in the supply and the housing trajectory, rather than acceptance in principle for an unspecified number.

The Inspector required the policy to be redrafted as a main modification (published in 2017). At the examination, the Inspector indicated the range of things she wanted included or deleted which resulted in modification (PMM/93 & 94).

At the same time, text was added with RSPB's agreement as a commitment to commission the study on high tide roosts in the estuary. This was added to para 10.193A under PMM/94 in MMD01.

Following an extensive round of public consultation on the main modifications to the Local Plan, the Inspector re-opened the Hearing Sessions in January 2018 where the Yelland Quay allocation (FRE02) was further discussed.

The 250 proposed houses was an indicative capacity. Matt Steart (as agent) had advised the Inspector that this is the scale of development likely to be needed to make redevelopment viable. A smaller number would still be acceptable if it made the scheme viable.

In September 2018, the Inspector issued her report on the examination of the North Devon & Torridge Local Plan which concluded at paragraph 186 that 'with the recommended Main Modifications set out in the Appendix the North Devon and Torridge Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework 2012'.

Paragraph 94 concluded 'the Modifications to the allocated sites include a change to the vision for the land at Yelland Quay [MM27]. This former power station site is now proposed for a redevelopment which includes some 250 dwellings [MM28] in order to enable costly remedial action to be undertaken in its regeneration. Natural England is satisfied that such development can take place without harm to the nature conservation interests of the Taw-Torridge estuary SSSI and bird species of international importance'. File Ref: PINS/X1118/429/4

Therefore, Policy FRE02 within the adopted Local Plan has been given due consideration by the Inspector following extensive consultation with conclusion that the allocation is 'Sound' and it is in general conformity with Government policy.

This resulted in the adopted **Vision for Yelland Quay** contained in the North Devon and Torridge Local Plan and which states:

Redevelopment of this large previously developed site will contribute to its economic regeneration whilst safeguarding the long term future of the existing jetty and wharf. The development will deliver a high quality, mixed-use scheme incorporating new community facilities, residential and economic development that maximises opportunities associated with its waterside location. Development will complement the site's estuary landscape setting, whilst protecting sensitive ecological areas from development and enhancing the network of green infrastructure including formal and informal recreation facilities. The development will serve the existing community, whilst creating a distinctive sense of place and quality of life.

The specific policy for the site and the explanatory text is set out in full below:

Policy FRE02: Yelland Quay

A site of about 30 hectares north of the Tarka Trail at Yelland Quay, as identified on Policies Map 4, is allocated for a high quality, mixed-use development that will deliver the following site specific development principles:

- (a) redevelopment in a comprehensive manner in accordance with an agreed master plan;
- (b) approximately 250 dwellings the size and tenure of which will be reflective of local needs;
- (c) approximately 6,000 square metres of economic development and community facilities, compatible with its waterside location including business development, tourism and leisure uses;
- (d) buildings and structures will be sited and designed in accordance with an agreed 'Design Code' to address their visual impact on the open landscape setting of the estuary and to avoid any harm to the protected biodiversity value of the Site of Special Scientific Interest and other designated habitats in the locality;
- (e) retention of the existing jetty and wharf and provision of associated operational land, including a safeguarded vehicular access to it;
- (f) provision of adequate flood alleviation measures with design and distribution of uses to minimise and mitigate against any risks from flooding;
- (g) assessment and remediation, prior to commencement of redevelopment, of any site contamination arising from historic uses;
- (h) contributions to and enhancement of the green infrastructure network within and adjoining the site including the provision of a new football pitch with associated facilities and provision of informal open space on the site of the former ash beds;
- (i) provision of a net gain in biodiversity through enhancement of existing habitats;
- (j) contributions towards a wider study on the potential impact of increased recreational pressure on the SSSI and nesting birds in the estuary;
- (k) provision of a public car park for users of the Tarka Trail;
- (l) improvements to the existing road junction with the B3233;
- (m) improved pedestrian and cycle links through and around the site and from the B3233 to the Tarka Trail;
- (n) appropriate traffic management measures where vehicular traffic crosses the Tarka Trail to reduce conflict with, and improve safety for, pedestrians and cyclists using the Tarka Trail;
- (o) provision of a 10 metre landscape buffer along the developable site frontage alongside the Tarka Trail; and
- (p) opportunities for the generation of renewable energy.

The North Devon and Torridge Local Plan states:

10.197 Yelland Quay is a prominent previously developed site, the redevelopment of which will deliver economic and physical regeneration that will be master planned in accordance with the following design principles:

- a) delivering high quality design through an agreed 'Design Code';
- b) promoting safe and healthy communities;
- c) providing a net gain in biodiversity;
- d) safeguarding existing minerals and waste infrastructure; and
- e) incorporating the development into the existing community.

10.198 The site is located to the north of the Tarka Trail adjacent to the Taw-Torridge estuary Site of Special Scientific Interest (SSSI), an area of national importance for the large number of over wintering wildfowl and waders that use the estuary and adjacent land, particularly in winter and on migration in spring and summer. For a few species,

the site is of international importance. The site is also within the buffer zone of the UNESCO Biosphere Reserve. The redevelopment of Yelland Quay should avoid harm to the area's biodiversity value (Policy ST14: Enhancing Environmental Assets) and will deliver a net gain in biodiversity through enhancement of existing habitats. A wider study is required to assess the potential impact on the Site of Special Scientific Interest.

10.199 The site also forms part of the developed coast and estuary, although the adjacent former ash beds that have been capped form part of the undeveloped coast and estuary (Policy ST09: Coast and Estuary Strategy). The former ash beds have an important biodiversity value whilst contributing to the wider green infrastructure along the Taw estuary. As such, new buildings will be minimised here with the open landscape character safeguarded for provision of additional green infrastructure. The jetty and wharf remain and are safeguarded through the Devon Minerals Plan to facilitate continued import and export of minerals. Redevelopment must have regard to the value of the existing concrete plant and the recycled aggregates facility in terms of the Devon Minerals Plan and the Devon Waste Plan respectively. Any development on this site must be in accordance with adopted policies within these documents (or successor documents) to retain future potential as a strategic quay facility for water-borne transport of goods. Flexible space accessible from the wharf will be provided as associated operational land.

10.200 Yelland Quay is at risk of tidal flooding. Flood risks will be managed by raising ground levels to reduce the extent and severity of flood risks both on site and elsewhere in the Taw estuary in accordance with Policy ST03: Adapting to Climate Change and Strengthening Resilience. Development will need to be designed to provide a safe means of escape from the site.

10.201 A mixed-use development at Yelland Quay will deliver a range of economic uses and community facilities including a business hub, tourism, leisure uses and approximately 250 dwellings, including a proportion of affordable housing. The provision of housing as part of a comprehensive redevelopment will facilitate a viable regeneration of North Devon's largest previously developed site. The residential development will also help to provide new facilities and social infrastructure for the wider benefit of the local community including a new football pitch and associated facilities as well as contributions towards the expansion of Fremington Medical Centre. The master plan will ensure there are no adverse impacts on residential amenities arising from the economic development and traffic associated with the existing jetty, wharf and associated operational land. Development that may have offshore implications may require licensing from the Marine Management Organisation.

10.202 Yelland Quay is prominent within the open landscape setting of the estuary. New buildings and structures should be located predominately on the site of the former power station, set back from the estuary frontage and designed to address their landscape impact, as well as securing environmental enhancement of the site. Due to the site's prominent location on the Taw-Torridge estuary and visual prominence within the wider landscape, including from Braunton Burrows, development should be designed to complement its sensitive landscape setting. External lighting will need to be designed to minimise light pollution on neighbouring protected habitats and species and the nearby Area of Outstanding Natural Beauty.

10.203 Parts of the existing site are contaminated from its historic use as a power station, which is understood to include contamination from hydrocarbons, heavy metals and a substantial amount of asbestos. The capped ash beds must be safeguarded from disturbance. Levels of contamination will need to be assessed across the entire site and appropriate remediation agreed and undertaken before redevelopment occurs in accordance with Policy DM02: Environmental Protection. A phased approach to this remedial action could be undertaken across the site to facilitate phases of redevelopment in accordance with an agreed comprehensive programme of remediation works.

10.204 Vehicular access to the site will be along the access road off an improved junction with the B3233, as well as providing pedestrian and cycle links to the Tarka Trail. A new public car park of approximately 30 spaces will be provided for users of the Tarka Trail. Development at Yelland Quay will need appropriate traffic management where it crosses the Tarka Trail and South West Coast Path in order to reduce conflict with and improve safety for pedestrians and cyclists using these routes.

The other relevant policies of the NDTLP are listed below:

- DM01 - Amenity Considerations
- DM02 - Environmental Protection
- DM03 - Construction and Environmental Management
- DM04 - Design Principles
- DM05 - Highways
- DM06 - Parking Provision
- DM07 - Historic Environment
- DM08 - Biodiversity and Geodiversity
- DM08A - Landscape and Seascape Character
- DM09 - Safeguarding Green Infrastructure
- DM10 - Green Infrastructure Provision
- DM12 - Employment Development at Towns, Local Centres and Villages
- DM17 - Tourism and Leisure Attractions
- DM18 - Tourism Accommodation
- DM21 - Local and Rural Shops

- FRE - Fremington and Yelland Spatial Vision and Development Strategy
- FRE02 - Yelland Quay

- ST01 - Principles of Sustainable Development
- ST02 - Mitigating Climate Change
- ST03 - Adapting to Climate Change and Strengthening Resilience
- ST04 - Improving the Quality of Development
- ST05 - Sustainable Construction and Buildings
- ST07 - Spatial Development Strategy for Northern Devon's Rural Area
- ST08 - Scale and Distribution of New Development in Northern Devon
- ST09 - Coast and Estuary Strategy
- ST10 - Transport Strategy
- ST11 - Delivering Employment and Economic Development
- ST13 - Sustainable Tourism
- ST14 - Enhancing Environmental Assets

ST15 - Conserving Heritage Assets
ST16 - Delivering Renewable Energy and Heat
ST17 – A Balanced Local Housing Market
ST18 - Affordable Housing on Development Sites
ST22 - Community Services and Facilities
ST23 – Infrastructure

Fremington Parish Neighbourhood Area was designated in November 2015 but there is no emerging or adopted Neighbourhood Plan that has arisen from this albeit work is underway.

The Devon Minerals Plan 2011 – 2031 (adopted February 2017)

5.6 Marine Aggregates

5.6.1 While marine-dredged materials form an important element of aggregates supply elsewhere in the UK, they only make a minor contribution in Devon. Small quantities of marine-dredged sand and gravel originating from the Bristol Channel are landed at two wharves in Appledore and at Yelland, with sales to the local North Devon market averaging around 48,000 tonnes each year. The Devon Minerals Plan does not apply to the maritime coastal and estuarial areas which adjoin the County (measured from the level of mean high water at spring tides), which are administered separately as stated in the Maritime & Coastal Access Act 2009.

5.6.2 Proposals for marine dredging of aggregates are decided by the Marine Management Organisation, making decisions in accordance with national maritime policy set out in the UK Marine Policy Statement (March 2011), Section 3.5 of which addresses marine aggregates. However, the Devon Minerals Plan does have a role in the safeguarding of transshipment sites and therefore safeguards marine wharves and associated facilities (Policy M2). The three wharves receiving marine aggregates in northern Devon have adequate capacity for increased levels of throughput to respond to any growth in future demand.

Policy M2 of the Devon Minerals Plan proposes the safeguarding of a range of mineral resources and transportation infrastructure, defined as Mineral Safeguarding Areas and shown on the Policies Map, to protect them from sterilisation by non-mineral development

Policy M2: Mineral Safeguarding Areas

Mineral resources and infrastructure within the Mineral Safeguarding Areas defined on the Policies Map will be protected from sterilisation or constraint by non-mineral development within or close to those Areas by permitting such development if:

- (a) it can be demonstrated through a Mineral Resource Assessment and in consultation with the relevant mineral operators that the mineral resource or infrastructure concerned is not of current or potential economic or heritage value; or
- (b) the mineral resource can be extracted satisfactorily prior to the non-mineral development taking place under the provisions of Policy M3; or
- (c) the non-mineral development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction or operation within the timescale that the mineral resource or infrastructure is likely to be needed; or
- (d) there is an overriding strategic need for the non-mineral development; or

(e) it constitutes exempt development, as set out in the exemption criteria.

Mineral Consultation Area is exempt from the need for consultation with Devon County Council as Mineral Planning Authority:

(a) development in accordance with an allocation in an adopted Local Plan;

South West Inshore and South West Offshore Marine Plan

Some weight should be given to the policies within [consultation draft South West Inshore and South West Offshore Marine Plan](#) in accordance with NPPF paragraph 48.

It has been published for consultation so carries similar status to a publication draft Local Plan.

The most relevant policies of the draft SW marine plan are considered to be:

- SW-SCP-1 (seascape and landscape) : protecting the seascape and landscape of an area; taking measures in order of preference to avoid, minimise, or mitigate any adverse impact;
- SW-CC-2 (climate change) : demonstrating for the lifetime of the development that they are resilient to impacts of climate change and coastal change;
- SW-BIO-1 (biodiversity) : avoiding, minimising, mitigating (in order of preference) any significant adverse impacts on the distribution or priority habitats and priority species [need to check if the waders in the estuary are listed];
- SW-BIO-2 (biodiversity) : avoiding, minimising, mitigating (in order of preference) any significant adverse impacts on native species; [which will include roosting waders]
- SW-NG-1 (net gain and natural capital) : delivering environmental net gain for marine and coastal capital; taking measures in order of preference to avoid, minimise, or mitigate any adverse impact;
- SW-DIST-1 (disturbance) : avoiding, minimising, mitigating (in order of preference) any significant adverse impacts on highly mobile species; [which will include roosting waders]
-

Whilst these policies are considered relevant, they are broadly in line with objectives of existing local plan policies relating to landscape, flood risk and biodiversity. The Council responded to the draft SW Marine Plan in spring 2020. This was the final stage before it was submitted to the Secretary of State for Environment, Food and Rural Affairs for adoption. It has not yet been formally adopted. At the moment it remains as a material consideration, and will carry some weight equivalent to a local plan at examination.

Other

- North Coast AONB Management Plan 2019 – 2024
 - Policy I4 of the AONB Management Plan (2014-2019) states that no development should be permitted inside or on the edge of the AONB that would have a detrimental impact on the landscape character or setting of the designated area.

- Policy A1 requires that landscape character and natural beauty are conserved and enhanced
- Policy A4 that no development is permitted outside the AONB that would harm its natural beauty, character or special qualities.
- Policy B5 aims to support and extend the range of internationally, nationally and locally important species
- Policy B6 supports the long-term survival of vulnerable species within the AONB
- Policy B7 aims to ensure that local coastal and marine species and habitats are conserved and enhanced.
- Policy D6 aims to ensure that water quality and the state of the environment of inshore waters and streams supports biodiversity.
- UNESCO Biosphere Reserve Strategy,
- Taw Torridge Estuary Management Plan,
- Taw-Torridge Coastal Management Study
- Shoreline Management Plan
- [North Devon Biosphere Strategy for Sustainable Development 2014-2024](#)

Consultees

This has been a complicated application and hence the consultation responses are presented in two parts. The first contains the comments of the Parish Councils and interest groups. These are presented in full. The technical and statutory consultees are interspersed with each chapter of the report for ease of reference. Some of these responses have been edited due to their length. The report makes it clear where they have been edited. All consultation responses have been published on the web site and can be accessed using the [Planning Tracker](#).

The comments listed are primarily those made following the resubmission of the application in 2019. Comments from the original submission 2015 are only set out if they contain information not repeated in later responses.

In November 2019 the Local Planning Authority and the Fremington Parish Council were invited to attend a site visit to view the site as a number of the Councillors were newly appointed and had not had the benefit of the previous site visit.

Revisions were again made in 2020 resulting in a further round of publicity and advertisement. These revisions were made to address the consultation comments from the January 2019 re-submission. The main change was a reduction in housing numbers down to 250 (from 280), the removal of the proposed 50 bed hotel and an increase in employment space with a decrease in retail space. **A summary of the changes is attached to this report.**

Member briefings were held in January 2020 when the scheme was resubmitted in its current form and officers attended Parish Council Meetings to explain the application.

The applicant has since responded to comments made within the consultation responses and letters of representation in detail in June 2020. Additional consultation and public re-advertisement was undertaken with follow up engagement with the consultees as appropriate.

A virtual site meeting is being held to show the Planning Committee the site and to allow time for independent visits to be made to key viewpoints as necessary.

The highlights (bold text) aim to summarise the issues.

Name	Comment
Ashford Parish Council Reply received 25 April 2016	Ashford Parish Council wish to reply: No comment
Braunton Parish Council Reply Received 25 February 2020	<p>Braunton Parish Council wishes to object to this application on the grounds, as follows:</p> <p>Adverse influence on the Northern Devon UNESCO Biosphere Reserve the development will cause further damage to the landscape negatively impacting on this core area of the Biosphere Reserve putting North Devon at risk of no longer being able to defend its recognition as a world class environment by UNESCO. The Northern Devon UNESCO Biosphere Reserve is a key natural capital asset and has a value to the local community and its economy the loss of this world class environment would have a detrimental impact on the North Devon economy.</p> <p>Adverse impact on the Braunton Greater Horseshoe Bat (GHB) roost as the site is an important connector between the north and south of the estuary, the development would result in a threat to protected species adversely impacting on foraging and nesting habitat for bats.</p> <p>Adverse effect on the adjacent estuary which is a designated Site of Special Scientific Interest (SSSI) for its wildlife importance. Concerns being in close proximity to the RSPB's Isley Marsh Nature Reserve, also within the SSSI, the development during its construction phase and after construction will cause disturbance to overwintering birds and further decimate numbers visiting high tide roost areas in the vicinity.</p> <p>Policy ST01: Principles of Sustainable development - adverse effect on the intrinsic environmental value and character of the landscape as the proposal will harm local wildlife and result in the loss of important wildlife habitat significantly outweighing the economic and social benefits.</p> <p>Negative visual impact the design, height and appearance of the proposed development is not in keeping with the character of the estuary's landscape setting, raising the site by two metres and erecting six-storey buildings on top is inappropriate for the area.</p>

Name	Comment
	<p>Increase in artificial lighting will have an adverse effect on native wildlife, particularly the GHB and other species that have evolved to be active during the hours of darkness.</p> <p>Concerns increased risk of flooding the development does not take into account the latest data on sea level rise predictions being 2.5 metres. Yelland is already at risk of tidal flooding raising the land level and building the armoured wall sea defence will cause tidal displacement and put Braunton and other communities along the estuary at further risk of flooding. Policy BAR21: Flood Management Strategy - Flood management measures along the River Taw and its tributaries will re-establish functional flood plains in the Taw estuary and upstream of Barnstaple.</p> <p>Concerns regarding asbestos contamination throughout the site disturbance to the soil could result in asbestos fibres leaching into the estuary causing severe water contamination.</p> <p>Unsuitable landscaping to offset biodiversity net gain the proposed planting of trees will not survive the site conditions and salty winds experienced in the area.</p>
<p>Fremington Parish Council</p> <p>Reply Received 4 February 2019</p>	<p>It was RESOLVED that the Application be REFUSED for the following reasons:</p> <p>The development would be visually intrusive in a largely unspoilt estuary setting of international importance.</p> <p>It would introduce an unacceptable urban characteristic to the estuary that would adversely impact on the:</p> <ul style="list-style-type: none"> ○ SSSI Designation ○ The UNESCO Biosphere ○ RSPB Isley Marsh ○ Unacceptable impact on the ecology of the Taw and Torridge Estuary <p>There are profound concerns relating to significant contamination by asbestos on site which remain unanswered and which potentially pose unacceptable health safety risks.</p> <p>Failure to demonstrate that there is sufficient capacity in the sewerage system</p> <p>An increase in traffic along the B3233 especially through Instow during construction works with no proposed infrastructure improvements to accommodate the substantial increase in traffic movements along an already congested road</p>

Name	Comment
	The application does not include any education funding or recognises the requirement for a new school in the Instow/ Yelland catchment area
<p>Fremington Parish Council</p> <p>Reply Received 4 February 2020</p>	<p>RESOLVED: That the Application is recommended for refusal for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal will have an unacceptable impact on the estuary and an area of international importance which is at the heart of the Biosphere and a SSSI along with an RSPB reserve. 2. The visual impact will be intrusive on the estuary and other communities such as Heanton, Northam and Appledore and create an urban intrusion. 3. The Parish Council is concerned at the disturbance of the asbestos on site that would be required. 4. There is already significant development taking place within the Parish and no remedial works or proposals to deal with the highway issues and congestion within the area. 5. The infrastructure in the area is not adequate and there are not sufficient school and medical/health provision to cope with the increase this development would create. 6. The application is not policy compliant as it is not offering 30% affordable homes. 7. This development would not be compliant with the Councils current Climate Emergency declaration in particular the flooding projections. 8. The Council has concerns over the encroachment of green space. 9. There are questions over the accuracy of the environmental data used and that the Council requests North Devon Council to ensure that the most up to date information is used in the application. 10. There are concerns over the impact on migrating birds 11. There are grave concerns over the safety of crossing the road for pedestrians. <p>In addition, that the Clerk writes to Seline Saxby MP and Geoffrey Cox MP to ask the minister to consider a change in Government Policy to ensure that potential developments do not ruin the local area.</p>
<p>Fremington Parish Council</p> <p>Reply Received 7 July 2020</p>	<p>It was noted that a viability assessment had appeared on the Planning Portal and then disappeared, the Parish Council would ask if the Viability Assessment that is being independently reviewed is the same assessment as was published or a new assessment</p>
Heanton Punchardon Parish Council	Refusal - Members expressed extreme concern that this application would have a severe visual impact on the Taw estuary, a noted tourist attraction in this part of North Devon.

Name	Comment
Reply Received 16 January 2019	
Heanton Punchardon Parish Council Reply Received 5 February 2020	<p>The development is completely unsuitable for the location and is in direct contravention of several of the key objectives and strategic policies of North Devon and Torridge Local Plan, including Aim 2 parts (a - e) of the Spatial Planning Vision; Policies ST01 (in regard to sustainability of development on the site under anticipated conditions of climate change; ST02 (b), ST03 (a,e,h,i,k); and ST09 (2,3,4,5).</p> <p>The site was briefly developed under emergency government policy in the 1950's to 1980's, contrary to planning policies extant at the time, and has since returned to the natural state which befits an estuary riverbank adjacent to an SSSI, which hosts significant nature reserves and migrant and native bird populations. It is entirely unsuitable for re-development; cannot meet the sustainability requirements of the NPPF in regard to sea-level rise over the next 50-100 years; is heavily contaminated; and will further impact the already inadequate B3233.</p> <p>In addition, the new proposals do not provide low-price and affordable dwellings to meet the needs of local people; do not meet North Devon Council 30% standard for affordable housing and incorporate development of green (undeveloped) land as well as that land previously deemed "brownfield". The Council believes that under the provisions of the NPPF this site could and should be designated as a protected green space, at significant risk from officially-predicted effects of climate change and of significant national, regional and local ecological and environmental importance.</p>
Instow Parish Council Reply Received 21 February 2020	<p>We would recommend refusal based on the following:</p> <p>Generally: In line with core planning principles and the policy on coastal change, decisions should avoid allowing inappropriate development in vulnerable areas and that the assessment suggests if guarantees cannot be given that the development will be safe through its planned lifetime without increasing risk to life or property, or requiring new or improved coastal defences then this development is inappropriate.</p> <p>Brownfield sites are considered for redevelopment of not only housing and commercial buildings but also as open spaces for recreation, conservation, woodland etc. This site left to nature could blend into the landscape and increase biodiversity. The UK government signed the convention on biodiversity at the earth summit in 1992 with countrywide targets and action plans to</p>

Name	Comment
	<p>conserve priority species some of which depend on wasteland/industrial habitats, such as this.</p> <p>Specifically</p> <ul style="list-style-type: none"> • This development has material conflicts with the following policy of the adopted North Devon and Torridge Local Plan 2013-2031. Policy ST09 Coast and Estuary Strategy and in particular Criterion 7 which requires all new development to safeguard the unspoilt character of the coast and estuary and Criterion 11 which requires the continuity of the South West Coast Path to be protected and improved with enhancements to coastal and estuary access as part of any regeneration proposal. • It also conflicts with the policy ST14: Enhancing Environmental Assets and in particular Criterion h and Criterion J ‘increasing opportunities for access, education and appreciation of all aspects of northern Devon’s environment, for all sections of the community’. • At present (9 February 2020) there are no details on the website of any doctor’s surgeries or other community facilities as were suggested would be included by the planning officer at the Fremington meeting. • The roads around Fremington and Cedars are already very congested at peak times, and since the survey in 2013 there have been many developments in the area leading to more traffic. Until a realistic solution for the volume of traffic is found there should not be any further development. • The provision of one six storey block, 2 five storey and 9 four storey blocks of residential or office space is overdevelopment of the site. This development will be seen from miles away (as is shown in its photoshops provided) particularly at night. It is noticeable that the ‘photoshops’ of the development from various angles colour the taller buildings very light grey. This is unrealistic and the photoshops should be redone to show the taller buildings in dark grey before any decisions are made. • If 4, 5 and 6 storey blocks are allowed then this will set a precedent for other developments in the area. • 25% of the GDP of this area comes from tourism (Strategy Plan ref 8.42). Strategy 8.43 states the importance of the natural and historic environment providing an underlying attraction for visitors. • This new plan has enclosed part of the ash beds area which was supposed to be a public open space amenity under the North Devon Development plan. • This proposed development is surrounded by important areas which will be affected by it, all border the site or are part of it. ENV2 AONB; ENV3 Heritage Coast; ENV9 UNESCO Biosphere Reserve and SAC; ENV10 SSI; ENV16 Conservation Areas. The joint report from the bodies involved (English Nature, RSPB etc) is about to be published and should be read before any decisions are

Name	Comment
	<p>made. Interim results from the joint report commissioned by English Nature starkly show that there is already overuse of the area by people, and that any increase would cause grave damage to the SSSI and area. The consultations by RSPB, SW Footpaths and the letter in February 2019 from English Nature were very much against this development. English Nature does have objections and grave concerns.</p> <ul style="list-style-type: none"> • Users of the South West Coast Path will be significantly and adversely affected by the nature, extent, proximity, scale, height and massing of the development. • This development also has material conflicts with the following policies of the adopted North Devon and Torridge Local Plan 2013-2031. Policy ST04 Fails to show inclusive design improving access for users of South West Footpath. Policy FRE02: Yelland Quay and in particular Criterion (d) which requires buildings and structures to be sited and designed 'to address their visual impact on the open landscape setting of the estuary' and Criterion (m) which requires improvements to pedestrian links through and around the site. The development is also in conflict with the supporting text to Policy FRE02 in respect of the requirement for development to be designed to complement its sensitive and open landscape setting of the estuary (paragraph 10.202), to enhance the green infrastructure network (paragraph 10.206) and to secure improved accessibility and visitor experience (paragraph 10.208). • Flooding. The consultation on flooding projections states that no account has been made of the deterioration of Crow Point and does not take into account the latest data on sea levels. A new report should be commissioned to rectify this. • The present power station is a site where the protected species, the Braunton Greater Horseshoe Bat is found. There is grave concern that the bat boxes proposed by the developer are not at all adequate. • There is no data given for jobs created by this development. As the plans have been submitted by a large contractor, we can thus assume that there will be very little local work generated for local people. We can also assume that any jobs that are created in the long term will be minimum wage type of jobs: cleaning, groundsmen, wardens etc. <p>If the development is to go ahead the following conditions must be taken into account:</p> <ul style="list-style-type: none"> • As part of the proposed development is in Instow Parish, there should be in addition to all the other S106 monies, substantial S105 money set aside for Instow Parish. • Due to the anticipated increase in numbers of pupils for Instow, Fremington and Roundswell schools, and later on secondary schools, the S106 should take account of the additional

Name	Comment
	<p>services that will be required. These have been assessed by Devon County Council as: Special Educational needs of £36,391, £840,417 for Primary schools, early years provision £62,500, primary transport £334,993, secondary school transport £143,568. A total of £1,417,869. This should be considered the minimum required.</p> <ul style="list-style-type: none"> • The development should not be gated as this (as has been shown in other parts of the world) is detrimental to the community. Any gated community causes divide in the community, emphasising the social problems and causing resentment. • The developers should build and give to the community (perhaps with Fremington Council as trustees) suitable premises on site for a doctor's surgery and a community hall for the use of the people of the area, not just the residents of the new development. • There should be at least 30% affordable/social housing as required by the North Devon District Council own recommendations (FRE02: Yelland Quay). This is 75 affordable dwellings. The affordable housing tenure mix would need to be at least 75% social rent (57 dwellings). This affordable and social housing should be peppered throughout the development and the social housing should first be offered to Instow and Fremington parish council residents as the development is situate in both parishes. • If the developers are claiming that the high costs of developing the site are a reason for the low number of affordable houses, the planning committee should take account of the availability of the £1 billion Housing Delivery Fund available to developers of contaminated brownfield sites, and of the Small Sites Fund (£630 million) which aims to help public landowners with infrastructure. If the developers take advantage of these funds then their contamination costs would be very little or almost none existent. • The developers are claiming that the site will cost £54 million to develop. Other District Councils have successfully challenged costings by developers by using independent consultants who have considerable knowledge of building projects, and have succeeded in imposing the amount of affordable housing required by the District council (in North Devon's case 30%). • There should be no development over 3 storeys. As much of the development will be on raised ground (by 2.6m) even 3 storeys will be equivalent to 4 storeys. As much of the development will be second homes or holiday homes the same amount of housing could be generated on the same area without the tower blocks. • It is known that this site is badly contaminated with asbestos. Per the consultants report no investigation has been made of the asbestos sealed in the pump room, they have just

Name	Comment
	<p>ASSUMED that what they were told was true. Firstly, the developer should follow to the letter the recommendations by the Environmental Health consultant - Construction Environmental Management Plan Condition, or face financial fines that would make the site not viable. Secondly, the developers should be required to purchase an insurance bond with a pay-out limit of say value of around £100 million (or a sum to be determined by an independent actuary), which would be in place for at least 50 years for use in paying for problems from asbestos. This would be in addition to the normal bonds required by developers for residential properties. If permission is given by the District Council for development without proper investigation of the asbestos then they might be held liable in the event of the property company having been dissolved as they have a duty of care to the community.</p> <ul style="list-style-type: none"> • No permission should be given until the missing Noise consultation has been received and published on the website giving consultees a chance to comment. • The developer should be required to screen the transformers for noise so the residents are not disturbed. • No permission should be given until the missing Air Quality report has been received and published giving consultees a chance to comment. • An independent traffic survey should be undertaken, not just at the junction of the site road with the B3233, but also at peak times in Bickington where the traffic has to pass through in order to get to Barnstaple. No permission should be given until this is done and the figures made public. If necessary, the developers should be obliged to buy land and build a road from Yelland to join the link road. We note that Highways are asking for £713,000 towards road improvements, transport etc in addition to the road works to be done on site. • Adequate parking spaces need to be provided on site to accommodate not only the residents of the 250 dwellings, but also visitors to the site. The car park outside the gated site is for visitors to the Tarka trail, not for visitors who cannot park on site because there is not enough parking. • There should be an enforceable covenant held by the local council that a marina and mooring of boats of the residents are not allowed to ensure that the tranquillity and wildlife of the area is not further disturbed. • Fremington parish council, on a trustee basis, should be given control of the ash bed park area to ensure that it is truly open to all and not just the residents of the development, and the curtilage of the houses bordering the ash beds should be reduced so that the ash beds are not encroached for this development. • £106 monies should be made available for local transport – the bus system. As the inhabitants of the dwellings

Name	Comment
	are likely to be of pension age, they will be entitled to a free bus pass and the costs of these have to be paid for by the council.
<p data-bbox="217 344 458 414">Northam Town Council</p> <p data-bbox="217 454 458 562">Reply Received 10 February 2020</p>	<p data-bbox="483 344 1398 452">I have been asked to write to you to register objections to the above application. I have listed the Council's concerns below for your attention;</p> <ol style="list-style-type: none"> <li data-bbox="483 492 1437 817">1. Adverse effect on views from Appledore, Northam Burrows and Kipling Tors, Westward Ho! and on landscape generally Policies: NPPF170-171, Local Plan Policies ST14,10.190 (Protection of Landscape between Yelland and Fremington), Policy FRE and contrary to the Vision for Yelland Quay in that the development will not 'complement the estuary's landscape setting' or 'protect sensitive ecological areas'. Provision to raise the site levels by 8 metres with buildings erected on top, including a six storey building is totally unacceptable. <li data-bbox="483 822 1380 891">2. Adverse effect on tourism due to impact on landscape Policies: Local Plan Policy ST13 <li data-bbox="483 896 1348 929">3. Restriction of access to open space Policies NPPF 96 <li data-bbox="483 934 1428 1041">4. Adverse visual impact on South West Coastal Footpath and other local footpaths See objections from South West Footpaths Association <li data-bbox="483 1046 1433 1153">5. Subject to climate change and flooding Policies: NPPF 148-150, Local Plan ST03. Possible impact on dynamics of the estuary from construction of flood wall. <li data-bbox="483 1158 1398 1227">6. Disturbance of asbestos and other toxins Policies: NPPF 179,181 <li data-bbox="483 1232 1412 1339">7. Potential pollution of the Taw and Torridge estuary due to disturbance of toxic materials on the site during construction phase Policy NPPF 109 <li data-bbox="483 1344 1425 1413">8. Adverse effect on local highways: Policies: NPPF 109 particularly lorry movements during groundworks and construction <li data-bbox="483 1417 1406 1556">9. Adverse effect on adjacent estuary SSSI, Biosphere buffer zone and County Wildlife Sites. Policies: Local NPPF 170-175. Local Plan ST14, DM08. See also Devon Trust, Natural England and RSPB objections. <li data-bbox="483 1561 1409 1630">10. Adverse impact on ecology of site Policies: NPPF 170-5 (See Devon Wildlife Trust Objections) <li data-bbox="483 1635 1437 1742">11. Adverse effect on tranquillity of the environment and dark skies Policy NPPF 180. Also reference effect of light pollution on wildlife, particularly bats (see Devon Trust comments) <li data-bbox="483 1747 1401 1886">12. The application fails to demonstrate that the development would fulfil the requirements in the Local Plan (ref FRE02) of a balanced housing market and there is inadequate provision for affordable housing <li data-bbox="483 1890 1444 2027">13. Not sustainable - NNP 8 ref economic sustainability the site is not in the 'right place', ref environmental sustainability the development is not sustainable in terms of impact on landscape and biodiversity, ref social sustainability the development would

Name	Comment
	lack the required community services under Policy FRE02, Fremington lacks comprehensive services and the development would adversely impact recreational opportunities for local people.
Torrige District Council Reply Received 11 February 2020	After assessing the application, Torrige District Council Planning Department wish to express that they have no observations on consultation. The comments in this letter are purely officer opinion and are not binding upon the Officer or the Council.
CAMPAIGN TO PROTECT RURAL ENGLAND Reply Received 2 April 2019	An objection and response by CPRE Devon. The proposal fails to explain uses in terms of land use policy, how they have been informed by identified need, how the uses work well together, and how the proposal will achieve a high quality place useful to the community focusing on economic objectives, above and beyond the environmental and social objectives – failing to deliver sustainable development, contrary to national and local planning policy. Principle – no demonstrated need for additional housing and employment. It is appreciated that this site is allocated within the adopted North Devon and Torrige Local Plan 2011 -2031 (Local Plan). However, CPRE Devon have instructed an independent up to date study into the housing needs of Devon, by leading research company "Opinion Research Services" (ORS). This study: "Devon Housing Needs Evidence September 2018" has been presented to the RT Hon MP Sir Hugo Swire MP, who has shared the findings of the report with central government, in helping to drive forward housing which is: <ul style="list-style-type: none"> • based on appropriate and realistic numbers; • of a type which reflects local need; • and in a location which is sustainable. <p>The main findings of the research show that 4300 homes are required (per annum) for Devon over the next 10 years and that Devon Local Authorities and their Local Plans are seeking to deliver 5800 homes per annum – an excess of 1500 homes per annum across Devon. Furthermore, our independent research shows the predominant number of homes being delivered are unaffordable. The study has been submitted to the Local Planning Authority as evidence and needs to be circulated to Planning Committee members. The recently adopted Local Plan Policy FRE02 states: "approximately 250 dwellings the size and tenure of which will be reflective of local needs" Yet the proposal is for 280 dwellings – a 12% increase in numbers and the amended supporting statement fails to justify this number and provide a demonstrated need for the proposed 1 to 5 bed 'high quality homes' – no specific details on type, price, tenure to address</p>

Name	Comment
	<p>identified market demand and to support a mixed use community – failing to meet the requirements of local and national planning policy.</p> <p>The submitted 'amended supporting statement' contains just a short paragraph on affordable housing and states: "The proposal will deliver the appropriate level of affordable housing provision for the site in line with the Local Plan 2011- 2031." Within this document, there is no indication that there is no intention on behalf of the applicant to provide affordable housing, this coming to light having read the comments of the Service Lead – Housing Market Balance, back in 2016 stating: "I understand that the District Valuer has evaluated the viability assessment but I am still shocked to see that the regeneration of this area will require the cross-subsidy of 280 open market dwellings with zero affordable housing. On this site I would be expecting between 25-50% affordable housing as a brownfield site in a rural area." And: "Could it be that the project is too ambitious and that perhaps a different project could still achieve business advantages and regeneration of the area in question but NOT at the expense of Social Value to the tune of between £10-20 million?" Is this still the case? If so this just highlights the total imbalance of this scheme, and failure to pursue the objectives of sustainable development in a mutually supportive way, as outlined in national planning policy.</p> <p>The proposal is for a 50 bed hotel and restaurant, B1 and an unspecified use within the application description of 2000sqm: "50 BED HOTEL (USE CLASS C1) SPACE OF UP TO 3000SQM. EMPLOYMENT (USE CLASS B1) SPACE OF UP TO 1000SQM GROSS FLOORSPACE; UP TO 2000SQM" The Amended supporting statement states: "The Vision – The Waterfront The proposal seeks to regenerate the existing brown field site to create a Mixed use development providing 280 units, 50 bed hotel, A1 use, A3 use and B1 use." Where is the emphasis on and inclusion of, community facilities, which Policy FRE02 requires? Clearly not within the vision of the proposal. The applicant refers to: "A unique community centre building can be found almost floating at the heart of this mini development" And the provision of: "1000sq.m B1 use, 2000sq.m A1 use, 2000sq.m A3 use " According to calculations, the employment and tourism offer relates to in excess of 8000sqm an increase of 33% (excluding the community facilities which once again aren't mentioned) – these figures exceed the parameters of Policy FRE02 without any apparent justification for need and the exclusion of the community facilities. FRE02 states: "approximately 6,000 square metres of economic development and community facilities, compatible with its waterside location including business development, tourism and leisure uses;"</p>

Name	Comment
	<p>Where is the analysis of need for the scale and use of the proposed development in context with national and local plan policy, and community aspiration? Policy, Design and Consultation The Planning Portal states: "A DAS must explain the design principles and concepts that have been applied to the development. It must also demonstrate how the proposed development's context has influenced the design. The Statement must explain the applicant's approach to access and how relevant Local Plan policies have been taken into account, any consultation undertaken in relation to access issues, and how the outcome of this consultation has informed the proposed development. Applicants must also explain how any specific issues which might affect access to the proposed development have been addressed." The submitted 'amended supporting statement' (we have been advised that this is the Design and Access Statement (DAS)) fails to meet the standards of a DAS, required by your validation. For example, it fails to address a number of issues fully, including policy and community engagement:</p> <ul style="list-style-type: none"> • The 'contents' of this document alludes to a section looking at planning policy, and yet there is no such section; and • The statement of community involvement is weak. <p>Where is the policy appraisal within the amended supporting statement, explaining how this proposal accords with Local Plan policy and the National Planning Policy Framework (NPPF 2018)? The applicant has failed to draw attention to particularly relevant policies and guidance that have affected the evolution of the proposal. For instance, in terms of design, this proposal should be subject to independent Design Review and make reference to Building for Life in line with para 129 of the NPPF.</p> <p>Local Plan Policy FRE02 clearly makes reference to a design code and yet there is no mention of this within the 'amended supporting statement'. The proposal is not demonstrating attempts to secure high quality place making. Para 128 of the NPPF 2018 clearly states: "Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot." The submitted document fails to identify what groups of people have been discussing the scheme, fails to explore the findings of any consultation and explain how these have directed the decisions made by the applicant. This is amplified by the failure of the applicant to even mention the emerging Fremington Neighbourhood Plan, and show a real exploration of the social context of the proposal, in terms of how people living in the locality</p>

Name	Comment
	<p>will be affected by the development, including any aspirations they might have for the site.</p> <p>This failure to carry out effective engagement, is amplified by the number of objections to this proposal.</p> <p>Natural and Historic Environment The poor level of detail already mentioned in respect of the submitted DAS (or equivalent) is repeated in concerns echoed by AONB team in respect of the LVIA; RSPB in relation to the EIA; failure to consider historic assets; objections by Devon Wildlife Trust and concerns regarding the failure to deliver biodiversity net gain; the list goes on in terms of the inadequacies of this proposal in terms of meeting national and local plan policies, community aspirations and in supplying supporting justifications for this scheme.</p> <p>Natural England have highlighted that the detail of the proposal is insufficient and warrants further justification, stating: "SUMMARY OF NATURAL ENGLAND'S ADVICE Further information advised to determine impacts on designated sites:</p> <ul style="list-style-type: none"> • As the Competent Authority, North Devon Council is required to conduct a Habitat Regulations screening to determine the significance of impacts on Braunton Burrows Special Area of Conservation (SAC) and the scope for mitigation and to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your authority. • Further consideration is required regarding impacts on, and mitigation for, the Taw Torridge Estuary SSSI. • Amendments to the Construction Environment Management Plan (CEMP) are required to include necessary SSSI mitigation. Details are provided below. Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained." <p>Heritage have recently stated that: "the development will have a transformative effect on this part of the river bank. This will in turn have an effect on the significance of those heritage assets which have the river valley as part of their wider landscape setting, such as the two aforementioned churches, and the Conservation Areas. It is difficult to say quite what this effect will be, without detailed plans, but it is likely to be in the 'less than substantial harm' bracket, and so the public benefits of the scheme will need to be taken into account when the decision is made, under the terms of paragraph 196 of the NPPF."</p>

Name	Comment
	<p>It is clear that the proposal fails through lack of information, detail and consideration, to demonstrate environmental and public benefits, to outweigh the harm to the historic environment. The proposal's disregard to the special character of undeveloped coast, a finite resource for everyone to enjoy, is highlighted by the objections raised by South West Coast Path Association. There is an overriding failure of this proposal to sustain local distinctiveness and character and protect, even where possible, and enhance North Devon's natural and historic environment and assets, contrary to national and local planning policy.</p> <p>Conclusion It is appreciated that this site is allocated within the Local Plan, however, the proposed scheme fails to adhere to national and local plan policy in terms of use and amount, the assessment, evaluation and justification is poor and the design is failing to deliver high quality place making – at the expense of community aspiration, the historic and natural environment.</p>
<p>CAMPAIGN TO PROTECT RURAL ENGLAND</p> <p>Reply Received 21 February 2020</p>	<p>It would appear that the proposed description has been amended positively e.g. reduction of unit numbers (see below) and a reconsideration of the scheme in terms of overall design approach, following the recommendations of the Design Review Panel (DRP). Furthermore, an Environmental Statement has also been submitted alongside the application.</p> <p>However, unfortunately, the submitted supporting statement lacks a robust analysis and explanation for the amended scheme and how it addresses the concerns raised by the community and other stakeholders/consultees, nor does it demonstrate how the proposal draws upon the recommendations of the Environmental Statement. This document, as raised before, falls short in both detail and evaluation to justify this proposal.</p> <p>The planning portal does not appear to allow members of the public to read the statutory consultee responses – can the Local Planning Authority please explain why? It is noted that a number of bodies have yet to reply, their responses are imperative to the consideration of this significantly amended scheme.</p> <p>The inability to consider statutory consultee remarks and the poor quality supporting statement, hinder a thorough analysis of the amended scheme.</p> <p>As the statement says it: "Provide(s) information regarding the development in terms of its amount, layout, scale, landscaping, appearance, phasing, access and movement." – not a justification!</p>

Name	Comment
	<p>In terms of DRP, is their valued input going to be sought in assessing this submission, to ensure that the scheme delivers an example of high quality design and place making?</p> <p>It is noted that the supporting statement has omitted to justify e.g. why the scheme falls short in its delivery of 6000 sqm (providing 5500sqm) of economic development and community facilities, why the football pitch has been omitted – this potential loss of economic and social benefit has not been explored to allow an informed balanced consideration of the proposal.</p> <p>Conclusion It is appreciated that this site is allocated within the Local Plan, however, the proposed scheme fails to adhere to national and local plan policy in terms of use and amount, the assessment, evaluation and justification is poor. The continued input from the Design Review Panel is imperative to ensure delivery of a high quality scheme. Without access to statutory consultee responses, it is difficult to consider the proposal robustly. The scheme fails to demonstrate that it will deliver benefits/net gains across the three objectives: economic, social and environmental.</p> <p>The application should be refused.</p>

Representations

The application has been advertised on numerous occasions the following letters of representations have been submitted:

Support: 2
Object: 704
Comment: 17
Total: 723.

All but a handful have been opposed to the development. Every letter of representation submitted since 2015 has been read and is summarised below. To assist the Committee the comments have been sorted into themes.

Issues raised are covered within the report. Any comments in *italics* are responses to issues not covered elsewhere.

Representation Summary: Those in Objection

1. Application Submission

- Public engagement in the whole process ranging from adequate one day developer consultation event (52 responses)/LPA/decision/localism of decision making

- Scheme requires independent review/independent experienced/competent planning officers
- Concerns that the change in case officer (third) will lose historic context of strength of feeling of community
- Council is not capable or competent to enforce regulations e.g. Fremington Army Camp issues and DCC's handling of issues at Yelland Quay in 2014
- Role of Planning Authority in delivering Govt Policy v localism
- Application is not signed so is invalid (the published copy is redacted for data protection purposes)
- Questions the independence of reports
- Inconsistencies in documentation
- Inadequacy of the ES and inaccuracies in supporting statements (lighting, noise, TA, contamination & ecology)
- Under consideration for an extraordinarily extended period of time during which the applicants have been allowed to make unlimited amendments
- Would like to see a model of the development
- Clarity of plans (revision numbers and details)
- Access to Design Review Panel Comments (*these have been published on the web*)
- Changes do not affect total opposition to the principle

2. Principle of Development

- Contrary to Corporate Plan 2019
 - Contrary to the Spatial vision
 - Contrary to policies in NDTLP
 - Local plan consideration of this site inadequate (*see policy section of report*)
 - Local Plan Designation – Related to a marine environment – Commercial use/ no public engagement in policy change – no change of use granted
 - Should be plan led empowering local people to shape their surroundings – residents understanding of policy & policy development
 - Does not address and is contrary to all aspects of adopted policy
 - Contrary to the AONB management Plan
-
- 100's objections indicate that scheme is not in the public interest
 - Local people do not want this development
 - Residents feel ignored by the Tarka Ridge decision
 - Legacy we leave for the future
-
- Contrary to NPPF guidance on brownfield sites
 - Fremington army camp was a larger brown field site at 15.5ha
 - Inspector supported brownfield part of site, not the greenfield
 - Brownfield register BFL/FRE/028 – extends onto greenfield land
 - Not a brownfield site due to planning history
 - Reg4 of the TCP(Brownfield Land Register) Reg 2017 should be applied
 - Applying Government blanket policy re brownfield sites with no discrimination
 - In wales/Midlands/the north they have returned industrial land to nature
 - Site should be publicly acquired to ensure restoration.

- Requires restoration – can't be left as is.
- Removal of power station resulted in estuary enhancements
- The estuary should be provided with a buffer restricting development
- Site should be left undeveloped & returned to a natural asset
- No strategic requirement to build in this location
- There are other more appropriate sites for housing
- Housing should be next to employment areas
- Perception that ND has met its housing targets
- Housing targets for Fremington already met
- General concerns about build rates around Barnstaple
- Instow/Yelland/ Bickington /Barnstaple infill development – 5 year land supply discussions
- There will be pressure for other estuary development
- Cumulative impact with other developments – Fremington Army Camp, Allenstyle, Mead Park, Sampsons Plantation, Tews Lane, West Yelland (now Tarka Ridge), Anchorwood Bank (1200 units)
- Homogenisation of Bickington, Fremington, Yelland
- Empty properties and 2nd homes creating housing shortage
- Strategy to deal with empty homes before building more
- Too many houses already built/remain unsold
- Need more public open space not housing
- A 'green' alternative solution is required for this site
- Alternative development more acceptable – single quality hotel
- Remove commercial elements in favour of more houses.
- Use site for wind turbines

3. Infrastructure

- Development is occurring with no additional infrastructure
- Infrastructure should be delivered before development e.g. Roundswell School
- Inadequacy of and impact on infrastructure (schools/health (GP's & hospital)/ No NHS dentist/mains drainage/ sewerage treatment)
- Yelland has no facilities (shops/PO/community centre/play etc.)
- Realism of delivery of a GP surgery
- Lack of on-site community facilities 'D' uses
- No need for café – Fremington Quay/Instow plus café within new business units off Yelland Quay Road
- Can residential capacity be accurately assessed to arrive at accurate contributions?
- S106 requests are never enforced
- Lack of formal play facilities
- No football pitch
- Concerns about development creep onto areas of open space
- No jobs.
- Social hubs relationships to Tarka Trail
- Access right to site (already publicly used)

4. Form of development

- There are no other developments, other than historic towns and villages that stretch down to the waterside
- No integration with Yelland and Fremington
- Scale of development/over development
- A smaller scheme would be more suitable but less viable
- Proposal will result in Holiday/second homes/retirement homes/price out locals/gated style community
- Targeted at affluent 2nd home owners
- Restrictions required over sub letting
- Inspector stated 240 dwellings so why does plan state 250? Developer 280!
- Are additional 30 units (12%) justified
- Part of the site is in Instow – growth will increase by 20%
- Exceptional need for affordable housing in North Devon
- Build affordable housing for local people
- Affordable housing (lack of) – 30%/35%/40% not 10%
- Integration of affordable housing units/ghetto/add on
- If 10% are AH, 90% do not meet local housing needs
- Disabled adapted/Homes for Life
- Application does not fulfil local housing needs for smaller affordable homes for local working families
- Single and shared access for elderly
- Strategic Housing Market assessment – oversupply of larger homes
- Scheme must indicate size, tenures, occupation density
- Housing mix (4/5 bed) does not reflect local needs
- Oversupply of 4 bed units (Tarka Ridge application to now deliver smaller units) (application was subsequently withdrawn so housing mix remains as originally approved)
- Empty hotels (no longer part of this scheme)
- Existing hotel capacity taken up by homeless – need social housing next to employment areas

5. Design

- Impact of raising site levels & scale of development (height)
- Landmark v visual blot
- Fails to deliver high quality place making
- Poor Urban design approach
- Private focus of design approach
- Modern villages do not contain apartment blocks
- Design does not match a ND Design style
- Form of development does not reflect local buildings
- Proposal modelled on sites in Plymouth, Poole, Bristol & Hale

- North Devon character is not Southend on Sea/Milton Keynes/Benidorm /Blackpool /Florida /Thames
- Not a seaside resort
- Vernacular form of Fremington/Yelland single and 2 storey
- Chalets and bungalows dominate the area
- Objections to 'landmark' buildings
- Indicative sections required
- Height of buildings (2-4 max)
- 4/5/6 storey building is inappropriate
- No illustrative detail of the 5/6 storey feature buildings
- No four storey properties on the seafront in Instow
- The taller elements will be intrusive and not screened
- Seaside colours selected by residents increase visual impact
- Design does not mitigate visual impact – larch (natural materials) v render
- Power station colour blended to minimise impact
- Issues raised by DRP not addressed
- Not sustainable e.g. solar orientation/renewables
- Amended scheme is tweaking/window dressing
- Result in wind tunnels/vortexes
- Review of renewable technologies is inadequate
- Adds to carbon footprint

6. Contamination

- The Yelland power station was built at an exceptional time in our history – one where environmental considerations were not at the forefront of decision making – should not be used as a precedent now
- Grants for clearing contaminated land
- Land Remediation Relief – 115% tax credit - the tax scheme by Govt would provide developer support so there is no justification for the intensification of development
- Battersea – asbestos had to be removed
- Site contamination and impact on health (asbestos & other pollutants)
- Airborne asbestos risks
- What happens to buried asbestos if the buildings above catch fire?
- Inexperience of dealing with asbestos
- Adequacy of Concrete capping
- Quality of concrete/untested – 30 years old
- Future management of contamination over the lifetime of the scheme (100 years)
- Needs insurance to deal with post development contamination issues
- Extension of build into Ash beds
- No construction involving deep foundations would be feasible
- Risk to release of pollutants from pile driving
- Construction impacts (Lorries & dust)
- Length of build (14 years).
- Noise from pile driving

- CO2 emissions from lorries traveling to site with fill materials estimates at 268,000kg of CO2
- Testing required of all imported materials
- Impact of the oil depot
- Radon gas
- Electromagnetic radiation from existing transformer station/pylons – risk to health and safety

7. Transport/Access

- DCC Highways powerless to oppose
- TA is becoming less realistic with time /TA figures 2014/TA bus information is out of date
- Cumulative impact with other developments – Fremington Army Camp, Allenstyle, Mead Park, Sampsons Plantation, Tews Lane, west Yelland (now Tarka Ridge), Anchorwood bank (1200 units)
- Highway capacity inadequate.
- Traffic increases – Car based scheme- Lack of buses to site & disconnected from amenities (more than 5min walk to bus stop)
- Traffic impacts on journey to work/school times
- DCC comprehensive infrastructure review is still outstanding
- Significant highways improvements required
- B3223 used when link road is closed
- B3233 is overwhelmed/pollution
- Narrowing the B3223 adds to issues
- Right turn lane is impossible as two buses have difficulty passing
- Junction design & movement of bus stop - impact on existing properties
- Impact of junction works on residents accesses to their houses
- Lack of pavements on north side of B3233
- Traffic exhaust pollution
- Damage to roads from development – not repaired
- The jetty should be used to import all materials to limit the impact on the roads
- Impact on Tarka Trail/SW coast path/temporary (construction)/permanent
- Impact on Tarka Trail crossing
- Conflict of use Tarka Trail -peak leisure time is when business uses are limited – this will change with a residential scheme
- Tarka Trail – restrictions over use/raised crossover design- disabled-flat
- Diversion of SW coast path unacceptable
- Impact on SW Coast Path
- Damage to tourism use of trail
- On road car parking by people who access the trail – restricts access to Yelland Quay
- Inadequate on plot parking results in more vehicles on the roads
- Car park – Free for those using trail?
- Walking distance to schools (see West Yelland appeal)
- Preclude the reinstatement of the railway

8. Natural Environment - Ecology

- Contrary to climate change emergency declaration and the pledge for nature
- Priority is natural environment
- Ecological environmental concerns outweigh brown field site status
- Natural environment should be prioritised over development
- Live in times of environmental emergency
- Environmental holocaust
- Destroy the tranquillity of the place
- Lack of diversity of the countryside
- Loss of countryside feel and rurality of Yelland
- DCC Pledge for Nature
- DWT bought Horsey Island – exemplar
- Contrary to English Nature proposals for the coastline
- Impacts on SSSI/Biosphere/ AONB/Home Farm Marsh (GAIA Trust)/RSPB reserve
- lack of recognition of the importance of natural species
- People and wildlife cannot coexist
- Public Spaces Protection Order Dog control
- Conflict humans and wildlife
- Impact of pets on wildlife Impacts on wildlife biodiversity – from wild to managed /wintering migratory
- Impact on Red and Amber bird species bats/Spiders/Glow worms etc
- Effect on otters/birds/high tides roost by increased number of dogs/people
- Current use of Ash beds is destroying wildlife contrary to planning conditions re use
- Birdlife already disturbed by development at West Yelland
- Loss of heronry and ravens nests (pine trees)
- 5 heron nest sites replaced with 5 platforms – where is the net gain?
- Offsetting not defined – no net gain in biodiversity
- There is no adequate mitigation
- Bat building inadequate mitigation
- Protected species measures will be ineffective given length of build – site recolonised
- Impact of lighting on estuary
- Bat dark corridor conflicts with pedestrian safety crossing Tarka Trail
- Light Pollution
- Needs detailed on site oversight by a nature conservation officer during build
- No net biodiversity gain
- Developer makes inadequate compensation for wildlife
- Biodiversity off setting cannot compensate for on-site habitat destruction on this sensitive area

9. Natural Environment – Landscape

- Visual impact on estuary – AONB
- Impact on biosphere reserve
- Destroy coastal area

- Impacts on unspoiled estuary
- Irreparable damage to the estuary
- 9km of undeveloped estuary from Anchorwood to Instow
- Damage to emotional wellbeing – much loved and cherished environment
- Marred by remains but nature is taking a hold
- Whilst the site is ugly now, the scheme will result in a permanent blot on the landscape
- Urbanisation of the river environment which people on the Tarka Trail experience as natural
- Loss of beautiful panoramic and uninterrupted estuary views
- Impact on/Loss of views
- Visual impact of the development/impact on views of the estuary from both sides Westward Ho!, Northam, Appledore, Worlington, Instow, Braunton, Ashford, Saunton Sands, Chivenor, Wrafton, Heanton Punchardon, Crow Point
- Impact in Instow second beach
- Impact on Instow of pony field development on estuary
- Impact Downend has on Croyde
- Planting mitigation unlikely to be effective
- Removal of existing trees
- Requirement for a detailed landscape specification
- LVIA is misleading/ Photomontages misleading
- LVIA demonstrates the impact of 5/6 storey and prominence
- Photo montages show retained trees whilst tree report show them removed
- Scots pines are a feature for miles around
- Impact on TPO'd trees
- Loss of on-site trees
- Whilst trees may be C2 they provide significant landscape features
- Pressure from resident to remove trees to gain views
- If you buy by the estuary properties residents will want access to the water
- Views from Tarka trail not represented
- Inadequacy of screening
- Effectiveness of tree screening given the hostile environment
- Deciduous planting means the visual impact on winter will be greater
- Adequacy of light report – dark skies/residential illumination
- More details required to support the outline planting strategy
- Impact of chain link fence
- Bird screen will detract from enjoyment of river/views
- Amendments do nothing to address devastation impact of the scheme

10. Flood Risk & Water Environment

- Climate Change agenda – climate emergency
- National agenda to steer development away from flood plains
- Rising of site levels
- Sea levels rises predicted as 2.5 m – defences 1.1m
- Adequacy of sea level rise modelling

- Impact on sea e.g. at Dawlish
- Role of the site at times of flood/ its absorption ability – loss of flood plain
- Flood Risk/climate change/does raising this site then impact on others?
- Design of the wave defence brutal & impacts it will have
- Wave impact on Crow Point
- Crow point already eroded – impact on estuary – boggy marsh land
- Design of surface water system at high tides
- Concern about impact on water environment
- Existing surface water flooding issues (B3233) blocked drains
- Impact of site suds on water contamination
- Route of connection to the SWW pumping station is unknown
- Sewerage issues will directly affect estuary
- Water supplies are inadequate
- EA advise to keep away from Northam Burrows
- Health and safety risk from water features

11. Economic considerations

- Site more appropriate for a new power station
- Retention of concrete plant?
- Quay is valuable asset to the estuary/construction industry
- Historic links to industry
- Strategic importance of jetty – UK's renewable policy - tidal range
- Commercial value of site –access to sea – used for recycling
- Marine renewables 100% sustainable energy policy – Tidal range
- Economic benefits are questionable
- Do the benefits significantly & demonstrably outweigh the adverse impacts
- Economic claims misleading can only be given limited weight– 500 jobs – wages/skills not justified
- No economic value to the area – low paid jobs only in tourism/caring
- Short term construction jobs do not balance negative impact on tourism
- What commercial interest is there in the site?
- Economic benefits are not substantiated – 3000m2 of B1 employment – can this be delivered creating high quality jobs
- House to job ration calculator has been discredited
- Distrust the developer's vision, can it be delivered?
- Independent review required of the Viability Appraisal
- Impact of retail uses on other local shops
- Purchased cheaply as employment land
- Marine development aspirations linked to Plymouth University unrealistic
- No guarantee that New Homes Bonus will be forthcoming
- Greed/profit/money making scheme
- Impact on Covid on economy
- Impact on Tourism
- Restrictions on the operation in the past – economic viability

12. Heritage

- Impact on Worlington Hill
 - Importance of archaeological sites
7. Other
- Impact on Marine base from jet skies
 - Trinity house should be consulted re Impact of lights on navigation – ‘lighthouse’ restaurant
 - Future ban on natural gas
 - Comparable to [APP/R1038/W/18/3216245 North Wingfield, Derbyshire](#)
 - Years of disruption will be caused by the development
 - Length of build 15 years
 - Weekend construction disruption
- Detailed conditions would need to be applied to inform the reserved matters
 - Conditions required to secure design/build standards/renewable energy
 - Building For life assessment

Representation Summary: Those in Support

- Supports a public car park for those using Tarka trail
- Redevelopment of a brownfield site
- Allocated in local plan for development
- Provides much needed housing

PLANNING CONSIDERATIONS

The report will cover the following

1. Proposal Description
2. Planning Policy
3. Form and Layout of development & Design
4. Amenity Impacts including Noise, Air Quality, and Construction Management
5. Contamination
6. Waste and Minerals
7. Natural Environment/Biodiversity, Lighting
8. Arboriculture, Landscape & Visual Impact
9. Impact on Heritage Assets
10. Transport & Movement
11. Flood Risk & Water Quality
12. Drainage - Surface and Foul
13. Social and Economic Impacts
14. Infrastructure – Affordable Housing, Public Open Space, Education, Health
15. Section 106 - Head of Terms
16. Planning Balance

Recommendation and conditions

1. Proposal Description

- 1.1 The application was originally screened and scoped under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and a full Environmental Statement (ES) was submitted.
- 1.2 The revised submission has been rescreened/scoped under the 2017 regulations and a revised ES has been supplied. This contains 3 volumes
 - Volume1: Main Text and Figures and
 - Volume 2: Technical Appendices.
 - Volume 3 The Non-Technical Summary, which provides a summary of the Proposed Development and the findings of the ES in non-technical language (this is attached)

Full Application

- 1.3 The application is a Hybrid Planning Application which provides full details of the:
 - site preparatory works to allow for the implementation of the access and highways works to the site
 - The importation of fill material (via the existing access road);
 - The raising of site levels by up to 2.6m in height with an AOD of 8.6m over the area of the former power station;
 - Provision of the car park to serve the Tarka Trail
 - provision of a bat habitat building and bird screen and lagoon
- 1.4 The first phase of works will involve the demolition of all existing structures to allow for site clearance and filling. One of the first required reserved matters will be for the design of the new sea defences (rock armour) as these need to be in place to protect the development from flooding. The timing will be dependent on ecological mitigation given their proximity to the over wintering
- 1.5 Prior to the main construction phase material will be imported to the site to fill the existing turbine rooms and raise the levels across the site to reduce the risk of flooding. This could potentially be completed by road or sea to reduce the impact of HGV trips. It is understood that 2580m³ of fill material will be required for the turbine rooms and 157,950m³ is required to raise the land above the flood plain. It is estimated that this material will be transported to site over 12 to 14 months. Approximately 64 daily trips will be required to complete the fill operation in this time period, which equates to approximately 8 HGV trips per hour
- 1.6 Due to the scale of the development, the above works will be completed across the site in sections, so some areas will be fully complete before the site clearance and filling stage has been completed in other areas. A detailed infrastructure delivery plan Y029 18 205 P has been produced along with a draft CEMP.
- 1.7 The development proposals would be undertaken in 9 phases with an approximate 13 year build programme

Outline application

- 1.8 The outline application is submitted with a 'masterplan' (Site Plan drawing number Y029 18 204V and Proposed Storey Plan & Design Code Y029 18 206I) which shows how the development could be laid out. This also seeks to address, Scale and Mass together with Layout for development to be known as 'The Waterfront' Yelland Quay.
- 1.9 Criteria (b) of FRE02 requires approximately 250 dwellings, which is the number applied for. The agent has confirmed that these will range from 2 bed to 5 bed units. The mix would be determined at the reserved matters stage in line with ST17. Criteria (c) of FRE02 requires approximately 6,000 square metres of economic development and community facilities, compatible with its waterside location including business development, tourism and leisure uses. The application proposes mix of uses within the following quantum's.
- Employment Space of up to 3000sqm (Use Class E(g)(i) Offices to carry out any operational or administrative functions, E(g)(ii) Research and development of products or processes was Use Class B1)
 - Retail Space of up to 250sqm gross floorspace; (Use Class E(a) Display or retail sale of goods, other than hot food was Use Class A1)
 - Café and Restaurants of up to 2000sqm. (Use Class E(b) Sale of food and drink for consumption (mostly) on the premises was use class A3).
 - Service and Community Space of up to 500sqm Gross floorspace. (Use Classes E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms), E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner), E(f) Creche, day nursery or day centre (not including a residential use), F1(a) Provision of education, F1(b) Display of works of art (otherwise than for sale or hire) F1(e) Public halls or exhibition halls, F2(b) Halls or meeting places for the principal use of the local community was use Class D1 and D2)
 - Open Space (see Heads of Terms for breakdown of the area)
 - Inclusion of large water bodies to provide buffer to Overwintering birds to West of application site

Other works

- 1.10 The third part (C) of the application involves all the associated infrastructure including removal of any contamination, roads, footpaths, cycleway, drainage (including attenuation works), flood defence works, landscaping & appearance, public open space, utilities & vehicle parking& including demolition of buildings.
- 1.11 Criterion (d) of FRE02 states that all buildings and structures will be sited and designed in accordance with an agreed 'Design Code' to address their visual impact on the open landscape setting of the estuary and to avoid any harm to the protected biodiversity value of the Site of Special Scientific Interest and other designated habitats in the locality. Whilst this is an outline application, a **Building for a Healthy Life Assessment & Design Code Rev B** has been provided. This would need to be conditioned and would inform the reserved matters.

- 1.12 Criterion (e) requires the retention of the existing jetty and wharf and provision of associated operational land, including a safeguarded vehicular access to it. The Masterplan shows this along with a lay down area.
- 1.13 Whilst the application is in outline, sufficient information needs to be supplied to allow a decision to be taken on the quantum of development and its distribution across the site. The application is supported by a Site Plan and a Proposed Storey Plan and Design Code.
- 1.14 The layout will flow from a main spine road that will twist through the centre of the site and will terminate at the jetty. This jetty area will also be the location for one of two commercial zones. The other commercial zone will be next to the site entrance just north of the Tarka Trail. Within these areas will be a series of detached buildings set around a central piazza. These areas would include shops, restaurant, bike hire, café and a potential doctor's surgery (or similar community use). These commercial buildings will be single storey.
- 1.15 From this main route more minor roads will lead to the east and west. At the site edges with the waterfront and former ash pit area, development will be 2 storey residential primarily single plot units. Development within the heart of the site will feature a terrace form of development which would include 2 and 3 bed apartments with car parking courts to the rear. Within this zone development will be a mix of 3, 4 and 5 storey units.
- 1.16 Areas of blue and green infrastructure feature prominently within the site and along the site edges. The application is supported by a Strategic Landscape Masterplan. A strong green planted edge is shown between the built form and the former ash bed area which forms a major area of informal open space.
- 1.17 Paragraph 10.202 of the Local Plan states 'Yelland Quay is prominent within the open landscape setting of the estuary. New buildings and structures should be located predominately on the site of the former power station, set back from the estuary frontage and designed to address their landscape impact, as well as securing environmental enhancement of the site'.
- 1.18 Detailed plans have been provided showing the access into the site. This will be discussed in greater detail in the Highways and Transport & Movement section of this report.

2.0 Planning Policy

- 2.1 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.
- 2.2 The National Planning Policy Framework (NPPF) is a material consideration

Principle of development and site allocation

- 2.3 Paragraph 59 of the NPPF is clear that to help deliver the Government's objective of significantly boosting the supply of homes, a variety of land should come forward where it is needed and that permission should be granted where there are no overriding development plan issues. In this instance, as the site is allocated for development, considerations around the five year housing land supply do not result in the need to evoke the 'tilted balance'. The delivery of this site for housing would however contribute to the required housing targets and help support the Council's 5 year supply of deliverable housing sites.
- 2.4 Spatial policy ST01 takes a positive approach to the provision of sustainable development. This site is sustainably located, being situated within the Fremington/Yelland area and is readily accessible to the shops and facilities within Fremington, and accessible to sustainable modes of transport (Bus routes/cycle/footpaths) and to the local road network (B3233) to access facilities of Barnstaple and beyond.
- 2.5 Spatial Policy ST08 focusses development within the development boundaries of the sub regional and main centres to increase sustainable growth. The development of this site for 250 dwellings contributes to the planned provision of a minimum of 17,220 dwellings throughout Northern Devon in accordance with ST08 and will contribute to the Council's five year housing land supply.
- 2.6 Fremington and Yelland is a Local Centre defined in Schedule A of policy ST07 (1) where, within such centres development is supported in accordance with the local spatial strategies. The Fremington and Yelland Spatial vision would seek to deliver a minimum of 426 dwellings, including affordable homes to meet a range of community housing needs throughout the period of the local plan to 2031. The provision of the 250 units will contribute towards this minimum figure.
- 2.7 There has been significant development in both Fremington/Yelland and the adjoining parts of Barnstaple. Whilst residents express the view that the locality has 'received its share of development' and objects vociferously to more, the figures quoted are not maximums. Given the fragile position relating to housing delivery the emphasis should be on ensuring that allocated sites such as this come forward for development in a timely manner to protect land outside of the defined development boundaries. Some context information about approved sites is provided below.

Application No.	Site Address	Capacity Net.
61119	Larkbear (total 820)	236
70954 (Pending Decision)	Larkbear (Phase II)	252
56232 & 57085	Land off Old Torrington Road (adj. Brynhyfryd), Roundswell	49
60871	Land east of Old Torrington Road, Roundswell	89
53881	Land West of Tews Lane, Roundswell	350

Application No.	Site Address	Capacity Net.
56351	Land off North Lane, Bickington	65
55479	Land at Glenwood Farm (Phase I), Roundswell	83
60854	Land at Glenwood Farm (Phase II), Roundswell	73
63553	Land at Glenwood Farm (Phase III), Roundswell	53
60985	Land West of Mead Park, Bickington	61
60234	Land at Mead Park (Phase I), Bickington	61
62783	Land at Mead Park (Phase II), Bickington	44
64203	Land West of Oakland Park South, Sticklepath	34
66229 (Pending Decision)	Land off Old Bideford Road, Roundswell (BAR08 - Allocated for a 50 bed unit of self-contained extra care housing)	
61482	Land at Allenstyle, Yelland	73
53147	Fremington Army Camp	277
57663	Land adj. B3233, West Yelland	135
50265	Land South of Yelland Road (off Sampsons Plantation)	37

- 2.8 The North Devon and Torridge Local Plan shows this site, whilst not within the development boundary for Fremington and Yelland as a formal allocation. As set out in the Policy section, the site was allocated within the old adopted North Devon Local Plan (July 2006) under Proposal FRE4 for an industrial or quasi industrial use that requires a coastal location. Therefore, from a policy perspective the principle of redevelopment on this previously developed site has been well established for a long period of time subject to formal planning permission being granted.
- 2.9 The site is now the subject of a specific allocation in the plan under policy FRE02 for a mixed use development including residential. The policy section also details why changes were made to this policy and addresses the comments raised within the representations section of this report with regards to how policy has evolved over time and the amount of public engagement that has occurred. The allocation has been thoroughly tested at examination and is the adopted policy for this site.
- 2.10 The mixed-use proposal is acceptable in principle subject to all site specific development principles as set out within Policy FRE02 being met or addressed and the 'Vision' for the site being satisfactorily delivered.
- 2.11 The other policies of the NDTLP and other associated development plan documents also need to be addressed and accorded the appropriate level of weight.
- 2.12 It is appreciated that this allocation and the application itself has resulted in significant objection from the public and local Parish Councils and the strength of feeling is understood and recognised. This is a highly sensitive site where the policy and constraint context is complex.

2.13 The starting point should however be that the site is allocated for development under Policy FRE02.

2.14 **Consultation Responses:**

<p>Planning Policy Unit</p> <p>Reply Received 4 April 2019</p> <p>Edited</p>	<p>Policy FRE02: Yelland Quay is allocated for a high quality, mixed-use development that will deliver the site specific development principles as set out within criteria (a) to (p). Therefore, the principle of re-development of this previously developed site is acceptable subject to the stated criteria set out within Policy FRE02, other relevant local plan policies as well as any redevelopment addressing the stated aims and objections within the 'Vision for Yelland Quay'.</p> <p>It is recognised that Yelland Quay is North Devon's largest brownfield site which has been left derelict for a number of years, however it is also recognised the site is within a very sensitive location in terms of its landscape setting and environmental constraints.</p> <p>The proposed development extends further east than the area for development identified on the Local Plan Policies Map. The land to the east (former ash beds) is identified for informal open space as part of enhancing the green infrastructure network. Justification is required to extend development into this area, as part of any justification for the proposed increased level of development.</p> <p>The site is within the Coastal and Estuarine Zone where Policy ST09 will apply. Although the site lies beyond the extent of the defined settlement of Fremington / Yelland, paragraph 4.39 clearly recognises that large previously developed sites form part of the 'Developed Coast'.....Therefore, from a policy perspective although the site is within the coastal and estuarine zone it does form part of the developed coast where the principle of development is acceptable.</p> <p>On balance, I would consider the current mixed-use proposal is potentially acceptable in principle subject to all site specific development principles as set out within Policy FRE02 being satisfactorily addressed.</p>
<p>Planning Policy Unit</p> <p>Reply Received 19 February 2020</p> <p>edited</p>	<p>From a policy perspective, I consider that our position on this particular proposal has been clearly set out in the previous response to this application, dated 4th April 2019.</p> <p>From a planning perspective there is no doubt that the large majority of this site should be considered as previously developed (or brownfield) land although it is accepted that the eastern part of the development should be considered as greenfield. In my opinion the former power station was a permanent structure albeit the</p>

	<p>building was only operational for approximately 30 years before it was demolished during the late 1980s.</p> <p>It is also worth noting the 'in principle' support for the development by the South West Design Review Panel, an organisation that is independent from the Council and developer.</p> <p>In terms of the eastern boundary, the need to go beyond the scope of the brownfield allocation (FRE02) is questioned, thereby encroaching on to greenfield land (as shown on the Policies Map). As you are aware, this area of land is identified for informal open space as part of enhancing the green infrastructure network and the delivery of additional housing here must be fully justified.</p> <p>On balance, I would consider the current mixed-use proposal is potentially acceptable in principle subject to all site specific development principles as set out within Policy FRE02 and the Vision for the site being satisfactorily addressed. However, several matters as set out above require further clarification and amendment.</p>
<p>Planning Policy Unit</p> <p>Reply Received 23 June 2020</p>	<p>From a policy perspective, I consider that our position on this particular proposal has been clearly set out in the previous responses to this application and should form part of our overall comments relating to this current application.....I will make further comment on the latest plans in regard to comments dated 25th February 2020 although it is unclear as to what the amendments have actually addressed in terms of previous concerns.</p> <p>I would again reiterate that in policy terms there is an in principle support for the redevelopment of this relatively large previously developed site subject to compliance with policies in the adopted Local Plan including the site specific allocation FRE02. An in principle support was also provided by the South West Design Review Panel, an organisation that is independent from North Devon Council and developer. Again their support was on the basis that the developer should consider a number of amendments to their proposals.</p> <p>Again, the issues raised in this response should be considered alongside previous consultation responses but I would still consider the current mixed-use proposal is potentially acceptable in principle subject to all site specific development principles as set out within Policy FRE02 and the Vision for the site being satisfactorily addressed. However, several matters as set out previously and above require further clarification and amendment.</p>

Brownfield Register

- 2.15 Within the representations section the status of this site as being Brownfield has been much discussed. Councils are required by Government to prepare and publish a Brownfield Land Register ('the Register'). The Register provides details of previously developed sites that are available and potentially suitable for residential development. The preparation of the Brownfield Land Register is governed by The Town and Country Planning (Brownfield Land Register) Regulations 2017.
- 2.16 The Register is to be kept in two parts: Part One of the Register will be for sites categorised as previously developed land which are suitable, available and achievable for residential development; and Part Two of the Register is optional and allows local planning authorities to select sites from Part One and grant permission in principle (PiP) for housing-led development. Once the Register is in place it will be maintained and reviewed at least once a year to make sure it is kept up to date. This site is on Part 1 the North Devon Council's Brownfield Land Register.
- 2.17 From a planning perspective there is no doubt that the large majority of this site should be considered as previously developed (or brownfield) land although it is accepted that the eastern part of the development should be considered as greenfield. The Glossary within the adopted Local Plan is clear in that it takes the definition of previously developed land from the NPPF which states *'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape'*.
- 2.18 The Policy Team are of the view that the former power station was a permanent structure albeit the building was only operational for approximately 30 years before it was demolished during the late 1980s. Its register entry is BFL/FRE/028. The site still contains remnants of this former use.
- 2.19 Within the representations section of the report, the status of the site as 'brownfield' is disputed. The removal of the power station use (albeit not all of the structures) and its partial naturalisation have resulted in a view that the land is now greenfield. Indeed the Ash Beds are green in character (and on the whole will remain as such) but the greater part of the site remains under continuous commercial use. These parts of the site are not attractive comprising denuded land with derelict structures and industrial activity.
- 2.20 Extensive public representations have been made that the status of the site should be reviewed under Reg4 of the TCP (Brownfield Land Register) Reg 2017 and that it should be publicly acquired to ensure restoration. There is a recognition

that it cannot be left as is. Removal of the power station resulted in estuary enhancements. The power station was a very imposing feature on the edge of the river. Whilst there is a strong view that the site should be returned in whole to nature providing a buffer on the edge of the estuary restricting development, this is not an option open the Planning Committee. Its allocation for a mix use development has been tested at the Local Plan Inquiry and was found to be sound. The decision for the Planning Committee is whether the current application is acceptable in accordance with the adopted Policy FRE02.

Site Limits

2.21 Within the representations it is argued that the Inspector supported the brownfield part of site, not the greenfield areas. Parts of this development extend onto land coloured green on the proposals map. In terms of the eastern boundary, the need to go beyond the scope of the brownfield allocation (FRE02) has been questioned, as the scheme thereby encroaches on to greenfield land (as shown on the Policies Map). This area of land is identified for informal open space as part of enhancing the green infrastructure network and the delivery of additional housing here must be fully justified.

2.22 The plans below show the Local Plan Proposal Map, the proposed site plan and an overlay showing the encroachment onto the Ash Beds.



2.23 The local plan allocated developable area (hatched on the proposals plan above) is 12.36ha. The proposed developable area of this application is 11.74ha. The requirement to provide a buffer to the waterside (referred to as the 60m set back) on the western part of the site has reduced the developable area. The layout plan does encroach onto the former Ash Beds. (Section 5 of this report deals with contamination).

2.24 The development of 250 units over 11.74ha results in the provision of a development at approx. 21 dwellings per hectare, a housing density which is not considered unreasonable in this location. The removal of the parts of the development on land coloured green in the local plan (ST14), would reduce the developable area to 8.81ha. This is estimated to reduce the site capacity down to 185 units if provided at the same density. The site plan whilst encroaching on land shown as green infrastructure (ST14) provides a compensatory amount of land on the western site edge. In respect of the enhancement of environmental assets the proposal as a whole needs to be considered.

2.25 Whilst parts of the Ash Beds are now being proposed for development the overall approach maintains the developable core and provides enhanced water edge

'green' space to enhance the setting from the River. The reduction in developable area if the Ash beds were removed would impact on scheme viability and deliverability.

- 2.26 The Policy Team have asked about what is proposed for the remainder of this land to the south of the car park within the blue line i.e. within the applicant's ownership. As can be seen from the proposals map this land is not allocated for any specific development and this application does not provide any development options. The land would remain as quasi agricultural as now other than the proposed car park which will be discussed in more detail in the Transport and Movement section of the report.
- 2.27 The Policy Team have identified that this land would be suitable for the delivery of allotments in accordance with Policy DM10 and Table 13.1 to serve residents of the development and possibly Yelland. This is not currently proposed.

Conclusion: Planning Policy

- 2.28 The site has been allocated for development under FRE02 of the NDTLP. This is a criteria based policy and as such the application would need to address all aspects of the policy. Where there is divergence or omission this will need to be judged on its own merits in line with material planning considerations and the wider policy aspirations of the NDTLP and the NPPF.
- 2.29 There is agreement that something has to happen with this site. The strong representations made both from individuals and Parish Councils oppose this development. Many argue that the site should be restored to a natural green condition. There is also concern about the quantum of development that has and is occurring with the Parish. The site is however a brownfield site in need of regeneration which is a strategy supported by national policy. The encroachment onto the Ash Beds is accompanied by an equivalent (60m) set back on the western boundary of the site for biodiversity reasons. The balance of developable area to green infrastructure will be explored later on in the report but the layout does not intensify development beyond that allocated.
- 2.30 The starting point for consideration of this site is its allocation in the NDTLP. Policy FRE02 should be accorded significant weight.

3.0 Form and Layout of Development and Design

- 3.1 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.
- 3.2 In determining applications Paragraph 131 states that "great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings."

- 3.3 All design matters should be considered in the context of Policies ST04, ST05, DM01 and DM04, including the requirement for this development to be supported by Building for a Healthy Life Assessment which minimises “amber” scores and avoids of “red” scores. The commercial elements would be subject to BREEAM Very Good. At this stage the latter cannot be supplied as these element have not been designed.

South West Design Review Panel

- 3.4 Design review panels are encouraged by paragraph 129 of the NPPF. This application has been to two panels meetings (17th May 2019 and 21st August 2019). The responses are **attached to this report**
- 3.5 It is also worth noting the ‘in principle’ support for the development by the South West Design Review Panel, an organisation that is independent from the Council and developer. The Panel considered that the site’s special nature presents a unique opportunity to create a development of both local and regional significance; that is to say the site deserves a very high-quality design response which included a Design Code. The Panel provided detailed feedback followings its first review which resulted in significant revisions to the scheme and the development of a clearer Vision.
- 3.6 In August 2019 the applicant produced the Yelland Quay Vision Statement and Design Code and a new Masterplan. The revisions were then reviewed by a second panel.
- 3.7 The Main Conclusions were:
- (a) The Panel is supportive of the applicants stated aspirations & the clear brief & vision given by the applicants
 - (b) The response to the previous design review panel feedback given is welcomed
 - (c) It is felt that embracing the sites natural assets will result in a sensitive & well-designed scheme
 - (d) As a proposed coastal village, it is felt the design would benefit from providing a relationship with the water; there may be an opportunity to link the Tarka trail to the existing jetty/quay It would be beneficial to further explore the sense of arrival & intersection between vehicles, pedestrians & cyclists
 - (e) The proposals would benefit from more clearly showing how ecology / biodiversity & landscape have informed the urban form
 - (f) The different conditions & responding design iterations should be explored for key areas within the site
 - (g) The proposed relationship between the green space & build forms on the eastern boundary would benefit from further consideration
 - (h) The proposed central boulevard feels very urban, is of an inappropriate scale for a village
 - (i) There may be opportunities to consider links with other surrounding landmarks & visual links
 - (j) There is an unresolved tension between the sense of enclosure & openness of the surrounding landscape

- (k) It is felt that it would be beneficial for a footpath to be taken through the site, rather than along the foreshore
- (l) The Panel are not supportive of the house type precedents indicated
- (m) It would be beneficial for the design to now be explored & presented in three dimensions
- (n) It may be beneficial to incorporate subtle heritage references within the landscape design
- (o) The potential future evolution & expansion of site should be strategically considered
- (p) Environmental opportunities should now be considered at this stage of the design process
- (q) It is felt that the production of a Design Code at this outline stage would be beneficial to the applicant & local authority
- (r) The proposal should now consider details of maintenance, such as the management of refuse

Design Code

- 3.8 As this is an outline application, the Authority needs to consider whether the quantum of development, its distribution across the site and its relationship to the Taw/Torridge estuary and the landscape setting along with the use of green and blue infrastructure are acceptable in providing a high quality development in line with adopted NDTLP policies, recommendations of the DRP and the ten principles within the National Design Guide.
- 3.9 The details can then be delivered through the reserved matters. The feedback from the DRP is at both a macro and micro level.
- 3.10 In January 2020 a further Supporting Statement and the Crime and Disorder Statement were received, this has been refined by the Building a Healthy Life Assessment & Design Code Rev B March 2021 (point q). This has been further expanded in drawing number Y029 18 204V and 206I.
- 3.11 The National Design Guide sets out the 10 principles of good design and the Design Code similarly looks at key themes such as integrated neighbourhoods, Distinctive Places, Healthy Streets.
- 3.12 Any development on this site will result in a significant change to the local context. The estuary setting is understood and the parameters for development recognise that the provision of a landscape context will address both landscape and biodiversity concerns. This will be a new development on a unique brownfield site divorced from established places such as Instow but which seeks to provide a well-designed, high quality and attractive place.
- 3.13 The Masterplan draws some of its inspiration from other coastal communities of northern Devon. An approach which is supported by the 'Vision' for Yelland Quay as set out within the Local Plan. The DRP considered the approach set out 'embracing the sites natural assets will result in a sensitive & well-designed scheme'.

- 3.14 The layout is showing a compact form of development with a range of building types and forms. The layout leads towards new destinations in the form of new public spaces such as a piazza and the sunken square.
- 3.15 The effective use of land is a key consideration given the climate emergency and the need to ensure that housing is delivered with minimum impact on green spaces.
- 3.16 Although the Panel encouraged the development of landmark buildings within the site when applying the considerations around landscape impact this has now be capped at 5 storey buildings. Such structures are within the heart of the site so that when viewed from across the estuary there would be a degree of gradation with edge development being 2 storey and the higher density block sitting to the rear.
- 3.17 It has been questioned whether the bulk and mass proposed throughout the site is justified or reflective of a traditional coastal village. The allocation is for approx. 250 units. To provide this level of development will require a form of unit above two storey. Restrictions on building heights affect site development capacity. To remove the proposed element of 5 storey (which are mainly used as feature blocks) would reduce the number of units that could be delivered by 10. The 5 storey elements are limited in their use to feature blocks that are placed strategically on the site to aid street coherence and to provide feature elements at key routes.
- 3.18 If the scheme were to be restricted to three storey then this would result in the loss of a further 35 units. The 4 and 5 storey elements are not wide spread throughout the site with some feature blocks at the lower floor level of 7.1 AOD, but will provide a degree of articulation in roof scape and will enable units to take advantage of the setting and outlook.
- 3.19 The layout shows a series of connected networks with the emphasis on the pedestrian and cyclist thus encouraging active travel. The layout features access points to and from the Tarka Trail and South West Coast Path. The site is fully publicly accessible.
- 3.20 As set out above a mix of uses is proposed with dwellings being detached, terraced or apartments. No affordable housing is proposed due to viability.
- 3.21 In respect of materials, the Design Code shows the 'Use of either flat roof, mono-pitch or pitched roof typologies' and 'A range of materials including Zinc, Copper, Sarnafil and Slate' with Render and Stone, Timber / Composite Cladding and Glazed panel Systems.
- 3.22 The DRP also suggested that the management of refuse/wheelie bins (point r) should be considered as part of the design process but again this level of detail would need to be considered at the Reserved Matters stage as would the treatment of hard surfaces within the site (Policy response below) and is conditioned.

- 3.23 The layout shows an integrated network of green spaces with a variety of landscapes types within them (hard and soft) and play spaces (LEAP, LAP and NEAP). Blue spaces such as lagoons will aim to improve and enhance water management and support rich and varied biodiversity.
- 3.24 It is agreed that there is a need for a 'soft green boundary edge' in order to form a transitional boundary between the development and the 'Countryside' (point g) and that controls are required to ensure that such landscaping is not removed by residents. This would need to be part of the Management Company required under the s106.
- 3.25 Secondary green links are proposed, at a point near the pond in order to integrate and create new green linkages throughout the development, breaking up a continuous line of homes along the western boundary and providing a green edge on the eastern boundary.
- 3.26 The proposal at Yelland Quay will seeks to promote renewable energy through the following design / Infrastructure aspirations:
- District wide heating scheme together with utilising ground source heat pumps
 - PV Panels to buildings
 - Battery Storage to dwellings allowing for the storing of electricity to use during night-time.
 - Electric car charging points per dwelling
 - Provision of electric cycle hiring
- 3.27 The reserved matters would need to be supporting by a detailed Building For a Healthy Life assessment and the BREEAM assessment which would also need to deal with renewable energy and building adaptability to changing needs and evolving technologies. This is conditioned. There is no longer have a specific requirement to achieve a % improvement through onsite renewable energy. However there is a requirement for a more strategic overview of the design principles and how climate change mitigation (ST02) and adaptation (ST03), quality of development (ST04) and sustainable construction (ST04) as well as that contained in FRE02. The entire scheme should be covered by a Sustainability Statement which addresses the criteria of each of these policies.

3.28 Consultee Responses

Planning Policy Unit	Relevant design policies includes ST04, ST05 and DM04. You will be aware that the proposal should be supported by a Building for Life 12 assessment for residential development and a BREEAM rating of 'Very Good' for proposed non-domestic development.
Reply Received 4 April 2019	
Edited	Therefore, from a policy perspective I would suggest there is real merit here in engaging with the South West Design Review Panel in order to provide that independent stance regarding design matters on the development proposed.

<p>Planning Policy Unit</p> <p>Reply Received 19 February 2020</p> <p>Edited</p>	<p>It is also worth noting the ‘in principle’ support for the development by the South West Design Review Panel, an organisation that is independent from the Council and developer.</p> <p>However, if you are minded to support housing in this location then it is important to fully understand what the proposed treatment is for the ‘soft green boundary edge’ in terms of any additional planting, height etc. as this boundary needs to form a transitional boundary between the development and the Countryside. It is not appropriate in landscape terms for this ‘soft green’ boundary to be later replaced by or added to with close board fencing or something similar in order to safeguard the amenities of future residents. It is also recommended that a secondary green link is proposed through the housing, at a point near the pond in order to integrate and create new green linkages throughout the development, breaking up a continuous line of homes along the eastern boundary.</p> <p>In order to reduce the amount of hard surfaces within the development, has the agent explored the possibility of developing the proposed car parking areas with a permeable surface, such as grass-crete in order to reduce the risk of flooding? Also, to reduce the visual impact of the two areas proposed as a ‘social hub’ which include extensive areas of car parking, it is suggested some additional planting should be provided along the northern boundary to help screen the extensive open car parking areas from across the estuary. Additionally, I would question the reason for encouraging significant car movements in to the heart of the site for the proposed community facilities when in my opinion the priority should be to encourage increased cycle / pedestrian movements and not dominated by the private motor car, albeit vehicular access is required to the jetty to facilitate delivery of the Devon Minerals Plan.</p> <p>I welcome the inclusion of a ‘Design Code’ for the site but again I would query the conclusions put forward by the agent in the context of the views set out by the SWDRP in their report of August 2019. I note from the ‘Design Code’ that the residential low scale development does not provide details of the proposed roofscape; these need to be clarified. Roofscape is important especially in long distance views across the estuary. I would also question why the development is not exploring the opportunity for delivering a green roofscape, particularly on those parts of the development that will be more prominent in the wider landscape. Again, this was highlighted by the Panel who recognised that ‘there are opportunities to incorporate green roofs and other ecologically sensitive materials which will help to make the proposals unique and may raise the design standard of the proposals compared to a normal national house building scheme’.</p>
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	<p>The SWDRP also suggested that the management of refuse/wheelie bins should be considered as part of the design process, possibly incorporating centralised refuse collection, but it is unclear how or where this is to be accommodated within the site layout.</p>
<p>Planning Policy Unit</p> <p>Reply Received 23 June 2020</p> <p>Edited</p>	<p>I would also consider that the responses from the South West Design Review Panel (SWDRP) dated 17th May 2019 and 21st August 2019 are also important to the determination of this application.</p> <p>An in principle support was also provided by the South West Design Review Panel, an organisation that is independent from North Devon Council and developer. Again their support was on the basis that the developer should consider a number of amendments to their proposals.</p> <p>It is worth noting again, the Panel considered that the site's special nature presents a unique opportunity to create a development of both local and regional significance; that is to say the site deserves a very high-quality design response. The Panel also support the concept to create a permanent new village (rather than a holiday village) that draws some of its inspiration from other coastal communities of northern Devon. An approach also supported by the 'Vision' for Yelland Quay as set out within the Local Plan. Although the Panel encouraged the development of landmark buildings within the site so as to root the proposals in a wider setting and to help navigability for end users, I am still not convinced that the number of 5 and 6 storey buildings of the bulk and mass proposed throughout the site is justified nor reflective of a traditional coastal village.</p> <p>I refer back to my previous response of February where policy raised a number of questions regarding the landscape treatment on the eastern boundary, access and location of the proposed car park to the south of the Tarka Trail. From the additional information currently being consulted upon I do not see any response to address the questions raised.</p> <p>Policy also raised concerns regarding proposals for future use for the remaining land to the south of the car park within the red line of the application site, because additional built development in this location will not be acceptable in landscape terms. Again, no suitable response has been provided and therefore would the delivery of allotments be appropriate in this location in accordance with Policy DM10 and Table 13.1 to serve residents of the development and possibly Yelland.</p> <p>I would also question why access in to the new car park is not off the new road in to the development, avoiding conflict with cyclists</p>

	and pedestrians which appear to be encouraged to use the footpath to the west in order to access the Tarka Trail.
<p>Planning Policy Unit</p> <p>Reply Received 6 April 2021</p>	<p>Thank you for the updated version of your BfHL at Yelland Quay.</p> <p>I welcome that you have attempted to provide more detail to justify your assessment and that you intend to re-visit the assessment at RM. I also welcome that you have cross-referenced some of the headings to the recommendations set out by the DRP which I think is important and useful in the context of a tangible evidence base. I assume you have followed the recommendations set out by the Panel? Apologies if I have missed this but it is still unclear how you intend to deal with cycle parking within the public spaces.</p> <p>Again, if the submitted BfHL assessment is considered acceptable then as advocated by the latest edition of the code, if a development secures at least nine green lights (and no red lights) such as in this case then I would encourage you to apply for BfHL Commendation. A Commendation will allow the developer to use BfHL logo on the development and help showcase its qualities to prospective home buyers.</p> <p>From a policy perspective, I am happy to agree in principle with the overall assessment as amended but would re-iterate the importance of its continual review through to completion.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 14 January 2019</p> <p>Edited</p>	<p>It is appreciated that at this time it is for outline only, however, please note the following initial comments from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-</p> <p>Too much permeability in a development makes controlling crime and anti-social behaviour very difficult as it allows easy intrusion around the development by potential offenders. All planned routes should be needed, well used by generating adequate footfall, well overlooked and well integrated.</p> <p>If existing hedgerow is likely to comprise new rear garden boundaries then it must be fit for purpose. They should be of sufficient height and depth to provide both 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>I would also advise that for all plots, any private front gardens are suitably defined.</p> <p>Parking spaces would preferably be on plot, must not be disconnected from the associated dwellings and should be well</p>

	<p>overlooked by 'active rooms'. Residents will also look to park as near to their choice of main access point, likely resulting in inappropriate parking on footpaths and verges.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 27 January 2020</p> <p>Edited</p>	<p>The revised layout details of the Concept Masterplan / Proposed Site Plan are noted and whilst at this time they do not reveal many details that would be of interest to police, I refer back to my previous comments of January 2019 regarding pedestrian access to and from the site. With these in mind, I have concerns with the proposed/indicated footpaths and access to open space. Public footpaths should not run to the side / rear of and provide access to gardens, rear yards or dwellings as these have been proven to generate crime.</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. They should be designed to allow natural surveillance from nearby dwellings with safe and accessible routes for users to come and go.</p> <p>Boundaries between public and private space should be clearly defined and open spaces must have features which prevent unauthorised vehicular access. Communal spaces as described above should not immediately abut residential buildings.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 23 June 2020</p>	<p>Police have no further comments to those of 27th January 2020, which remain valid</p>
<p>DCC - Development Control</p> <p>Reply Received 29 April 2016</p>	<p>Health and wellbeing: The Council has a significant role in health and wellbeing; the Council has a statutory duty to improve the health of the local population. As such, it is appropriate to identify the important role that new development can have in improving health and wellbeing for the local area and future residents. In this context it may be helpful to highlight the evidence in the Joint Strategic Needs Assessment (JSNA). The JSNA and the Locality Public Health Plan show that the local priorities for North Devon are: reducing smoking prevalence; improving housing conditions; reducing harm from alcohol and encouraging sensible consumption; reducing health inequality through place based approaches and improving mental health.</p> <p>To support the achievement of these priorities, the County Council would welcome measures that enable safe and easy active travel. In particular, opportunities for active travel using routes that are linked to local networks and that separate cyclists and walkers from vehicle traffic routes would increase the attractiveness of active travel. Making provision for local food outlets and taking opportunities to carefully manage outlets of unhealthy food such as</p>

	<p>fast food takeaways would also be supported. The application could be improved through the provision of allotment space to support local food production.</p> <p>The quality and condition of the proposed housing, particularly any affordable housing should reduce energy use, make use of technologies that are low-carbon or carbon neutral and reduce the risks of fuel poverty and increased healthcare costs. The development should allow adequate private or semi-private outdoor space per dwelling. Community facilities should be co-located with other services where possible and be designed for a variety of different uses.</p>
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Design Conclusions

- 3.29 All design matters should be considered in the context of Policies FRE02, ST02, ST03, ST04, ST05, FRE02, DM01, DM02, DM04, DM08A, recommendations from the DRP and National Design Guide.
- 3.30 The application is in outline and hence a Building for A Healthy Life Assessment Rev B for the residential development and a BREEAM rating of 'Very Good' for proposed non-domestic development would need to be agreed alongside the reserved matters. This is conditioned and will follow the principles established with the submitted documentation which provide a sound framework to guide the development of the scheme.
- 3.31 Similarly the reserved matters would be delivered in association with the Design Code submitted as part of this application. The parameter plans deliver a mixed use development, zoned to provide a core of higher density buildings within the heart of the scheme reducing to two storey at the site edges. The distribution of open space, green and blue infrastructure will form the basis of achieving a new development form which recognises the local context and which aims to minimise its impact.
- 3.32 The aspiration of policy is to secure high quality development. The application has been informed and has responded positively to the feedback from the DRP. The supporting documents focus on the National Design Guide's standards regarding character, context, street hierarchy etc. The form of development will create new character areas on the edge of the river that responds to its context in a positive manner. Whilst this will be a 'new' development, and one that will be visually apparent it has been designed to allow a visual transition from the more sensitive site edges and will provide new public spaces that will allow the river environment to be widely enjoyed.
- 4.0 **Amenity Impacts - Noise, Air Quality, and Construction Management**
- 4.1 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, the operation of neighbouring uses (which in this case is primarily commercial), future occupiers, visitors on the site and any local services.

- 4.2 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
- 4.3 It should be recognised that the site is already in commercial use as a concrete batching plant and the location for the landing of sand and gravel. It is therefore a busy commercial hub.
- 4.4 Policies DM02 considers atmospheric pollution and noise and DM03 considers Construction and Environmental management of development.

Noise

- 4.5 Chapter 13 of the ES considers Noise. Three noise assessments have been carried out (July 2015, May 2017 and August 2018) A Noise assessment was also carried out in October 2015 regarding boat arrival and unloading noise in order to measure noise levels at the jetty to the north of the proposed development site. The existing concrete batching facility will be removed from the site and the jetty will remain with occasional deliveries of aggregate/sand around once per month.
- 4.6 Boat activities at the jetty only occur for around 3.5 hours once per month and the internal noise levels during the boat unloading activities would meet the noise target provided by BS8233:2014 in both the day and night-time periods with windows closed, it is considered that the noise at proposed residential properties is within acceptable levels with the operation of the jetty remaining as is.
- 4.7 Noise levels during construction period in respect of the SSSI could be potentially significant. As a result of this, an acoustic 2 to 2.5m high fence will need to be erected around the site to mitigate the noise disturbance from the effects of construction. The construction noise assessment indicates that there is likely to be a **moderate to significant** noise impact for specific phases of the construction overlooking the estuary. To minimise the construction noise effects on birds at the Isley Marsh Nature Reserve it is recommended that an acoustic barrier/site hoarding on the estuary boundary should be constructed. A 2m high acoustic barrier/site hoarding would reduce the construction noise at the estuary by 5 to 10 dB(A) based on the guidance in BS5228. To further protect the high tide roost it is recommended that the acoustic barrier is increased to a height of 2.5m on the western side of the construction works.
- 4.8 Construction noise is considered to be temporary. On the basis of the distances at which vibration from various construction activities is likely to be perceptible, nearby residential properties are unlikely to be affected. The construction effects are considered **temporary and negligible**. The Construction Environmental Management Plan (CEMP) will detail the methodology for the control of

construction noise. The CEMP will provide a protocol for ongoing noise monitoring during the most noise sensitive construction phases. The CEMP will also consider the noise effects over the whole construction phase.

- 4.9 Design Manual for Roads and Bridges (DMRB) considers that a change in road traffic noise of 2.9 dB(A) or less is considered to be negligible. The noise increase identified shows no significant noise impact due to development traffic at the nearest noise sensitive properties in Yelland Road
- 4.10 As the commercial units are not designed, there is no detail of mechanical ventilation and hence a noise condition referring to noise sensitive receptors to be 5dB(A) below the representative LA90 would need to be applied.
- 4.11 The baseline noise environment is such that no special design measures would be required for residential units and that daytime noise levels are within the range of acceptable levels for outdoor living areas as provided in BS8233:2014.

Air Quality

- 4.12 Chapter 14 of the ES deals with Air Quality. The Government's policy on air quality within the UK is set out in the Air Quality Strategy (AQS) for England, Scotland, Wales and Northern Ireland (AQS) published in July 2007, pursuant to the requirements of Part IV of the Environment Act 1995. Policy DM02: Environmental Protection of the NDTLP applies.
- 4.13 During construction of the proposed development, Heavy Duty Vehicles (HDVs) will require access to the site to deliver and remove materials; earthmoving plant and other mobile machinery may also work on site including generators and cranes. These machines produce exhaust emissions; of particular concern are emissions of NO₂ and PM₁₀.
- 4.14 The main air quality impacts that may arise during construction activities are dust deposition. The Air Quality SPD (adopted June 2020) requires an air quality impact assessment for substantial earth moving in excess of 2.5 hectares to assess whether there would be a likely impact on air quality, albeit temporary. However, this issue is addressed adequately as part of the ES. The treatment of asbestos is dealt with in the Contamination section of the report. The reference in this section relates to dust from the works of site raising and construction. The greatest potential for dust nuisance will generally be within 200m of the Site perimeter. Very few properties are likely to be affected by dust due to the separation distances involved. The sensitivity of the area to human health is **low**.
- 4.15 The identified ecological receptor is Taw-Torridge Estuary SSSI, to the north of the development. The sensitivity of the ecological receptor is **medium**.
- 4.16 The development is considered to be a high risk site for dust soiling as a result of track out activities. The site is already in commercial use and the access road is well used by HGV's so with proper controls over wheel washing tracked dust should be limited. This will be controlled via the CEMP.

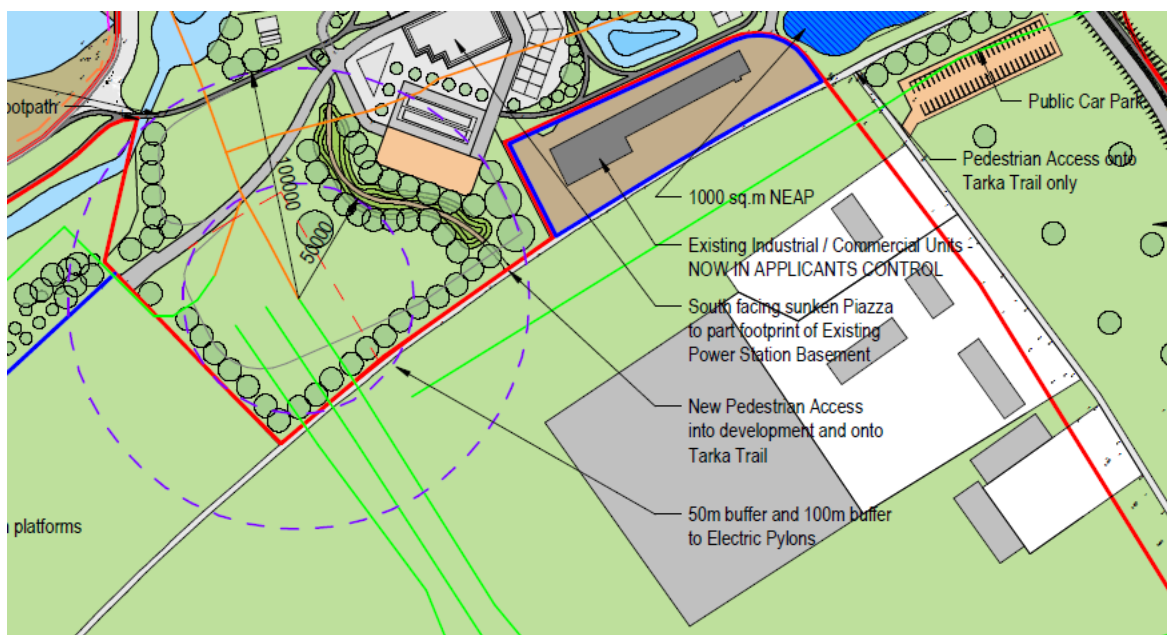
- 4.17 During the operational phase the impact of traffic associated with the development has been considered. Effects on annual mean NO₂ concentrations as a result of the proposed development were predicted to be **negligible** at 36 receptors and **slight adverse** at one location. Effects on PM₁₀ concentrations were predicted to be **negligible** at all receptors. The overall significance of residual effects was predicted to be **not significant**.
- 4.18 The air quality assessment has considered the impact on sensitive receptors (residential properties and educational facilities) located adjacent to the local road network. All results were **negligible** apart from one receptor along Bickington Road which was classed as '**slight**'.
- 4.19 The ES recommends a CEMP which should include outline measures for:
- Wheel washing to reduce dust emissions
 - Equipment to be fitted with dust suppression techniques
 - Enclosed chutes to covered skips
 - Avoid bonfires
 - Water assisted dust sweepers to access roads
- It further recommends:
- Provision of a Travel Plan for the development to encourage sustainable modes of transport to and from the Site;
 - Inclusion of secure cycle parking;
 - Inclusion of green infrastructure throughout the development to reduce atmospheric pollution through increased levels of deposition and absorption; and,
 - Provision of electric charging points throughout the development.
- 4.20 The ES assessment of the potential impacts during the construction and operational phase on air quality has shown that impacts associated with vehicle emissions are predicted to be **not significant** but that dust will need to be subject to ***Fugitive Dust Emission Mitigation Measures*** within the CEMP.

Construction Management

- 4.21 A framework Construction Environmental Management Plan (CEMP) has been submitted but will require revision to address the detailed feedback of the consultees. As this relates to all phases of development a specific CEMP is recommended for the works of site filling and thereafter for the construction phases. A pre-commencement condition is recommended.

Other issues raised:

- 4.22 Environmental Health have considered the location of the site in respect of adjoining commercial uses. The Estuary Business Park is now within the applicant's control and whilst it is outside of the red outline, it now falls within the blue outline and as such there could be an opportunity to negotiate the removal of these units and seek an improved buffer to the Tarka Trail.



4.23 Radon gas is unlikely to be an issue given the amount of fill that is proposed albeit the contamination section of the report makes further recommendations in this respect.

4.24 The applicant has indicated that development will be outside of the 100m buffer to the electric pylons that run to the south west. The transformer station is further east again. The buffer will allow for further landscape mitigation on the eastern approach to the site.



4.25 **Consultee responses:**

Environmental Health Manager	2 Noise I have reviewed Chapter 13 (Noise) of the Environmental Statement dated 2 January 2020. I would like to review the original noise report referenced in Chapter 13 prior to commenting on noise issues. I could not find the document.
Reply Received 27 January 2020	
Edited	3 Air Quality I have reviewed Chapter 14 (Air Quality) of the Environmental Statement dated 2 January 2020. I would like to review the original Air Quality report referenced in Chapter 14 prior to commenting on air quality issues. I could not find the document. 3 4 Construction Phase Impacts

	<p>I have reviewed the Woodward Smith Construction Environmental Management Plan (CEMP) dated 17 December 2018. The document provides an outline of approaches for controlling construction related impacts and issues. A more detailed document will be required prior to works commencing that fully reflects recommendations contained within relevant specialist reports such as the Air Quality Impact Assessment report and land contamination reports. Given the scale of development proposals and proximity to sensitive publicly accessible locations, a detailed complaints process should also be included. In order to ensure that the potential impacts of demolition and construction phase activities are suitably controlled I recommend the following conditions be imposed.</p>
<p>Environmental Health Manager</p> <p>Reply Received 20 March 2020</p>	<p>I have now reviewed the original Noise and Air Quality reports in relation to Environmental Protection matters and provide updated comment as follows:</p> <p>1 Noise</p> <p>I have reviewed the Accon Noise Impact Assessment report dated 8 December 2015. The report assesses noise constraints on the site due to existing sources of noise in the locality and the potential for noise impacts related to construction of the development and subsequent operation of the site. The report considers noise issues based on a proposed development that has subsequently been significantly amended. As such, the assessment will need to be updated and revised to take account of the current proposals and circumstances (including for example existing industrial / commercial businesses currently operating in the vicinity; times of day or night when noise may be an issue; existing and proposed sensitive receptor locations including any outside amenity areas; any proposed significant noise sources such as proposed external plant, operation of commercial units forming part of the amended development etc.). In addition, any updated assessment should have regard to the latest relevant standards and guidance on such matters. Given the nature and scale of the proposals, I recommend specific reference be made to incorporating a good acoustic design approach as supported within the NPPF. The aim should be to achieve a good quality acoustic environment for existing and future residents and other sensitive receptors in the vicinity.</p> <p>Professional Practice Guidance (ProPG): Planning & Noise 2017 provides guidance on utilising a good acoustic design approach with a view to ensuring that factors such as site layout, use of noise bunds, buffer zones and so on are considered as part of a general aim of mitigating and minimising undesirable noise levels.</p> <p>2 Air Quality</p> <p>I have reviewed the Accon Air Quality Assessment report dated 22 February 2016. The report assesses potential air quality impacts</p>

	<p>related to construction and operational phases of the development based on development proposals in 2016.</p> <p>Construction Phase The Assessment identifies a number of potential impacts related to the construction phase and recommends a scheme of best practice mitigation to manage such risks. I accept the findings of the report in relation to construction phase impacts which remain relevant to the current amended proposals. I recommend the proposed mitigation measures be incorporated into a suitable Construction Environmental Management Plan (see my emailed recommendations of 27 January 2020).</p> <p>Operational Phase The Assessment considers potential traffic related impacts associated with the proposals having regard to relevant standards and guidance. The report concludes that the impact of the proposed development on local air quality, using worst case traffic flows, emission factors and background pollutant concentrations is "negligible" and the pollutant concentration levels will remain significantly below the Air Quality Assessment levels.</p> <p>I accept the findings of the report which are likely to remain relevant to the current amended proposals. However, I recommend the Applicant be asked to provide a Statement prepared by a suitably qualified air quality specialist with a view to confirming that the Air Quality Assessment report of 22 February 2016 remains appropriate based on the amended development proposals and having regard to the latest standards and guidance on such matters.</p>
Environmental Health Manager Reply Received 9 March 2021	In terms of potential EMF related health and safety risks, I have not considered this previously. My understanding is that, provided the statutory safety clearance distances are maintained, there is no established evidence that significant health risks are likely to arise and I'm not aware of any specific UK health based EMF restrictions relating to development of homes near power lines or substations (potential noise impacts may be relevant though). If concerns exist then asking the Applicant to provide a Statement covering the issue and confirming that recognised safety clearances, ICNIRP guidelines etc are to be complied with is probably justified
Environmental Health Manager	Views awaited on updated reports
Western Power Distribution Reply Received 24 January 2020	Thank you for making us aware of the above planning application (Document dated 10/1/2020) which is approx. 30m from our East Yelland Bulk Supply Point substation (26 0465). The substation contains transformers whose noise is characterised by a 100Hz hum that is present at all times (except when de-energised)

	<p>together with a usually smaller 200Hz component. Low frequency noise can be very difficult to attenuate.</p> <p>Western Power Distribution wishes to ensure that the impact of their distribution plant has minimal impact on adjacent residents and thus we seek to have an input during the planning process, where possible, to raise any noise concerns.</p> <p>In our experience, some people can find even very small amounts of low frequency tonal noise unacceptable resulting in lack of sleep.</p> <p>With this in mind, Western Power Distribution requests that a full independent noise survey is carried out by the developer prior to planning being given and that the developer designs the new dwellings to mitigate the 100Hz and 200Hz tonal noise from reaching the new residents of the proposed development. Such mitigation could include noise reduction enclosures around the two 132kV transformers, subject to survey. This could reduce the noise by up to 20 dB at 100Hz, which would be chargeable to the developer</p> <p>I hope this letter has been useful in clarifying Western Power Distribution's position</p>
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Amenity Conclusion

- 4.26 In terms of neighbouring residential amenity given the separation distances involved, it is considered that dwellings and commercial spaces can be delivered on this site whilst maintaining appropriate amenity to existing dwellings in the area, therefore in compliance with Policy DM01 and DM04 of the NDTLP.
- 4.27 With appropriate conditions the impact during the construction phase can be addressed in respect of pollution controls and in particular fugitive dust. An acoustic barrier will be required during construction along with a detailed phased based CEMP. The CEMP would also have mechanisms to deal with construction noise complaints.
- 4.28 In respect of future occupiers controls will be needed over mechanical ventilation and plant on the commercial units which are yet to be designed. The internal acoustic standards for new build will address any noise arising from the jetty.
- 4.29 The applicant is revising the Noise report in line with the latest scheme to ensure that there will be no residual impact from existing commercial uses that adjoin the site. This may necessitate additional conditions and delegated authority is sought to add these as required.
- 4.30 Adequate safety clearances have been applied to the transformer station and overhead power lines.

5.0 Contamination

- 5.1 Para 178, 179 and 180 of the NPPF set out responsibilities for dealing with site contamination. Policy DM02 requires development to safeguard against hazards, and pollution policy DM02 of the NDTLP are satisfied.
- 5.2 Chapter 12 of the ES deals with Ground Condition (Contamination). As with all other sections of the ES the magnitude of potential effects during both construction and operation of the proposed development has been assessed. The chapter is supported by:
- Phase 1: Preliminary Geotechnical and Contamination Assessment Report JF/SB/SR/11352/PGCAR/04 July 2018
 - Phase 2: Preliminary Contamination Investigation and Environmental Assessment Report CR/JF/SR/11352/PCIEAR/02 July 2018
 - Phase 2: Exploratory Contamination Investigation and Environmental Assessment Report CR/SR/11352/ECIEAR/03 July 2018
 - Phase 2: Additional Exploratory Contamination Investigation and Environmental Assessment Report CR/SR/11352/AECIEAR/01 December 2019
 - Preliminary Contamination Remediation method Statement CR/SR/11352/PCRMS/02 December 2018
- 5.3 Given the site history contamination has been one of the major concerns raised within the letters of representation and within the consultation responses of the Parish Councils. The main concern is that the development will result in the release of air borne asbestos. The site is known to contain:
- Buried Asbestos within the footprint of former pump house which has been encapsulated in concrete
 - Hydrocarbons
 - Arsenic
 - Lead
- 5.4 The **Phase 1 Report** identifies the potential areas for contamination which are the former ash beds in the centre and east of the site, former coal storage area in the centre/ south, former power station process areas/ buildings in the west, former transformers and associated decommissioning area in the west and north, former underground pump house in the north, generic contamination (including asbestos) of made ground and leaking former fuel pipes or underground tanks in the plot of land in the far south of the site (former garage) and are all considered as potential sources of contamination.
- 5.5 The report outlines that all uses could be accommodated on the site without risk to human health and/or the water environment. The Phase 1 Report advises that there would be **no negative** effects on human health especially because site levels are to be raised by 2m (see flood risk section), no matter what use or uses the site is developed for, including residential uses.
- 5.6 In order to confirm both geotechnical and environmental recommendations, an intrusive investigation is required, comprising windowless sample boreholes and

trial pits with in-situ ground gas/ groundwater monitoring and in situ and laboratory testing, combined with rotary and cable percussive boreholes.

- 5.7 **Phase 2 report (ECIEAR)** was intended to provide a preliminary indication of the levels of contamination present, but the locations tested were specifically targeted to the locations most likely to contain elevated levels of contamination based on the conceptual site model. It is also noted that localised areas of particularly heavy contamination, requiring removal and/ or treatment, might still locally be present. Primarily for this reason, further, more intensive, intrusive investigation is required to determine the levels of contamination present and the extent of any contamination 'hot spots' requiring removal/ treatment to protect human health and/ or the water environment. Asbestos fibres were recorded in four of the eight soil samples tested. Covering the site with up to 2m of inert fill will protect end users from this asbestos. However, it is possible that asbestos containing material (ACM) may be encountered during construction activities, though again it is noted that capping the site with inert fill will also reduce the likelihood of exposure of construction workers to ACM. The Phase 2 report recommended that more intensive testing will be required.
- 5.8 **Phase 2 Additional Exploratory Contamination Investigation and Environmental Assessment Report (AECIER)** again concluded that the proposals to raise site levels by up to 2m alone will be enough to ensure the safety of end uses, with no additional measures required. This investigation has found that the anecdotal report regarding buried asbestos is likely to be true. Given that this structure appears to have been infilled with concrete, i.e. the asbestos has been encased in concrete, and that site levels are to be raised by approximately 2m with fill in this area, and assuming that the fill material is proven to be inert, it is considered this will provide a suitable barrier to protect end users coming into contact with the asbestos. However, the location of the former pump-house should be documented and, if necessary, marked-out on-site during the construction process, to ensure that the integrity of the concrete capping is maintained and that site workers are not at risk from the underlying buried asbestos.
- 5.9 Further, more intensive, soil and groundwater testing and gas monitoring is required to fully characterise the site, to ensure that the remedial recommendations are appropriate and that the site is safe and suitable for use. A phased (area) approach is recommended for the **additional intrusive investigation** at this site. The additional contamination investigation to be carried out in conjunction with a geotechnical investigation.
- 5.10 **The Preliminary Contamination Remediation Method Statement** provides an indication of the anticipated remediation strategy for the site, using the ground investigation data available to-date, and will therefore need to be revised following the **proposed additional phases of investigation**. The remediation requirements of each phase will depend on the findings of each individual detailed investigation. The following is proposed:
- Isolate the contaminated soils from end users by a covering of hardstanding or a suitable depth of capping of inert soil in gardens and soft landscaped areas of 2m

- Any areas of the site are to be filled by 1m or less of inert material, a capping layer would need to be installed within all soft landscaped areas, to reduce exposure to acceptable levels and to enable healthy plant growth. It is currently considered that a minimum depth of 600mm of clean, inert subsoil (typically 450mm in depth) and topsoil (typically 150mm in depth) within these areas of the site would be sufficient
- Upgraded water supply pipes that are resistant to hydrocarbon attack.
- The cover system within affect soft landscaped areas will be underlain by a geotextile membrane, to act as a visual marker to discourage excavation and to prevent mixing of the clean soil with underlying contaminated soils.
- Although not currently considered to be necessary, depending on the results of further, more intensive, investigation at the site, the following remediation measures may also be necessary at the site and the requirement for these should be reviewed following the results of these investigation:
 1. Localised removal of contamination 'hot spots', should future investigation prove this to be necessary;
 2. Localised installation of ground gas protection measures within the proposed buildings, should future investigation prove this to be necessary; and
 3. Localised installation of a hydrocarbon vapour resistant membrane within the proposed buildings, should future investigation prove this to be necessary
- In order to ensure that the not a danger to construction works and future site occupiers, it is recommended that all previous and future ground investigation reports for the site be passed onto a specialist asbestos consultancy, so that suitable risk assessments and further advice can be provided

5.11 The EA at para 12.10.3 concludes that 'There is a possibility that surrounding site users/ residents may be exposed to increased levels of potentially contaminated dust due to ground disturbance, though given that site levels are to be raised significantly (by up to 2m) and that appropriate construction works risk assessments and methodologies will be implemented (e.g. for asbestos), as well as the typical distance to the receptors, it is considered that there is a **low likelihood risk** of surrounding site users/ residents being exposed to potentially contaminated dust. Nevertheless, the **sensitivity** of the receptor is considered to be **very high**. Based on the levels of contamination recorded, as well as detailed quantitative risk assessments, the potential **magnitude** of the impact is considered to be **slight**. This would result in a direct, **short term and temporary, intermediate adverse effect**, which is considered to be **significant**'.

5.12 The possibility that future site users would be exposed to increased levels of potentially contaminated soils during operational use is considered to be unlikely, particularly given the ongoing further phases of ground investigation, which will identify whether remedial measures (e.g. localised contaminated soil removal and/ or capping of garden areas) are required to protect end users (receptor).

5.13 **Validation testing** will be required within an appropriate Material Management Plan.

- 5.14 There is a potential that earthworks and construction could increase the potential for contaminant migration to the underlying **groundwater** due to accidental spills and leakages from construction activities and storage of materials (including soil stockpiles, chemicals and fuels) or the creation of a preferential pathway (e.g. pile foundations). The sensitivity of the underlying groundwater is considered to be **high** due to its classification as a Secondary A Aquifer. Given mitigation measures detailed, the potential magnitude of the impact is considered to be **slight**. This would result in a direct, **short term and temporary, intermediate adverse effect**, which is considered to be **significant**.
- 5.15 All works throughout the development area would need to be undertaken in accordance with current best practice to minimise pollution risks e.g. in accordance with national guidelines such as Defra / Environment Agency 'Pollution prevention for businesses'. Where appropriate, method statements would need to be produced for high risk activities, such as refuelling and use of concrete. Measures to control dust and run-off would be specified within the **Construction Environmental Management Plan (CEMP)** for the site; ecological protection measures would be detailed in a **Construction Ecological Management Plan (CEcoMP)** for each phase of the development.
- 5.16 It is envisaged that the construction compound would be located to the south of the Tarka Trail. No further sub-compound or storage areas would be created within 60m of the top of the proposed flood defences once complete.

5.17 Consultee Responses

<p>Environmental Health Manager</p> <p>Reply Received 27 January 2020</p> <p>(see also amenity)</p>	<p>1 Land Contamination:</p> <p>I have reviewed Chapter 12 of the Environmental Statement dated 02/01/2020 and the associated contamination reports. The Chapter 12 summary does not adequately reflect the key recommendations of the assessment reports. The site known history of potentially contaminative uses has been subject to a number of contamination risk investigations and assessments. This work has been carried out by Raddlesden Geotechnical. Their most recent report is the Phase 2:Additional Exploratory Contamination Investigation and Environmental Assessment Report dated 10/12/19 The states:</p> <p>"As recommended within the previous preliminary and exploratory investigation reports undertaken for the site, further, more intensive investigation, testing and assessment is still required at a later date, to further characterise the site conditions and to allow location specific recommendations to be provided."</p> <p>In relation to asbestos risks the report states:</p> <p>"It should be noted that, if areas of buried asbestos are found to be present during future investigations, development of these areas may not necessarily be viable (e.g. as is the case remedial works and proposals."</p>
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	<p>the report recommends the following further works:</p> <p>"Furthermore intensive, soil and groundwater testing and gas monitoring is required to fully characterise the full development site, to ensure that the remedial recommendations are appropriate and that the site is safe and suitable for use. A phased (area) approach is recommended for the additional intrusive investigation at this site. The additional contamination investigation might be carried out in conjunction with a geotechnical investigation. The precise remedial works required should be agreed within the local authority, on a phase-by-phase basis before being implemented."</p> <p>I agree that a phased (area) approach would be beneficial to further contamination investigation and assessment as it would establish a clearer connection between specific development proposals in a given area and the best approach to investigation and remediation of the associated contamination risks. Subsequent development of an area would then take place in a manner that ensures the area specific remediation recommendations are fully implemented and are signed off following submission of appropriate area specific verification reports and certification to the LPA. Given the above, I recommend conditions be imposed on any permission</p> <p>4 Construction Phase Impacts</p> <p>I have reviewed the Woodward Smith Construction Environmental Management Plan (CEMP) dated 17 December 2018. The document provides an outline of approaches for controlling construction related impacts and issues. A more detailed document will be required prior to works commencing that fully reflects recommendations contained within relevant specialist reports such as the Air Quality Impact Assessment report and land contamination reports. Given the scale of development proposals and proximity to sensitive publicly accessible locations, a detailed complaints process should also be included. In order to ensure that the potential impacts of demolition and construction phase activities are suitably controlled I recommend the following conditions be imposed.</p>
<p>Environmental Health Manager</p> <p>Reply Received 15 June 2020</p>	<p>I refer to my previous comments on this application 27 January 2020 and to follow-up comments I made to you regarding noise and air quality on 20 March 2020. I have reviewed the Woodward Smith consultee response letter dated 4 June 2020 and the Ruddlesden Geotechnical response to comments document dated 13 May 2020. I do not wish to add anything to my previous comments, which stand.</p>
<p>Environment Agency</p>	<ul style="list-style-type: none"> • A scheme to deal with the risks associated with contamination of the site;

<p>Reply Received 16 May 2016</p> <p>(edited)</p>	<ul style="list-style-type: none"> • Any unsuspected contamination subsequently found to be present on the site; and • A Construction Environment Management Plan. <p>We concur with the conclusion that further intrusive investigations are required in order to adequately characterise the site and assess risks to controlled waters. Whilst we have no objections to the proposed development, we recommend that the abovementioned conditions should be included within any permission to secure the implementation of this additional work. The inclusion of these conditions is also justified by national planning policy. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).</p> <p>We recommend that a Construction Environment Management Plan (CEMP) is produced to pull together and manage the pollution and waste management requirements during the construction. A CEMP is best prepared with the main Contractor. It is a management system showing how the environmental risks are managed through the construction phase, in a similar way that Health and Safety risks are managed. We recommend that a CEMP is drafted using the guidance from PPG6.</p>
<p>Environment Agency</p> <p>Reply Received 30 January 2019</p> <p>Edited</p>	<p>Advice – Construction Environment Management</p> <p>We have reviewed the submitted Construction Environment Management Plan (CEMP) dated 17.12.18 by Woodward Smith Architects. Whilst this is broadly acceptable we recommend that the document is updated at the detailed design stage to cover the following issues. There is no mention of incident reporting within the CEMP. We recommend the inclusion of a statement that any pollution incidents will be reported to our incident reporting line 0800 807060. We note that water will be used for dust suppression and vehicle washing. The applicant should confirm where is the water for this coming from. We advise that if they abstract groundwater or surface water for this purpose, they are limited to 20 cubic meters per day. If they are likely to exceed 20 cube per day, they will need to apply for an abstraction licence. With regards to risk of water pollution to the surrounding watercourses, whilst the document states that appropriate measures will be taken to prevent discharges, it does not contain any details of the methods they will take to ensure there are no pollutions. Perhaps the methodology will evolve during</p>

	construction. We recommend that the detail is included within an updated CEMP in due course.
Environment Agency Reply Received 16 July 2020	<p>Additional advice relating to Contaminated Land is also set out below. All other advice in our letter dated 19 February 2020 remains valid and, should you be minded to grant the application, we would recommend that all of our previously recommended conditions are included within the decision.</p> <p>Advice – Contaminated land The additional information submitted does not alter the comments in our previous response dated 19 February 2020. However the comments from Ruddlesdon Geotechnical dated 13-05-2020 include reference to further more intensive investigations. We encourage the completion of further investigation to improve the data set available for the site and recommend that our previous comments are considered when designing these additional investigations and when interpreting and reporting this work. It would be beneficial to compile all relevant data from previous investigations in order to develop a site specific conceptual site model and we recommend that it would be beneficial to include site specific detail of the groundwater flow fields and cross sections of the site.</p>

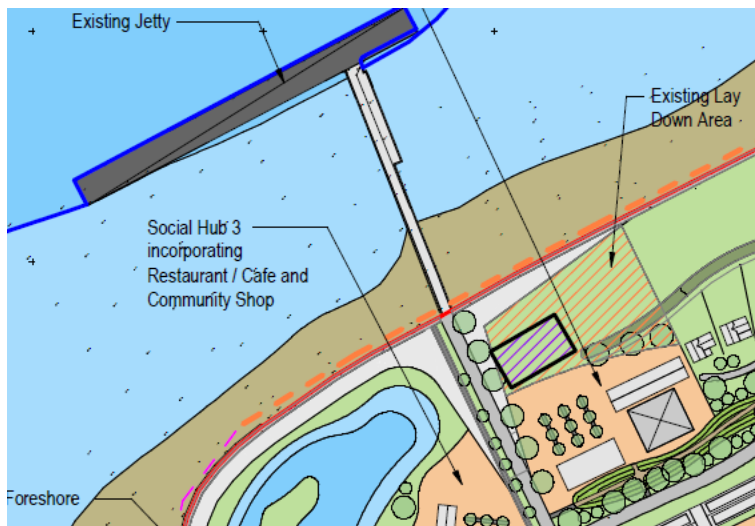
Conclusion

- 5.18 National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water and other pollution. The policies of the NDTLP similarly require contaminants to be adequately managed.
- 5.19 As set out within the amenity section of this report the effectiveness of the CEMP will be critical in controlling construction to ensure that contaminated areas are not disturbed (unless agreed) but are treated in line with recommendations for filling and then appropriately secured and/or remediated.
- 5.20 It is agreed that a phased (area) approach would be beneficial to further contamination investigation and assessment as it would establish a clearer connection between specific development proposals in a given area and the best approach to investigation and remediation of the associated contamination risks. This can be controlled by condition
- 5.21 Subsequent development of an area would then take place in a manner that ensures the area specific remediation recommendations are fully implemented and are signed off following submission of appropriate area specific verification reports and certification to the LPA. Again conditions would need to be imposed on any permission to secure this.

- 5.22 Whilst there is a concern about the impact that contaminants and particularly asbestos could have on human health, the strategies set out above have been designed to address how the site is delivered and mitigated. The whole process has been designed to be on a highly precautionary basis given the sensitivity that contamination can have on human health and the natural green and water environments. There are no policy concerns in respect of DM02 and DM03.

6.0 Waste and Minerals

- 6.1 Policy MP53 Devon Minerals Plan seeks to safeguard the future operation of existing wharves. This requirement is reflected in criterion (e) of FRE02 where the existing jetty and wharf, associated operational land and vehicular access to it are to be safeguarded. The proposed development retains the jetty and a commercial lay down area.



- 6.2 The Applicants supporting statement indicates that: *The Minerals Wharf and lay down area is being retained as part of the application proposals The Concrete Plant and Waste Transfer Station are a hangover from the applicants work in capping the ash beds. These facilities will be retained on site as part of the initial construction works including the raising of the ground levels. Following the completion of these works the applicant will reassess the viability of these elements and if considered still viable, the applicants will endeavour to relocate these facilities elsewhere.*
- 6.3 It is not unusual in coastal areas for commercial activities to occur alongside tourism and residential life. The laydown area allows this site to retain its flexibility as the long term use of the jetty could be a valuable asset to the North Devon economy. The amenity section above has concluded that the continued operation of the jetty could occur within reasonable noise operating limits
- 6.4 In respect of the treatment of waste a full waste management statement will be required.

6.5 Consultee Responses

Planning Policy Unit Reply Received 4 April 2019 Edited	Yelland Wharf itself is identified in the Devon Minerals Plan (Inset Plan E) where Policy MP53 to safeguard future operation of existing wharves . This requirement is reflected in criterion (e) of FRE02 where the existing jetty and wharf, associated operational land and vehicular access to it are to be safeguarded. The proposed development appears to comply with these policy requirements.
DCC - Development Control Reply Received 29 April 2016	<p>Waste Planning</p> <p>The supporting statement fails to mention the Devon Waste Plan, or the adopted and emerging Minerals Plan, together with national minerals and waste policy. The existing waste recycling and concrete plant is included within a Waste Consultation Zone, with Policy W10 of the Devon Waste Plan allowing for non-waste development if a suitable and deliverable location can be provided for the facility. As the application includes a new site for the concrete plant, the proposals are compliant with Policy W10 subject to an appropriate condition ensuring that this component of the proposals is achieved.</p> <p>Page 78 of the supporting statement includes a waste audit, the principles of which are acceptable. However, the audit would be improved by inclusion of estimated quantities of waste that will require management during the site preparation and construction phase and following occupation of the new development. In particular, quantities and means of management of any hazardous waste should be identified.</p> <p>Minerals Planning</p> <p>The adopted Minerals Local Plan defines a Mineral Consultation covering the jetty and an adjacent area for use as a mineral wharf, which is currently operational for the landing of aggregates. The emerging Devon Minerals Plan proposes a Mineral Safeguarding Area for the wharf facility. Policy MP53 of the adopted Plan and Policy M2 of the emerging Minerals Plan oppose development that would constrain continued use of the mineral wharf; however, the application retains the jetty and includes provision for an adjacent 'lay down dock area', with vehicular access to this being separate to the residential element. On this basis, the proposals are consistent with the adopted and emerging Mineral Plans.</p>

Conclusion

- 6.6 Yelland Wharf itself is identified in the Devon Minerals Plan (Inset Plan E) where Policy MP53 seeks to safeguard future operation of existing wharves. This requirement is reflected in criterion (e) of FRE02 where the existing jetty and wharf, associated operational land and vehicular access to it are to be

safeguarded. The proposed development does not conflict with these policy requirements.

7.0 Natural Environment/Biodiversity/lighting

Policy Context

- 7.1 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 (NERC), The Countryside and Rights of Way Act (CRoW) The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).
- 7.2 Para 175 of the NPPF states : When determining planning applications, local planning authorities should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) **adequately mitigated**, or, as a last resort, compensated for, then planning permission should be refused;
 - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- 7.3 In respect of ecology, Policy ST14 (Enhancing Environmental Assets) of the NDTLP, requires the quality of northern Devon's natural environment to be protected and enhanced by ensuring that development contributes to:
- a) providing a **net gain** in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;
 - (b) **protecting** the hierarchy of designated sites in accordance with their status;
 - (c) conserving European **protected species and the habitats** on which they depend; (d) conserving northern Devon's geodiversity and its best and most versatile agricultural land;...
 - (i) conserving and enhancing the robustness of northern Devon's **ecosystems** and the range of ecosystem services they provide
- 7.4 This is further enshrined in Policy DM08 (biodiversity and geodiversity) whereby this policy provides detailed criteria on the above consideration in relation to the assessment of planning applications. Paragraph 170 and 171 of the NPPF also seek the same set of objectives in respect of the above and reiterates the statutory duties.

7.5 The impact that these works could have on the natural environment is again one of the key issues raised within the letters of representations and community forums. The sensitivity of this site was a key point of discussion at the Local Plan Examination when both Natural England and the RSPB were engaged with the development of the policy and participated in the debate with the Inspector.

Biodiversity

7.6 Chapter 6 of the ES deal with Biodiversity. The following surveys have been completed by EAD Ecology:-

- Extended Phase 1 Habitat Survey
- Ecological Surveys
 - Botanical Survey
 - Hedgerow Survey
 - Invertebrate Survey
 - Reptile Survey
 - Breeding Bird Survey
 - Wintering Bird Survey
 - Badger Survey
 - Bat Survey
 - Dormouse Survey

7.7 **There are no European-designated sites** within the site boundary and the ES concludes 'No effects on other European sites of nature conservation importance are predicted'.

7.8 The site lies within the buffer zone of the **North Devon Biosphere Reserve**.

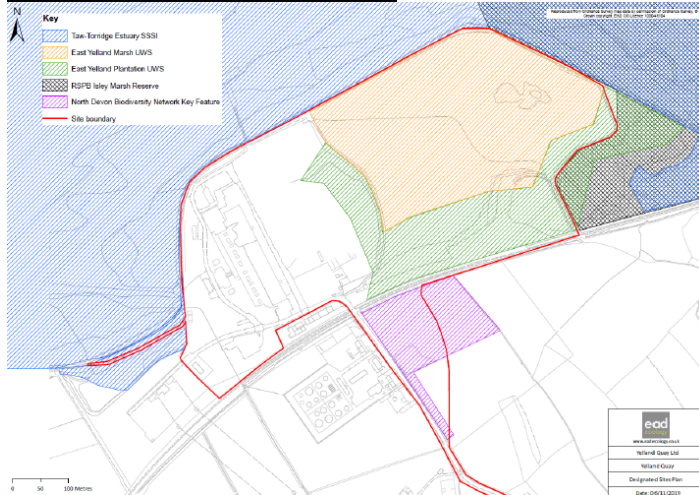
Braunton Burrows SAC

7.9 The Braunton Burrows Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) lie approximately 800m northwest of the site. The ES concludes '*No mechanisms or pathways have been identified likely to affect Braunton Burrows SAC during the construction phase. Effects are assessed as **neutral** and **not significant***'.

7.10 The site lies within the Braunton Burrows SAC 'Zone of Influence. As such, any new residential or tourism development in the Zol is considered to have recreational impacts on the SAC. During the operational phase of the development the effects are assessed as a **major negative** effect.

7.11 A financial contribution is required in order to mitigate the impacts of development. A S106 agreement would be required at £100 per unit (see Heads of Terms)

Taw-Torridge Estuary SSSI



- 7.12 Taw-Torridge Estuary SSSI is located immediately adjacent to the site. It is designated for its populations of overwintering and migratory wading birds and for its estuarine habitats supporting rare plant species. There are seven primary high tide roost sites within the estuary, of which Yelland is considered to be the '*second most important*'. The importance of the Yelland roost was also identified in a recently published study on wintering wildfowl high tide roosts and recreational disturbance impacts on the Taw-Torridge estuary. The study also identified Yelland as a 'go-to' roost for birds disturbed from high-tide roosts elsewhere within the estuary.
- 7.13 Construction activities (between high tides during September and March) have the potential to disturb wintering waterfowl. Birds are most likely to be affected by works immediately adjacent to the estuary frontage, and could be disturbed by noise or visual disturbance from construction activities. In the area around the high tide roost the noise would be a '*moderate*' during the majority of construction phases and '*significant*' in the absence of mitigation.
- 7.14 The other issue would be visual disturbance during the construction of flood defences, lagoon and screen. Works inland of these areas would be unlikely to result in significant visual disturbance to waterfowl, as there would be no direct line-of-sight between areas used by birds and the construction area. Any disturbance would temporarily displace birds from the high tide roost area, causing them to expend energy during flight, either to return to the roost site (where there may be further risk of disturbance) or to alternative roost sites elsewhere in the estuary. The impact is a reduction in fitness of the affected birds which could lead to an increase in mortality. It is considered that without mitigation, construction disturbance could result in a **medium-term, negative effect** which given the **significance** of the site results in a **major negative effect**.
- 7.15 Without proper controls construction activity could affect water quality as a result of the release of sediments into the estuary during ground raising / construction of flood defences, or pollution from concrete, fuels or oils used during construction. These works also have a potential geomorphological effects arising from new flood defences. A CEMP and CEcoMP are required.

- 7.16 The ES concludes that noise from road traffic and mechanical services/plant would be negligible, as would noise from residential properties, assuming that standard best practice measures to insulate sound within new buildings was implemented. The jetty would continue to operate as it did prior to the development, and therefore noise and visual disturbance arising from ship deliveries would be unchanged.
- 7.17 A minimum 60m set-back of new buildings from the estuary edge, and limitations on building height along the frontage immediately adjacent to the known roost site are recommended. Noise disturbance during the operational phase of the development is unlikely to affect waterfowl adjacent to the site. A cross section across the main frontage adjoining the high tide roost (Section A-A, Y029-18-501Q) shows the potential line-of-sight from the roost into the development, and confirms that with the provision of the proposed screen, buildings adjacent to the roost would not be visible to birds at that location. Therefore, any movement within the buildings or at ground level would not be visible to birds using the roost this minimising impact.
- 7.18 During the operational phase the increased pedestrian activity (including dogs) along the SW Coast Path and on the adjacent foreshore will be the main source of disturbance to the high tide roost. Provision of a screen along the western boundary of the site (Y029-18-501-Q), providing visual screening of walkers (and a barrier to dogs accessing the foreshore) is required.
- 7.19 Beyond the screen, a post and wire mesh fence would need to be installed along the remainder of the estuary frontage (including along the western edge of the RSPB Isley Marsh reserve) to deter pedestrian and dog access to the foreshore; this measure was recommended in the recent report on high-tide roosts and recreational disturbance on the estuary (Berridge 2019). The fence would be situated at the toe of the bank, out of view but still serving to prevent access to the estuary foreshore.
- 7.20 The inclusion of a low wall as part of proposed flood defences, which would provide some additional screening. Reed planting along proposed lagoons adjoining the estuary to provide additional screening.
- 7.21 The layout shows the creation of a new pedestrian route from the development to link with the South West Coast Path to the west of the site. The new path would be routed below the embankment adjoining the estuary, to minimise potential disturbance in the area immediately to the west of the roost.
- 7.22 To deal with disturbance from new artificial lighting arising from the development lighting parameters would need to be agreed to ensure a 'dark' corridor along the estuary frontage,
- 7.23 Without additional mitigation, there would be a residual risk that disturbance from residents of the proposed development could negatively affect waterfowl using the high tide roost, and, to a lesser extent, other intertidal areas adjacent to the site. On a precautionary basis, this is assessed as a **long-term, negative effect** on

waterfowl populations of the Taw- Torridge Estuary SSSI, **significant at Regional level**. This would be a **major negative effect**.

7.24 Summary of required mitigation:

- a) A Landscape and Ecological Management Strategy (LEMS) sets out the principles of all landscape and ecological mitigation measures. The LEMS provides the framework for the delivery of a series of Construction Ecological Management Plans (CECoMPs) and post-construction Landscape and Ecological Management Plans (LEMPs) that would be produced for each phase of the development. These would detail required ecological measures during construction and the management of new and retained habitats respectively. The LEMPs would cover site establishment and the first five-year post construction phase, after which they would be reviewed for the next five to ten-year period
- b) All works to create the new flood defence, visual screen along the north-west boundary and ground-raising within the 60m zone to the front of the first row of buildings, including the construction of the new screen, would be undertaken between April and the end of September, avoiding the key over-wintering period.
- c) Temporary visual and acoustic screening along the north-western boundary would be provided for all works, located at the top of the proposed flood defences, comprising an enhanced 2.5m acoustic barrier to protect high tide roost;
- d) In the event that a 'winter wildfowling ban' was implemented by the Secretary of State due to severe winter weather, further mitigation measures in addition to the above would be implemented e.g. timing/avoidance of certain construction activities in relation to high-tide times (plus two hours either side). Such measures would be agreed in advance with North Devon Council and Natural England.
- e) Regular monitoring of the high-tide roost would be undertaken by the Ecological Clerk of Works (EcoCW) for the development. In the event that regular disturbance of the roost was identified during construction works, working methods would be reviewed in consultation with Natural England and North Devon Council and additional mitigation measures implemented as appropriate.

Other SSSI's

- 7.25 Eight other SSSIs are present within 5km of the site including Caen Valley Bats SSSI, which lies 4.9km to the north and is designated for its nationally important summer maternity roost and winter hibernacula for its population of greater horseshoe bats. The ES reviews the impact of lighting, the crossing of the Tarka Trail and the loss of habitat (summer roost for two individual bats within the underground structures) and concludes that *'Overall, it is considered that there would not be a **significant negative effect** on GHS bat populations from Caen Valley Bats SSSI during construction. Effects are assessed as **negative and medium-term** at Sub-Parish level (i.e. not significant); a **minor negative effect**.*

- 7.26 The lighting parameter plan for the development (Y029-18-207-E) identifies a minimum 10m width dark (<0.5 lux) corridor along the southern boundary of the site, adjacent to the Tarka Trail. This would include the proposed new road crossing. New landscape planting within the development (Strategic Landscape Masterplan, Drawing No. 10655/P18D), would provide potential new commuting or foraging habitat for GHS and other bat species as it matured. Overall, effects on bat populations from Caen Valley Bats SSSI are assessed as **neutral** in the medium-term onwards and **not significant** using the site.

Other Statutory Sites

- 7.27 Bideford to Foreland Point Marine Conservation Zones (MCZs) is situated approximately 3km west of the site and Taw-Torridge Estuary recommended MCZ lies approximately 1.7km north-east of the site. Fremington LNR lies approximately 2.3km east of the site boundary. The ES concludes that *'No mechanisms or pathways have been identified likely to affect other statutory sites of conservation importance, including MCZs and Fremington LNR. Effects are assessed as neutral and not significant'*. This conclusion is also offered during the operational phase.

Other Sites

- 7.28 Home Farm Marsh County Wildlife Site (CWS) lies approximately 500m east of the site and is designated for grazing marsh, arable land, brackish ditches and small area of saltmarsh with bird and plant interest.
- 7.29 Isley Marsh RSPB Reserve is located immediately to the east of the site. It is described as "an important haven for undisturbed feeding and resting birds, especially wintering flocks of ducks (such as teal) and waders (including significant numbers of curlew, greenshank and dunlin)". No significant effects on are predicted during construction. This site is located approximately 200m to the east of the main development area and consequently would not be directly impacted by construction activities. The noise assessment identifies no 'significant' affect overall, construction effects are assessed as a **minor negative** effect.
- 7.30 The majority of the above two sites are inaccessible to the public and screened/separated from publicly accessible areas by vegetation, site topography or fences. Home Farm Marsh is currently subject to significant disturbance from visitor pressure and the GAIA trust are seeking additional Govt measures and/or PSPO to restrict public access. The Overwintering Bird SSSI assessment and NE have concluded that all development is contributing towards a steady, iterative increase in recreational pressure and there is a requirement for all new residents to be appropriately informed through home information packs and site interpretation. Mitigation measures to avoid disturbance effects on the wider SSSI (set out above) would also manage any potential additional disturbance effects on Isley Marsh and Home Farm Marsh. Overall, operational effects are assessed as **neutral** and not significant in the ES although this is considered an under estimate.
- 7.31 Two non-statutory designated sites East Yelland Marsh Unconfirmed Wildlife Site (UWS) and East Yelland Plantation UWS are situated within the north-eastern part

approximately -113 'Habitat Units' (-31.3%) and a gain of approximately +5.5 'Hedgerow Units (+200%)'. The assessment takes into account the enhancement of 1.25ha of poor semi-improved grassland adjacent to the site (to the south of the Tarka Trail) to 'Good' condition wildflower grassland, based on the Strategic Landscape Masterplan, Drawing No.10655/P18D.

- 7.36 Without additional mitigation or compensation, the net loss would be a negative, long-term effect significant at Parish level; a **moderate negative** effect. Planning policy requires a minimum 10% biodiversity net gain, preferably delivered on site. The s106 regime can be used to contribute to off-site improvements. The applicant and the North Devon Biosphere Reserve Manager have agreed in principle the delivery of new/enhanced off-site habitats to offset on-site habitat loss, and deliver >10% net gain overall. This would be delivered either through direct agreement with a third-party provider, or through financial contribution to the North Devon Biosphere Reserve, who would then deliver the required offset. In either case, the offset provision would be secured as part of the s106 agreement for the development, providing certainty of delivery. The North Devon Biosphere Manager has confirmed that +127 Habitat Units could be provided against the predicted -113 Biodiversity Unit loss within the development site, which would equate to a **net gain of approximately +12%**. No offset for hedgerows would be required, as net gain would be achieved within the development site.
- 7.37 During the operational phase, retained habitats within and adjacent to the site could be subject to increased human activity (e.g. recreation, noise, physical damage) and artificial lighting, which could reduce their ecological value. However, the integrated landscape and ecological design contains a variety of new wildlife habitats, buffering of retained habitats and dark (<0.5 lux) corridors along key wildlife corridors (estuary frontage and Tarka Trail) but without further mitigation or compensation, effects would remain negative, long-term at the Parish level (a **moderate negative effect**)

Impact on Protected Species

- 7.38 The ES assesses the impact on the species surveyed above and concludes that with mitigation the effect would be **minor to moderate negative** during both the construction and operational phases. Full adherence would be required to the Construction Ecological management Plan (CECoMP) to address any on site species such as amphibians/ reptiles/ badgers etc along with the timing of works to avoid nesting times. The ES recognises that a Natural England Bat Mitigation licence may be required and replacement bird and bat roosting is proposed as part of the first phase of development. Given the sensitivity of the site an Ecological Clerk of works would be required. This would be secured within the secured within the CECoMP.

Measures to avoid or mitigate potential negative effects, and provide biodiversity enhancement.

7.39 The following are proposed:

- a) Adherence to the Ecological Constraints and Opportunities Plan dated 19/12/2019 (Appendix 6.19 of the ES), CEMP, CEcoMP, LEMS and POS Landscape and Ecological Management Strategy December 2019 (LEMP)
- b) Retention of existing semi-natural waterbodies and proposed informal waterbodies
- c) Minimum 60m setback of the built development from the overwintering bird roost to the northwest of the site.
- d) Introduction of 220m barrier to protect overwintering bird roost and fencing along the whole estuary frontage to deter access to the foreshore by people and dogs.
- e) Proposed native tree/scrub belt and on site habitat creation Proposed wildflower meadow.
- f) Proposed bespoke bat roost building (drawing number Y029 18 301C contained in Appendix 6.2- of the ES) and minimum 75 bat boxes to be integrated into new buildings and on retained trees.
- g) Protection of a 'dark' corridor across the Tarka Trail and along the estuary frontage. Lighting strategy and parameter plan
- h) 2 days per week wardening for a minimum 25-year period to monitor the high tide roost and visitor use, and liaise with residents and visitors. In addition signage and information leaflets, dog waste bins 9Secured via the s106)
- i) Proposed 5 no. heron platforms adjacent to western pond, and minimum 250 bird boxes integrated into new buildings and on retained trees.
- j) Offsite habitat creation to offset loss within the development costed at £608,431
- k) £100 SAC contribution per dwelling
- l) Erect a temporary screens until the soft screening becomes established and plant over the entire width of the bank with the native reed species.

ES ASSESSMENT SUMMARY BIODIVERSITY

7.40 Para 6.11.1 states: Overall, with the provision of the avoidance, mitigation, compensation and enhancement measures, there would be no significant long-term residual negative ecological effects as a result of the proposed development. No negative effects on statutory designated sites are predicted; **neutral effect**. Medium-term, negative effects at the Parish level would occur on habitats (including on two Unconfirmed Wildlife Sites), plants, reptiles and breeding birds. These would be **moderate negative** effects but would reduce to **neutral** in the long-term through the proposed landscape strategy for the development and 'biodiversity offsetting'; it is possible that the latter would bring about a 'net gain' (neutral to minor positive) in respect of habitats. All other species effects would be medium-term and negative (**minor negative**), reducing to neutral in the long-term (**neutral effect**). No in-combination effects have been identified.

7.41 Para 6.11.2 Overall, the development would ensure that significant harm was avoided, and that long-term effects would be **neutral**; there would be a **minor**

positive effect as a result of the proposed habitat offsetting. The development would therefore be in accordance with the relevant policies of the NPPF (2019) and policies of the North Devon and Torridge Local Plan 2011-2031.

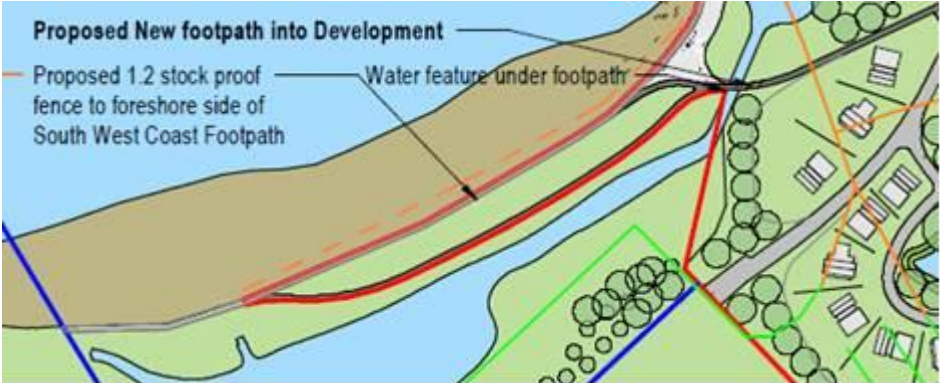
7.42 Consultee Responses

<p>Planning Policy Unit</p> <p>Reply Received 4 April 2019</p> <p>Edited</p>	<p>The site adjoins the Taw-Torridge Estuary SSSI where policies ST14, DM08 and FRE02 (d) will apply and development must not harm the designation adversely. There is an important high-tide bird roost in the estuary immediately to the west of the site. Whilst criterion (j) requires a contribution towards a wider study on the potential impact of increased recreational pressure on the SSSI, this report has been commissioned and funded already so a financial contribution towards it is no longer required. However, this consultants' report (currently being prepared) is expected to identify current disturbance of roosting birds at this high-tide roost from walkers and their dogs using this stretch of the South West Coast Path. Any development proposal will need to demonstrate that further disturbance is avoided, or otherwise mitigated to an acceptable level. Criterion (i) of Policy FRE02, Policy ST14(a) and the Local Plan's spatial planning vision, together with the NPPF, also require a net gain in biodiversity as a result of development, which will reflect cumulative biodiversity impacts both onsite and adjoining the site assessed using the relevant Defra metrics.</p>
<p>Planning Policy Unit</p> <p>Reply Received 19 February 2020 edited</p>	<p>I note that the site plan shows heron platforms adjoining the western existing pond, although these are outside the red line of the application site. New built structures are likely to constitute development so should be included within the application site, even if design details will follow at reserved matters stage.</p>
<p>Planning Policy Unit</p> <p>Reply Received 23 June 2020</p> <p>Edited</p>	<p>As the site is within the Braunton Burrows SAC Zone of Influence, the applicant will be liable for a financial contribution towards the long term management and maintenance of the Special Area of Conservation. I note the agent has suggested that such a contribution is subject to viability but in my opinion this contribution is not negotiable and if viability is an issue then it should be reduced elsewhere. All issues around ecology should be considered against ST14 and DM08,</p>
<p>Arboricultural Officer</p> <p>Reply Received 4 November 2020</p>	<p>EclA Review: Similarly to the LVIA Review I do not intend to make intend to make detailed comment on the EclA submitted by the applicant as this has been reviewed by others and in general I concur that the work has been carried out comprehensively and to an appropriately high standard and I consider it to provide a reasonably objective assessment of the likely ecological effects in conjunction with the proposed mitigation and</p>

	<p>enhancement measures of the proposed development on which to base your recommendations.</p> <p>My only significant area of concern in respect of effective ecological mitigation remains in respect of the efficacy of the approach proposed for reducing disturbance on the sensitive roost area. Whilst I accept that the proposed barrier would appear to be appropriate in terms of ecological mitigation and is supported by NE and the RSPB in this respect, I would only consider this to be appropriate if other potential mitigation that would result in a reduced landscape and visual impact have been explored and ruled out as being undeliverable.</p> <p>It is also clear from the EclA that in order to meet our policy requirements for proposed development to deliver biodiversity net gain that compensatory habitat creation/enhancement offsite will be required and will need to be secured through an effective legal agreement between the LPA, developer and any third party landholder(s) and or biodiversity offset broker.</p> <p>Whilst I understand that negotiations are continuing between the developer and the biosphere team and foundation, as I understand it we still have no clear proposals as to what, where, when and how the necessary compensatory activity will be delivered or in relation to the level of financial contribution that will be required in lieu of a detailed proposal and how this will be secured and spent on effective compensatory activity.</p> <p>Whilst I have no in principal objection to the proposed biodiversity offsetting I would consider it in the public interest to be able to demonstrate that appropriate compensatory activity or financial contributions and an effective means by which to deliver them within a reasonable timescale are secured in association with the grant of any planning permission for the site.</p>
<p>Sustainability Officer</p> <p>Reply Received 20 February 2020</p>	<p>Please refer to response attached to this report.</p>
<p>Devon Wildlife Trust</p> <p>Reply Received 15 February 2019</p> <p>edited</p>	<p>We object to this application for the following reasons:</p> <ul style="list-style-type: none"> • No net gain in biodiversity. We do not think that "neutral or minor beneficial" satisfies the National Planning Policy Framework's requirement for measurable net gains in biodiversity in NPPF paras. 170 and 174. Opportunities to enhance habitats on/adjacent to the site have been missed,

	<p>including the semi-natural grassland to the south of the Tarka Trail, which could aid on-site mitigation.</p> <ul style="list-style-type: none"> • Uncertainty over provision of compensation off-site • No net gain for Greater Horseshoe Bats. The loss of the large underground area, used by GHBs, is unlikely to be adequately compensated for by the construction of a small purpose-built bat house. The precautionary principle demands that a more substantial replacement is required which will serve the same function as the existing roost and must be provided prior to any removal of the underground area. • flight lines for light sensitive bats along the shoreline and the Tarka Trail will be affected by lighting from the development and the reflective surface of the proposed lagoon. We note the technical proposals in the Lighting Strategy but it will be difficult to prevent changes in the future or the introduction of further lighting in private properties. The proposed timing restrictions don't recognise the fact there is considerable bat activity at dusk and dawn when these lights will be on. Further measures are required to address the impacts of the currently proposed lighting regime, for example the planting of a physical light barrier (e.g. native shrub planting) along the entire site shoreline, in addition to the proposed fence. Similarly, a barrier of Devon bank hedgerow, with tree standards, could be planted along the south edge of the development, shielding the Tarka Trail bat corridor and particularly the proposed new roost from the new development lighting. <p>In conclusion, this scale of development in a sensitive estuary location potentially risks severe impacts upon the rich wildlife of this locality and the wider landscape. The lack of a clear mechanism to achieve net biodiversity gain and ensure appropriate protection for bats leads us to object to the development proposal in this form.</p>
<p>Natural England</p> <p>Reply Received 18 February 2019</p> <p>Edited – Full response attached</p>	<p>SUMMARY OF NATURAL ENGLAND'S ADVICE</p> <p>Further information advised to determine impacts on designated sites:</p> <ul style="list-style-type: none"> • As the Competent Authority, North Devon Council is required to conduct a Habitat Regulations screening to determine the significance of impacts on Braunton Burrows Special Area of Conservation (SAC) and the scope for mitigation and to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your authority.

	<ul style="list-style-type: none"> • Further consideration is required regarding impacts on, and mitigation for, the Taw Torridge Estuary SSSI. • Amendments to the Construction Environment Management Plan (CEMP) are required to include necessary SSSI mitigation.
<p>Natural England</p> <p>Reply Received 14 February 2020</p> <p>Edited – Full response attached</p>	<p>SUMMARY OF NATURAL ENGLAND'S ADVICE</p> <ul style="list-style-type: none"> • North Devon Council is required to conduct a Habitat Regulations Assessment for Braunton Burrows Special Area of Conservation (SAC). • Further consideration is required regarding impacts and mitigation for the Taw Torridge Estuary SSSI. <p>Details are provided below. Without this information, Natural England may need to object to the proposal.</p>
<p>Natural England</p> <p>Reply Received 26 June 2020</p> <p>Edited – Full response attached</p>	<p>SUMMARY OF NATURAL ENGLAND'S ADVICE</p> <p>The Taw Torridge Estuary Site of Special Scientific Interest (SSSI) - no objection subject to conditions. Details are provided below.</p> <p>Please note that our advice in our consultation response of 14th February 2020 (306311) and 18th February 2019 (ref 269685) for Braunton Burrows SAC, Biodiversity Net Gain; the North Devon Area of Outstanding Natural Beauty; Caen Valley Bats SSSI; South West Coast Path National Trail (SWCP NT)/Tarka Trail; Local Sites; Priority habitats and species; Protected species; Soils and the England Coastal Path remains current and relevant to the amended application. I have attached copies for ease of reference.</p> <p>Recommends conditions</p>
<p>Natural England</p> <p>Reply Received 2 February 2021</p>	<p>Based on what I originally said, we would not have an issue with removal of the hard timber screen if a soft screen alternative is proposed. We would also support the proposal to employ a hard screen until a natural screen has been sufficiently established as suggested by EAD (email Mark Saunders 26th November 2020).</p> <p>Stock proof fencing would prevent access to the foreshore as much as is possible within the developer's gift.</p> <p>If the hard screen is taken out of the proposal the same length of the footpath will require the alternative soft screening which I think your amended drawing shows. The planting width needs to be of sufficient density to be effective all year round.</p> <p>The plans you attach still show the footpath into the development on the west end coming out by the roost as well as diverting behind the bank. This will have some element of startle effect if retained. I think it's important that this small section of new path is removed otherwise it makes the diversion behind the bank pointless. The</p>

	<p>idea is to bring people off and onto the coast path away from the roost.</p> 
<p>Natural England</p> <p>Stephen Jenkinson specialist advisor to NE on the English Coast Path consultation</p> <p>Reply Received 4 June 2020</p>	<p>Key points for further consideration by the applicant.</p> <ol style="list-style-type: none"> 1. Cotswold Transport Planning as referred to in section 6.7.47 of the Environmental Statement – volume lack enough detail to make a suitably-informed assessment of the path's use and thus likely impact of the development proposals for a number of reasons including: survey dates and times and on-lead percentage assumptions not fitting with national and regional surveys. However, the frequency of local people walking this section of the SWCPNT seems accurate. 2. Timber screening is not an effective nor appropriate means of mitigating disturbance in this setting; moreover, it has significant potential to increase disturbance to birds on the adjacent inter-tidal zone. The precise extent and location of the screen appears to vary across different documents, and a number of dimensions are lacking. Despite that latter, it is still submitted that significant limitations of the concept can still be readily assessed. the claim in 6.7.3 of the Environmental Statement – volume 1 that the screening/fencing would provide "a barrier to dogs accessing the foreshore" is not correct as dogs and people can, and do, already access the intertidal zone long before they get to where the screening is proposed to start. Loss of amenity due to the proposed screen will likely result in greater numbers of walkers on the foreshore for extended periods. 3. While fencing-in more of the South West Coast Path heading towards Instow could make it less likely people would go onto the intertidal zone, it would have to go for at least another 600 metres to the jetty to the west; even that is unlikely to be sufficiently effective given that people can walk on sand under the jetty. This would seem to present significant practical and legal challenges; it is noted this would also go well beyond the western extent of the site boundary shown on Drawing 10655/P18c. 4. The screening significantly reduces sightlines making that section of path feel less safe; moreover, the one or more

	<p>(it's not entirely clear from the application) covered viewing areas create a sheltered location where anti-social behaviour can occur, making it even less attractive to use as one cannot readily take an alternative route.</p> <p>5. Given the role of habituation and startle effects for birds on the intertidal area people, with and without dogs, appearing and then disappearing (as would be the case with the screen of the length proposed) may well make startle effects more likely as people will disappear and then reappear.</p> <p>6. Recommended alternative to plant, cultivate and then maintain for the lifetime of the development, suitable year-round vegetation between a double row of post and wire netting (no barbed wire to be used) to approximately 1.1 metres tall, to replicate the natural screen effect already in place to the east of the former power station jetty. This would visually screen dogs on the path from being seen by the birds and physically keep them off the intertidal zone, without giving rise to the reduction of visual amenity, convenience, or feelings of safety for people that the 1.8 metre screen would impose; thus, walkers would be no-more likely to go onto the intertidal zone than as at present.</p> <p>7. Diverting the South West Coast Path through the residential development is not an effective nor appropriate means of mitigating disturbance, and may actually increase the likelihood of disturbance to birds on the adjacent intertidal zone. No alternative to retaining the coast path on its current approximate alignment given the high level of amenity the coast path currently provides and its high level of established use.</p> <p>8. Worn desire lines from people already crossing this area, along with access points from the coast path, should be retained, as it is unlikely that only the suggested formal pathways shown in the application drawing YO29 18 204 N will be followed in practice.</p> <p>9. It is not recommended to provide seating on the coast path itself adjacent to this greenspace, as increasing dwell time in such spaces could increase the likelihood of disturbance on the intertidal area. It is also recommended to signpost such provision of seating and a wider viewpoint from the coast path, to further increase the likelihood of people walking away from the most sensitive intertidal area.</p> <p>10. To reduce the likelihood of increased off-lead exercising of dogs occurring on statutorily designated sites for wildlife, or increasing conflict on the Tarka Trail, it is recommend adding a planning condition such that this area of non-statutorily designated greenspace should be formally retained as an area where dogs can be exercised off-lead, as long as they are kept under control.</p>
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	<p>This is contrary to what is alluded to in section 6.8.35 of the Environmental Statement – volume 1, which suggests restrictions could be imposed. Similarly there should be a condition to prohibit the use of livestock to manage the vegetation in this greenspace if it would in effect introduce an on-lead requirement. This greenspace needs to be seen as part of the overall mitigation provision in relation to walkers with dogs to protect adjacent habitats and species of up to international importance.</p> <p>11. Provision should be made in the application for the installation, retention and emptying of bins suitable for bagged dog waste. These can be dedicated bins for dog waste only (as suggested in 6.8.35 of the Environmental Statement – volume 1) but they can also be general litter bins, as the latter can take bagged dog waste. Local councils are increasingly finding such a dual-use bin approach can make significant savings and reduce the amount of general litter left behind.</p> <p>12. Drawing 10655/P18c shows a 1.1m high post and rail fence on the existing coast path; it is not clear which side of the path the fencing is to be constructed. If post and rail is used then it should have sheep netting added to the fence line nearest the coast path (suitable dimensions available on request) to stop dogs readily getting through it and onto the intertidal area.</p> <p>13. On-site information provision should also be provided to address the information needs of existing path users and non-residents, as they will be affected by the development. Any provision of information relating to the walking of dogs should ideally use verbatim, or very closely mirror, the wording in Natural England's Dog Walking Code.</p> <p>14. Highly recommended to provide, and then maintain, a free-draining all-weather path surface (using suitable materials for this rural context) for all of the South West Coast Path abutting or within the application boundary. This will reduce the likelihood of walkers, with or without dogs, going onto the intertidal zone and/or around screened areas due to the path being very muddy.</p> <p>15. Section 16.5.5 of the Environmental Statement – volume 1, refers to the adaptation of the former ash beds for dog walking. While the latter is to be welcomed in principle, it cannot be considered in itself to make a significant contribution to the mitigation of any impacts elsewhere.</p>
Royal Society For The Protection Of Birds	<p>1. The RSPB is concerned that this application risks harm to the Taw Torridge Estuary Site of Special Scientific Interest (the SSSI), and to the RSPB's Isley Marsh Nature Reserve (also within the SSSI). The SSSI is notified for its intertidal habitats and overwintering water bird populations. A large mixed use</p>

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development in this location inevitably poses significant risks to the SSSI. **In the RSPB's view the most significant risk is disturbance to and displacement of overwintering water birds from their inter-tidal feeding habitats and high-tide roosting grounds** in proximity to the application site and further afield due to dispersed recreational activity of future residents of the 280 dwellings and hotel guests. Activity that disturbs wintering water birds from foraging for food or causes them to take flight, thus expending additional energy, could affect their fitness and breeding success the following Spring, and even their survival overwinter or on migration to their northerly breeding grounds.

2. Wetland Bird Survey (WeBS) data and that provided by surveys undertaken to support this application confirm that the area to the immediate west of the application site, and Isley Marsh to the east, are important high tide roost areas within the estuary. This is confirmed by initial results from surveys being undertaken this Winter for the Taw Torridge Estuary High Tide Roost and Recreational Impacts study.

3. The ES recognises at 6.7.49 that residents of the new development would use the public footpath adjacent to the estuary. It predicts a likely increase of at least 16 visitors a day during the winter months. In our view this figure should be treated with extreme caution. It is inconceivable that 280 dwellings and a 50 bed hotel (between them accommodating some 700+ residents) in this location, i.e. offering immediate access to the estuary-side footpath, would generate such a low level of activity, particularly considering the proportion of dog ownership likely within the houses. **It has to be anticipated that the increase in use of the footpath is far greater than that suggested.**

4. RSPB strongly supports the measures proposed to mitigate risks to the SSSI, including those listed at 6.7.53 and 6.8.32 of the ES. In our view these all need to be secured as legally binding conditions on any planning permission, with secure in-perpetuity **funding for maintenance/repair/replacement** to ensure they continue to be effective. The second bullet includes A post and wire mesh fence would be extended along the northern and eastern boundaries to deter pedestrian and dog access to the foreshore.

We support this measure, however it is not clear from the ES text or plans what the proposed extent and alignment of this fence are. Recent information has come to light that members of the public and their dogs using the footpath on the ash beds to the east of Yelland Quay occasionally access parts of Isley Marsh nature reserve. There is a risk that the increased use of this footpath by future residents of the proposed development could significantly increase this activity. We therefore recommend that the proposed **fence is required along the whole of the estuary front including alongside the western edge of Isley Marsh**. Indeed, without it, in light of this recent information, we disagree with the SE's conclusion at 6.9.7 that No significant residual effects on Isley

	<p>Marsh RSPB nature reserve are predicted. There would be a non-significant short-term, Sub-Parish adverse effect on the site as a result of construction noise. Effects would be neutral in the medium-term onwards. 5. 6.8.3 of the ES states that Regular monitoring of the high-tide roost would be undertaken by the Ecological Clerk of Works (EcoCW) for the development. In the event that regular disturbance of the roost was identified during construction works, working methods would be reviewed in consultation with Natural England and NDC, and additional mitigation measures implemented as appropriate. We consider that these contingency measures need to be defined now, before planning permission is granted, along with thresholds that would trigger their deployment. Avoiding construction around high tide would be an obvious additional measure to introduce.</p> <p>6. At 6.8.20 the ES states that 75 bird boxes would be integrated within the walls of new buildings and on retained trees. This requirement is set out in the LEMS and would be carried forward to respective CEcoMPs and LEMPs. This is not in our view an acceptable level of provision for a development of this scale. Integral 'swift boxes'/'swift bricks' are used by a range of bird species. Built into the fabric of buildings, they recreate natural cavities found in older properties. Integral boxes are inconspicuous, simple and inexpensive to install and have no requirement for ongoing maintenance. Routine good practice in respect of incorporating integral bird boxes into developments is an overall ratio of at least one per unit (individual residential dwelling). More should be provided in larger buildings, where optimal height and number will depend on the design of the building and the surrounding area. As swifts breed in colonies, boxes should be created in individual buildings in groups of 2-3. RSPB therefore recommends that if the Council is minded to grant this application permission, at least 300 swift boxes are integrated into the built fabric of the development, in accordance with good practice.</p> <p>7. 6.8.32 of the ES states that A wardening provision of at least two days per week during the winter period would be implemented for a minimum period of 25 years post-construction (reviewed on a five-year basis). The warden would undertake management, liaison and monitoring as required to minimise disturbance to waterfowl; this would include liaison with residents of the development and other footpath users, and monitoring of waterfowl in the vicinity of the development. We seek confirmation that this wardening would operate between September and March inclusive. 8. 6.8.32 also states that Provision of appropriate signage / information along the footpath adjacent to the estuary; the exact content and locations of which would be agreed with Natural England, RSPB and other stakeholders. We consider that the precise number, nature and locations of these signs should be agreed before any planning permission is granted.</p>
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	<p>9. 6.9.2 of the ES states that Measures to avoid disturbance to waterfowl during the construction and operational phases of the development, particularly in relation to the known high tide roost adjacent to the site, would ensure that adverse effects on this interest feature were avoided. Overall, residual effects would be neutral and not significant. Whilst we agree that the mitigation measures proposed should go a long way to reducing increased disturbance risk to an acceptable level, given the scale of the proposal in this location, and the importance of the Yelland high tide roost in the context of the whole estuary (confirmed by interim results from this Winter's Taw Torridge Estuary High Tide Roost and Recreational Impacts study), if this application is granted permission we consider that regular monitoring of the high tide roost should be undertaken throughout its construction and operation, and contingency measures should be defined and legally secured, with agreed thresholds for their deployment, to be implemented should this conclusion prove to be incorrect.</p> <p>10. The North Devon and Torridge Local Plan 2011-2031 Policy FRE02: Yelland Quay requires, at (j), contributions towards a wider study on the potential impact of increased recreational pressure on the SSSI and nesting birds in the estuary. In pre-application meetings with the applicant team RSPB accepted that it would be disproportionate to require the applicant alone to fund such a study. Natural England, North Devon and Torridge Councils and RSPB (accessing N.Devon AONB Sustainable Development</p>
<p>Royal Society For The Protection Of Birds</p> <p>Reply Received 17 February 2020</p>	<p>Further to our previous letter of 19/02/2019:</p> <p>1. the RSPB remain concerned that this application risks harm to the notified features Intertidal habitats and overwintering water birds) of the Taw Torridge Estuary Site of Special Scientific Interest (the SSSI), and to the RSPB's Isley Marsh Nature Reserve (also within the SSSI). In the RSPB's view the most significant risk is disturbance to and displacement of overwintering water birds from their inter-tidal feeding habitats and high-tide roosting grounds in proximity to the application site and further afield due to dispersed recreational activity of future residents of the proposal.</p> <p>2. As stated in our previous letter, RSPB strongly supports the measures proposed to mitigate risks to the SSSI listed in the ES summary. In our view these all need to be secured as legally binding conditions on any planning permission, with secure in-perpetuity funding for maintenance/repair/replacement to ensure they continue to be effective.</p> <p>2.1. The RSPB welcome the inclusion of the period (September to March) for employment of the warden (2 days per week) in the management strategy. This needs to be secured for a 25 year period (reviewed in 5 years).</p>

	<p>3. However, the RSPB raised specific concerns about the development, relating to potentially significant impacts on the SSSI that needed to be addressed, and the following mitigation measures remain outstanding:</p> <p>3.1. The need to extend the fencing proposal around the whole of the estuary frontage, including that along RSPB land (to where the frontage joins the Tarka/cycle Trail). It is still not clear from the text, and based upon the maps provided, the vulnerable area of land to the east of the site still does not appear to have fencing identified around its entirety.</p> <p>3.2. The extent of the screening at the western end to prevent disturbance to the roost where footpaths joined need to be assessed and measures incorporated. It is unclear whether any additional measures have been included.</p> <p>4. In addition, we are concerned about the level at which enhancement features are being delivered:</p> <p>4.1. The number of nest boxes should be one per dwelling, so the current number is significantly below the recommended level.</p> <p>5. And seek clarification the following are in place and will be legally secured within the planning permission:</p> <p>5.1. contingency plans to deal with disturbance</p> <p>5.2. The net gain contribution of the project.</p> <p>5.3. Maintenance of a SuDS scheme in the short, medium and long term.</p> <p>5.4. The number and location of signage is clarified and legally secured.</p> <p>5.5. Noise management plan protecting roosting and feeding water birds.</p> <p>5.6. Additional land secured in perpetuity for water birds for use at high tide.</p>
<p>Royal Society For The Protection Of Birds</p> <p>Reply Received 17 July 2020</p>	<p>Further to our submissions of 18 February 2019 and 17 February 2020:</p> <p>1. The RSPB's concerns over this development relate to the risk of harm to the Taw Torridge Estuary SSSI and to the RSPB's Isley Marsh Nature Reserve (also within the SSSI) and the associated overwintering water bird populations. In the RSPB's view the most significant risk is disturbance to and displacement of overwintering water birds from their inter-tidal feeding habitats and high-tide roosting grounds in proximity to the application site and further afield due to dispersed recreational activity of future residents. As we have stated in our previous responses, we strongly support measures to mitigate these risks as listed in the ES which in our view need to be secured as legally binding conditions of any planning permission and with secure in-perpetuity funding for maintenance/repair/replacement to ensure they continue to be effective.</p> <p>2. We welcome the extension of the post and wire fence around the whole development site to include the border with the</p>

	<p>RSPB's Isley Marsh reserve. We request inclusion of a gate as access to the reserve is needed to enable periodic asbestos removal from the site. A further consideration is that we expect increased recreational use of the Tarka Trail, which runs along the southern boundary of the reserve, to increase the risk of access to the reserve, particularly by dogs. Although this is off the development site, mitigation in the form of a similar suitable fence is needed along this section.</p> <p>3. We have the following outstanding concerns relating to potentially significant impacts on the SSSI which need to be addressed:</p> <ul style="list-style-type: none"> - We previously expressed concern over disturbance to the high tide roost at the western end of the development and commented that the screening needed to be extended to the convergence of the paths. We also support an alternative footpath link to avoid people accessing the coast path adjacent to the high tide roost. It is not clear if amendments have been made and we seek clarity on both these matters as it remains critical that the design of the paths and screening ensures there is no increase in disturbance risk to the high tide roost. - We welcome the commitment to monitor the high tide roost throughout the construction phases as set out in the Infrastructure Delivery Plan YO29 18 205N. The stated monitoring period is October to March, however we consider it is important for monitoring to start in September in line with winter season bird use of the estuary. We also note there is no reference to contingency measures, which we consider need to be identified now, along with thresholds that would trigger their deployment. Avoiding construction around high tide would be an obvious additional measure to introduce. <p>4. In addition, as previously raised, regarding levels of enhancement:</p> <ul style="list-style-type: none"> - Our recommendation for the number of nest boxes is at least 250, integrated into buildings in accordance with good practice. - We welcome that discussions are underway regarding offset land for bird use at high tide. However, there is currently no detail or timescale for delivery of this, which should be clarified and secured. <p>5. We also fully support Natural England's advice in its letter of 26/06/2020 including:</p> <ul style="list-style-type: none"> - Timing of works within 60m of MHWS to be between April and August. - Noise contour maps and a noise management plan. - SuDS scheme and surface water management plan. <p>6. The RSPB also strongly supports a strategic approach to mitigation such that all developments which add to the recreational impacts on the SSSI's water bird populations make a financial contribution to measures to avoid such impacts.</p>
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<p>The Biosphere Service</p> <p>Reply Received 22 July 2019 Edited</p>	<p>Whilst the Biosphere has been working alongside the ecologist and the developer to mitigate and in so far as possible offer project to compensate the impacts on biodiversity arising from the development proposal, there are outstanding concerns as well as other policy areas that make the development unacceptable to the UNESCO Biosphere. Our objection is based on the following points;</p> <p>Biodiversity impact; is negative in several areas;</p> <p>a) Impact on estuary SSSI features. It has become apparent since the work with the applicant on developing mitigation for the site that the level of disturbance caused to overwintering birds is already beyond critical levels and is impacting on the overwintering populations of birds on the estuary. The study (about to be published) commissioned by North Devon and Torridge District Councils, Natural England and the AONB has been very stark about the impacts of recreational walkers around the estuary. The disturbance likely to be caused by the new residents, the cumulative impact of the near-by other new developments and current use are not sufficiently addressed by the mitigation being offered. The Taw Torridge Estuary Management Plan 2010-2015 produced under the auspices of the Biosphere Reserve has as its first Aim 'To reverse the decline in biodiversity' and states that The main concern around the Taw Torridge Estuary relates to the disturbance to wildlife'. It identifies the potential for creating alternative sites in the estuary via various policies and objectives e.g. Policy C1 no net loss of intertidal area through coastal squeeze; Objective CC1 by 2015 there will be 15ha of new estuary side</p>
<p>The Biosphere Service</p> <p>Reply Received 2 July 2020 Edited</p>	<p>The North Devon Biosphere Reserve would be able to deliver habitat creation measures to compensate for predicted habitat loss within the proposed development, and achieve net 10% 'biodiversity gain', when measured in accordance with the Defra Biodiversity Metric 2.0 (Natural England, December 2019). The identified loss within the development site is 113.29 units; my current offsetting proposals would deliver 127 units. This is currently proposed on land within 5km to the south of the development site, within the Biosphere Reserve and the North Devon District.</p> <p>This approach is consistent with the North Devon Biosphere Reserve Offsetting Strategy. Delivery would be funded for a period of 30 years by the agreed developer contribution of £608,431.57 and set out in the s106 Agreement.</p>
<p>Environment Agency</p> <p>Reply Received 30 January 2019 Edited</p>	<p>The development will be acceptable provided that conditions are included on any permission granted in respect of: Implementation of recommendations of the Ecological Impact Assessment;</p> <p>Advice – Biodiversity</p> <p>Whilst we welcome the steps that have been taken to resolve the concerns about the impact of the development on wintering birds, we defer to Natural England on this matter because they are the</p>

	<p>lead for considering potential impacts on the SSSI and associated features (including wintering birds which use the estuary and surrounding habitats). We recommend that they are consulted to provide their views on whether the proposed mitigation is sufficient. Please contact us again if you require any further advice.</p>
<p>Environment Agency</p> <p>Reply Received 19 February 2020</p>	<p>The development will be acceptable provided that conditions are included on any permission granted in respect of:</p> <p>Implementation of recommendations of the Ecological Impact Assessment;</p>
<p>North Devon AONB Service</p> <p>Reply Received 25 February 2019</p>	<p>Biodiversity</p> <p>The Estuary is an extremely valuable wildlife resource – its integrity contributes to biodiversity in the AONB and to the diversity of wildlife at Braunton Burrows, as mentioned in the AONB Statement of Significance (AONB Management Plan, 2014-2019). In our response to the 2015 planning application at Yelland Quay we raised concerns over the cumulative impact of this proposal, with others in the local area, on bird populations in the Taw Estuary and therefore on wildlife in the AONB. We understand that an independent study has been undertaken, but that the results and recommendations have not yet been published. Our advice is that determination of this application is deferred until the LPA is assured that the cumulative effects of development will not adversely affect wildlife on the Estuary.</p> <p>The Environmental Assessment predicts major adverse impacts on the Taw Torridge SSSI as a result of the development if a 1.8m high visual barrier is not erected to separate the SW Coast Path from the estuary. If the proposal goes ahead, then we would expect to see that measures are put in place to maintain the barrier and so mitigate the harm to biodiversity in years to come.</p> <p>There is a considerable amount of evidence, some from the applicants own Wildlife Surveys, that the site is an important habitat for the Greater Horseshoe Bat (GHB), which is one of the rarest bat species in Britain. The Environmental Statement states that the development would not affect the population of Greater Horseshoe Bats associated with the Caen Valley SSSI based near Braunton. However, it should be noted that GHBs have been radio-tracked crossing the estuary from the Caen Valley SSSI and ringed bats in a nearby Fremington GHB roost had previously been ringed in Combe Martin, which lies in the northern part of the AONB. GHBs ringed in Combe Martin are also known to link with the Caen Valley SSSI roost. This demonstrates a clear link to GHB populations and the AONB. In addition, survey data in the ecological report shows significantly increased numbers of GHBs</p>

	<p>during September. This is an indication that there is probably a mating roost within the area. We would echo the statements of Devon Wildlife Trust, and their concern that the loss of the large underground area, used by GHBs, is unlikely to be adequately compensated by the construction of a small purpose-built bat house. The precautionary principle demands that a more substantial replacement is required which will serve the same function as the existing roost and must be provided prior to any removal of the underground area.</p> <p>Finally, it is known that this bat species is also extremely sensitive to light and we are also concerned about the potential effect of light emission on this vulnerable species. To allow development to proceed with little regard for such an important wildlife species and one that is clearly associated with the North Devon AONB is contrary to AONB Management Policies</p> <ul style="list-style-type: none"> • B5- "Support and extend the range of internationally, nationally and locally important species" as well as • B6- "Support the long-term survival of vulnerable species within the AONB" <p>Conclusion: We recommend that the application is refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The development will lead to harm to the special qualities of tranquillity and panoramic views within the setting of the AONB. It would be at odds with policies A2, A4 and I4 of the AONB Management Plan. 2. It is not yet clear that the development will not result in a cumulative adverse effect on feeding, nesting and overwintering birds within the estuary and the AONB. 3. We have concerns about the potential effect on the rare GHB populations. There is insufficient evidence that the development complies with policies B5, B6, B7 and D6 of the AONB Management Plan. <p>For the above reasons, we do not believe that the application complies with paragraph d of Local Plan Policy FRE02 and consequently, should be refused.</p>
<p>North Devon AONB Service</p> <p>Reply Received 23 March 2020</p> <p>Edited</p>	<p>We commented in detail on the proposals in our letter of 25th February 2019.</p> <p>Biodiversity:</p> <p>We echo the concerns of the RSPB and Natural England regarding the potential impact of development on wildlife, the estuary being an important Site of Special Scientific Interest, particularly for wild birds. Management Plan policy B1 is to "Support and promote</p>

	approaches to conserve and enhance habitats and species, increase wildlife richness and ensure the resilience of the landscape". With the current level of information submitted with the application, we do not believe that the application meets this policy. Our original objection to the application still stands and in line with Policy A4 which recommends that no development should be permitted inside or outside the AONB that would harm the natural beauty, character or special qualities of the AONB and so we continue to recommend refusal of this application.
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Lighting

- 7.43 Chapter 11 of the ES deals specifically with Lighting. Lighting will have impacts on amenity (also referred to above), the natural environment as well as the wider landscape so was scoped as a specific chapter in the ES.
- 7.44 The NPPF states...By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation..."
- 7.45 There are no neighbouring residential properties that are close enough to the site to potentially be affected by light pollution, even when considering the cumulative effect of the proposed developments in the surrounding area to the site.
- 7.46 Day and night-time site visits were undertaken on 3rd April, 8th May, and 3rd June 2017 to ascertain the current baseline lighting conditions. On the 8th May there was a cargo delivery with a boat docked overnight at the jetty on the quay, and temporary flood lighting was set up within the site, adjacent to the weighbridge and on the jetty. A record was made of the types of lighting installations present or light sources visible, within the Site, the surrounding area and at the selected viewpoint/survey locations.
- 7.47 4 viewpoint locations were chosen that correspond to the Landscape and Visual Impact Assessment (LVIA) as these have been identified to represent sensitive receptors.

TABLE 11.15: POTENTIAL EFFECTS OF THE COMPLETED DEVELOPMENT-OPERATIONAL PHASE

	Location	Magnitude	Effect	Reasoning
VP11	Heanton Hill Lane	Low	Minor Adverse effects	There will be a barely perceptible change in the level of sky glow; no change at this location in terms of light spill or glare. And light intrusion is not applicable at

	Location	Magnitude	Effect	Reasoning
				<p>this location.</p> <p>Therefore, the change to current baseline conditions in terms of obtrusive light will be negligible.</p> <p>When considering light presence, there will be a perceptible increase in the visibility of the site as the proposed lighting will be visible from this viewpoint.</p>
VP18	Appledore-Churchfields Car park	Low	Minor Adverse effects	<p>There will be a barely perceptible change in the level of sky glow; no change at this location in terms of light spill or glare. And light intrusion is not applicable at this location.</p> <p>Therefore, the change to current baseline conditions in terms of obtrusive light will be negligible.</p> <p>When considering light presence, there will be a perceptible increase in the visibility of the site as the proposed lighting will be visible from this viewpoint</p>
VP27	Yelland Road	Low	Minor Adverse effects	<p>There will be a barely perceptible change in the level of sky glow; no change at this</p>

	Location	Magnitude	Effect	Reasoning
				location in terms of light spill or glare. And light intrusion is not applicable at this location. Therefore, the change to current baseline conditions in terms of obtrusive light will be negligible. When considering light presence, there will be a perceptible increase in the visibility of the site as the proposed lighting will be visible from this viewpoint
VP28	Footpath north of site	Low	Minor Adverse effects	There will be a barely perceptible change in the level of sky glow; no change at this location in terms of glare. Light spill will only be applicable when temporary lighting is used for deliveries to the Jetty and Lay Down area. This reflects no change from the existing situation. And light intrusion is not applicable at this location. Therefore, the change to current baseline conditions in terms of obtrusive light will be negligible. When considering

	Location	Magnitude	Effect	Reasoning
				light presence, there will be a noticeable increase in the visibility of the site as the proposed lighting will be visible from this viewpoint.

7.48 Survey locations were chosen in conjunction with the project ecologist in relation to sensitive ecological receptor locations, as there is significant bat activity within the site and surrounding areas. Large parts of the site are also proposed to remain natural and un-lit. The project ecologist has identified that the **Ecology Dark Corridor** needs to be kept dark, so that it is retained for bats to forage and commute. Mitigation will be provided to ensure that light spill into this area from the public realm lighting will be <0.5 lux. The main area where there is potential for light spill onto this area, is from the public car park, and the main access road to the site. The public car park lighting will be designed at the detailed design stage to include sufficient set-back distances to avoid light spill, and back shields added if necessary. The main access road will be designed to have a dark crossing point so that light spill is sufficiently limited where the dark corridor crosses the road.

7.49 **An external lighting design strategy** to cover the public realm has been prepared for the outline planning application stage for the development. This seeks to provide a lighting design which will contain light spill within the site boundaries other than the access road which requires adequate lighting for safety purposes. As part of this strategy the following has been provided:

- Details of Bollard Luminaires with Low Upward Light Output
- Indicative Lighting Strategy 4012-ID-DR-1001 P03/1002 P03/1003/P03
- Lighting Strategy Access Road BB 4012
- Proposed Lighting Plan Y029 18 207E

7.50 The sources of artificial light that have been assumed to be present during the construction phase are:

- Temporary floodlighting particularly during winter months;
- Floodlighting and security lighting associated with site access, on-going work areas, temporary car parking areas and on the exterior of construction compounds;
- Lighting at height associated with construction of structures;
- Interior lighting within any temporary office units within any construction compounds.
- Crane warning lights.

7.51 Mitigation Measures- Construction Phase will include:

- Specifying working hours, uses of lighting, location of temporary floodlights and construction compound and agreeing these with the local council
- Lighting to be switched off when not required specifically for construction activities or required for health and safety or security
- Glare will be minimised by ensuring that the main beam angle of all luminaires are directed away from any potential observer into the centre of site wherever possible, and angled at less than 70 degrees from the horizontal
- Light spill will be minimised by avoiding poorly sited luminaires located at the boundary of the development
- Sky glow will be minimised by using modern flood lights with good photometric control, angled at less than 70 degrees from the horizontal and by using additional shields as appropriate
- The selection of luminaires, including those required for night-time security, that are designed to minimise any obtrusive light
- The Contractor will be required to sign up to the "Considerate Constructors Scheme" and thereby act quickly and responsibly to rectify any lighting misaligned and/or found to be causing a nuisance

7.52 These measures will form part of the Construction Environmental Management Plan.

7.53 The street lighting and external lighting for the majority of the site will consist of low level bollard style lighting, with the exception of the main site access road, and the public car park which will have column mounted lighting. This will be supplemented by building mounted lighting. The lighting is intended to be low level to be sensitive to the environment, limiting obtrusive light, visual impacts and light spill that may affect flora and fauna. The strategy for the proposed lighting is outlined below and refer to the accompany Lighting Strategy drawing

7.54 The significant sources of lighting for the operational phase of the proposed development will be as follows:

- Street lighting to the site access road including the associated adjacent pedestrian and cycle route;
- Lighting associated with pedestrian, cycle and vehicular routes throughout the development;
- Lighting to car parking areas;
- Lighting to building entrances/ exits.

Street lighting will be designed in accordance with BS 5489 / BS EN 13201 and the requirements and specification from Devon County Council for Section 38 adoptable roads.

7.55 Tarka Trail crossing point with the access road, as this area is required to remain dark to maintain the dark corridor for ecology and a departure from the British Standard will be required for the lighting of this section of road, and is to be agreed with Devon County Council. The remainder of the vehicular routes and footpaths within the development site are intended to remain private. These routes will be lit

using bollard luminaires to the Applicants requirements with regard to the aim to restrict lighting impacts

- 7.56 It is proposed that the public car park will be lit using 5m column mounted luminaires of a warm white colour. All other car parking areas will be lit using bollard luminaires. There will also be building mounted lighting to building entrances/ exits. The Lay down Area and Jetty will operate similarly to the existing site, with the area remaining un-lit, and temporary lighting being used when needed to facilitate deliveries.
- 7.57 LED luminaires will have good light control and cut off angles (downward directional) to reduce light spillage, control glare and limit sky glow. External back light shields will be fitted to the majority of luminaires along the access road to minimise backwards light spill and impact onto the adjacent hedgerows and vegetation. Bollard luminaires with very low upward light ratios, that are less than 1%, will be selected. If bollards are proposed in any areas adjacent to the Ecology Dark Corridor these will be single sided/ directional to avoid spill into the dark area.
- 7.58 Devon County Council employ a Part Night Lighting Strategy meaning that the adopted street lighting along the access road will operate from dusk until 00:30, and 5:30 till dawn. This is part of a number of measures employed by Devon County Council to reduce carbon emissions and energy costs. The lighting being switched off for part of the night will also reduce the impact on ecology. The lighting to the remainder of the site is intended to operate dusk until dawn.
- 7.59 The landscape strategy has been coordinated with the lighting strategy to minimise lighting impacts and impacts from lighting on ecology. The lighting strategy should be informed by industry best practice
<https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>
Native tree planting/ woodland belt is proposed to the southern development boundary, and to the north of the proposed public carpark, to further shield light spill onto the proposed dark corridor. Refer to Landscape Strategy Plan.
- 7.60 The ES concludes that the lighting scheme will have '**Minor Adverse Effects/ Not Significant**. *There is likely to be a slight increase in visibility of the site from external lighting, however considering that the proposed lighting will mostly be low level and very directional, and that parts of the site are already lit, with neighbouring sites having very high levels of lighting, it is considered that the increase will be minor. The level of sky glow caused by upward light will be slightly higher than the recommendations for an E1 zone, but well within the requirements for an E2 zone*' and that the impact from the new development's public realm lighting, in terms of obtrusive light, will not be significant.

CONCLUSION: Natural Environment/Biodiversity/Lighting

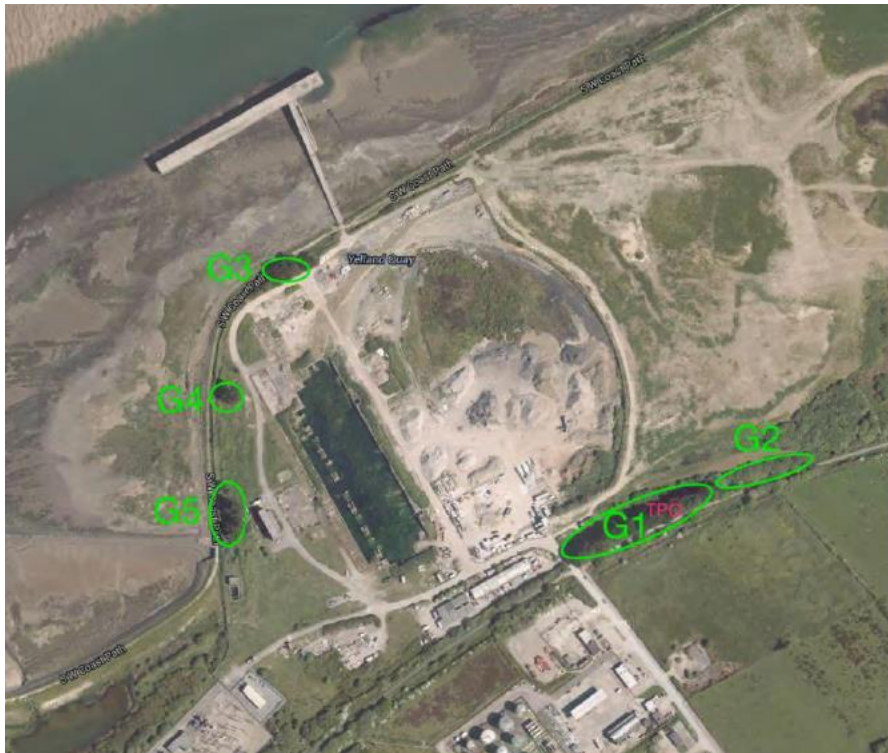
- 7.61 The sensitivity of the location is recognised and has been the focus of detailed discussions and engagement with the statutory consultees to ensure that there is an ecological framework in place to manage/protect and enhance, allowing work to commence on site in respect of the detailed application.

- 7.62 The provision of an alternative bat roost (fully designed building – drawing Y029 18 301 C) the details of which will be used to inform a NE European Protected Species Licence where further mitigation maybe requested and an adequate number of nesting boxes are agreed.
- 7.63 The treatment of land between the lagoon and high tide roosting area has been detailed in full. Plan Y029 18 501 P shows how the edge of the SW coast path will be treated with both temporary and long terms screening. The inherent design features and mitigation proposals would ensure that the risk of recreational disturbance on roosting waterfowl adjacent to, and in the immediate vicinity of the site would be reduced by directing dog walkers to the informal open space on site whilst restricting access to the foreshore through fencing.
- 7.64 Noisy construction activities have the potential to result in a significant impact on the Isley Marsh Nature Reserve and high tide roost during the construction works and that appropriate noise mitigation measures and controls over the timing of works are required to minimise the construction effects. This will be controlled by the CEMP and conditions.
- 7.65 Any light shielding planting should be in situ prior to works starting on the main development to allow them to mature and provide screening benefits and the adherence to dark corridors and site specific lighting will influence the future design and layout.
- 7.66 The scheme will need to be the subject of a LEMP, CEcoMP. The scheme will also require ecological oversight and thereafter wardening to be secured as part of the s106 agreement.
- 7.67 The site should be further enhanced for biodiversity at the reserved matters stage in line with the advice of Natural England and the Environment Agency.
- 7.68 The recent NDC PSPO requiring control of dogs within environmentally sensitive areas will also assist managing the impact that recreation has on this environmentally sensitive area.
- 7.69 In respect of Biodiversity Net Gain, this cannot occur on site but reasonable provision in line with the DEFRA matrix can be made off site via the Biosphere Service. This would be secured via the s106. A full Biodiversity Net Gain metric will be required at reserved matters to reflect any changes to onsite landscaping and update the subsequent offsite contributions.
- 7.70 With appropriate mitigation and planning conditions overall, the development could occur ensuring that significant harm was avoided to the Taw Torridge Estuary and the SSSI, and that the ES concludes that the long-term effects would be neutral or minor positive in line with policies ST14, DM08 and FRE02(d)

8.0 Arboriculture & Landscape and Visual Impact

Arboriculture

8.1 Chapter 15 of the ES considers the quality of both individual and groups of trees on the site. The ES is further supported by a Tree Report Ref YQL 18965tr dated 20.10.2014. All trees surveyed have been given a category 'C' rating - either due to their low inherent value due to reduced overall physiological vigour, or structural faults, or their diameter is less than 150mm at 1.5m above ground level. Given the nature of the area, the trees are mostly windblown forms with little wider landscape value.



8.2 Tree removals will include all of G3, G4 and G5 (due to increases in site levels), and a section of G1 (new access point).

Appendix 2: Tree survey schedule

No.	Name	Ht (crown)	Dia (stems)	Canopy spread N E S W	Life stage	ERC	Comments & preliminary recommendations	BS Cat
G1	73No. Monterey Pine & 13No. Black Poplar variety	20(1)	800(1)	As shown on plan	M	10+	Group of trees presenting a landscape feature. Subject to Tree Preservation Order	C2
G2	English oak	12(0)	300(1)	As shown on plan	M	10+	Growing on trail side of ditch	C2
G3	9No. Monterey pine & 4No. Holm oak	16(9)	650(1)	As shown on plan	M	10+	Growing aside trail	C2
G4	3No. Monterey pine & 2No. Monterey cypress	15(4)	750(1)	As shown on plan	M	10+	Small group. Typical windblown form. Much deadwood throughout.	C2
G5	13No. Monterey cypress	13(3)	750(1)	As shown on plan	M	10+	Typical windblown form. Much deadwood throughout.	C2

- 8.3 Notwithstanding the above, the landscape value of the group G1 could be deemed to elevate the overall group value to category B2.
- 8.4 The tree preservation order on G1 is a material consideration in the planning process. The Strategic Landscape Plan compensates for the loss of trees the subject of the TPO.
- 8.5 The need to incorporate the new sea defences and raising of the development platform will require the removal of two groups of existing pine trees. The distinctive line of pines adjacent to the Tarka Trail will be retained Tree with protection to BS5837 (see CEMP).

Landscape and Visual Impact

- 8.6 The impact on the landscape from this proposed development is the issue of concern raised within the majority of consultation responses and by most of the Parish Councils.
- 8.7 The applicant has worked extensively with the statutory consultees in considerable detail to ensure that there is agreement over the study methodology and assessment criteria. Chapter 7 of the ES considers Landscape and Visual Impact.
- 8.8 The site is not subject to any statutory landscape designation. The allocated site forms both part of the developed and undeveloped coast and estuary. The access and very top part of the site is within Landscape Character Type 3A Upper Farmed and wooded Valley slopes and the residual is within the Estuaries (Landscape Character Type (LCT) 4A). The latter and is described as having the following defining qualities and key characteristics:
- Open feeling and expansive views
 - Unique flora and fauna, particularly important for overwintering birds.
 - Opportunities for waterfront access and recreation (including cycle paths)
 - Evidence of historic quays.
- 8.9 The North Devon and Exmoor Seascape Character Assessment (November 2015) identified the site as falling within the Seascape Character Area 19: Taw-Torridge Estuary, Seascape Character Type 4a: Estuaries. The assessment notes that development within brown and green-field land fringing the estuary (including the former Yelland Power Station site) could have the potential to impact upon the estuary's naturalistic and tranquil qualities; levels of light pollution, and potentially its wildlife.
- 8.10 The site is also located in an area defined as within the coast and estuary zone as defined in Policy ST09. The ash beds are defined as undeveloped coast whereby new development will be supported *'where it does not detract from the unspoilt character, appearance and tranquillity of the area, nor the undeveloped character of the Heritage Coasts, and it is required because it cannot reasonably be located outside the Undeveloped Coast and estuary'*.

- 8.11 Policy DM08A: Landscape and Seascape Character and para 7.2.32 indicate that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible. Development must take into account and respect the sensitivity and capacity of the landscape/seascape asset, considering cumulative impact and the objective to maintain dark skies and tranquillity in areas that are relatively undisturbed, using guidance from the Joint Landscape and Seascape Character Assessments for North Devon and Torridge.
- 8.12 The site lies just over 1km to the south-east of the North Devon AONB, and the site and the wider estuary forms part of the setting to part of the AONB. Paragraph 172 of the NPPF states that “great weight should be given to conserving and enhancing landscape and scenic beauty” of the highest status of protection areas such as Areas of Outstanding Natural Beauty. Proposals within or affecting the setting of the AONB should be informed by, and assist in the delivery of, the North Devon Coast Area of Outstanding Natural Beauty Management Plan which states that the non-designated areas around the AONB provide an important setting or backdrop to the AONB and extreme care must be taken when making management decisions within these special areas.
- 8.13 The development proposals would have no physical effect on the Burrows, the exposed wild character would remain unaffected. The development proposals would feature in views from Crow Point, as do existing settlements within the area.
- 8.14 Paragraph 10.195 of the NDTLP (see planning policy section of report) states that due to its prominent location within the setting of the estuary and resultant visual prominence the site should be designed so that:
- New buildings and structures are located predominately on the site of the former power station, set back from the estuary frontage and designed to address their landscape impact, as well as securing environmental enhancement of the site;
 - The site should also be designed to complement its sensitive landscape setting; and
 - External lighting will need to be designed to minimise light pollution on neighbouring protected habitats and species and the nearby Area of Outstanding Natural Beauty.
- 8.15 The site of the former power station occupies a prominent location within the Taw Estuary and is located within a **valued landscape** in landscape and recreational terms and forms part of the wider setting of some parts of the North Devon AONB. It is within a landscape dominated by the seascape of the River Taw but also includes an area of undeveloped coastal grassland, beaches, sea defences, sand dunes, farmland, woodland, settlement, industrial, military, and recreational trails.
- 8.16 Although largely undeveloped the southern side of the estuary does have a number of established settlements and scattered developments, including Appledore and Instow located on the water’s edge and Yelland, Fremington and

Bickington which are set further back, and these developments are a key part of the character of the estuary.

8.17 Key landscape characteristics and features of the site and its setting can be summarised as follows:

- Panoramic and open views up and down and across the Taw Estuary;
- Relatively tranquil;
- Small groups and lines of distinctive pine trees;
- Concentration of recreational routes;
- Flat topography of the former power station site contrast with the undulating nature of the ash beds and adjoining ridgelines;
- Strong horizontal lines formed by the foreshore, tree lines and the higher largely undeveloped ridgelines which form the skyline;
- Secluded lagoon, which has established over time into a valuable wildlife resource;
- Jetty, as well as a strong visual element (and functional asset) is also of cultural value, and time depth associated with the former power station;
- Concentration of overhead Electricity lines;
- Degraded nature of the semi-derelict former power station contrasts with the adjoining estuary; and
- Settlements and villages set within lower estuary banks, with occasional areas where development stretches down to the waterside as can be seen at Appledore.

Existing Visual Appearance

8.18 The land between the Tarka Trail and the B3233 is low lying farmland with industrial and commercial use along the north west of the access road.

8.19 The restored Ash beds comprise an area of rugged coastal grass that has been capped and filled so raising the localised area, creating a gently undulating landscape with an area of higher ground providing a vantage point with views over the surrounding area. This area is currently poorly managed and becoming overgrown. The raised ash beds help screen views of the former power station land from the east.

8.20 The power station has been demolished and largely removed leaving just a few ancillary buildings, structures and the flooded base of the turbine hall. There are a number of crushing/filling operations being undertaken on site, with mounds of temporary material storage (sand), crushed concrete and aggregates. There are a number of cement silos on site. Some of the land has been filled and raised. The landscape character is degraded.

8.21 The Plantation and Western Lagoon contains a large area of reeds that sit between the South West Coast Path and the transformer station. The pond and its associated landscape setting is well established and forms a tranquil area with no formal public access making it a valued area for wildlife.

8.22 The development proposals will be visible from a relatively narrow band of land and sea which stretches along the western end of the Taw Estuary. Visibility is greatest from the north and west.

- To the **west** the visibility of the site extends up to 3.5km over the northern side of Appledore to Northam Burrows Country Park, and to Crow Point;
- To the **north** visibility of the proposals extends over the River Taw, Hornsey Island and Chivernor Airfield towards Wrafton and Braunton;
- To the **east** visibility is more sporadic and intermittent extending approximately 1.5km along the Tarka Trail; and
- To the **south** visibility is also sporadic and intermittent, mainly limited to the lower ground immediately adjoining the access road to the site and from the more elevated land on the northern settlement edge of Yelland.

Impact on the Landscape setting

8.23 In total 31 viewpoints have been identified, recorded and assessed. A number of photomontages have been produced to help communicate the degree of change at a number of viewpoints.

8.24 The LVIA and the ES indicates that the study area fall within **High Sensitivity** to **Very High Sensitivity** to change within the coastal areas to a **Medium Sensitivity** within the farmland area to a **Low Sensitivity** within the brownfield parts of the site and finally the restored Ash beds to the east are in average condition and are publicly accessible and have a **Medium sensitivity**.

8.25 During construction the magnitude of change on the character of the site will be **High**, the significance of the effect will be **High Adverse**. The construction effects are likely to indirectly affect adjoining character areas, primarily noise and movement which will temporarily affect levels of tranquillity, and tall construction equipment such as tower cranes which will bring visual intrusion. The magnitude of change will be **Low**, the significance of the effect will be **Minor Adverse**.

8.26 The biggest change to local landscape character will be the introduction of built form across the site, which will create a new riverside settlement. This is after all a Major development scheme.

8.27 Within the Local Area the ES assesses the magnitude of change as **High** and the significance of the effect would be **Moderate Adverse**. Within the Wider Area the magnitude would be **Low** and the significance of effect would be **Minor adverse** as the development would cause minor permanent loss of one or more key elements or features in the landscape and the introduction of elements that may be considered to be uncharacteristic of the surrounding landscape.

8.28 The effects on the rest of the study area are summarised below:

	Magnitude of change	Significance of effect
Area SCT 4B Marine Levels and Coastal Plains	Low	Minor Adverse
Area SCT 4E Extensive Inter-tidal Sands	Low	Minor Adverse
Area 4F Dunes	Low	Minor Adverse
Area 3A Upper Farmed and Wooded Valley Slopes		negligible
Area 5B Coastal Undulating Farmland		negligible
Special Qualities of the AONB		negligible
Setting of the AONB	Low	Minor Adverse

Visual effects – Extract from ES

- 8.29 From Northam Burrows Country Park – (Photomontage View 3). The development will be noticeable in views from the eastern side of the Country Park along the route of the South West Coast Path. The development will be clearly noticeable within the mid-distance of views, seen just beyond Crow Point, and the intervening jetty. The development would form a focal point within the view and in terms of settlement would be seen largely in isolation within the confines of the static view, however Instow and Appledore are clearly visible and are developments which extend down to the river's edge. The development will sit low down in the landscape/seascape well below the distant hills and ridgeline which end the view.
- 8.30 From the northern edge of Appledore (Photomontage View 31). The development will be less conspicuous than in View 3, and will be partially hidden from view. It will be seen beyond the River Torridge in the mid-distance of the view, in the context of other established developments including Chivenor, wind turbines as well as Instow and Appledore. The development will be set low into the landscape with the hills beyond rising considerably above.
- 8.31 From Crow Point (Photomontage View 4) The development would be seen in the context of the existing jetties and electricity pylons. It would form the focus of the view forming a distinctive self-contained settlement, seen in isolation from other viewpoints in the static view, but with other settlements in the area clearly visible in views. Although the development sits low down in the landscape and is of 'horizontal' form due to the nature of the view development would in this instant break the distant ridgeline.
- 8.32 South West Coast Path (Photomontage View 24) directly west of the site. Views of the development would open up as the path crosses the northern side of Instow Barton Marsh. At such a close range the development would form the focus of the view, seen at the 'end' of the path in isolation from other developments. Although sitting low in the landscape the development would break the distant ridgeline

beyond. The variety of roof forms, building heights and sizes helps break up the mass of the development and create visual interest.

- 8.33 Photomontage View 6 is the view from the edge of the estuary/beach near Crow Beach House/Broadsands Beach. This view looks across the River Torridge to the site, development is seen in the mid-distance fronting onto the river and seen in the context of the existing settlement of Yelland which is seen beyond. The development proposals sit low in the landscape which ensures that the undeveloped backdrop and ridgeline are protected. The variety of building forms and heights ensures that the development will create visual interest, with new landmark buildings.
- 8.34 Photomontage View 7 shows the view from the beach at Horsey Reach one of closest viewpoints (at under 1km) to the site from the northern side of the River Torridge. The view looks over the Taw Estuary and directly onto the northern elevation of the proposed development which appears beyond the existing jetty in the mid distance of the view. Due to the short distance to the site and lack of intervening structures or development the proposed development would form a key component and focus of the view. The development would sit low into the landscape, appearing to be of similar height to the existing jetty and would not break or interfere with the undeveloped hills and ridgeline beyond. The variety of building forms and roof profiles (which would be seen in the context of adjoining settlements) will bring visual interest
- 8.35 Photomontage View 10 from the re-routed section of the South West Coast Path and looks over the marshland of Horsey Island. The proposed development would be seen in the mid-distance of the view, beyond the marshland where it would be viewed in the context of Yelland. The development would sit low in the landscape, forming a predominantly horizontal mass with occasional vertical accents. The heights of the buildings have been carefully planned to ensure that the undeveloped backdrop and ridgeline beyond are protected. The development form creates a distinct settlement that reflects some of the qualities and characteristics of adjoining settlements and elements of the landscape, with a strong horizontal form.
- 8.36 Photomontage View 13 – the development would be viewed across the River Caen and River Taw, seen in the mid-distance across the River Torridge from Appledore. The development would be clearly visible, fronting onto the water's edge, the low form of development ensures that the undeveloped hills/ridgeline beyond would be protected. The occasional vertical accent helps create landmarks and visual interest.
- 8.37 View of the Grade I Listed Church of St Augustine. In some views, from the north (such as from Braunton Footpath 55 near Ash Barton), the church tower within Heanton Punchardon forms a distant local landmark with the River Taw and Torridge Estuaries and associated developments and hills forming the backdrop to available views. From this viewpoint the site is seen beyond the church tower (to the left hand side), on the southern bank of the River Torridge. The backdrop to the church contains a significant amount of existing development and settlement, principally Appledore set amongst the estuary, riverside and areas of undeveloped

banks, sand dunes and coastal plains. The development around the church within Heanton in the mid-distance of the view is also seen amongst farmland and woodland. A photomontage has been prepared to show how the proposed development would appear in this view. As can be seen the proposed development would sit very low down in the landscape/riverscape with views continuing to extend over it towards the River Torridge, Appledore and the distant hills beyond. The proposed development would form a discreet element in the view and would not interfere with or unbalance the setting of the tower of St Augustine's as seen from this viewpoint.

- 8.38 From the East. From the east views of the proposed development are intermittent and sporadic, due mainly to the extent of intervening vegetation and also some localised variations of topography (in particular the Ash beds). The first views of the development from the Tarka Trail travelling west open up to the north of Chillparks Wood as can be seen in Photomontage View 19. The rooftops of some of the development on the eastern side of the site and top of the lighthouse building can be seen, above and between the intervening vegetation. The Ash beds partially also help screen the lower parts of the proposed buildings. Most of the development is screened from view, but introduce development into what is largely an undeveloped landscape, however the development forms a discreet element and only a minor component of the view.
- 8.39 From the South Photomontage View 26 shows the change from the south, the viewpoint is located on the existing access road. The photomontage shows the proposed development north of the Tarka Trail but does not illustrate the new access road, car park and woodland planting which would screen views of the existing industrial estate. Most of the development would be screened from view by the line of trees and vegetation growing along the Tarka Trail with just the tops of the development in the far south of the site being partially visible.

Summary of Visual Effects

- 8.40 There will be unavoidable changes to the composition of some views, this includes views from the AONB, South West Coast Path and Tarka Trail. The ES argues that the '*proposed development would be well assimilated into the large scale dynamic landscape/seascape by virtue of a well-planned masterplan ensuring the development form respects its context and is harmonious in form*'.
- 8.41 The development will create a new focus in some views and will remove a number of existing visual detractors located in a degraded landscape

Development response to landscape

- 8.42 The landscape strategy sets out to protect the riverbank and ridgelines from settlement intrusion and wherever possible keep the development below the heights of the existing tree lines so that the canopies are seen to rise above the roofscapes of the development in most viewpoints. Pushing back development south into the site helps minimise potential visual effects on users of the adjoining SW Coast Path and the North Devon AONB.

- 8.43 Offsetting development from the banks of the estuary by between 50 & 65m offers the potential to provide a soft undeveloped edge to the estuary so development is not seen to be right on the water's edge/foreshore.
- 8.44 Raising of the site would be limited to a maximum of 2.6m (and tapering back to 600mm adjacent to the southern boundary) allowing for a green, soft and gentle interface and retention of the groups of pine trees which are key features of the site and will help filter the new development beyond;
- 8.45 Set back/buffer between the built development and the Tarka Trail on the southern side of the development, which will help reduce the visual impact of the development on users of the trail as will a set back/buffer between the western lagoon and built development;
- 8.46 Retention of the majority of the Ash Beds to be set out as open space;
- 8.47 Buffer between the western lagoon and main development with no public access to the lagoon
- 8.48 With the exception of the small car-park no development is proposed to the south of the Tarka Trail, which will maintain the undeveloped character of the land between the trail and Yelland;
- 8.49 Low level built development, predominantly 1 (commercial) and 2 storey along the periphery of the northern edge of the site with 3-5 storey development within the core of the site.
- 8.50 Detached dwellings on much of the outer edges of the site facing towards the estuary and foreshore allows greater visual percolation, reducing visual prominence and offering space for planting which in turn will create a softer edge to the development
- 8.51 Hard and soft landscape are identified as key components of good design. a high level landscape strategy plan has been prepared

8.52 Consultee Responses

Arboricultural Officer	As requested I have carried out an additional review of the LVIA and EclA work undertaken by the applicants along with the representations of key stake holders- NE, RSPB, AONB, SWCP user group etc and the comments made on the representations made by the project landscape architect and ecologists in addition to that originally undertaken by the Sustainability Officer.
Reply Received 4 November 2020	I consider that both the LVIA and EclA have been carried out to a very high standard and to an appropriate level that is demanded by development proposal for such a sensitive site and consider both to be a significant strength of the application and in having informed the various iterations of the design approach.
Edited	LVIA Review

	<p>I do not intend to make detailed comment on the LVIA submitted by the applicant as this has been reviewed by others and in general I concur that the work has been carried out comprehensively and to an appropriately high standard and I consider it to provide a reasonably objective assessment of the likely landscape and visual effects of the proposed development on which to base your recommendations.</p> <p>I concur with the vast majority of the findings of the LVIA in that I consider the descriptions of likely change that would occur as a result of the development, the magnitude of change and nature of effects as being reasonably accurate in that the proposal will result in a new self-contained settlement that is quite distinct and separate from existing development and is likely to result in minor to moderate adverse landscape and visual impacts on a large number of receptors, including many with a high sensitivity, within the estuary and over a wide area due to the prominence of the sight within the estuary setting and the open views provided by the surrounding landscape.</p> <p>However given the brownfield nature of the site and its allocation for development within the local plan such impacts will be largely unavoidable should we continue to wish to see the site developed and I would consider the latest submissions, in response to previous criticisms and design review panel hearings, to largely mitigate and reduce the landscape and visual effects through site layout and design as far as is reasonably practicable. But should planning consent be granted further mitigation by design and materials choice will obviously continue to be critical to the success of the scheme.</p> <p>At this stage however think it appropriate to also state where I concur with a number of objectors and consider the likely visual effects of the proposed development to be greater than stated within the LVIA, these differences are not a criticism of the LVIA provided per-se but just a different professional opinion on the likely magnitude of change and the nature of the visual effect at certain receptors.</p> <p>The key area of difference between my own professional view and that of the applicants LVIA is on the visual effect of the development on closest visual receptors to the site and principally views from the south west coast path approaching and adjacent to the site (viewpoints 22 - 24) and in passing the site to the north where it is proposed to erect the timber screening along the estuary side of the SWCP.</p> <p>Whilst I generally concur with the applicants description of change from these viewpoints and consider the photomontages and wireframes to be accurate in my view the magnitude of change and nature of the effects cannot be considered as moderate change or likely to result in a moderate adverse effect, I consider the proposal likely to result in a significant adverse effect in that the development will be prominent or form the focus of the view, extending development toward the estuary and or obscuring distant</p>
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	<p>views from the SWCP and changing the character of the SWCP in the vicinity of the site. But again, I would re-iterate the previous comment that as the site has been allocated for development within the current local plan such impacts will be largely unavoidable should we continue to wish to see the site developed. The key element of the proposal that I remain to be convinced on and which could be potentially avoid a significant adverse impact on views from the SWCP, especially in the light of the attached comments from Stephen Jenkinson of Access and Countryside Management Ltd, is the approach to ecological mitigation in the form of the proposed visual barrier fencing. I have seen no reasoned justification as to why the SWCP could not be effectively diverted into the site and away from the ecologically sensitive roost whilst being designed in such a way that it would not become unattractive for recreational use, including for dog walking and whilst still providing uninterrupted views out of the site and across the estuary, or that this would not be the most effective ecological mitigation in combination with effective signage and community engagement/wardening, provision of appropriate public open space for exercising dogs off a lead and potential CSPO restrictions in relation to the environmentally sensitive areas to the and associated enforcement/wardening.</p> <p>If this is not possible, due to viability issues to which I am not privy, and in light of the comments made by Stephen Jenkinson I would also suggest that consideration is again given to the potential of providing an appropriate soft landscape screen. This was previously discounted on the basis that establishment of soft landscaping with species needed to achieve the necessary minimum height of 1.8metres could not be achieved but in light of the comments from Stephen Jenkinson I consider that clarification on the potential of his suggested approach is sought and which would need both ecological and landscape input as to whether appropriate screening could be achieved with a lower height of using Phragmites species.</p> <p>A secondary concern, though that I accept the LVIA findings that any difference in building height between building height of 5 and 6 storey development will have little noticeable change to the assessment of landscape and visual effects of the proposed development is the impact of such tall buildings on the character of the site. This is of course a very nuanced design consideration within the context of the whole proposal, but given the appearance of the taller buildings within the photomontages provided for the nearby viewpoints previously discussed (22 – 24) and how they will effect the appearance of the development in terms of extending the extent of the development towards the estuary and becoming the focus of new views as the highest points of the skyline within the development I would suggest that if there is any way that these building heights can be reduced, whilst not unduly effecting the overall viability of the scheme then this too should be</p>
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	explored with the applicant but I would expect that this may have already formed part of your negotiations.
Planning Policy Unit Reply Received 4 April 2019 Edited	<p>The site is within the Coastal and Estuarine Zone where Policy ST09 will apply. Although the site lies beyond the extent of the defined settlement of Fremington / Yelland, paragraph 4.39 clearly recognises that large previously developed sites form part of the 'Developed Coast'. This is further clarified in the 'Glossary' to the Local Plan which states that the Developed Coast is defined as 'Areas within the Coastal and Estuarine Zone with a predominantly developed character, which are the areas within development boundaries as identified on the Policies Map; the principal built form and sites allocated for development in defined Settlements without development boundaries; Rural Settlements; Defence Estate sites; and large previously developed sites or those parts of sites with a substantial level of permanent structures such as sewage treatment works and the developed part of static caravan sites'.</p> <p>Therefore, from a policy perspective although the site is within the coastal and estuarine zone it does form part of the developed coast where the principle of development is acceptable. Whilst the site does not fall within the AONB, the AONB extends to the southern part of Braunton Burrows on the opposite side of the estuary. The setting and special character and qualities of the AONB should be considered against policies ST14(e) and DM08A. In respect of potential impacts upon the setting of the AONB, the overall height of the development (4 storeys), its design and its proximity to the estuary frontage are likely to be relevant factors.</p>
DCC - Development Control Reply Received 29 April 2016	<p>Strategic Landscape</p> <p>Although the site itself is locally degraded by past land uses, the wider landscape context within the Taw Torridge Estuary is highly sensitive to change given the development would be prominent in views from a wide area including parts of the North Devon AONB, the South West Coast Path and the Tarka Trail. Whilst the Landscape and Visual Impact Assessment accompanying the submission is very useful in understanding where changes to views are likely to be significant, it lacks photomontages that would convey what the predicted nature and scale of such change would be. Without this it is not possible to judge the scale, massing and design of the proposals in context and whether they would conserve and enhance the views experienced from the AONB and contribute positively to the character of the area, or detract from it. Given potential significant harm to the quality of views experienced from highly sensitive locations mentioned above, the County Council recommends that photomontages are requested from viewpoints where significant effects are predicted, including viewpoints 6, 16, 20 and 21. It is noted that the existing viewpoint photos are not presented according to current best practice guidance promoted by the Landscape Institute (LI Advice Note</p>

	<p>01/11). Whilst these are useful to show context their small scale and lack of guidance to the viewer on how to use them should be addressed. It is very important that decision-makers can rely on technically competent photomontages that accurately convey the scale and nature of impacts. In providing the above response the County Council is having due regard to the purposes of AONB designation (to conserve and enhance natural beauty) and therefore fulfilling its statutory duties under s.85 of the CROW Act.</p> <p>NB no further comments received since the LVIA was updated in line with these comments</p>
<p>North Devon AONB Service</p> <p>Reply Received 25 February 2019</p> <p>Edited</p>	<p>The proposal is for a major development on a prominent estuary site close to the southern part of the AONB at Crow Point. In our opinion, a successful application would result in new development, increased activity, lighting and noise in an area that is highly sensitive to development.</p> <p>The proposal is an amended design from the 2015 application scheme in a number of respects. The overall height of the development has been reduced and the building line is set back further from the estuary. An updated wildlife report has been submitted. It should be noted that the resubmitted LVIA addresses the concerns we raised previously on the level of information and assessment provided.</p> <p>Landscape Effects – Affecting the Setting of the Braunton Burrows and Northam Burrows sections of the AONB</p> <p>The broad tidal river and saltmarsh behind it form a distinctive setting to the AONB in the area around Crow Point and Braunton Burrows. Panoramic views of the estuary are framed by surrounding hills, existing trees and green space connect the hills to the south to the water's edge. Existing development is an element of the landscape, but settlements are separated by broad swathes of countryside and are distant from the Burrows and Crow Point. The existing quay and industrial site at Yelland are prominent elements in the landscape – but there is little movement or activity on the site. Consequently, there is a strong sense of tranquillity in the local area.</p> <p>The development would be a prominent new element in views upstream from the Lighthouse. The balance of developed and undeveloped land would be noticeably altered and the extent of undeveloped land at the water's edge noticeably reduced. Despite re-positioning the development appears close to the edge of the estuary – similar to Appledore, Instow and Chivenor where built up areas have a direct visual connection with the water.</p>

	<p>In our judgement, the quality of tranquillity in the area would be noticeably reduced as a result of development. Panoramic views and the diversity of scenery in the local area would be noticeably changed. The baseline situation would be noticeably changed and this change would be permanent. The extent of the change would be over a limited area - less than 10% of the setting of the AONB in the area of Braunton Burrows.</p> <p>The Landscape and Visual chapter of the ES assess the Estuary landscape / seascape area as having high sensitivity to change from the development and the sensitivity for the dunes and beach character areas in the AONB as being very high. It assesses the magnitude of change to these character areas as Low adverse. Our own assessment, using the same criteria, places the magnitude of change as slightly higher than this – due to the effects being permanent; the introduction of development elements that erode characteristic qualities of tranquillity and that adverse effects are not fully mitigated. However, we agree with the overall assessment that effects are of minor adverse significance</p> <p>The effects on the setting of Northam Burrows would be of a lesser extent – there would be less impact on tranquillity (the proposal is at a greater distance) and the alteration to panoramic views would be less noticeable. Overall the development would result in a minor alteration to the qualities of tranquillity and panoramic views in the setting of the AONB. Change would be permanent and would be limited in extent.</p> <p>We agree with the assessment of visual impacts on viewpoints within the AONB – of minor adverse significance in views from Northam and of moderate adverse effect to visual receptors at Crow Point.</p> <p>Our own assessment and that of the LVIA agree that the development will lead to harm to the special qualities of tranquillity and panoramic views within the setting of the AONB. It would therefore be at odds with policies A2, A4 and I4 of the AONB Management Plan.</p> <p>We note that factor that contribute to the harm are:</p> <ul style="list-style-type: none"> • Proximity of development to the waterside: Although the proposal has been set back into the site, perceptually it is still perceived as being close to the water – impinging on the tranquil character of the AONB setting in this location. • Scale and Character of Development: The proposals pictured in the photomontages present an unbroken façade onto the estuary. In views from Crow Point and Broadsands it takes up most of a single view. The impact on the setting of the AONB could be reduced by breaking up the scale of development and allowing
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	<p>green infrastructure to visually connect the estuary to the surrounding hillsides.</p> <p>Conclusion We recommend that the application is refused for the following reasons: The development will lead to harm to the special qualities of tranquillity and panoramic views within the setting of the AONB. It would be at odds with policies A2, A4 and I4 of the AONB Management Plan.</p> <p>For the above reasons, we do not believe that the application complies with paragraph d of Local Plan Policy FRE02 and consequently, should be refused.</p>
<p>North Devon AONB Service</p> <p>Reply Received 23 March 2020</p> <p>Edited</p>	<p>We commented in detail on the proposals in our letter of 25th February 2019.</p> <p>Landscape and Visual Effects on the setting of the AONB: We note that the revised layout has taken some of our comments into account in that the proposal does not seem to present such an unbroken face to the AONB as the original scheme. Additional green infrastructure and the reduced height of buildings closest to the AONB will reduce the impact of the development slightly.</p> <p>However, the perceived proximity of development to the AONB will in our opinion remain unchanged and we are still anticipating an overall minor adverse effect on the setting of the AONB when viewed from the Crow Point and Broad Sands areas and moderate adverse visual effects from the same locations, both of which are located within the designated AONB. These adverse effects would in our opinion be contrary to policies A1, A2, A4 and I4 of the current AONB Management Plan 2019-2024.</p> <p>Our original objection to the application still stands and in line with Policy A4 which recommends that no development should be permitted inside or outside the AONB that would harm the natural beauty, character or special qualities of the AONB and so we continue to recommend refusal of this application.</p>
<p>North Devon AONB Service</p> <p>Reply Received 13 July 2020</p> <p>Edited</p>	<p>Having studied the plans, we believe that there has been no substantive change to the building and landscape layout on the riverfront, which were the areas of concern from a landscape point of view.</p> <p>Our concerns remain about the adverse landscape and visual effects of the proposal on the setting of the AONB in an area where there is currently no major waterside development upstream of Instow.</p>

	Our objection to the proposals, therefore, is as a result of the predicted adverse landscape and visual effects on the setting of the North Devon AONB, as set out in our previous comments.
The Biosphere Service Reply Received 22 July 2019	Our objection is based on the following points; Landscape Impact: the size and scale of the development is incongruous with the location. The height of the buildings partly forced by the artificial elevation of the land and the economics of developing the site mean that the visual mass of the proposal is unacceptable for its impact in proximity to the AONB and on the estuary landscape. At this part of the estuary the "big skies" and open views are important, as well as saving the rural identity of the landscape. The fact that a power station was built there before does not mean that the same despoliation of the landscape should be allowed again.

CONCLUSION: Arboricultural and Landscape and Visual Impact

- 8.53 The site is prominent from a number of surrounding locations including from a section of the AONB. Development will be clearly seen in some of these viewpoints. As set out above the development will lead to harm to the special qualities of tranquillity and panoramic views within the setting of the AONB. It would therefore be at odds with policies A2, A4 and I4 of the AONB Management Plan.
- 8.54 However it should be taken into consideration that development is not by default harmful. Good quality design which responds to its location, creates a new sense of place and employs place-making principles and is designed to be read with its surroundings will enhance its surroundings. The proposed development has been designed to be seen and to have an active harmonious frontage and interface with the river. The layout plan by reducing the scale of the development as you enter the site from its edges will not be overbearing or dominant but will be seen.
- 8.55 It is recognised that the site cannot be effectively screened but the landscape measures have been designed to retain strategic groups of trees (G1/2) where the access works allow, to help integrate the new development into its setting by softening the site edges and approaches and by creating new areas of green infrastructure and open space.
- 8.56 The consultees have highlighted that the conclusions within the ES in respect of the magnitude of change and nature of the effects cannot be considered as moderate change or likely to result in a moderate adverse effect. The proposal is likely to result in a **significant adverse** effect in that the development will be prominent or form the focus of the view, extending development toward the estuary and or obscuring distant views from the SWCP and changing the character of the SWCP in the vicinity of the site. As the site is allocated for development within the current local plan such impacts will be largely unavoidable.

- 8.57 Whilst this has been discussed in the ecology section the impact on the SW coastal path has been carefully considered. The developer will not reroute the whole stretch within the site as this would impact on plots facing the new lagoon and would introduce two public interfaces rather than private space to the rear. The responses to ecological mitigation is in the form of the proposed visual barrier fencing plus planting. The fence at 1.2m is considered to allow open views out onto the estuary whilst reducing the line of sight to wintering birds. As this is required as the first phase of development it will establish before the development and the buildings are provided this offering a degree of mitigation.
- 8.58 The proposal will result in a new self-contained settlement that is quite distinct and separate from existing development and is likely to result in moderate adverse landscape and visual impacts on a large number of receptors and significant adverse impact on the receptors identified above, including many with a high sensitivity, within the estuary and over a wide area due to the prominence of the sight within the estuary setting and the open views provided by the surrounding landscape. The development will not fully accord with policies ST14 and DM08A of the NDTLP and the AONB Management Plan and this will need to be considered in the balance.

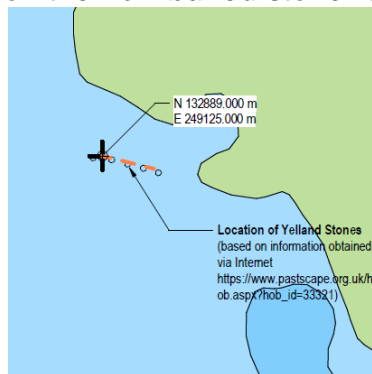
9.0 Impact on Heritage Assets

- 9.1 Local planning authorities have specific duties to make informed planning decisions in line with para 189- 190 of the NPPF on how development impacts on Heritage Assets and their settings. If harm is likely to be caused by a proposal, paragraphs 193-196 of the NPPF will need to be applied
- 9.2 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.
- 9.3 Policies ST15 and DM07 of the NDTLP require development to 'preserve and enhance' heritage assets and great weight should be afforded to such protections. A designated heritage asset can be a listed building (including curtilage listed building), Conservation Area, Registered Park or Garden or Scheduled Ancient Monument.
- 9.4 Chapter 8 of the ES covers **Archaeology and Cultural Heritage** (revised July 2020). The ES is supported by an Archaeology & Heritage Assessment (YQL 18965-AHA dated June 2015) and the Results of a Heritage Assessment (report no 200415 dated 15th July 2020).
- 9.5 The site does not contain any designated heritage assets. The land was either agricultural or marshland before the power station was built in the 1950's.
- 9.6 A scheduled **prehistoric stone row** does lie circa 500 metres to the north east of the site (HER 5507). This alignment is now submerged beneath accumulating tidal silts, but is likely to have been the focus of prehistoric ceremonial or ritual activity.

It is thought to have originally consisted of nine pairs of stones with two metres between each pair and a total length of over fifty metres. This indicates the possibility of buried prehistoric land surfaces and environmental deposits in areas bordering the river and these areas of the site are adjudged to be moderate, and some form of mitigation for investigation of these areas would be appropriate.

9.7 Para 8.4.28 of the ES concludes that:

According to the Geomorphological assessment of the site by the JBA group (2019). The proposed development will not cause any significant changes to the current geomorphology of the Taw Estuary, and as there are no planned alterations to the face of the existing defence and the gradient maintained, the existing defences are unlikely to cause increased scour or deposition on the salt marsh in the wider estuary, despite its evident increase in the 20th century presumed to have resulted from the historic realignment of the flood defences. There will therefore be no effect upon the now buried stone row.



9.8 Where archaeological remains do survive in such an estuarine environment, they can have higher archaeological potential as they may preserve organic material which typically would not survive in most other archaeological contexts. However, construction of the East Yelland Power Station may have had a substantial adverse effect on any earlier remains and thereby reduce the site's archaeological potential. It is certain that construction of the main turbine hall has led to removal of several metres of ground. Piling of waste ash from the power station has also led to a re-profiling of the former marshland to the east of the site, with an unintended consequence being the gradual silting over of the Scheduled stone row.

9.9 Archaeological monitoring and recording is recommended.

9.10 **Listed Buildings** within the rural setting at Braunton Marsh, the Grade II cider mill adjacent to West Yelland Farm, Chapple Farm and the Old Windmill (ruin) have been assessed with the impact to their settings being restricted to of their immediate surrounding of buildings and fields.

9.11 The **historic cores** of both Fremington to the east and Braunton to the north of the Taw are designated as conservation areas and contain numerous listed buildings, but these areas lie approximately two and three kilometres away from the site respectively. Each designated area is surrounded by later built developments and growth. To the west of the site, the historic cores of both Instow just over a kilometre south west of the site and Appledore are also designated as

conservation areas. Instow is focused westwards, across the Taw to Appledore, and south-west along the Taw towards Bideford.

9.12 The only sites where there might be the potential for an appreciable impact are the **Grade I Listed Churches** of St. Augustine, St. Brannock, and St. John the Baptist; Grade II* Listed Church of St. Peter (all negative/minor); and the Scheduled Double Stone Row (negative/moderate to negative/minor).

9.13 Assessment of historic, cartographic and photographic sources indicate that the site was enclosed in the 19th century, remaining as agricultural land until the 1950s when the East Yelland Power Station was constructed; and decommissioned in 1984. Subsequent demolition and decay has seen the majority of the structures being removed or fall into disrepair, the site inspection identifying that only the jetty, switch-house and one of the pump-houses survive as upstanding structures; the boiler- and turbine-house as basement levels; and the remainder of the buildings only as concrete footprints. On that basis the archaeological potential of much of the site is adjudged to be low.

9.14 The ES Summary is that:

- No pre-19th century remains have previously been identified within the site which is likely to have had a long history as marshland before being used for more regular agricultural use in the 19th century.
- There are no other known archaeological remains in the western part site.
- The existing Yelland Stones to the east of the site will be retained; but is not currently visible.
- The surviving power station structures are of low value, but they will be demolished as part of the scheme. This loss and any potential sub-surface archaeological remains can be mitigated through archaeological investigation (watching brief) in advance of and during construction.
- The potential slightly adverse effect on the wider setting of any heritage assets could be further reduced through the **sensitive use of materials**.
- The power station's jetty will be retained, and its long-term future secured as part of the proposals and this represents a minor beneficial effect.

9.15 The Report concludes that:

There is likely to be some cumulative harm arising from existing developments along the Taw Estuary, though this is mitigated by the proposed development utilising a brownfield site. However, this potential 'less than substantial harm' can be mitigated through appropriate detailed design of the development's structures in the mixed landscape of the Taw Estuary.

9.16 With this in mind, the overall impact of the proposed development can be assessed as **negligible** to **negative/minor**. The impact of the development on any buried archaeological resource may be permanent and irreversible but can be mitigated through an appropriate programme of archaeological investigation and recording.

9.17 Consultation Responses

<p>DCC - Historic buildings Officer</p> <p>Reply Received 14 January 2019 and 29 June 2020</p> <p>(edited)</p>	<p>The proposed development site lies in an area of archaeological potential with regard to known prehistoric activity in the vicinity, the preserved waterlogged palaeo-environmental deposits on the foreshore and with regard to the surviving industrial remains associated with the former power station.</p> <p>Because of the impact of the development upon the surviving industrial remains on the site and the potential for the development to expose or otherwise impact upon any below ground archaeological deposits on the foreshore associated with the known prehistoric activity in the vicinity I would advise that any consent granted by your Authority should be conditional upon a programme of archaeological work to be implemented in mitigation for this impact. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.</p> <p>I would envisage a suitable programme of work as taking the form of:</p> <ul style="list-style-type: none"> i) An appropriate record of all extant remains and structures associated with the former power station along with the collation of any relevant documents associated with the former power station, ii) An appropriate programme of work to allow for the identification, investigation and recording of any archaeological or palaeo-environmental deposits that may be affected by the proposed development.
<p>DCC - Historic Environment Team</p> <p>Reply Received 14 January 2021</p>	<p>Reconsulted on revised ES and Results of a Heritage Assessment</p> <p>No further comments from me thanks</p>
<p>Heritage & Conservation Officer</p> <p>Reply Received 28 February 2019</p>	<p>This application proposes a significant amount of development on the site of the former Yelland Power Station. There are no designated heritage assets on this site, therefore the proposal will not have a direct physical impact on the fabric of heritage assets.</p> <p>The site is, however, prominent in the wider landscape as it lies on the southern side of the River Taw, opposite Braunton Marsh. The valley of the River Taw is a feature in many views from the ranges of hills to the north and south. It is an open landscape, with the villages of Yelland, Fremington and Bickington being set inland to the south, and Braunton, Ashford and Heanton to the north, behind undeveloped natural river banks, fringed with farmland. The valley</p>

	<p>of the Taw forms the backdrop for many heritage assets which are set on the hills to the north and south – among these are the landmark church of St Augustine in Heanton, which is listed grade I, and the Church of St Peter in Ashford which is listed grade II*. Both Ashford and Heanton villages have Conservation Areas and include many listed buildings. The river valley is part of the wider setting of these heritage assets and forms part of the context in which these buildings are experienced.</p> <p>There have inevitably been changes to specific parts of the river valley over time, but its essential undeveloped character is a feature of the landscape setting. The development proposed within the application is relatively intensive, related to this context, and will provide a sizeable domestic settlement in a location close to the water's edge. Full details are not provided, as the application is a hybrid, but it has to be assumed that the development will have a transformative effect on this part of the river bank. This will in turn have an effect on the significance of those heritage assets which have the river valley as part of their wider landscape setting, such as the two aforementioned churches, and the Conservation Areas.</p> <p>It is difficult to say quite what this effect will be, without detailed plans, but it is likely to be in the 'less than substantial harm' bracket, and so the public benefits of the scheme will need to be taken into account when the decision is made, under the terms of paragraph 196 of the NPPF.</p>
<p>Heritage & Conservation Officer</p> <p>Reply Received 26 February 2020</p>	<p>Please see my consultation response of 28.2.19, which still stands.</p>
<p>Heritage & Conservation Officer</p> <p>Reply Received 27 January 2021</p>	<p>Thank you for sending these documents through, I have no further comments to add.</p>
<p>Historic England</p> <p>Reply Received 3 February 2019 (edited)</p>	<p>Historic England generally agree with the summary presented in the Archaeology and Heritage Impact Assessment, however, we believe that this document fails to fully address certain aspects of the impact of the proposed development on the historic environment, including both designated and non-designated heritage assets.</p> <p>Primarily, we are concerned that the potential hydrographic impacts of the intensification of use and flood defences on the</p>

	<p>nationally important Scheduled Monument 'double stone alignment on Isley Marsh 535m north of Lower Yelland Farm (NHLE 1003847; OCN DV173)' have not been adequately investigated.. This monument is currently on the Heritage at Risk Register as a result of it's loss to silting over the years. It has not been possible to locate the monument for over ten years and geophysical survey in 2018 failed to accurately locate it. It is for this reason that it is considered at risk. Any development with the potential to alter silting patterns on the adjacent marsh should be accompanied by a detailed consideration of the issues and potential mitigation if necessary.</p> <p>Although no longer visible, the stone rows at Isley Marsh survived well in 1983, having been preserved under tidal silt deposits for many years. They will contain important archaeological and environmental evidence relating to the construction, use and landscape context of the monument. They may also represent part of a much greater expanse of early prehistoric activity, which cannot be observed or formally assessed because it is submerged in the extensive silt deposits of this important estuary.</p> <p>We are also concerned that the impact on the settings of Braunton Great Field and other Listed Structures has not fully considered the impacts of the resultant intensification of use of the site. This will be apparent in the far greater vehicular movements and in light pollution. Whilst we do not consider these to be major issues we do believe them to be enough to result in a potentially moderate level of harm to the setting of heritage asses.</p> <p>In addition to the hydrological assessment of impact on Isley Marsh we would advise that the application does not contain any environmental benefits to the historic environment which could be taken into account in your assessment of the planning balance in order to outweigh any potential impacts. As has been noted, the Yelland Stone Row Scheduled Monument is recorded on the Heritage at Risk Register and any proposals that would assist in determining the location, survival and extent of the monument, such as targeted excavation, could be considered worthwhile.</p> <p>Recommendation Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189, 190, 192, 194, 196 and, 200 of the NPPF.</p>
Historic England	Historic England have little to add to the advice given previously on the 3rd February 2019. We would reiterate the importance of a full understanding of the hydrological implication of the proposals on

Reply Received 25 April 2020 (edited)	the Yelland stone row Scheduled Monument (SM DV173, NHLE 1003847), not only in normal conditions but during and as a result of flood events. This monument has been on the Heritage at Risk register for some time due to silting of the area and the proposals have the potential to exacerbate that impact. We would welcome a full hydrological impact study and any proposals for public gain through S106 for location and/or investigation of the monument that would aid its removal from the register.
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9.18 Impact on Heritage Assets: CONCLUSION

- 9.19 The development of this site, by its very nature will alter the estuary setting of adjacent heritage assets. The site will form only part of any views from most designated receptors which are similarly influenced by other developments in the estuary corridor. The assessment concludes that the impact on heritage assets will not be at 'any perceptible level'.
- 9.20 Historic England advise that 'Whilst we do not consider these to be major issues we do believe them to be enough to result in a potentially **moderate** level of harm to the setting of heritage assets'. The Authority's Conservation Officer advises that it 'is difficult to say quite what this effect will be, without detailed plans, but it is likely to be in the '**less than substantial harm**' bracket, and so the public benefits of the scheme will need to be taken into account when the decision is made, under the terms of paragraph 196 of the NPPF'. This is addressed in the planning balance.
- 9.21 A range of mitigation is being argued in that the proposed development by utilising a brownfield site is replacing built forms, through appropriate detailed design of the development's structures in the mixed landscape of the Taw Estuary and through the use of conditions relating to the sensitive use of materials to blend the development in with the surrounding mixed landscape. Historic England argue that there are no 'environmental benefits to the historic environment which could be taken into account in your assessment of the planning balance in order to outweigh any potential impacts' and that they 'would welcome a full hydrological impact study and any proposals for public gain through S106 for location and/or investigation of the monument that would aid its removal from the register'.
- 9.22 The impact of the development on any buried archaeological resource may be permanent and irreversible but can be mitigated through an appropriate programme of archaeological investigation and recording. The Yelland Stones are not directly affected by this development and any heritage s106 contributions would be considered within the Heads of Terms. Retention of the eastern part of the site as public open space will protect the setting of the scheduled stone row to the east
- 9.23 Archaeological conditions based on model Condition 55 as set out in Appendix A of Circular 11/95 relating to site investigation and monitoring of geotechnical test pitting and analysis of borehole results are recommended in the ES in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 199 of the National Planning Policy Framework (2019).

9.24 The works are not considered to conflict with policies DM07 or ST15 and in that the harm to heritage assets is with the less than substantial, the test is whether the public benefit outweighs the harm.

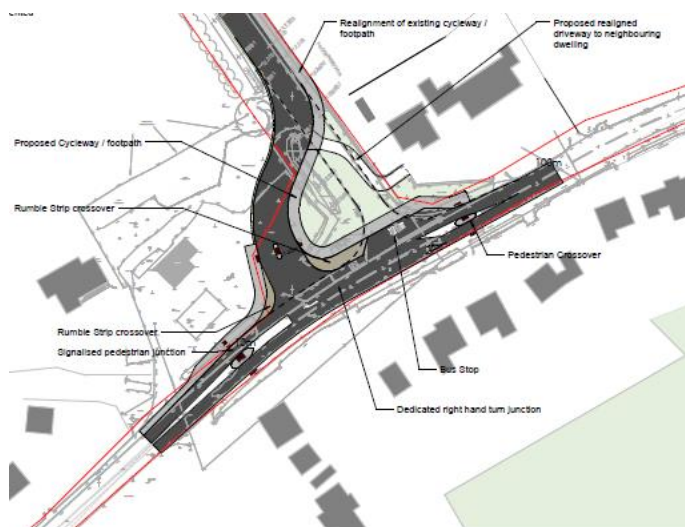
10.0 Transport and Movement

10.1 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.

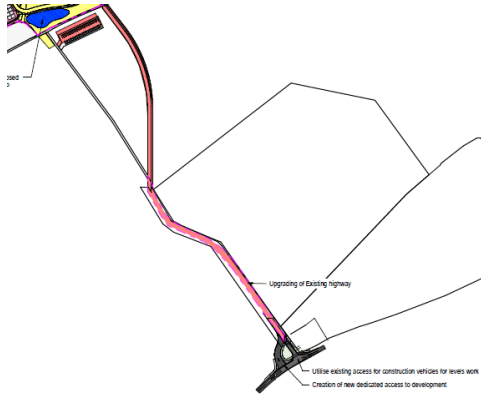
10.2 Chapter 10 of the ES covers Transport and is supported by a Transport Assessment (0146 Rev E dated 23/12/19) and the following drawings:

- ATR01C Site Access Junction
- ATR 02B Bus Stop Tracking Plan
- PHL 01 E Proposed Site Access
- PHL 02D Preliminary Highway/Cycleway Alignment
- PHL 03D Preliminary Access Road Alignment
- PHL 04C Preliminary Highway Profile
- PHL 05A Closure of Existing Tarka Trail crossing

10.3 FRE02 criteria (l) requires improvements to the existing road junction with the B3233. Access to the proposed site is achieved via a re-designed priority junction on the B3233. This will provide adequate visibility in each direction. The junction will contain a right turn lane and two crossing points and the relocated bus stop.



10.4 The site is then approached from the existing private road (650m in length) which already has a carriageway width of 6m wide allowing two HGVs to pass. Approximately 410m into the site the route diverts from its existing alignment with branch to the gas depot and proposed car park to serve the Tarka Trail.



10.5 The design of the internal street network would be subject to Reserved Matters

10.6 A 3m wide cycleway/footway will be provided along the east side of the realigned access. Pedestrian and cycle access would also be available from the Tarka and South West Coast Path. The South West Coast Path extends along the northern site boundary and connects to the Tarka Trail both east and west of the site. The Tarka Trail provides a high quality, fully surfaced and traffic free walking and cycling route between Barnstaple and Bideford. The trail extends both east and west, serving Braunton and Great Torrington.

10.7 How the access road will cross the Tarka Trail has been considered in detail and a preliminary layout is provided. The crossing will feature staggered barriers to reduce cycle speed leading up to the junction. The section crossing the carriageway will be positioned on a raised plateau at which the carriageway will rise to meet the cycle/footway, providing a level crossing from one side of the Tarka Trail to the other. The lighting of this crossing is discussed above.

10.8 A route to the jetty will be retained for HGV access, with set-down and storage areas at the jetty itself, to allow for future commercial operation.

Traffic Impact

10.9 The TA has been criticised as being 'out of date' but it looks at the impact that this development, in combination with the developments listed below, will have on the functioning of the B3233. The TA was also undertaken on the basis of 300 units rather than the 250 now proposed. The traffic surveys were undertaken in 2019 and are likely to capture an element of the committed development traffic as much was under construction/occupied. The analysis takes account of the traffic from 1,993 consented dwellings and the survey traffic so is considered robust.

56054	Allenstyle	53
55479	Glenwood Farm	92
54762	Larkbear	820
56351	North Lane	65
50265	Sampson's Plantation Phase 2	37
53881;	Tews Lane	350
57663	West Yelland	135
60985	Berryfields	61

60234	Taw View Phase 1	61
62783	Taw View Phase 2	44
53147;	Fremington Barracks	
		1,993

10.10 It needs to be recognised that the access road serves the existing employment area. The existing traffic turning onto or from the access road associated with the existing employment land was surveyed as 58 vehicles in the AM peak and 23 vehicles in the PM peak.

Construction Phase

10.11 The maximum number of daily construction vehicle movements likely to be experienced is 87. The routing of construction traffic is anticipated to be to the west of the development via the B3233 to the A39 avoiding the villages of Yelland, Fremington & Instow. The impact of construction traffic (which would temporary) is expected to be **minor adverse** and not significant. Through the implementation of a Construction Traffic Management Plan and Delivery Management Procedure it is anticipated that the impact could be mitigated to **negligible negative**, over a relatively short space of time in the context of the development as a whole.

Operational Phase

10.12 Table 10.10 shows a maximum increase in traffic flows of 14% in the AM peak and 16% in the PM peak. Whilst this is not a view supported by the community, in traffic modelling terms it is also considered that the existing traffic flows on the B3233 are in modelling terms low, therefore a development of this size is likely to cause a large percentage increase on the network given the limited volume of traffic already using the route but it is still concluded that the impact of the development on driver delay on the B3233 is to be **minor negative and low Sensitivity**.

Table 10.10 – Percentage impact of development traffic on the B3233 (West)

	AM Peak	PM Peak
2025 Base + Committed Traffic	683	797
Development Traffic	114	159
% Change	14%	19%

Table 10.10 – Percentage impact of development traffic on the B3233 (East)

	AM Peak	PM Peak
2025 Base + Committed Traffic	641	677
Development Traffic	94	103
% Change	14%	15%

10.13 The functioning of the B3233 and its junctions have consistently been raised as issues of concern each time a residential development is promoted within this highway corridor. The TA has modelled the following junctions:

- A39 Westleigh Signalised junction
- Fremington Barracks signalised junction
- Cedars roundabout;
- Sticklepath Hill / Bickington Road / Old Torrington Road mini-roundabout

10.14 The A39 Westleigh Junction and Fremington Army Barracks junction assessment shows that with the addition of development traffic, there are not anticipated to be any significant changes in capacity or delay. The traffic impact assessment completed for the Cedars Roundabout junction demonstrates that there is not expected to be a significant change in driver experience as a result of development traffic. Again whilst this will not be a view supported within the community in traffic modelling terms the impact is **not severe**.

10.15 With regards to the Sticklepath Hill Mini-Roundabout junction, results indicate that the junction operates over capacity under baseline plus committed conditions. However a comparison of the 'with proposed development' and 'without proposed development' scenarios shows that the addition of proposed development traffic is not expected to result in a significant change in performance. Again the functioning of this roundabout continues to be a concern of the community.

10.16 Following the assessment of these junctions the TA concludes that the development traffic is not anticipated to cause any significant changes. A development of this scale will result in additional traffic but the issue is whether the highway network will continue to function in an acceptable manner. Appeals on other sites have determined that the tests of severe harm are not met by these individual developments (West Yelland, Mead Park and Army Camp). The residential commitments on mass have been assessed and the Highway Authority have not raised objections subject to mitigation.

Pedestrian/Cyclist

10.17 There are four Public Rights of Way and two long distance walking routes associated with the site. These include:

- Fremington Footpath 64: runs along the northern boundary of the site to the Isley Marsh RSPB reserve;
- Fremington Footpath 70: runs along the eastern boundary of the site linking the Tarka Trail to the coast;
- Instow Footpath 15: runs along the northern boundary of the site from the end of Fremington Footpath 64;
- Instow Footpath 9: The only Public Right of Way to enter the application site. It runs 'around the biodiversity pond'; also
- The South West Coastal Path bounds the site to the east and north; and

- The Tarka Trail Long Distance Route runs along the southern boundary of the site, which is a traffic-free walking and cycling path and forms part of the Devon Coast to Coast Cycle Route.

10.18 Policy FRE02 requires at criteria m) improved pedestrian and cycle links through and around the site and from the B3233 to the Tarka Trail; and at criteria (n) appropriate traffic management measures where vehicular traffic crosses the Tarka Trail to reduce conflict with, and improve safety for, pedestrians and cyclists using the Tarka Trail.

10.19 It is anticipated that the internal layout of the proposed development will include 2m footways throughout the site to assist the movement of pedestrians. The side and residential roads within the development could also have continuous raised footways across them to demonstrate to road users that pedestrians are the priority mode, with implied right of way at junctions.

10.20 The existing cyclepath along the site access road to the Tarka Trail will be improved to provide 3m cycle/footway to the trail. Pedestrian crossings have also been provided at the proposed site access and where the Tarka Trail crosses the access road to improve pedestrian access

10.21 The existing Tarka Trail which runs through the proposed development is to be retained and raised above the designated flood level. This will involve the trail being raised and the existing crossing relocated.

10.22 The impact of the fence on the SW Coast Path is discussed at length in the above section of the report. To reiterate, the design has been amended to ensure that those using the path can still have views out over the estuary.

10.23 The site access includes three designated pedestrian crossings providing improved access for pedestrians and cyclist from Yelland to the south of the site access and improvements to the virtual Pedestrian access.

10.24 Within a 5 minute walk, residents at the site would be able to reach bus stops and employment space. Within 10 minutes cycling time, there is the opportunity to reach various retail facilities in the villages of Fremington and Instow. Secure cycle parking will be provided within the demise of each residential property and in the public zones.

Car Parking

10.25 The application is in outline and the design of the car parking would be a reserved matter. Each type of use would need to provide the requisite amount of car 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). Also, the National Design Guide which is intended to support paragraph 130 of the NPPF sets out that in a well-designed place, an integrated design process brings the ten characteristics together in a mutually supporting way in

order to create an overall character of place. Included within these ten characteristics is 'Movement' where development should seek to deliver parking which is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or street-scene but also paragraph 87 recognises the need to consider electric vehicle spaces that are suitably located, sited and designed to avoid street clutter.

10.26 In terms of the adopted Local Plan, 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. Paragraph 13.51 sets out that 'recognising the transition to a low carbon economy and a move to low emission transport, regard should be given, as part of the provision of an appropriate range of parking, to providing electric vehicle charging infrastructure'. A requirement to deliver electric vehicle charging infrastructure is implied within policy by recognising the requirement to meet 'anticipated needs' which as I have set out above the clear intention of Government is to pursue a rollout of electric vehicles across the UK. Therefore, such provision should be delivered by the developer as trips to services and facilities at Fremington, Barnstaple/Bideford town centre and employment opportunities are relatively short and suitable for a low energy electric vehicle and from a policy perspective such provision should be appropriately conditioned as part of any outline approval.

10.27 FRE02 Criterion (k) supports the provision of a public car park for users of the Tarka Trail. The car park is shown on land outside of the allocation to the south of the Tarka Trail. Currently vehicles park on the private road leading to the site on a permissive basis. Given the increase use of this access particularly during construction such on road parking may need to be restricted.

10.28 To minimise conflict during the construction phases it is recommended that this is provided as one of the first phases of development. The applicant has shown an access off the private road. Whilst this is acceptable during the construction phase, in the long term it is recommended that access be provided off the adopted highway.

10.29 A new car park should be off the new road in to the development, avoiding conflict with cyclists and pedestrians which appear to be encouraged to use the footpath to the west in order to access the Tarka Trail. The applicant has been asked to revise his plan in this respect. The Planning Committee are requested to support this request.

10.30 The layout shows that this car park would access to the Tarka Trail as now.

Public Transport

10.31 The closest bus stops to the site are located adjacent to the site access on the B3233 West Yelland. There is a frequent service stopping close to the site, offering regular services to Bideford and Barnstaple. Journey time to Barnstaple is between 14-25 minutes, and to Bideford approximately 15 minutes. The 21(A) service also serves Barnstaple station directly, in time for the first train to Exeter at

07:00. Three school bus routes also stop at Welch's Lane – the 815, 821, and 921. These serve Newport Park School and Pilton Community College

Travel Planning

10.32 A full travel plan for the site, based on the content of national planning practice guidance, will be completed upon occupation of the development. The developer will be responsible for ensuring a Travel Plan Coordinator (TPC) is in place for the residential development at first occupation. For the employment space, a TPC will need to be assigned within each business. The responsibilities and timescales for implementation and monitoring the progress of the measures included within the Travel Plan are set out in an Implementation Strategy Table, (Appendix K of the TA).

10.33 Consultees

<p>Planning Policy Unit</p> <p>Reply Received 19 February 2020</p> <p>edited</p>	<p>Criterion (k) supports the provision of a public car park for users of the Tarka Trail. However, I question the proposed location of the public car park south of the Tarka Trail, outside of the site allocation when this should be located within the proposed site boundary. Also, it is unclear what is proposed for future use for the remainder of this land to the south of the car park within the red line of the application site, because additional built development in this location will not be acceptable in landscape terms.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 6 February 2020</p>	<p>The proposed development is acceptable to the Local Highway Authority on the basis the highway works and contribution requirements are secured. If this is not the case, this Authority will need to formally reconsider its consultation response. In addition to the delivery of the Highway Works identified upon the planning application submission the additional works and/or contributions are sought</p> <ol style="list-style-type: none"> 1) The sum of £611,952.00 to be directed towards improvements at the Cedars Junction (A3125/B3233) and/or ESSO Garage/ Wrey Arms Junction (Old Torrington Road/A3125); 2) The upgrading of the virtual footway, to a formal footway, on the B3233 for a distance from the application site junction to Estuary View to the west; 3) The extension of footway provision into the site from the B3233 on the western frontage; 4) The provision of a Bus Shelter at the site entrance with a commuted sum of £1000 5) The sum of £20,000 being a commuted payment to cover the maintenance costs of the proposed pedestrian crossing facility; 6) The sum of £5000 to cover any associated Traffic Regulation Order requirements; 7) The sum of £250 per dwelling to be utilised for Public Transport vouchers; and

	<p>8) The sum of £50 per dwelling to be utilised towards cycle provision.</p> <p>Conditions are also recommended</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 7 April 2021</p>	<p>As you will appreciate, I do not believe it is for this Authority to prioritise the contributions being offered when considering the competing interests of the respective Highways and Education functions. This is a matter I am happy to remain at the discretion of the LPA, however, my objection, is given on the basis of the earlier indicated intention for the highway contribution to be removed, as a result of the developers Viability Assessment. The reason for refusal is:</p> <p>The planning application does not propose neither mitigation measures nor contributions towards the A3125/Old Torrington Road/ESSO Garage junction to address existing highway capacity issues during the morning (AM) and evening (PM) peak periods. As a consequence, the proposed development is likely to unacceptably exacerbate the operation of the junction and is, therefore, considered to be contrary to the National Planning Policy Framework (February 2019), in particular, Paragraph 108 (c) and Paragraph 109 as the residual cumulative impacts on the road network will be severe.</p>
<p>DCC - Development Control</p> <p>Reply Received 29 April 2016</p>	<p>Strategic comments: The transport implications of the proposed development have been taken into consideration in assessing the planning application. The highway network serving this site, notably the Bickington Road Corridor, is constrained and will require improvement to mitigate the impacts of the proposed development. Without these improvements, and/or contributions towards them, the development cannot be supported by the Highway Authority. Section 106 contributions: (See DCC Highway response 21/4/16)</p>
<p>DCC - Public Rights Of Way</p> <p>Reply Received 9 June 2020 (edited)</p>	<p>I draw your attention to comments made regarding previous applications dated 19/04/2016 and 08/01/2019, that the application will have serious consequences for a number of footpaths in the area, of which sections provide the route of the South West Coast Path National Trail. The proposed development will also have serious ramifications for the Tarka Trail Cycleway. Therefore I refer you to my comments cited against the earlier applications, as those concerns, (and the objection) would still stand.</p> <p>Finally, I would remind the applicant that should the application be successful, that Planning Permission does not grant the right to close, alter or build over a Public Right of Way in anyway, even temporarily. Therefore, the applicant must ensure that the way(s) remains open and available to the public at all times, including during the period of construction activity such as with buildings materials, or spoil and contractors vehicles and plant etc. Should it be necessary to permanently divert the path to enable development to take place, this can be achieved by the Local</p>

	<p>Planning Authority through section 257 of the Town and Country Planning Act 1990. If a temporary diversion or closure is required during construction works then the applicant may apply to DCC for a temporary closure order.</p>
<p>The South West Coast Path Association</p> <p>Reply Received 12 February 2019</p> <p>Edited</p>	<p>As a designated National Trail, the SWCP is a nationally important recreational infrastructure facility which is one of the major income generators for the South West, bringing in some £500 million per year to the region and sustaining c.11,000 jobs. It is identified in the recently adopted North Devon and Torridge Local Plan (Fig 4.5) as a Strategic Recreational Route in northern Devon. Paragraph 10.185 of the statutory development Plan identifies the South West Coast path as a key green infrastructure corridor along the estuary providing good sustainable travel options towards Barnstaple and Bideford.</p> <p>Section 6 of the application Form to Application reference 60823(dated 16th March 2016) confirms that the major coastal development proposed by the application will include alterations to public rights of way together with diversions/extinguishments to these in accordance with details set out in 'Engineering Drawings'. Notwithstanding, a search of all the published drawings did identify Drawing No.Y029 18 501J(Development Edges Sections).This Drawing shows the construction of a physical barrier in the form of a 1825mm high 'Timber Screen' to the SWCP which is to be erected immediately adjacent to a very substantial frontage of the designated Coast path.</p> <p>The Sectional Detail to the above noted drawing is annotated "Timber Screen with hit and miss with viewing elements" and also "Proposed Timber Screen to western edge of South West Coastal Footpath to Ecologists recommendations". These details show the extensive length of the proposed barrier and the attempt to mitigate what will be a very significant change in the function and value of the SWCP by proposing restricted 'Viewing Areas'. The number and location of these viewing areas appear to be otherwise unspecified but the need to provide these emphasises the negative change resulting from what will be a profound change from open to enclosed National Trail.</p> <p>The loss of the present openness with its extensive far reaching views across the estuary to the UNESCO designated Biosphere Reserve at Braunton Burrows and open estuary beyond will be exacerbated by the scale, density, nature and proximity of the major development immediately adjacent to the SWCP. The experience of walkers and users of the SWCP will overwhelmingly change from that associated with an open remote estuary to one associated with an enclosed urban experience and will unacceptably diminish the experience of users of the SWCP National Trail and value of this substantial section of the SWCP.</p>

	<p>In its previous response on the outline application 60823, dated 9th May 2016, the SWCPA made it clear that it wished to see that both the physical integrity of the National Trail and views of the estuary from it are maintained. From the foregoing, it is seen that this is not the case and the SWCPA therefore makes the following representations.</p> <p>Representation: the formal response of the South West Coast Path Association (SWCPA) is therefore one of OBJECTION to the principle and the detail of the application for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal will affect the physical integrity of the SWCP by the proposed construction of a substantial built structure between the SWCP and the coast. The construction of such a permanent artificial barrier will unacceptably diminish the environmental quality of the SWCP and such will result in a fundamental conflict with the purpose of the designated coast path. 2. The quality of SWCP as experienced by all users of the coastal path will be significantly and adversely affected by the proposed development and rather than enhancing that experience and the public value of this nationally, regionally and locally important amenity the proposed barrier will materially detract from the accessibility and attractiveness of the SWCP along this section of the presently undeveloped coast in fundamental conflict with the SWCP designation. Following on from the above concerns, the present application is in clear conflict with a number of statutory planning policies of the North Devon Council's recently adopted North Devon and Torridge Local Plan against which the present planning application 60823 must be determined and in particular in conflict with the following policies: 3. The proposed development is in material conflict with following policies of the North Devon and Torridge Local Plan 2013-2031: <ul style="list-style-type: none"> (i) Policy ST04: Improving the Quality of Development as the proposal fails to demonstrate inclusive design that will improve access and experience of users of the SWCP and fails to respond to the open estuarine character of the site. (ii) Policy ST09: Coast and Estuary Strategy and in particular Criterion 7 which requires all new development to safeguard the unspoilt character of the coast and estuary and Criterion 11 which requires the continuity of the South West Coast Path to be protected and improved with enhancements to coastal and estuary access as part of any regeneration proposal. (iii) Policy ST14: Enhancing Environmental Assets and in particular Criterion h and Criterion J' increasing opportunities for access, education and appreciation of all aspects of northern Devon's environment, for all sections of the community'.
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	<p>(iv) Policy FRE: Fremington and Yelland Spatial Vision and Development Strategy and its requirement to secure an enhanced network of footpaths.</p> <p>(v) Policy FRE02:Yelland Quay and in particular Criterion m which requires improvements to pedestrian links through and around the site and also the supporting text to the above policy insofar as it relates to the policy requirements to enhance the green infrastructure network and secure improved accessibility and visitor experience (10.206 and 10.208)</p> <p>It is anticipated that the LPA will assess the present proposal against the provisions of the strategies relevant to the application site. These include strategies and management plans relating to the UNESCO Biosphere Reserve Strategy, the Taw Torridge Estuary Management Plan, the Shoreline Management Plan and the Taw-Torridge Coastal management Study.</p>
<p>The South West Coast Path Association</p> <p>Reply Received 6 February 2020</p> <p>Edited</p>	<p>As you will be aware, an OBJECTION to the above referenced application has already been submitted on behalf of the South West Coast Path Association. This application does not adequately acknowledge or consider the significance of this designation and/or the strategic importance of the National Trail.</p> <p>To reiterate the main concerns;</p> <ol style="list-style-type: none"> 1. The proposal will affect the character and physical integrity of the SWCP National Trail by the proposed construction of a substantial man-made structure between the SWCP and the presently open coast and estuary. The construction of such a permanent artificial barrier will unacceptably diminish the environmental quality of the SWCP and as such will result in a fundamental conflict with the Aims and Objectives of the nationally designated South West Coast Path. 2. The quality of SWCP as experienced by all users of the coastal path will be significantly and adversely affected by the nature, extent, proximity, scale, height and massing of the development noted above. Rather than enhancing that experience and the public value of this nationally, regionally and locally important amenity the proposed residential, industrial and commercial development with its associated perimeter barrier and engineering works will instead detract from the accessibility and attractiveness of the SWCP along this section of the presently undeveloped coast in fundamental conflict with the SWCP designation and its Aims and Objectives. 3. With particular regard to the material conflict with the Aims and Objectives of the SWCPA, the proposed development is also in material conflict with the following policies of the adopted North Devon and Torridge Local Plan 2013 - 2031: <ul style="list-style-type: none"> (i) Policy ST04: Improving the Quality of Development as the proposal fails to demonstrate inclusive design that will improve

	<p>access and the experience of users of the SWCP and fails to respond and enhance the open estuarine character of the site.</p> <p>(ii) Policy ST09: Coast and Estuary Strategy and in particular Criterion 7 which requires all new development to safeguard the unspoilt character of the coast and estuary and Criterion 11 which requires the continuity of the South West Coast Path to be protected and improved with enhancements to coastal and estuary access as part of any regeneration proposal.</p> <p>(iii) Policy ST14: Enhancing Environmental Assets and in particular Criterion h and Criterion J 'increasing opportunities for access, education and appreciation of all aspects of northern Devon's environment, for all sections of the community'.</p> <p>(iv) Policy FRE and its requirement to secure an 'enhanced network of public footpaths' and securing high quality design 'that will capitalise on the sites coastal setting within the Taw-Torridge estuary'.</p> <p>(v) Policy FRE02: Yelland Quay and in particular Criterion (d) which requires buildings and structures to be sited and designed 'to address their visual impact on the open landscape setting of the estuary' and Criterion (m) which requires improvements to pedestrian links through and around the site. The development is also in conflict with the supporting text to Policy FRE02 in respect of the requirement for development to be designed to complement its sensitive and open landscape setting of the estuary (paragraph 10.202), to enhance the green infrastructure network (paragraph 10.206) and to secure improved accessibility and visitor experience (paragraph 10.208).</p> <p>Finally, it is to be trusted that the LPA will assess the present proposal against the provisions of other strategies relevant to the application site. These include strategies and management plans relating to the UNESCO Biosphere Reserve Strategy, the Taw Torridge Estuary Management Plan, the Shoreline Management Plan and the Taw-Torridge Coastal Management Study.</p>
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10.34 Conclusions

10.35 There are considered to be good opportunities for journeys from the site to be made by sustainable modes of travel and it is therefore considered that the site would provide an accessible location for development and take up the opportunities for sustainable transport as required by the NPPF and ST01 and ST10. Connections to and from the Tarka Trail and South West Coast Path are integral to the design. The enclosure of the coast path has also been addressed.

10.36 With regards to driver delay the TA has been concluded that the B3233 and various off site junctions included in the scoping by DCC would not experience any severe impacts. On all the issues the assessment demonstrated that the residual adverse impacts are at worse, negligible

10.37 DCC have advised that if £611,952.00 to be directed towards improvements at the 'Cedars' Junction (A3125/B3233) and/or 'ESSO Garage/Wrey Arms' Junction ('Old Torrington Road/A3125) is not collected that they would be minded to recommend refusal of the application but have yet to provide the reasoning for this recommendation.

10.38 The application does secure the following Heads of Terms

- Provision of the virtual footway and the extension of footway provision into the site from the B3233 on the western frontage
- Provision of car park to serve the Tarka Trail
- The provision of a Bus Shelter at the site entrance with a commuted sum of £1000
- The sum of £20,000 being a commuted payment to cover the maintenance costs of the proposed pedestrian crossing facility
- The sum of £5000 to cover any associated Traffic Regulation Order requirements.

10.39 Planning Conditions will need to be applied to resolve the design of the roads, footpaths, cycle provision within the site itself as well as standard engineering drawings in line with DM05 and DM06. The concerns of the SWCPA are addressed with the ecology and landscape sections of the report. The management of construction traffic will be essential in respect of localised impacts. Whilst there will be an increase in traffic on the network the test of severe harm is not met subject to mitigation.

11.0 Flood risk and Water Quality

11.1 The NPPF at para155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

11.2 NDTLP Policy ST03 requires that development takes account of climate change and should be located and designed to minimise flood risk. The site is within flood zone 3.

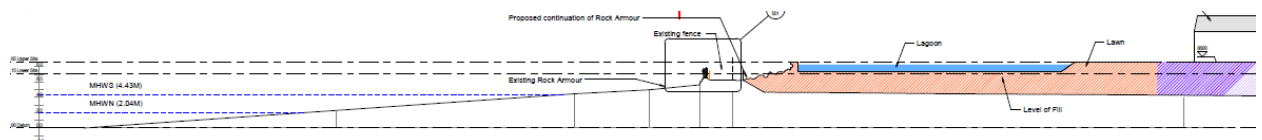
11.3 Policy FRE02 criteria (f) requires provision of adequate flood alleviation measures with design and distribution of uses to manage minimise and mitigate against any risks from flooding

11.4 Chapter 9 of the ES deals with Flood Risk, Water Resources and Water Quality. It is supported by Flood Risk Assessment 0146 Dated 19 December 2019, Yelland Quay Wave and Overtopping Assessment (August 2018) and a Preliminary Drainage Layout 0146 PLL-100 Rev H.

Flood Risk

11.5 The existing engineered ground level is in the range of 5m to 6m above ordnance datum (AOD). The site is currently defended by an existing flood defence bank which varies in level between 6.1m and 6.6m AOD

- 11.6 Because of the exposed nature of the site and the fact that Crow Point on the Northern side of the Taw Estuary is being allowed to naturally erode, the EA required a more detailed assessment of the wave impact on the Yelland Quay site. This has been used to design the defences.
- 11.7 EA guidance defines a design life of 100 years for residential (or residential-led mixed-use) developments. Therefore the 1 in 200 year return period tidal flood level in 2120 has been calculated as being 1.11m above the current still water level of 5.75m AOD. The 2120, 1 in 200 year still water level (SWL) is therefore 6.86m AOD.
- 11.8 Given the existing ground level of much of the site is in the range of 5 to 6m AOD, whereas the 2120 1 in 200 year still water level is 6.86m AOD, a potential flood depth of up to 1.86m could be experienced if the current defence were to be breached or rounded. To address this risk, it is proposed to locally reinforce / raise the flood defences and also raise the development significantly above the existing ground levels. It is proposed to raise the site on a series of plateaus, with the level of each plateau determined by the flood risk and vulnerability of the proposed use. This approach is similar to that adopted at Anchorwood Bank.
- 11.9 The waterfront residential properties to the west of the site will be raised to a level of 8.6m AOD. These properties will also be set back to allow for the spray generated by extreme waves to be less than 1 l/s/m and designed to address the exposed maritime location. Similarly, the waterfront residential properties to the north will be raised to a level of 8.0m AOD and will be set back by 5-10m. Further inland residential properties will be set at minimum 7.16m AOD, to provide a minimum 300mm freeboard (the height of the watertight portion of a building or other construction above a given level of water in a river) above the 1 in 200 year still water level in 2120.



- 11.10 Commercial buildings proposed within the development will be set at minimum 6.6m AOD, to provide minimum 300mm freeboard above the 1 in 200 year still water level in 2080 (60-year design life).
- 11.11 To ensure that safe access and egress can be afforded at all times throughout the residential-led developments 100 year design life, the main access road to the south will be raised to a minimum level of 6.86m AOD, ensuring that it is accessible in up to the 1 in 200 year flood occurring in 2120
- 11.12 The Revised FRA has been updated with the UKCIP18 at a level of detail necessary for an outline design. The outline design takes account of the current and future flood risks, with sufficient freeboard to accommodate the recent changes to climate change guidance.

Sequential Test

- 11.13 Before determining the application the flood risk Sequential Test has to be satisfied. The North Devon Local Plan and the North Devon and Torridge Local Plan both recognised this as a site in need of regeneration. The site allocated in the joint Local Plan were sequentially tested with the aid of a Strategic Flood Risk Assessment,
- 11.14 Whilst the site might technically fail the sequential test when considering its individual components, it is considered that the only way the wider objectives set out in Local Plan can be delivered and the site regenerated is through the provision of a mix of development and as such, this proposal offers wider sustainability benefits which outweigh the failure of the Sequential Test.

Water Quality – Construction and Operational Phases:

- 11.15 The Construction Environmental Management Plan (CEMP) will contain measures to manage and control all ground works, including management of wastewater and the storage of fuel and chemicals. The CEMP will detail the procedures and methods that are to be followed by the construction workforce in order to minimise the potential effects of construction on the site on the water environment.
- 11.16 The implementation of a Sustainable Drainage System (SuDS) in the form of strategically located ponds, rain gardens and a lagoon will mitigate the potential impact associated with increased surface water run-off. The use of SuDS will also ensure that no significant residual or cumulative impacts, in terms of deterioration in water quality, groundwater recharge, and impacts associated with an alteration to the drainage regime, will affect any sensitive water resource receptors, during either the construction or operation.
- 11.17 Any surface water discharges from private and communal car parking areas and high risk areas (i.e. major highway junctions) should incorporate appropriate pollution control measures (i.e. trapped gullies, manholes with catch pits etc) to minimise the risk of polluted surface water runoff entering the adjacent SSSI site and underlying aquifer. The proposed development will utilise SuDS in the form of grass lined detention basins and ponds. The use of these features will help to reduce the potential impact of point source pollution incidents and can help improve the quality of surface water discharges by allowing the removal of suspended matter prior to discharge.

11.18 Consultee Responses

Planning Policy Unit	The whole site (excluding the capped former ash beds) is within flood zone 3, where national policy and Local Plan policy ST03 require flood risks to be managed and reduced. The exceptions test informed by a site-specific flood risk assessment would need to be applied to reduce flood risks, which could include raising ground levels and other mitigation measures to ensure a secured
Reply Received 4 April 2019	
Edited	

	means of escape. It is also necessary to ensure that flood risks elsewhere are not increased as a result of the development.
<p>Environment Agency</p> <p>Reply Received 16 May 2016</p> <p>For comments re biodiversity see ecology</p>	<p>Environment Agency position: The development will be acceptable provided that conditions are included on any permission granted in respect of:</p> <ul style="list-style-type: none"> • The detailed design of the flood defences; • Details of phasing, final site levels and landscaping; • Implementation of recommendations of the Ecological Impact Assessment; <p>Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with current Government guidance within the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.</p> <p>The suggested wording for the recommended conditions is set out below together with advice on flood risk, contaminated land, biodiversity and pollution prevention.</p> <p>Advice - Flood Risk</p> <p>The submitted Flood Risk Assessment (FRA) by AWP dated 10/12/2015 and associated drawings/documents are acceptable to demonstrate that the proposed development, including its access and egress route, will be designed to be safe from flooding over its The details in drawings 0146PDL100 rev D and Y025 13 40 showing the proposed flood defences, ground and floor levels, together with sections 3.18-3.22 of the FRA, demonstrate that the site itself will be safe from flood risk. Furthermore, the raised access road (at 6.8mAOD) provides a safe access and egress route. We consider that the information submitted is sufficient to support this hybrid planning application. The inclusion of the above-mentioned conditions will ensure that detailed design of the flood defences, site levels and landscaping, as well as the phasing of work, will be agreed prior to the commencement of development.</p>
<p>Environment Agency</p> <p>Reply Received 30 January 2019</p> <p>For comments re biodiversity see ecology</p>	<p>The development will be acceptable provided that conditions are included on any permission granted in respect of:</p> <ul style="list-style-type: none"> • The detailed design of the flood defences; • Details of phasing, final site levels and landscaping; • Implementation of recommendations of the Ecological Impact Assessment; <p>The suggested wording for the recommended conditions is set out in our previous letter dated 06 May 2016. Updated advice on this proposal is set out below.</p> <p>Advice – Flood Risk</p>

	<p>We have reviewed the revised Flood Risk Assessment (FRA) (Rev E Nov 2018) and Environmental Impact Assessment (EIA) and consider that these are acceptable. We recommend that the conditions related to flood risk we previously recommended are still included within any permission granted.</p> <p>To satisfy the conditions on detailed design of the flood defences and site levels/landscaping, the FRA/Wave study will need to be updated to consider the recent changes to the climate changes guidance (UKCIP18), and address any changes in flood risks to the site. Whilst we consider that it would be unreasonable to require the current FRA and design to be updated at this stage to reflect this new guidance, we advise that the different results should be considered at the detailed design stage. We expect that any changes will be minor and can be accounted for in the design freeboard already used. As part of the detailed design of the levels/landscaping, we also require further details on the basement car parking. We consider that the current phasing plan is acceptable for the current level of design, which can be updated with the detailed design.</p>
<p>Environment Agency</p> <p>Reply Received 19 February 2020</p> <p>For comments re biodiversity see ecology</p>	<p>The development will be acceptable provided that conditions are included on any permission granted in respect of:</p> <ul style="list-style-type: none"> • The detailed design of the flood defences; • Details of phasing, final site levels and landscaping; • A scheme to deal with the risks associated with contamination of the site; • Implementation of recommendations of the Ecological Impact Assessment; • Any unsuspected contamination subsequently found to be present on the site; and • A Construction Environment Management Plan. <p>We have updated the wording for the two flood risk related conditions (below). The suggested wording for the recommended conditions remains as set out in our previous letter dated 06 May 2016. Updated advice relating to flood risk and contaminated land is also set out below.</p> <p>Advice - Flood Risk</p> <p>We consider that the updated Flood Risk Assessment (FRA) version G (Dec 2019 and updated EIA are acceptable and we have no flood risk objections to the proposal. The outline design takes account of the current and future flood risks, with sufficient freeboard to accommodate the recent changes to climate change guidance.</p> <p>To satisfy the required conditions, the FRA/Wave study will have to consider the most up to date climate changes guidance (inc. UKCIP18 and any update to this) and address any changes to the</p>

	<p>flood risk affecting the site that result from the updated climate change allowances.</p> <p>The Revised FRA has been updated with the UKCIP18 at a level of detail necessary for an outline design. The updated flood risk analysis may mean that the subsequent detail design will need to be altered, including changes to the site and minimum floor levels, and the frontage flood defences. We expect that any changes will be minor and can be accounted for in the design freeboard (conservative) already used.</p> <p>The current phasing plan is acceptable for the current level of design, which should be updated with the detailed design. The abovementioned conditions should ensure that the detailed design and phasing is informed by the most up to date information on climate change to ensure that the development will be safe over its lifetime.</p>
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Conclusions: Flood Risk and Water Quality

11.19 The updated flood risk analysis may mean that the subsequent detail design may need to be altered, including changes to the site and minimum floor levels, and the frontage flood defences but any changes will be minor and can be accounted for in the design freeboard (conservative) already used and through the detailed conditions recommended by the Environment Agency.

11.20 The development is considered acceptable in respect of flood risk and maintaining water quality providing conditions are applied relating to

- The detailed design of the flood defences;
- Details of phasing, final site levels and landscaping;
- A scheme to deal with the risks associated with contamination of the site;
- Implementation of recommendations of the Ecological Impact Assessment;
- Unsuspected contamination
- A Construction Environment Management Plan.

12.0 Drainage Surface Water and Foul

Surface Water Disposal

12.1 Policy ST03 requires a reduction in surface water run off rates and the adoption of effective water management including SuDs. Policy DM04 requires development to 'provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rain water

12.2 This is allied to water quality set out above.

- 12.3 Due to existing contamination, the use of infiltration drainage has been disregarded. Instead, on-site attenuation with discharge to surface water is being promoted.
- 12.4 Sustainable Drainage Systems (SuDS) can be used to reduce the amount of rainfall collected at source and can be used to improve water quality. The EA have also confirmed that the use of SuDS as a means of reducing surface water runoff is a sustainable and cost-effective solution.
- 12.5 The implementation of a Sustainable Drainage System (SuDS) in the form of strategically located ponds, rain gardens and a lagoon will mitigate the potential impact associated with increased surface water run-off. The use of SuDS will also ensure that no significant residual or cumulative impacts, in terms of deterioration in water quality, groundwater recharge, and impacts associated with an alteration to the drainage regime, will affect any sensitive water resource receptors, during either the construction or operation.
- 12.6 Any surface water discharges from private and communal car parking areas and high risk areas (i.e. major highway junctions) should incorporate appropriate pollution control measures (i.e. trapped gullies, manholes with catch pits etc) to minimise the risk of polluted surface water runoff entering the adjacent SSSI site and underlying aquifer. The proposed development will utilise SuDS in the form of grass lined detention basins and ponds. The use of these features will help to reduce the potential impact of point source pollution incidents and can help improve the quality of surface water discharges by allowing the removal of suspended matter prior to discharge
- 12.7 Runoff from the highway will drain via adoptable highway gullies, with connections to a dedicated highway drain.

12.8 Consultee responses

<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 31 January 2019</p>	<p>Recommendation: Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that pre-commencement planning conditions are imposed on any approved permission.</p> <p>Observations: At detailed design stage, consideration should be given to the design of the attenuation basins to ensure they have a suitable freeboard, 300 mm, above the design water level. We would also recommend that the sides slopes of the basins are no more than 1 in 3 for health and safety requirements.</p> <p>We are pleased to see the inclusion of either a shallow bund or a cut off ditch to the south of the site to route exceedance flows away from the Tarka Trail. The bund/drain feature should be included within the detailed design for any future application.</p> <p>The applicant has produced a feasible surface water drainage strategy encompassing the use of above ground basins to attenuate the surface water runoff prior to discharge into the tidal River Taw. The basins will provide attenuation of peak flows,</p>
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	<p>treatment of the runoff as well as ecology and amenity benefits to the wider area.</p> <p>Oil interceptors should be used to treat runoff from car park areas at the site as indicated in the submitted Flood Risk Assessment.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 22 March 2019</p>	<p>Recommendation: We have no in-principle objections to the above planning application, from a surface water drainage perspective, at this stage. We would still recommend the conditions listed on my previous response.</p> <p>Observations: The applicant should confirm that with the change in layout there is still sufficient space within the layout for the required attenuation volumes. If there is any change in impermeable areas this should also be reflected within the surface water calculations although this could be undertaken at detailed design stage.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 5 March 2020</p>	<p>At this stage, we object to this planning application because we believe it does not satisfactorily conform to saved Policy ST03 linking to climate change of North Devon and Torridge Local Plan (2011 - 2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.</p> <p>Observations: Full Application The full application section of the above hybrid planning application comprises 'the highway infrastructure to the site'. As a result we would require information on how the proposed highway will be drained. The applicant has submitted attenuation calculations for the wider site but no specific details on how it is proposed to drain the highway.</p> <p>Outline Application We would require confirmation of the existing runoff rates from the site and the proposed runoff. This doesn't appear to have been included in the Flood Risk Assessment dated Nov 2019. The applicant should also indicate what level was used for the tidal locking scenario and how this is represented within the Micro Drainage outputs. We are supportive of the use of no infiltration due to contamination at the site. We are supportive of the use of basins/ponds and rain gardens to treat the runoff and would like to see this carried through to the reserved matters stage</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received</p>	<p>Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the pre-commencement planning conditions are imposed on any approved permission</p>

19 March 2021	<p>Full Application</p> <p>The applicant has submitted the following information in support of the proposed full application:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Yelland Quay Preliminary Highway Profile 0146 PHL04 Rev C <input type="checkbox"/> Preliminary Access Road Alignment Plan 0146 PHL03 Rev D <input type="checkbox"/> Email from Chris Yalden AWP to Devon County Council LLFA dated 4th March 2020 <p>The aforementioned FRA indicates that the runoff from the road will drain into the proposed western pond as part of the wider surface water management strategy for the site. The site wide strategy will attenuate the flows based on the tidal locking scenario in the proposed basin which will offer benefits such as treating the runoff as well as biodiversity and amenity benefits. We would encourage the use of the oil interceptor as indicated in the FRA.</p> <p>Outline Application</p> <p>We are in agreement that due to the contamination on the site that infiltration is not advisable at this location. We are supportive of the use of above ground lined basins and rain gardens at the site and would encourage these features to be carried forward into the detailed design. We welcome the inclusion of a bund to direct exceedance flow routes away from the existing Tarka Trail.</p>
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Foul Water Drainage

12.9 South West Water (SWW) records identify no adopted sewers within the application site. The development will require a new foul pumping station to transfer foul only flows from the proposed development site to the existing SWW pumping station, approximately 600m inland from the quay. SWW have previously confirmed that this pumping station has capacity to deal with the additional foul flows generated by the proposed development.

Potable Water Supply

12.10 There are no existing SWW potable water distribution mains located within the vicinity of the site. The nearest potable water supply is located in Yelland Road to the south of the site.

12.11 Consultee responses

South West Water Reply Received 9 January 2019	I refer to the above application and would advise that South West Water has no objection and would confirm that foul drainage capacity within the public sewer network has been confirmed.
South West Water	The development will drain to the Yelland sewage pumping station which pumps foul flows direct to the drainage network in Bideford and will not impact on the sewer network serving Instow.

Reply Received 1 February 2019	
South West Water	I refer to the above and would advise that South West Water has no comment.
Reply Received 22 January 2020	
South West Water	I refer to the above application and would advise that South West Water has no comment.
Reply Received 9 June 2020	

12.12 **Conclusions**

12.13 There are no issues supplying this site with water or making provision for foul waste. With appropriate conditions as suggested by DCC Lead Flood Risk Authority it is considered that surface water can be disposed of in an acceptable manner both in the construction and operational phases of this development. No additional mitigation is required.

13.0 **Social and Economic Impacts**

13.1 Chapter 16 of the ES deals with Cumulative Effects of this development in association with committed applications in the vicinity of the site. The main conflicts which could arise would be during the construction phases albeit the listed developments other than North Road Bickington, are now quite advanced. Through an agreed CEMP the impacts could be managed. Other chapter specific affects are dealt with in the relevant sections (above).

13.2 Chapter 17 of the ES (**Social Impact on the Local Population**) argues that the development will be providing Yelland with additional services such as shops and restaurant/cafes as well as additional employment space. The application is proposing a mix of uses including community space and public open space.

13.3 The public car park next to the Tarka Trail will be of benefit to those using the trail as parking on the private road is currently only permissive.

13.4 The mixed use development will create a new social hub along the Tarka Trail linking Instow with Fremington Quay and will provide facilities not readily available within Yelland.

13.5 Chapter 18 considers **Economic Impacts**. Hardisty Jones Associates were instructed to provide a headline assessment of gross direct economic impacts arising from strategic residential led mixed-use development at Yelland Quay. The application is also supported by a Regeneration Statement.

13.6 Total construction costs were estimated at approximately £67 million though this has since been updated to £82 million based on the Gates consultants

Construction budget v5. Based on ONS data, this level of investment into the construction sector would support 305 person years of employment in the construction period. On the basis of ONS detail this would generate earnings of around £9 million and Gross Value Added (GVA) of more than £20 million across the construction period. These would be temporary economic benefits.

- 13.7 The operational assessment indicated the potential for more than 50 FTE (full time equivalent) jobs within the development. Based on official ONS data for earnings and GVA, once fully occupied the site would support annual earnings in excess of £1 million and GVA of almost £2 million per annum (excluding wider operational impacts e.g. through the expenditure of residents, the on-going maintenance and intermittent resale of homes, the on-going everyday expenditure in the local area in terms of food, clothing, leisure and travel, and, public service provision funded through the council tax and other taxes paid by residents.)
- 13.8 Whilst these economic benefits have been challenged by the local community, employment is created by the building trade and the future commercial uses will result in places of employment and hence jobs. The site is allocated for a mixed use development and the scheme is delivering this. Phasing conditions will be required to ensure the commercial and community spaces are delivered alongside the housing to ensure that a balance and sustainable community results.
- 13.9 The letters of objection highlight that this scheme will have an adverse impact on tourism. This would be hard to quantify in that a very small part of the Tarka Trail and South West Coast path would be affected by the development during the construction phase and that the effect on users would be short term and for the duration that they were passing the site.
- 13.10 The development will be visible from the viewpoints identified above but the scheme will be read in a similar manner to other riverside settlements. This is a very small but prominent part of the estuary and whilst tourists do not come to an area to witness development it is not considered that their enjoyment of Instow, Braunton Burrows or Fremington Quay would be harmed. The views from the AONB are at a distance and again the landscape has a degree of capacity to absorb a small amount of development whilst still retaining the image of green hills behind and the waterfront in the foreground.

Conclusion: Social and Economic benefits

- 13.11 The scheme will have both economic and social benefits by delivering a mixed use scheme in line with FRE02.

14.0 Infrastructure

- 14.1 This part of the report considers the request from the consultees not captured within the specific chapters of the report.

Affordable Housing

- 14.2 Part 5 of the NPPF supports the approach of requiring an element of Affordable Housing as part of proposals that seek to deliver open market dwellings. Where there is an identified need for AH LPAs must ensure the provision of AH unless there is a robust case for doing otherwise.
- 14.3 The scheme is required to deliver 30% affordable housing in order to accord with Policy ST18 of the NDTLP.
- 14.4 As part of the resubmission the applicant offered 10% affordable housing. Following challenges about whether the scheme would be viable a review was undertaken (see below). **The offer now before the Committee is no affordable housing.**

14.5 Consultee Responses

Housing Enabling Officer Reply Received 28 January 2019 Edited	Devon Home Choice shows there are 199 households living in the parish of Fremington registered as being in housing need as of October 2018. Not all households tend to register themselves on the housing register as they don't think that they will have the opportunity to be housed so this figure is often significantly higher.
Housing Enabling Officer Reply Received 30 January 2020	<p>I refer to my response dated 28 January 2019 to your previous consultation.</p> <p>The applicant's Supporting Statement states on page 51 ("The Proposal") - "The proposal will include the following: 250 dwellings incorporating a mixture of 1-5 bed dwellings including 10% Affordable housing provision" and on page 61 ("Supplementary Documentation Section 106 Heads of Terms") - "An accompanying Commercially confidential Viability Statement has been produced outlining the headline figures of the development proposal" and that this includes "10% Affordable Housing Provision (Tenure to be agreed)".</p> <p>As I stated in my response dated 28 January 2019, as the site (FRE02: Yelland Quay) is allocated in the Local Plan, the affordable housing requirement would be 30%. For 250 dwellings this equates to 75 affordable dwellings. The applicant's viability statement will need to be reviewed by our independent consultant at the applicant's cost.</p> <p>In accordance with policy, the affordable housing tenure mix would need to be at least 75% social rent (for 75 affordable dwellings this equates to 57 dwellings for social rent) and the remainder intermediate (shared ownership, intermediate rent or discounted sale).</p>

	<p>Those who are allocated or buy the housing would need a local connection to the parish of Fremington in the first instance, then adjoining parishes then ultimately after a specific timeframe to the whole district of North Devon.</p> <p>The affordable homes should be pepper potted throughout the site in clusters of no more than 6-10 units.</p> <p>The affordable homes should be designed and of the same material and construction as the open market - including car parking.</p> <p>Property sizes for affordable housing should aim to meet or exceed the "Technical housing standards - nationally described space standard", which can be accessed at https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard (see "Table 1 - Minimum gross internal floor areas and storage (m2)" of the Department for Communities and Local Government document).</p> <p>The attached table shows the policy requirement for dwelling mix & occupancy levels. Registered providers require housing to be built to National Space Standards; these are indicated on the attachment to this response.</p> <p>3% of our housing register require wheelchair accessible housing. Therefore, we would expect 3% of the affordable housing to be provided as wheelchair accessible housing. These should be built to comply with the requirement M4 (3) (2) b of the Building Regulations 2010 Approved Document M: Access to and use of buildings. These should be provided as Social Rent. This would be detailed as a planning condition. I would request that the applicant contacts Housing Enabling at the pre-app stage at reserved matters to get the most up to date housing need for disabled adapted properties so that this can be factored into the design appropriately.</p> <p>Devon Home Choice (DHC) shows there are 160 households living in the parish of Fremington registered as being in need of affordable housing for rent as of July 2019. Not all households tend to register themselves on the housing register as they don't think that they will have the opportunity to be housed so this figure is often significantly higher.</p> <p>It should be noted that although DHC data identifies the number of households living within the parish in housing need, it does not always provide sufficient information to firmly establish how long households have been resident in the parish or if they wish to</p>
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	remain in the parish; it is a snap shot in time and people's circumstances can change extremely quickly. In addition, some households may seek affordable home ownership options (shared ownership/discounted sale) and must register an application
Housing Enabling Officer Reply Received 8 April 2021	<p>We would like to make a bid for affordable housing to feature within the £1,417,869 being offered. At present there are 250 open market homes on the table all out of reach of the majority in need of affordable housing for sale - £260-310k just for a 2b. Half a million for the 4-beds and ¾ million for the 5-beds! All the housing is huge – 50m2 plus above national space standards. I'm just wondering if this has been considered in the viability work i.e. if affordable housing could be offered if the footprint of the homes were smaller. I'm not sure the dwelling mix matches are HEDNA requirements for our housing even the OM sizes required.</p> <p>As of January 2021 we have nearly 2500 on the waiting list for rented affordable housing alone so it seems criminal to be delivering 250 very expensive open market homes with no affordable housing and with those sizes and prices not even within reach of the average local person. They will just all become second homes and holidays lets for others to enjoy.</p>

Public Open Space

- 14.6 Policy DM10: Green Infrastructure Provision: Development is required to provide new accessible green infrastructure, including public open space and built facilities, to meet the green infrastructure quantitative and accessibility standards, as set out in Table 13.1 and Infrastructure Delivery Plan of the Local Plan.
- 14.7 In order to comply with Policy DM04 and DM10 of the NDTLP, open space provision on and off-site must be secured at outline stage via a section 106 agreement. Criterion (h) of Policy FRE02 requires the provision of a new football pitch with associated facilities.
- 14.8 The masterplan indicates the following:
- 1000sq.m NEAP
 - 400 sq. m LEAP
 - 1.6ha Green Space within Development
- 14.9 Parks confirm that the capped ash beds combined with the 1.6ha green open space within the development would meet the informal open space requirements.
- 14.10 This application does not provide a sports pitch and associated facilities to meet the requirements of Policy FRE02. The Parks Team indicate that without availability of alternative suitable land an off-site contribution would not help achieve this requirement. There is a shortage of playing pitches in Fremington and none in Yelland, and this development is going to create additional demand. An off-site contribution of £561,600 is requested to meet the shortfall.

14.11 Consultee Responses

<p>Planning Policy Unit</p> <p>Reply Received 19 February 2020</p> <p>edited</p>	<p>Criterion (h) of Policy FRE02 requires the provision of a new football pitch with associated facilities. I note from the proposed plans that such provision has not been provided. If provision cannot be provided on site then you should seek a financial contribution towards new or upgrading of sports facilities elsewhere on an identified site elsewhere within Fremington / Yelland to meet the needs of the local community.</p>
<p>Open Space Officer</p> <p>Reply Received 20 January 2020</p> <p>Edited</p>	<p>I attach a new open space calculation in accordance with DM10, following the adoption of the new local plan in 2018. I have based this on 250 x 3-bed units, as an indicative figures at this stage.</p> <p>Management of Open Space - Will a management company be responsible for the on-site open space?</p>
<p>Open Space Officer</p> <p>Reply Received 21 January 2021</p>	<p>If we assume the ash beds are not going to contribute to providing a sports pitch and associated facilities then the proposals fail to meet the requirements of Policy FRE02; and without availability of alternative suitable land being provided in the Fremington/Yelland area, an off-site contribution could not help achieve this requirement. We already have a shortage of playing pitches in Fremington and none in Yelland, this development is going to create demand that cannot be catered for. And the Local Plan clearly states that this development should provide the pitches and associated facilities.</p> <p>Assuming suitable land could be identified for the sports pitches and facilities to be provided off-site to ensure the policy requires of FRE02 can be achieved (which is a big if) and using the example calculation provided by Lucy on the 20/1/20 which assumes 250x3bed dwellings (same calculation as provided by Lucy on 20/1/20); we have the following comments.</p> <ol style="list-style-type: none"> 1) Minimum requirements for a LEAP is 400sq.m – we would request that one 400sq.m LEAP is provided instead of 2 x 200sq.m. 2) A NEAP is minimum 1,000sq.m 3) Assuming the capped ash beds can/should only be consider informal open space, then the ash beds combined with the 1.6ha green open space within the development would meet the informal open space requirements. 4) In assuming the capped ash beds are informal open space, that cannot be considered sports pitches and therefore proposals do not include the pitches or community building and therefore an off-site contribution will be sought of £561,600. However without a suitable site in proximity to the development to invest this capital I don't see how the application can be considered compliant with FRE02.

Education

14.12 Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards education facilities.

14.13 Devon County Council have requested the following contributions towards Education Infrastructure:

- SEN contribution of £36,391
- Primary contribution of £840,417
- Early Years contribution of £62,500
- Primary School Transport of £334,993
- Secondary School Transport of £143,568

14.14 Consultee response

<p>DCC - Children's Services</p> <p>Reply Received 30 January 2020 Edited</p>	<p>Regarding the above planning application, Devon County Council has identified that a development up to 250 family type dwellings will generate an additional 62.5 primary pupils and 37.5 secondary pupils which would have a direct impact Fremington Community Primary & Nursery School, Instow Community Primary School and Bideford College.</p> <p>Special Educational Needs (SEN) Provision: Approximately 1.5% of the school population require a specialist school place. This development is likely to generate 1.5 pupils who will have a Special Educational Need (SEN). DCC will therefore request for additional primary and secondary SEN provision that will be required as a result of the development. The SEN contribution sought is £36,391 (based on the DfE new build secondary rate of £24,261 per pupil) equivalent to 0.94 primary pupil and 0.56 secondary pupils. This equates to a per dwelling rate of £145.56.</p> <p>Primary Provision: When factoring in both approved but unimplemented housing developments we have forecast that local primary schools have not got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek contribution towards additional education infrastructure to serve the address of the proposed development. DCC will not seek additional primary contributions on SEN pupils and therefore will only seek a contribution towards the remaining 61.56 pupils expected to be generated from this development. The primary contribution sought is £840,417 (based on the DfE expansion rate of £13,652 per pupil). This equates to a per dwelling rate of £3,361.67. The contributions will be used towards the expansion and/or enhancements of primary provision.</p> <p>Early Years Provision: A contribution towards Early Years provision is requested to ensure delivery of provision for 2, 3 and 4 year olds. The Early</p>
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	<p>Years rate is £250 per dwelling, or a total of £62,500 to mitigate 250 dwellings. This contribution will be used to provide statutory early years places in the area.</p> <p>Secondary: A development of 250 family type homes can expect to generate an additional 37.5 secondary school pupils. When factoring in both approved but unimplemented housing developments we have forecast that the designated secondary school has got capacity for the number of pupils likely to be generated by the proposed development. Therefore, a contribution towards secondary education infrastructure is not sought.</p> <p>Primary School Transport: The nearest primary provision to the development is Instow Community Primary School. Instow Primary is at capacity and occupies a constrained site. The next nearest school is Fremington Primary School. As the distance from Yelland Power Station to Fremington Primary School is beyond the statutory walking distance for primary pupils, contributions are required for school transport costs. Public Service 21 currently operates between Yelland to Fremington at a cost of £4.03 per pupil, per day. Therefore a total primary transport contribution of £334,993 is requested. £4.03 per passenger x 190 academic days x 7 school years x 62.5 pupils = £334,993</p> <p>Secondary School Transport: The nearest & designated secondary provision to the development is Bideford College. As the distance from Yelland to Bideford College is beyond the statutory walking distance for secondary pupils, contributions are required for school transport costs. Public Service 21 currently operates between Yelland to Bideford at a cost of £4.03 per pupil, per day. Therefore a total secondary transport contribution of £143,568 is requested. £4.03 per passenger x 190 academic days x 5 school years x 37.5 pupils = £143,568. All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015 rates and any indexation applied to contributions requested should be applied from this date. DCC request legal costs</p>
<p>DCC - Children's Services</p> <p>Reply Received 14 January 2021 Edited</p>	<p>We have considered this request and are willing to reduce some of the education contributions subject to your confirmation of the viability issues:-</p> <p>1/ We will remove the request for primary transport contributions of £334,993. Whilst the majority of the Yelland Quay site is beyond the statutory 1.5 miles walking distance, the east side of the development does fall within 1.5miles to Fremington Primary School.</p>

	<p>2/ We will remove the request for early years contributions of £62,500 as our policy on this is now that we will only seek early years contributions with new school provision</p> <p>3/ We will also discount the 10% affordable homes (25 dwellings) from the primary contribution total. This equates to a reduction of £84,041 from the total primary contributions requested.</p> <p>The above would reduce the total education request by £481,534, although I appreciate this probably falls short of what you require.</p> <p>Should you need to prioritise education contributions, I would advise the following 1/ SEN contribution, 2/ Secondary Transport, 3/ Primary contributions</p>
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Health

14.15 FRE02: Yelland Quay in the Local Plan identifies that contributions are required towards the expansion of Fremington Medical Centre.

14.16 As set out below 45.2m² of additional floor space is required. The cost of provision would be £103,915.

14.17 **Consultee Response**

<p>NHS Devon Clinical Commissioning Group (Devon s106 Dept)</p> <p>Reply Received 21 February 2020</p> <p>Edited</p>	<p>The response has been informed by the Devon Health Contributions Approach: GP Provision (https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance) which was jointly prepared by NHS England and Devon County Council. In preparing this response, it is noted that policy FRE02: Yelland Quay in the Local Plan (10.201) identifies that contributions towards the expansion of Fremington Medical Centre will be required.</p> <p>The current position in Yelland is that there is one practice in the area, Fremington Medical Centre. The surgery is approximately 2.3 miles from the proposed development.</p> <p>This proposal includes 250 dwellings. Government occupancy figures for North Devon are 2.26 people per household. The dwellings proposed are therefore estimated to yield 565 people. The current patient list for the surgery is 7,095. Adding the additional 565 patients from the development would take the list to 7,660 patients.</p> <p>The current Gross Internal Area (GIA) of the Fremington Medical Centre is 559.67m². In terms of their numbers of patients, the surgery is towards the upper end of the size standards included in the Devon health contributions approach for GP provision. This identifies a GIA per patient of 0.08m² for a practice with 7,095</p>
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	<p>patients. Applying this figure to the additional 565 patients resulting from the development means there will be a requirement for 45.2m² of additional floor space. The cost of additional floor space is identified to be £2,299 per m². Applying this cost to the additional 45.2m² of floor space generates a total cost of £103,915. This sum is sought by NHS Devon CCG in order to mitigate the impact of the development in question.</p> <p>In addition to the contribution figures quoted above, NHS England wishes to recover legal costs incurred as a result of the preparation and completion of the s106 agreement which will most likely be required. The financial contributions requested in this response should be index linked to adjust for inflation on the date of payment, where relevant, in accordance with any increase in Building Cost Information Service (BCIS) all in tender price index.</p>
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14.18 **Conclusion**

14.19 No affordable housing is proposed

14.20 The scheme delivers on site open space but does not make provision for a football pitch.

14.21 Education contributions are requested and have been prioritised.

14.22 Contributions towards health facilities are requested.

14.23 The request from all the consultees need to be considered within the following part of the report.

15.0 **Section 106 Heads of Terms**

Scheme viability

15.1 Plymouth City Council were appointed to advise NDC on the viability position and section 106 contributions in line with the National Planning Policy Framework and Planning Practice Guidance on Viability. Their report is attached.

15.2 The site has considerable exceptional and abnormal costs related to the presence of the former power station as well as the proximity of river. These conditions are not typical, are site specific and have a material impact of the delivery of the scheme. Abnormal costs are in the region of £19million.

15.3 A range of interventions are needed to allow for development to take place here and are as follows:

- Raising level to site generally - £9.7m
- Enhanced piling for structures - £1.8m
- Demolition and clearance of power station - 0.5m
- Fill to existing power station turbine basement - £2.25m
- Formation of lagoon; lining, draining and petrol interceptor £1.2m

- 15.4 As the development will be delivered over a significant period of time one result could be the inclusion of a review mechanism. To avoid a review mechanism the advice we have received is that the applicant should agree to make a material contribution as part of the Section 106 agreement. Following negotiations this was agreed to be in the order of **£1.5million**. This amount is effectively coming off the development profit. Plymouth City Council are of the view that this amount would exceed any amount achieved through a review mechanism. Furthermore the Council can negotiate payment of this amount far earlier than would be achieved from a review process and therefore their advice is that this would be an appropriate outcome providing best value to the Council and be in accordance with Planning Practice Guidance.
- 15.5 As set out within the report the total requests amount to **£3.5 million**.
- 15.6 Further negotiations have been undertaken to ensure that the biodiversity impact of the development is addressed. The total offer from the developer is now £1.7 million as set out below.
- 15.7 The consultees have also been asked to consider their position in respect of their request. DCC Education have considered the viability issues are have reduced the total education request by £481,534.
- 15.8 DCC Highways have been asked to reconsider their and have maintained their request for the full highway package.
- 15.9 The Housing Enabling Officer has asked that part of the s106 package be redirected to affordable housing.
- 15.10 The table below sets out those aspects of the development that are considered required. To deliver affordable housing would have to come off the Education package. This would be a decision for members to take.

Totals	£3,492,892	£1,742,932
Affordable Housing	75 units or 30% of which 75% should be social rent and 25% intermediate	None offered
Highways	The sum of £611,952 to be directed towards improvements at the Cedars Junction (A3125/B3233) and/or ESSO Garage/Wrey Arms Junction (Old Torrington Road/A3125);	Nil
	The upgrading of the virtual footway, to a formal footway, on the B3233 for a distance from the application site	Agreed

	junction to Estuary View to the west;	
	The extension of footway provision into the site from the B3233 on the western frontage;	Agreed
	The provision of a Bus Shelter at the site entrance with a commuted sum of £1000	Required - £1000 - Agreed
	The sum of £20,000 being a commuted payment to cover the maintenance costs of the proposed pedestrian crossing facility;	Required – £20,000 - Agreed
	The sum of £5000 to cover and associated Traffic Regulation Order requirements;	Required £5000 - Agreed
	The sum of £250 per dwelling to be utilised for Public Transport vouchers; £62,500	The benefit is to the occupier of the development and whilst this may influence transport choices would not be a priority - Nil
	The sum of £50 per dwelling to be utilised towards cycle provision £12,500	
Highways Total	£712,952	£26,000 plus physical works - agreed
Provision of car park to serve the Tarka Trail – the management of which to be secured by s106		Required - Agreed
Heritage	any proposals for public gain through S106 for location and/or investigation of the monument that would aid its removal from the register - unquantified	Nil
Education	Special Educational Needs (SEN) Provision: £36,391	£36,391 – Required - agreed
	Primary Provision: £840,417	We will also discount the 10% affordable homes (25 dwellings) from the primary contribution total. This equates to a reduction of £84,041 from the total primary contributions requested.

		NB No affordable housing is offered £840,417 Required - Agreed
	Early Years Provision: £62,500	DCC will remove the request for early years contributions of £62,500 as our policy on this is now that we will only seek early years contributions with new school provision
	Primary School Transport: £334,993.	DCC will remove the request for primary transport contributions of £334,993. Whilst the majority of the Yelland Quay site is beyond the statutory 1.5 miles walking distance, the east side of the development does fall within 1.5miles to Fremington Primary School
	Secondary School Transport: £143,568	£143,568 – Required - agreed
Education Total	£1,417,869	£1,020,376 Required - agreed
Health	NHS Devon CCG request £103,915 in order to mitigate the impact of the development in question	Nil
Braunton Burrows SAC contribution	250 x £100 = £25,000	£25,000 required - agreed
Ecological Mitigation	Biodiversity off setting costed at £608,431	£608,431 Required - agreed
Ecological oversight	Warden for a minimum two mornings a week from Sept - March (26 weeks) for 25-year period to monitor the high tide roost	Annual cost would be approx. £2525.00 per annum – required – agreed (£63,125)
Public Open Space – off site	£561,600	Nil
Management Maintenance of on-site POS, Suds, Flood Defence works	Management Company and agreement of Maintenance standards	Agreed
Totals	£3,492,892	

Developer Offer		£1,742, 932
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Conclusion: Section 106 Heads of Terms

- 15.11 The S106 agreement will provide the highway works in and around the site entrance to facilitate the development. Small sums towards maintenance of the new bus stop/crossing and associated traffic orders are secured.
- 15.12 The on- site public open space will be delivered and thereafter maintained in line with the requirements for ecological management and delivering open space for both the proposed residents and existing residents to enjoy.
- 15.13 As the key constraint with this site is ecology, the full mitigation package is met including payments towards future part time wardening as requested by the Biosphere Service. In light of the Duty (see above) with regards to the natural environment these monies must be secured.
- 15.14 The request of Education is not met in full but has been prioritised.
- 15.15 There is no contribution to Health (moneys towards the expansion of the GP practise). It should be noted that the application proposes a mixed use development with a range of community/service opportunities. Their delivery would be secured via phasing of the development
- 15.16 Similarly there is no contribution to off-site recreation. Given the amount of the site being provided as public open space this contribution would not be a priority. The application already offers significant public open space.
- 15.17 Other unquantified requests (Heritage) are also not secured,
- 15.18 The key policy issue is that the scheme provides no affordable housing. If it is considered that this is required then the Education contribution is the only pot that it can be taken from as the other figures are needed to make the development acceptable.
- 15.19 Whether this results in a sustainable and socially inclusive development will be discussed in the Planning Balance.

16.0 Planning Balance

- 16.1 The NDTLP has allocated this site for development and its status as a brownfield site should be recognised. There is a detailed policy that controls how this site should be delivered. Policy FRE02 has allocated this site for a high quality, mixed-use development. The following criteria are either met by the application or can be controlled by conditions at the reserved matters stage.
- 16.2 Criterion (a) requires redevelopment in a comprehensive manner in accordance with an agreed master plan which has been submitted to and robustly scrutinised by the Design Review Panel on two separate occasions.

- 16.3 Criterion (b) requires approximately 250 dwellings, which is the number applied for.
- 16.4 Criterion (c) requires approximately 6,000 square metres of economic development and community facilities, compatible with its waterside location including business development, tourism and leisure uses. The application proposes up to 3000sqm employment space, 250sqm retail floorspace; up to 2000sqm restaurant/café and up to 500sqm of community and service space. A mix of uses are proposed.
- 16.5 This is an outline application. Criterion (d) *buildings and structures will be sited and designed in accordance with an agreed 'Design Code' to address their visual impact on the open landscape setting of the estuary and to avoid any harm to the protected biodiversity value of the Site of Special Scientific Interest and other designated habitats in the locality.* A design Code has been provided which would be conditioned and would inform the reserved matters. The Code addresses the National Design Guide the recommendations set out by the independent design review panel and Building for a Healthy Life requirements
- 16.6 Criterion (e) requires the retention of the existing jetty and wharf and provision of associated operational land, including a safeguarded vehicular access to it. The Masterplan shows this along with a lay down area.
- 16.7 Criterion (f) requires provision of adequate flood alleviation measures with design and distribution of uses to minimise and mitigate against any risks from flooding. The site levels will be raised and flood protection works provided.
- 16.8 Criterion (g) assessment and remediation, prior to commencement of redevelopment, of any site contamination arising from historic uses. Detailed reports have been provided and recommendations made in respect of how best to deal with contamination. These can be reasonably dealt with by conditions.
- 16.9 Criterion (h) requires contributions to and enhancement of the green infrastructure network within and adjoining the site. The Masterplans shows the provision of both green and blue (water based) areas of biodiversity. The part of Criterion (h) not met is **the provision of a new football pitch with associated facilities.** The Masterplan shows that there will be provision of informal open space on the site of the former ash beds and play areas within the site. The public use of the ash beds (currently permissive only) would be of significant public benefit.
- 16.10 Criterion (i) provision of a net gain in biodiversity through enhancement of existing habitats. Biodiversity offsetting (approx. +12%) to accommodate the built areas are being met by way of financial contributions sought via the s106. The site landscaping masterplan shows how areas within the site will be planted and these can be further enhanced for the benefit of biodiversity at the reserved matters stage in line with comments from the consultees.
- 16.11 Criterion (j) requires contributions towards a wider study on the potential impact of increased recreational pressure on the SSSI and nesting birds in the estuary.

This work has already been undertaken and the results used to inform the ES and the design of the ecological mitigation.

- 16.12 Criterion (k) requires the provision of a public car park for users of the Tarka Trail. This is shown on the Masterplan and its future operation and maintenance would be secured within the s106 agreement. It will be provided as one of the first stages of development to allow ready access to the Tarka trail. This is a significant public benefit as the access road is currently private and parking that occurs is permissive.
- 16.13 Criterion (l) requires improvements to the existing road junction with the B3233. The plans are detailed in this respect and show a redesigned junction which is acceptable to the Highways Authority.
- 16.14 Criterion (m) requires improved pedestrian and cycle links through and around the site and from the B3233 to the Tarka Trail. The layout plans show that such links will be provided.
- 16.15 Criterion (n) requires appropriate traffic management measures where vehicular traffic crosses the Tarka Trail to reduce conflict with, and improve safety for, pedestrians and cyclists using the Tarka Trail. The crossing point is shown in detail and is acceptable to the Highway Authority.
- 16.16 Criterion (o) requires the provision of a 10 metre landscape buffer along the developable site frontage alongside the Tarka Trail. The ecological requirements for a dark corridor are shown on the Masterplan. The layout plan shows this.
- 16.17 Criterion (p) opportunities for the generation of renewable energy. All buildings will meet Building Regulations compliance utilising a mixture of a 'Fabric First' approach complemented by either Air Source Heat Pumps, Ground Source Heat Pumps, PV systems with additional Battery Storage and Solar Hot water. At detailed design stage we will consider orientation of each unit to mitigate solar gain but allow for light penetration through the building. Thermal mass will also be considered utilising mass concrete internal walls and flooring to assist with heat loss through the units.
- 16.18 Other than the lack of provision of the football pitch, the scheme adheres with FRE02.
- 16.19 As set out in the report the development **encroaches onto the ash beds** but the layout results in a 60m set back on the western site edge to address impact on the estuary. The site is primarily on brownfield land and removes the residual power station use and will regenerate a degraded central core.
- 16.20 Landscape impacts are considered to be adverse in part particularly in respect of how the site is viewed from the South West Coast Path and in relation to views out from the AONB. There is some conflict with ST14, ST16, DM04, DM08 and DM08A. It is recognised that due to the scale of the development complete screening is unrealistic but the Landscape Strategy for the site shows how tree

planting will be used to soften the development. The LVIA shows that the impact is lessened as trees mature although this would not be for many years.

- 16.21 At paragraph 108 of the framework new development should ensure that safe and suitable access to the site can be achieved for all road users, and significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety can be **cost effectively** mitigated to an acceptable degree. This is reflected through policies ST10 (Transport Strategy) DM05 (Highways) and DM06 (Parking) of the NDTLP. The design and location of the access proposed is considered to be acceptable. In highway terms the development would result in additional pressures to the highway network which can't be mitigated through contributions towards upgrading the highway network. Paragraph 109 is clear that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on the highway safety, or the residual cumulative impacts on the highway would be severe. The Highway Authority have recommended refusal on the basis that the scheme would exacerbate issues at the A3125/Old Torrington Road/ESSO Garage junction during the morning (AM) and evening (PM) peak periods.
- 16.22 Paragraphs 170 and Paragraph 175 of the framework indicate that when determining applications, if harm to biodiversity resulting from the development cannot be avoided then it should be adequately mitigated. Policy DM14: Enhancing Environmental Assets of the NDTLP expects new development to protect the quality of northern Devon's natural environment, to contribute positively towards providing a net gain in biodiversity. Effective ecological mitigation can be secured along with replacement habitat in accordance with policies ST14 and DM08 and with paragraph 170 and 175 of the framework. The ecological impacts from development can be mitigated through appropriate construction management, and monitoring along with green infrastructure provision on and off site, controls over construction and lighting combined with the wardening and the new PSPO powers.
- 16.23 The NPPF at paragraph 127 states that planning should always seek to secure a high standard of amenity for existing and future occupants of land and dwellings. Policy DM01 a) of the NDTLP supports development where it would not significantly harm the amenities of any neighbouring occupiers or users. Policy DM04 i) supports development where the scheme ensures the amenity of existing and future occupiers are safeguarded. The amenities of local residents can be appropriately safeguarded through the detailed design process and conditions imposed in relation to noise, land contamination and construction measures.
- 16.24 The site can appropriately deal with surface water run-off in accordance with Environment Agency and DCC Flood Risk advice and national requirements over the life time of the scheme.
- 16.25 Paragraph 196 is clear that where developments will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal. The site would result in less than substantial harm of heritage assets in the locality identified as sharing their setting

with the site and significant weight is afforded to this matter, albeit very limited impact is identified.

16.26 Policy ST01 indicates that 'Councils will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

16.27 The Plan identifies the site as a strategic site for growth within the settlement of Fremington and Yelland, which is categorised as a Local Centre within Policy ST06: Spatial Development Strategy for northern Devon.

16.28 The economic benefits of the proposal would be strong, including the creation of jobs, the addition of spending power to the local economy and the new homes bonus and would result in the regeneration of this semi derelict site.

16.29 Social benefits would include meeting general housing needs but would not meet affordable housing needs. It is recognised that affordable housing is a pressing issue but the viability of the scheme has been fully tested and only the financial package is available. The delivery of housing in itself must be given significant weight. Housing development on this allocated brownfield site would help contribute towards the Council's 5 year housing land supply.

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

16.31 The location of the site and offers the potential for reductions in car use, which would be an environmental benefit.

16.32 Planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Given the above discussion it is considered, on balance, that the identified harm in landscape terms and on the highway network, which would not outweigh the substantial benefits attributed from the provision of much needed housing, public open space, car parking for the Tarka Trail, employment and community facilities. Substantial weight is given in favour of the scheme as it is an allocated run down brownfield site which can be delivered to a high design standard, addressing biodiversity, amenity, contamination, drainage and flood risk. As such considered as a whole, the site is sustainable in NPPF terms. With the imposition of appropriate conditions and S106 obligations the balance in this instance falls in favour of the proposal.

HUMAN RIGHTS ACT 1998

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

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

Recommendation

Approve

Legal Agreement Required: Yes – Heads of Terms set out above

The following are DRAFT conditions. Due to the complexity of the site, the conditions will be circulated to the consultees to ensure that they have captured their recommendations. The EA and EH for example have recommended similar conditions re contamination which need to be resolved. Delegated authority is sought to agree the precise wording of all conditions and to add any conditions arising from this review process.

Conditions

1. FULL APPLICATION - for raising of ground levels, site access works and highway infrastructure, car park to serve the Tarka Trail and construction of bat building

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.

OUTLINE APPLICATION - new sea defences, 250 dwellings (Use Class C3(a)), up to 3000sqm employment space(Use Class E(g)(i) and E(g)(ii) was Use Class B1). Retail Space of up to 250sqm gross floorspace (Use Class E(a) was Use Class A1); Space for the Sale of food and drink of up to 2000sqm Gross floorspace (Use Class E(b) Was Use Class A3); Service and Community Space of up to 500sqm Gross floorspace (Use Class E(d) E(e), E(f) and F1(a), F1(b), F1(e), and F2(b)was Use Class D1 and D2); (C) .

- a) In the case of the first reserved matter, application for approval must be made not later than the expiration of three years beginning with the date on which this permission is granted
- b) All other reserved matters must be made not later than the expiration of 8 years beginning with the date on which this permission is granted; and
- c) The development to which the permission relates must be begun not later than the expiration of three years from 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 and 92 of the Town and Country Planning Act 1990 and in recognition of the scale of the site which will require more than one reserved matters to be submitted.

2. Approval of the details of the internal site layout/scale/appearance based on the parameter plans agreed as part of condition * below and the detailed landscaping of the site based on the strategic site landscaping plan referred to below (hereinafter called the 'reserved matters') shall be obtained from the Local

Planning Authority in writing before any development other than the works hereby granted full permission is commenced and thereafter the development shall be undertaken in accordance with the agreed details and the terms and conditions of this permission.

Each reserved matters application shall be supported by a Sustainability Statement and a phase specific Building for a Healthy Life Assessment which shall set out precisely how the reserved matters are complying with the aspirations for the site set in respect of sustainable construction and the use of renewable energy as set out in the framework documents referred in to in condition * below.

Reason

To ensure adequate information is available for the proper consideration of the detailed proposals.

3. As part of the reserved matters application, scaled drawing(s) showing existing levels on the site and proposed finished floor levels of each phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with such drawings.

Reason

To ensure that the amenities of the area are not adversely affected by reason of the size and scale of the proposed development in compliance with Policies DM01, DM02 and DM04 of the North Devon and Torridge Local Plan.

4. No part of the development hereby permitted shall be commenced until a phasing programme ('the programme') has been submitted to and approved by the Local Planning Authority in writing and the development shall be carried out in accordance with the programme; always providing that all the works comprised in any one phase of the development shall be completed prior to the commencement of any subsequent phase. This programme shall demonstrate how areas of public open space, public realm and the non-residential aspects of the scheme are to be delivered.

Reason

In the interests of highway safety, amenity and to ensure the proper development of the site in accordance with Policies DM01, DM04, DM05 and DM06 of the North Devon and Torridge Local Plan.

5. The full application hereby permitted shall be carried out in accordance with the following approved plans/details and the reserved matters shall be informed and shall adhere with the following plans/details unless an alternative scheme is agreed or as required by the conditions:

Y029 18 201C Location Plan received on the 15/01/20

Y029 18 202C Block Plan received on the 15/01/20

Y029 18 203A Site Plan Existing received on the 06/01/20

Y029 18 203A Site Plan received on the 11/01/19

Y029 18 204V Site Plan Proposed received on the 07/04/21

Y029 18 205P Infrastructure Delivery Plan received on the 07/04/21
 Y029 18 206I Storey Plan and Design Code Proposed received on the 07/04/21
 Y029 18 207F Proposed Lighting Plan received on the 26/03/21
 Y029 18 209 Access to Site received on the 06/01/20
 Y029 18 210 Section to Buried Asbestos Chamber received on the 06/01/20
 Y029 18 211A Location of Asbestos Site Plan received on the 06/01/20
 Y029 18 215 Initial Infrastructure Works received on the 26/03/21
 Y029 18 216 Land and Scale Analysis received on the 26/03/21
 Y029 18 217 Access Arrangements received on the 26/03/21
 Y029 18 301C Bat Box House received on the 06/01/20
 Y029 18 501Q Development Edge Sections received on the 07/04/21
 Y029 18 510A Development Edge Sections received on the 05/06/20
 10655 P18D Landscape Strategy received on the 08/04/2021
 ATR-01C Site-HGV Tracks received on the 05/02/20
 ATR-02B Site-Bus Stop Tracking received on the 05/02/20
 0146 PHL 01E Site Access Proposed received on the 05/02/20
 0146 PHL 02B Highway Cycleway Alignment Plan received on the 30/03/16
 0146 PHL 03D Access Road Alignment Plan received on the 09/03/20
 0146 PHL 04C Preliminary Highway Profile received on the 09/03/20
 PHL 05A Highway Profile 2 Proposed received on the 30/03/16
 4012-ID-DR-1001P02 Lighting Plan received on the 11/01/19
 4012-ID-DR-1002P02 Lighting Plan received on the 11/01/19
 4012-ID-DR-1003P02 Lighting Plan received on the 11/01/19
 PDL-100G Preliminary Drainage Layout received on the 11/01/19

Email from Chris Yalden AWP to Devon County Council LLFA dated 4th March 2020

Building for Healthy Life Assessment & Design Code March 2021 Rev B
 Supporting Statement
 Environmental Statement including Appendices (as updated)

('the approved plans and documents').

Reason

To ensure the development is carried out in accordance with the approved plans which set the framework for the delivery of a development which addresses flood risk, landscape and visual impact, ecology and design in the interests of proper planning and adherence with the Environmental Statement, the policies of the North Devon and Torridge Local Plan and the National Design Guide.

6. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

This is a pre-commencement condition to ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 199 of the

National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.

7. Site investigation and remediation (EA)

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To protect controlled waters and public health when undertaking a development on a site with known contamination which requires additional investigation to ensure that the designed remediation strategy is fit for purpose.

8. Contaminated Land Condition (EH)

- a) Prior to the commencement of the development, a contamination investigation phasing plan shall be submitted to and approved in writing by the local planning authority. The plan shall set out a phased area based approach to the further contamination investigation of the site. The report shall be prepared by a suitably qualified and experienced competent person and have regard to relevant standards and guidance.
- b) Following approval of the phasing and further investigation plan, the local planning authority shall be provided with a report detailing the results of the further intrusive contamination investigation works for each area. For the avoidance of doubt and where relevant, the reports shall include: the results of the further investigations; details of all investigative works and sampling on

site together with the results of analysis, risk assessment of potential receptors and remediation measures required.

Where remedial measures are recommended, the Local Planning Authority shall approve such works and any post remediation verification measures prior to remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

Prior to occupation of the development hereby permitted:

- (c) Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance.
 - (d) If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate supplementary remediation scheme shall be agreed with the Local Planning Authority in writing.
 - (e) A verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include details of the proposed remediation works and Quality Assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post remedial sampling and analysis or other verification works to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary waste transfer documentation detailing what waste materials have been removed from the site.
 - (f) A certificate signed by the developer shall be submitted to the Local Planning Authority confirming that the agreed works have been undertaken as detailed in the verification report. Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with the National Planning Policy Framework.
9. The site of the former pump house shall be marked out on site during the construction process and the implications of undertaking work within the demarked area shall be communicated to all site workers. Thereafter the area shall be appropriately capped in accordance with the details required by conditions *.

Reason

To ensure that a known contamination hot spot is not disturbed during the construction phase.

10. Unexpected contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason

To protect controlled waters

11. Details of works of site raising

Prior to the commencement of development a detailed scheme including details of updated phasing, final site levels, road levels (including the access/egress route) and landscaping shall be submitted to and approved in writing by the Local Planning Authority. The updated phasing and detailed scheme should be informed by an update Flood Risk Assessment, which incorporates the latest guidance on climate change.

Prior to occupation of the development it shall be demonstrated to the satisfaction of the local planning authority that the scheme has been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the local planning authority.

Reason

To ensure that the development is designed and phased appropriately to reduce the risk of flooding over its lifetime.

12. Detailed Design of Flood Defences

The development hereby permitted shall not be commenced until such time as the detailed design of the flood defences has been submitted to and approved in writing by the local planning authority. The detailed design should be informed by an update Flood Risk Assessment, which incorporates the latest guidance on climate change. Prior to occupation of the development it shall be demonstrated to the satisfaction of the local planning authority that the flood defences have been completed in accordance with the details and timetable agreed. The flood defences shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the local planning authority.

Reason

To reduce flood risk to the development over its lifetime.

13. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design, network model outputs, based upon the approved Yelland Quay Regeneration Flood Risk Assessment (FRA) 0146 dated December 2019 Rev G. This should include confirmation that the tidal level,

used as the downstream boundary condition within the model, is agreeable with the Environment Agency.

- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site. The proposed road should not be operational until the above information have been approved and implemented in accordance with the details under (a) - (d) above.

Reason

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

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

- (a) A detailed drainage design, network model outputs, based upon the approved Yelland Quay Regeneration Flood Risk Assessment (FRA) 0146 dated December 2019 Rev G. This should include confirmation that the tidal level, used as the downstream boundary condition within the model, is agreeable with the Environment Agency.
- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) (d) above.

Reason

The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage

system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed

15. Construction Environmental Management Plan Condition

No development shall take place (save such preliminary or minor works that the Local Planning Authority may agree in writing) until a detailed Construction Environment Management Plan (CEMP) which cross references the Construction Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the Local Planning Authority. These Plans shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site. Thereafter the development shall be carried out in accordance with the approved details and any subsequent amendments to the CEMP/CECoMP to manage impacts during the life of the work and to reflect the phasing of development shall be agreed in writing with the Local Planning Authority.

For the avoidance of doubt and where relevant, the CEMP shall include:-

- a) measures to regulate the routing of construction traffic;
- b) working hours and the times within which traffic can enter and leave the site;
- c) details of any significant importation or movement of spoil and soil on site;
- d) details of the removal /disposal of materials from site, including soil and vegetation;
- e) the location and covering of stockpiles;
- f) details of measures to prevent mud from vehicles leaving the site / wheel-washing facilities;
- g) control of fugitive dust from demolition, earthworks and construction activities; dust suppression and having regard to recommendations contained in the approved air quality assessment report;
- h) a noise control plan which details hours of operation and proposed mitigation measures relating to the specific working practices proposed and having regard to recommendations contained in the approved noise impact assessment report;
- i) location of any site construction office, compound and ancillary facility buildings;
- j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;
- k) a point of contact (such as a site manager) and details of complaint handling procedures.
- l) Measures relating to the identification and suitable treatment of asbestos and other contamination of the site making reference to the site specific specialist recommendations contained in contamination assessment reports
- m)uses of lighting, location of temporary floodlights. Lighting to be switched off when not required specifically for construction activities or required for health and safety or security. Glare to be minimised by ensuring that the main beam angle of all luminaires are directed away from any potential observer into the centre of site wherever possible, and angled at less than 70 degrees from the horizontal. Light spill to be minimised by avoiding poorly sited luminaires located at the boundary of the development. Sky glow to be minimised by

using modern flood lights with good photometric control, angled at less than 70 degrees from the horizontal and by using additional shields as appropriate. The selection of luminaires, including those required for night-time security, that are designed to minimise any obtrusive light

- n) The Contractor(s) will be required to sign up to the "Considerate Constructors Scheme"

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

Reason

To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway. The CEMP should be informed by the EA comments letter dated 30 January 2019.

16. No development shall take place (including demolition, ground works and vegetation clearance) until a construction ecological management plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall include the following:
- (a) Risk assessment of potentially damaging construction activities
 - (b) Identification of 'biodiversity protection zones'
 - (c) Practical measures (both physical measures and sensitive working practices - see notes re lighting) to avoid or reduce impacts during construction
 - (d) The location and timing of sensitive works to avoid harm to biodiversity features
 - (e) The times during construction when specialist ecologists need to be present on site to oversee works
 - (f) Responsible persons and lines of communication
 - (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
 - (h) Use of protective fences, exclusion barriers and warning signs.

Noise contour maps of background noise levels and predicted construction noise levels shall be provided to indicate more clearly where the significant impacts are likely to be and when. A noise management plan can then be produced to ensure that construction and operational noise levels are within background levels and where any significant increases are predicted at ecological receptors, with the 2.5m high acoustic screen in place, then additional measures may be required.

The most sensitive period for the overwintering birds is September to March inclusive. Drawing Y029 18 205N Infrastructure delivery plan details April to August inclusive for timing of works for the lagoon, land raising, screen and rock armour. The Construction period for the ground raising, rock armour and lagoon and relevant building phases are likely to require additional mitigation to that

proposed if carried out during September to March inclusive. This would include use of the jetty to bring in materials during construction.

The approved CEcoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of Highways, Amenity and Ecology in compliance with Policies DM02, DM05, and DM08 of the North Devon and Torridge Local Plan.

17. Construction Hours Condition

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

- a) Monday - Friday 07.30 - 19.00,
- b) Saturday 08.00 - 13.00
- c) nor at any time on Sunday, Bank or Public holidays.

Reason

To protect the amenity of local residents and visitors.

- 18.** As part of the CEMP/CEcoMP required by conditions * above details of an 2m acoustic construction barrier/site hoarding on the estuary boundary shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be erected on site in accordance with an agreed timetable. The acoustic barrier is increased to a height of 2.5m on the western side of the construction works. The location of the acoustic barriers are shown on Figure 13.8. The acoustic barrier should be constructed from close boarded, overlapping timber with a minimum thickness of 15mm. The barrier should be suitably treated to prevent warping and rot due to weathering during the construction of the development. There must be no cracks or gaps in the barrier. As stated in BS5228 the overall attenuation will be limited by transmission over and around the barrier, provided that the barrier material has a mass per unit of surface area in excess of 7 Kg/m² and there are no gaps at the joints.

Reason

To minimise the construction noise effects on birds at the Isley Marsh Nature Reserve by reducing construction noise at the estuary by 5 to 10 dB(A) based on the guidance in BS5228.

- 19.** The proposed roads, footways, footpaths, verges, visibility splays, junctions, cuttings, embankments, sewers, drains, service routes, car parking/garage spaces, access drives, construction traffic roads, construction staff car parking and construction site compound shall be laid out, constructed and completed in accordance with a detailed programme that is to be submitted to and approved by the Local Planning Authority in writing before any part of the development commences.

Reason

To ensure the proper development of the site.

20. No other part of the development hereby approved shall be commenced until the access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway with the ironwork set to base course level, the visibility splays required by this permission have been laid out, the footway on the public highway frontage required by this permission has been constructed up to base course level and a site compound and car park have been constructed in accordance with details previously submitted for approval.

Reason

To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of users of the adjoining public highway and to protect the amenities of adjoining residents.

21. The fencing of the site and footpath from the estuary and foreshore as detailed on drawing number **** shall be undertaken as part of the first phase of development (or as agreed by the phasing condition *). A precise method statement detailing the width of the planting area and the planting specification within, the volume of soil / planting pit requirements and how will this be delivered in conjunction with path/rock armour and the start and end point of the planted screen shall be submitted to and agreed in writing by the Local Planning Authority and shall thereafter be delivered in line with the agreed timetable for these works.

Reason

The early delivery of this planting and fencing is required to minimise the disturbance impact on roosting birds on the estuary from users of the coast path and to restrict dogs from accessing the foreshore in the interest of biodiversity.

22. The reserved matters shall indicate the siting, design and external appearance, including materials of construction of all walls, fences and other means of enclosure to be used in the development and shall be carried out as approved.

Reason

To ensure adequate information is available for the proper consideration of the detailed proposals.

23. At the same time as the reserved matters a detailed external lighting design shall be submitted to and approved in writing by the Local Planning Authority. This shall be based on the following agreed documents:

- Details of Bollard Luminaires with Low Upward Light Output
- Indicative Lighting Strategy 4012-ID-DR-1001 P03/1002 P03/1003/P03
- Lighting Strategy Access Road BB 4012
- Proposed Lighting Plan Y029 18 207E

The lighting strategy should be informed by industry best practice

<https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>

Reason

To ensure that lighting is designed with regard to dark skies and ecological impact

24. The development permitted by this planning permission shall be carried out in accordance with the approved Ecological Impact Assessment by ACD Ecology and the Biodiversity Net Gain Matrix. As part of the reserved matter the following details shall be submitted to and approved in writing by the Local Planning Authority the detailed design of the new habitat to be created and an audit to reflect any change that the layout may have on biodiversity areas. The mitigation measures shall be fully implemented prior to occupation of the development hereby approved.

Reason

To protect biodiversity

25. No development shall take place until a detailed landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. National and Local policy expects new development to contribute to a 'net gain' in biodiversity and the LEMP, through the use of the DEFRA metric 2/Biodiversity Impact Assessment Calculator, shall demonstrate how the development proposal will contribute to a net gain. The content of the LEMP will address the implementation and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the [Design and Access and Statement / Environmental Statement / Ecological Impact Assessment (EclA) etc.] and shall include:
- (a) Proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant
 - (b) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); implementation and management programme
 - (c) A description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management
 - (d) Aims and objectives of management
 - (e) Appropriate management options for achieving aims and objectives
 - (f) Prescriptions for management actions
 - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 10- year period)
 - (h) Details of the body or organization responsible for implementation of plan
 - (i) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures

- (j) Means of reporting of landscape and ecological monitoring results to [Natural England and the Local Planning Authority] and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.
- (k) the number, location and wording of signage setting out the ecological aspirations for the site

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

Reason

In order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08A of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

26. In this condition 'retained trees, hedges and shrubs' means an existing tree, hedge or shrub, which is to be retained in accordance with the approved plans and particulars [insert drawing no's]; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from [the date of the occupation of the building for its permitted use].
- (a) No retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any tree, be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations.
 - (b) If any retained tree, hedge or shrub is removed, uprooted or destroyed or dies, another tree, hedge or shrub shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - (c) The erection of protective barriers and any other measures identified as necessary for the protection of any retained tree, hedge or shrub shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, or in accordance with an approved method statement and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason

To safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

27. Provision, implementation and maintenance of detailed landscape proposals

- i) full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority at the same time as the reserved matters and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
- ii) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); implementation and management programme.
- iii) the provision of a geotextile membrane shall be provided to all soft landscape areas

Reason

To assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan. Consideration should be given to amending the proposed landscaping in the fields south of the Tarka Trail so that the trees are planted along the new access road rather than the eastern and southern field boundaries. This would help to maintain the open aspect/sight lines required by the water birds identified as using the fields opportunistically for foraging.

28. Prior to the laying out/construction of the areas of public open space within any phase of the development precise details shall be submitted to and agreed in writing by the Local Planning Authority. This shall include where applicable to that phase:

- a) the precise design, position and layout of the LAP/LEAP(S) including surface treatment, 5 pieces of play equipment, seating, signage and means of enclosure
- b) the precise planting schedule, means of enclosure of the areas of informal open space
- c) the position of seats, dog bins and signage within the informal public open space

d) the provision of a geotextile membrane

The works shall thereafter be carried out as agreed and completed on site alongside the phase of development to which they relate and terms of the Section 106 agreement unless otherwise agreed in writing by the Local Planning Authority.

Prior to the transfer of the public open space to the responsible management party, post development monitoring of the ecological site interest shall be carried out, the results of which shall be submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be managed in accordance with the agreed LEMP and in accordance with any further recommendations resulting from the monitoring studies.

Reason

In the interest of providing appropriate recreational areas for the development in accordance with Policies DM04 and DM10 of the North Devon and Torridge Local Plan.

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

Reason

To ensure that adequate information is available for the proper consideration of the detailed proposals.

30. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority: i) the spine road and/or cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level with the ironwork set to base course level and the sewers, manholes and service crossings completed; ii) the spine road and/or cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintained at public expense have been constructed up to and including base course level; iii) all visibility splays have been laid out to their final level; iv) the street lighting for the spine road and/or cul-de-sac and/or footpaths has been erected and commissioned; v) the car parking and any other vehicular access facility required for the dwelling by this permission have been completed; vi) the verge, service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined; vii) the street nameplates for the spine road and/or cul-de-sac have been provided and erected.

Reason

To ensure that adequate access and associated facilities are available for the traffic attracted to the site.

31. When once constructed and provided in accordance with condition ** above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular and pedestrian traffic and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.

Reason

To ensure that these highway provisions remain available.

32. Within twelve months of the first occupation of the first dwelling in an agreed 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 to the written satisfaction of the Local Planning Authority.

Reason

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

33. Provision shall be made within the curtilage of each dwelling for the disposal of surface water so that none discharges onto the highway.

Reason

In the interest of public safety and to prevent damage to the highway.

34. The reserved matters shall be supported by a car and cycle parking strategy setting out the car and cycle parking standards for both the residential units and commercial and service uses. The car parking provision shall include electric car charging points. For the residential parts of the scheme this shall be related to the size of the dwelling proposed with adequate visitor space being provided in communal parking areas. Secure cycle parking shall be provided within the public realm parts of the site. The design, layout, drainage, materials of construction and external appearance of this provision shall be included in the reserved matters.

Reason

To ensure that adequate off street parking facilities are available for all the traffic attracted to the site.

35. The car park to the south of the Tarka Trail shown on drawing number *** shall be provided as the first phase of development. Access shall be from the private road to the east. Once the development is constructed or as shown on the phasing programme (condition *) access to this car parking area shall be provided from the main highway leading to the site.

Reason

The private access road will be unable to accommodate parked vehicles from those using the Tarka Trail so alternative provision will need to be made to ensure that the community can continue to access this resource.

36. No dwelling shall be occupied until the means of enclosure and the bin storage area for that dwelling have been provided in accordance with the approved plans submitted as part of the reserved matters.

Reason

To ensure adequate facilities are available to occupants of the dwellings in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

37. Before the commercial units hereby permitted are occupied a scheme shall be agreed with the Local Planning Authority which specifies the provisions to be made for the control of noise emanating any commercial extraction or ventilation provisions.

Reason

To allow the Local Planning Authority to be consider that there will be no detriment to the amenity of the area due to noise breakout through the structure from operations carried out therein in accordance with Policies DM01 and DM04 of the North Devon and Torridge Local Plan.

38. The Bat Roost building and heron platforms shall be provided as the first phase of development or as agreed in the phasing condition *. Prior to each residential unit being brought into use, a bird box shall be sited on either the south or west elevation of the building, where a residential unit does not have a suitable elevation more than one bird box will be placed on adjoining properties until a total of 250 boxes are provided. This provision shall be retained thereafter. The area surrounding the bat roost should be managed specifically for the bats and fenced off to prevent paths and other activities developing in this area. This level of detail shall be set out within the LEMP required by condition *.

Reason

To achieve net gains in biodiversity in compliance with Policy ST14 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

39. Before any part of the development is occupied details shall be submitted to and approved in writing by the Local Planning Authority of how physical restrictions (bollards/gates etc.) will be installed to prevent the use of the jetty for the launching or mooring of any form of recreational pleasure craft including paddle boards, ski jets, canoes etc.

Reason

To limit the impact on water based birds sensitive to recreational pleasure craft.

40. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order) the development hereby permitted shall be restricted to uses within Class ***** of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purposes whatsoever.

Reason

Only the proposed use is appropriate and any other use would need to be the subject of a separate application to be considered on its merits.

OTHER CONDITIONS: to be drafted

Removal of Permitted Development rights (as appropriate)

Travel Planning - condition requested by DCC not detailed

Waste Management - condition requested by DCC not detailed

Materials Management Plan and Validation of materials used in site levels raising

Conditions resulting from outstanding Noise Report

Appendices

- A. Application Submission Changes January 2020
- B. Environmental Statement – Volume 3 Non Technical Summary
- C. Building for Healthy Life Assessment & Design Code March 2021 Rev B
- D. Design Review Panel 17th May 2019
- E. Design Review Panel 21st August 2019
- F. Response to Contamination queries Date 13.05.20 V2
- G. Natural England Consultation response dated 20th June 2020 (15 pages)
- H. Sustainability Officer 20 February 2020
- I. Viability Report (Appendices have been circulated separately)