

Application Report

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



Application No: 66623
Application Type: Full application
Parish/Ward: INSTOW/INSTOW
Location: Land at Barton Cross
Instow
Bideford
Devon
EX39 4JQ
Proposal: Erection of up to 5 dwellings (amended description) (amended plans) (further amended plans, updated preliminary ecological appraisal and design & access statement) (Further amended plans received on 25/6/21)
Agent: SAVILLS (UK) LTD
Applicant:
Planning Case Officer: Mr R. Bagley
Application Expiry: 20 July 2020
Ext of Time Expiry: 20 July 2020
Publicity Expiry: 22 July 2021
Departure: N
EIA Development: N
EIA Conclusion: Development is outside the scope of the Regulations.
Reason for Report to Committee: Committee at the request of Cllr Saxby

Reason for call in to Planning Committee

Councillor Saxby as Ward Member has requested that this application be determined by Planning Committee for the following reason:

' At the request of the Parish Council and other Villagers I am requesting this is called in due to concerns about the damage this development will cause to the nature of Instow and in particular to the view to the church from the village. The development has been called in before and at that time there was a restriction on the height of the properties, but this is not formalised in the planning consent and this has caused grave concern to the village'. (20/01/20)

The application is currently at **appeal for non-determination** and with a potential costs award requested against the Council.

This report sets out the current Local Planning Authority position in respect to the determination of the scheme.

Site Description

The site is 0.8 ha and located on a parcel of land at Barton Lane, to the east of Anstey Way and on the entrance into Rectory Lane.



The site is bounded by high established hedges and an open ditch/stream runs to the north but the site is prominent when viewed from the northern approach. The site is an area of green managed pasture land, located within the development boundary for Instow, which rises from north to south and gradually rises from west to east.

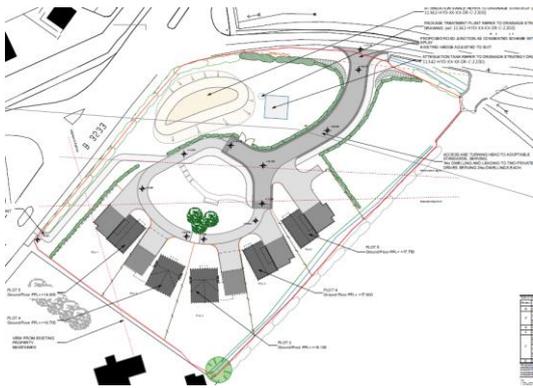
The site is visible from Anstey Way, Marine Parade and from Rectory Lane. Views of the grade I listed St John the Baptist Church tower are attainable across the site, from Anstey Way. There is a large agricultural building in the foreground of the Church.

To the north is Rectory Lane (referred to as Barton Lane in the application). To the west is Anstey Way (B3233) linking to Bideford and Barnstaple, and to Instow. There is a school and church to the east and a local shop and public houses within Instow Village. The site has easy access to the Tarka Trail via existing public access routes.

To the north and east are fields and to the south is a property known as Crossways. The southern boundary between Crossways and the development site comprises an established high hedgerow. Crossways is situated higher up than the site, following the rise of the land to the south.

The history for this site shows that the most recent planning permission for this site (58608) approved outline planning permission for up to 5 dwellings. The outline was approved by Planning Committee. The extract plans below show:

Approved outline layout and indicative site appearance from 58608



No Reserved Matters scheme for 58608 was submitted and instead the applicants submitted a **full** application for 5 dwellings on the site. As illustrated above, the original proposal sought permission for a crescent shaped layout with dwellings constructed around an area of open space with access from Rectory Lane which formed the basis of the original submission of 66623. The dwellings comprised pitched roofing and a mix of render and cladding as illustrated.

Recommendation

Minded to **APPROVE** (appeal for non-determination)
 Legal Agreement Required: Yes

Planning History

Reference Number	Proposal	Decision	Decision Date
58608	Outline Application (all matters reserved except access & layout) for the erection of up to 5 dwellings, access, open space & associated works (amended information, plans & description) (amended layout) at Land at Barton Lane, Instow, Devon, EX39 4LG	Outline + S106 Approval	18 October 2018

Appeal(s)	Proposal	Decision	Decision Date
66623	Erection of up to 5 dwellings (amended description) (amended plans) (further		

Appeal(s)	Proposal	Decision	Decision Date
	amended plans, updated preliminary ecological appraisal and design & access statement) at Land at Barton Cross, Instow, Bideford, Devon, EX39 4JQ		

Constraints/Planning Policy

Constraint / Local Plan Policy

Advert Control Area Area of Special Advert Control
 Burrington Radar Safeguard Area
 Chivenor Safeguard Zone
 Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes
 LCT: Main Cities and Towns
 Within Adopted Coast and Estuary Zone
 Within: Instow Development Boundary ST07
 Within Adopted Housing Allocation: INS01 Barton Cross
 Within Adopted Unesco Biosphere Transition (ST14)
 Within Braunton Burrows Zone of Influence
 Within Flood Zone 2
 Within Flood Zone 3
 Within Surface Water 1 in 100
 Within:, SSSI 500M Buffer in North Devon
 Within:, SSSI 5KM Buffer in North Devon,
 Within: Braunton Burrows, SAC 10KM Buffer
 SSSI Impact Risk Consultation Area

Distance (Metres)

Within constraint
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DM01 - Amenity Considerations
 DM02 - Environmental Protection
 DM03 - Construction and Environmental Management
 DM04 - Design Principles
 DM05 - Highways
 DM06 - Parking Provision
 DM07 - Historic Environment
 DM08 - Biodiversity and Geodiversity
 DM08A - Landscape and Seascape Character
 DM10 - Green Infrastructure Provision
 INS - Instow Spatial Strategy
 INS01 - Land at Barton Cross
 ST01 - Principles of Sustainable Development
 ST03 - Adapting to Climate Change and Strengthening Resilience
 ST04 - Improving the Quality of Development
 ST05 - Sustainable Construction and Buildings
 ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres

Constraint / Local Plan Policy

ST07 - Spatial Development Strategy for Northern Devon's Rural Area
 ST09 - Coast and Estuary Strategy
 ST10 - Transport Strategy
 ST17 - A Balanced Local Housing Market

Distance (Metres)**Consultees**

Name	Comment
Arboricultural Officer	No comments received
Councillor S Saxby 15 th August 2019	<p>I understand revised plans are being submitted on this application, and I hope you don't mind my asking for advice, but a resident has been in touch about the planning and the properties not meeting the height criteria of the minutes of the Planning Committee on 13th September 2017.</p> <p>I know Christies have done a lot of work on this and I am keen to understand the planning perspective on this as the height restriction was not in the outline planning approval, but is in the minutes. I have been asked to take the next application, (even before it has been seen!) to committee based on the discrepancy between the committee minutes and the plans, which I understand are two storey.</p> <p>I am keen to keep developments moving here in Instow and not held up in planning for long periods as far as possible. This dispute has created divisions in the community for a long time already, so I thought I would ask for your advice from a planning perspective so I can do my best here for all the sides that have approached me in the village.</p>
Councillor S Saxby 2 nd December 2019	Please could you let me know what the timings on the matter are and also an update on the current application as I know there were concerns with the last but I was of the understanding that this one was far more in line with the planning department's recommendations?
Councillor F Biederman 16 th December 2019	<p>Instow Parish Council have asked me to call this application, if you are minded to approve.</p> <p>Can you tell me if it is in the Local Plan?</p> <p>My major concern is the setting of the Church, on the hill side being spoilt.</p> <p>Also the amenity of the neighbouring properties.</p>
DCC - Childrens Services 28 th June 2021	DCC has identified that the proposed increase of 5 family type dwellings will generate an additional 1.25 primary pupil and 0.75 secondary pupils which would have a direct impact on Instow

Name	Comment
	<p>primary school and Bideford College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:</p> <p>We have forecast that the nearest primary school currently does not have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution directly towards additional education infrastructure at the local primary school that serves the address of the proposed development. The contribution sought for primary would be £20,540 (based on the DfE extension rate of £16,432 per pupil). This contribution would relate directly to providing education facilities for those living in the development.</p> <p>We have forecast that the local secondary school has sufficient capacity for the pupils expected to be generated by this development and therefore a contribution towards secondary education would not be sought.</p> <p>We will also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Bideford College. The costs required are as follows: -</p> <p>0.75 Secondary pupils $\text{£}2.89 \text{ per day} \times 0.75 \text{ pupils} \times 190 \text{ academic days} \times 5 \text{ years} =$ £2,059.</p> <p>The contribution above has been calculated based on the DCC contract cost of transporting a pupil from the area of development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil will attend the school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school.</p> <p>All infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to these contributions should be applied from this date.</p> <p>The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children to Ilfracombe Academy. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.</p>

Name	Comment
	<p>In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.</p>
<p>DCC - Childrens Services</p> <p>Reply Received 13 July 2021</p>	<p>The DCC Education response remains as per the original response of 28/6/21 (set out above)</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 13 July 2021</p>	<p>No objections</p>
<p>DCC - Public Health</p> <p>Reply Received 2 October 2020</p>	<p>Given the scale of the application being for up to 5 dwellings, we won't be in a position to comment on this application. We routinely get copied into application by our internal planners where the developments are for 300 homes or more.</p>
<p>DCC - Public Health</p> <p>Reply Received 13 July 2021</p>	<p>Just to confirm we will not be replying to this consultation. We would not normally reply to smaller scale developments and with other time pressures on public health at present limiting responses to larger developments or those that may have significant public health impacts. I hope to review our approach once we are beyond the current demands.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 1 May 2019</p>	<p>Police have no objections to this proposal, please find the following information, advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-</p> <p>All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2016 or equivalent.</p> <p>The layout will provide overlooking and active frontages to the new internal street and public footpaths.</p>

Name	Comment
	<p>If new or existing hedgerow is likely to comprise new rear and/or side garden boundaries, as appears will be the case, 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>There should be a lockable gate for the rear access paths to each dwelling, placed as close to the front elevation as possible.</p>
<p>Designing Out Crime Officer</p> <p>Replies Received 11 Nov 2019 8 January 2020 2 October 2020 5 July 2021</p>	<p>Police have no objections of further comments.</p>
<p>Devon Clinical Commissioning Group</p>	<p>No comments received</p>
<p>Environment Agency</p> <p>Reply Received 14 May 2019</p>	<p>We have no objection to the proposed development subject to the inclusion of a condition regarding the site layout on any permission granted. The site is located partially within flood zones 2 and 3, identified by Environment Agency flood maps as having a medium to high probability of flooding. The site plan (ref.1840 0100 rev E, dated 06/03/19) indicates that a sequential approach has been taken to the layout of the development ensuring that no housing plots are located within the flood risk area. It also indicates that the SUDS ponds will be outside of the flood risk area. The plan also shows a pedestrian access route from the site within flood zone 1.</p> <p>Condition</p> <p>The development shall be carried out in accordance with the submitted plan 'Proposed Site Layout' reference 1840 0100 revision E dated 06/03/2019 indicating:</p> <ul style="list-style-type: none"> - The dwellings are located to the south of the site, outside the area at flood risk - The proposed attenuation swale is located outside of the flood risk area. <p>Reason – To ensure that dwellings are not at risk of flooding and that flood risk is not increased by development within the flood zone.</p>

Name	Comment
<p>Environment Agency</p> <p>Reply Received 27 November 2019</p>	<p>Environment Agency position</p> <p>We have no objection to the proposed development subject to the inclusion of a condition regarding the site layout on any permission granted. The site is located partially within flood zones 2 and 3, identified by Environment Agency flood maps as having a medium to high probability of flooding. The site plan (ref.1840 0100 rev E, dated 06/03/19) indicates that a sequential approach has been taken to the layout of the development ensuring that no housing plots are located within the flood risk area. It also indicates that the SUDS ponds will be outside of the flood risk area. The plan also shows a pedestrian access route from the site within flood zone 1.</p> <p>Condition</p> <p>The development shall be carried out in accordance with the submitted plan 'Proposed Site Layout' reference 1840 0100 revision E dated 06/03/2019 indicating:</p> <ul style="list-style-type: none"> - The dwellings are located to the south of the site, outside the area at flood risk - The proposed attenuation swale is located outside of the flood risk area <p>Reason – To ensure that dwellings are not at risk of flooding and that flood risk is not increased by development within the flood zone.</p>
<p>Environment Agency</p> <p>Received 16th July 2021</p>	<p>We have no further comments to add to those made on 27 November 2019.</p> <p>However it should be noted that the site plan ref 1840 0100, revision E has now been updated. In line with this, the recommended condition should ensure that the reserved matters application takes forward the updated site layout (1840 0100, revision H) in the final design.</p>
<p>Environmental Health Manager</p> <p>Reply Received 8 May 2019</p>	<p><u>Land Contamination</u></p> <p>In relation to Outline Application 58608, I recommended conditions be included to address potential land contamination affecting the development. This recommendation remains valid. My recommended conditions are:</p> <p>Contaminated Land Phase 1 Condition</p> <p>Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with the results of a phase one survey for potential ground contamination. The report shall be prepared by a suitably qualified person and be sufficient to identify any and all potential sources of ground contamination on any part of the development site. Thereafter, depending on the outcome of phase one, a proposal for any phase two (intrusive) survey that may be required shall be presented to and agreed with the planning authority. Reason: To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters,</p>

Name	Comment
	<p>property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning Policy Framework. - Contaminated Land Reactive Condition</p> <p>Should any contamination of soil or groundwater not previously identified be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.</p> <p><u>Construction Management Plan</u> I note submission of a Construction Management Plan is required under Condition 10 of Permission 58608.</p> <p><u>Advisory Note: Foul Drainage</u> The Design and Access Statement mentions connecting the proposed dwellings to a package treatment plant with discharge to water course. The applicant should be advised to contact the Environment Agency to check whether the proposals require a permit and are acceptable under EA requirements. The proposed system is also likely to require approval under Building Regulations.</p>
<p>Environmental Health Manager</p> <p>Replies Received 18 November 2019 15 January 2020 6 October 2020</p>	<p>I refer to my previous comments of 8th May 2019 relating to land contamination, a construction management plan and foul drainage. I have nothing to add to those comments, which stand.</p>
<p>Environmental Health Manager</p> <p>Reply Received 7 July 2021</p>	<p>No objections subject to Conditions:</p> <p>Land contamination: Contaminated land phase 1 condition Contaminated land (unexpected contamination) Condition</p> <p>Construction Phase Impacts: Construction Environmental Management Plan Condition Construction hours Condition</p> <p>Advisory: Foul drainage</p>

Name	Comment
<p data-bbox="199 232 395 338">Heritage & Conservation Officer</p> <p data-bbox="199 383 432 450">Reply Received 28 May 2019</p>	<p data-bbox="467 232 1426 600">This application details the reserved matters relating to application 58608, which was approved in October 2018. When the original application was made, it was identified by myself and Historic England that the proposal had potential to cause harm to the significance of the grade I listed Church of St John the Baptist, to the north, through effect on its setting. That harm was reduced, but not altogether avoided, through negotiations on the siting of the proposed new houses, the layout of the site overall, and the position and detailing of the new access road. The outline application, 58608, was approved with these matters in place.</p> <p data-bbox="467 636 1426 853">The current application, for the reserved matters, seeks to alter the siting of the houses, site layout and positioning and detailing of the access road. The alterations – moving the houses and the access road further to the east – are retrograde steps which increase the harm to the significance of the listed building through effect on its setting.</p> <p data-bbox="467 891 1385 1330">I have seen the comments from Historic England regarding the design of the houses, and I am in agreement with them – the raised terraces over the double garages and the arrangement of windows and doors do not sit particularly well in this context. As it stands my view is that this proposal causes an additional element of less than substantial harm to the significance of the heritage asset, over and above that already caused through the outline application. Under the terms of the paragraph 196 of the NPPF, the public benefits of this proposal (i.e. the reserved matters, and alteration of siting, layout and access from the approved scheme) need to be weighed in the balance when the decision is made.</p>
<p data-bbox="199 1375 395 1480">Heritage & Conservation Officer</p> <p data-bbox="199 1525 432 1630">Reply Received 31 January 2020</p>	<p data-bbox="467 1375 1426 1809">I do appreciate that various amendments to the scheme have been made, in recognition of our previous comments. Nonetheless, I maintain my previous comment that the height and mass of this development will not preserve the setting of the grade I listed Church of St John to the north-east. Some small further improvement could be made by looking again at plot 5 and reducing the double garage to a single garage, and removing the external steps. I would also agree with Historic England, and say that should permission be granted, it would be useful to review PD rights, as the erection of further structures - sheds, garages etc on the land, particularly to the north of the houses, would negate the improvements achieved so far through negotiation.</p>
<p data-bbox="199 1852 395 1957">Heritage & Conservation Officer</p>	<p data-bbox="467 1852 1426 1989">The amended scheme has a tighter layout than previous versions, and the designs and materials of the houses are more compatible with the characteristic features of the locality. Given that the outline permission for development of this site has already been granted, it</p>

Name	Comment
Reply Received 21 October 2020	is my view that the amended scheme minimises harm to the significance of the nearby listed church through effect on setting.
Heritage & Conservation Officer Reply Received 9 July 2021	<p>These comments relate to the amended plans added on 25.6.21 only.</p> <p>The issue, in historic environment terms, for this scheme, has been the effect on the significance of the grade I listed Church of St John, to the east of this site, through effect on setting. The aim, through the various negotiations and iterations of the scheme, has been to minimise this by pulling the development as far to the south of the site as possible, and by ensuring that the massing, form and materials of the new buildings are reflective of and appropriate to the context.</p> <p>The latest version of the scheme, as shown on the 'Comparison of the site layouts post and pre DPR review' drawing, shows that plot 5 has been pulled back marginally to the south, and the majority of the access road is now further to the south. This in itself will have a slight reduction in impact and is welcomed.</p> <p>In terms of massing, the alignments of the houses on plots 3 and 4 and the parallel ridges of plots 1 and 5 results in a tighter layout which is perhaps more akin to a functional rural building collection, but the turning of the house on plot 2 through 90 degrees, so that its ridge is perpendicular to the others, in my view detracts from the coherency of the scheme. The proposed large box windows and overhanging gable feature on plot 2 introduces elements which are not particularly compatible with the historic context, and will tend to stand out from, rather than blend in with, the surrounding built form.</p>
Historic England Reply Received 8 May 2019	<p>Historic England have previously provided advice in relation to this site for the outline application for residential development (your ref. 58608; our ref. P00445432). In that advice we identified the main heritage issue as being the potential harm to the significance of the grade I listed Church of St John the Baptist, and how the church's setting and primacy in the landscape could be eroded by the proposed development.</p> <p>Historic England note that outline planning permission was granted for five dwellings with all matters reserved, except for access and layout. The reserved matters application now identifies detailed issues in relation to design, access, amended layout, open space and other associated works.</p> <p>The impact of the proposals on the heritage asset Historic England have concerns about the design of the proposed dwellings, which in our opinion do not reflect the semi-rural character of this site where there is a clear transition from more urban development to</p>

Name	Comment
	<p data-bbox="469 235 1417 342">agricultural landscape. Further, we believe that the submitted design does not preserve the significance of the church of St John the Baptist, where a part of that significance stems from its setting.</p> <p data-bbox="469 383 1417 707">The National Planning Policy Framework 2019 (NPPF) states in paragraph 192, that it is desirable for new development to make a positive contribution to local character and distinctiveness. Whilst the application has explored different types of housing in the area, we would suggest that the proposed house type is not typical of either the local vernacular or a contextually appropriate contemporary approach. In our opinion, the designs would not result in a positive contribution being made as required by national planning policy.</p> <p data-bbox="469 748 1417 891">The flat roofed double garages with seating terraces over, the two storey chalet style house with very steeply pitched roofs and the introduction of features such as timber fencing between properties will all cause harm.</p> <p data-bbox="469 931 1417 1256">Great weight should be given to the conservation of heritage assets in decision making (NPPF 193), with greater weight being applied the more important the asset is. It should be noted that the Church of St John the Baptist is a grade I listed building, and is therefore one of only 2% of all listed buildings in England. Any harm to it should be clearly and convincingly justified (NPPF 194). Historic England find that the harm caused by the proposed design is not justified, as alternative and less harmful house designs are likely to be achievable on the site.</p> <p data-bbox="469 1296 1417 1664">The outline application identified that some alterations to the northern boundary of the site would be required for the creation of a visibility splay to the access, however the current application shows a greater degree of hedge loss and a widening of the entire lane from the main junction to the access point and beyond. This results in an increased feeling of suburbanisation and erodes the enclosing rural character that the hedge and narrower lane width contributes. We query if this is necessary for the creation of the required access arrangements, as we believe that this change is a retrograde step on the consented scheme.</p> <p data-bbox="469 1704 1417 1991">We strongly recommend that your local planning authority ensures that street lighting, soft and hard landscaping, plant species, surfacing and other associated works are appropriate for the semi-rural context in which this site lies, leading to the least harmful scheme possible. If carefully considered, these works of mitigation could hugely reduce the landscape and heritage impact of the development, creating a high quality design and sustainable development (NPPF 124).</p>

Name	Comment
	<p>Recommendation</p> <p>Historic England has concerns regarding the application on heritage grounds. Our concerns relate to the design of the proposed dwellings, and the impact of associated works such as fencing and highways proposals which we find are harmful to the significance of the grade I listed Church of St John the Baptist, where a part of that significance stems from its setting. 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 124, 192, 193 and 194 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.</p> <p>Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.</p>
<p>Historic England Reply received 16th January 2020</p>	<p>Historic England have provided responses relating to this development proposal on two previous occasions - 8 May 2019 and 3 December 2019. We refer you to the comments made in these letters, in particular in relation to design and conditions of any consent granted. Otherwise, we do not feel that we need to provide additional input. We recommend that you continue to take advice from your own in-house heritage expert in relation to matters affecting the significance of heritage assets located in the area of this development site.</p>
<p>Historic England Reply Received 20 October 2020</p>	<p>We do not wish to comment in detail, but would refer you to our previous advice on this application, provided in three letters (8 May 2019, 3 December 2020 and 16 January 2020) in which we highlighted certain historic environment factors that should be considered as part of the determination process. We also recommend that you should consult with your in-house heritage expert to ensure that this development does not cause harm to the significance of any highly graded heritage assets, especially where a part of that significance may stem from their rural and agricultural setting.</p>
<p>Historic England Received 15th July 2021</p>	<p>Having discussed the case with the Inspector of Ancient Buildings and Areas for North Devon, we do not have any additional comments that we would like to make and will therefore not be submitting comments.</p>

Name	Comment
<p>Housing Enabling Officer</p> <p>Reply Received 17 May 2019</p>	<p>I understand that there is no requirement under outline planning permission 58608 for the provision of affordable housing. Housing Enabling therefore has no comments regarding this reserved matters application.</p>
<p>Housing Enabling Officer</p> <p>Replies Received 17 February 2021 7 July 2021</p>	<p>Housing Enabling has no further comments to make regarding this consultation.</p>
<p>Instow Parish Council</p> <p>Reply Received 27 November 2019</p>	<p>The Parish Council have requested that the District Councillor calls in the above application. There are aspects of the application that require more detail and explanation.</p>
<p>Instow Parish Council</p> <p>Reply Received 21 January 2020</p>	<p>Noted that outline permission given for five 1 ½ storey houses. By resubmitting the application under a new number, the constraints of the outline permission is bypassed, and application 66623 should be considered as a completely separate application, not dependent at all on the outline application. This means that all the papers submitted regarding the outline permission need to be resubmitted and considered. This includes any papers concerning wildlife, sustainability, historic views etc. If they are not submitted along with the application then they should be obtained again.</p> <p>Due to the visual impact of these houses on the surrounding area permission was given for outline planning only if the houses were kept low (1 ½ storeys) and built into the hillside. In this new application this has morphed into 5 executive type houses with double garages.</p> <p>Each house seems to be designed with the bedrooms on the ground floor and the reception rooms on the first floor. There is also an extensive deck/patio above each garage. For plots 2 and 3 we would suggest that these viewing platforms should be turned so that the neighbours cannot be overlooked to maintain privacy. We would also suggest that a condition is made that there should be no lighting on these decks after say 10.00 to ensure that there is no light pollution to neighbouring properties – not just the existing properties but also the proposed one.</p> <p>As the outline permission no longer applies, and in view of the recent housing survey for Instow, more executive type houses are not what is required. If this development is to go ahead, we would</p>

Name	Comment
	<p>suggest that perhaps 3 executive type houses are allowed to give the developers fair profit and the other two are social housing. When the developers first approached Instow Parish Council about land to be included in the development plan the proportion of social housing was promised by the developers to be much higher than has so far been proposed, even taking into account the development by the pony field.</p> <p>However, if there has to be a development, these executive type houses should be along the lines of those proposed in the outline planning, 1 ½ storey, and should not have large double garages and viewing platforms etc.</p> <p>Overall we consider that the development should not be allowed in its present form, that the houses be lowered and downscaled with regard to garages and decks, and any future plans should take full account of the historic views of the church up the valley, and the impression given to visitors and residents of the village, as this will be the gateway to the village, fitting in with the present ambiance of the village of detached simple villas.</p> <p>In light of the above considerations the Parish Council will be requesting via the District Councillor that the application is called in for further scrutiny.</p>
<p>Instow Parish Council</p> <p>Reply Received 21 October 2020</p>	<ol style="list-style-type: none"> 1. Proposed block plan does not show recently developed area now known as Shepherds Way. If this were added to the plan, it would show that his end of the village does not need further development 2. The 4 Open Market houses are all used as holiday homes - this is going to be a commercial development unless restrictions are imposed stating that houses can only be used as family dwellings 3. The two 4 bedroom houses are out of proportion to the other houses on the site, and neighbouring houses in the village 4. The houses obscure the horizon 5. The houses will be using a septic tank - previous statements from manufacturers have specified that they are not suitable for holiday homes as they can seize up when left idle for a period of time
<p>Instow Parish Council</p> <p>Reply Received 13 July 2021</p>	<p>Regarding your email sent to me yesterday about planning application 66623, I was under the impression that August 25th was now the date by which representations had to be made - see email below.</p> <p>We (Instow Parish Council) have a meeting on the 22nd July with Christies, who will be making a presentation to IPC and interested parties. That should enable me to capture what needs to be fed back to NDC</p>

Name	Comment
<p>Natural England Reply Received 14 May 2019</p>	<p>Natural England has previously commented on this proposal and made comments to the authority in our letters dated 2nd September 2015 (attached here) and 5th June 2017. The advice provided in our previous response applies equally to this proposal although we made no objection to the original proposal.</p> <p>The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.</p>
<p>Natural England Reply Received 27 November 2019</p>	<p>Natural England has commented on several iterations of this proposal and made comments to the authority in our responses dated 19 January 2015 (ref 141270), 02 September 2015 (ref 163145), 05 June 2017 (ref 217216) and 14 May 2019 (ref 281288). Further to this we have the following additional advice.</p> <p>Braunton Burrows Special Area of Conservation (SAC) Based on the information provided, the application is for a development likely to have an indirect impact on the Braunton Burrows SAC. This is because of the likelihood of recreational impacts on the SAC associated with the development.</p> <p>As a competent authority under the provisions of the Habitats Regulations, North Devon Council should have regard for any potential impacts that a plan or project may have and are required (by Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 as amended) to conduct a Habitat Regulations Assessment to determine the significance of these impacts on European sites and the scope for mitigation. The North Devon and Torrridge Joint Local Plan (JLP) Habitat Regulations Assessment (HRA) considered whether there would be an increase in recreational pressures on the Braunton Burrows SAC associated with housing development allocated in North Devon and Torrridge Districts over the life of the JLP. It identified the main recreational pressure as coming from the Braunton, Wrafton and Chivenor area and concluded that there was unlikely to be an adverse effect on the integrity of the interest features for which the Braunton Burrows SAC has been notified.</p> <p>However, since adoption of the JLP, the Councils commissioned further assessment of the potential recreational impacts linked to non and plan led development for the Braunton Burrows SAC (Footprint Ecology September 2018)</p> <p>The report states that <i>'recreational impacts are currently evident at Braunton Burrows'</i> and that <i>'recreational impacts would be likely to</i></p>

Name	Comment
	<p><i>intensify and spread as a result of an increase in visitor numbers'. It also states that 'where likely significant effects are identified it is anticipated that it will be difficult to rule out adverse effects on integrity without appropriate mitigation'.</i></p> <p>This would suggest that there is a probability or risk that recreational activities arising from occupants of all new residential or tourist development within a Zone of Influence (Zol) referred to in the report, which would, in combination, have a significant effect on the SAC. In light of the new evidence, it is no longer appropriate to rely on the JLP's conclusion of no adverse effect on integrity (AEOI).</p> <p>Your Authority has identified a Zone of Influence where effects from development could have a likely significant effect (LSE) on the special interest of the Braunton Burrows SAC and this development falls within the Zol.</p>
<p>Natural England Reply Received 7 October 2020 13 July 2021</p>	<p>Natural England has previously commented on this proposal and made comments to the authority in our letter dated 27 November 2019.</p>
<p>Open Space Officer Reply Received 2 March 2021</p>	<p>This application generates a requirement for open space and green infrastructure in accordance with policy DM10 of £15,725.</p> <p>If the application is recommended for approval, we can provide details of specific open space schemes, in line with CIL regulations.</p>
<p>Open Space Officer Reply Received 6 July 2021</p>	<p>Our response dated 2/3/21 remains valid.</p>
<p>Sustainability Officer Reply Received 30 April 2019</p>	<p>There is currently insufficient supporting information to discharge Condition 2 and 8 with regards to the Preliminary Ecological Appraisal Report Amendment December 2014 and specifically the recommendations contained in Appendix 4. There is no evidence of the adoption of an ecologically sensitive lighting plan, detailed soft planting specifications for hedgerow retention and reinforcement or illustration of provision of bat and bird boxes on submitted plans.</p> <p>The site is within the identified Zone of Influence (Zol) for Braunton Burrows SAC and is therefore subject to the requirements of the Habitat Regulations Assessment (HRA) and Appropriate Assessment (AA) conducted by the LPA. Any consented development within the Zol will be required to contribute towards</p>

Name	Comment
	strategic mitigation measures designed to offset the impacts of increased visitor pressure at the SAC.
<p>Sustainability Officer</p> <p>Received 13th December 2019</p>	<p>The Preliminary Ecological Appraisal (PEA) August 2019 provides an appropriate update to the 2014 assessment. The PEA does not provide adequate detail regarding the implementation of the Conservation Action Statement at Appendix 4 (2014) or the additional recommendations in the PEA. Therefore the concerns raised at my previous response (April 2019) have not been resolved. A fully detailed Landscape and Ecological Management Plan (LEMP) should be produced in order to ensure the implementation, management and monitoring of all retained and enhanced habitats within the site.</p> <p>There appears to have been no assessment of the losses and gains in biodiversity as a result of the proposed development or any statement relating to the provision of enhancements to achieve an overall net gain. There is still no evidence of the current scheme being informed by a habitat sensitive lighting specification.</p>
<p>Sustainability Officer</p> <p>Reply Received 12 February 2021</p>	<p>I cannot see any additional supporting information which adequately addresses the issues in previous responses. My response dated 6/02/20 states:</p> <p>The submitted metric appears to provide an appropriately detailed representation of the site and the extent of habitat mitigation required to achieve the desired net gain in biodiversity. As per my previous consultation responses (30/04/19 and 13/12/19) there is still no LEMP, ecologically sensitive lighting plan or illustration of provision of bat and bird boxes. The planting specification is insufficiently detailed and does not contain target condition, density, height for hedgerow planting or any long term management specifications.</p> <p>The soft landscaping plans (18/09/20) do not address any of these outstanding issues.</p>
<p>Planning Policy Unit</p> <p>Reply Received 6 June 2019</p>	<p>Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. As you are aware, the Council have a recently adopted Local Plan (October 2018) which was considered by the Inspector to be 'Sound' and in general conformity with the NPPF; therefore, policies in the Local Plan are up to date. The NPPF is a material consideration in planning decisions.</p> <p>This allocated greenfield site is within the defined development boundary for Instow in the adopted Local Plan where the principle</p>

Name	Comment
	<p>of housing is acceptable subject to Policies ST07(1A) and INS01. The design of the proposed dwellings should be in accordance with Policies ST02, ST04, INS01, DM01 and DM04. I welcome the fact that no dwellings are proposed within the land at risk of flooding and the sight lines of the Grade I listed St. John the Baptist Church from the northern edge of the village in accordance with criterion (c) of Policy INS01.</p> <p>As set out in paragraph 6.5 of the Local Plan, 'all development will be expected to provide a net gain in biodiversity where feasible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support 'biodiversity offsetting' to deliver a net gain in bio-diversity off-site'. If there is some loss of existing habitat then this should be mitigated against by providing additional planting on or off site, although I would draw your attention to Policy INS01(2b) which requires the protection and enhancement of existing hedges with wildlife or amenity value and additional planting on the southern and eastern boundaries to enhance biodiversity, integrate development into its countryside setting and minimise the impact on existing development. The Defra metric should be used to ensure there is an overall net gain in biodiversity. Therefore, you should ensure that development would not preclude wildlife from continuing to move through this area in accordance with ST14 and DM08. I would wish to be assured that the existing hedgerows are retained wherever possible and any new planting as required by policy forms part of a 'Landscape and Ecological Management Plan' (or equivalent) so as to ensure they are not removed by future residents and subsequently replaced with fencing.</p> <p>Should you be minded to support the application, I would appreciate details from the developer in terms of housing delivery rates so the information can inform the Council's housing trajectory and 5 YHLS over the Plan period.</p> <p>From a policy perspective, there is no objection in principle to the erection of five detached dwellings on this site subject to the stated criteria within Policy INS01 and the conditions set out within the outline planning permission 58608.</p>
Recycling & Commercial Services	No comments received
South West Water Reply Received 1 May 2019	I refer to the above application and would advise that South West Water has no other comment than to confirm a connection to the public sewer for foul flows would be permitted although it is acknowledged the site has no immediate access to such.

Name	Comment
<p>South West Water</p> <p>Replies Received 13 November 2019 1 October 2020</p>	<p>I refer to the above application where amended information and/or plans have been submitted and would advise that South West Water has no comment.</p>
<p>South West Water</p> <p>Reply Received 8 July 2021</p>	<p>I refer to the above and would advise that South West Water has no comment on the further information/ amended plans.</p> <p>I note that the drainage strategy drawings available on the planning portal do not indicate how and where the development site drainage (foul and surface water) are to be discharged at this time.</p> <p>With reference to the Outline permission comment from South West Water (attached for reference), I reiterate that South West Water has no objection subject to foul flows only being connected to the public sewer the nearest of which to the site being some 200m to the west in open land to the rear of properties at Sandhills.</p> <p>Foul Sewerage Services South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network. The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.</p> <p>Surface Water Services The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):</p> <ol style="list-style-type: none"> 1. Discharge into the ground (infiltration); or where not reasonably practicable, 2. Discharge to a surface waterbody; or where not reasonably practicable, 3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable, 4. Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation)
<p>Taw Torridge Estuary Forum</p>	<p>The Forum did not object to the original application which was for bungalows suitable for older local people and which might even been affordable in nature. Clearly the revised plans show that this is no longer the case and that the houses planned will be</p>

Name	Comment
Reply Received 10 January 2020	expensive and likely to attract at least some second home owners. Secondly, while the originally planned bungalows would not have intruded visually onto views of the estuary these larger houses will impact considerably on the views from Appledore and Crow Point. Once again we see that having obtained outline planning for one type of development the developers can subsequently change the plans to something completely different. On these grounds the Forum now wishes to object to the development.
The Biosphere Service	No comments received

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
	0.00	18	0.00	0.00

Scheme as originally submitted

- The scheme is not as the approved scheme from 13th September 2018
- Concern that the dwellings are no longer 1/ 1 and a half storeys high
- Full 2-storey dwellings is unacceptable
- House height should be lowered and downscaled
- The size of the homes will not be available for local first time buyers
- Does not take account of the need to house elderly population
- The dwellings should be for permanent residents not for 2nd homes/air B&B
- Housing Survey for Instow 2019 states that we should have low cost/affordable. These are not
- Should be 3 executive style houses and rest as social housing
- Impact on the historic landscape of Barton Farm
- Impact on drainage to local field systems and flood plain
- Adverse visual impact on the area
- Adverse visual impact on the setting of the Grade I listed Church St Johns
- Significant landscape impact/Adverse impact on the landscape to the north
- The materials are unacceptable
- Roof materials are inappropriate – most other dwellings have Roman tiles
- Adverse effect of suburban styled housing
- Impact of raised decking on amenity
- Impact of lighting to neighbouring properties
- Impact on the entrance into the village. Buildings will not give a good impression of Instow to the wider public
- Application site is prominent sited on a hillside, prominent
- Does not engage with the community
- Compounded traffic impacts

Amended scheme to date

- Latest plans are a wholesale change to the scheme in terms of design. Should be a new application
- Should be given the opportunity to be heard at Planning Committee
- Scheme should be 1 or 1 and a half storeys as per original outline approval.

Considerations

Proposal Description

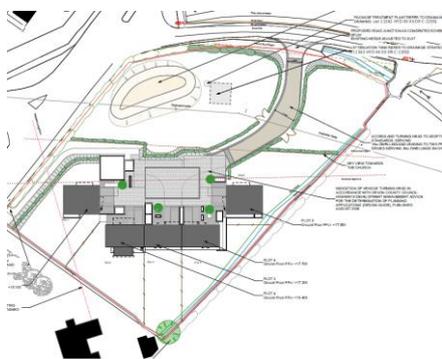
The current application seeks detailed full planning permission for the development of the site for the erection of 5 dwellings on land within the Instow Development Boundary at Barton Cross.

Following concerns from Historic England, the Instow Parish Council and local residents in respect of design, amenity, and the effect of the proposal on the setting of the Grade I listed St Johns Baptist Church to the east, the scheme was taken to the South West Design and Review Panel (SWDRP) in February 2020, for consideration.

The SWDRP commented that the original proposal illustrates a design which was too 'suburban' and that a more rural/urban 'unique' vernacular response would be more appropriate for an alternative contemporary approach. There was also opportunity to design out the flat roofed garage types and locate plot 5 away from the views towards the listed church.

The proposed full application has been amended to seek to address and incorporate the comments of Historic England, the Parish Council, Objectors and the South West Design and Review Panel, and the proposal now comprises the amended plans before the Planning Committee.

The amended scheme shows dwellings are located to the south west of the site forming a courtyard of buildings around a shared access to the site is to the north east into Rectory Lane. The new access is to be constructed to adoptable standards. A vehicle turning head is provided to the front of the dwellings within the courtyard area. Each property is provided with 2 parking spaces, including an integral garage, with spaces to manoeuvre at the front to access/egress in a forward gear. Cycle storage is provided within each garage. The following is a *Proposed layout*



A new pedestrian access would be provided from the site to connect to adjoining public footpaths and to a pedestrian crossing point.

In design terms, the group of buildings shows a mix of detached and semi-detached dwellings, with the detached dwellings forming a 'bookend' design framing the semi-detached units. The development proposes a contemporary approach to development of this site using a pallet of traditional 'natural' materials (Stone, timber, cladding, seam roof and boxing). Internally the houses will have a 'reversed level living' design with living space above the bedrooms and garages. Amenity space for each property would be provided to the rear and side of each plot. The following shows the Contextual design



Land to the north east would provide informal open space with soft landscaping, introducing a variety of different planting, raised planters and hedges. The site would provide biodiversity enhancements in the form of native hedge row boundary treatments, adjustments to the northern boundary to provide a new stone faced Devon bank adjacent to the road frontage, native hedgerow planting to either side of the access road, provision of wildflower meadow planting. The scheme is not accompanied by a detailed LEMP but does show that Biodiversity Net Gain can be achieved.

Drainage would be provided in the form of a swale basin and additional attenuation tank to the north, to discharge into the culverted watercourse under Rectory Lane at a restricted rate, with permeable surface materials around the buildings and access road.

The proposed method of foul water management is to discharge to a package treatment plant (WPL Diamond or similar approved product) with an outlet for treated water flow into the water network to Rectory Lane. The Package treatment plant is located to the north, adjacent to the Swale.

Planning Considerations Summary

- Principle of development
- Design principles and impact on Heritage Asset
- Amenity
- Highways
- Ecology
- Flood risk and drainage
- Contributions

Planning Considerations

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

Section 16 of the Listed Building Act, in considering whether to grant listed building consent for any works the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

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

Principle of development

The site is located within the development boundary for Instow as illustrated in the North Devon and Torridge Local Plan where the principle of residential development is supported. The development of the site would support the government's aim of significantly boosting the supply of housing (NPPF para 59) and will contribute towards the strategic aims of the NDTLP to improve the economy of Northern Devon and to provide a balanced housing market (NDTLP Spatial Planning Vision).

The site is located within walking and cycling distance of shops and facilities within Instow, and within close proximity to sustainable modes of transport (bus routes) to the west of the site, and has good access to the local highway network to the B3233 providing good transport links to the Sub Regional Centre of Barnstaple. The site is situated in a sustainable location whereby in considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development, which is contained in the NPPF. The development of this site for 5 dwellings would secure sustainable development of this allocated site that contributes positively towards the local economy, and to the provision of houses within the Local Centre of Instow, in accordance with the sustainable principles of policy ST01.

Instow is a Local Centre where policy ST07 (1) states that such Local Centres are the primary focus for development of housing in accordance with Local Plan Policy. Within Instow, Policy INS – '*Instow Spatial Strategy*' enables the provision of a minimum of 38 new dwellings for Instow. The site is specifically allocated for housing as part of 3 allocated sites allocated for housing in Instow, within the NDTLP through policy INS01 – '*Land at Barton Cross*', for development for approximately 5 dwellings:

INS01 (1) 'Land at the junction of Anstey Way and Rectory Lane, as shown on policies map 19 is proposed for approximately 5 dwellings with an emphasis on providing a mix of housing types, tenures and sizes to reflect local needs'.

The site would deliver 5 dwellings with a mix of dwelling sizes comprising 60% 3 bedroomed (Plots 2-4) and 40 % 4 bedroomed (plots 1 and 5)

The Policy reference in INS01 to local needs is more about balancing the housing market with some smaller dwellings rather than restrictions on tenure, whereby the only way to influence tenure would be restrictions if the scheme were to provide affordable housing. The site falls below the threshold for the provision of affordable housing and, the LPA cannot in this case influence the tenure of the scheme. Whilst the greatest need in northern Devon is for 2 and 3 bed units (HEDNA), the 60 -40 split would provide a majority of 3 bedroomed dwellings on this small site for 5 dwellings. There is no evidence to suggest that this will not provide an appropriate mix of dwellings for Instow to deliver a proportionate mix of dwellings, in terms of size and type, which would contribute towards a balanced housing market, and which responds to the local characteristics of Instow and for the delivery of 5 dwellings on the site.

The proposed provision of 5 dwellings, on this windfall site will contribute positively towards the total housing requirement for Instow, providing sustainable development which accords with the overarching aims of National and local and spatial housing provision. There are no in principle objections for the provision of 5 dwellings on this allocated site within the Instow Development Boundary, in accordance with policies ST01, ST06, ST07, ST08, INS and INS01.

The scheme is below the threshold for provision of affordable housing. The proposal does generate the need for contributions towards education. The scheme is above the thresholds for provision of off-site Public Open Space Contributions and this will be secured through a Section 106 agreement in accordance with the requirements of Policy DM10.

Design principles and impact on the heritage asset – Grade I listed Church St John Baptist Church:

General context of the landscape and street scene

The Parish Council and local residents have raised concern relating to the effect of the design of this proposal on the character and appearance of Instow Village

The approved outline scheme (58608) approved, the principle of 5 dwellings and the access and layout of the site, but did not approve matters of height, massing, materials or landscaping which were reserved matters. The minutes of the Committee Meeting refer to the inclusion of dwellings to a height of one and a half storeys. As the approval granted outline permissions with only access and layout agreed, the height of the buildings was therefore to be considered as part of any prospective Reserved Matters application. A Reserved Matters application was not forthcoming in respect of 58608.

What is before the LPA and the Committee is a new, full application and therefore would not be subject to any conditions attached to a previous grant of outline planning permission. The application must be considered afresh in terms of the height, scale and mass of the proposal as a full application and in light of the comments of the Parish and objectors, the SWDRP and Consultees which include the Heritage Officer.

Policy DM08A emphasises that development should be of an appropriate scale, mass and design that recognises and respects the landscape character of all types of landscapes, and avoids adverse impact to the landscape in which it is placed. In this case the area has two distinct characteristics: the rural elements to the east and north of the site towards the older rural settlement along rectory Lane, and the urban elements to the south and west towards Anstey Way and Marine Parade.

Part 12 of the framework and policies ST04 and DM04 of the NDTLP require new development to achieve a good quality design, which responds well to the context of the site, and established plot patterns, and which presents appropriate scale and massing and sympathetic fenestration, external appearance and materials.

Paragraph 129 of the NPPF states that design quality should be considered throughout the evolution and assessment of individual proposals. Given the concerns raised in respect of design, the LPA have sought the advice of the South West Design Review Panel (SWDRP) in February 2020, to carry out an independent assessment of the site. This was based on the original submission and not on the current plans before the Committee.

The attached South West Design Review Panel response shows, the panel were generally supportive of the overall layout, and use of green open space, but considered that there was opportunity to present a clearer transition between the older more traditional rural settlement along Rectory Lane towards the Church which emphasises a more rural design form, towards the newer developments along Marine Parade and Anstey Way. In summary the findings of the panel were as follows:

- Longer range views towards the site may be beneficial
- It may be beneficial to use an alternative house type on plot five that does not include a large gable end
- It may be helpful for the LVIA to consider a wider context
- Providing access to the green space located within the northeast part of the site for amenity may be beneficial
- Consider the long term management of the proposed rear boundary fences
- Further consider accessibility and level changes across the site
- Low level planting or other feature in the open space within the visibility splay may be beneficial
- There is a concern that the internal road may be overly wide resulting in an urban feel
- It may be beneficial to empirically quantify the proposed ecological net gain
- Trying to create a traditional style of architecture to fit a non-traditional internal arrangement may be resulting in problems and tensions in the design
- It is considered that the size of the garages is very large and result in overly large footprints
- The house types feel suburban and it may be beneficial for a more rural/ agricultural vernacular response
- It may be beneficial for the proposals to further consider their energy and sustainability credentials.

The advice from SWDRP was that the scheme could provide a transition between the rural traditional design forms and the more modern elements of the urban street scene, as a 'gateway' into Instow. The panel considered there was opportunity to introduce elements of interest into the street scene, and to provide a good quality development which will not harm the historic landscape character of this site. The scheme for 5 dwellings was subsequently amended as presented, to seek to address these comments.

The proposed layout has changed from the previous submission, showing the courtyard of dwellings, but is located in the same south westerly position as per the previously approved scheme. Given the need to address the impact on the setting of the historic area of Rectory Lane and the listed Church, the proposal achieves this by demonstrating a meaningful separation between the historic area of Rectory Lane and the Village of Instow and allowing clear views from Anstey Way back towards the church tower.

As shown below, the cluster of buildings would follow the urban built form of Instow, curving around towards Crossways, Vespers and Valeridge to the west, and relating to the urban context of newer developments along Marine Parade.



Contextual drawing – Anstey Way

In light of the comments of SWDRP, the design is deliberately contemporary, as a 'gateway' site into Instow, drawing on the advice from SWDRP to provide a transition from the traditional rural elements of Rectory Lane and the buildings around the Church as shown below:



Linking to the newer more 'contemporary, developments along Anstey Way and Marine Parade as shown below. This would effectively link the rural and urban street scenes and provide an attractive and interesting feature entrance into the village emphasising the rural/urban mix.



New development along Anstey Way and Marine Parade

When viewed in context with the rural backdrop to the east, the amended position, and the pitched roofed design of the buildings appear well positioned in line with established built form, with minimal disruption to the immediate rural context of the area, and reflecting the existing field pattern. The provision of the detailed landscaping scheme would further assimilate the development into the rural landscape.

When viewed from higher ground to the east, and in particular from the churchyard, the position of the cluster of buildings to the southern part of the site would appear logical, and in line with the established built form. The roof ridges will be read in context with the backdrop of new development along Marine Parade, and in context with the new roofline of dwellings currently under construction along Anstey Way. The Conservation Officer has acknowledged that the location of plot 5 back towards the south, and the relocation of the access road would reduce the overall impact of the scheme, and is supportive of this element.

Following concerns of Historic England and the authorities Conservation Officer and the comments of the SWDRP, the principle aim of the revisions to the scheme was to address the effect of the scheme of the grade I listed Church of St John the Baptist to the east, and to assimilate the development into the wider street scene of Anstey Way and further to Marine Parade. Further comments raised by the SWDRP, were to create

a sense of place that is locally distinctive, to respect the character of the site and to have an 'honest' approach to the architectural style of the area.

The applicants have substantially revised the previous scheme which now shows the mass of the dwellings positioned to the south, following the established plot pattern of Instow to the south and west. Within the site, the form and layout of the buildings demonstrates a 'courtyard' effect to reflect a more traditional rural appearance, within can be found in groups of rural buildings along Rectory Lane. The scheme is contemporary in appearance but also introduces elements of traditional materials, defining the key rural characteristics and qualities of the area paying respect to the more traditional elements of Rectory Lane and the buildings around the Church.

Within the site the layout is well-designed, with clear access for all users along the access route to the site. With street patterns dictated by the layout and the siting of the buildings to the southern part of the site. The layout provides clear public and private spaces which are well designed, safe and provide elements of privacy for occupiers of the site. Following advice of SWDRP the pedestrian route from the dwellings to the public realm was revised, providing accessibility to the west of the site. The site would be relatively level and accessible for all users with clear links to pedestrian footpaths and to the local cycle routes.

The height scale and mass of the buildings is considered appropriate. All plots have similar moderate ridge height of approximately 9.9 metres following a gentle slope from north to south where ridges appear lower.

Plot 5 to the north would appear moderately higher following the rise of the land, which is marginal increase in height and not incongruous or out of context with the site or its surroundings. All plots, with the exception of plot 2 are of similar orientation, scale and mass. Plot 2 is deliberately set at a 90 degree angle to emphasise the contemporary appearance of the site and add interest to the group of buildings contributing positively to the contemporary experience of the site.

The pallet of materials is sympathetic, adding elements of natural stonework, vertical chestnut cladding, render and a zinc slate coloured roof which will appear as a pleasant modern interpretation of the older rural buildings closer to the listed Church. The fenestration is of modern form, adding attractive angular forms to the appearance of the dwellings. The contemporary design form, reflects the comments of the SWDRP that the site would deliver a contemporary transition between the older rural areas and the more modern urban areas of Instow as part of the design evolution of the site. The proposed changes would contribute positively towards local distinctiveness, the historic rural environment, and to the wider sense of place defined by the mix old rural and new urban development. The site would retain existing boundary treatments and landscape features whilst introducing effective biodiversity gains and new attractive landscape features to help to screen the site and maintain the distinctiveness of the area. The delivery of these gains can be secured via condition to request a detailed LEMP.

Ideally the area of open space to the north east of the site should be controlled through a Section 106 Agreement which will ensure that this area is maintained to protect the entrance into Instow and to limit intrusion into this open area thus protecting the historic assets.

The development of this site achieves high quality design that is sustainable for the lifetime of the development. The design is good and produces an attractive and interesting street scene on the approach into Instow. The design respects the wider context of the area, including the heritage aspects referred to above. The proposals are well laid out and attractive and the site layout would allow ease of access for all users. The emphasis on a more contemporary architectural style and, a courtyard layout would be reflective of the rural elements of Rectory Lane, emphasising local rural distinctiveness, and which is generally accepted by the Conservation Officer and accords with landscape policy DM08A and design policies ST04 and DM04 and part 12 of the framework.

The effect on the listed St John the Baptist Church

Part 16 of the framework and policies ST15 and DM07 state that proposals which conserve and enhance heritage assets and their settings will be supported. Where there is unavoidable harm to the setting the scheme will only be supported where the harm is minimised as far as possible and an acceptable balance between the harm and the benefits of delivering development can be achieved. Paragraph 194 of the framework is clear that effect on assets of highest significance such as Grade I listed buildings must be wholly exceptional. Paragraph 196 is clear that where the development will lead to less than substantial harm to the significance of the asset the harm should be weighed against the benefits of developing the site, and securing its optimal viable use.

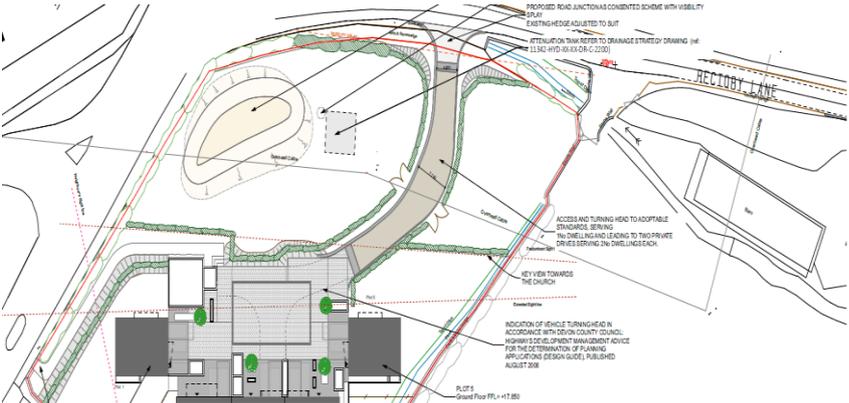
Historic England have provided a detailed response to the original scheme in their response of 8th May 2019, and have subsequently deferred to the expertise of the Local Authority Conservation Officer in their response of 20th October 2020. The LPA consideration is based on the comments of the Heritage Officer.

In terms of paragraph 196 of the framework, the optimal viable use of this site is for housing as identified at INS01. One of the key issues with this site was how to alleviate the effect of the development on the setting of the Grade I listed Church, to retain principle views from Anstey Way back towards the church tower, to preserve its setting.

The lower part of the church and the buildings to the front of the church are mostly screened from views from Anstey Way by the rising lay of the land, established boundary vegetation and a large metal framed agricultural building to the west of the church. Therefore, one of the key challenges to the revision of the scheme was to provide effective separation between the southern built form of the site, and the site lines of the church tower from views from Anstey Way and Marine Parade.

The applicants have explored the way the church is perceived from viewpoints around the site, and in particular from public views along Anstey Way, concluding that to improve views to the church tower, the development can be orientated further to the south in a courtyard formation. The contextual drawing shows that by moving the development further to the south, a better line of site towards the tower would be successfully achieved. The tower would not be read directly in view of the development as the communal open space to the north of the dwellings, and positioning the massing of the buildings, and in particular plot 5, further to the south allows clear and unrestricted site lines of the church tower from Anstey Way and from Marine Parade.

The Conservation Officer has commented that *'The latest version of the scheme, as shown on the 'Comparison of the site layouts post and pre DPR review' drawing, shows that plot 5 has been pulled back marginally to the south, and the majority of the access road is now further to the south. This in itself will have a slight reduction in impact and is welcomed. In terms of massing, the alignments of the houses on plots 3 and 4 and the parallel ridges of plots 1 and 5 results in a tighter layout which is perhaps more akin to a functional rural building collection....'* Therefore, the amended design accords with the findings of the SWDRP, and addresses the comments made in respect of Heritage Impacts the listed church allowing a clearer more defined line of site, framed by the flank of plot 5. The plan extract below shows this in more detail:



Line of site drawing showing the gap between the built form and the line of site to the church to the east.

The revised siting conserves the setting of the Grade I listed Building and would result in less than significant harm to the heritage asset. In this case, the optimal viable use of the site is for the 5 dwellings and the less than significant harm on the heritage asset does not outweigh the economic, social and environmental benefits to be gained from developing this allocated site.

The Conservation Officer considers that *'the turning of the house on plot 2 through 90 degrees, so that its ridge is perpendicular to the others, in my view detracts from the coherency of the scheme. The proposed large box windows and overhanging gable feature on plot 2 introduces elements which are not particularly compatible with the historic context, and will tend to stand out from, rather than blend in with, the surrounding built form.'*



As can be seen on the contextual drawing Plot 2 would be markedly different, but appears in context with the contemporary design of the site and is not unattractive, serving to break up the mass of the site and, adding a degree of interest on the approach to the more modern urban areas of Instow. The introduction of the planting to the boundary, and within the site, would add to the quality of the site, providing a green entrance into Instow, and will help to soften the appearance of the site over time.

On balance, The Authority must be satisfied that the design would benefit this key entrance into Instow Village. The Authority agrees with the Parish Council and local residents that the site makes an important contribution to the character of Instow, on the approach to the village from the north. The buildings will appear taller than one and a half storeys as minuted in 58608. However, having regard to the advice of the SWDRP, the applicants have sought to take the opportunity to reflect the historic rural areas of Instow and the modern urban areas through a contemporary design for this scheme, addressing the Heritage concerns in respect of the setting of the Grade I listed Church, providing a clearer and coherent separation between the built form and the setting of the listed building. In light of the Conservation Officers comments relating to plot 2, the application is contrary to policy ST15 and DM07 of the NDTLP but, in this case, the harm is less than substantial and when applying the planning balance, regard must be had to the duty in Section 66 of The Act and paragraph 194 and 196 of the NPPF.

Amenity

Paragraph 127 of the NPPF and policies DM01 and DM04 seek to ensure that the amenities of neighbouring properties are not adversely affected and that the amenities of intended occupants are not unduly harmed as a result of the uses.

A number of objections have been received. The objections centre on the principle of the proposal, the scale and mass of the dwellings, the height of the dwellings, and the effect on the local and historic environment. The principle objection to the current amended scheme raises concern regarding the degree of changes proposed to the scheme in design and layout, and whether this would require a new application. The application has been the subject of various alterations over the course of the consideration of this site. The latest amendments before the committee are within the red outline of the proposed site, and therefore are considered as part of the current proposal under 66623.

The objectors refer to the Planning Committee considerations for application 58608, and the minutes of 13th September 2017 that the height of the buildings should be one or one and a half storeys high. This was minuted but did not form part of a planning condition for 58608. The application before the Committee is a separate full planning application to consider the development of the site for 5 dwellings. The application should therefore be considered afresh in light of the revised designs

In terms of amenity considerations, the proposed dwellings are designed with reverse living with principle living areas at first floor and bedrooms below. Principle living areas and picture windows and balconies are at the front, offering views to the west towards the estuary.

The nearest dwelling is Crossways to the south. The case officer has had opportunity to previously visit Crossways, and has recently viewed Crossways from within the

development site. Crossways is elevated to the south of the development site. The dwelling has clear glazed windows facing to the northwest with views towards the estuary. The south eastern side of Crossways is screened by the existing hedge. The amenity space for Crossways is to the east and west and is screened behind the boundary hedge to the south of the site.

The photos below show the position of Crossways in relation to the site and the north eastern side elevation of the property facing the site. Plan 1840 0905 rev D shows the proximity of Crossways to the rear of Plots 1-5.



Side view of Crossways



Plan extract showing Crossways to the south

In terms of separation distances, Crossways is situated approximately 36 metres from the rear of plot 1, 22 metres from the rear of plot 2, 32 metres from the rear of plot 3 and 41 metres from the rear of plot 4 and 65 metres from the rear of plot 5.

There are no ground floor level windows, one doorway and a raised rear access point which would look towards the existing boundary hedge. At first floor there are 2 windows serving a landing and wc/bathroom which look indirectly towards the western elevation of Crossways at a distance of approximately 35 metres. Although there is a considerable separation distance, it is considered that amenity mitigation from the first floor windows is reasonable and a condition is included that the landing and wc/bathroom window of plot 1 be obscure glazed.

Plot 5 has a similar internal layout to plot 1, but this dwelling would be positioned much further away at a distance of approximate 62 metres and would be screened by the side walls of plot 4. To ensure privacy to the occupiers it is considered reasonable that the WC/bathroom window be obscure glazed in plot 5. The landing will face towards a field boundary to the south east and will not directly affect Crossways.

The rear of plot 2 is situated approximately 22 metres from the north eastern side of Crossways. The picture window at the rear serves a first floor dining area and faces towards the boundary of Crossways. Views from the window would be of the boundary hedge and of the blank side wall of Crossways, avoiding the principle widows to the west. Further to the east plots 3-4 have first floor windows serving kitchens, wc/bathrooms and smaller windows serving first floor living areas which look south toward the hedge boundary and away from the living space of Crossways. Principle views from these dwellings are through the larger picture windows facing North West towards the estuary. WC windows are conditioned to be obscure glazed. In designing the layout, the LPA considers that the applicants have had regard to the importance of protecting the amenities and enjoyment of property to Crossways. The

windows at the rear do not offer direct views towards principle living areas. The plots are set lower down the slope of the site with views from kitchens and living space indirect and obtuse at worst. WC/bathroom windows are conditioned to be obscure glazed.

The rear of plots 1 and 2 would be apparent from the side garden area of Crossways, but principle views from Crossways are to the west towards the estuary. The garden areas for plots 1-4 are set lower than the ground level of Crossways and there is a hedgerow boundary screen between the site and Crossways.

Within the courtyard, the dwellings have been designed to reduce impacts from privacy. Principle views from each dwelling would be to the North West. Smaller windows are proposed in side elevations of plots 1 and 5 serving first floor living rooms but these are small and offer only obtuse views within the access courtyard. Amenity space at the rear would be separated by appropriate landscaping and boundary fencing treatments the proposal would ensure the amenities of existing and future neighbouring occupiers are safeguarded. The amenity of the occupiers of the dwellings would be safeguarded through the use of suitable conditions as discussed.

In terms of effects on daylight, the application is supported by a shadow plan (1840 0801 rev D) which illustrates that the scale and mass of the dwellings would not result in significant loss of daylight to Crossways, or from Crossways or the boundary treatments to dwellings within the site, throughout the year. Daylight would be offered to the occupants of the dwellings, and would not be unduly restricted from surrounding uses.

The Police Architectural Liaison officer has raised no objections to the proposal in respect of public safety or crime and recommends that security measures be carried out in line with security measures in Building Regs Document Q (ADQ).

Environmental Health have raised no objections in respect of Environmental Health Matters or wider public amenity, and recommends the following conditions:

- Provision of a Contaminated Land Phase 1 Condition to assess the site for contamination prior to commencement of works.
- Contaminated Land Reactive Condition to assess for any contamination during the construction phase.
- Provision of a Construction Management plan (CEMP) which is included as a condition
- Construction hours condition to restrict construction times outside of anti-social hours.
- Advisory note in respect of the inclusion of the package treatment plant and the need to obtain a permit from the EA.

On balance, there are no wider public health impacts from the propose layout of this scheme. Environmental Health matters can be conditioned accordingly. The obtuse angle of the proposed dwellings, the lower lay of the land and separation distances between neighbouring properties means that although the new dwellings would be apparent from Crossways, the degree of impact to privacy would not be unacceptable or significant to warrant refusal of the scheme in terms of DM01 a) or b) or DM04 i) or paragraph 127 of the NPPF.

Highways

Local residents have raised concern to the safety of the proposed access. Although DCC Highways have not commented on this application, the Highway Authority have previously considered the principle of 5 dwellings accessing this site through 58608, and in doing so would have considered the new access location and junction with Rectory Lane and Anstey Way. No objections were raised at the time of 58608.

DCC Highways have commented on the latest set of plans that there are no highway objections to the proposed development.

The application proposes minor changes to the access to the site, but the site would deliver adequate visibility into Rectory Lane in accordance with policy DM05 of the NDTLP.

Within the site the site access road is suitable to enable person's clear access to Rectory Lane with the option to reverse within the site to enable passing of vehicles. Adequate parking can be provided for each property in the form of garages and parking areas, and turning can be achieved within the courtyard area to accord with policy DM06 of the NDTLP.

A footpath link is proposed to link the site to Anstey Way which will provide safe and legible pedestrian access to the site. There is a gated pedestrian link across the site leading to Rectory Lane. A lack of footpath across the site frontage is not considered to result in unacceptable impact on highway safety. Whilst the route towards the Instow School and Church has no footpath, this is reflective of many rural roads and would not result in undue adverse impact on the safety of the highway network.

Conditions are included that the site access, parking and layout be provided before occupation of the dwellings hereby approved.

The proposal accords with the principles of DM05 and DM06 and takes appropriate opportunities to promote sustainable transport modes and the access would be safe and suitable for all users of the road in accordance with paragraph 108 of the NPPF. The principle of this development has been previously agreed, the development will not generate an unacceptable impact on highway safety nor result in severe residual cumulative impact on the road network accordant with paragraph 109 of the NPPF.

Ecology

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

Paragraph 175 of the NPPF and policy DM08 of the NDTLP states that adverse impact on protected species should be avoided where possible and sufficient mitigation used.

The scheme is accompanied by a Preliminary Ecological Appraisal (PEA) from 'eckoella Consultants', and a Biodiversity Net Gain (BNG) assessment from 'Greenecology'.

The PEA included a phase 1 Habitat Survey and assessment for protected and notable species. The report concludes:

- There are no priority habitats within 100m of the site boundary
- No statutory designated sites will be directly affected
- A mature English Elm is the only feature which may have habitat for bats but has 'low potential for bats'. There are no obvious other potential roosts.
- No evidence of other protected species or significant habitat identified (Badgers, dormice, hedgehogs) There is potential that the wet ditch could provide a route for Otters to traverse the landscape. This ditch will remain.
- There is potential for a range of breeding birds to use the hedges
- There is potential for the ditches to harbour reptiles although the wider site habitat and area of development is considered to be of low habitat importance.
- There are no records of Greater Crested Newts. There are no suitable water bodies within the site and there are 3 water bodies within 500m. NO GNC observed on site.

The main changes resulting from the development is hedgerow removal and the presence of artificial lighting.

Recommendations

- An appropriately qualified Site Ecologist should be appointed to the project to advise on any mitigation and enhancement works whilst works are carried out.
- Replacement and enhancement of hedgerows with native species
- Regular checks on all features which may harbour breeding birds. An ecologist must be contacted if active nests are found once works have commenced.
- Excavations to be covered to prevent wildlife being trapped.
- Biodiversity enhancements including bird and bat boxes
- Biodiversity improvements in the form of improved grassland/ wildflower meadow and a clear maintenance scheme
- New wetland features within the site to provide features suitable for amphibians and other wildlife.
- No further survey is required.

A Biodiversity Net Gain calculation has been submitted which illustrates that the site will deliver a gain of 0.22 habitat units (+12.69 % gain) and a gain of 0.89 Hedgerow Units (+37.10 % gain).

A detailed landscaping plan has been provided (1840 0940 D) which shows the considerable biodiversity gains across the site. However the site is not accompanied by a detailed LEMP. The authorities Sustainability Officer has commented as follows:

'The submitted metric appears to provide an appropriately detailed representation of the site and the extent of habitat mitigation required to achieve the desired net gain in biodiversity. As per my previous consultation responses (30/04/19 and 13/12/19) there is still no LEMP, ecologically sensitive lighting plan or illustration of provision of bat and bird boxes. The planting specification is insufficiently detailed and does not contain target condition, density, height for hedgerow planting or any long term management

specifications. The soft landscaping plans (18/09/20) do not address any of these outstanding issues.'

Therefore, whilst the scheme shows a suitable landscape scheme can be provided it does not show how the landscaping would be managed at this stage. A suitable condition is therefore included requiring the submission, and agreement of a detailed LEMP and lighting plan prior to any works commencing.

In terms of the location of the site, it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the ZOI is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972. In this case 5 dwellings requires 5 x £190 (total £950) which is to be secured via a Section 106 agreement.

Flood Risk and Drainage

All of the residential development is located in Flood Zone 1. Part of the site to the north is Flood Zone 2 and 3 outside of the residential development area. The Environment Agency have been consulted at all stages and in previous application 58608 and have raised no objections subject to a condition that the proposal be carried out in accordance with the site layout on plan number 1840 0100 H.

A Technical design Note has been presented from 'Hydrock' (Appendix 2) with accompanying drawing 'drainage strategy' ref 11342-HYD-XX-XX-DR-C-2200 which is modelled on the provision of 5 dwellings on the site. The plan is referred to on the site layout plan 18400100H. To provide surface water runoff, an attenuation Swale and cellular storage facility is proposed to the north west of the site to discharge into the Culvert at Rectory Lane. To provide foul drainage, the scheme proposes to discharge treated foul water to a culverted watercourse under Rectory Lane. The proposal would restrict flow rates using a Hydro-brake to 1.5 litres.

SWW have no objections subject to foul flows being connected to the public sewer (the nearest of which is approx. 200m to the west to the rear of Sandhills). SWW also advise that the applicant should demonstrate to the LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable.

Surface water run off

The design note shows that the underground conditions comprise mudstone and siltstone, and that infiltration is not possible for managing run off in a storm event, and therefore, the applicants propose to collect and treat water via a swale and attenuation tank shown on 18400100H, and to discharge to the culverted watercourse under Rectory Lane at a restricted rate. Storage volume has been calculated for the 1 in 100 year storm event plus a 40 % climate change allowance. The distribution of surface water to a surface water body is reasonably practicable in this case, and is the second preferred option in the SWW Hierarchy. The applicant has demonstrated to the LPA that

its prospective surface run-off would discharge as high up the hierarchy of drainage options as is reasonably practicable to discharge into the culvert.

The EA is satisfied with the level of surface water drainage detail to be provided and have recommended that the scheme be carried out in accordance with the on-site measures shown on 18400100 H (Swale and Attenuation crates). The EA is satisfied that the detailed drainage strategy would ensure that the scheme does not result in adverse impact to the flood zone, or to neighbouring uses or to the local highway network. The maintenance of the system would be managed on site by the Management Company secured through a Section 106 Agreement.

Sewerage

Local residents have expressed concern in respect of the capacity of the system to accommodate the dwellings. The Drainage Assessment states that due to the absence of a main public foul sewer near to the site, and based on the size of the development it is not possible to connect to the public sewer, and poor ground infiltration rates prevents the use of foul soakaways or septic tanks. The proposed method of foul water management is to discharge to a package treatment plant with an outlet for the treated flows into the proposed surface water network (WPL Diamond DMC6 plant or similar as appropriate), which would discharge treated water to the Culvert in Rectory Lane. The technical design note states that the WPL Diamond Plant would provide efficiency for removal of pollutants of up to 97%. The system would be privately managed through the Management Company secured via the Section 106.

Foul Sewerage Services South West Water confirm that it is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. South West Water confirm that they have no objections, subject to foul flows only being connected to the public sewer the nearest of which to the site being some 200m to the west in open land to the rear of properties at Sandhills. The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.

SWW have confirmed on a number of occasions that their infrastructure can accommodate the additional flows to be generated by the 5 dwellings and have raised no objection in respect of capacity and this is not a matter for which the LPA could refuse the proposal.

Heads of Terms: Section 106 Agreement

This application would require the following Heads of Terms:

1. Open Space - £15,725 towards (scheme details awaited)
2. Education Contributions - primary school contribution of £20,540 & secondary school transport costs £2059.
3. Braunton Burrows SAC contribution- £950
4. Management of the open space, hedgerows and on site drainage (that is not offered for adoption).

Planning Balance

In summary, the site is allocated for up to 5 houses in the Local Plan. The site is within the Instow Development boundary and meets the tests of sustainable development and the principle of 5 dwellings has been agreed through the previous outline application.

The current scheme has addressed the heritage impact to the listed Church, and proposes an innovative design, of appropriate scale, mass, form, materials and fenestration which would contribute positively to local distinctiveness and seeks to reinforce the key urban and rural characteristics of the area. The site is inclusive and legible and allows good connectivity to Instow Village and beyond to Barnstaple and Bideford.

The site demonstrates biodiversity gains which can be secured through the provision of a detailed LEMP. The design quality of the site is high, and would comprise acceptable development on the gateway into Instow.

There are no overriding significant amenity effects to the immediate neighbouring property as addressed in the report. The scheme provides an effective drainage strategy and the dwellings are located in flood zone 1.

The access to the site is safe, and well designed, within the site the layout and parking arrangement allows egress in a forward gear with minimal disruption to the road network. The site offers good links to local bus routes and to the cycle network. There are no overriding severe or unacceptable highways issues arising from the layout or highways access.

The site can deliver significant gains in terms of biodiversity, off site public open space, education and delivery towards the overarching economic, social and environmental aims of the development plan. The Committee is therefore asked to consider that the effects of the design against the acceptable principles and wider benefits of this application which accords with the development plan and the framework.

This application is now at Appeal for non-determination. If the Authority had had opportunity to determine the proposal, the scheme would have been recommended for approval subject to the imposition of the conditions attached to this report and subject to the agreement of the Section 106.

Without a signed s106 or Unilateral Undertaking the scheme does not secure the infrastructure payments required to meet the future needs of residents. Whilst the appellant has an opportunity to present a Unilateral Undertaking to the Inspector the LPA has yet to have sight of such an agreement. Without this in place the recommendation has to be one of REFUSAL.

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

Minded to **APPROVE**

Legal Agreement Required: Yes – had one been signed the following conditions would have been recommended:

Conditions

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

Reason

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
1840 0100H Proposed site layout received on the 25/06/21
1840 0101 E Proposed block plan received on the 25/06/21
1840 0230B Plot 1_ Plans received on the 25/06/21
1840 0231B Plot 5_ Plans received on the 25/06/21
1840 0232B Plots 2 - 4_ Plans received on the 25/06/21
1840 0422E Existing and Proposed site sections- A received on the 25/06/21
1840 0423E Existing and Proposed site sections- B received on the 25/06/21
1840 0431A External Visualisation and Material Palette received on the 25/06/21
1840 0440A Plot 1_ Elevations received on the 25/06/21
1840 0441A Plot 5_ Elevations received on the 25/06/21
1840 0442B Plots 2 - 4_ Elevations received on the 25/06/21
1840 0801D Proposed shadow path analysis received on the 25/06/21
1840 0900 C Site location plan received on the 25/06/21
1840 0904F Proposed hard landscape strategy received on the 25/06/21
1840 0905D Proposed soft landscaping plan received on the 25/06/21
(‘the approved plans’).

Reason

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning. The dwellings must be located to the south of the site, outside the area at flood risk and the proposed attenuation swale is located outside of the flood risk area. To ensure that dwellings are not at risk of flooding and that flood risk is not increased by development within the flood zone.

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

Dwelling Walls - Natural stone and timber cladding
Boundary wall to Rectory Lane - Natural Stone

Hardstandings - Permeable surface materials

Reason

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

4. Prior to the first occupation of any dwelling hereby approved the following windows shall be obscure glazed and fixed to be top opening only (if opening) and shall be retained and maintained as such in perpetuity

Plot 1 - WC window and landing window in the south east elevation

Plot 2 - WC windows in south elevation

Plot 3 - WC windows in south elevation

Plot 4 - WC windows in south elevation

Plot 5 - WC windows in south elevation

Reason

To safeguard the privacy of neighbouring occupiers in accordance with Policy DM01 and DM04 of the North Devon and Torridge Local Plan.

5. Prior to commencement of development a detailed landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:
 - (a) A description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management;
 - (b) A biodiversity impact assessment in accordance with the North Devon UNESCO World Biosphere Reserve Offsetting Strategy 2013-2018 / DEFRA Methodology
 - (c) Aims and objectives of management;
 - (d) Appropriate management options for achieving aims and objectives;
 - (e) Prescriptions for management actions;
 - (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);
 - (g) Details of the body or organization responsible for implementation of plan;
 - (h) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;
 - (i) Means of reporting of landscape and ecological monitoring results to the Local Planning Authority and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management

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

Reason

In order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14, DM08 and DM08A of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

6. Prior to the development hereby approved being brought into use, the biodiversity net gains as indicated on the approved plans, including the provision of a bat and bird box on each building shall be provided in full and retained thereafter.

Reason

To achieve net gains in biodiversity in compliance with Policy ST14 and DM08 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

7. Prior to the first occupation of any dwelling hereby permitted, the access, visibility splay, parking and turning facilities and access layout and areas of hard standing associated with the dwellings shall be constructed in full and be available for its intended use.

Reason

To ensure that adequate facilities are provided within the site for the traffic likely to be generated by the proposed development in accordance with policies DM05 and DM06 of the North Devon and Torridge Local Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order) any proposal for the construction or alteration of any windows, doors or other openings shall be the subject of a separate application to the Local Planning Authority.

Reason

To preserve the character and appearance of the building and the contribution it makes to the visual amenities of the area and to limit the potential to overlook existing properties in accordance with Policies DM01 and DM04 of the North Devon and Torridge Local Plan.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within class(es) AA A-F of Part 1 and/or class(es) A and B of Part 2 of Schedule Two of the Order.

Reason

To allow the Local Planning Authority to consider the impact of future development on the appearance and character of the development in the area/neighbouring amenity/highway safety in accordance with the requirements of Policies DM04/DM01/DM05 of the North Devon and Torridge Local Plan.

10. Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environmental Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-
 - (a) measures to regulate the routing of construction traffic;
 - (b) the times within which traffic can enter and leave the site;
 - (c) 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;
 - (h) a noise control plan which details hours of operation and proposed mitigation measures;
 - (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 Construction Liaison Officer/site manager) and details of how complaints will be addressed.

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

Reason

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

11. Prior to the commencement of any site clearance, groundworks or construction, the Local Planning Authority shall be provided with the results of a phase one (desktop) survey for potential ground contamination. The report shall be prepared by a suitably qualified person and sufficient to identify any and all potential sources

of ground contamination on any part of the development site. Thereafter, depending on the outcome of phase one, a proposal for any phase two (intrusive) survey that may be required along with any remediation strategy shall be presented to and agreed with the planning authority.

Reason

In the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

(ENVIRONMENTAL HEALTH HAVE BEEN RE-CONSULTED TO ASSESS IF THIS CONDITION IS REQUIRED).

12. Should any unexpected contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing any such unexpected contamination, within that sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

Reason

In the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

13. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:
 - (a) Monday - Friday 08.00 - 18.00
 - (b) Saturday 08.00 - 13.00
 - (c) nor at any time on Sunday, Bank or Public holidays.

Reason

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

14. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations.

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.

15. No external lighting shall be erected within the site without the permission of the Local Planning Authority.

Reason

To protect the amenities of neighbouring property and to protect foraging routes of protected species in accordance with policies DM01, DM04, ST14 and DM08 of the North Devon and Torridge Local Plan.

Informatives

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

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

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

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

2. From the Flood Defence aspect the Environment Agency advise that surface water run-off from the proposal should be managed by the use of Sustainable Urban Drainage Systems [SUDS]. These systems mitigate the potential effects of urban development including increased quantity of run off, increased rate of run off and deterioration of water quality through pollution. Such systems would include infiltration trenches, swales, infiltration basins and porous paving. Ground conditions will need to be investigated to determine the most efficient methods or if alternative solutions will need to be investigated. In the first instance it is advised that the design of such a system is investigated in accordance with CIRIA C522 - Sustainable Urban Drainage Systems - design manual for England and Wales. An outline or preliminary design should then be submitted to the Environment Agency for comment.
3. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.
4. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land

where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.

5. Advisory Note - Foul Drainage

The proposed installation of a private system for treatment and disposal of foul drainage from the development will need to comply with Building Regulations and, depending on the size of the system, the Environment Agency's (EA) General Binding Rules for small sewage disposal systems or EA permitting requirements.

Inserts

- (1) Location Plan
- (2) Design and Review Panel (SWDRP) in February 2020
- (3) Technical Design Note – Surface Water Drainage Strategy – Hydrock, document reference 11342-HYD-XX-XX-TN-D-5001 rev Po2