

## Committee Site Visit Report

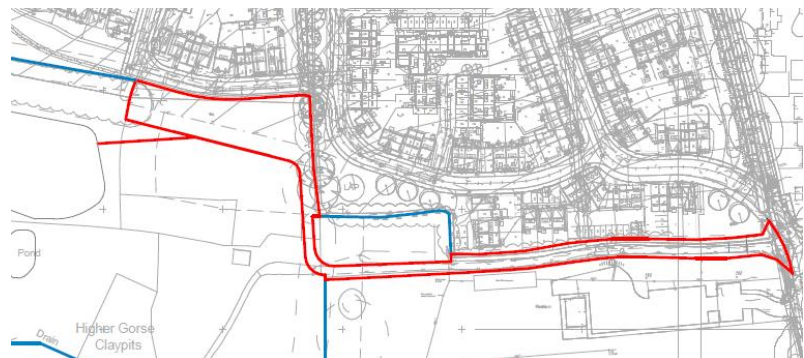
Planning, Housing and Health  
North Devon Council  
Lynton House, Commercial Road,  
Barnstaple, EX31 1DG

**Application No:** 73208  
**Application Type:** Outline application  
**Application Expiry:** 30 November 2021  
**Extension of Time Expiry:** 30 November 2021  
**Publicity Expiry:** 23 April 2022  
**Parish/Ward:** FREMINGTON/BICKINGTON  
**Location:** Former Clay Pits  
Tews Lane  
Bickington  
Devon

**Proposal:** Outline application for the erection of 2 dwellings Some matters reserved (appearance, landscaping and scale)(amended plan, documents and description)

**Agent:** Matt Steart  
**Applicant:** Mr & Mrs Fox  
**Planning Case Officer:** Mr R. Bagley  
**Departure:** N  
**EIA Development:** N  
**EIA Conclusion:** NA  
**Reason for Report to Committee :** The application is called to Planning Committee by Councillor Walker to discuss the suitability of the access to the site.

### Site Description



The existing site comprises a parcel of Greenfield land to the west of Tews Lane and to the south of Higher Gorse Road and is located within the Development Boundary for Barnstaple, and forms part of the allocated housing site BAR03 within the adopted North Devon and Torrridge Local Plan for approximately 350 dwellings (Linden Homes to the north and Cavanna development to the south).

The land forms part of the former Brannams Pottery Clay pits pottery manufacturing site but no clay has been excavated since 2002. The Mineral Planning permission has lapsed in 2014 with no prospect for further working.



*South view from Higher Gorse Road*



*North view towards Higher Gorse Road*

The land is relatively level, forming a plateau of disused grassland on the edge of Higher Gorse Road, where a post and rail fence separates the site from the residential area at present. The site is visible from properties along Higher Gorse Road, and from public access points near to the site. The site is well screened from the wider landscape by established woodland to the south and west, and by the built form to the north and east. The access track is relatively well screened on the southern flank by established vegetation, and is partly screened to the northern flank by a lower boundary hedge bank. It is possible to view into the rear of properties to the north from the access track.

The principle accesses to the site are either from the former clay pits access road from the Class R Tews Lane road, which is limited to 30 MPH. the access is bounded to the south by established trees and there is a grassed area to the north, on the approach towards Higher Gorse Road. Opposite the site access is Swallow Field leading into Roundswell. The access road, is constructed of concrete and is in a disused state of repair at present. The wider road network comprises metalled roads, of good quality, serving the existing residential areas, with elements of traffic calming along Tews Lane. To the east is a County Public Footpath (Fremington Footpath 17) running from Higher Gorse Road to Old Bideford Road and which is in public use.

The site is within the Muddlebridge Green Wedge and, is adjacent to a County Wildlife Site – *Higher Gorse Claypits*, comprising ponds, woodland and grassland, bounding the proposal site to the south and west, and bounds TPO 258 – *G1 – Claypits Coverts* to the south and west, but is situated outside of the TPO. The site is part of a Minerals Extraction site, being the former Clay Pit quarry. The proposed access from Tews Lane runs though part of the Green Wedge and County Wildlife site to the south west of the site.

The proposed development is within Flood Zone 1, and within the Critical Drainage Area (CDA). To the west the land bounding the site is Flood zone 3 and to the south Flood zone 2.

A Number of dwellings are located to the north of the site along Higher Gorse Road (numbers 16-28 Higher Gorse Road), where a number of properties have rear garden areas backing onto the access track to Tews Lane ( Numbers 1-27 Claypits Road, and numbers 1, 3, 5, 11 Higher Gorse Road). To the immediate north there is a parking courtyard serving Numbers 5 -27.

In terms of the site visit and provision for access and parking to the site, the best access is via Roundswell along Tews Lane. At the site to the south of the access road is the Queen

Elizabeth II car park, and associated public open space with limited parking provision. There is space for unrestricted on-street parking in Swallow Field or along Higher Gorse Road. I would suggest congregating in the Queen Elizabeth II Car Park from where it is easiest to get to the site access.

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>25458</b>	Outline application proposed residential development, roads, sewers and landscaping at land west of and r/o Shieling Road And South View, Tews Lane, Bickington, Barnstaple, EX31 3UT	Withdrawn	22 July 1998
<b>26995</b>	Application for determination of new operating conditions under the provisions of the environment act 1995 at Claypit Coverts, (Land At), Fremington, EX31 2ND	DCC Approval	9 June 1999
<b>27392</b>	Outline application residential development, roads, sewers and landscaping at (land west of) Tews Lane, Bickington, Barnstaple, EX31 2JU	Withdrawn	25 February 2000
<b>34086</b>	Erection of sports pavilion together with sports pitches, access & car parking & associated landscaping (amended plans) at Land Pt OS 1575, Tews Lane, Bickington, Barnstaple, EX31 3XL	Full Planning Approval	25 March 2003
<b>54993</b>	County Matters application to vary planning permission NI/3234 in respect of scheme of conditions granted under permission 02/27/26995/99 in respect of condition 1 (approved plans) & condition 4 (restriction of working / tipping areas) at Claypit Covers, Fremington, Barnstaple, Devon, EX31 3UT	DCC Approval	28 February 2014
<b>53881</b>	Outline application for residential development comprising 350 dwellings, a primary school & associated public open space & infrastructure at land west of, Tews Lane, Barnstaple, Devon, EX31 3UT	Outline +S106 Approval	24 October 2014
<b>60291</b>	Reserved matters application for erection of 264 dwellings (outline planning permission 53881) (amended plans identifying revised layout & design together with additional drainage, landscape & engineering information) at Land At, Tews Lane, Bickington, Devon	Full Planning Approval	30 June 2016
<b>61602</b>	Discharge of conditions 23 (construction management plan), 26 (noise assessment), 36 (tree protection plan), 37	Discharge Of Condition Approve	23 November 2016

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
	(scheme for the protection of trees) and 42 (construction method statement) attached to planning permission 53881 (amended description) at land west of Tews Lane, Bickington, Barnstaple, Devon, EX31 2JU		
<b>61658</b>	Application for non-material amendment to planning permission 60291 in respect of change of manufacturer for the block paving & gravel pathway together with addition of back garden patio at Tews Lane, Bickington, Barnstaple, Devon, EX31 2JU	Approve Non-Material Amendment	25 November 2016
<b>61894</b>	Application for a non-material amendment to planning permission 60291 in respect of change of rear door type for house types 402, 403 & TL4 at land at Tews Lane, Bickington, Devon	Approve Non-Material Amendment	25 November 2016
<b>61137</b>	Approval of details in respect of discharge of conditions 13 (archaeology), 21 (contaminated land), 23 (CMP), 37 (AMS) attached to planning permission 53881 at land off Tews Lane, Fremington, Devon	Discharge Of Condition Approve	13 January 2017
<b>62903</b>	Application for a non-material amendment to planning permission 60291 in respect of change of design for plot 40 flat block b to allow private garden at land to west of Tews Lane, Bickington, Devon	Approve Non-Material Amendment	17 August 2017
<b>63354</b>	Application for a non-material amendment to planning permission 60291 in respect of amendment to approved materials layout & addition of a single door on the ground floor of apartment block b together with a gate, fence & path added to garden area at land off Tews Lane, Tews Lane, Bickington, Devon	Approve Non-Material Amendment	17 August 2017
<b>63783</b>	Application for a non-material amendment to planning permission 60291 in respect of change of material (brick) at land at Tews Lane, Roundswell, Devon	Approve Non-Material Amendment	17 October 2017
<b>63020</b>	Application for approval of details in respect of discharge of conditions 8 (location of affordable housing), 13 (archaeology), 14 (phasing programme), 18 (drainage plan), 19 (sewer requisition) & 21 (geotechnical report) attached to outline planning consent 53881 (outline application for residential development comprising 350 dwellings, a primary school & associated public open space &	Discharge Of Condition Approve	7 December 2017

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
	infrastructure) at land west of Tews Lane, Roundswell, Barnstaple, Devon, EX31 3XJ		
<b>62977</b>	Application for a non-material amendment to planning permission 61541 in respect of changes to adopted highway surface specification from block pavers to tarmac at land west of Tews Lane, Bickington, Barnstaple, Devon, EX31 2JU	Withdrawn	5 January 2018
<b>62660</b>	Approval of details in respect of discharge of condition 4 (engineering layout) & 4 (road & sewer longitudinal & suds) attached to planning permission 60291 at land at Tews Lane, Bickington, Devon	Discharge Of Condition Approve	30 August 2018
<b>70782</b>	Approval of details in respect of discharge of condition 44(Landscape management plan) attached to planning permission 53881 (Outline application for residential development comprising 350 dwellings, a primary school & associated public open space & infrastructure) at land west of Tews Lane, Bickington, Barnstaple, EX31 3WJ	Approved	6 December 2019
<b>70784</b>	Approval of details in respect of discharge of condition 21 (ground contamination) attached to planning permission 53881 (Outline application for residential development comprising 350 dwellings, a primary school & associated public open space & infrastructure) at land west of Tews Lane, Bickington, Barnstaple, EX31 3WJ	Approved	6 December 2019
<b>70903</b>	Approval of Details in respect of discharge of conditions 23 (Construction Management Plan) attached to Planning Permission 53881 Outline application for residential development comprising 350 dwellings, a primary school & associated public open space & infrastructure at land off Tews Lane, Tews Lane, Bickington, Devon	Approved	17 February 2020

### **Constraints/Planning Policy**

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Adopted County Wild Life Site: Higher Gorse Claypits Policy Ref: ST14	Within constraint
Adopted Green Wedge: Muddlebridge Policy Ref:BAR22	Within constraint
Advert Control Area Area of Special Advert Control	Within constraint

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Critical Drainage Area	Within constraint
Historic Landfill Buffer	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Public Right of Way: Footpath 227FP17	Within constraint
Within 50m of Adopted New or Upgraded Road: BAR03 Tews Lane, Roundswell	Within constraint
Within adopted Development Boundary: Barnstaple South Development Boundary ST06	Within constraint
Within Adopted Housing Allocation: BAR03 Tews lane, Roundswell	Within constraint
Within Adopted Sports Hub: Tews Lane, Roundswell	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within Surface Water 1 in 30	Within constraint
Within:, SSSI 500M Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint

### **Consultees**

<b>Name</b>	<b>Comment</b>
Arboricultural Officer	No comments received
Councillor H Walker  Reply received 26 <sup>th</sup> April 2022	Call in to Planning Committee to discuss the acceptability/suitability of the access to the site.
Councillor J Cann	No comments received
Councillor W Topps	No comments received

Name	Comment
<p data-bbox="180 197 421 264">DCC - Childrens Services</p> <p data-bbox="180 304 408 371">Reply Received 7 May 2021</p>	<p data-bbox="443 197 1382 371">Regarding the above planning application, Devon County Council has identified that the proposal of 4 dwellings will generate an additional 1.00 primary pupils and 0.60 secondary pupils which would have a direct impact on Barnstaple primary and secondary schools.</p> <p data-bbox="443 416 1401 519">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 data-bbox="443 564 1406 958">We have forecast that local primary and secondary schools have not got 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 and secondary schools that serve the address of the proposed development. The contribution sought towards primary provision is 19,417 (based on the DfE new-build rate of 19,417 per pupil). The contribution sought for secondary provision is 13,507 (based on the DfE extension rate of 22,513 per pupil). These contributions will relate directly to providing additional education facilities for those living in the development.</p> <p data-bbox="443 1003 1377 1254">DCC also need to request a proportionate land contribution of 10sqm per family-type dwelling from this development. Based upon a land value of 1,105,000 per hectare, this land contribution would equate to 1,105 per dwelling and would be used to contribute to the procurement of the new school site. For the maximum of 4 dwellings the contribution sought for secondary would be 4,420.</p> <p data-bbox="443 1299 1385 1438">All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to contributions requested should be applied from this date.</p> <p data-bbox="443 1482 1406 1733">The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.</p> <p data-bbox="443 1778 1406 2029">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>

Name	Comment
<p>DCC - Development Management Highways</p> <p>Reply received 26<sup>th</sup> April 2022</p>	<p>Having looked at the application details, I can see little that has addressed the highway issues raised previously and, therefore, the position remains unchanged.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 7 May 2021</p>	<p>The following objection is identified in respect of the proposed development:</p> <p>1) The Local Planning Authority and the Local Highway Authority, in adopting the Devon County Council publication "Highways in Residential and Commercial Estates Design Guide", dated January 1996, and as subsequently amended, have detailed the philosophies and criteria that are necessary to achieve adoptable residential streets. The proposed development creates a street, to which the provisions of the Advance Payments Code apply, that does not achieve an adoptable standard and is not, therefore, adequate to serve the proposed development.</p> <p>Notwithstanding the above, the proposed access appears to be lacking in considerable detail at the entrance, particularly accommodating passing provision, construction materials, access radii, drainage etc. In addition, there is a need to identify, and provide, passing places along the access road.</p>
<p>DCC - Lead Local Flood Authority</p>	<p>No comments received</p>
<p>DCC - Public Rights Of Way</p> <p>Reply Received 30 April 2021</p>	<p>Devon County Council (DCC) have asked that I comment on the above planning application. Please be aware that the application will directly affect Fremington footpath 17. I conducted a site visit on the 28th April 2021 and noticed that a new fence has been erected against the Public Footpath (I assume by the potential developer) and which already appears to be encroaching on the line of the way it has significantly restricted the route making some authorised access problematic. I also notice that the proposal includes a new access road which will cross the line of the footpath.</p> <p>With regard to the new fence line, though nothing has been documented on the Definitive Map and Statement, where there is or has been clear boundaries between which the footpath runs, then it is taken as read that the width of the way will be from boundary to boundary. There is evidence of the original boundary, (vegetation and historic concrete posts) which give an indication of the original available width of the path. It would appear that the developers contractor has started fencing along the original boundary line but then 'turned in' to bring the fence to the width of a gate where the path exits the site. There maybe a misunderstanding of Footpath Legislation in as much as assuming</p>



Name	Comment
	<p>the width of a path is one metre, however one metre is the 'minimum width' a path can be, in most cases footpath are much wider. I would therefore request that prior to any planning consent being approved that the original width of the path be re-instated. In order to create the new access road, the developer will require permission from DCC to alter or disturb the surface of the footpath, where the new access road crosses the path. DCC will need to approve the replacement surface/alterations and approve any infrastructure additions. We will also need to ensure walkers safety is considered where the path and the access road meet/cross. One another point, in the plans it is suggested that a 1.2m footpath be maintained in some format on or adjacent to the access road? Bearing in mind the details cited above regarding width, I'd like a little more clarification on what is proposed regarding the continuation of the path in relation to the new access road. Therefore, until such time as the issues above have been addressed, DCC would place a holding objection on the application.</p> <p>Finally, we would remind the applicant that Planning Permission does not grant the right to close, alter or build over a Public Right of Way in anyway, even temporarily. Therefore should the application be successful, the applicant must ensure that the way remains open and available to the public at all times, including during the period of construction activity such as with buildings materials, or spoil and contractors vehicles and plant etc. Should it be necessary to permanently divert the path to enable development to take place, this can be achieved by the Local Planning Authority through section 257 of the Town and Country Planning Act 1990. If a temporary diversion or closure is required during construction works then the applicant may apply to DCC for a temporary closure order.</p>
<p>Environment Agency</p> <p>Reply Received 29 March 2022</p>	<p>Thank you for emailing the Sustainable Places team of Devon Cornwall &amp; Isles of Scilly Area of the Environment Agency.</p> <p>If your email is a statutory development management consultation we will respond to you within 21 days of receipt of your email, unless otherwise agreed with the case officer. If you do not hear from us within the agreed timeframe please manage this consultation in accordance with the Environment Agency's flood risk standing advice:  <a href="https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#vulnerable-developments-standing-advice">https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#vulnerable-developments-standing-advice</a></p>
<p>Environmental Health Manager</p> <p>Reply Received 21 April 2021</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <ul style="list-style-type: none"> <li>- Contaminated Land Phase 1 Condition</li> </ul> <p>Prior to the commencement of any site clearance, groundworks or construction, the Local Planning Authority shall be provide with a Phase 1 Preliminary Risk assessment report for potential ground contamination.</p>

Name	Comment
	<p>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.</p> <p>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 and best practice.</p> <p>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.</p> <p>Reason: to ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning policy Framework.</p> <ul style="list-style-type: none"> <li>- Contaminated Land (Unexpected Contamination) Condition</li> </ul> <p>Should any contamination of ground or ground water not previously identified be discovered during the 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 LPA or other regulatory bodies.</p> <p>Reason: to ensure that any contamination exposed during development s remediated in accordance with the National planning policy Framework.</p> <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 demolition and construction phase of the development I recommend the following conditions be included:</p> <ul style="list-style-type: none"> <li>- <i>Construction Environmental Management Plan Condition</i></li> </ul> <p>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 development works shall be submitted to and</p>

Name	Comment
	<p>approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-</p> <ul style="list-style-type: none"> <li>a) details of measures to prevent mud from vehicles leaving the site</li> <li>b) details of control measures for fugitive dust from demolition, earthworks and construction activities; dust suppression;</li> <li>c) a noise control plan which details hours of operation and proposed mitigation measures;</li> <li>d) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;</li> <li>e) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.</li> </ul> <p>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.</p> <p><i>Reason: To minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of local residents from potential impacts whilst site clearance, groundworks and construction is underway.</i></p> <p><i>- Construction Hours Condition</i></p> <p>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:</p> <ul style="list-style-type: none"> <li>a) Monday - Friday 08.00 - 18.00,</li> <li>b) Saturday 08.00 - 13.00</li> <li>c) nor at any time on Sunday, Bank or Public holidays.</li> </ul> <p><i>Reason: To protect the amenity of local residents</i></p>
<p>Environmental Health Manager</p> <p>Reply Received 5 April 2022</p>	<p>I have reviewed the amended plans, information and representations for this application in relation to Environmental Protection matters and refer you to comments I made by email on 21 April 2021.</p> <p>I do not wish to add anything to my previous comments, which stand.</p>
<p>Fremington Parish Council</p> <p>Reply Received 11 May 2022</p>	<p>The Parish Council is commenting on this application as an adjoining landholder. The Parish Council is concerned about the impact on the drainage of the sports field which goes across the access road to the site and will be compromised.</p> <p>The proposed access is on a blind bend and the height of the proposed access road will have a negative impact on the amenity of neighbouring property owners. The Parish Council also has concerns about the width of the access road.</p>

Name	Comment
<p data-bbox="177 199 424 264">Housing Enabling Officer</p> <p data-bbox="177 304 424 369">Reply Received 20 May 2021</p>	<p data-bbox="440 230 1398 741">The proposed site is within the Barnstaple development boundary and forms part of the allocated housing site BAR 03 in the Local Plan. The applicant's Supporting Statement including Design and Access Statement states "This site falls under the threshold for affordable housing provision as set out in Policy ST18. Therefore there is no affordable Housing provision as part of this development." I note however that the Planning Policy Officer states in his consultation response that he suggests that Policy ST18(1a) of the Local Plan is relevant and that he would expect on-site delivery of affordable housing equal to 30% of the total number of dwellings (gross). If Planning determine that affordable housing is required then 30% of 4 proposed dwellings would mean 1 affordable dwelling on-site and a financial off-site contribution equivalent to 0.2 of a dwelling.</p> <p data-bbox="440 781 1406 1140">Council policy is that the affordable housing tenure mix is at least 75% social rent and the remainder intermediate (shared ownership, intermediate rent or discounted sale). In the case of 1 affordable unit it should be a 2 bedroom dwelling for social rent. In the case of 2 affordable units the Council's dwelling mix requirement is that the second unit should be a 1 bedroom dwelling for social rent. Therefore, the requirement would be for the provision of a two bedroom dwelling for social rent on-site and an off-site financial contribution equivalent to 0.2 of a one bedroom dwelling for social rent.</p> <p data-bbox="440 1180 1406 1691">The formula we use to establish an off-site financial contribution figure is (Open Market Value - Registered Provider price) x % of affordable housing required. The Council uses data from an Altair Report (which can be accessed at <a href="http://www.torridge.gov.uk/ndt1p">www.torridge.gov.uk/ndt1p</a>) for the Open Market Value. This recommends that for 1 bedroom dwellings off-site contributions valuations must be sought on a scheme by scheme basis (due to insufficient data for 1 bedroom properties in North Devon). The applicant would need to submit 3 estate agent open market valuations to the Council. Once the Open Market Value has been determined the recommended Registered Provider percentage as stated in the Altair Report would then be deducted. This figure would then be multiplied by 0.2 in this case (the required Off Site Contribution Equivalent to 0.2 units).</p> <p data-bbox="440 1731 1406 2018">Property sizes for affordable housing should aim to meet or exceed the "Technical housing standards - nationally described space standard", which can be accessed at <a href="https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard">https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard</a> (see "Table 1 - Minimum gross internal floor areas and storage (m2)" of the Department for Communities and Local Government document).</p>

Name	Comment
	<p>The attached table shows the policy requirement for dwelling mix &amp; occupancy levels. Registered providers require housing to be built to National Space Standards; these are indicated on the table.</p> <p>The affordable homes should be designed and of the same material and construction as the open market - including car parking.</p> <p>Those who are allocated or buy the housing would need to have a local connection to the administrative district of North Devon Council.</p>
<p>Natural England</p> <p>Reply Received 4 May 2021</p>	<p><b>Planning consultation:</b> Outline application for the erection of 4 dwellings Some matters reserved (appearance, landscaping and scale).</p> <p><b>Location:</b> Former Clay Pits, Tews Lane, Bickington, Devon</p> <p>Thank you for your consultation on the above, dated and received by Natural England on 15 April 2021.</p> <p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p><b>SUMMARY OF NATURAL ENGLAND'S ADVICE FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES</b></p> <p><b>Habitats Regulations Assessment - Recreational impacts on Braunton Burrows Special Area of Conservation (SAC)</b></p> <p>The application site is within 6.27km of the Braunton Burrows SAC and lies within the Zone of Influence (Zol) within which impacts of residential and tourist development on the SAC would arise in the absence of appropriate mitigation.</p> <p>Further evidence submitted following your Joint Local Plan Habitats Regulations Assessment indicates that it would not be possible to reach a conclusion of 'no likely significant effect' for housing in this location, in combination with other residential/tourist development within the Zol, in the absence of appropriate mitigation.</p> <p>North Devon Council and Torrington District Council have adopted an Interim Scheme 'Braunton Burrows Special Area of Conservation Visitor Impacts and Mitigation' (July 2019) whereby impacts can be avoided and mitigated through financial contributions in order to avoid significant effects of recreational impacts on the Braunton Burrows SAC from new housing/tourist developments within the Zol.</p> <p>Natural England advises that you:</p> <p>Undertake an Appropriate Assessment of the proposal and any mitigation proposed, prior to determining the application<sup>1</sup>.</p>

Name	Comment
	<ul style="list-style-type: none"> <li>Seek agreement from the applicant on funding of a package of measures which will permit you to reach a conclusion of no adverse effect on integrity before granting permission. Your Authority should not grant permission until such time as this mitigation has been secured.</li> </ul> <p>The <a href="#">Conservation Objectives</a> for the Braunton Burrows SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.</p>
<p>Natural England</p> <p>Reply Received 19 April 2022</p>	<p><b>FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES</b></p> <p>Habitats Regulations Assessment - Recreational impacts on Braunton Burrows Special Area of Conservation (SAC)</p> <p>The application site is within 6.27km of the Braunton Burrows SAC and lies within the Zone of Influence (Zol) within which impacts of residential and tourist development on the SAC would arise in the absence of appropriate mitigation.</p> <p>Further evidence submitted following your Joint Local Plan Habitats Regulations Assessment indicates that it would not be possible to reach a conclusion of 'no likely significant effect' for housing in this location, in combination with other residential/tourist development within the Zol, in the absence of appropriate mitigation.</p> <p>North Devon Council and Torridge District Council have adopted an Interim Scheme 'Braunton Burrows Special Area of Conservation Visitor Impacts and Mitigation' (July 2019) whereby impacts can be avoided and mitigated through financial contributions in order to avoid significant effects of recreational impacts on the Braunton Burrows SAC from new housing/tourist developments within the Zol.</p> <p>Natural England advises that you:</p> <ul style="list-style-type: none"> <li>Undertake an Appropriate Assessment of the proposal and any mitigation proposed, prior to determining the application<sup>1</sup>.</li> <li>Seek agreement from the applicant on funding of a package of measures which will permit you to reach a conclusion of no adverse effect on integrity before granting permission. Your Authority should not grant permission until such time as this mitigation has been secured.</li> </ul> <p>The Conservation Objectives for the Braunton Burrows SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.</p> <p><b>Sites of Special Scientific Interest Impact Risk Zones</b></p> <p>The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on</p>

Name	Comment
	<p>developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.</p>
<p>Open Space Officer</p> <p>Reply Received 19<sup>th</sup> April 2022</p>	<p>As a 2 unit development, which this application now appears to be, it would not attract the requirement for S106 POS.</p>
<p>Open Space Officer</p> <p>Reply Received 27 April 2021</p>	<p>This application generates a requirement for open space and green infrastructure in accordance with policy DM10, calculation attached. If the application is recommended for approval, we can provide details of specific open space schemes, in line with CIL regulations.</p>
<p>Planning Policy Unit</p> <p>Reply Received 5 May 2021</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 site forms part of a larger SHLAA promotion (SHA/FRE/568) where concerns were expressed by statutory consultees around suitability and achievability of housing delivery. It was concluded by the Panel that the site is not currently developable as 'the site is within a CDA. Also, the land forms part of a SSSI, TPO, CWS, Flood Zone and mineral extraction area. It is considered the only possible developable area is to the north of the site adjacent to SHLAA site SHA/FRE/129'. However, as set out in the adopted 'Devon Minerals Plan (2011-2033), paragraph 7.1.7 recognises that 'the pottery manufacturer that the quarry supplied is no longer in business, with no clay having been excavated since 2002. The mineral planning permission lapsed in 2014 with no prospect of further working, and the majority of the site now has planning permission for residential development'. You may wish to seek further advice from DCC on this matter with regard to the acceptability of developing housing on this site and its potential impact on future mineral extraction.</p> <p>As you are aware, this greenfield site (excluding the proposed access road) is within the defined development boundary for Barnstaple and forms part of the allocated housing site BAR03 within the adopted Local Plan for approximately 350 dwellings, including affordable homes. Therefore, the principle of housing is considered acceptable in accordance with Policy ST06. I note the agent has set out in their supporting statement that 'this site falls</p>

Name	Comment																				
	<p>under the threshold for affordable housing provision as set out in Policy ST18. Therefore, there is no affordable housing provision as part of this development'. However as I have just set out, this site forms part of Policy BAR03 and where paragraph 7.32 of the Local Plan makes it clear that 'where a proposal site is subject to phasing, is sub-divided or where there is a reasonable prospect of adjoining land coming forward for residential development, the local planning authority may consider the site(s) taken as a whole for the purpose of determining the appropriate affordable housing provisions'. Therefore, from a policy perspective I would suggest that Policy ST18(1a) of the Local Plan is relevant and I would expect on-site delivery of affordable housing equal to 30% of the total number of dwellings (gross). In this instance there should be an on-site requirement of at least 1 affordable dwelling with the 0.2 of a dwelling being collected as an off-site financial contribution.</p> <p>You must be assured that the proposed housing mix will meet the identified housing need in accordance with Policies ST17, BAR and BAR03. Page 180 of the HEDNA (CE21) provides guidance on the mix of bed sizes by tenure that would be appropriate to help meet identified housing needs. For information, Part (1) of Policy ST17 could be used to seek particular forms of housing where there is evidence of need. I have provided an extract from the HEDNA (Table 114: Recommended Housing Mix – page 214) which identifies the recommended housing mix across the Plan area.</p> <table border="1" data-bbox="432 1142 1418 1288"> <thead> <tr> <th></th> <th>1 – bed</th> <th>2 – bed</th> <th>3 - bed</th> <th>4 - bed</th> </tr> </thead> <tbody> <tr> <td>Market</td> <td>5-10%</td> <td>30-35%</td> <td>40-45%</td> <td>15-20%</td> </tr> <tr> <td>Affordable</td> <td>30-35%</td> <td>35-40%</td> <td>20-25%</td> <td>5-10%</td> </tr> <tr> <td>All Dwellings</td> <td>15%</td> <td>35%</td> <td>35%</td> <td>15%</td> </tr> </tbody> </table> <p>Policy ST17 seeks to deliver a balanced housing market in terms of dwelling numbers, type, size and tenure and should reflect identified local housing needs. It is clear from the evidence that the latent demand within northern Devon is for two and three bed units. The 4 residential units proposed under 73208 comprise the following housing mix:</p> <p>3 bed – 2 units (50% of total)  4 bed – 1 unit (25% of total)  5 bed – 1 unit1 (25% of total)</p> <p>Clause (1) of policy ST17 provides a mechanism to influence the mix of housing on proposals. The HEDNA can be used for evidence of need - including house sizes. More localised evidence, such as housing needs surveys, can be used if they are available and up-to-date. The policy is intended to influence both market and affordable tenures. On smaller schemes, such as this, the mix should generally be taking account of local character and context. From a policy perspective, I would suggest the current proposed housing split is possibly not reflective of local need and you may</p>		1 – bed	2 – bed	3 - bed	4 - bed	Market	5-10%	30-35%	40-45%	15-20%	Affordable	30-35%	35-40%	20-25%	5-10%	All Dwellings	15%	35%	35%	15%
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All Dwellings	15%	35%	35%	15%																	



Name	Comment
	<p>wish to consider adjusting the proposed housing mix in accordance with the above table and Policies ST17, BAR and BAR03.</p> <p>The design and layout of the development should be considered against Policies ST02, ST03, ST04, DM01, DM04 and DM08A of the local plan and the National Design Guide.</p> <p>As set out in paragraph 6.5 of the Local Plan, 'all development will be expected to provide a net gain in biodiversity where feasible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support 'biodiversity offsetting' to deliver a net gain in bio-diversity off-site'. If there is some loss of existing habitat then this should be mitigated against by providing additional planting on or off site. The Defra metric should be used to ensure there is an overall net gain in biodiversity. It is worth noting that the western and southern boundary forms part of the 'Higher Gorse Claypits CWS' which is designated for its semi-natural broadleaved woodland, scrub, mesotrophic ponds, semi-improved neutral grassland, ruderal herb stands. It is also adjacent the 'G1, Claypits Coverts TPO. Also, the proposed housing site is a 'key network feature' within the wider biodiversity network. As the site is within the Braunton Burrows SAC Zone of Influence, the applicant will be liable for a financial contribution towards the long term management and maintenance of the Special Area of Conservation. There is some concern that part of the proposed vehicular access goes through the designated CWS. All issues around ecology should be considered against ST14 and DM08 including the response from Mark Saunders and Andrew Jones.</p> <p>I note the site is proposed to be accessed from the east off Tews Lane where part of the route encroaches in to the CWS and Green Wedge (Policies BAR(I), BAR22, FRE(I)). From a policy perspective I would question why the site could not be accessed off Barum Ware Way / Higher Gorse Road as I would assume refuse / recycling collections, emergency services and visitors would probably seek to access the properties off this highway. Otherwise, residents would have to transport their waste and recycling along the private drive to the junction with Tews Lane which may have to be the case due to existing 'ransom strips' with the principle developer(s) of BAR03. If it is not possible to provide access off the existing development and Tews Lane would have to be the principle route then I am less concerned such an access will have an adverse impact on the Green Wedge but I would suggest it should avoid the CWS and be re-routed through the existing concrete courtyard so that it avoids going through this wildlife designation. Policy BAR20 seeks to enhance the strategic green infrastructure network within and around Barnstaple. Criterion (a) requires improved footpath and cycle links to the Tarka Trail from Pottington, Sticklepath and Bickington whereas criterion (b) seeks to deliver an enhanced cross-town cycle route across Barnstaple. I would suggest that if this site is considered acceptable then it should contribute towards the delivery criterion (a) and (b) of Policy</p>

Name	Comment
	<p>BAR20. You must therefore ensure that the necessary cycle / footpath routes are delivered and connections made between adjoining developments. All highway issues should be considered against Policies ST10, BAR, BAR20, FRE(h), DM05 and DM06 of the Local Plan.</p> <p>The site is within a 'critical drainage area' where you must ensure that the development incorporates additional water storage areas compared to normal urban drainage systems in accordance with Policies ST03, BAR(p) and FRE(e) of the adopted Local Plan.</p>
<p>Planning, Transportation &amp; Environment</p>	<p>No comments received</p>
<p>Sustainability Officer</p> <p>Reply received 30<sup>th</sup> March 2022</p>	<p>Comments:</p> <p>The submitted Ecological Assessment (EA) and Update provide an appropriately detailed assessment of site composition and no further protected species survey effort is considered necessary. The EA concludes that the site is bounded to the south and west by high value habitat where potential for disturbance to protected species should be minimised.</p> <p>The current Site Plans do not include any illustrative plans to demonstrate that the proposed development will not impact on neighbouring habitat as a result of encroachment, disturbance and illumination. A Defra Small Sites Metric should be submitted in order to identify the extent of landscaping required as part of any detailed application. Alternatively a Parameters Plan clearly demonstrating where landscaping will be accommodated, specifically on the western and southern boundaries is required to ensure that offsite contributions will not be necessary.</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> <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</p>

Name	Comment
	<p>(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>Sustainability Officer</p> <p>Reply Received 7 May 2021</p>	<p>Having reviewed the PEA 2017 and EA Update 2021 I am generally satisfied that no further protected species surveys are necessary and that the recommendations of the PEA can be satisfied under the proposed layout. I would suggest that consideration of reducing the western extent of Plot 4 to ensure that the recommendation for 'a 10m buffer zone should be established between any development and the western boundary both during and after construction'.</p> <p>There currently appears to be no demonstration of landscaping proposals which would result in a net gain for biodiversity. While a full biodiversity metric is not considered applicable, the presence of the CWS and Biodiversity Network Feature require a considered approach to maintaining the existing PROW while providing an appropriate transition which enhances the existing site. A parameters plan clearly illustrating appropriate buffers and landscape proposals should be secured prior to determination. Any requirement for biodiversity offsetting must be secured through an appropriately worded legal agreement. We need to have an accurate understanding that the site is capable of on-site delivery of BNG at outline stage, as S106 cannot be made on reserved matters and ecology is a principle matter not a reserved matter. As such, as a minimum we need to be provided with an accurate parameters plan which shows how and where a minimum of 10% can be delivered on site.</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 £100 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972.</p> <p>Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of</p>

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	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.

### **Neighbours / Interested Parties**

Comments	No Objection	Object	Petition	No. Signatures
2	0	15	0	0

The proposal has been amended from 4 dwellings to two dwellings with associated infrastructure as shown, and have been subject to a round of consultations which took place on 29<sup>th</sup> March 2022. The objections and comments are therefore split between the objections and comments relating to the original 4 dwellings, and those received following the further round of consultations on 29<sup>th</sup> March 2022 to the two dwellings.

### **Summary of Objections – pre 29<sup>th</sup> March Consultation**

- The 4 extra homes are in proximity to the 'over developed' Tews Lane development and there is no need for the 4 extra homes.
- The access to the site is inadequate to serve 4 units.
- The access to the site is at the rear of Number 5 Higher Gorse Road impacting on amenity.
- The access road crosses the Public Right of Way, the access to the site would destroy the public footpath and disruption to pedestrians. This forms a link to the nearby Roundswell School, concern on impact to safety
- Impact on amenity from noise and pollution levels. Impact on amenity from overbearing and loss of privacy from raised access track and vehicles/pedestrians using the access.
- The use of the access would require the removal of established hedgerows.
- Impact on the historic significance of the Clay pits site and the history of Brannams pottery.
- Negative disturbance to wildlife within the site
- Time to give residents a break from noise and pollution from building works

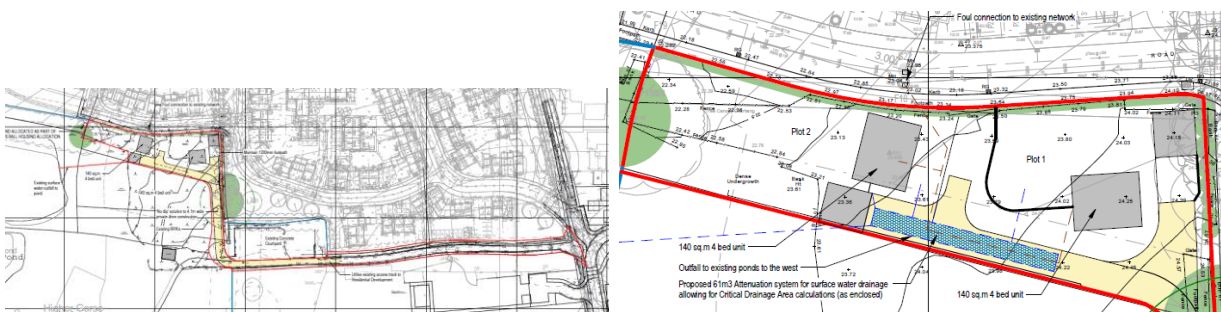
### **Summary of Objections – post 29<sup>th</sup> March Consultation**

- Loss of amenity to garden and rear aspect of dwelling of 1 Higher Gorse Road from loss of privacy from access track.
- Loss of amenity to the rear garden and rear aspect of dwelling at Number 2 Higher Gorse Road from loss of privacy from access track. Impact from noise/fumes from vehicles using the access track.
- Limited visibility into Tews Lane from the proposed access.
- Adverse impact on wildlife inhabiting the site.
- Impact on busy school area.

- The site would not deliver affordable housing and has no benefit for the community.
- Two private dwellings will not contribute to local housing needs in the area.
- Loss of amenity to the rear garden and rear aspect of the dwelling at Number 5 Higher Gorse Road. Impact from vehicle fumes. Proximity of road to the boundary as the road cannot accommodate 2 vehicle width. Risk to pedestrians. No pavement proposed along access track. No provision for disabled pedestrian access.
- How would construction vehicles fit down the access track to the site?
- The proposal does not take account of potential flooding issues within the clay ground conditions.
- The drainage from the road would be into gardens lower down to the north.
- Impact on amenities of Number 26 Higher Gorse Road through the construction phase.
- Additional vehicles will cause additional pressure on the road.
- Impact on users of the Tews Lane football pitches.
- The entry/exit is on a blind bend and would be dangerous
- The land owner has fenced off part of the PROW and has not (yet) re implemented original permissions.
- Will the applicants need to provide future adoption of the access?
- Can the access be positioned elsewhere into Higher Gorse Road, with better visibility?
- The field frequently floods. The construction of the plots would result in increased flooding within the area. Putting the 2 dwellings here will restrict the natural soakaway of the site down to the ponds to the west.
- Detrimental impact on the appearance of the area. Loss of remaining section of 'open land' within a built up area.
- Loss of/Impact to wildlife inhabiting the site.
- This is phase 1 of a bigger plan to develop the site?

## Considerations

## Proposal Description



The application seeks outline planning permissions for the erection of 2 dwellings with some matters reserved (Appearance, landscaping and scale). The proposal has been amended from 4 dwellings to 2 dwellings with associated access as shown above.

The outline permission would secure means of access via the access road to Tews Lane to the east. The Two dwellings would be positioned to the North West towards Higher Gorse Road. Foul Drainage is proposed via the existing foul drainage network within the Linden Development. Additional hard surfacing comprises 1025m<sup>2</sup> and therefore requires attenuation within the CDA. Surface water Drainage would be proposed in the form of attenuation crates to provide 61m<sup>3</sup> of attenuation to the south of the site. The Crates would be discharged via a 2l/s flow restriction into the ponds to the west.

The site falls below the thresholds for Affordable Housing provision, on or off site Public Open Space provision, Education Contributions or other contributions. Therefore, there is no requirement for a Legal agreement.

Matters of landscaping, appearance design and scale would be considered through Reserved Matters stage.

### **Planning Considerations Summary**

- Principle and policy context
- Design
- Landscape
- Amenity
- Highways
- Drainage
- Ecology

### **Site Visit Itinerary**

1. 14.00 - Meet at Queen Elizabeth II Car Park
2. Walk north to site access. View visibility and boundaries to north and south of the access
3. Walk west along site access. Views north from proposed access road towards rear of 1-27 Claypits Road and courtyard serving 5-27 Clay Pitts Road.
4. Connect to Footpath 17 (PROW) to west, views north towards proposed site. Views of site and towards Devon County Wildlife site (Higher Gorse Claypits) to the east. Views towards proposed attenuation connection to pond.
5. Walk north to Higher Gorse Road, views of site from Higher Gorse Road to the front of 1, 3, 5, 11 Higher Gorse Road.
6. Walk east back towards site access showing how the Linden Homes development has progressed to date.
7. Finish Queen Elizabeth II Car Park (approx. 15.00)

### **Human Rights Act 1998**

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

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

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