

Application Report

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



Application No: 72836
Application Type: Full application
Parish/Ward: BRAUNTON/BRAUNTON EAST
Location: Land off Down Lane
Braunton
Devon
Proposal: Erection of two dwellings together with alterations to existing builder's workshop to be used as ancillary store
Agent: Rob Cocker
Applicant: Baddick Bros
Planning Case Officer: Mr S. Emery
Application Expiry: 13 August 2021
Ext Of Time Expiry: 13 August 2021
Publicity Expiry: 4 March 2021
Departure: N
EIA Development: N
EIA Conclusion: Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee: Called In by Ward Member to consider the reason for refusal by the Parish Council

UPDATE SEPTEMBER 2021

Members will recall that at their 11th August 2021 meeting they RESOLVED (7 for, 3 against) that this application be DEFERRED for one cycle to enable a site visit to be undertaken to enable the following:

- a) To assess the visual impact of the site from two or three viewpoints in Braunton,
- b) To examine the highways / access
- c) To allow time to receive an architect drawing of the final design
- d) To invite Paul Young, Principal Highways Development Management Officer to attend the site visit.

Representations

The following representation was received on 09/08/2021, and was verbally presented by the Planning Officer to the Committee:

“Dear Sir We'd like to bring to your attention to the southern boundary hedge (described in the application) which for 31 years has been treated as a joint party hedge. At a recent meeting with the applicant they indicated that they were going to rip the hedge out because historically they said it was just a bank. Being the low lying land owner I am under a statutory obligation to support the higher ground, approx 8ft drop. The hedge is

a wide hedge and so in order to protect my land I need to resolve the boundary dispute with the Baddicks. There are trees growing on what I consider to be our land. There is not enough detail in the plan to indicate legal ownership, to say "the southern hedge" is not enough. We have not used our large allotment plot to the South East and adjacent to the application site because of badgers and their sets. We also note the very close proximity of the Treatment Plant to our property and our existing septic tank and hope that we will be given an undertaking from the applicant that in no way will this affect the integrity our land ie excess water run off etc. Please make these comments available to councillors for Weds 11th August Committee meeting at which we gather this application will be heard."

This was communicated to the Applicants. Their following response was also communicated by the Planning Officer to the Committee:

"1) at no point have they discussed the "ripping out of the southern hedge" and do not recollect discussing it with anyone recently. The hedge/bank is within the applicant's ownership and is being retained as part of the application.

2) The issue of the badgers sett was covered in the Ecological assessment and designated as disused.

3) The sewage treatment will be part of a detailed proposal, which will be submitted to and approved by Building Control in accordance with current guidelines and will in no way be allowed to affect their land or property."

These matters do not impact on the recommendation detailed below.

At the time of preparing this report no further representations have been received.

Design update

With regard to matters of design, it was noted that members discussed the following condition 3:

(3) The development hereby approved shall not exceed damp course level until the details of the external materials of construction have been submitted to and approved in writing by the Local Planning Authority.

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.

During the meeting Councillors requested further details of the materials to allow for an informed discussion on the appearance of the proposed buildings. Following the meeting the Applicant responded with further details of the proposed external finishing materials of construction. The specified materials are considered to be appropriate and acceptable and can be controlled by a planning condition if planning permission is granted, as set out below:-

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

Roof - Standing seam plastic coated in merlin grey.
Walls – Natural stone walling and western red cedar
Render - Acrylic render "off white"
Windows and patio doors - Grey powder coated aluminium
Gabion retaining walls to parking/turning areas, filled with loose stone

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.

Matters of design were also discussed with reference to the proposed 'modernist' design, including the flat roofs, balconies and extent of glazing. In the Committee report, Officers stated the following: *'Plots 1 and 2 are of a very similar size, scale and appearance. The design is modernist with flat roofs that allows for the dwellings to sit lower in the landscape. Whilst set low in the landscape, the proposed dwellings are not small, with both having 5 bedrooms and generous living space to the ground floor. These large properties will sit comfortably in their setting given that the immediate locality is defined by medium to large detached dwellings'*. Officers continue to consider that the proposed dwellings would sit comfortably in their setting and will be of a massing and appearance that will not be intrusive in the wider setting.

Planning Conditions

The use of the existing builder's store adjacent to Down Lane was questioned during the previous Committee meeting. As detailed in the Officer's report, the application proposes to reduce the size of the building and change its use to be used ancillary to Plot 1 (as detailed in drawing reference 20014/P4). For the avoidance of doubt it is reasonable that any grant of planning permission is subject to a condition that states the following:

(8) The proposed ancillary store to the north of the site adjacent to the highway, as detailed in the approved plan references 20010/L3e and 20014/P4, shall be developed and completed prior to the first occupation of Plot 1 and shall only be used as ancillary storage for Plot 1 only unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interest of proper planning, and to ensure that the current use as a builders store ceases so that highway capacity and safety is not harmed, along with amenity in accordance with policies DM05, DM06 and DM01 of the North Devon and Torridge Local Plan.

Planning Balance

The site lies within the development boundary for Braunton where development is enabled by Policies ST06 and BRA of the North Devon and Torridge Local Plan (NDTLP). In addition, the Council recognises that it is currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements and therefore the presumption in favour of sustainable development should be applied for decision-taking involving applications for housing. As such,

subject to the proposal complying with the other relevant development management considerations, and the proposal resulting in a sustainable form of development, new residential development is acceptable in principle.

The objections received with regard to the development of this open green land have been taken into consideration. However, given that there is no in principle objection to the development of this site and the low density of two dwellings as proposed respects the contrast between the dense development to the lower levels, and reducing in density to the periphery of the village, it is recommended that the development of the two dwellings on this site as proposed will not result in harm to the overall character and appearance of the locality. The size, scale, siting and design of the dwellings and their curtilages also help to assimilate the development in to the locality. The development thereby accords with the design considerations of the Local Plan.

With regard to residential amenity, the concerns raised by neighbouring occupants have been taken into consideration however, the design is such as the development would not significantly harm the amenities of any neighbouring occupiers. The development thereby accords with policy DM01 of the Local Plan.

With regard to matters of ecology, following discussions with the applicant and the Sustainability Officer, it was agreed that the submitted LEMP and EA were sufficient to ensure that protected species are not harmed and that the proposal achieves net gains in biodiversity in compliance with Policy ST14 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

Many objections have been received with regard to matters of highway capacity and safety given the narrow nature of the highway and the access. However, given the recent approval of the Lawful Development Certificate and the consultation response given by County Highways, it is not considered that, on the balance of probabilities, the resultant traffic flow of the proposed development, would be significantly greater than that existing. The proposed use of the land for two, five bedrooms dwellings would be unlikely to result in harm to highway capacity and safety. The development therefore accords with policies DM05 and DM06 of the Local Plan.

The comments and objections raised through this application process have been acknowledged and considered; however, in having regard to the above, the application is considered to accord with the adopted development plan and result in a sustainable form of development. Officers therefore recommend approval of the application subject to the imposition of planning conditions.

Human Rights Act 1998

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

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

Recommendation

APPROVED

Legal Agreement Required: No

Conditions

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

Reason

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

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

20010 L1 Location Plan received on the 29/01/21
20010 L3E Site Plan received on the 29/01/21
20010 P1E Floors Plot 1 and 2 received on the 29/01/21
20010 P2E Elevations Plot 1 received on the 04/02/21
20010 P3B Elevations Plot 2 received on the 04/02/21
20014 P4 Ancillary Store received on the 29/01/21
(‘the approved plans’).

Reason

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

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

Roof - Standing seam plastic coated in merlin grey.
Walls – Natural stone walling and western red cedar
Render - Acrylic render "off white"
Windows and patio doors - Grey powder coated aluminium
Gabion retaining walls to parking/turning areas, filled with loose stone

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 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 be monitored by the applicants to ensure continuing compliance during the construction of the development.

Reason

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

5. Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination. The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of ground contamination affecting 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. Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice. The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.

Reason

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

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

Reason

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

7. The development hereby approved shall accord with the Ecological Impact Assessment by G E Consulting dated December 2020 and the Landscape and Ecological Management Plan by G E Consulting dated June 2021 unless otherwise agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason

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

8. The proposed ancillary store to the north of the site adjacent to the highway, as detailed in the approved plan references 20010/L3e and 20014/P4, shall be developed and completed prior to the first occupation of Plot 1 and shall only be used as ancillary storage for Plot 1 only unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interest of proper planning, and to ensure that the current use as a builders store ceases so that highway capacity and safety is not harmed, along with amenity in accordance with policies DM05, DM06 and DM01 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 classes A, AA, B, D, and E of Part 1 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, DM05, DM06, DM08 and ST14 of the North Devon and Torridge Local Plan.

10. 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 policies DM01 and DM02 of the North Devon and Torridge Local Plan.

- 11. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved.

Reason

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

- 12. All planting, seeding or turfing comprised in the approved site plan reference 2001 0/L3e 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, and DM04 of the North Devon and Torridge Local Plan.

Informatives

- 1. 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.
- 2. 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.

3. 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.

4. For the purpose of interpreting the restrictions expressed in condition 7 of this consent, permitted development rights have been removed in respect of the following classes:

Part I: CLASS A The enlargement, improvement or other alteration of a dwelling-house

Part I: CLASS AA Enlargement of a dwellinghouse by construction of additional storeys

Part I: CLASS B The enlargement of a dwelling-house consisting of an addition or alteration to its roof

Part I: CLASS D The erection or construction of a porch outside any external door of a dwelling-house

Part I: CLASS E The provision within the curtilage of a dwelling-house of -
(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

Further detailed information can be obtained from the Local Planning Authority, including a guide to householder development, and the Planning Portal at www.planningportal.gov.uk

5. This application was granted subject to the receipt of a payment under Section 111 of the Local Government Act 1972 towards mitigation of recreational impacts on the Braunton Burrows Special Area of Conservation.
6. The proposed installation of private systems for treatment and disposal of foul drainage. including drainage fields, will need to comply with building regulations

and the Environment Agency's General Binding Rules for small sewage disposal systems.

7. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

BELOW IS A COPY OF THE REPORT PRESENTED TO MEMBERS AT THE AUGUST 11th 2021 COMMITTEE MEETING

Site Description

The site sits on rising land which cumulates in a ridgeline along Braunton Down on the northern side of Down Lane. There are medium range views of the site from public views points within the village, particularly from Wrafton, which show the land subject of the application as a green transition between the undeveloped ridge at Braunton Down and the more dispersed properties which existing higher up along Down Lane itself. An existing workshop exists at the entrance to the site and an access track runs along its length. The land appears to have an agricultural use.

Recommendation

APPROVED

Legal Agreement Required: No

Planning History

| Reference Number | Proposal | Decision | Decision Date |
|-------------------------|--|-----------------|----------------------|
| 59625 | Conversion of builders store/workshop to form one dwelling at workshop / store, Down Lane, Braunton, Devon | Withdrawn | 13 August 2015 |
| 70406 | Application for a Lawful Development Certificate for an existing use as a workshop and store for building materials, tools and plant equipment at Land and buildings lying on the south side of Down Lane, Braunton, Devon, EX33 2LE | Approved | 19 March 2020 |

Constraints/Planning Policy

Constraint / Local Plan Policy

Advert Control Area Area of Special Advert Control
 Chivenor Safeguard Zone Consultation Any Development
 Landscape Character is: 3H Secluded Valleys
 Landscape Character is: 7 Main Cities and Towns

Distance (Metres)

Within constraint
 Within constraint
 Within constraint
 Within constraint

Constraint / Local Plan Policy

USRN: 27504224 Road Class: Q Ownership: Private
 Within: Braunton Development Boundary ST07
 Within Adopted Unesco Biosphere Transition (ST14)
 Within Braunton Burrows Zone of Influence
 Within Braunton Development Boundary 100M Buffer, if greater than 12 residential units (net) consider need for AQMA
 Within:, SSSI 5KM Buffer in North Devon,
 SSSI Impact Risk Consultation Area

Distance (Metres)

Within constraint
 Within constraint
 Within constraint
 Within constraint
 Within constraint
 Within constraint
 Within constraint

DM01 - Amenity Considerations
 DM02 - Environmental Protection
 DM03 - Construction and Environmental Management
 DM04 - Design Principles
 DM05 - Highways
 DM06 - Parking Provision
 DM08 - Biodiversity and Geodiversity
 ST01 - Principles of Sustainable Development
 ST03 - Adapting to Climate Change and Strengthening Resilience
 ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres
 ST14 - Enhancing Environmental Assets

Consultees

| Name | Comment |
|--------------------------------|--|
| Braunton Parish Council | 1/03/2021 15:18 - Braunton Parish Council wishes to recommend refusal on the grounds, as follows: |
| Reply Received 1 March 2021 | <p>The proposal is over intensification of the site. Inadequate and unsafe highway access to the development. Constrained vehicular access and inaccessibility for emergency services to access the proposed houses would result in an unsafe environment that amounts to an unsustainable form of development. Accordingly, the proposal is contrary to the NTLP policy ST10. Policy DM04 of the NTLP relates to amenities considerations. The proposed development would be in contrary to this policy as it would create an unacceptable level of traffic movements causing a risk to highway and pedestrian safety and cause unacceptable harm to the living conditions of the existing residents and occupiers of the proposed development.</p> <p>The site lies within the 4km greater horseshoe bat roost sustenance zone associated with the Caen Valley Bats SSSI. The proposal is ecologically unacceptable and will have a negative environmental impact with the removal of hedgerows and trees resulting in a loss of habitat for endangered native species such as the greater horseshoe bat. Insufficient lighting plan providing</p> |

| Name | Comment |
|--|--|
| | <p>mitigation measures to protect a known flight route for the greater horseshoe bat.</p> <p>The development is not in keeping with the surrounding area which is generally devoid from prominent urban influences and would negatively impact on the landscape character appearance. Insufficient evidence that the development will meet local need the proposal does not deliver any affordable homes.</p> |
| Building Control Manager | No comments received. |
| Councillor D Spear | Cllr Spear has called-in this application. |
| Councillor L Spear | No comments received. |
| <p>DCC - Development Management Highways</p> <p>Reply Received 16 April 2021</p> | <p>The Local Highway Authority has 'No Objections' to the proposed development taking into account the existing Certificate of Lawfulness and the conclusions of the Transport Statement. The traffic movements associated with the 2 no. new dwellings equates with the theoretical traffic movements associated with the existing workshop use. If there is any slight increase this is not considered materially significant to recommend refusal on highway grounds.</p> |
| <p>Environmental Health Manager</p> <p>Reply Received 12 February 2021</p> | <p>1 Land Contamination</p> <p>Housing developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. Relevant contamination can arise due to historical uses of the land itself or from contamination pathways associated with off-site sources of contamination. I therefore recommend the following conditions be included on any permission:</p> <ul style="list-style-type: none"> - Contaminated Land Phase 1 Condition - Contaminated Land (Unexpected Contamination) Condition <p>2 Construction Phase Impacts</p> <p>In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the construction phase of the development I recommend the following conditions be imposed:</p> <ul style="list-style-type: none"> - Construction Environmental Management Plan Condition - Construction Hours Condition <p>3 Advisory Note: Foul Drainage</p> <p>The proposed installation of private systems for treatment and disposal of foul drainage. including drainage fields, will need to</p> |

| Name | Comment |
|---|--|
| | comply with building regulations and the Environment Agency's General Binding Rules for small sewage disposal systems. |
| <p>Sustainability Officer</p> <p>Reply Received 05/02/2021</p> | <p>The submitted Ecological Impact Assessment (EA) concludes that the site is of negligible value for protected species and no further survey effort is considered necessary. The EA makes a series of recommendations to improve the site biodiversity value, ensure management of site boundaries and prevent the illumination of the southern boundary. Should you be minded to support the current application I would request that an appropriately detailed Landscape and Ecological Management Plan (LEMP) be submitted in support of the existing Site Plan. The LEMP will specify the long term management and monitoring of all new and retained habitats. This is of particular importance to the southern boundary identified as a Greater Horseshoe bat flight corridor. Building mounted bat and insect boxes should also be illustrated on submitted Elevations.</p> <p>The EA also recommends between 1st April and the 31st October works on the site will be undertaken during daylight hours, starting no earlier than 30 minutes after sunrise and finishing no later than 30 minutes prior to sunset. All exterior lighting on properties must be kept to an absolute minimum, use low wattage bulbs which are covered, shade downwards and must not be directed towards the southern boundary. All lighting to be operated with integrated PIR sensor, whereby light remains on standby mode (2W) and only increasing to full output (8W) when movement detected.</p> <p>Luminaries should feature peak wavelengths higher than 550nm. The submitted Lighting Plan is insufficiently detailed to secure the recommended specification or demonstrate that best practice has informed the current design https://www.bats.org.uk/our-work/buildings-planning-and-development/lighting. Given the extent of glazing and potential light spill on the proposals southerly aspects a detailed internal and external lighting specification and/or a lux contour model demonstrating that the southern hedgerow is not subject to illumination levels exceeding 0.5 Lux should be submitted.</p> <p>In terms of the location of the site, it is within the Zone of Influence (ZOI) identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area 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 of £190 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972.</p> |

| Name | Comment |
|------|---|
| | <p>Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of these impacts on the SAC and the scope for mitigation. North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence.</p> <p>Following the above comments, the Applicant submitted further information. The Sustainability Officer commented as follows:</p> <p>05/05/2021</p> <p>This additional supporting information is insufficient to address previously raised concerns, particularly those in relation to bat flight lines and the SSSI.</p> <ul style="list-style-type: none"> · The submitted LEMP does not meet the necessary requirements (below) and the submitted schedule of works should be part of a more detailed report specifying the implementation, management and monitoring of all retained and enhanced habitats. · The submitted Lighting Assessment is not supported by any form of discussion or recommendations from the assessor or the ecologist. P2.2 indicates that lighting exceeds acceptable levels for a large element of unit two's frontage. It is unclear what the remainder of the document demonstrates. It should be clear which lighting specifications have been included in the assessment and that the assessment has informed the lighting proposals included in the plans. · The introduction of a fence immediately adjacent to an established hedge bank is not an appropriate means of addressing lighting concerns and would result in the long term degradation of the hedge and its value to foraging species. The conclusions of the lighting assessment should inform a suitably detailed proposal for management and enhancement of the southern boundary feature, detailed lighting specifications to reduce light spill below levels recorded in the assessment and potential modifications to the southern elevations to reduce light spill. <p>The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity</p> |

| Name | Comment |
|------|--|
| | <p>avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>Following consultations and negotiations with the Agent, and amended LEMP was received. Following the receipt of the amended LEMP, the Sustainability Officer made the following comments:</p> <p>14/07/2021</p> <p>The submitted LEMP has now been amended and requires the completion of an additional Hedgerow Assessment which will result in a planting and management specification for the southern hedge bank. The key objective of the long term management will be to fill and reinforce patchy areas which are currently dominated by bramble, etc and ensure the longevity of the dark corridor for bats.</p> |

| Name | Comment |
|------|--|
| | The proposed closed board fence will result in negligible light spill illuminating the hedgerow top and southern façade. Although general guidance states that this would degrade the health of the hedge and restrict appropriate management the LEMP ensures that appropriate management will be identified through the Hedgerow Assessment. The fence is also to the north of the hedgerow so does not produce any over shadowing and long term management can be carried out from the adjacent track to the south. Therefore we are securing improvements to the hedgerow through planting and long term management which should overcome any negative effects of the fence. |

Neighbours

| Comments | No Objection | Object | Petition | No. Signatures |
|----------|--------------|--------|----------|----------------|
| 0.00 | 0.00 | 29 | 0.00 | 0.00 |

29 Letters of objection have been received. The comments are summarised as follows:

- Harm to highway capacity and safety;
- Harm to wildlife;
- Noise disturbance during construction;
- Proposed dwellings not in-keeping;
- Visual impact upon the wider landscape;
- Loss of privacy;
- Flood risk

These matters have been considered in the following report.

Considerations

Proposal Description

This application seeks detailed planning permission for the erection of two dwellings together with alterations to an existing builder's workshop to be used as an ancillary store.

The site is to be subdivided into two residential plots. The two dwellinghouses are to be of a similar size, scale and design. Both dwellings incorporate the sloping topography of the locality resulting in a split level design, with the dwellings appearing as single storey to the front elevation and as two-storey to the rear. Both dwellings are of a modernist design with flat roofs and a varying palette of materials, together with balconies and covered outdoor amenity areas. The siting of the dwellings include various elements of hard and soft landscaping, including retaining walls and hedges.

Plot 1

Plot 1 is to have a length measuring 23m and a depth measuring 13.1m. The front elevation is to have a height measuring 6.1m and the rear elevation is to have a height measuring 8.1m resulting from the sloping nature of the site.

Plot 2

Plot 1 is to have a length measuring 23m and a depth measuring 13.1m. The front elevation is to have a height measuring 4m and the rear elevation is to have a height measuring 6.4m resulting from the sloping nature of the site.

The development also includes the reduction in the size of the existing workshop on the site to create ancillary storage for Plot 1. The resultant building is to have a length measuring 7.1m, a width measuring 4m, an eaves height measuring 2.5m and a gabled ridge height measuring 3.25m.

The external materials of construction are detailed in the application form.

Planning Considerations Summary

- Principle of Development
- Design
- Amenity
- Ecology
- Flood Risk and Drainage
- Highways

Planning Considerations

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

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

Principle of development

The site lies within the development boundary for Braunton where development is enabled by Policies ST06 and BRA of the North Devon and Torridge Local Plan (NDTLP). As such, subject to the proposal complying with the other relevant development management considerations below, new residential development is acceptable in principle.

The current application results in the subdivision of the site to create two residential units, a presumption is given to the principles of sustainable development, as defined in policy ST01 of the Local Plan and paragraph 11 of the NPPF. It is first therefore considered as to whether the development will result in harm to the setting of the application site. If the development is acceptable with regard to the impact upon the

setting, then the presumption would be to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Design

Policy ST04 of the Local Plan states that development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04.

Policy DM04 of the Local Plan encourages good design and ensures that development proposals should be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood; reinforce the key characteristics and special qualities of the area in which the development is proposed; and contributes positively to local distinctiveness, historic environment and sense of place.

The application proposes two dwellings on the land to the south and south-east of the existing builder's store on what is currently an undeveloped field. The proposed two dwellings are to be set within large plots. The site itself sits on rising land which cumulates in a ridgeline along Braunton Down on the northern side of Down Lane. There are medium range views of the site from public views points within the village, particularly from Wrafton, which show the land subject of the application as a green transition between the undeveloped ridge at Braunton Down and the more dispersed properties which existing higher up along Down Lane itself.

Braunton Parish Council have objected to this development in stating that it would be an over intensification of the site and that the development is 'not in keeping with the surrounding area which is generally devoid from prominent urban influences and would negatively impact on the landscape character appearance'. This objection has been shared by a number of nearby residents.

The accompanying Design and Access Statement justifies the development by stating that: 'the proposed two new dwellings are designed to replace the existing commercial use without being intrusive in the landscape or impinge upon the amenity spaces and aspects of the existing dwellings to the North, East and West. To that end they have been set with the floor levels below the access lane and provided with low pitched roofs'.

The application has also been supported by a Landscape and Visual Assessment (LVA) by David Wilson Partnership dated January 2021. Within the LVA the landscape sensitivity within the host landscape has been considered and concludes that: 'overall, the sensitivity of the host landscape to the type and scale of development proposed is assessed as medium. The landscape has a high level of ability to accept small scale residential development well related to existing settlement and there are good opportunities for mitigation'. The report concludes as follows: 'The site is on a south facing hillside and is visible, if not prominent, in a wide range of views to the south, east and west. Receptors include residents of Braunton, walkers and cyclists on the Tarka Trail and local footpaths as well as users of sports facilities and car travellers. Some of

these groups would be highly sensitive to changes in views. The development would result in moderate/slight adverse visual impacts on receptors in Braunton with the highest level of sensitivity to change. Effects would reduce to minimal as the planting proposed matures and the building materials weather. Visual effects on residents and walkers on the high ground east of the site would be moderate adverse, become slight adverse with time. For receptors in the Braunton Great Field, visual effects would be slight adverse and for high sensitivity receptors on the Tarka Trail the development would result in minimal effects, becoming slight beneficial with time'.

The findings of the LVA are acknowledged. Whilst the site currently forms a soft transition between the more developed land to the south and the spatially developed, rural landscape to the north, the development of two dwellings on this land, which is within the development boundary, will not result in significant harm to the wider landscape. In support of this view is that the proposal is for two dwellings set in fairly large curtilages, which in itself is a less dense form of development when compared to that on the lower lands. For these reasons, the principle of the development of two dwellings on this site is accepted. Further consideration is now given to the size, scale, siting and appearance of the proposed dwellings.

It is noted that, as suggested in the application documentation, that the proposal includes a number of mitigation measures, which have been taken into account in the overall assessment of effects. These measures include:

- Site Layout: The site has been laid out to recognise the openness of the surrounding area, the two units proposed are well spaced to reflect the pattern of development density in the local area. The buildings have been sited so as to appear, in key views, below and in the foreground of a noticeable white wall above and to the north of the site.
- Design: The proposed buildings are 2 storey with flat roofs, designed to sit lower on the site than surrounding houses.
- Materials: A visually recessive palette of materials has been included in the proposed scheme, including stone and timber facing.

Plots 1 and 2 are of a very similar size, scale and appearance. The design is modernist with flat roofs that allows for the dwellings to sit lower in the landscape. Whilst set low in the landscape, the proposed dwellings are not small, with both having 5 bedrooms and generous living space to the ground floor. These large properties will sit comfortably in their setting given that the immediate locality is defined by medium to large detached dwellings.

In summary, it is acknowledged that the site is currently a small field, which is a contrast from the residential form and density of the valley below. However, the site is within the development boundary of the village and therefore the principle of residential development is acceptable, subject to the design considerations of the Local Plan. There is no in principle objection to the development of this site and the low density of two dwellings as proposed respects the contrast between the dense development to the lower levels, and reducing in density to the periphery of the village. Given the above, the development of the two dwellings on this site as proposed will not result in harm to the overall character and appearance of the locality. Whilst the land is currently undeveloped, the development is of a suitable scale and appearance as to not result in

a cramped form that would detract from the overall landscape character. The large garden areas will contribute to the openness of the layout and whilst any new development will be apparent, the scheme is very low density.

The external materials of construction as detailed in the application form are not specific and therefore given the prominence of the site and the specific character of the setting, it is reasonable that any grant of planning permission is subject to a condition that states that, the development hereby approved shall not exceed damp course level until the details of the external materials of construction have been submitted to and approved in writing by the Local Planning Authority. Such a condition is considered reasonable in the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

Additionally, the landscaping design as detailed on the proposed site plan is acceptable given the semi-rural appearance of the site. It is therefore reasonable that any grant of planning permission is subject to a condition that states that all planting, seeding or turfing comprised in the approved site plan reference 2001 0/L3e 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. This condition is considered to be reasonable to assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, DM04 and ST14 of the North Devon and Torridge Local Plan.

Amenity

Policy DM01 of the Local Plan (Amenity Considerations) states that development will be supported where:

- (a) it would not significantly harm the amenities of any neighbouring occupiers or uses; and
- (b) the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

Briar Patch

The dwelling known as Briar Patch is located approximately 12m to the north of the application site. This neighbouring dwelling has a fenestration facing south towards the application site. The two sites are separated by an established hedgerow, and due to the topography of the site, Briar Patch sits on higher ground than the application site.

With regard to matters of privacy, due to the topography of the landscape and the existing boundary hedge, the development will not result in harm. In addition, with regard to outlook, whilst the occupants of this neighbouring dwelling will have view of the form of the proposed dwellings, this will not be to a degree as to be considered overbearing.

In considering matters of light provision, the separation and difference in elevation negates any harm.

For the above reasons this proposal results in an acceptable relationship with this neighbouring dwelling.

Highways

The dwelling known as Highways Is located approximately 11m to the northeast of the proposed Plot 2. As with Briar Patch, this neighbouring dwelling has fenestration to the south-facing elevation. The two sites are separated by an established hedgerow, and due to the topography of the site, Highways also sits on higher ground than the application site.

With regard to matters of privacy, due to the topography of the landscape and the existing boundary hedge, the development will not result in harm. In addition, with regard to outlook, whilst the occupants of this neighbouring dwelling will have view of the form of the proposed dwellings, this will not be to a degree as to be considered overbearing.

In considering matters of light provision, the separation and difference in elevation negates any harm.

For the above reasons this proposal results in an acceptable relationship with this neighbouring dwelling.

Ridges

The dwelling known as Ridges is located adjacent to the existing workshop adjacent to the entrance to Down Lane. It is located approximately 32m to the northwest of Unit 1. As with Briar Patch and Highways. This dwelling is sat on higher ground than Unit 1 and Unit 2, and given the distance separating, the new dwellings and their use will not result in harm to neighbour amenity.

In addition the change of use of the workshop to an ancillary store will not increase the intensification of the use of this building, and therefore will not result in harm to amenity.

Down Cottage

Down Cottage is located approximately 31m to the west of Unit 1. Given the topography of the locality and the distance separating the sites, this proposal will not result in harm to neighbour amenity.

Foxhole

The dwelling known as Foxhole is located approximately 80m to the east of the Unit 2. Given the topography of the locality and the distance separating the sites, this proposal will not result in harm to neighbour amenity.

Dwellings to the north of Higher Park Road

The dwellings to the north of Higher Park Road are located approximately, at the closest, 30m to the south (Hornbeams). With regard to matters of outlook and light provision, given the orientation of the dwellings, their separation, and the elevation of the land, this proposal will not result in harm.

With regard to matters of privacy, both proposed dwellings will have fenestration and balconies to the rear elevation that will allow for an outlook to the south. However, given the distance separating these buildings, it is unlikely that the degree of surveillance would be such as to be detrimental to the enjoyment of these dwellings.

Future occupants

With regard to the layout of the proposed dwellings, their design complies with the National Space Standards. In addition, the layout offers sufficient external amenity space for the future enjoyment of the occupants.

Summary on amenity

In having regard to the above, and in considering that this proposal will not result in harm to the amenities of any other neighbouring property, the proposal accords with the amenity considerations of the Local Plan.

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).

Policy DM08 of the Local Plan states that Adverse impacts on European and UK protected species and Biodiversity Action Plan habitats and species must be avoided wherever possible, subject to: (i) the legal tests afforded to them where applicable; or otherwise unless (ii) the need for and benefits clearly outweigh the loss. Also, where adverse impacts are unavoidable they must be adequately and proportionately mitigated, if full mitigation cannot be provided, compensation will be required as a last resort.

In response to the submitted scheme the Sustainability Officer comments that the submitted Ecological Impact Assessment (EA) concludes that 'the site is of negligible value for protected species and no further survey effort is considered necessary. The EA makes a series of recommendations to improve the site biodiversity value, ensure management of site boundaries and prevent the illumination of the southern boundary. Should you be minded to support the current application I would request that an appropriately detailed Landscape and Ecological Management Plan (LEMP) be submitted in support of the existing Site Plan. The LEMP will specify the long term management and monitoring of all new and retained habitats. This is of particular importance to the southern boundary identified as a Greater Horeshoe bat flight corridor'. It was also noted that the submitted Lighting Plan is insufficiently detailed to secure the recommended specification or demonstrate that best practice has informed the current design.

Following these comments, the Agent entered a series of discussions to seek a solution to these matters. A LEMP was submitted on 25/06/21 that included methods of mitigation and management to provide a net gain in biodiversity, together with methods of management and monitoring. It has been agreed between the Agent and the Sustainability Officer that the EA and the LEMP are sufficient to ensure that protected

species are not harmed and that the proposal achieves net gains in biodiversity in compliance with Policy ST14 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework. In considering the above it is reasonable that any grant of planning permission be subject to a condition that states that the development hereby approved shall accord with the Ecological Impact Assessment by G E Consulting dated December 2020 and the Landscape and Ecological Management Plan by G E Consulting dated June 2021 unless otherwise agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details. This condition is reasonable in order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08A of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

In having regard to the above, it is understood that the site is known for bats, of which are particularly sensitive to light. Lighting in the vicinity of a bat roost causing disturbance and potential abandonment of the roost could constitute an offence both to a population and to individuals. For this reason it is reasonable that any grant of planning permission is subject to a condition that states that no external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved. This condition is considered necessary and reasonable in order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

Flood Risk and Drainage

The site is located within Flood Zone 1 and not within a Critical Drainage Area. Flood risk is therefore not a constraint.

Highways

Policy DM05 of the Local Plan (Highways) states that: (1) All development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and (2) All development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy DM06 of the Local Plan (Parking Provision) states that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to the: (a) accessibility and sustainability of the site; (b) availability of public transport; (c) provision of safe walking and cycling routes; and (d) specific scale, type and mix of development. Proposals must also encourage the use of sustainable modes of transport through careful design, layout and integration to the existing built form.

The proposal has received many objections from members of the public and Braunton Parish Council. The principle areas of concern are with regard to the increase number

of trips resulting from the development, together with the impacts upon highway capacity and safety during the construction periods.

The application has been supported by a Technical Statement (TS) prepared by Trace Design – Transport and Civil Engineering, which undertook a traffic comparison assessment in terms of vehicle trip generation between the existing use of the site as a workshop and the proposed residential development of two dwellinghouses. The TS concludes that site is in a sustainable location within close proximity to public transport routes, and that the junction with the principle highway has few recorded recent injury collisions. It also concludes that there will be a ‘clear reduction’ in the number of vehicle trips generated under the proposed residential development, with a reduction of up to 4 vehicle trips on a daily basis, based upon a TRCS assessment which has resulted in a lower number of vehicle trips when compared with the information supplied by the applicant.

The information provided by the applicant with regard to the number of trips currently made to the workshop/store has been challenged by the occupants of neighbouring dwelling, who consider that this is less. Concern has been raised that the report uses data as supplied by the applicant and is therefore the balance is tilted in favour of a resultant reduction of traffic flow from a residential use. The objectors claim that the number of existing vehicular movements is considerably lower.

It is noted that LPA ref: 70406 was a granted Lawful Development Certificate of the existing use of the workshop and store for the storage of building materials, tools and plant equipment. Within the statutory declaration supporting his previous application, the applicant declared that they “continue to regularly visit the property at least 3 to 4 times a day with our vehicles to collect tools and materials requires for our work and to restock our supplies”. The Lawful Development Certificate was granted on this basis on 19th March 2020.

County Highways has considered that TS and offered the following comments: ‘The Local Highway Authority has ‘No Objections’ to the proposed development taking into account the existing Certificate of Lawfulness and the conclusions of the Transport Statement. The traffic movements associated with the 2 no. new dwellings equates with the theoretical traffic movements associated with the existing workshop use. If there is any slight increase this is not considered materially significant to recommend refusal on highway grounds’.

In having regard to the above, the objections raised with regard to the accuracy of the TS have been acknowledged and noted. However, given the recent approval of the Lawful Development Certificate and the consultation response given by County Highways, it is not considered that, on the balance of probabilities, the resultant traffic flow following the proposed development, would be significantly greater than that existing. The proposed use of the land for two, five bedrooms dwellings would unlikely result in harm to highway capacity and safety. The NPPF test of severe harm to the highway is not met.

Further concern has been raised with regard to traffic obstruction and nuisance during the development of the dwellings, especially from delivery vehicles. It is reasonable to consider that, given the limited size of the highway, the delivery of materials will cause a

degree of construction. However, the proposal is for the development of two dwellings and therefore the period of construction would be considerable less than that of larger sites. Whilst some inconvenience may be experienced with regard to access during the construction stage, it is not considered that this would be to a degree as to warrant a refusal of the application. Construction impacts can be controlled by condition and are short term only.

In having regard to the above, Officers recommend that the proposal will not result in harm to highway capacity and safety and therefore the development is acceptable on highways grounds.

Other matters

Removal of permitted development rights

The application is considered acceptable on the basis that it is for two dwellings that will have minimal impact on the wider landscape. Given the proposed landscaping scheme, as secured by the LEMP would result in a net gain in biodiversity, and the number of vehicular movements would not result in harm to what is understood to be a narrow access road. It is reasonable to consider that post development the owner may wish to exercise 'permitted development rights' that would materially alter the appearance of the dwelling and how it contributes to its setting, and may have an impact upon matters of ecology and highway safety. For this reason it is reasonable and necessary that any grant of planning permission is subject to a condition that removes classes A, AA, B, D, and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is considered reasonable to allow the Local Planning Authority to consider the impact of future development on the appearance and character of the development in the area, impact upon protected species and biodiversity and highway safety in accordance with the requirements of Policies DM04, DM05, DM06, DM08 and ST14 of the North Devon and Torridge Local Plan.

Land contamination

Housing developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. Relevant contamination can arise due to historical uses of the land itself or from contamination pathways associated with off-site sources of contamination. The Environmental Health Officer has therefore recommended a contaminated land Phase 1 condition that ensures that, prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination. This is considered to be reasonable and necessary in the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan. The applicant has agreed this pre-commencement condition.

Construction Environmental Management Plan

In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the construction phase of the development the Environmental Health Officer has recommend a pre commencement condition that ensures that 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. This is also considered to be reasonable and

necessary to minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway, in the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan. The applicant has agreed this pre-commencement condition.

Planning Balance

The site lies within the development boundary for Braunton where development is enabled by Policies ST06 and BRA of the North Devon and Torridge Local Plan (NDTLP). In addition, the Council recognises that it is currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements and therefore the presumption in favour of sustainable development should be applied for decision-taking involving applications for housing. As such, subject to the proposal complying with the other relevant development management considerations, and the proposal resulting in a sustainable form of development, new residential development is acceptable in principle.

The objections received with regard to the development of this open green land have been taken into consideration. However, given that there is no in principle objection to the development of this site and the low density of two dwellings as proposed respects the contrast between the dense development to the lower levels, and reducing in density to the periphery of the village, it is recommended that the development of the two dwellings on this site as proposed will not result in harm to the overall character and appearance of the locality. The size, scale, siting and design of the dwellings and their curtilages are additionally considered to be acceptable. The development thereby accords with the design considerations of the Local Plan.

With regard to residential amenity, the concerns raised by neighbouring occupants have been taken into consideration however, the design is such as the development would not significantly harm the amenities of any neighbouring occupiers. The development thereby accords with policy DM01 of the Local Plan.

With regard to matters of ecology, following discussions with the applicant and the Sustainability Officer, it was agreed that the submitted LEMP and EA were sufficient to ensure that protected species are not harmed and that the proposal achieves net gains in biodiversity in compliance with Policy ST14 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

Many objections have been received with regard to matters of highway capacity and safety given the narrow nature of the highway and the access. However, given the recent approval of the Lawful Development Certificate and the consultation response given by County Highways, it is not considered that, on the balance of probabilities, the resultant traffic flow following the proposed development, would be significantly greater than that existing. The proposed use of the land for two, five bedrooms dwellings would unlikely result in harm to highway capacity and safety. The development therefore accords with policies DM05 and DM06 of the Local Plan.

The comments and objections raised through this application process have been acknowledged and considered; however, in having regard to the above, the application is considered to accord with the adopted development plan and result in a sustainable form of development. Officers therefore recommend approval of the application subject to the imposition of planning conditions.

Human Rights Act 1998

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

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

Recommendation

APPROVE

Legal Agreement Required: No

Conditions

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

Reason

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
20010 L1 Location Plan received on the 29/01/21
20010 L3E Site Plan received on the 29/01/21
20010 P1E Floors Plot 1 and 2 received on the 29/01/21
20010 P2E Elevations Plot 1 received on the 04/02/21
20010 P3B Elevations Plot 2 received on the 04/02/21
20014 P4 Ancillary Store received on the 29/01/21
(‘the approved plans’).

Reason

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

3. The development hereby approved shall not exceed damp course level until the details of the external materials of construction have been submitted to and approved in writing by the Local Planning Authority.

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 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 be monitored by the applicants to ensure continuing compliance during the construction of the development.

Reason

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

5. Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination. The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of ground contamination affecting 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. Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any

necessary quality assurance, verification and certification requirements in accordance with established best practice. The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.

Reason

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

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

Reason

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

7. The development hereby approved shall accord with the Ecological Impact Assessment by G E Consulting dated December 2020 and the Landscape and Ecological Management Plan by G E Consulting dated June 2021 unless otherwise agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason

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

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) express planning permission shall be obtained for any development within classes A, AA, B, D, and E of Part 1 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, DM05, DM06, DM08 and ST14 of the North Devon and Torridge Local Plan.

9. 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 policies DM01 and DM02 of the North Devon and Torridge Local Plan.

10. No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved.

Reason

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

11. All planting, seeding or turfing comprised in the approved site plan reference 2001 0/L3e 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, and DM04 of the North Devon and Torridge Local Plan.

Informatives

1. 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.
2. 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.

3. 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.

4. For the purpose of interpreting the restrictions expressed in condition 7 of this consent, permitted development rights have been removed in respect of the following classes:

Part I: CLASS A The enlargement, improvement or other alteration of a dwelling-house

Part I: CLASS AA Enlargement of a dwellinghouse by construction of additional storeys

Part I: CLASS B The enlargement of a dwelling-house consisting of an addition or alteration to its roof

Part I: CLASS D The erection or construction of a porch outside any external door of a dwelling-house

Part I: CLASS E The provision within the curtilage of a dwelling-house of -

- a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
- b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

Further detailed information can be obtained from the Local Planning Authority, including a guide to householder development, and the Planning Portal at www.planningportal.gov.uk

5. This application was granted subject to the receipt of a payment under Section 111 of the Local Government Act 1972 towards mitigation of recreational impacts on the Braunton Burrows Special Area of Conservation.
6. The proposed installation of private systems for treatment and disposal of foul drainage. including drainage fields, will need to comply with building regulations and the Environment Agency's General Binding Rules for small sewage disposal systems.

7. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

Inserts

1. Location Plan