

# Application Report

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

**Application No:** 74943  
**Application Type:** Outline application  
**Application Expiry:** 16 December 2022  
**Extension of Time Expiry:** 16 December 2022  
**Publicity Expiry:** 2 December 2022  
**Parish/Ward:** FREMINGTON/FREMINGTON  
**Location:** Land at Yelland Road  
 Devon  
 E: 249143 N: 132174

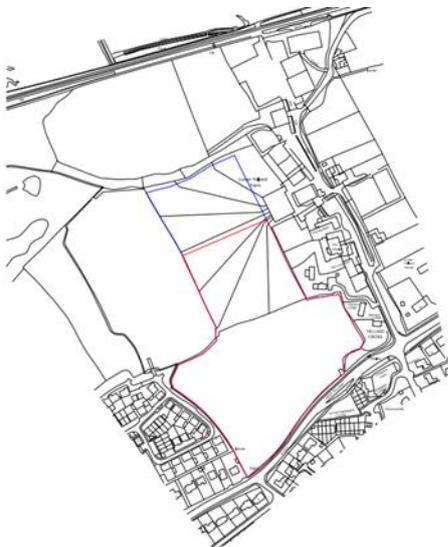
**Proposal:** Outline application for erection of residential development for 80 dwellings with some matters reserved (appearance, landscaping, layout and scale)

**Agent:** Emery Planning  
**Applicant:** Wainhomes (South West) Ltd  
**Planning Case Officer:** Mrs J. Meakins  
**Departure:** Y

**EIA Development:**  
**EIA Conclusion:** Development is outside the scope of the Regulations.  
**Decision Level/Reason for Report to Committee (If Applicable):** Committee - Development is a major departure from the development plan.

## Site Description

The site is located on agricultural land directly adjacent to the settlement of Yelland as can be seen in the location plan and aerial photo below.



Site location plan



Aerial map of site

The site lies adjacent to the B3233 to the south and is flanked to the west by existing development, and to the east by residential development and holiday accommodation and to the north open countryside extends between the site and the Tarka Trail and estuary beyond.

The site not located within any statutorily designated sites however is within the Coastal and Estuarine Zone subject of policy ST09 of the North Devon and Torridge Local Plan (NDTLP).

The Taw/Torridge Site of Special Scientific Interest (SSSI) is located 240 metres to the north of the site. The nearest Listed Building Chapple's Farm is located the adjacent side of the B3233 to the south.

Access to the site is currently through a field gateway onto the B3233 with a low hedge forming the boundary with the highway. The site at present is relatively level farmland most recently in arable use, with equestrian grazing understood to take place in part of the site to the north.

### **Recommendation**

#### **Approved**

Legal Agreement Required: Yes

### **Planning History**

No relevant site history

### **Constraints/Planning Policy**

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Critical Drainage Area	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
USRN: 27500308 Road Class:R Ownership: Highway Authority	9.86
USRN: 27502301 Road Class:B Ownership: Highway Authority	7.02
Within Adopted Coast and Estuary Zone	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within:, SSSI 500M Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
SSSI Impact Risk Consultation Area	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 DM07 - Historic Environment 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 ST05 - Sustainable Construction and Buildings ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST08 - Scale and Distribution of New Development in Northern Devon ST09 - Coast and Estuary Strategy ST10 - Transport Strategy ST14 - Enhancing Environmental Assets ST15 - Conserving Heritage 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>
Arboriculture Officer  Reply Received 8 March 2022	8/03/2022 15:05 - The application has been supported by an appropriately detailed arboriculture impact assessment that shows the proposed development will be able to maintain the vast majority of trees and hedgerows within the context of the proposed development with the exception of C.20m of existing hedgerow to facilitate access onto Yelland Road.  Subject to conditions to secure appropriate mitigation and enhancement being via a detailed landscape and ecological

Name	Comment
	management plan and a more detailed arboricultural impact assessment and associated tree protection plan and arboricultural method statement I can see no reason to object to the proposed development on arboricultural grounds.
Councillor F Biederman	No formal comments
Councillor J Mackie	No formal comments
DCC - Childrens Services  Reply Received 29 March 2022	<p>Devon County Council has considered the application above and would like to provide an education response. This is in accordance with Devon County Council's Education Infrastructure Plan 2016-2033.</p> <p>Regarding the above planning application, Devon County Council has identified that a development up to 80 family type dwellings will generate an additional 20 primary pupils and 12 secondary pupils which would have a direct impact on Fremington Primary School, Instow Primary School and Bideford College.</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>When factoring in both approved but unimplemented housing developments as well as outstanding local plan allocations we have forecast that the local primary schools do not have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek contribution towards additional education infrastructure to serve the address of the proposed development. The strategy for the area is for new primary provision within Barnstaple.</p> <p>We have forecast that there is enough spare primary capacity to accommodate 69% of pupils expected to be generated by development in the area and therefore would only look to seek contributions against the remaining 31% of pupils. Primary contributions sought would be 125,891 (based on the DfE new build rate of 20,305 per pupil x 31%). This equates to a per dwelling rate of 1,573.64. The contributions will go towards new primary provision.</p> <p>As the strategy is for a new primary school, DCC also need to request a proportionate primary land contribution of 10sqm per family-type dwelling from this development. Based upon a land value of 1,105,000 per hectare, this land contribution would equate to 342.55 per dwelling (based on 1,105 per dwelling x 31%). For a total of 80 dwellings, the contribution would be 27,404. This would be used towards procurement of the new school site.</p>

Name	Comment
	<p>In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as 20,000 (based on 250 per dwelling). This contribution will be used to provide new early years provision for pupils likely to be generated by the proposed development.</p> <p>The local secondary school is forecast to have spare capacity for the number of pupils expected to be generated by this development and therefore a contribution towards secondary infrastructure would not be sought.</p> <p>We would however require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Bideford College. The costs required are as follows: -</p> <p>12 secondary pupils  4.03 per day x 12 pupils x 190 academic days x 5 years = 45,942</p> <p>The contribution above has been calculated based on the DCC contract cost of transporting a pupil from the area of development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil will attend the school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school.</p> <p>All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 prices and any indexation applied to contributions requested should be applied from this date.</p> <p>The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and 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>In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.</p>
<p>DCC -  Development  Management  Highways</p> <p>Reply Received  6 September  2022</p>	<p>The planning application, Transport Assessment and Travel Plan has been considered further and Development Management (Highways) find the proposal acceptable, in-principle, subject to the following requirements and conditions (see full response for conditions):</p> <p>i) The upgrade of the existing public footway across the application site frontage to a uniform width of 2 metres in</p>

Name	Comment
	<p>accordance with details to be agreed with the Local Highway Authority. Such improvement to be the subject of a Section 38/278 Agreement post-planning approval, if forthcoming.</p> <p>ii) The provision of a formal signal-controlled Crossing at a location within the immediate vicinity of the planning application site frontage. Such crossing (likely to be a Puffin), to be supported by a commuted sum of 20,000 for maintenance purposes.</p> <p>iii) The provision of a Traffic Regulation Order contribution of 5000.</p>
<p>DCC - Historic Environment Team</p> <p>Reply Received 15 March 2022</p>	<p>Devon County Historic Environment Team Reference: Arch/DM/ND/37460a</p> <p>The proposed development lies in an area of archaeological potential. Fields approximately 65 metres to the north of the site are recorded in the mid-19th century Fremington Tithe Apportionment as Wester Castle and Easter Castle. The 'Castle' element of these fieldnames may indicate the presence of a Late Iron Age or later defended settlement. Also, adjacent to the site to the east, a geophysical survey recorded pit like features of unknown date. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.</p> <p>The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.</p> <p>If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 205 of the National Planning Policy Framework (2021), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:</p> <p>'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning</p>

Name	Comment
	<p>Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.</p> <p>Reason  'To ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'</p> <p>This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.</p> <p>I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.</p> <p>I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:  <a href="https://new.devon.gov.uk/historicenvironment/development-management/">https://new.devon.gov.uk/historicenvironment/development-management/</a>.</p>
DCC - Lead Local Flood Authority  Reply Received 31 March 2022	Recommendation: At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit

Name	Comment
	<p>additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.</p> <p>Observations:</p> <p>The Surface Water Strategy Plan indicates that the runoff will be attenuated within a basin to the north of the site. The applicant should consider positioning the inlet of the basin further eastwards to enable the flow paths to be maximised to provide further opportunities for sedimentation and treatment within the basin.</p> <p>The applicant should submit the Micro Drainage calculation for the attenuation design. It appears to be missing from Appendix D of the FRA. Also the applicant should calculate the runoff rates using ICP SuDS in line with best practice for sites less than 50 ha in size. The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.</p> <p>The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.</p> <p>We would be happy to provide a further response if additional information is submitted to the local planning authority.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 7 November 2022</p>	<p>Recommendation:</p> <p>Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:</p> <p>Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:</p> <p>(a) Soakaway test results in accordance with BRE365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence down slope of the site from any proposed soakaways or infiltration basins.</p> <p>(b) A detailed drainage design based upon the approved Proposed Residential Development Yelland, North Devon Flood Risk Assessment (Report Ref. AEQ-211/FRA, Rev. A, dated 25th April 2022) and the results of the information submitted in relation to (a) above</p> <p>(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.</p>

Name	Comment
	<p>(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.</p> <p>(e) A plan indicating how exceedance flows will be safely managed at the site.</p> <p>(f) Evidence there is agreement in principle from the landowner/DC/Highways/SWW</p> <p>(g) A detailed assessment of the condition and capacity of any existing watercourse that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.</p> <p>No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.</p> <p>Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.</p> <p>Observations:</p> <p>It is proposed to restrict to Q<sub>barat</sub> 5.0l/s for an impermeable area of 2.0ha.</p> <p>The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site during detailed design to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 9 March 2022</p>	<p>9/03/2022 11:16 - Re Outline application for erection of residential development for 80 dwellings with some matters reserved (appearance, landscaping, layout and scale) at Yelland Road Devon - 9th March 2022</p> <p>Thank you for this application.</p> <p>Police have no objections in principle to the proposed scheme. It is appreciated that this is an outline application, but early consultation with the police frequently prevents delays further down the process when crime and disorder issues present a problem with the layout of a submitted design. Whilst it is understood the proposed site masterplan is a 'concept' at this time, as there appears to be no mention within the Design &amp; Access Statement of security or crime prevention measures per se, it is not known if these key matters</p>

Name	Comment
	<p>have been considered for the scheme or where and how it is proposed they be implemented going forward.</p> <p>Therefore, to assist from a designing out crime, fear of crime and disorder perspective please find the following information, advice and recommendations:-</p> <p>The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community, in addition to the layout, physical security must also be considered.</p> <p>These CPTED principles, combined with the principles and practices of Secured by Design (SBD) help promote and provide reassurance of a consistent level of safety and security throughout a development and opportunities for crime, the fear of crime, ASB and conflict are minimised. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services.</p> <p>Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security</p> <p>Structure: Places that are structured so that different uses do not cause conflict</p> <p>Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent creating areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping, littering and dog fouling etc. to go unnoticed</p> <p>Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community</p> <p>Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019 and ADQ</p> <p>Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear of crime and a sense of safety at all times.</p> <p>Management and maintenance - Places that are designed with management and maintenance in mind to discourage crime, fear of crime and ASB</p> <p>With a development of this size, areas of concern tend to be in relation to defensible space, clear ownership of property, including parking spaces, defensible planting preventing conflict with youths and ball games etc, desire lines and unwarranted permeability allowing potential offenders to wonder unchallenged.</p> <p>I would advise 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>Public and private space should be clearly defined and areas of ambiguity avoided with appropriate boundary treatments provided. How dwellings address green space is important. They should provide frontage to such space and not have rear gardens backing onto these areas. Similarly, they should also address new streets</p>

Name	Comment
	<p>and other public realm areas positively to ensure good natural surveillance.</p> <p>The need for Public Open Space (POS) is fully appreciated, as long as it does not run the risk of becoming a problem area or capable of having a negative impact on quality of life issues for residents. Best practice suggests POS, including play areas, should preferably be positioned centrally to a development or as a minimum, be sited so it will be well overlooked so as to not undermine the safety and security of those living nearby or the intended users of the space. Therefore, mere residual space or land that cannot easily or is awkward to develop, should not be considered as being suitable or appropriate as public open space. Where dwellings are unavoidably adjacent to public open space, (POS), considerations must be given to the inclusion of defensive planting as part of clear boundary definition of private and public space. It would be preferable that open access to the side and rear of dwellings be removed from the scheme where possible.</p> <p>Communal areas, such as play grounds, toddler play areas, seating facilities have the potential to generate crime, the fear of crime and anti-social behaviour. These may often be referred to as:</p> <ul style="list-style-type: none"> <li>Local Areas of Play (LAP) - primarily for the under 6 year olds;</li> <li>Local Equipped Area for Play (LEAP) - primarily for children who are starting to play independently;</li> <li>Neighbourhood Equipped Area of Play (NEAP) - primarily for older children;</li> <li>Multi-Use Games Areas (MUGA) - primarily for older children.</li> </ul> <p>These areas should be designed to allow natural surveillance from nearby dwellings with safe and accessible routes for users to come and go. Boundaries between public and private space should be clearly defined and open spaces must have features which prevent unauthorised vehicular access. Communal spaces as described above must not immediately abut residential buildings.</p> <p>Any proposed pedestrian/cycle routes must not run to the rear of and provide access to gardens, rear yards / parking courts or dwellings as this has been proven to generate crime and anti-social behaviour (ASB).</p> <p>If existing hedgerow is likely to comprise new rear garden boundaries it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.</p> <p>From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, as even a one-bedroom dwelling could attract 2 vehicles+ and designed that it is convenient and practical to use, for example, side by side parking as opposed to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere parking' that can introduce a source of conflict and</p>

Name	Comment
	<p>rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets. With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.</p> <p>I look forward to reviewing a more detailed application in due course should the application progress, however, in the meantime please do not hesitate to contact me if I can assist further.</p> <p>Kind regards Rick Napier Designing Out Crime Officer North Devon, Torridge &amp; Mid Devon</p>
<p>Environment Agency</p> <p>Reply Received 10 March 2022</p>	<p>We have no objections to the proposal as submitted. The site is located within Flood Zone 1, defined as having a low probability of flooding. However, the flood map for planning indicates that the access/egress route to the development could be affected by flooding and we recommend that you consult with officers in your Authority with an emergency planning remit for flooding for advice on this before determining the application.</p> <p>Additional guidance on access/egress is provided attached above.</p>
<p>Environmental Health Manager</p> <p>Reply Received 23 November 2022</p>	<p>I have reviewed this outline application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Road Traffic Noise</p> <p>The site adjoins the B3233 highway to the southeast. There is a potential for noise generated at peak traffic times to significantly impact parts of the application site.</p> <p>I do not anticipate there being any insurmountable constraints in terms of developing the site for housing but traffic noise levels may be such as to affect preferred site layout options or merit mitigation measures with a view to achieving 'good acoustic design' and 'desirable' noise levels within dwellings and at outside amenity areas.</p> <p>I recommend any reserved matters planning application include an environmental noise assessment that considers the potential for road traffic noise to impact residential development of the site. The assessment report should be prepared by a suitably qualified and</p>

Name	Comment
	<p>experienced person (Member of the Institute of Acoustics or equivalent) and demonstrate that design proposals incorporate a 'good acoustic design' approach having regard to guidance contained within ProPG: Planning and Noise 2017. The assessment should take account of environmental noise levels during the day and at night, considering impacts within the proposed dwellings and at any outside amenity areas. The aim will be to demonstrate how the proposals will deliver 'desirable' noise conditions for future occupiers of all the proposed dwellings having regard to relevant standards and guidance including BS8233:2014 Guidance on sound insulation and noise reduction for buildings. The assessment report should include recommendations in relation to any site constraints or mitigation measures where relevant.</p> <p>2 Land Contamination</p> <p>Housing developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. In order to ensure that any potentially significant contamination risks are adequately considered, I recommend the following conditions be included:</p> <p>- Contaminated Land Phase 1 Condition  Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination for written approval.  The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of ground contamination affecting any part of the development site. Thereafter, depending on the outcome of Phase 1, a proposal for any Phase 2 (intrusive) survey that may be required shall be presented to and agreed with the planning authority.  Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice.  The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.  Reason: To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning Policy Framework.</p> <p>- Contaminated Land (Unexpected Contamination) Condition  Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local</p>

Name	Comment
	<p>Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework</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 construction phase of the development I recommend the following conditions be imposed:</p> <p>- Construction Environmental Management Plan Condition Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environmental Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-</p> <ul style="list-style-type: none"> <li>a) measures to regulate the routing of construction traffic;</li> <li>b) the times within which traffic can enter and leave the site;</li> <li>c) details of any significant importation or movement of spoil and soil on site;</li> <li>d) details of the removal /disposal of materials from site, including soil and vegetation;</li> <li>e) the location and covering of stockpiles;</li> <li>f) details of measures to prevent mud from the site contaminating public footpaths and roads / wheel-washing facilities;</li> <li>g) control of fugitive dust from demolition, earthworks and construction activities; dust suppression;</li> <li>h) a noise control plan which details hours of operation and proposed mitigation measures;</li> <li>i) location of any site construction office, compound and ancillary facility buildings;</li> <li>j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;</li> <li>k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.</li> </ul> <p>The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and be monitored by the applicants to ensure continuing compliance during the construction of the development.</p> <p>Reason: To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the</p>

Name	Comment
	<p>area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway.</p> <p>- Construction Hours Condition</p> <p>During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:  a) Monday - Friday 08.00 - 18.00,  b) Saturday 08.00 - 13.00  c) nor at any time on Sunday, Bank or Public holidays.</p> <p>Reason: To protect the amenity of local residents</p>
<p>Fremington Parish Council</p> <p>Reply Received 6 April 2022</p>	<p>6/04/2022 11:49 - It was resolved, with no votes to the contrary, to recommend REFUSAL on the following grounds:  Access safety concerns as it is on a bend and in a dip  Developments have reached saturation point  Infrastructure does not support the development  It will have an adverse impact on the neighbouring properties  It is outside the development boundary</p>
<p>Heritage &amp; Conservation Officer</p> <p>Reply Received 7 July 2022</p>	<p>7/07/2022 15:58 - This application proposes development on the northern side of the B3233. The development site is opposite the grade II listed building at Chapple Farmhouse, which is thought to date from the 16th century. The site is the last remaining open field in the immediate vicinity, and as such, forms part of the setting of the listed building, which, as a former farmhouse, would have been surrounded by farmland throughout most of its history. Indeed, this is shown to be the case on the 1842 Tithe Map and the first edition OS map. Paragraph 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in determining planning applications, LPAs should have special regard to the desirability of "preserving the [listed] building or its setting..."</p> <p>The field does make some contribution to the significance of the listed building, as it is the only surviving element of historic setting left, despite the presence of the B road separating the two.</p> <p>Development on this field will join up the ribbon development along this part of the B3233, and effectively surround the farmhouse with suburban dwellings. This, in my view, will lead to an element of less than substantial harm to the significance of the heritage asset, therefore under the provisions of paragraph 202 of the NPPF, the public benefits of the proposal should be taken into account when the decision is made.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 18 March 2022</p>	<p>18/03/2022 15:16 - Thank you for your consultation.</p> <p>The proposed site is outside and adjoining the Fremington and Yelland development boundary in the Local Plan. If Planning determine that the proposed site is acceptable in planning terms then although generally Policy ST19: Affordable Housing on</p>

Name	Comment
	<p data-bbox="443 197 1406 376">Exception Sites of the Local Plan would apply in this location, due to the current absence of a 5 year housing land supply 30% affordable housing provision would apply. The application is for 80 dwellings. 24 affordable dwellings would therefore be required. The application form states that 24 affordable dwellings are proposed.</p> <p data-bbox="443 416 1358 521">The tenure mix would need to be at least 75% social rent (in accordance with policy) and the remainder intermediate (shared ownership, intermediate rent or discounted sale).</p> <p data-bbox="443 562 1406 853">Property sizes for affordable housing should aim to meet or exceed the "Technical housing standards - nationally described space standard", which can be accessed at <a href="https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard">https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard</a> (see "Table 1 - Minimum gross internal floor areas and storage (m2)" of the Department for Communities and Local Government document).</p> <p data-bbox="443 893 1401 999">The attached table shows the policy requirement for dwelling mix &amp; occupancy levels. Registered providers require housing to be built to National Space Standards; these are indicated on the table.</p> <p data-bbox="443 1039 1366 1218">The supply and demand for 4 bed 8 person units and challenges around the use and allocation of 4 bed 6 person units has been reflected in our consultation responses in which we state a requirement for four bed eight person dwellings at 124 square metres.</p> <p data-bbox="443 1258 1401 1438">Devon Home Choice (DHC) shows there are 182 households living in the parish of Fremington registered as being in need of affordable housing for rent as of January 2022. For the adjoining parishes the number of households registered as being in need of affordable housing for rent as of January 2022 are:-</p> <p data-bbox="443 1478 1046 1583">Horwood, Lovacott and Newton Tracey - 1 Instow - 10 Tawstock - 24</p> <p data-bbox="443 1624 1406 2065">Not all households tend to register themselves on the housing register as they don't think that they will have the opportunity to be housed so this figure is often significantly higher. It should be noted that although DHC data identifies the number of households living within the parish in housing need, it does not always provide sufficient information to firmly establish how long households have been resident in the parish or if they wish to remain in the parish; it is a snap shot in time and people's circumstances can change extremely quickly. In addition, some households may seek affordable home ownership options (shared ownership/discounted sale). We don't hold data on numbers of households requiring some form of affordable housing for sale.</p>

Name	Comment
	<p>The affordable homes should be pepperpotted throughout the site in clusters of no more than 6-10 units.</p> <p>The affordable homes should be designed and of the same material and construction as the open market - including car parking.</p> <p>Those who are allocated or buy the housing would need a local connection to the parish of Fremington in the first instance, then adjoining rural parishes then ultimately after a specific timeframe to the whole administrative district of North Devon Council.</p>
<p>Natural England</p> <p>Reply Received 2 November 2022</p>	<p>Thank you for your email consultation of 17th October 2022 regarding the above proposal.</p> <p>Based on the additional information submitted, we don't have any detailed comment to make further to our advice of 25th March 2022 (ref: 386111) except to welcome the proposal to include enhancements for birds. We would recommend that an experienced ornithologist is involved with the final layout to ensure the scrapes and surrounding land are appropriately designed to support the SSSI wintering birds particularly.</p> <p>Please do not hesitate to contact me if you wish to discuss anything further.</p>
<p>Natural England</p> <p>Reply Received 9 November 2022</p>	<p>Apologies Jenni, this one had completely slipped off my to do list.</p> <p>Have now revised the Ecological Impact Assessment (EA) (Ref: 1218-EclA-AE Oct 22) and the summary of changes:</p> <ul style="list-style-type: none"> <li>• Section 5.1 updated to include details of Landscape Parameters Plan and objectives and rationale.</li> <li>• Section 5.2 updated to include Ecological Protection Zones</li> <li>• Section 7 updated to reflect BNG assessment of Landscape Parameters Plan.</li> <li>• Figure 2 updated to reflect Landscape Parameters Plan.</li> <li>• Appendix 8 added to include Landscape Parameters Plan.</li> </ul> <p>Perhaps surprisingly they appear to have produced revisions which respond in full to the concerns raised in my initial response and therefore happy to condition delivery of detailed design against this document. You may wish to secure the Landscape Parameters Plan as a standalone document.</p>
<p>NDC Waste, Recycling &amp; Commercial Services</p>	<p>No reply received</p>

Name	Comment
<p>NHS Acute Care Reply Received 16 June 2022</p>	<p>Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.</p> <p>As the attached document demonstrates, Royal Devon University Healthcare NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required.</p> <p>The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.</p> <p>The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Furthermore, it is important to note that the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide the services and capacity required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.</p> <p>CIL Regulation 122</p> <p>The Trust considers that the request made is in accordance with Regulation 122:</p> <p>"(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—</p> <ul style="list-style-type: none"> <li>(a) necessary to make the development acceptable in planning terms;</li> <li>(b) directly related to the development; and</li> <li>(c) fairly and reasonably related in scale and kind to the development." <p>S 106</p> <p>S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £70,128 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.</p> </li></ul>

Name	Comment																																																																			
	<p>Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.</p>																																																																			
<p>Open Space Officer</p> <p>Reply Received 7 April 2022</p>	<p>7/04/2022 15:09 - This application generates a requirement for open space and green infrastructure in accordance with policy DM10. The applicant has stated that the development is for 80 dwellings but has not outlined the number of bedrooms in any unit as yet. I have therefore provided an indicative calculation (attached) based on 20x2bed, 20x3bed and 20x4bed and 20x5+bed houses to give the applicant an indication of the quantities of Open Space that would be sought. We can provide a more accurate calculation when the number of units and bedrooms in each is confirmed.</p> <p><b>Application No:</b> 74943                      <b>Site Location:</b> Land at Yelland Road</p> <table border="1" data-bbox="453 846 1246 1070"> <thead> <tr> <th>No. of Bedrooms</th> <th>No. Units</th> <th>Bedspaces</th> <th>Total bedspaces</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>0</td> <td>1.2</td> <td>0</td> </tr> <tr> <td>2</td> <td>20</td> <td>1.81</td> <td>36.2</td> </tr> <tr> <td>3</td> <td>20</td> <td>2.4</td> <td>48</td> </tr> <tr> <td>4</td> <td>20</td> <td>2.85</td> <td>57</td> </tr> <tr> <td>5+</td> <td>20</td> <td>3.18</td> <td>63.6</td> </tr> <tr> <td></td> <td><b>80</b></td> <td></td> <td><b>204.8</b></td> </tr> </tbody> </table> <table border="1" data-bbox="453 1122 1394 1375"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">On Site Provision</th> <th colspan="2">Off-Site Contribution</th> </tr> <tr> <th>Requirement per SQM per person</th> <th>On site requirement in sq.m</th> <th>Cost per sq.m per person</th> <th>Amount requirement</th> </tr> </thead> <tbody> <tr> <td><b>Urban</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Allotment</td> <td>1.5</td> <td>307.2</td> <td>£30</td> <td>9,216.00</td> </tr> <tr> <td>Amenity &amp; Green Space</td> <td>20</td> <td>4096</td> <td>£15</td> <td>61,440.00</td> </tr> <tr> <td>Play Space</td> <td>0.7</td> <td>143.36</td> <td>£170</td> <td>24,371.20</td> </tr> <tr> <td>Parks, Sport &amp; Recreation</td> <td>13</td> <td>2662.4</td> <td>£72</td> <td>191,692.80</td> </tr> <tr> <td><b>Totals</b></td> <td></td> <td><b>7208.96</b></td> <td></td> <td><b>£286,720</b></td> </tr> </tbody> </table> <p>The Council's preference, in line with policy DM10 of the local plan is to see on-site provision, minimum standards will need to be met. Where on-site provision is not viable or off-site provision is more suitable as a result of proximity to existing facilities, an off-site contribution for that particular provision would be sought to deliver a scheme at a suitably linked location.</p> <p>If further information is submitted as part of this pre-application process we can provide a more tailored response. We are also happy to provide review of the requirements and advice regards the layout and design of open space and play throughout the application process.</p>	No. of Bedrooms	No. Units	Bedspaces	Total bedspaces	1	0	1.2	0	2	20	1.81	36.2	3	20	2.4	48	4	20	2.85	57	5+	20	3.18	63.6		<b>80</b>		<b>204.8</b>		On Site Provision		Off-Site Contribution		Requirement per SQM per person	On site requirement in sq.m	Cost per sq.m per person	Amount requirement	<b>Urban</b>					Allotment	1.5	307.2	£30	9,216.00	Amenity & Green Space	20	4096	£15	61,440.00	Play Space	0.7	143.36	£170	24,371.20	Parks, Sport & Recreation	13	2662.4	£72	191,692.80	<b>Totals</b>		<b>7208.96</b>		<b>£286,720</b>
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<p>South West Water</p> <p>Reply Received 22 March 2022</p>	<p>With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.</p> <p>Asset Protection</p>																																																																			

Name	Comment
	<p data-bbox="443 197 1393 481">Please find enclosed a plan showing the approximate location of a public 450mm diameter combined sewer, and a 450mm diameter surface water sewer, a 375mm diameter combined sewer and 225mm diameter foul sewers in the vicinity. Please note that no development will be permitted within 3.5 metres of the 450mm diameter sewers, or within 3.0 metres of the 375mm and 225mm diameter sewers, and ground cover should not be substantially altered.</p> <p data-bbox="443 524 1366 595">Should the development encroach on any of the easements, the sewer(s) will need to be diverted at the expense of the applicant.</p> <p data-bbox="443 633 1150 705">Please click <a href="#">here</a> to view the table of distances of buildings/structures from a public sewer.</p> <p data-bbox="443 743 1370 815">Further information regarding the options to divert a public sewer can be found on our website via the link below:</p> <p data-bbox="443 853 1350 925"><a href="http://www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/">www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/</a></p> <p data-bbox="443 963 746 994"><b>Clean Potable Water</b></p> <p data-bbox="443 1001 1382 1182">South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.</p> <p data-bbox="443 1220 798 1252"><b>Foul Sewerage Services</b></p> <p data-bbox="443 1258 1396 1440">South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.</p> <p data-bbox="443 1478 1401 1621">The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:</p> <p data-bbox="443 1659 1002 1691"><a href="http://www.southwestwater.co.uk/developers">www.southwestwater.co.uk/developers</a></p> <p data-bbox="443 1729 786 1760"><b>Surface Water Services</b></p> <p data-bbox="443 1767 1406 1948">The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):</p> <ol data-bbox="443 1986 1278 2058" style="list-style-type: none"> <li data-bbox="443 1986 1278 2058">1. Discharge into the ground (infiltration); or where not reasonably practicable,</li> </ol>

Name	Comment
	<p>2. Discharge to a surface waterbody; or where not reasonably practicable,</p> <p>3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,</p> <p>4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)</p> <p>Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.</p>
<p>Sustainability Officer</p> <p>Reply Received 24 March 2022</p>	<p>24/03/2022 16:27 - 1. The current submission lacks any form of Landscape Parameters Plan which would clearly identify ecological opportunities and constraints within the built form and the general habitat composition to be delivered in the area allocated for ecological enhancement.</p> <p>2. The submitted Ecological Impact Assessment (EA) is an appropriately detailed assessment of site composition and habitat value and includes the necessary bat, bird and dormouse protected species surveys. The EA concludes that all ecological surveys are current and no further ecological survey work is considered necessary at this time. The EA also makes appropriate recommendations for building integrated bat/bird boxes at the rate of 1 per every 4 dwellings.</p> <p>3. The EA states that boundary hedgerows will be retained and a green buffer will ensure foraging and commuting routes are not impacted. The Concept Plan clearly identifies Green Areas in the northern and eastern parcels of land along all site boundaries. The EA states that management of new and retained habitats for biodiversity will be implemented via a 30-year LEMP which should be secured by standard condition.</p> <p>4. The EA includes a summary of an indicative BNG Metric calculation which assumes a potentially worst case scenario with very modest landscape intervention. The proposed concept plan is stated as being capable of delivering an increase of 1.41 habitat units (17.61%) and 1.09 hedgerow units (10.04%) and therefore a satisfactory net gain. A revised Metric and detailed Landscape Plans would be expected to support any future detailed application.</p> <p>5. The supporting information does not adequately demonstrate appropriate consideration of the surrounding high value landscape and sensitive ecological receptors. The Outline application should be seeking to demonstrate opportunities for landscape and ecological enhancements which contribute towards the estuary landscape character, the Taw Torridge SSSI and the Biosphere Reserve in general. The EA states that it has been assumed that the Open Space provision will consist of grassland</p>

Name	Comment
	<p>and scrub and therefore does not demonstrate the benefit of the proposal to the existing community or the environment.</p> <p>6. An Illustrative Masterplan should be developed seeking to demonstrate how the site can deliver open space to maintain the interest of residents and prevent increased recreational pressure on the wider countryside and specifically the overwintering bird roosts associated with the Estuary SSSI  <a href="https://www.northdevon.gov.uk/media/379527/final-report-identification-of-wintering-wildfowl-high-tide-roosts-and-recreational-disturbance-impacts-on-the-taw-torridge-estuary.pdf">https://www.northdevon.gov.uk/media/379527/final-report-identification-of-wintering-wildfowl-high-tide-roosts-and-recreational-disturbance-impacts-on-the-taw-torridge-estuary.pdf</a> . The Illustrative Masterplan should be informed by a full Defra Metric calculation seeking to maximise opportunities for BNG and landscape enhancements.</p> <p>7. The open space areas provide opportunities for attenuation features with associated wet grassland and wet woodland planting which would provide distinct areas of interest for the community and for wildlife. Such measures would provide significant gains in biodiversity but also provide increased habitat for bird species associated with the estuary SSSI.</p> <p>8. The EA concludes that the site does not provide a high tide roosting or foraging resource for bird species associated with the SSSI and impacts are limited to disturbance during construction and operational phases. The Estuary SSSI Overwintering Bird Assessment concludes that some SSSI roosts are already at risk due to existing high levels of recreational disturbance. The measures outlined in the EA would be unlikely to result in a sufficiently interesting and ecologically valuable resource to reduce the increase in visitors to the Tarka Trail and the foreshore. The proposal should seek to complement and buffer the adjacent landscape and habitats, but also provide supplementary inland habitat for some of the key species of the nearby SSSI, whilst also reducing recreational pressure on the Tarka Trail.</p> <p>9. Given the existing direct access to the sensitive Isley Marsh RSPB reserve and Home Farm Marsh, it is recommended that appropriate signs be provided onsite to dissuade walkers from accessing the Tarka Trail and intertidal areas at sensitive times. The EA should consider how the provision of the areas of open space could provide walkers with an alternative to the Tarka Trail, encouraging people to walk away from the estuary therefore not resulting in significant recreational impacts on the identified high tide roosts or the SSSI. Any subsequent detailed application will be expected to specify how the importance and sensitivities of the SSSI roosts will be conveyed to the developments residents. This should include but not be limited to homeowner interpretation packs and interpretation panels on the proposed foot and cycle connection to the Tarka Trail.</p>

Name	Comment
	<p>10. The Concept Plan has been designed to ensure that habitats are retained and a buffer from development is provided along the existing boundaries. To avoid damage/disturbance of these retained features during construction, it is recommended that Ecological Protection Zones (EPZs) with an appropriate buffer should be established during the construction phase. EPZs can often be achieved through co-ordination with tree protection measures required as good arboricultural practice, including temporary protective fencing and signage. The necessary EPZs should be clearly set on submitted Plans.</p> <p>11. The EA states that retained and newly created habitats could be subjected to increased light levels, which may deter commuting and foraging protected species. Submitted Landscape Plans should be revised to include dark buffers of at least 5m from all retained and enhanced habitats around the peripheries of the site, where light spill will be kept to within 0.5lux. An ecologically sensitive lighting specification will be secured by condition to control the siting, height and type of luminaire of all external lighting.</p> <p>12. Local Plan Policy ST14 seeks to conserve the best and most versatile agricultural land (Grades 1, 2 and 3a) as it is considered to be a limited environmental resource. Evidence would suggest the site is principally Grade 3a which is considered to be higher grade agricultural land and should therefore be weighed against the proposal.</p> <p>13. Construction Environmental Management Plan (CEMP), Soft landscaping scheme and Landscape and Ecological Management Plan (LEMP) to be secured by condition.</p> <p>14. The EA incorrectly advises that a developer contribution of 100 per unit is required towards the Braunton Burrows SAC Mitigation Strategy. The current rate per unit is now 190.</p> <p>15. The submitted Landscape and Visual Impact Assessment (LVIA) concludes that the proposals overall landscape character and visual effects are negligible to minor. The LVIA contains an appropriate set of viewpoints and includes a reasoned justification of effects on each receptor. The LVIA does not provide any recommendations or guidance to inform the overall design proposals or the composition of the areas of open space.</p>
<p>Sustainability Officer</p> <p>Reply Received 9 November 2022</p>	<p>Have now revised the Ecological Impact Assessment (EA) (Ref: 1218-EclA-AE Oct 22) and the summary of changes:</p> <ul style="list-style-type: none"> <li>• Section 5.1 updated to include details of Landscape Parameters Plan and objectives and rationale.</li> <li>• Section 5.2 updated to include Ecological Protection Zones</li> <li>• Section 7 updated to reflect BNG assessment of Landscape Parameters Plan.</li> </ul>

Name	Comment
	<ul style="list-style-type: none"> <li>• Figure 2 updated to reflect Landscape Parameters Plan.</li> <li>• Appendix 8 added to include Landscape Parameters Plan.</li> </ul> <p>Perhaps surprisingly they appear to have produced revisions which respond in full to the concerns raised in my initial response and therefore happy to condition delivery of detailed design against this document. You may wish to secure the Landscape Parameters Plan as a standalone document.</p>
The Biosphere Service	No reply received
<p>NHS Primary Care</p> <p>Reply Received 17 March 2022</p>	<p>The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<a href="https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance">https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance</a>) which was jointly prepared by NHS England and Devon County Council.</p> <p>In preparing this response, it is noted that in policy ST08: Scale and Distribution of New Development in Northern Devon states:</p> <p><i>“(1) Development will be focused at the Sub-regional, Strategic and Main Centres to increase self-containment through sustainable growth that provides balanced housing markets within environmental limits and increases access to jobs, <b>health</b>, education etc.”</i></p> <p>The CCG’s concern is that Fremington Medical Centre is already over capacity within its existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The surgery already</p>

Name	Comment
	<p>has 7,308 patients registered and this new development will increase the local population by a further 181 persons.</p> <p>Taking this into account and drawing upon the document “<i>Devon Health Contributions Approach: GP Provision document</i>” which was agreed by NHS England and Devon County Council, the following calculation has been made:</p> <p><b>Methodology for Application 74943</b></p> <ol style="list-style-type: none"> <li>1. Residential development of 80 dwellings</li> <li>2. This development is in the catchment of Fremington Medical Centre which has a total capacity for 6,996 patients.</li> <li>3. The current patient list size is 7,308 which is already over capacity by 312 patients or at 104% of capacity.</li> <li>4. The increased population from this development = 181 <ol style="list-style-type: none"> <li>a. No of dwellings x Average occupancy rate = population increase</li> <li>b. <math>80 \times 2.26 = 181</math></li> </ol> </li> <li>5. The new GP List size will be 7,489 which is over capacity by 493 <ol style="list-style-type: none"> <li>a. Current GP patient list + Population increase = Expected patient list size</li> <li>b. <math>7,308 + 181 = 7,489</math> (493 over capacity)</li> <li>c. <i>If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6</i></li> </ol> </li> <li>6. Additional space required = 14.46 m<sup>2</sup> <ol style="list-style-type: none"> <li>a. The expected m<sup>2</sup> per patient, for this size practice = 0.08m<sup>2</sup></li> <li>b. Population increase x space requirement per patient = total space (m<sup>2</sup>) required</li> <li>c. <math>181 \times 0.08 = 14.46 \text{ m}^2</math></li> </ol> </li> <li>7. Total contribution required = <b>£46,285</b> <ol style="list-style-type: none"> <li>a. Total space (m<sup>2</sup>) required x premises cost = final contribution calculation</li> <li>b. <math>14.46 \text{ m}^2 \times \text{£}3,200 = \text{£}46,285</math> (<i>£579 per dwelling</i>).</li> </ol> </li> </ol> <p>Could you please acknowledge the CCG’s request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future s106 Agreement with the Developers.</p>

### Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
2	0.00	42	1	62

The following public comments have been received in respect of the applications which will be discussed in the relevant material considerations sections below:

- No infrastructure for new development
- Air pollution
- Over development of area
- Loss of greenfield land
- Traffic impacts
- Impact of neighbouring business and uses
- Impact of ecology
- Poor drainage and flood risk
- Indicative plans show bland development
- Loss of views and house value – note this is not a material planning consideration
- Landscape impact





- 1) Principle of development
- 2) Character and appearance
- 3) Heritage and Archaeology
- 4) Highway considerations
- 5) Ecology
- 6) Amenity Impacts
- 7) Flood Risk and Drainage
- 8) Infrastructure requirements
- 9) Planning balance

## **Planning Considerations**

### **1. Principle of development**

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

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

1.3. The site is located in an area defined in the NDTLP as countryside which is outside of any defined settlement or identified settlement boundary. As such it falls to be considered against Policy ST07 (4) of the NDTLP copied below:

*'4) In the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.'*

1.4. Whilst the development of 80 family dwellings, with 30% affordable units would carry both social and economic benefits consistent with the above. Given that allocated sites exists undeveloped in the locality, this development does not necessarily require a rural location and does not include building re-use and as such is contrary to the above policy. As such it is necessary to assess the other material considerations in relation to the development below:

#### *Five year housing land supply*

1.5. The Councils; being North Devon and Torridge jointly, recognise that in light of the Burwood appeal decision in Torrington ( APP/W1145/W/19/3238460), they are

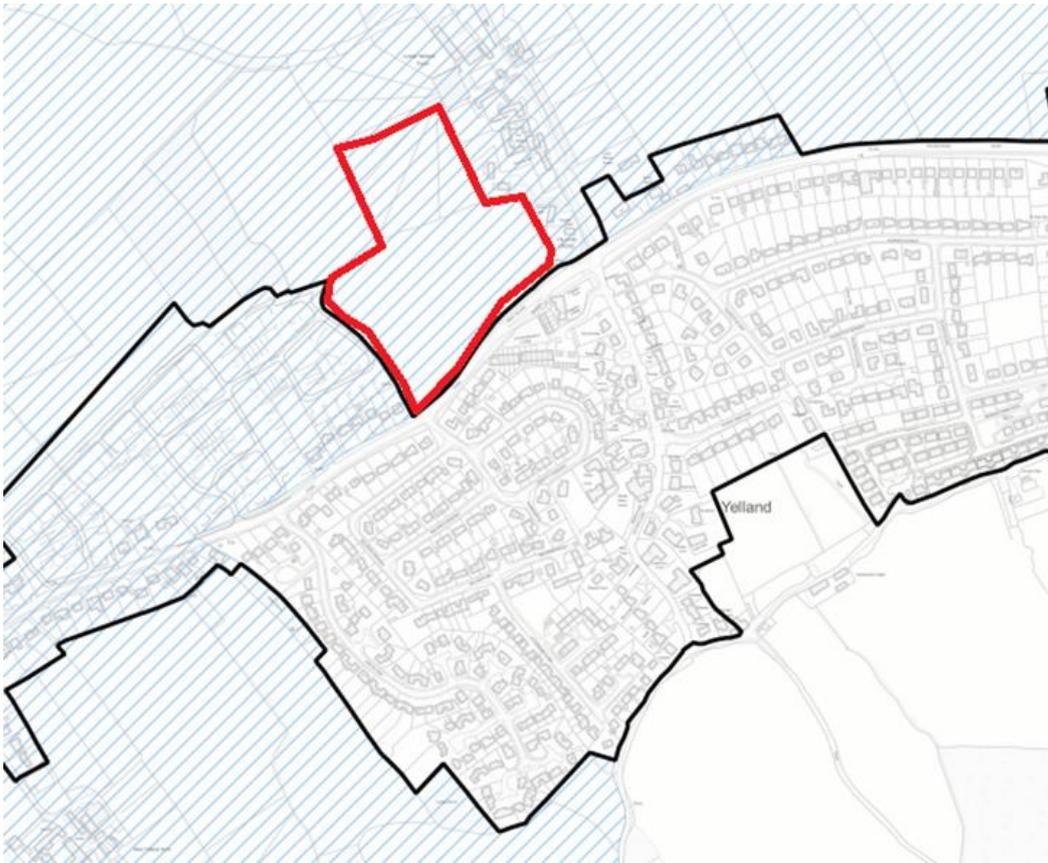
currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1st April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any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

- 1.6. Therefore, National planning policy (Footnote 8, 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.
- 1.7. 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).
- 1.8. The lack of a 5YHLS only results in proposals for housing needing to be considered in accordance with the Presumption and not all applications for other forms of development. The lack of a 5YHLS will be a material consideration that will affect the weight that should be afforded to particular policies of the NDTLP; such as the provisions of ST06 and ST07 and in particular the application of development boundaries.

#### *Departure from the Local Plan and the presumption in favour of 'Sustainable Development'*

- 1.9. For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS.
- 1.10. Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. Due weight should be given to policies, according to their degree of consistency with the NPPF; the closer the policies in the plan are to the policies in the NPPF, the greater the weight that may be given to them.

- 1.11. The Presumption is set out in two parts; First stage of the Presumption is to check if the policies of the NPPF that protect areas or assets of particular importance give a clear reason to refuse the development that is proposed (Paragraph 11(d)(i) and Footnote 6, NPPF). This is only done by reference to the provisions of the NPPF and not the NDTLP. There needs to be a clear reason to refuse and not simply that it affects one or more of those areas or assets.
- 1.12. If there is no clear reason to refuse 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).
- 1.13. The courts have concluded that the application of the tilted balance takes into account both the provisions of the NPPF and development plans as relevant and when taken as a whole. As such it can include the consideration of the relevant provisions of the development plan (NDTLP) and not only the provisions of the NPPF. The decision taker will however need to assess the weight to be given to development plan policies, including whether or not they are in substance out-of-date and, if so, for what reasons.
- 1.14. The application is contrary to the Development Plan policy ST07 as the site lies outside the designated development boundary as identified in the NDTLP, however the Local Planning Authority therefore needs to determine whether there are material considerations which would override the Development Plan in permitting this development. In this instance, the absence of a 5YHLS would indicate that Policy ST07 is out-of-date, only in so far as it relates to housing applications in locations which would otherwise be deemed as sustainable; subject to the consideration and application of the tilted balance against any policy conflicts identified in relation to other development plan policies and whether these conflicts and impacts result in both significant and demonstrable harm.
- 1.15. The site is located directly adjacent to the development boundary for Fremington and Yelland, however as explained above, given the Council's absence of a 5 year housing land supply, the policies which set development boundaries are housing supply policies which are considered to be out-of-date and the presumption therefore applies.



Site highlighted red in relation to development boundary

1.16. The site was identified in the SHLAA assessment as part of SHA/FRE/312 and concluded to be developable therefore was counted in the SHLAA supply however did not make it into the formal development boundary. The site has also been submitted by the developer in recent call for site as part of the Local Plan review. The site is well served by regular public transport with a bus stop adjacent to the site and access achievable through the neighbouring development to gain access to recreational opportunities on the Tarka Trail. The site is not considered to be less sustainable than any of the land shown within the development boundary to which it lies adjacent.

1.17. The above factors are material in the consideration of the proposals in the context of the 'presumption in favour of sustainable development.

### Deliverability

1.18. The intention to deliver the development is a matter for consideration in the context of Policy ST21 of the NDTLP, as the presumption in favour of sustainable development can only be considered to carry sufficient weight, where there is a realistic prospect of the development being delivered; in part or in whole, within the prescribed 5 year period.

1.19. Whilst the planning submission does not state any delivery timescales, this is an application whereby housebuilder is the applicant and has verbalised in communications that there is a clear intent to bring this site forward quickly. On request by the LPA, the developer has agreed to a 1 year timescale for the submission of reserved matters which shows this commitment and with the quick conclusion of any Section 106 process, this could potentially see delivery on site within 2023.

1.20. In light of the above, whilst the Council's Planning Policy Team express some concern over delivery timings on similar outline schemes, the developer has agreed to a one year period for submission of reserved matters shortened from the standard 3 years, and with the evidence presented; the developers commitment to progress a policy compliant Section 106 requirements and recent appeal cases, would suggest that the development proposed is deliverable within a 5 year timescale and therefore would be a considerable contribution to the Councils shortfall in housing. Significant weight is therefore afforded to this in the context of applying the presumption in favour of sustainable development.

### Summary

1.21. In light of the above, given the proposal is a departure from the adopted development plan, with an absence of 5 year housing land supply as a material consideration of significant weight, an assessment of the proposal in relation to Section 38(6) of the PCPA2004 and the Presumption will be combined, drawing together into a combined Planning Balance conclusion at section 9 of this report. The subsequent sections of the report will seek to demonstrate the following:

- *whether the proposal is in accordance or conflict with specific policies and provisions of the development plan;*
- *if necessary, whether there are material considerations (including the Presumption) that mean that a decision should deviate from the specific policies and provisions of the development plan;*
- *how the proposal fares against the two elements of the presumption in favour of sustainable development; and*
- *therefore whether it should be approved or refused.*

## **2. Character and appearance**

### *Landscape*

2.1. The application site lies in Local Character Type (LCT) 3A 'Upper farmed and wooded valley slopes' as set out in Devon County Council's assessment of LCTs.

The special qualities of this LCT include an open landscape with important vantage points and uninterrupted vistas and narrow sunken lanes and species rich hedgebanks.

2.2. The site is located to the north of Yelland Road, flanked by sporadic development and uses to the east at Lower Yelland Farm, and residential development to the west. To the North is open farmland terminating at its boundary with the Tarka Trail. There are clear views of the site from the B3233 to the south and the surrounding land and developments given the relatively flat nature of the site.

2.3. The site is also located in an area defined as undeveloped coast as defined in Policy ST09 of the NDTLP, whereby new development will be supported 'where it does not detract from the unspoilt character, appearance and tranquillity of the area, nor the undeveloped character of the Heritage Coasts, and it is required because it cannot reasonably be located outside the Undeveloped Coast and estuary'.

2.4. In relation to landscape, the Council's Sustainability Officer made the following comments in relation to the submitted Landscape and Visual Impact Assessment (LVIA):

*'The submitted Landscape and Visual Impact Assessment (LVIA) concludes that the proposals overall landscape character and visual effects are negligible to minor. The LVIA contains an appropriate set of viewpoints and includes a reasoned justification of effects on each receptor. The LVIA does not provide any recommendations or guidance to inform the overall design proposals or the composition of the areas of open space.'*

2.5. There is not considered to be any weight to challenge the findings of the LVIA but it is identified above, that the proposal will result in changes to landscape character which require consideration in the context of Policies ST09, ST14 and DM08A of the NDTLP. These require development to conserve/preserve and enhance the local distinctiveness and landscape qualities of the area.

2.6. The appeal decision for the neighbouring site, appended to this report (Reference: APP/X1118/W/15/3003545), contained some discussion on the nature of ribbon development occurring along the B3233 corridor (paragraphs 47-49). This commentary makes no suggestion that land north should be prejudice from any further development, acknowledging that a development providing depth to the north, with appropriate landscaping would seek to provide a clear boundary to the settlement, yet clear gaps both to the east and west will still exist on the northern side of the B3233, as demonstrated in the aerial view below:



Wider aerial view of Yelland

2.7. As such, whilst acknowledged as an area of infilling between dwellings along Yelland Road, negligible to minor harm to the landscape character is identified, and there is some conflicts with policy objectives to conserve or preserve and enhance landscape character, matters which will therefore need to be weighed in the planning balance, in relation to other material consideration at Section 9 in reaching the recommendation. It is however noted the site is outside of any statutory landscape designation and is partially seen in to context of other built form. As such, moderate weight is afforded to the identified harm arising from the proposals.

### *General Design*

2.8. 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. Some consideration of layout has been necessary in relation to habitat provision and landscape impact, however at this stage, it is not possible to consider the final form of development. An indicative parameters has been considered, albeit in the event approval is recommended, this plan would not form a detailed basis for guiding building design or layout of the reserved matters. At this stage the developer should have due regard to Policies ST04 and DM04 of the NDTLP and paragraph 130 of the NPPF in creating a locally distinctive development of the highest standard as guided by the National Design Guide and National Model Design Code

2.9. The application has attracted comments from the Designing out Crime Officer which are based upon the indicative plans and refers to the need for any subsequent reserved matters application to follow Secure By Design guidance cited in the response.

2.10. Furthermore, 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.'

2.11. A BfL12 assessment has 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. The LPA would question the extent of green scores given the indicative layout only and would advise that some of these currently unknown aspects should have been scored amber at this stage to indicate that they hadn't yet been achieved however it appears feasible that they could. The LPA can see no clear reason at this stage why any red scores should have been attracted and it will be key for this assessment to be re-run at 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.

### **3. Heritage and Archaeology**

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

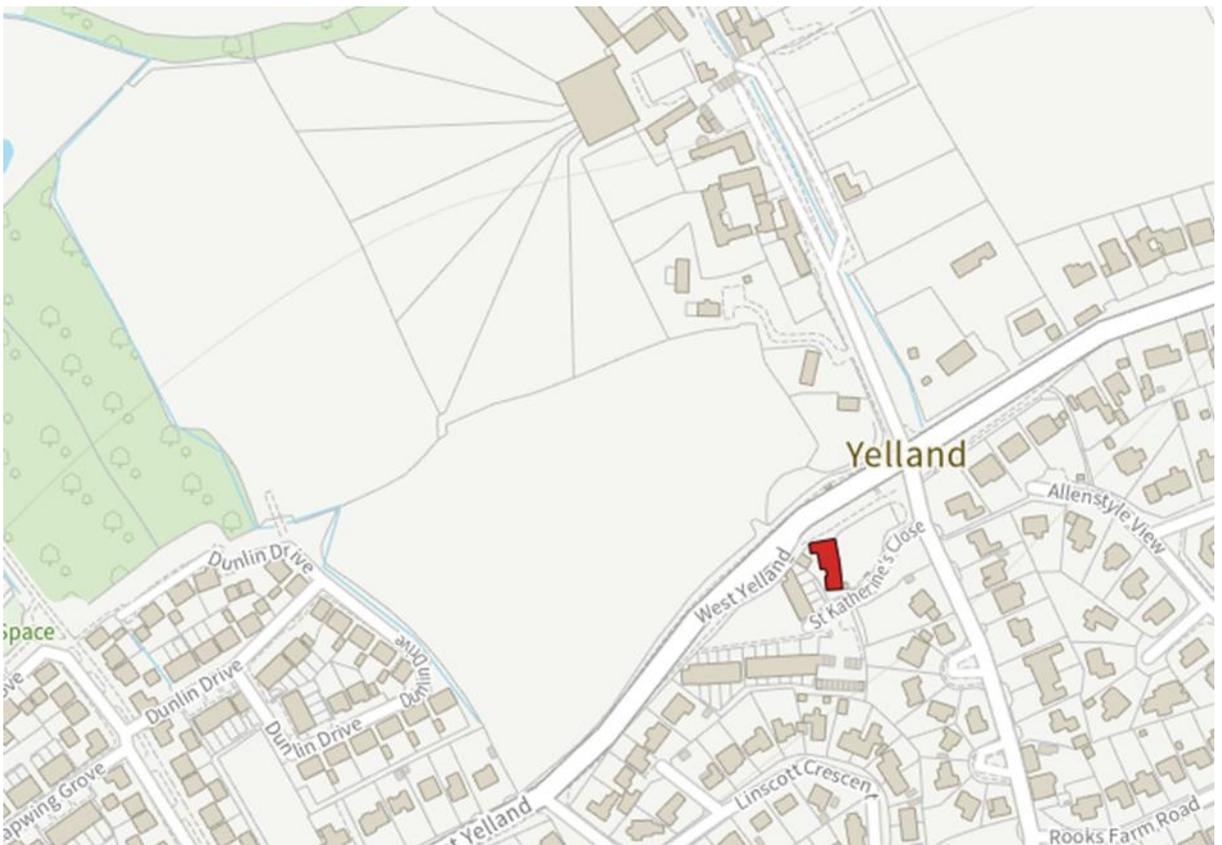
3.2. In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with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

3.3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states a general duty of a Local Planning Authority as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

3.4. A designated heritage asset can be a listed building (including curtilage listed building), Conservation Area, Registered Park or Garden or Scheduled Ancient Monument. Local planning authorities have specific duties to make informed planning decisions on how development impacts on Heritage Assets and their settings.

3.5. The Act enshrines a strong presumption against harm to the significance of a heritage asset. If harm is likely to be caused by a proposal, paragraphs 194-202 of the NPPF will need to be applied. Policies ST15 and DM07 of the NDTLP apply to the development where they require development to 'preserve and enhance' heritage assets and great weight should be afforded to such protections.

3.6. Heritage impacts are assessed as part of the submission documents, with the nearest asset being on the adjacent side of Yelland Road to the south as shown below:



Nearest Heritage Asset in red

3.7. The Conservation Area for Fremington is in excess of 1km from the site and there are no other listed buildings within 800 metres of the site.

3.8. The comments from the Heritage and Conservation Officer identify a degree of less than substantial harm to the asset and suggest the trigger of paragraph 202 of the NPPF, whereby this harm is required to be assessed in the balance against public benefits of the proposals.

3.9. It is clear that a conflict with Policies ST15 and DM07 of the NDTLP and duty of Section 66 of the above act exists in that the development is not considered to

'preserve or enhance' the setting of heritage assets, namely the context of Chapple's Farm, however the harm identified is less than substantial, albeit this harm will be assessed giving great weight to the assets conservation as advised by the NPPF paragraph 199, and this will therefore be required to be considered in the balance with the public benefits of the scheme in section 9 of this report.

### *Archaeology*

3.10. In relation to buried archaeology the County Archaeologist has made the following comments:

*'The proposed development lies in an area of archaeological potential. Fields approximately 65 metres to the north of the site are recorded in the mid-19th century Fremington Tithe Apportionment as Wester Castle and Easter Castle. The 'Castle' element of these fieldnames may indicate the presence of a Late Iron Age or later defended settlement. Also, adjacent to the site to the east, a geophysical survey recorded pit like features of unknown date. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.'*

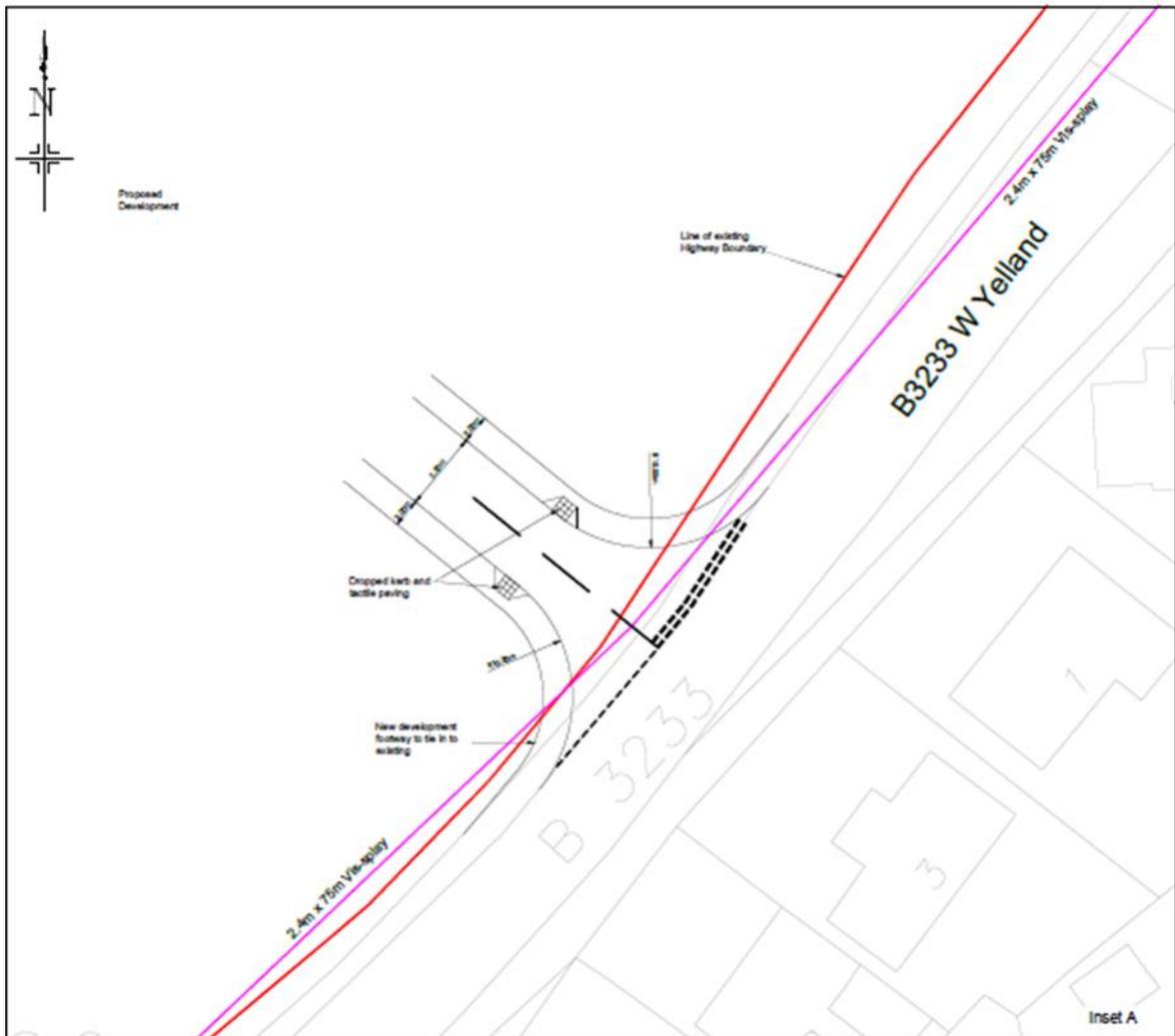
3.11. The response suggests that the developer must supply either a Written Scheme of Investigation as part of the application or it can be conditioned as part of the recommendation. In this instance given the scheme is in outline, it is considered appropriate to use a pre-commencement condition for the submission of the WSI.

3.12. As such, subject to this, archaeology is considered to have been appropriately assessed and does not raise any conflicts in relation to Policies ST15 and DM07 of the NDTLP or the NPPF.

## **4. Highway considerations**

4.1. Policies ST10, DM05 and DM06 of the NDTLP require development to safe and suitable access for all road users, 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.

4.2. The application is presented with a transport assessment and seeks approval of the proposed access point onto the B3233 to the South and as identified in the plan below:



Access Plan

4.3. The Transport Assessment considered as part of the application provides the rationale for the technical design detail of the access and details of the anticipated movements from the site based upon 80 dwellings, totalling an anticipated 392 movements per day. In summary this is quoted at the peak as:

*'Development traffic has been calculated and distributed using industry standard tools and techniques, culminating in development traffic forecasts of 40 two-way movements in the AM peak hour (29 departures/11 arrivals) and 39 two-way movements in the PM peak hour (26 arrivals/13 departures).'*

4.4. The above figures and detailed figures in the transport assessment are not challenged by the Local Highway Authority.

- 4.5. Capacity on the surrounding network, including the Cedars and Esso Roundabout and is assessed and considered to have suitable capacity for the development proposed and cumulatively with other development committed in the B3233 corridor. Given the outcomes of the Yelland Quay appeal, this has not been challenged by the Local Highway Authority on this occasion.
- 4.6. The Local Highway Authority have made no objection to the proposed development subject to the following requirements which will improve sustainable travel from the development:
- i) The upgrade of the existing public footway across the application site frontage to a uniform width of 2 metres in accordance with details to be agreed with the Local Highway Authority. Such improvement to be the subject of a Section 38/278 Agreement post-planning approval, if forthcoming.*
  - ii) The provision of a formal signal-controlled Crossing at a location within the immediate vicinity of the planning application site frontage. Such crossing (likely to be a Puffin), to be supported by a commuted sum of £20,000 for maintenance purposes.*
  - iii) The provision of a Traffic Regulation Order contribution of £5000.*
- 4.7. As such, subject to securing the above and imposition of standard conditions, there are no objections from the highway authority.
- 4.8. The applicant has supplied full evidence of its conclusions that this development would not have highway safety implications based upon the capacity on the surrounding road network.
- 4.9. In terms of sustainable travel, this is a matter that was discussed at length in the appeal inquiry for the site to the west which has now been built out by Barrett David Wilson Homes the decision for which is appended to this report (Reference: APP/X11118/W/15/3003545). The summary of which can be read in paragraph 30-32 but that concludes that this area of Yelland, whilst segregated from services within Fremington or Instow and representing an area where car travel will likely be required, is also well served by public transport and safe and suitable access to cycling provided by the Tarka Trail.
- 4.10. It is noted that since the application was submitted, due to land ownership constraints, the original pedestrian/cycle link between Dunelin Drive and the north-west corner of the site has now been removed and access to the Tarka Trail would be obtained to the South West travelling in part along the B3233 and then

through the Barratt David Wilson Home development and utilising the access to the north to the Tarka Trail through this site.

4.11. In light of the above, there is some conflict in sustainability terms with the location of the development and therefore Policies ST10 and DM05 of the NDTLP and paragraph 112 of the NPPF, and therefore which is afforded moderate weight for consideration in the overall planning balance.

## 5. Ecology

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

5.2. 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:

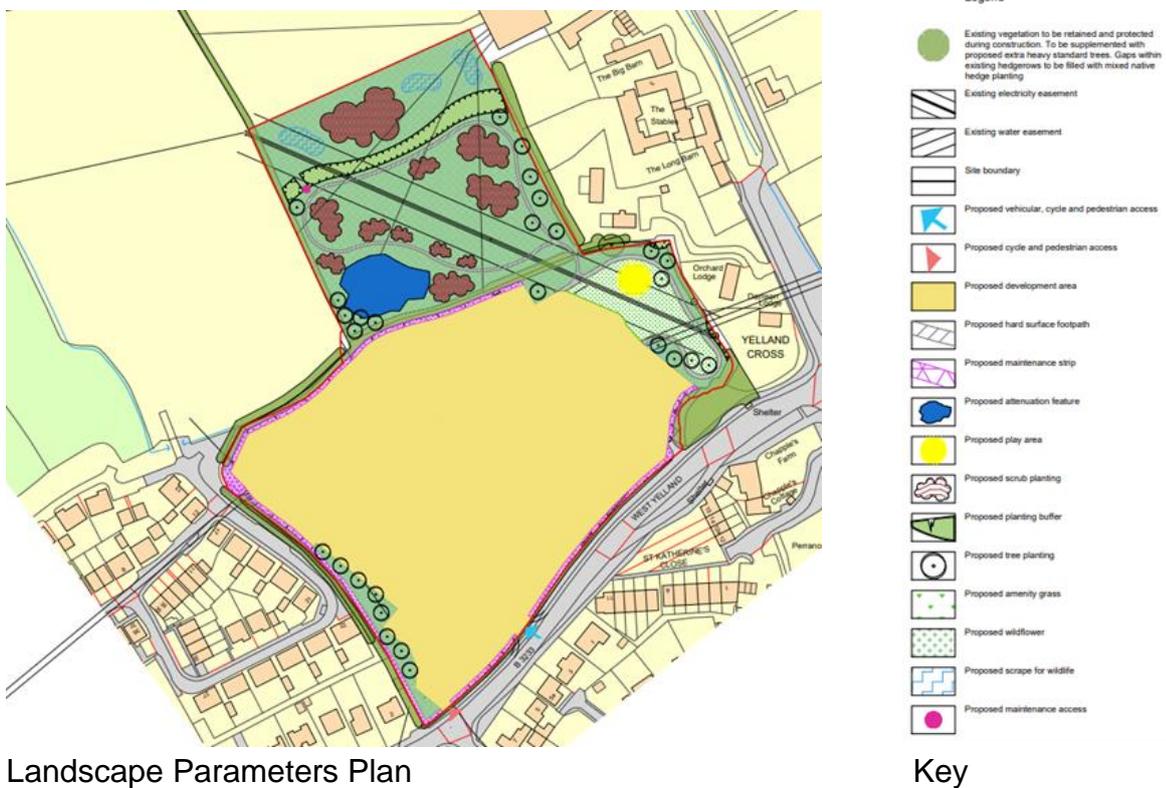
- (a) providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;*
- (b) protecting the hierarchy of designated 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;*

5.3. 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 179 and 180 of the NPPF also seek the same set of objectives in respect of the above and reiterates the statutory duties.

## Protected Species and Biodiversity Net Gain

5.4. The Ecological assessment work accompanying the application acknowledges the potential impacts on a number of species and provides appropriate details in the commentary of mitigation and enhancement required to negate any impacts arising from the development and provides an overall enhancement on site. The initial submission documents raised the comments detailed in the consultees section above from the Sustainability Officer.

5.5. These have prompted and updated Ecological Assessment and Landscape Parameters plan, which has addressed the points that were raised.



Landscape Parameters Plan

Key

5.6. The EA concludes that the following measures will be adopted to protect the following protected species which are supported by the Sustainability Officer:

Species	Measures
Amphibians and Reptiles	Majority of boundary hedgerows retained, any hedgerow removal preceded by fingertip search and relocation on northern boundary.
Badgers	Update to survey immediately prior to works, licence if needed from NE.

Species	Measures
	Means of escape to be provided during construction works, enhanced foraging habitat as part of POS.
Bats	Hedges largely retained, significant light spill to site from neighbour development, sensitive lighting design and timing of construction activity, enhanced foraging habitat. Bat boxes provide a one per 4 dwellings.
Birds	Timing of works to avoid nesting season, or pre-work checks, enhanced habitat as part of POS for overwintering birds, compensatory nesting one bird box per 4 dwellings.
Other notable species	Hedgehogs potentially present, will be relocated along northern boundary.

5.7. The BNG baseline achievable on site is understood to be 27.41% of habitat units and 10.04 % of hedgerow units, which is well above the anticipated 10% described in the Environment Act 2021, anticipated to be enacted through the Planning Acts in late 2023.

5.8. The Sustainability Officer advises that the scheme will need to include a condition for and Landscape and Ecological management Plan and Construction Ecological management Plan as part of the reserved matter submission. Subject to the above conditions and appropriate layouts and landscaping at RM stage, this therefore is considered to comply with NDTLP objectives in ST14 and DM08 as well as NPPF objectives for BNG at paragraph 180.

#### *Taw and Torridge Site of Special Scientific Interest (SSSI)*

5.9. The location of the site is identified by the Sustainability Officer and Natural England as having potential recreational impacts on the above designated site, and consequently overwintering birds, as detailed in the Natural England response. Whilst impact is identified, both consultees identified suitable routes for mitigation through design and education mechanisms such as that cited by Natural England below:

*'If your authority is minded to grant permission, suitable mitigation measures should be agreed and secured via condition to reduce disturbance to overwintering birds. This should include but not be limited to interpretation packs for all households and information panels on the proposed footpath*

*connection, via the adjacent development, to the Tarka Trail.'*

5.10. As such, subject to conditions it is considered any impacts can be suitably mitigated.

#### *Habitat Regulations Assessment*

5.11. In relation to the Special Areas of Conservation (SAC) being the Braunton Burrows SAC and Culm Grassland SAC, the response by Natural England highlighted the need for an appropriate assessment to be carried out in relation to the Habitat Regulations in order to ascertain whether significant effects were likely to result from the proposals. The LPA have previously commissioned a strategic assessment which demonstrates that new residential development of up to 10,000 non-plan led dwellings could occur before significant effects would be deemed to result on the Culm SAC.

5.12. In terms of Braunton Burrows SAC, as North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC.

5.13. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence. Strategic HRA/AA, Strategic Impact Assessment, Visitor Surveys, Identified Zone of Influence (Zoi) and Visitor Impact Mitigation Strategy undertaken on behalf of the LPA have established that the site is within the established Zoi and therefore any development is considered likely to contribute towards an unacceptable cumulative effect of visitor impacts as defined in the Strategic Impact Assessment.

5.14. On this basis the applicant has been advised that a contribution of £190 per unit will be sought towards the implementation of the Mitigation Strategy which will be secured through the section 106 agreement.

#### *Best and Most Versatile Agricultural Land*

5.15. Policy ST14 (d) and Paragraph 174 (b) of the NPPF recognises the natural capital associated with the Best and Most Versatile Agricultural Land (BMV) which is land classed as 1-3a as defined by the glossary to the NPPF and classed by the Agricultural Land Classification Map South West Region produced by the Ministry for Agriculture Fisheries and Food (MAFF), subsequently superseded by the Department for Environment, Food, and Rural Affairs (DEFRA).

- 5.16. The site is class as grade 3a which is considered in the NPPF as BMV Agricultural Land in the context of the above assessment and policy provisions. It is acknowledged that the land has a high quality in terms of its value to agriculture, however it is a small parcel of land, severed from larger agricultural holdings.
- 5.17. In the absence of a 5YHLS and needing to consider the presumption in favour of sustainable development, sites of higher grade land close to sustainable settlements are preferential to lower grade sites being isolated from other development resulting in potential landscape harm and with inappropriate links to existing facilities and services resulting in environmental harm.
- 5.18. As such, whilst the land is considered to have an environmental and economic value attributed to agricultural production and ecological value, the benefits in terms of the appropriate location for development (particularly given the deficit in a 5 year housing land supply) along with significant economic and social implications, are such that, on balance, the loss of 3.37 ha of BMV agricultural land is justified in this instance and conditions are imposed to ensure appropriate re-use of soil in line with Natural England advice.

## **6. Amenity impacts**

- 6.1. 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.

### *Noise*

- 6.2. In terms of the impacts of noise arising from the developments construction phases, given the background noise levels and the restrictions available through a Construction and Environmental Management Plan (CEMP), and limiting construction hours through planning conditions, the amenity of the nearest neighbouring residential dwellings to the north and east would be appropriately maintained.
- 6.3. It is noted that Environmental Health have raised concerns in respect of noise impact post construction from B3233 on future occupiers of the site and therefore have recommended the submission of an Environmental Noise Assessment as part of any reserved matters application to demonstrate how layout and any other required mitigation can be adopted to address road noise . As such subject to

condition it is considered this would comply with Policies DM01 and DM02 of the NDTLP.

#### *Air Quality*

6.4. The application submission demonstrates through its transport assessment that the projected daily traffic movements would be 392 and the Air Quality SPD indicates that developments outside of AQMA's or not adjacent to have a threshold of 500 Annual Average Daily Traffic movements before an AQIA is required.

6.5. As such an AQIA is not required and no objection has been raised from the Environmental Health Officer in this respect. As such the proposals area considered to meet the requirements of Policies DM01 and DM02 of the NDTLP and the requirements of the Air Quality SPD.

#### *Residential Amenity*

6.6. 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 north east of the site. Given the indicative layout show, height parameters 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.

6.7. It is noted in an objection received that a neighbouring site to the east has holiday units adjacent to the site boundary. Amenity for holiday properties is treated in the same way a residential unit would be considered in that undue impacts from overlooking, overbearing or loss of light need to appropriately applied however as the units are already adjacent to the development boundary for Yelland, it would be expected by visitors that the nature of the site would be semi-urban. Conditions are suggested to protect all types of residential use during the construction phase, however beyond this there would be no planning reasons to resist a development of significant benefit to housing supply, including much needed affordable housing, due to its proximity to holiday accommodation.

#### *Land Contamination and Stability*

6.8. There have been no land stability issues arising as part of the application given the level and greenfield nature of the site. In terms of land contamination, in consultation with the Environmental Health Officer a Phase 1 contaminated land survey is required by condition and a standard reactive condition to unknown contamination which could be discovered during construction work is requested.

Subject to these conditions the requirement of policy DM02 of the NDTLP are satisfied.

### *Construction and Environmental Management Plan*

6.9. A condition is require for the submission of a CEMP and restriction on construction hours is proposed.

## **7. Flood Risk and Drainage**

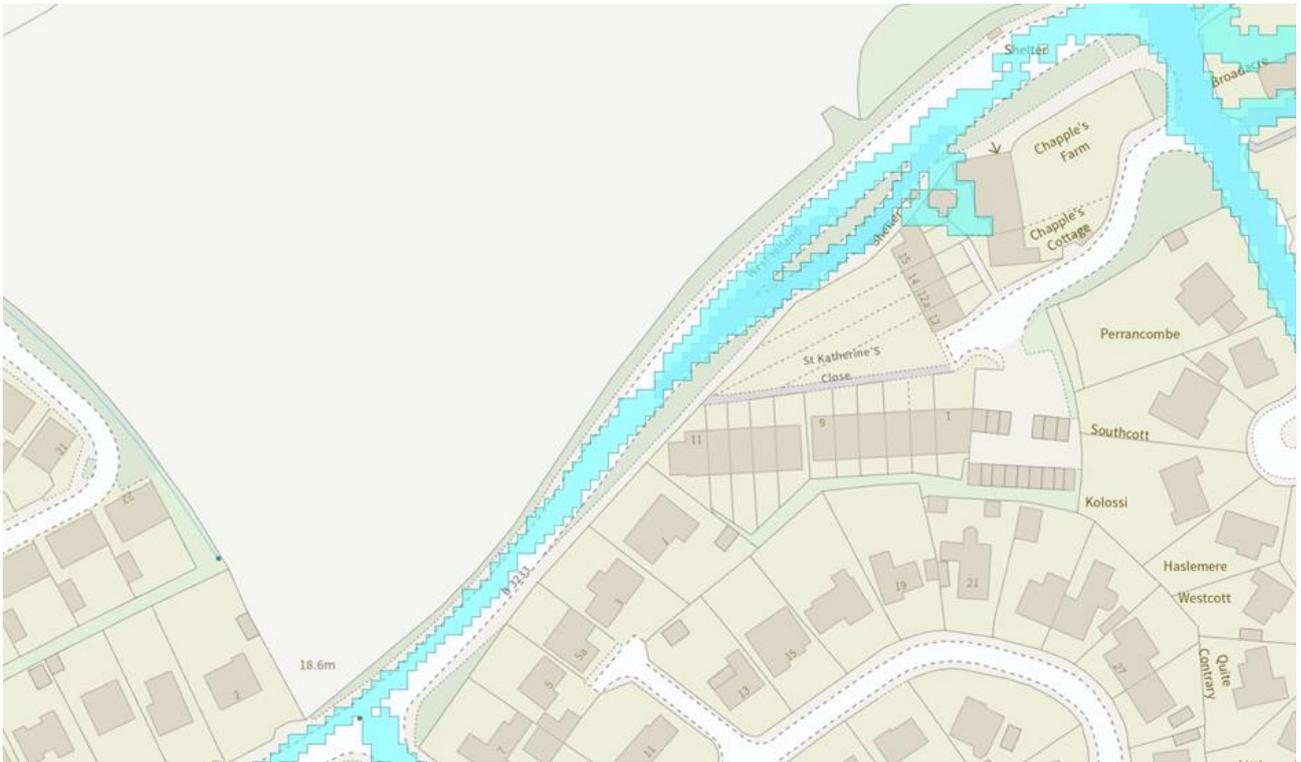
7.1. NDTLP Policy ST03 requires that development takes account of climate change to minimise flood risk. Policy DM04 requires development to 'provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rain water'.

7.2. The proposed development would include connection to the existing foul sewer and the provision of a series of SUDs measures throughout the site, as shown on the indicative plans.

7.3. A Flood Risk Assessment and Drainage Strategy has also been submitted in support of the planning application which notes that the proposed development and accesses would all be located in Flood Zone 1.

7.4. The corridor of the B3233 is identified as having areas in Flood Zone 2 and a small area of Flood Zone 3, although this is entirely out of the site, the Environment Agent have referred to the need to seek Emergency Planning comments in respect of safe access and egress to the site.

7.5. Given the site itself is entirely with Flood Zone 1 and the limited extent of the flood area shown, with access/egress via footways and part of the road still possible, it is not considered, in a flood event that occupants would need to access and egress to the site and could stay in situ until such a time flooding has retreated, however the level and extent of the FLZ is such that emergency vehicles or staff could still make access to the site if required. See map below for extents:



Map showing extent of Flood Zone 2 and 3 adjacent to site

7.6. The County Council's Flood Risk Management Officer has been consulted on the application in relation to surface water drainage 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.

7.7. Subsequently further information has been submitted to demonstrate that, whilst a detailed layout has not yet been fixed, that the site is capable of dealing with the surface water generated on the site, and the Lead Local Flood Authority (LLFA) is content sufficient data and design measures in the form of an attenuation pond, with an outfall to a watercourse will adequately deal with surface water on site subject to conditions.

7.8. In light of the above, the LLFA have no objection to the outline scheme proposed and drainage volumes demonstrated as part of the submission and detailed design will be secured by reserved matters. Conditions are suggested by the LLFA. As such the scheme would comply with Policies ST03 and DM04 of the NDTLP and climate change objectives of the NPPF.

## 8. Infrastructure requirements

### *Highways*

8.1. In order to comply with Policies ST10 and DM05 of the NDTLP, the development will need to deliver the following:

*i) The upgrade of the existing public footway across the application site frontage to a uniform width of 2 metres in accordance with details to be agreed with the Local Highway Authority. Such improvement to be the subject of a Section 38/278 Agreement post-planning approval, if forthcoming.*

*ii) The provision of a formal signal-controlled Crossing at a location within the immediate vicinity of the planning application site frontage. Such crossing (likely to be a Puffin), to be supported by a commuted sum of **£20,000** for maintenance purposes.*

*iii) The provision of a Traffic Regulation Order contribution of **£5000**.*

### *Open Space*

8.2. In order to comply with Policy DM04 and DM10 of the NDTLP, open space provision on and off-site must be secured at outline stage via a section 106 agreement.

8.3. The on-site requirement is 7208.96m<sup>2</sup>. This would be secured by the approved plans and section 106 agreement whereby a management company would be responsible for the long-term upkeep of the area and they would be made publically available at the earliest opportunities through the development of the site.

8.4. In terms of the off-site contribution which is off-set by the on-site amount this amounts to **£286,720** based on the indicative layout of 80 units. These monies would be secured via S106 and used to deliver a named project within the local area.

### *Education*

8.5. Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards education facilities and capacity. The County Councils response with respective amounts is copied below:

*'Devon County Council has considered the application above and would like to provide an education response. This is in accordance with Devon County Council's Education Infrastructure Plan 2016-2033.*

*Regarding the above planning application, Devon County Council has identified that a development up to 80 family type dwellings will generate an additional 20 primary pupils and 12 secondary pupils which would have a direct impact on Fremington Primary School, Instow Primary School and Bideford College.*

*In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:*

*When factoring in both approved but unimplemented housing developments as well as outstanding local plan allocations we have forecast that the local primary schools do not have capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek contribution towards additional education infrastructure to serve the address of the proposed development. The strategy for the area is for new primary provision within Barnstaple.*

*We have forecast that there is enough spare primary capacity to accommodate 69% of pupils expected to be generated by development in the area and therefore would only look to seek contributions against the remaining 31% of pupils. Primary contributions sought would be **£125,891** (based on the DfE new build rate of £20,305 per pupil x 31%). This equates to a per dwelling rate of £1,573.64. The contributions will go towards new primary provision.*

*As the strategy is for a new primary school, DCC also need to request a proportionate primary land contribution of 10sqm per family-type dwelling from this development. Based upon a land value of £1,105,000 per hectare, this land contribution would equate to £342.55 per dwelling (based on £1,105 per dwelling x 31%). For a total of 80 dwellings, the contribution would be **£27,404**. This would be used towards procurement of the new school site.*

*In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as **£20,000** (based on £250 per dwelling). This contribution will be used to provide new early years provision for pupils likely to be generated by the proposed development.*

*The local secondary school is forecast to have spare capacity for the number of pupils expected to be generated by this development and therefore a contribution towards secondary infrastructure would not be sought.*

*We would however require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Bideford College. The costs required are as follows: -*

*12 secondary pupils*

*£4.03 per day x 12 pupils x 190 academic days x 5 years = **£45,942***

*The contribution above has been calculated based on the DCC contract cost of transporting a pupil from the area of development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil will attend the school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school.*

*All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 prices 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) and 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.*

*In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.'*

### *Affordable Housing*

8.6. The scheme is required to deliver 30% affordable housing in order to accord with Policy ST18 of the NDTLP. This will be comprised of a tenure split of 75% social rent and the balance as intermediate housing, will be pepper potted across the site and will in the first instance provide for locally identified need with as cascade approach in accordance with good, inclusive design principles require by the NDTLP and NPPF. This will be secured by the Section 106 agreement.

### *National Health Service*

8.7. Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards Healthcare facilities. The NHS's acute and primary care providers have been consulted on the application and require the contribution towards enabling capacity of Fremington Medical Practice of £46,285 and a further contribution toward providing hospital care of £70,128.

## *Braunton Burrow SAC Mitigation Contribution*

8.8. A sum of £15,200 would be payable via Section 106 towards to mitigation of recreational impact identified to the Braunton Burrow SAC as a result of the appropriate assessment and mitigation strategies commissioned by the LPA in communication with Natural England.

## **9. Planning balance**

- 9.1. In summary, the Council has undisputed lack of a 5 year housing land supply. Paragraph 11 (d) 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 in North Devon. The lack of housing supply is a significant matter in favour of the proposal and carries substantial weight.
- 9.2. Landscape impacts are considered to be localised, reducing in magnitude at a wider context and not impacting on any designated landscape. It is considered with appropriate landscaping secured at reserved matters stage the impacts will reduce landscape impact throughout the lifetime of development. This issue is therefore afforded moderate weight.
- 9.3. In highway terms the Highway Authority consider the development would result in additional pressures to the highway network and a works to improve the local highway network are to be required which the developer has agreed to deliver. The design and location of the access proposed is considered to be acceptable. The location of development is beyond desired walking distances from services which would result in a higher reliance on the private car, however the site does have regular and convenient access to alternative modes. Moderate weight is afforded to this issue.
- 9.4. The ecological impacts from development can be mitigated through appropriate construction management, and monitoring along with green infrastructure provision on site. The development also achieves adequate biodiversity net gain and impacts on nearby designated site can be made accepted via condition and contributions.
- 9.5. The amenities of local residents can be appropriately safeguarded through the parameter plans, conditions imposed and reserved matters in relation to noise, land contamination and construction measures.

- 9.6. The site can appropriately deal with flooding and surface water run-off in accordance with Environment Agency and DCC Flood Risk advice and national requirements.
- 9.7. The site would result in less than substantial harm of heritage assets in the locality identified as sharing their setting with the site and significant weight is afforded to this matter. However given the public benefits of the provision of housing, including up to 24 affordable dwellings and employment arising from construction, the benefits would outweigh the harm in this instance.
- 9.8. Turning to the NPPF and the 3 dimensions of sustainability, and this the presumption in favour of sustainable development;
- 9.9. The economic benefits of the proposal would be strong, including the creation of jobs, the addition of spending power to the local economy and the new homes bonus.
- 9.10. Social benefits would include meeting general housing needs and affordable housing needs, which given the areas current housing crisis is of significant benefit and afforded significant weight.
- 9.11. Environmentally the impact of development would be moderate in landscape terms and significant in heritage terms, however mitigation exists which would reduce these impacts over time and beyond a local context, but not negate them entirely. The location of the site with alternative transport mode offers would be an environmental benefit.
- 9.12. As such considered as a whole, with the significant weight attributed to the Council's absence of a 5 year housing land supply, the site is sustainable in NPPF terms, and that the provisions of paragraph 11 of the NPPF are engaged. Paragraph 11(d) of the NPPF is clear that planning permission should be granted **unless any adverse impacts would significantly and demonstrably outweigh the benefits** when assessed against the policies in the NPPF as a whole. Given the above discussion it is considered, on balance, that there would not be significant and demonstrable harm in landscape, highways or heritage, which would outweigh the substantial benefits attributed from the provision of much needed housing, including a significant element of affordable housing on an otherwise sustainable site. As such with the imposition of appropriate conditions and S106 obligations the balance is considered to be, on balance in this instance, to fall in favour of the proposal.

## **Human Rights Act 1998**

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

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

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**

***Approved subject to a Section 106 agreement and with delegated Authority to finalise conditions and the legal agreement.***

Legal Agreement Required: Yes

## **Conditions**

1. a) In the case of any reserved matter, application for approval must be made not later than the expiration of one year 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 two years from the date on which this permission is granted; or  
  
(II) the expiration of one year 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. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the, appearance, landscaping, layout, and scale of the development on the site (hereinafter referred to as 'reserved matters') have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.

Reason:

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and

Part 3, Article 6 (b) of the Town and Country Planning (General Development Procedure) Order 2015.

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

Building for Life Assessment received on the 18/11/22

WAIN23397-07B Landscape Parameters Plan received on the 18/11/22

AS21 56 L 01 00P1 Location Plan received on the 04/03/22

AEQ 211 DD 001P1 Access Plan received on the 04/03/22

AS21 56 L 06 03P4 Concept Plan received on the 17/11/22

Wain23397 AHA Feb 2022 received on the 04/03/22

Wain23397 LVIA Jan 2022 received on the 04/03/22

A Design And Access Statement received on the 17/11/22

A 210550 01 TA Final Jan 2022 received on the 17/11/22

A 1218 AIA AE Feb 2022 received on the 17/11/22

1010845 Final Sept 2021 Agricultural Land Classification received on the 07/03/22

A 210550 01 TP Final Jan 2022 received on the 17/11/22

Revised ECIA Rev 1 Oct 2022 received on the 12/10/22

Revised FRA Rev A 25 April 022 received on the 12/10/22

('the approved plans').

Reason:

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

4. As part of the first reserved matters application a detailed phasing plan for the whole site shall be submitted to the local planning authority for approval in writing. The phasing plan shall include details of:

a) intended number of market and affordable dwellings for each phase; and,

b) general locations and phasing of key infrastructure including, surface water drainage, green infrastructure, community facilities and access for pedestrians, cyclist, buses and vehicles.

c) Chronological timing of delivery of dwellings in any given phase.

The development shall be carried out in accordance with the approved phasing plan.

Reason:

To enable the development to be delivered in controlled phases and to ensure delivery contributes to the deficit in 5 year housing land supply to accord with the provisions of Paragraph 11 (d) of the National Planning Policy Framework.

5. The reserved matters shall be carried out in accordance with a Design Code which shall be submitted before or at the same time as the first reserved matters application and shall provide details of the following:

a) architectural and design principles;

b) the identification of character areas including street types, street materials and street furniture;

c) landmark buildings;

d) housing unit sizes and mix;

e) boundary treatments;

f) roofscapes;

- g) the road hierarchy type and standard;
- h) car and cycle parking;
- i) footpath and cycleway networks including any internal/external links;
- j) existing landscape features to be retained;
- k) types and location of areas of open space; and
- l) proposed landscape framework, including structural planting;

The development shall be carried out in accordance with the agreed details.

Reason:

In order to achieve a well-designed place and to accord with the objectives of North Devon and Torridge Local Plan Policies ST04 and DM04 and National Planning Policy Framework paragraph 129 to create high quality, beautiful and sustainable places. This is a pre-commencement requirement to ensure good design is embedded from the outset of the future scheme forthcoming on the site.

6. No more than 80 residential dwellings (Use Class C3) shall be constructed on the site pursuant to this planning permission.

Reason:

To restrict the use of the site to that which is permitted by this planning permission and compatible with the surrounding area and to provide appropriate facilities across the development for the needs of the community.

7. As part of any subsequent reserved matters applications, a detailed landscape and ecological management plan (LEMP) shall have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:

- a) A description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management;
- b) A biodiversity impact assessment in accordance with the North Devon UNESCO World Biosphere Reserve Offsetting Strategy 2013-2018 / DEFRA Methodology
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);
- g) Details of the body or organization responsible for implementation of plan;
- h) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;
- i) Means of reporting of landscape and ecological monitoring results to the Local Planning Authority and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.

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

Reason:

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

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 survey schedule in accordance with paragraph 4.2.6 of BS5837: 2005.

(c) 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.

(d) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).

(e) 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.

(f) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).

(g) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).

(h) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (paragraph 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.

(i) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)

(j) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees.

(k) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of 'No-Dig' construction.

(l) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.

(m) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.

(n) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (paragraph 9.2.3 of BS5837).

(o) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).

(p) the timing of the various phases of the works or development in the context of the tree protection measures.

(q) no retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge, be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)]

(r) 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 :

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. The development hereby approved, and any subsequent reserved matter application shall be carried out in strict accordance with the recommendations contained within

the Ecological Impact Assessment prepared by GE Consulting (1218 EcIA-AE) dated October 2022.

Reason:

In the interest of safeguarding ecological interests and achieving a net gain in biodiversity in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, the biodiversity objections of the National Planning Policy Framework and the statutory duties of 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).

10. As part of any reserved matters application submitted to the Local Planning Authority, the developer, working in conjunction with a suitably qualified ecologist shall provide details of a scheme to limit disturbance to overwintering birds. For the avoidance of doubt this should include but not be limited to interpretation packs for all households and information panels on the proposed foot and cycle connection the Tarka Trail.

Reason: In the interest of safeguarding protected species and their designated habitat in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, the biodiversity objections of the National Planning Policy Framework and the statutory duties of 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).

11. Where practical, top soil from the site will be stored and re-used on site in garden and landscape areas.

Reason:

To support the retention and re-use of soil in terms of sustainability and in accordance with the Policy DM08 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

12. All 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 as part of the reserved matters application.

Reason:

To ensure that adequate information is available for the proper consideration of the detailed proposals to comply with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

13. The following garaging and vehicle parking spaces shall be provided and maintained thereafter:

one garage/hardstanding and one parking space per dwelling where provided within the curtilage of individual dwellings;

one and a half parking spaces per dwelling where provided in communal parking areas.

The design, layout, drainage, materials of construction and external appearance of this provision shall be included in the reserved matters and the development hereby approved shall not be occupied until this provision has been made.

**Reason**

To ensure the provision of adequate parking off the highway in accordance with Policies ST10, DM05 and DM06 of the North Devon and Torridge Local Plan.

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

**Reason:**

To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of users of the adjoining public highway and to protect the amenities of adjoining residents in accordance with Policies ST10, DM01, DM02, DM05 and DM06 of the North Devon and Torridge Local Plan.

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

Upon occupation, 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.

Reason:

To ensure that adequate facilities are available for the traffic attracted to the site to comply with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

16. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junctions, access, retaining wall and visibility splay works serving that phase shall be wholly completed.

Reason:

To ensure that the access arrangements are completed within a reasonable time in accordance with Policies ST10, DM05 and DM06 of the North Devon and Torridge Local Plan.

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

Reason:

In the interest of public safety and to prevent damage to the highway in accordance with Policies ST10, DM05 and DM06 of the North Devon and Torridge Local Plan.

18. Individual car parking spaces within any communal parking facilities to be provided as part of the development shall not be allocated to individual dwellings and shall be maintained free of obstructions to their use, such as chains or bollards, by all occupiers of the estate and their visitors.

Reason:

To ensure that adequate off street parking facilities are available for all the traffic attracted to the development in accordance with Policies ST10, DM05 and DM06 of the North Devon and Torridge Local Plan.

19. Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination for written approval. The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of ground contamination affecting any part of the development site. Thereafter, depending on the outcome of Phase 1, a proposal for any Phase 2 (intrusive) survey that may be required shall be presented to and agreed with the planning authority.

Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice.

The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.

Reason:

To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with Policies DM02 and DM03 of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

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

Reason:

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

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

Reason:

To protect the amenity of local residents in accordance with Policies DM01 and DM02 of the North Devon and Torridge Local Plan.

22. No development shall take including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environment Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-
- a) measures to regulate the routing of construction traffic;
  - b) the times within which traffic can enter and leave the site;
  - c) the importation and removal of spoil and soil on site;
  - d) the removal /disposal of materials from site, including soil and vegetation;
  - e) the location and covering of stockpiles;
  - f) details of measures to prevent mud from vehicles leaving the site and must include wheel-washing facilities
  - g) control of fugitive dust from earthworks and construction activities; dust suppression
  - h) a noise control plan which details hours of operation and proposed mitigation measures;
  - i) details of any site construction office, compound, ancillary facility buildings) and use of protective fences, exclusion barriers and warning signs.
  - j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;

- k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.
- l) Risk assessment of potentially damaging construction activities to ecology
- (m) Identification of 'biodiversity protection zones'
- (n) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction on ecology
- (o) The location and timing of sensitive works to avoid harm to biodiversity features
- (p) The times during construction when specialist ecologists need to be present on site to oversee works
- (q) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person

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

Reason:

To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, to safeguard the amenities of the area and neighbouring occupants, and to protect ecological interests to accord with Policies DM01, DM02, DM05 and DM08 of the North Devon and Torridge Local Plan. This is a pre-commencement requirement to ensure that road safety, amenity and ecological interests are safeguarded from potential impacts whilst site clearance, groundworks and construction is underway.

23. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:
- (a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins.
  - (b) A detailed drainage design based upon the approved Proposed Residential Development Yelland, North Devon Flood Risk Assessment (Report Ref. AEQ-211/FRA, Rev. A, dated 25th April 2022) and the results of the information submitted in relation to (a) above
  - (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
  - (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (e) A plan indicating how exceedance flows will be safely managed at the site.
  - (f) Evidence there is agreement in principle from the landowner/DCC highways/SWW
  - (g) A detailed assessment of the condition and capacity of any existing watercourse that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG and Policies ST03 and DM04 of the North Devon and Torridge Local Plan. The conditions should be

pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

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

Reason

'To ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

25. As part of the first reserved matter application, a waste audit statement shall be submitted to the Local Planning Authority for approval 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.

26. As part of any reserved matters planning application an environmental noise assessment shall be submitted that considers the potential for road traffic noise to impact residential development of the site. The assessment report should be prepared by a suitably qualified and experienced person (Member of the Institute of Acoustics or equivalent) and demonstrate that design proposals incorporate a 'good acoustic design' approach having regard to guidance contained within ProPG: Planning and Noise 2017. The assessment should take account of environmental noise levels during the day and at night, considering impacts within the proposed dwellings and at any outside amenity areas. The aim will be to demonstrate how the proposals will deliver 'desirable' noise conditions for future occupiers of all the proposed dwellings having regard to relevant standards and guidance including BS8233:2014 Guidance on sound insulation and noise reduction for buildings. The assessment report and supporting layout plans should include recommendations in relation to any site constraints or mitigation measures where relevant.

Reason:

In order to protect the amenity of future occupiers of the proposed development in accordance with Policies DM01 and DM02 of the North Devon and Torridge Local Plan.

## **Informatives**

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

To discharge these requirements will mean further formal submissions to the Authority on the appropriate forms, which can be completed online via the planning Portal [www.planningportal.gov.uk](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.

2. 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.
3. The developer is advised as part the development to use an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and Natural England recommend that this is followed.
4. **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 with the Applicant and has negotiated amendments to the application to enable the grant of planning permission. This has included seeking further information. 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, on balance it is considered that the environmental harm to landscape, heritage assets and the highway network is not considered to be significant and demonstrable harm when considered in the balance with the Council's absence of a 5 year housing land supply.

**END OF REPORT**