

## Application Report

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

<b>Application No:</b>	65528
<b>Application Type:</b>	Outline application
<b>Application Expiry:</b>	31 October 2020
<b>Extension of Time Expiry:</b>	29 August 2022
<b>Publicity Expiry:</b>	18 October 2018
<b>Parish/Ward:</b>	LANDKEY/LANDKEY
<b>Location:</b>	Land off Denes Road Landkey Devon
<b>Proposal:</b>	OUTLINE APPLICATION FOR DEMOLITION OF PROSPECT HOUSE & ERECTION OF 17 DWELLINGS & ACCESS (ALL OTHER MATTERS RESERVED)
<b>Agent:</b>	Woodward Smith Chartered Architects
<b>Applicant:</b>	Mr G Lane
<b>Planning Case Officer:</b>	Miss S. May
<b>Departure:</b>	Y
<b>EIA Development:</b>	N
<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	

### Site Description



The application site is well related to the existing settlement of Landkey along the northern edge of the village in an area of land bounded by Birch Road to the north and Blakes Hill

Road to the west. The site slopes gently towards existing housing along the southern boundary. The area of land amounts to approximately 0.61 hectares (currently used for the grazing of horses and sheep) as well as 0.068 hectares of land where Prospect House is currently situated. There is an existing agricultural field gate access onto Dene's Road. Residential properties lies to the East (Gratton) and West of the site (the other side of Dene's Road). To the north of the site is a field whilst to the west of the site is Blakes Hill Road. The site is currently enclosed by Devon hedge banks and mature screening.

### Recommendation

#### **APPROVE**

Legal Agreement Required: Yes

### Planning History

Reference	Proposal	Decision	Decision Date
<b>73518</b>	Erection of 20 residential dwellings (amended plans and description) at Land off Birch Road, Landkey    <b>Land to the North is the subject of a separate application which has yet to be determined</b>	Pending consideration	
<b>64079</b>	Outline application for erection of 18 dwellings (all matters reserved) (amended plans) (amended description) at Land at Birch Road/Blakeshill Road, Landkey	Withdrawn	22 June 2021
<b>41135</b>	Agricultural Building Works Prior Notification in respect of extension to existing store for feed & winter cattle housing at Land adj to Gratton, Denes Road, Landkey, Barnstaple, EX32 0JY	Agricultural PP Required	24 October 2005
<b>41151</b>	Extension to agricultural building used to accommodate livestock at Land adjacent to Gratton, Denes Road, Landkey, Barnstaple, EX32 0JY	Full Planning Approval	12 December 2005

### Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
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 91.4m	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
USRN: 27500929 Road Class:R Ownership: Highway Authority	Within constraint
Within adopted Development Boundary: Landkey Development Boundary ST07	Within constraint
Within Adopted Housing Allocation: LAN01 Land south of Birch Road	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
SSSI Impact Risk Consultation Area	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 DM08A - Landscape and Seascape Character DM10 - Green Infrastructure Provision ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST03 - Adapting to Climate Change and Strengthening Resilience ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST10 - Transport Strategy ST14 - Enhancing Environmental Assets ST17 - A Balanced Local Housing Market ST18 - Affordable Housing on Development Sites ST21 - Managing the Delivery of Housing ST23 - Infrastructure	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Arboricultural Officer	No response received.
Building Control Manager	No response received.

Name	Comment
<p>DCC - Childrens Services</p> <p>Reply Received 15 January 2019</p>	<p>Regarding the above planning application, Devon County Council has identified that the proposed 17 family type dwellings will generate an additional 4.25 primary pupils and 2.55 secondary pupils which would have a direct impact on Landkey Primary school and The Park School.</p> <p>In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:</p> <p>We have forecasted that the nearest primary and secondary school have currently 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 school that serves the address of the proposed development. The contribution sought towards primary is <b>£58,021</b> (based on the DfE extension rate of £13,652 per pupil) and the contribution sought for secondary is <b>£55,898</b> (based on the DfE extension rate of £21,921 per pupil). This will relate directly to providing education facilities for those living in the development. All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015 rates and any indexation applied to contributions requested should be applied from this date. 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>DCC - Development Management Highways</p> <p>Reply Received 16 October 2018</p>	<p>Recommendation: That conditions shall be incorporated in any grant of permission (see recommendation)</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 15 October 2018</p>	<p>At this stage, we object to this planning application because we believe it does not satisfactorily conform to saved Policy DVS6, relating to flooding and water quality, and saved Policy DVS7, relating to sustainable drainage systems, of North Devon Council's Local Plan (1995-2011). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.</p>
<p>DCC - Lead Local Flood Authority</p>	<p>Recommendation: Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the</p>

Name	Comment
<p>Reply Received 30 October 2019</p>	<p>following pre-commencement planning conditions are imposed on any approved permission (see recommendation)</p> <p>Observations: Following my previous consultation response FRM/ND/65528/2018, dated 7th June 2019, the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 06/09/2019, for which I am grateful.</p> <ul style="list-style-type: none"> <li>- Proposed Foul &amp; Surface Water Drainage Strategy 18032 - OO1 Rev B</li> <li>- HR Wallingford Calculation Output dated 9th August 2019</li> <li>- Long Term Storage Calculation</li> </ul> <p>The applicant is proposing to attenuate flows in a tanked system in line with South West Water's current adoption requirements. The design of the proposed surface water drainage system includes the incorporation of long term storage in line with best practice and also includes a maintenance schedule.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 24 September 2018</p>	<p>It is appreciated that at this time it is for outline only, as such I am unable to comment in depth as the available drawings do not reveal many of the details that would be of concern to the police. I note and welcome the inclusion of the Crime &amp; Disorder Statement and the reference to the principles of Secure By Design.</p> <p>However, having reviewed the available site plan, which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-</p> <p>Off plot car parking areas should be well illuminated to provide the potential for natural surveillance during hours of darkness. If existing hedgerow is likely to comprise new rear garden boundaries as appears will be the case then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function. I would also advise that for all plots that private front gardens are suitably defined. Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.</p>
<p>Environment Agency</p>	<p>No response received.</p>
<p>Environmental Health Manager</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p>

Name	Comment
<p>Reply Received 5 October 2018</p>	<p>1 Land Contamination I recommend the following conditions be included (see recommendation)</p> <p>2 Asbestos The existing buildings on the site are of an age where materials containing asbestos may have been used in their construction or subsequent modification. The buildings should be surveyed for such materials prior to demolition by a suitably qualified person. Where found, materials containing asbestos should be removed and disposed of in accordance with current legislation and guidance. The results of this survey and any associated recommendations should be referred to within the Construction Management Plan (see below).</p> <p>3 Construction Phase Impacts In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the demolition / construction phase of the development I recommend a Construction Environmental Management Plan Condition and a Construction Hours Condition (see recommendation)</p>
<p>Housing Enabling Officer</p> <p>Reply Received 10 October 2018</p>	<p>Due to being in between local plans at present, we need to consider both plans in isolation.</p> <p>If the application is determined in accordance with the current Local Plan, as the land is outside the development boundary it would be classed as an exception site with regard to affordable housing. The main driver should be affordable housing, and any open market housing should be the minimum necessary to cross-subsidise the affordable element.</p> <p>If the application is determined in accordance with the emerging Local Plan, then, as an allocated site, the affordable housing provision should be 30%. 30% of 17 is 5.1. There should therefore be 5 affordable dwellings and an off-site financial contribution equivalent to a tenth of a dwelling. 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 applicant states in 2.4 of their Affordable Housing Statement "The viability appraisal submitted as part of this application determines that the site can deliver 11.8% affordable housing. This consists of 1 x two-bedroom house (social rent) and 1 x two-bedroom house (discounted sale)". This would obviously need independent verification from Plymouth City Council, to which Housing Enabling would be a part of. This would be at the applicant's cost.</p> <p>Council policy is that at least 75% of the affordable homes should be for social rent, then the balance intermediate housing for sale or rent (intermediate rent at 80% of Local Housing Allowance or</p>

Name	Comment
	<p>shared ownership or discounted sale if preferred). For five affordable dwellings the Council's requirement would be three x 2 bedroom 4 person houses and two x three bedroom 5 or 6 person houses. The Council's requirement would be 4 for social rent and 1 intermediate. The requirement would be that the 4 social rent dwellings comprise of three x 2 bedroom houses and 1 x 3 bedroom house. The intermediate would need to be a three bedroom house. In the case of six affordable dwellings the requirement would be for five social rent (three x 2 bedroom houses and two x 3 bedroom houses) and one intermediate (a three bedroom house). This therefore shows that in the case of 6 affordable dwellings the sixth dwelling would need to be a three bedroom house for social rent. The off-site financial contribution formula would therefore be:-</p> <p>Open market value of a three bedroom semi-detached house in Landkey minus a registered provider price for a three bedroom semi-detached house for social rent in Landkey multiplied by the % of affordable housing (10%) required. On Section 106 schemes we would expect this to be delivered grant free so hence no affordable rent can be charged. Plus, we have strong evidence in North Devon that three quarters of those in housing need can only afford social rent so we need to ensure that we deliver the right type of housing. The affordable homes should be designed and of the same material and construction as the open market – including car parking.</p> <p>Local connection on all affordable housing, whether rented or for sale. First cascade to the parish of Landkey, second cascade to the adjoining parishes and third cascade to the whole of North Devon Council's area. The table below shows the policy requirement for dwelling mix, occupancy levels and the range of absolute minimum size values accepted locally depending on the Registered Provider chosen. If they are within this minimum range the applicant should ensure they find a Registered Provider sooner rather than later to</p> <p>(1) ensure that the Registered Provider will want the homes and  (2) work with the chosen Housing Association to make most efficient use of the space.</p> <p>The best solution is to ensure the homes are built above the highest minimum size indicated in the range.</p>

Name	Comment																										
	<table border="1" data-bbox="448 197 1398 548"> <thead> <tr> <th data-bbox="448 197 767 360">Bed size &amp; dwelling type</th> <th data-bbox="767 197 919 360">Occupancy</th> <th data-bbox="919 197 1070 360">NDC policy requirement to meet need</th> <th data-bbox="1070 197 1398 360">The minimum range of RPs who work in North Devon (m<sup>2</sup>) (inc. storage, internal walls; exc. party and external walls, chimney breast &amp; any floor area where ceiling height is</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 360 767 389">4 bedroom house (2-storey)</td> <td data-bbox="767 360 919 389">7 person</td> <td data-bbox="919 360 1070 389" rowspan="2">6%</td> <td data-bbox="1070 360 1398 389">115</td> </tr> <tr> <td data-bbox="448 389 767 418">4 bedroom house (2-storey)</td> <td data-bbox="767 389 919 418">6 person</td> <td data-bbox="1070 389 1398 418">95-104</td> </tr> <tr> <td data-bbox="448 418 767 448">3 bedroom house (2-storey)</td> <td data-bbox="767 418 919 448">6 person</td> <td data-bbox="919 418 1070 448" rowspan="2">24%</td> <td data-bbox="1070 418 1398 448">86-92</td> </tr> <tr> <td data-bbox="448 448 767 477">3 bedroom house (2-storey)</td> <td data-bbox="767 448 919 477">5 person</td> <td data-bbox="1070 448 1398 477">82-88</td> </tr> <tr> <td data-bbox="448 477 767 506">2 bedroom house (2-storey)</td> <td data-bbox="767 477 919 506">4 person</td> <td data-bbox="919 477 1070 506">At least 60%</td> <td data-bbox="1070 477 1398 506">70-76</td> </tr> <tr> <td data-bbox="448 506 767 535">1 bedroom house/bungalow/flat</td> <td data-bbox="767 506 919 535">2 person</td> <td data-bbox="919 506 1070 535">10%</td> <td data-bbox="1070 506 1398 535">45-56</td> </tr> </tbody> </table> <p data-bbox="448 593 1398 772">Devon Home Choice shows there are 30 households living in the parish of Landkey registered in housing need as of April 2018. Only 1 in 7 households tend to register themselves on the housing register as they don't think that they will have the opportunity to be housed so this figure is often significantly higher.</p>	Bed size & dwelling type	Occupancy	NDC policy requirement to meet need	The minimum range of RPs who work in North Devon (m <sup>2</sup> ) (inc. storage, internal walls; exc. party and external walls, chimney breast & any floor area where ceiling height is	4 bedroom house (2-storey)	7 person	6%	115	4 bedroom house (2-storey)	6 person	95-104	3 bedroom house (2-storey)	6 person	24%	86-92	3 bedroom house (2-storey)	5 person	82-88	2 bedroom house (2-storey)	4 person	At least 60%	70-76	1 bedroom house/bungalow/flat	2 person	10%	45-56
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<p data-bbox="178 779 421 846">Housing Enabling Officer</p> <p data-bbox="178 887 421 992">Reply Received 13 November 2019</p>	<p data-bbox="443 779 1402 1032">I'm unsure of the school situation in Landkey at present. I know the new LP now allows for education and POS to be collected on affordable homes but I know in case of viability we can look into redirecting the money to boost affordable housing. Bearing in mind this site was supposed to deliver 5 – would you be prepared to redirect the £100k education contribution for the provision of an additional unit (shared ownership or discounted sale).</p>																										
<p data-bbox="178 1039 421 1106">Housing Enabling Officer</p> <p data-bbox="178 1146 421 1214">Reply Received 11 May 2020</p>	<p data-bbox="443 1039 1402 1252">The original agreement was for 5 affordable homes. The viability assessment then agreed just 3 social rent. Any further change of tenure would need to go back to Joe McCarthy at Plymouth City Council. If he agrees with the additional costs then I will support but it may need to be a discounted sale home @ £120k rather than shared ownership.</p>																										
<p data-bbox="178 1258 421 1326">Housing Enabling Officer</p> <p data-bbox="178 1366 421 1433">Reply Received 12 June 2020</p>	<p data-bbox="443 1258 1402 1476">This is a difficult one because although the viability effect of the 2 tenure mixes is marginal – the social effect is huge. At present, social rent is under pressure even more due to Covid-19 and pressure to house the homeless and deal with the fall out once evictions are once again allowed and mortgage holidays are ceased.</p> <p data-bbox="443 1516 1402 1805">However, that being said, the first viability assessment from PWH was carried out on Oct 2019 we are now 8 months on so in order to move this forward we will accept 2 social rent and either shared ownership (via RP) or discounted sale (direct with advertising and allocation requirements in the s106). We would need a valuation to set the % of OMV in the s106. I would advise them to discuss the scheme with some RPs to see if they would take on a shared ownership or not at the present time.</p> <p data-bbox="443 1845 1402 1951">Regarding bed size we would be expecting the DS or S/O as a 2-bed 4-person and the social rent as 1 x 2-bed 4-person and 1 x 3-bed 5 or 6-person.</p> <p data-bbox="443 1991 675 2029">13 August 2020</p>																										

Name	Comment
	<p>No, we will need an up-to-date valuation of 2-beds – the VA was too long ago.</p> <p>We will also not accept their DS % of OMV nor the dwelling mix.</p> <p>1. The agent wrote that the DS would be based on a price of 20% less than the open market value. I'm not sure where that has come from. As per attached email and below – you and I have said all along that DS must be at £120k (max of 4 x AAWHI as Landkey is more expensive than Barnstaple – that would be 3 x AAWHI). Initial sale would be £120k, subsequent sale at % of OMV (based on a current valuation).</p> <p>2. Joe McCarthy said in his e mail dated 13/11/2019 "We have been working off the outline site plan which has assumed the affordable dwellings would be the 2 bed semis. I think securing 4 bed or detached units as social rent might be a stretch but Charles' original request of 2x2b and 1x3b Social Rent may be achievable. Would you like me to see about nailing down that mix in the 106?". We said yes. And we have been quite clear all along.</p> <p>3. We need to emphasise the fact that the number of AH came down from 4AH in PCC's original VA conclusion to just 3 AH. In addition, even though 3 social rent were proven to be viable we have since compromised on 2 SR and 1 DS or S/O – and we were clear again on dwelling mix including a 3b (Email to yourself Sarah dated 12/06/2020:- "Regarding bed size we would be expecting the DS or S/O as a 2-bed 4-person and the social rents as 1 x 2-bed 4-person and 1 x 3-bed 5 or 6-person") Therefore, I think we have compromised enough. Larger 3b accommodation is also needed.</p> <p>18 August 2020</p> <p>Housing Enabling will not support an affordable home at a discounted price of £159,960 (their proposed 80% of an old 2019 valuation of £199,950). 80% of open market does not work in North Devon; it is unaffordable to those in housing need. Even the First Homes product that is being gradually further detailed by government allows Local Authorities the discretion to require a higher minimum discount (around 40-50% discount) to ensure the homes are affordable in their local area as they realise a 20% discount across the board won't work.</p> <p>We have made it clear from the outset – as soon as we compromised and allowed for a discounted sale instead of the required 3rd unit of social rent - for the initial sale to be at £120k and subsequent sales at a % of OMV to be set in the s106 (£120k/valuation). In this case it equates to 60% of OMV as £120k/£199,950 (a 40% discount).</p> <p>Furthermore, since the above request we have since had research carried out for North Devon District Council and although I honoured our standard practice that equated to just a 40% discount; the research clearly shows that for a 2-bed in Landkey</p>

Name	Comment
	<p>(Zone 2) the discount should be 48% = 52% of OMV = £103,974 initial sale. This is the evidence I would present.</p> <p>Despite house prices increasing at present (and hence the discount would be higher than 40% if valued today) in order to move the application forward I will accept the 2019 valuation of £199,950 valuation but only on our original terms:</p> <ul style="list-style-type: none"> <li>- Initial sale at £120k</li> <li>- Subsequent sales at 60% of OMV</li> </ul> <p>North Devon Council has compromised on the 3rd social rent unit becoming a Discounted Sale, but we will need the 2nd social rent unit as a 3-bed. As I said in my previous email I think we have compromised quite enough on this scheme to enable the applicant to build out a viable scheme and we also need to meet the housing need for larger accommodation that exists on the ground too. The applicant/agent is stating that the original VA was based all on 2-bed but we need to also point out that the original VA and conclusion was also not based on a Discounted Sale that would add in a good £50k of income for the applicant – so I'm sure that if we compromised on allowing this more expensive tenure to make the scheme stack up "more" – the applicant can easily ensure that one of the 2 social rents can be provided as a 3-bed.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 14 September 2020</p>	<p>Yes as long as all social rented – move forward with 3 x 2b SR.</p> <p>We really need to ensure though in future that the viability work includes the type of AH that we need. Housing enabling did input this into the process at the consultation stage and at the VA stage but it doesn't seem to have been carried through. It's not enough to test a scheme on what the applicant puts in – it also needs to be tested against the policy requirement (ie 3 x 2b SR). We get many Vas based on completely different numbers, tenures and types – ie what the developer wants to be provide rather than what policy and need says we need to provide. Viability must be considered but the outcome – ie what can be afforded must also be actually needed – ie we may be able to deliver less but it can be tweaked to be that which will be actually used on the ground. Anytime I can clarify that or if we need to embed it in the process a bit more then just let Charles or I know if we can help in anyway.</p>
<p>Landscaping &amp; Countryside Officer</p>	<p>No response received.</p>
<p>Natural England</p> <p>Reply Received 4 October 2018</p>	<p>Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.</p>

Name	Comment
	<p>Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.</p> <p>The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.</p> <p>We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <a href="https://www.gov.uk/guidance/local-planning-authorities-getenvironmental-advice">https://www.gov.uk/guidance/local-planning-authorities-getenvironmental-advice</a></p>
<p>Open Space Officer</p> <p>Reply Received 23 October 2018</p>	<p>The emerging local plan identifies green infrastructure requirements through policy DM10, stating development will provide new accessible green infrastructure, including public open space and built facilities. As the development isn't providing any on-site provision, I attach the open space requirement for this development. Providing a new community hall is a priority for Landkey and I anticipate the contribution would support this scheme along with potential green infrastructure enhancement in keeping with the policy.</p>
<p>PARISH / TOWN COUNCIL</p> <p>Reply Received 23 October 2018</p>	<p>It was RESOLVED, that the following concerns/comments be raised:</p> <ul style="list-style-type: none"> <li>i) A vehicular/pedestrian link should be provided to the adjoining proposed development land.</li> <li>ii) That the development at the entrance to the site be of an enhanced quality and retain the character of the existing buildings in this area as it is a prominent entry point to the village of Landkey.</li> <li>iii) That the Devon hedge bank along the boundary to Blakeshill Road be retained.</li> <li>iv) The number of affordable houses to be provided was queried as not in accordance with NDC Policy.</li> </ul>
<p>Planning Policy Unit</p> <p>Reply Received 23 October 2018</p>	<p>As stated at the pre-application stage, there was a fundamental policy concern that the pre-application scheme was only proposing 23.5% affordable housing. However, I note with this current application that the applicant is now only seeking to deliver 11.8% affordable housing which equates to a shortfall of 154% than the policy requirement. As set out in policy ST18(1a) of the emerging Local Plan, housing developments over the threshold will be</p>

Name	Comment
	<p>required to provide onsite 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 5 affordable dwellings with the .1 of a dwelling being collected through a financial contribution of broadly equivalent value to that which would have been required on site (ST18, criterion 3). I also note the applicant has attempted to show through a viability assessment that in their opinion, there are clear viability reasons as to why this greenfield site could not deliver a policy compliant scheme in terms of on-site affordable housing. As currently drafted, I would maintain a policy objection to the current proposal unless the viability assessment is robustly verified and independently assessed in order to justify a reduction against policy requirements. Without going in to details with regard the VA, I would make the following comments from a policy perspective.</p> <p>Firstly, I would question the purchase cost of Prospect House in order to achieve an access which is not a policy requirement within the allocation LAN01 and I also note the existing dwelling is being replaced by two 4 bed units at an estimated sales value of ). As I pointed out previously, there is no policy objection in principle to access off Denes Road to serve this part of the allocation subject to highway considerations as it is recognised that such an approach to site release should also increase housing delivery across the allocation but it should not be at the cost of delivering affordable housing. Secondly, I would also question the land purchase cost of up to when it would appear to be already in the ownership of the applicant. However, I am sure these are issues that are currently being examined.</p> <p>Criterion 1 seeks to deliver a mix of house types, tenures and sizes to reflect local need. It would appear from the proposed site layout (506 20) that the developer is seeking to deliver the following:</p> <ul style="list-style-type: none"> <li>• 2 bed – 4 units (23.5% of total)</li> <li>• 3 bed – 4 units (23.5% of total)</li> <li>• 4 bed – 9 units (53% of total)</li> </ul> <p>Clearly there is a potential imbalance here with an obvious emphasis on delivering 4 bed units on this site. 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, the mix should generally be taking account of local character and context, on larger schemes however, a more 'proportionate mix' should generally be the starting point. Page 180 of the HEDNA (CE21) provides guidance on the mix of bed sizes by tenure that would be appropriate to help meet identified needs. For information, Part (1) of the policy could be used to seek particular forms of housing, such as bungalows, where there is evidence of need. I have provided an extract from</p>

Name	Comment
	<p>the HEDNA (Table 114: Recommended Housing Mix – page 214) which identifies the recommended housing mix across the Plan area.</p> <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%</p> <p>The evidence is clear, the latent demand for 4 bed units is relatively small (15% of all dwellings) although it is accepted that this figure could increase or decrease accordingly based on the specific settlement need. As you can see the highest demand is for 2 and 3 bed units (35% of all dwellings) although the proposed mix would appear to fall well below the identified need. Therefore, you must be assured that this proposed housing mix will meet the numbers, type, size and tenure to meet the identified local housing needs.</p> <p>As the application is currently presented, I would maintain a fundamental policy objection to the development in terms of delivery of affordable housing at less than 12% without a robust examination of the submitted viability assessment in order to establish that a policy compliant scheme of 30% cannot be delivered.</p> <p>Should you be minded to support the application, I would appreciate details from the developer in terms of housing delivery rates so the information can inform the Council's housing trajectory and 5 YHLS over the Plan period.</p>
Recycling & Commercial Services	No response received.
South West Water  Reply Received 27 September 2018	<p>I refer to the above application and would advise that South West Water has no objection.</p> <p>For information South West Water have already been approached regarding the development and suitable point of connection to the public foul drainage system identified.</p>
Sustainability Officer  Reply Received 3 October 2018	<p>The submitted Wildlife Habitat Survey (WHS) suggests that the site is of relatively low ecological value in terms of protected species and habitats which would be potentially affected by the current proposal. No further survey work has been deemed necessary at this stage. However, the WHS and Prospect House bat surveys are more than 12 months out of date and require updating.</p> <p>The WHS fails to adequately assess the value and extent of habitat losses accruing from the development of the grassland and loss of hedgerow to access the site. The NPPF and emerging Local Plan require all development to demonstrate a net gain in biodiversity</p>

Name	Comment
	<p>and the Defra biodiversity metric should be employed to illustrate an appropriate provision of mitigation and enhancement. All subsequent mitigation and enhancement measures should be accommodated onsite where possible and implemented, managed and monitored in accordance with a Landscape Ecological Management Plan (LEMP) submitted in support of any future Reserved Matters application.</p> <p>Once the WHS and bat surveys have been updated and an appropriate estimate of net biodiversity gain has been provided I would support a LEMP being secured through a suitably worded condition.</p> <p>The WHS also recommends that a sensitive lighting scheme is implemented and in particular should aim to ensure that artificial light spillage is kept to an absolute minimum particularly around the boundary hedgerows. Given the nature of the site, the scale of the proposal and the preliminary recommendations of the WHS a detailed lighting contour plan should inform any reserved matters scheme to demonstrate that the proposed external lighting, property orientation, window placement and boundary treatments are appropriate to ensure illumination levels stay within thresholds which are acceptable for the majority of bats accessing the site. The lighting scheme should inform any future layout revisions and be illustrated within the reserved matters LEMP.</p>
<p>Sustainability Officer</p> <p>Reply Received 26 November 2019</p>	<p>The site was resurveyed as requested in October 2018 and findings and recommendations appear largely unchanged. Unfortunately this update does not seek to resolve any of the issues identified in my consolation dated 3rd October 2018 related to net gain provision, development of an appropriately detailed LEMP and a sensitive lighting scheme.</p>
<p>Sustainability Officer</p> <p>Reply Received 26 January 2021</p>	<p>A Defra 2 biodiversity metric should be applied to all existing site habitats with results of the assessment informing an appropriately detailed parameters plan. Where it is demonstrated that capacity for onsite habitat provision is constrained offsite contributions must be secured as part of the determination of the outline. This will include identification of appropriate financial mechanisms to secure sufficient offsite habitat. Provision of an onsite 10% net gain for biodiversity will always be favoured over offsetting provisions.</p> <p>The Parameters Plan should clearly establish the most significant habitats on site and define the extent of retention and enhancement measures necessary to achieve the required provision.</p> <p>A full Landscape and Ecological Management Plan (LEMP) will be required in support of all full and reserved matters applications alongside detailed landscaping plans and planting specifications.</p>
<p>Sustainability Officer</p>	<p>The issue is that the BNG metric clearly confirms that the applicant has given very little thought to ecology and landscape and that the result will be a significant biodiversity loss. We would normally be</p>

<b>Name</b>	<b>Comment</b>
Reply Received 03 August 2021	<p>seeking a parameters plan which would enable some indication of onsite habitat delivery to be secured in order to meet the requirement identified by the BNG. Alternatively we would want a legal agreement stating that calculated biodiversity value will be delivered offsite through an appropriate broker such as the Biosphere Reserve.</p> <p>The applicant is clearly happy to proceed on the basis that the site cannot accommodate the extent of landscaping which would compensate for the loss and deliver a 10% gain, however there is no statement to say that they have agreed offsite provision which could be secured through the s106.</p>
Sustainability Officer  Reply Received 13 October 2021	<p>As per my comments dated 03/10/18 the issue is that the illustrative Site Plan clearly seeks to maximise the number of units on site without any consideration of existing habitat and any delivery of net gain. We currently have no estimate of the biodiversity value of the site or the enhancements required to achieve a 10% gain. Although anticipated losses would be limited to the grassland there would also be detriment to the existing mature boundary features to the east, north and west due to the habitat falling under domestic management. Introduction of closed board fences to separate existing habitat from residential curtilage would also degrade the adjacent tree and hedge lines.</p> <p>So without a parameters plan, baseline metric and potentially a revised layout I would suggest that opportunities for onsite gain within the existing scheme are very limited.</p>
The Biosphere Service  Reply Received 23 June 2022	<p>This looks like you need 0.74 unit of area based biodiversity and about 0.55 of hedgerow units (c 100 m)</p> <p>The cost is going to be £7400 for the area units and £1500 for the hedgerow creation.</p>

### **Neighbours / Interested Parties**

<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
0	0	5	0	0

Issues raised include:

- Over intensive development – discussed in design section
- Highway safety – discussed in Highway safety section
- Overlooking – discussed in amenity section
- Loss of light – discussed in amenity section
- Unethical behaviour to tenants – this is not a material planning consideration

## **Considerations**

### **UPDATE TO REPORT**

This application was approved at Plans Committee on 14 October 2020 as recommended by the Head of Place subject to the Section 106 to include provision for 3 social rented affordable dwelling equating to 17.6% and contributions being split as follows:

- Education contribution - £70,000
- Public Open Space contribution - £30,000

At that time the applicant was in the process of providing an estimate of net biodiversity gain which was outstanding. Delegated authority was sought to apply appropriate conditions in this respect. No decision has been issued as the application has been pending the Section 106 and there have been on-going discussions to resolve the outstanding biodiversity matters.

The minutes from the above committee were as follows:

*“The Senior Planning Officer advised the Committee of an error on the application on page 33, paragraph 3 of the report, which should refer to three affordable properties, rather than two as stated.*

*In response to questions, the Senior Planning Officer advised that:*

- *The demolition of Prospect House was required in order to meet the required visibility for the junction. Much discussion had taken place between the applicant and Devon County Highways who had confirmed that without this the scheme would not be acceptable.*
- *The length of time taken since the submission of application was due to the ongoing discussions which were taking place in relation to viability of the scheme.*
- *The contextual street elevation drawings would be detailed further at the reserved matters stage.*
- *DCC had requested pre-commencement conditions regarding the drainage on site.*
- *The Heads of Terms agreed as part of the scheme viability were detailed on page 34 of the report which did not include public open space contribution.*
- *Following consultation with Devon County Council Lead Local Flood Authority, pre-commencement conditions had been included within the recommendations (conditions 9 to 12) regarding permanent surface water drainage.*

*The Lead Planning Officer advised that Prospect House was owned by the applicant and its purchase was calculated into the viability assessment. To move the access, and therefore avoid its demolition, could render the project financially unviable.*

*Councillor Luggar (in his capacity as Ward Member) addressed the Committee.*

*In response to questions, the Lead Planning Officer advised that it had taken a long time to negotiate the site in order to reach an acceptable scheme. Although only three affordable homes were being offered, instead of the five as set out in policy (this equated to 17.6% rather than 30% of properties on the site being ‘affordables’) the officer had agreed to the three and was not optimistic that any increase could be negotiated. The section 106 contributions proposed to be directed to education could*

be split with an amount also directed to public open space contributions. However, the amount could not exceed £100,000.

RESOLVED that (11 for, 1 against) that the application be APPROVED as recommended by the Head of Place subject to the Section 106 contribution being split as follows:

- (a) Education contribution - £70,000
- (b) Public Open Space contribution - £30,000

Further information has been received as follows:

- **Biodiversity Net Gain (BNG) Metric calculation**

The BNG metric indicates that there would be a significant biodiversity loss. Whilst an on-site 10% net gain for biodiversity would be preferable, in this instance it would not be possible to secure on site and therefore an appropriate financial mechanism would need to be secured off site.

As can be seen from the consultation response extensive dialogue has been held with the Sustainability Officer in relation to biodiversity net gain. The BNG Metric calculation assesses the baseline condition of the site versus the post construction condition of the site. The information has been presented to the Biosphere Service to quantify the resultant losses and calculate the number of offsite units required to deliver a 10% net gain.

They have confirmed that 0.74 unit of area based biodiversity and around 0.55 of hedgerow units (c 100m) would be required. The cost would be £7400 for the area units and £1500 for the hedgerow creation.

The applicant has indicated that the S106 financial contributions were agreed as part of the viability appraisal and therefore the monies should come from the previous pot.

In respect of the Heads of Terms committee was **previously** presented with the following:

	<b>Policy compliant</b>	<b>Applicant's original offer</b>	<b>Viability assessment</b>
Affordable Housing	30% i.e. 5 affordable	1 x 2 bedroom house - social rent  1 x 2 bedroom house -discounted sale  equating to 11.8% on site	3 social rented equating to 17.6%
Education contribution	Primary - £58,021 Secondary £55,898		£100,000
Public Open Space contribution	£51,214.80		Nil

As detailed earlier it was resolved at October 2020 Plans committee that the S106 contributions should be split as follows:

- Education contribution - £70,000
- Public Open Space contribution - £30,000

Now there is an additional contribution of £8,900 for off-site biodiversity off-setting (broken down as approximately 83% (£7400) for the area units and 17% (£1500) hedgerow creation).

**Section 106 Heads of Terms as currently approved at committee:**

	<b>Policy compliant</b>	<b>Applicant's original offer</b>	<b>Viability assessment</b>	<b>Committee resolution</b>
Affordable Housing	30% i.e. 5 affordable	1 x 2 bedroom house - social rent  1 x 2 bedroom house - discounted sale  equating to 11.8% on site	3 social rented equating to 17.6%	3 social rented equating to 17.6%
Education contribution	Primary - £58,021 Secondary £55,898		£100,000	£70,000
Public Open Space contribution	£51,214.80		Nil	£30,000

The application has therefore come back to committee in respect of re-distributing the contributions so as to include an off-site contribution for BNG which would be delivered through an appropriate broker such as the Biosphere Reserve. On the basis that the original viability advised of nil monies towards POS, it is suggested the contributions could be broken down as follows:

Suggested breakdown of contributions:

<b>Education contribution</b>	<b>Primary - £58,021 Secondary £55,898</b>	<b>£100,000</b>	<b>£70,000</b>
<b>Public Open Space contribution</b>	<b>£51,214.80</b>	<b>Nil</b>	<b>£21,100</b>
<b>Biodiversity value to be delivered off-site (10% net gain)</b>	<b>£8,900</b>	<b>N/A</b>	<b>£8,900 Split as follows: £7400 for the area units and £1500 for hedgerow creation</b>

It is however noted that the Yelland Quay enquiry (Appeal Ref APP/X1118/W/21/3283943 – Former Yelland Power Station, Lower Yelland, Yelland, Barnstaple, Devon LPA

reference 60823 which was recently allowed at appeal on 30<sup>th</sup> June 2022) concluded that based on current policy wording a no net loss approach would be policy compliant therefore members could seek to secure 1% and apportion the remaining monies back to POS. This could be done by Officer delegation were members minded to do so.

Approval is therefore sought to re-distribute the contributions accordingly in light of the additional information in respect of the biodiversity value to be delivered off-site.

### **Original committee report from 14 October 2020**

#### **Proposal Description**

This application seeks outline planning permission for the demolition of Prospect House with the erection of up to 17 dwellings.

The proposed site access is not a reserved matter. The demolition of Prospect House would enable a 2 metre footway on the northern side. The development would be accessed off Denes Road which would be widened to 5 metres.

An illustrative site plan shows indicatively how the site could be laid out to accommodate the 17 dwellings. Details of layout, appearance, scale and landscaping will be the subject of future reserved matters applications but the indicative layout does demonstrate that the numbers of dwellings proposed would be achievable.

#### **Planning Considerations Summary**

- Principle of development
- Character and appearance
- Flood risk and drainage
- Highway safety
- Residential amenity
- Ecology and biodiversity
- Infrastructure requirements
- Other matters including crime and disorder, contamination, letters of objection, parish comments and heads of terms

#### **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 starting point for the consideration of the application is whether the proposal is in accordance with the Development Plan.

The application site is situated within the defined development boundary for Landkey where the principle of housing is acceptable under Policy ST07(2): Development in Villages, defined in Schedule B, will be enabled in accordance with the local spatial strategy to meet local needs and growth aspirations.

Policy LAN: Landkey Spatial Strategy states:

*The vision of the local community for the future development of the village is that it retains a green buffer between the village and the settlement of Swimbridge and Barnstaple to recognise its position as a village with its framing heritage whilst embracing the challenges and opportunities to support its growth close to Barnstaple.*

*The village will grow at a sustainable rate that will maintain the already outstanding village school, protects its local services and maintain the special character and qualities of its conservation and heritage. The spatial strategy will be delivered through:*

- (a) The provision of a minimum of 87 new dwellings to meet a range of housing needs in the local community. The supply of housing will be delivered through extant planning permissions and one site allocation totalling approximately 50 new dwellings on land to the south of Birch Road.*

In terms of housing the spatial extent of the proposals is shown on policies map 51 and is subject to a site-specific policy that sets out the range and nature of development to be delivered along with identified development principles.

Policy LAN01: Land South of Birch Road states:

- (1) Land south of Birch Road, as shown on Policies Map 51, is proposed for approximately 50 dwellings, including affordable housing, with an emphasis on providing a mix of housing types, tenures and sizes to reflect local needs.*
- (2) The site will be developed in accordance with the following specific development principles:*
  - (a) Vehicular access on to Birch Road;*
  - (b) Retention and enhancement of existing boundary hedges including replacement of any road frontage hedge lost to secure an acceptable access;*
  - (c) Protection of the amenities of adjoining dwellings; and*
  - (d) Design, layout and landscaping that respects the location of the site and enhances the character of the village.*

### Housing Mix

Criterion 1 seeks to deliver a mix of house types, tenures and sizes to reflect local need. It would appear from the proposed site layout (506 20) that the developer is seeking to deliver the following:

- 2 bed – 4 units (23.5% of total)
- 3 bed – 4 units (23.5% of total)
- 4 bed – 9 units (53% of total)

The Policy team have stated that there is a potential imbalance here with an obvious emphasis on delivering 4 bed units on this site. 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, the mix should generally be taking account of local character and context, on larger schemes however, a more 'proportionate mix' should generally be the starting point. Page 180 of the HEDNA (CE21) provides guidance on the mix of bed sizes by tenure that would be appropriate to help meet identified needs.

Policy have provided an extract from the HEDNA (Table 114: Recommended Housing Mix – page 214) which identifies the recommended housing mix across the Plan area.

	1 bed	2 bed	3 bed	4 bed
Market	5-10%	20-35%	40-45%	15-20%
Affordable	30-35%	35-40%	20-25%	5-10%
All dwellings	15%	35%	35%	15%

The latent demand for 4 bed units is relatively small (15% of all dwellings) although it is accepted that this figure could increase or decrease accordingly based on the specific settlement need. The highest demand is for 2 and 3 bed units (35% of all dwellings) although the proposed mix would appear to fall well below the identified need. The Policy team have commented that the proposed housing mix would need to meet the numbers, type, size and tenure to meet the identified local housing needs.

### Housing Tenure

When the application was originally submitted the Policy team commented that the applicant was only seeking to deliver 11.8% affordable housing. As set out in policy ST18(1a) of the emerging Local Plan, housing developments over the threshold will be required to provide onsite 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 5 affordable dwellings with the 0.1 of a dwelling being collected through a financial contribution of broadly equivalent value to that which would have been required on site (ST18, criterion 3).

The Policy team commented that they would maintain a policy objection to current proposal unless the viability assessment is robustly verified and independently assessed in order to justify a reduction against policy requirements.

Housing were consulted on the application and similarly stated that as an allocated site, the affordable housing provision should be 30% indicating that there should be 5 affordable dwellings and an off-site contribution equivalent to a tenth of a dwelling. They have commented that the applicant states in section 2.4 of their Affordable Housing Statement "The viability appraisal submitted as part of this application determines that the site can deliver 11.8% affordable housing. This consists of 1 x two-bedroom house (social rent) and 1 x two-bedroom house (discounted sale)".

Housing have stated that council policy is that at least 75% of the affordable homes should be for social rent, then the balance intermediate housing for sale or rent (intermediate rent at 80% of Local Housing Allowance or shared ownership or discounted sale if preferred. There have been on-going discussions in respect of the affordable housing requirement on site. The LPA has gone through extensive discussions with an independent verification (using Plymouth City Council) as the viability issues all stem from the requirement to purchase and knock down Prospect House in order to provide the visibility splays. Without the visibility splays the development would not be acceptable in highway safety terms.

The on-going discussions have resulted in a viability report being drawn up by the independent valuer. The conclusions allude to the scheme being unable to achieve policy compliance due to the requirement to purchase and demolish Prospect House. If the development was simply for the 15 dwellings on the paddock it would likely be more viable. It should also be noted that there has been a lengthy passage of time taken to address the affordable housing issues as different tenure proposals have been presented by the applicant after the viability report was drawn up. This has resulted in the LPA re-consulting the Housing Officer on numerous occasions throughout the determination of the application (this is set out in the consultation section of the report).

### Five Year Housing Land Supply

Following the Burwood appeal decision in Torridge, the Councils recognise that they are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1st April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031.

Therefore, National planning policy (Footnote 7, National Planning Policy Framework (NPPF)) establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development (paragraph 11(d), NPPF as a material consideration), should be applied for decision-taking involving applications for housing.

If there is no clear reason to refuse an application based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called *tilted balance* (Paragraph 11(d)(i), NPPF). From a policy perspective, the lack of a 5 YHLS is a material planning consideration.

The Councils currently accept that clause (2) of Policy ST21 (Managing the Delivery of Housing) is triggered on the basis that, at this point in time, it is not possible to demonstrate that completions are above 90% of that which was required for the previous monitoring year and that there would be an appropriate recovery demonstrated for the next two years.

### Conclusion

If a site represents sustainable development then the NPPF indicates that it should be approved without delay. The site has been allocated for future development as part of the NDTLP and has been through the SHLAA process which concluded that it was both available and deliverable. The site is considered well related to the existing built form and provides connectivity of a range of transport modes. There are no in principle objections to this site coming forward.

The latest offer from the applicant in terms of 3 social rented 2 bed properties as per the viability has been accepted by the Housing officer. Whilst the housing mix for the open market properties currently shows what may be considered a potential imbalance the LPA acknowledge that the scheme would contribute to the 5YHLS. In addition, experience

following COVID-19 has evidenced that people are seeking larger properties to incorporate home offices. In addition the viability has been based on the housing mix and any changes to this would impact on the viability.

The principle of development is therefore considered acceptable on balance subject to other material planning considerations.

## **Character and appearance**

### Design

In terms of general design and layout issues, the application is made in outline with matters of scale, appearance, landscaping and layout saved for consideration at reserved matters stage. The design and layout of new housing should retain and enhance the character and appearance of the village, in accordance with the Landkey/Swimbridge Newland village design statement. The character of Landkey at this end of the village is that of bungalows and two storey properties.

The site area for the proposed development is approx. 0.61 hectares (currently agricultural and used for grazing) as well as 0.068 hectares of land where Prospect House is currently situated.

The illustrative plans indicate that two detached properties would replace Prospect House. The plans also indicate that the cul-de-sac would serve 13 of the properties with 2 being accessed over the new footpath. Of these, nine of the units are shown as being 4 bedroom dwellings, four as 3 bedroom dwelling and four as semi-detached 2 bedroom dwellings.

On the reserved matters application the dwellings in the vicinity of the access routes should be oriented to provide a positive frontage and easily identifiable route through the site creating a natural hierarchy. The affordable homes should be designed and of the same material and construction as the open market – including the car parking.

The application has attracted comments from the Designing out Crime Officer which based upon the indicative plans and crime statement provides guidance for the detailed design stage, which the applicant will be required to observe when devising a detailed design and layout for the site and support the rationale in the Design and Access Statement and additional Crime Statement at reserved matters stage.

The indicative site plan and contextual street elevations in terms of heights and density has been considered and in the event approval is recommended, this plan would form a basis of guiding the above reserved matters.

Policy DM04 (2) of the NDTLP states: *'All major residential proposals will be expected to be supported by a Building for Life 12 (BfL12)(117)(or successor) assessment. High quality design should be demonstrated through the minimisation of "amber" and the avoidance of "red" scores.'*

A BfL12 assessment has currently not been supplied as part of the application and it is acknowledged it can be difficult to assess a scheme purely based upon an outline scheme and indicative layout. It will be key for this assessment to be submitted at the reserved matters stage in order to ensure that the highest number of green scores can be achieved to comply with the above policy and provide the highest quality development.

Again the design would be agreed at the reserved matters stage but there are no issues 'in principle' concerns raised by the indicative site plan and contextual street elevations.

### Landscape

The site is not identified as being within any landscape designations. It is situated within Landscape Character Area (LCA): Estate Wooded Ridges & Hilltops 1D which is defined in the Joint Landscape Character Assessment for North Devon and Torridge. This LCA occupies a small part of North Devon District, encompassing a prominent series of chert hills running parallel to the A361 from the eastern fringes of Barnstaple to the edges of the Castle Hill Estate.

The site slopes gently towards existing housing along the southern boundary. The village is not prominent from the A361 (North Devon Link Road) although the land is more prominent as your approach the village from higher land north of the A361. Policy LAN01 states that the potential visual impact should be reduced with enhanced structural landscaping along the northern and western boundaries of the site.

The reserved matters application must show how the development would be integrated into its landscape setting and provide a transitional boundary between the development and the adjoining countryside. The retention/translocation of natural hedgerows along the boundary with the Denes Road as well as to the west of the site would be important to retain the rural transitional character of village and countryside.

A detailed planting scheme, lighting scheme and an ecological management plan would need to be conditioned so that the details at reserved matters stage can adhere to Policies DM04, DM08 and DM08A.

### **Highway safety**

Policies ST10, DM05 and DM06 of the NDTLP requires development to provide safe and suitable access for all road uses, providing sufficient access to alternative modes of travel to reduce the use of the private car, to safeguard strategic routes and provide appropriate transport infrastructure across the area to ensure the above is achieved. This is further enshrined in chapter 9 of the NPPF.

At the pre-application stage DCCHW advised that the proposal would only be acceptable if Prospect House was demolished as this would enable a footway to be created on Blake's Hill Road where the wall/house is currently situated. The proposal would see Denes Road widened to 5 metres with a 2 metre footway on the northern side. This would then improve the visibility onto Denes Road from the site.

DCCHW have commented that the proposal to demolish the house adjacent to Denes Road/Blakes Hill Road provides a significant increase in visibility from and of emerging vehicles at this junction. Widening of Denes Road from Blakes Hill Road to the site entrance shall cater for the traffic attracted to the site and mitigate the additional conflicts created on the currently single track road. This widening will also improve safety at the junction onto Blakes Hill Road by removing excessive manoeuvring at the junction due to the narrow width and limited visibility. Without the removal of this dwelling, creation of the visibility splays and road widening, the proposal would not be acceptable.

One letter of objection has been received in terms of plots 1 and 2 in respect of the accesses over the footway. DCCHW have commented that this is acceptable and will be a standard dropped kerb type entrance with appropriate visibility splays.

In light of the above discussion it is considered that all of the criteria of Policies DM05 and DM06 of the NDTLP and paragraph 108 of the NPPF has been satisfied by the information presented as part of the application and subsequent comments from the Highway Authority and hence there is no adverse harm to the highway network.

## **Amenity**

NDTLP Policy DM01 requires that development should secure or maintain amenity appropriate to the locality with special regard to the likely impact on neighbours, the operation of neighbouring uses, future occupiers, visitors on the site and any local services. Furthermore Policy DM02 requires development to safeguard against hazards, and pollution.

The application is in outline and hence the layout plan is indicative only and demonstrates potentially how the site could be laid out. In terms of neighbouring residential amenity, such as the ability for dwellings to be delivered on site whilst preventing any overlooking, overbearing or loss of light to the nearest neighbours to the east and south of the site. It should be noted that the occupier of 31 Cherry Tree Close has objected to the application in terms of overlooking, loss of light and overshadowing. As this is an indicative layout the future reserved matters application would need to take these matters into account. Given the indicative layout shown and separation distances involved, it is considered that dwellings can be delivered on this site whilst maintaining appropriate amenity to existing dwellings in the area, therefore in compliance with Policy DM01 and DM04 of the NDTLP.

## **Ecology and biodiversity**

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).

In respect of ecology, Policy ST14 (Enhancing Environmental Assets) of the NDTLP, requires quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to:

- '(a) providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;*
- (b) protecting the hierarchy of designated sites in accordance with their status;*
- (c) conserving European protected species and the habitats on which they depend;*
- (d) conserving northern Devon's geodiversity and its best and most versatile agricultural land;...*
- (i) conserving and enhancing the robustness of northern Devon's ecosystems and the range of ecosystem services they provide;'*

This is further enshrined in development management Policy DM08 (biodiversity and geodiversity) whereby this policy provides detailed criteria on the above consideration in relation to the assessment of planning applications. Paragraph 170 and 171 of the NPPF

also seek the same set of objectives in respect of the above and reiterates the statutory duties.

The submitted Wildlife Habitat Survey (WHS) suggests that the site is of relatively low ecological value in terms of protected species and habitats which would be potentially affected by the proposed development. In light of the Sustainability Officer's original comments the WHS and Prospect House Bat Surveys were updated. The findings and recommendations appear largely unchanged.

The Sustainability Officer has commented that the WHS still fails to adequately assess the value and extent of habitat losses accruing from the development of the grassland and loss of hedgerow to access the site. The NPPF and emerging Local Plan require all development to demonstrate a net gain in biodiversity and the Defra biodiversity metric should be employed to illustrate an appropriate provision of mitigation and enhancement. All subsequent mitigation and enhancement measures should be accommodated onsite where possible and implemented, managed and monitored in accordance with a Landscape Ecological Management Plan (LEMP) submitted in support of any future Reserved Matters application.

The applicant is in the process of providing an estimate of net biodiversity gain which is currently outstanding. Once in receipt of this the Sustainability Officer has commented that he would support a LEMP being secured through a suitably worded condition. This condition will be imposed on the grant of approval. In addition a condition would also be imposed recommending that a sensitive lighting scheme is implemented aiming to ensure that artificial light spillage is kept to an absolute minimum, particularly around the boundary hedgerows.

The outstanding information relating to net biodiversity gain can be dealt with whilst dealing with the Section 106 agreement. Delegated authority is sought to apply appropriate conditions.

A detailed planting scheme, lighting scheme and an ecological management plan would need to be conditioned so that the details at reserved matters stage can adhere to Policy DM08 of the NDTLP.

## **Infrastructure**

- *Water supply*

No issues have been raised by SWW.

- *Flood risk and drainage*

NDTLP Policy ST03 requires that development takes account of climate change to minimise flood risk. Policy DM04 requires development to 'provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rain water'.

The County Council's Flood Risk Management Officer has been consulted on the application and raised an initial objection concerns because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered.

The plans as now submitted detail that the applicant is proposing to attenuate flows in a tanked system in line with South West Water's current adoption requirements. The design

of the proposed surface water drainage system includes the incorporation of long term storage in line with best practice and also includes a maintenance schedule. Subject to a number of pre-commencement conditions the development is now considered acceptable and the County Council's Flood Risk Management Officer has withdrawn her objection to the scheme.

- *Education Contributions*

Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards education facilities and capacity. Devon County Council have confirmed that the contribution sought for primary education is £58,021 and the contribution sought for secondary education is £55,898. This would relate directly to providing education facilities for those living in the development.

- *Open Space*

In order to comply with Policy DM04 and DM10 of the NDTLP, open space provision on and off-site is normally secured at outline stage via a section 106 agreement. As the development is not providing any on-site provision the Open Space Officer has commented that the off-site contribution would be £51,214.80.

- *Affordable Housing*

As detailed in the principle section above and Heads of Terms below the independent valuer has advised that 2 social rented properties equating to 17.6% affordable housing would result in a deliverable scheme.

## **Other Matters**

- *Crime and disorder*

The layout is based on the principle of 'active streets'. All streets, parking areas and footpaths would be overlooked by building frontages. The lack of through traffic means that, generally speaking, only those living in, or visiting those living in, the development will be driving through.

At the reserved matters stage consideration should be given to rear garden access to all dwellings so that garden equipment and bins do not have to be taken through the house. All rear gardens should be capable of being accessed either via a side gate from the private driveway.

- *Contamination*

No issues have been identified that cannot be dealt with by conditions.

- *Parish comments*

A vehicular/pedestrian link should be provided to the adjoining proposed development land – currently no detailed plans have been forthcoming for the adjacent land to the north of the site (outline application 64079). As discussed in the design section above layout is for reserved matters. Connectivity to the adjoining land in terms of any pedestrian route should be shown at the reserved matters stage.

That the development at the entrance to the site be of an enhanced quality and retain the character of the existing buildings in this area as it is a prominent entry point to the village of Landkey – discussed in design section.

That the Devon hedge bank along the boundary to Blakeshill Road be retained – discussed in landscape section.

That the number of affordable houses to be provided was queried as not in accordance with NDC Policy – discussed in the principle of development section.

### **Heads of Terms**

The application has been tested in respect of scheme viability. Following the appointment of an independent assessor the following has been agreed:

	<b>Policy compliant</b>	<b>Applicant's original offer</b>	<b>Viability assessment</b>
Affordable Housing	30% i.e. 5 affordable	1 x 2 bedroom house - social rent  1 x 2 bedroom house -discounted sale  equating to 11.8% on site	3 social rented equating to 17.6%
Education contribution	Primary - £58,021 Secondary £55,898		£100,000
Public Open Space contribution	£51,214.80		Nil

The scheme is therefore in deficit in the delivery of affordable housing and open space contributions as detailed above. Whilst it is disappointing that the full affordable housing requirement cannot be provided, nor the offsite open space contribution, the LPA acknowledge that the scheme does now offers 17.6% affordable housing rather than the original 11.8% presented initially and most of the education contribution. The Authority's appointed valuer is of the opinion that the package set out above will result in a deliverable scheme.

### **Conclusion**

In summary, the Council lacks a 5 year housing land supply. Footnote 7 of the NPPF establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development should be applied for decision-taking involving applications for housing. The lack of housing supply is a significant matter in favour of the proposal and carries substantial weight.

In terms of the environment, a well-designed and landscaped development could be delivered with positive ecological enhancements. It is considered with appropriate landscaping secured at reserved matters stage the impacts would be localised. The ecological impacts from development could be mitigated through appropriate construction

management and monitoring. The outstanding information relating to net biodiversity gain can be dealt with whilst dealing with the Section 106 agreement is being completed. Socially, new housing, including affordable housing would be provided. Given the significant annual shortfall in affordable housing that exists, and the fact that levels of housing provision in recent years have been below annual targets, significant weight should be attached to this benefit of the proposal.

Economically, the boost to employment and the local economy would be beneficial through the construction phase and thereafter from the public spend in village facilities from additional residents.

The social and economic benefits, together with the environmental benefits described are significant and of sufficient weight to clearly outweigh the identified harm that would be caused. As a result, the proposal would represent sustainable development as defined in the Framework and subject to the completion of a s106 agreement to secure the benefits identified in the Heads of Terms the application is recommended for approval.

### **Human Rights Act 1998**

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

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

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

### **Recommendation**

#### **APPROVE**

Legal Agreement Required: Yes

With delegated authority being sought to agree the final wording of the conditions and to add conditions relating to biodiversity gain as set out in the report.

### **Recommendation**

Legal Agreement Required: Yes

1. a) In the case of any reserved matter application for approval must be made not later than the expiration of three years beginning with the date on which this permission is granted; and  
  
b) The development to which the permission relates must be begun not later than whichever is the later of the following dates:

(I) the expiration of three years from the date on which this permission is granted; or

(II) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

#### Reason

The time limit condition is imposed in order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. This permission relates to the provision of a maximum of 17 new residential units and for the purposes of this permission the details shown on drawing number 506 20 Rev J (site plan) are considered to be for indicative purposes only, except for the position of the proposed access points, visibility splays and footpath. The development hereby permitted shall be carried out in accordance with the principles and indicative details contained within the plans listed in condition 3 below (unless varied during the S38/S278 process or in response to the discharge of the following conditions or to address other issues that arise during the course of construction).

#### Reason

To clarify the terms of this outline permission and to inform the terms of the reserved matters application. The Local Planning Authority is satisfied on balance that the principles on the indicative drawings propose a form of development that delivers economic benefits and meets the housing needs of the district and which addresses design, amenity, landscape, highway and infrastructure issues in a manner which is visually appropriate and sustainable and will adequately inform a reserved matters submission

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

506 01 Location plan received on the 21/09/18

001B Proposed foul and surface water drainage strategy received on the 06/09/19

506 20J Proposed site plan received on the 21/09/18

506 21 Contextual Street elevation received on the 21/09/18

001B Proposed foul and surface water drainage received on the 26/03/19

Update of Phase 1 Habitat Survey and Protected Species Report received on the 13/11/18

Update of Protected Species Survey received on the 02/11/18

('The approved plans').

#### Reason

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

4. Approval of the details of the:

- Layout
- Scale
- Appearance, and
- Landscaping of the site (hereinafter called the 'reserved matters')

Shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason

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

5. The reserved matters shall indicate the siting, design and external appearance, including materials of construction of all walls, fences and other means of enclosure to be used in the development and shall be erected prior to occupation of each dwelling and shall remain in position for the lifetime of the development.

Reason

To ensure that each dwelling is provided with an area of private amenity space, that the design addresses defensible space issues and that that the design and appearance of all publicly visible boundaries are compatible to their surroundings in accordance with policies DM01, DM04 and DM08A of the North Devon and Torridge Local Plan.

6. As part of the reserved matters application, scaled drawing(s) showing existing levels on the site and proposed finished floor levels of the proposed dwellings along with details showing their finished relationship to existing properties to the east and south in the form of cross sections (detailing the finished floor level, wall to wall separation distances and ridge heights) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with such drawings.

Reason

To ensure that the amenities of the area are not adversely affected by reason of the size and scale of the proposed development and the proposed relationship to existing properties in accordance with Policies DM01 and DM04 of the North Devon and Torridge Local Plan.

7. Provision, implementation and maintenance of detailed landscape proposals
  - i) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
  - ii) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); implementation and management programme.

## Reason

This is a pre-commencement condition that has been imposed to ensure that the development can be assimilated into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

## 8. Provision and implementation of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP)

No works or development shall take place until a scheme for the protection of the retained trees and hedges [BS5837: 2005 section 7 - Arboricultural method statements (AMS) and the tree protection plan (TPP)] has been agreed in writing with the by the Local Planning Authority and these works shall be carried out as approved LPA.

This scheme shall include:

(a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (RPA) in accordance with paragraph 5.2.2 of BS5837: 2005 of every retained tree and hedge on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees and hedges to be removed shall also be clearly indicated on this plan and marked with a dashed outline.

(b) a tree work schedule for all the retained trees and hedges in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations.

(c) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.

(d) the details of the method to be employed for the translocation of existing hedges and banks to enable provision of visibility splays or highway widening, including details of any re-construction or replacement planting should the translocation result in plant losses. No retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge, be topped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with the British Standard [3998 (Tree Work)]. If any retained tree, or hedge is removed, uprooted or destroyed or dies, another tree or hedge shall be planted at the same place and that tree or hedge shall be of such size and species and shall be planted at such time, as may be specified in writing by the local planning authority.

#### Reason

This is a pre-commencement condition that has been imposed to safeguard the appearance and character of the area in accordance with Policies DM04 and DM08A of the North Devon and Torridge Local Plan.

9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Proposed Foul & Surface Water Drainage Strategy 18032 001 Rev A. No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

#### Reason

To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

10. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

#### Reason

This is a pre-commencement condition that has been imposed to ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area in accordance with Policies ST03, DM02 and DM04 of the North Devon and Torridge Local Plan.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

11. No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

#### Reason

This is a pre-commencement condition that has been imposed to ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed in accordance with Policies ST03, DM02 and DM04 of the North Devon and Torridge Local Plan.

12. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

#### Reason

This is a pre-commencement condition that has been imposed to ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development in accordance with Policies ST03, DM02 and DM04 of the North Devon and Torridge Local Plan.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

13. Contaminated Land Phase 1 condition

Prior to the commencement of any site clearance, groundworks or construction, the Local Planning Authority shall be provided with the results of a phase one (desktop) survey for potential ground contamination. The report shall be prepared by a suitably qualified person and sufficient to identify any and all potential sources of ground contamination on any part of the development site. Thereafter, depending on the outcome of phase one, a proposal for any phase two (intrusive) survey that may be required along with any remediation strategy shall be presented to and agreed with the planning authority.

#### Reason

This is a pre-commencement condition that has been imposed to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors. In the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

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

#### Reason

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

15. A Landscape and Ecological Management Plan (LEMP) shall be submitted alongside any reserved matters application. The content of the LEMP will address the implementation and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development. This shall include the measures as set out in the updated Phase 1 Habitat Survey and Protected Species Report of Land off Denes Road and the updated Protected Species Survey of Prospect House and shall include:
- (a) Proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant
  - (b) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); implementation and management programme
  - (c) A description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management
  - (d) Aims and objectives of management
  - (e) Appropriate management options for achieving aims and objectives
  - (f) Prescriptions for management actions
  - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 10- year period)
  - (h) Details of the body or organization responsible for implementation of plan
  - (i) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures
  - (j) Means of reporting of landscape and ecological monitoring results to [Natural England and the Local Planning Authority] and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.

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.

Any alternative scheme for the management of this land shall be submitted to and agreed in writing by the Local Planning Authority.

#### Reason

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

16. As part of the reserved matters application, a detailed lighting contour plan should demonstrate that the proposed external lighting, property orientation, window placement and boundary treatments are appropriate to ensure illumination levels stay within thresholds which are acceptable for the majority of bats accessing the site. The lighting scheme should inform any future layout revisions and be illustrated within the reserved matters LEMP.

Reason

To ensure that a sensitive lighting scheme is implemented and to ensure that artificial light spillage is kept to an absolute minimum particularly around the boundary hedgerows 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 Torrridge Local Plan and paragraph 170 of the National Planning Policy Framework.

17. The development shall be carried out in accordance with the recommendations and mitigation methods as proposed in the Updated Phase 1 Habitat Survey and Protected Species Report of Land off Denes Road and the Updated Protected Species Survey of Prospect House. For avoidance of doubt before occupation of the dwellings a sparrow terraced such as a Schwegler 1SP or RSPB Sparrow terrace next box should be affixed before occupation of the dwellings on the site of Prospect House and retained in perpetuity.

Reason

To ensure there is no adverse impact on any protected species using the site in accordance with policy DM08 of the North Devon and Torrridge Local Plan.

18. Construction Management Plan Condition

Prior to commencement of any part of the site the Planning Authority shall have received and approved in writing a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

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

Reason

This is a pre-commencement condition that has been imposed 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 accordance with Policies DM01, DM04, DM05 and DM08A of the North Devon and Torridge Local Plan.

19. Construction Times Condition

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

- a) Monday - Friday 08.00 - 18.00,
- b) Saturday 09.00 - 13.00
- c) nor at any time on Sunday, Bank or Public holidays.

Reason

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

20. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the approved plans.

Reason

To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles.

21. Prior to the occupation of any dwelling on the site visibility splays shall be provided, laid out and maintained for that purpose at the junction of Denes Road and Blakes Hill Road in accordance with the approved plans.

Reason

To provide adequate visibility from and of emerging vehicles in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

22. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

Reason

In the interest of public safety and to prevent damage to the highway in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

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

Reason

To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy DM05 of the North Devon and Torridge Local Plan

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

Reason

To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

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

Reason

To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

26. When once constructed and provided in accordance with condition 27 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority

Reason

To ensure that these highway provisions remain available in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

27. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 15 metres back from its junction with the public highway

Reason

To prevent mud and other debris being carried onto the public highway in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

28. The car parking spaces, garaging and turning areas shall be provided for use by the development hereby permitted prior to the occupation of each dwelling and once provided shall not be used for any purpose other than the parking/garaging of vehicles. The design, layout and materials of construction and external appearance of this provision shall be included in the Reserved Matters application.

Reason

To ensure adequate provision of parking to serve the development in the interests of highway safety in accordance with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

29. The site must be drained on a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul drainage.

Reason

To prevent pollution of the water environment in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

30. As part of the reserved matters application details of bin/cycle storage shall be fully detailed. No dwelling shall thereafter be occupied until the bin/cycle storage provision has been provided in accordance with the agreed details for each unit and this shall thereafter be maintained in perpetuity for these purposes.

Reason

To ensure that the development is properly provided with amenities prior to occupation and in the interests of the amenities of the residential estate and that such facilities do not conflict with car parking areas, in accordance with policies DM01, DM04 and DM05 of the North Devon and Torridge Local Plan.

31. As part of the reserved matter application, a waste audit statement shall be submitted to the Local Planning Authority and agreed in writing. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.

Reason

To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document.

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

Reason

To protect the amenities of adjoining properties due to change in levels on the land and by controlling roof and other alterations and to consider the implications on compatibility with affordable housing objectives. The impact of future development on the appearance and character of the development in the area and that of highway safety would also be enabled, in accordance with the requirements of Policies DM01, DM04 and DM05 of the North Devon and Torridge Local Plan.

33. Any dwelling to be used as a 'show house' for sales or demonstration purposes shall be provided with off street parking facilities, in addition to those required by any other condition of this permission, the number and siting to be agreed in writing with the Local Planning Authority and the provision to be made before the first use of the dwelling for that purpose.

Reason

To minimise parking on the highway in the interest of public safety and to protect the amenities of occupiers of adjoining dwellings in accordance with policies DM01 and DM05 of the North Devon and Torridge Local Plan.

### **Informatives**

1. The development to which this permission relates is the subject of an agreement under, inter alia, Section 106 of the Town and Country Planning Act 1990.

2. Planning Practice Guidance defines reserved matters as:

'Appearance' - the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

'Landscaping' - the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

'Layout' - the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

'Scale' - the height, width and length of each building proposed within the development in relation to its surroundings.

3. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats,

damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.

4. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.
5. For the purpose of interpreting the restrictions expressed in condition 35 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 The 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 C Any other alteration to the roof of a dwelling-house

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

Part I: CLASS F Development consisting of -

a) the provision within the curtilage of a dwelling-house of a hard surface for any purpose incidental to the enjoyment of the dwelling-house as such; or

b) the replacement in whole or in part of such a surface

Part II: CLASS A The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

Part II: CLASS B The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule [other than by Class A of this Part]

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](http://www.planningportal.gov.uk)

6. From the Flood Defence aspect the Environment Agency advise that surface water run-off from the proposal should be managed by the use of Sustainable Urban Drainage Systems [SUDS]. These systems mitigate the potential effects of urban development including increased quantity of run off, increased rate of run off and deterioration of water quality through pollution. Such systems would include infiltration trenches, swales, infiltration basins and porous paving. Ground conditions

will need to be investigated to determine the most efficient methods or if alternative solutions will need to be investigated. In the first instance it is advised that the design of such a system is investigated in accordance with CIRIA C522 - Sustainable Urban Drainage Systems - design manual for England and Wales. An outline or preliminary design should then be submitted to the Environment Agency for comment.

7. The building is of an age where materials containing asbestos may have been used in its construction or subsequent modification. The building should be surveyed for such materials prior to conversion by a suitably qualified person. Where found, materials containing asbestos should be removed and disposed of in accordance with current legislation and guidance.
8. The reserved matters application should be accompanied by a Building for Life 12 (BfL12) (117) (or successor) assessment to ensure that that the highest number of green scores can be achieved to comply with policy DM04(2) of the North Devon and Torrington Local Plan.
9. The applicant shall be required to enter into a highway agreement with the Highway Authority prior to works commencing to widen the road and for adoption of internal roads.
10. 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](http://www.planningportal.gov.uk) or downloaded from the Planning section of the North Devon Council website, [www.northdevon.gov.uk](http://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.

11. The Designing Out Crime Officer on reviewing the illustrative layout advises that off plot car parking areas should be well illuminated to provide the potential for natural surveillance during hours of darkness. If the existing hedgerow is likely to comprise new rear garden boundaries as appears will be the case then it must be fit for purpose. They should be of a sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function. The Designing Out Crime Officer has also advised that for all plots private front gardens are suitably defined. Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.

## 12. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included seeking further information in respect of SUDS, biodiversity offsetting and affordable housing. The LPA has been required to apply the titled balance in regard to Paragraph 11 (d) of the National Planning Policy Framework and in this instance, whilst the illustrative mix of open market housing is potentially imbalanced with an emphasis on delivering 4 bed units it is considered that the provision of housing on this allocated site is on balance acceptable in light of the Council's absence of a 5 year housing land supply, the demand for larger houses with home office as evidenced by COVID-19 and due to housing mix that has fed into the viability.