

## Application Report

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

<b>Application No:</b>	75927
<b>Application Type:</b>	Full Application
<b>Application Expiry:</b>	25 January 2023
<b>Extension of Time Expiry:</b>	
<b>Publicity Expiry:</b>	15 March 2023
<b>Parish/Ward:</b>	BARNSTAPLE/BARNSTAPLE WITH WESTACOTT
<b>Location:</b>	Land at Castle Park Road Westacott Grange Barnstaple
<b>Proposal:</b>	Formation of a new service road, footway and associated infrastructure (New ownership certificate and amended plans)
<b>Agent:</b>	Mr Jody Jeffrey
<b>Applicant:</b>	Mr Graham Fincham
<b>Planning Case Officer:</b>	Mrs J. Meakins
<b>Departure:</b>	N
<b>EIA Development:</b>	
<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	Committee At the discretion of the Head of Planning, Environmental Health and Housing, given the links associated with the strategic extension BAR01.

### Site Description

The site is located off of Castle Park Road and consists of a yard area, managed grassland and a mature hedgerow boundary located adjacent to industrial building occupied by Trittech Limited and to the south of dwellings in Westacott Meadow.



Aerial view of the site

To the east is Westacott Lane which is Devon County Council owned highway and beyond that is agricultural land with outline planning permission under reference 62187 for 149 dwellings, and a pending reserved matters application 73578.

### **Recommendation**

**Approved**

Legal Agreement Required: Yes

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>NA/5932</b>	Outline application: proposed residential, educational and ancillary development at Barnstaple Eastern Area, Barnstaple, Devon, EX32 8PD	OL Approval	29 March 1974
<b>NI/18903</b>	Outline application: proposed residential, education and ancillary development at Barnstaple Eastern Area, Barnstaple, Devon, EX32 8PD	OL Approval	29 March 1974
<b>75/0683/0 4/02</b>	Roadworks at Barton Fields, Barnstaple, Devon,	Full Planning Approval	26 February 1976
<b>77/0442/0 4/03</b>	Proposed storage reservoir and road works, including footpaths, drainage, street lighting and foul sewer at LP7704420403, Westacott Road, Barnstaple, Devon	DCC Approval	19 May 1977
<b>77/0503/0 4/01</b>	Proposed residential development at land at Barton Fields, East Sowden and Westacott Farms, Barnstaple, Devon	DCC Approval	20 July 1977
<b>79/0475/3 9/03</b>	Proposed construction of approximately 200m of new road, footways and drainage at OS plot C108916 1522, 2338 and 4144, Landkey, Barnstaple, Devon	DCC Approval	4 June 1979
<b>81/1826/3 9/03</b>	Proposed extension of Westacott Road by 340m to serve future residential development and construction of a cul-de-sac off Castle Road to serve light industrial development; foul and surface water sewers at O.S. Plot Nos. 4144, 3650, 3597, 3567, 3575 & 3081, Land at Whiddon Valley, Barnstaple, Devon,	DCC Approval	11 December 1981
<b>78/1450/0 4/01</b>	Outline application for light industrial development on two sites at land west of the reservoir and land east of Cox's site, Whiddon Valley, Barnstaple, Devon	DCC Approval	12 March 1982
<b>82/1118/3 9/01</b>	Outline application: Town & Country Gen Regs 1976. Notification by Devon County Council, proposed residential development at East Sowden and	Withdrawn	29 June 1982

Reference Number	Proposal	Decision	Decision Date
	Westacott Farm, Whiddon Valley, Barnstaple, Devon		
24902	Proposed extension to existing factory unit (amended plans) at Cronite Alkast Ltd, Unit 1, Castle Park Road, Whiddon Valley, Barnstaple, EX32 8PA	Full Planning Approval	5 May 1998
19735	Proposed erection of 68 No. dwellings and garages with associated sewers and roads with access off Westacott Road (Amended Plans and Description) at Land off Castle Park Road, Whiddon Valley Industrial Estate, Barnstaple, Devon, EX32 8PA	Full Planning Approval	26 June 2000
47845	Erection of security fence & gates at Trittech Alkast Ltd, Castle Park Road, Whiddon Valley Industrial Estate, Barnstaple, EX32 8PA	Full Planning Approval	25 February 2009

### **Constraints/Planning Policy**

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Critical Drainage Area	Within constraint
Land is potentially contaminated, site was used for:Factory or works - use not specified, Is ranked:MEDIUM, Year:1992	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Landscape Character is: 7 Main Cities and Towns	Within constraint
USRN: 27500896 Road Class:R Ownership: Highway Authority	Within constraint
USRN: 27503954 Road Class:R Ownership: Highway Authority	4.07
Within 50m of Adopted New or Upgraded Road: BAR01 Westacott Strategic Extension	Within constraint
Within adopted Development Boundary: Barnstaple North Development Boundary ST06	Within constraint
Within Adopted Mixed Use Allocation: BAR01 Westacott Strategic Extension	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Surface Water 1 in 100	Within constraint
Within Surface Water 1 in 1000	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
SSSI Impact Risk Consultation Area	Within constraint
BAR01 - Westacott Strategic Extension DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST03 - Adapting to Climate Change and Strengthening Resilience ST04 - Improving the Quality of Development ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres ST10 - Transport Strategy ST14 - Enhancing Environmental Assets	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Barnstaple Town Council	21/10/2022 19:06 - **Cllr L York left the meeting at 20.17 and returned at 20.21**
Reply Received 21 October 2022	RECOMMEND: To defer the committee's decision until the concerns raised by the highway officer are addressed. The committee recognise that relevant details have not been made clear and have concerns regarding a proposed adjoining development and the potential that this may become a service road to that development. (8 For, 1 Abs)
Barnstaple Town Council	16/12/2022 12:24 - RECOMMENDATION: Approval (4 For, 1 Against), subject to the concerns of the highway authority being met, specifically in the highway consultee response made on Thursday 13th December 2022 in regard to BAR01 & ST10.
Reply Received 16 December 2022	
Councillor J Hunt	No reply received
Reply Received	
Councillor J Phillips	No reply received
Reply Received	

Name	Comment
Councillor N Topham  Reply Received	No reply received
DCC - Development Management Highways  Reply Received 13 December 2022	<p>I note that the resubmitted plans address a number of the points previously raised, however, the application is still not supported by a road safety audit, and would not be considered acceptable for adoption as public highway (although this is not a planning matter).</p> <p>I note comments from a member of the public that they would require vehicular access to the southern part of Westacott Lane after this road is built. However, the current design, along with a requirement for Westacott Lane to the north of the new proposed road to be closed to motor traffic with a bollard, would not allow this. The opening of the route from Castle Park Road through to Westacott Road for all traffic would not be acceptable, and closing this route is also not acceptable for access to the land to the south. With the road not being to an adoptable standard, there is therefore an issue that if a condition is applied to the permission such that it must close the road to the north before being opened, it could never be implemented unless access rights are given to the land owners to the south, as the Traffic Regulation Order (TRO) for the closure of Westacott Road would not be allowed if access to the public highway is severed.</p> <p>Devon County Council as Highway Authority must therefore object to this proposal unless the applicant:</p> <ol style="list-style-type: none"> <li>1. Gains a TRO for the closure of Westacott Road to the north of the proposed new road AND</li> <li>2. Designs the new road to accommodate turning manoeuvres between the new road and the south of Westacott Lane for agricultural vehicles AND</li> <li>3. Gives access rights to use the new road to the land owners along Westacott Lane to the south of the proposed new road.</li> </ol> <p>At the present time none of these three issues have been resolved.</p>
DCC - Development Management Highways  Reply Received 17 October 2022	<p>Observations:</p> <p>The proposal seeks to create a new road through an industrial estate very close to an existing building on one side and steep bank on the other. It is clear that the proposal aims to join Castle Park Road with Westacott Lane, and I have been in discussion with the applicant about this and the purpose of this road to join the permitted outline approval for residential development and be used as an access road instead of the road going through the park.</p> <p>A number of points need amendment or clarification for the purposes of the planning application, and other points are made regarding detailed design which would affect future adoption of the road as public highway – which is a separate process to gaining planning permission. It may be the case that the proposal is</p>

Name	Comment
	<p>acceptable in planning terms, but not acceptable for adoption as public highway – in which case it can remain a private road.</p> <p>The proposal does not join up to the public highway on Westacott Lane, which would leave a gap between the road and Westacott Lane, therefore any building of the road that joins up to Westacott Lane would not be permitted in accordance with the approved plans. Plans should therefore be amended and resubmitted showing the link to the public highway that is Westacott Lane. If approved and built the road would create a through road between Castle Park Road, Westacott Road and the A39 and A361 with Westacott Lane and onwards to Goodleigh Road. This could become a significant 'rat-run' unless closed off, and opening this route up would not be acceptable in terms on the impact on Westacott Lane. Therefore, the proposal shall only be acceptable to the Highway Authority if Westacott Lane is closed off with physical measures (i.e. bollard(s)) north of the location of the new link with Westacott Lane. This will require a Traffic Regulation Order, and this must be obtained before any works start on the road, because without it the road will not be acceptable. I note comments from local people regarding access to fields to the south on Westacott Lane, and this direction must be kept open to allow access by vehicle to the southern end of Westacott Lane.</p> <p>At the present time application 62187 is only allowed access via a new road through the park, with no access allowed via Westacott Lane, and therefore the use of the road will be minimal unless planning conditions on application 62187 are altered – for which comments will be made on their own merits on any such application.</p> <p>In regard to more detailed matters, which need to be addressed by the applicant:</p> <p>From chainage 80 onwards the road needs to be straighter so that there is better forward visibility. No visibility splays have been marked on any of the submitted plans. The width also needs to be a minimum of 5.5m at the give way line to allow two vehicles to pass when one waits for the other coming through the narrowing. The lack of width and lack of visibility combined would result in an unsafe situation that I will object to if not resolved.</p> <p>A fire door currently opens out onto the area proposed to be a road – this would be illegal in regard to section 153 of the Highways Act, but the plans do not include proposals to change this as it is not within the red line.</p> <p>Proposed sign 2 at chainage approx. 79 would not be set back 450mm from the carriageway edge. Proposed sign 1 at approx. chainage 40 will obstruct the footway such that mobility scooters, wheelchairs, prams etc can not use the path.</p>

Name	Comment
	<p>No consideration appears to have been given to possible vehicle strikes on the building.</p> <p>Interaction of the entrance to Trittech and the new road needs consideration in terms of visibility splays for vehicles to safely enter and exit Trittech in the future.</p> <p>No road safety audit has been provided. No vehicle swept paths have been provided.</p> <p>No details of the retaining wall have been provided – for which the LPA may wish to see visualisations.</p> <p>Recommendation:  <b>THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION.</b></p>
<p>Environmental Health Manager</p> <p>Reply Received 17 April 2023</p>	<p>1 Traffic Noise Impacts</p> <p>The road would be located in close proximity to existing dwellings along Westacott Meadow to the northwest. Depending on the proposed uses, traffic flows and anticipated hours of use, there is a potential for traffic noise to significantly impact occupiers of these dwellings.</p> <p>I understand the proposed service road may potentially provide secondary access into the western side of the Westacott residential development extension site of 954 dwellings. I note that Devon County Council have also raised a concern about the potential for the road to become a significant 'rat-run'.</p> <p>I am concerned that the proposed road could give rise to noise impacts at Westacott Meadow. In particular, there appears to be a potential for noise to significantly impact dwellings and any outside amenity areas opposite the northwest facade of the Trittech industrial building adjoining the road. Noise from traffic passing next to this building is likely to be reflected towards dwellings on Westacott Meadow such as to increase noise levels at sensitive receptor locations. Also, reflected noise may be able to pass over any acoustic screening provided by the existing bank / fencing, such as to further increase noise impacts.</p> <p>I recommended the Applicant be asked to provide further information clarifying what sites and associated traffic flows the road could potentially serve in future years.</p> <p>On the basis that the road could facilitate significant traffic flows from the Westacott extension sites, including traffic at night and at other sensitive times, I recommend the Applicant be asked to submit a traffic noise impact assessment.</p>

Name	Comment
	<p>The assessment should be prepared by a suitably qualified and experienced person (Member of the Institute of Acoustics or equivalent) and have regard to appropriate standards and guidance. The assessment should consider the potential for traffic noise to impact existing amenity at residential properties along the relevant parts of Westacott Meadow during the day and at night. The assessment should take account of the potential effects of noise reflected by the existing Trittech industrial building. The assessment should establish the extent to which baseline noise conditions will be changed by the development as well as describing the predicted 'with development' noise environment and predicted noise impacts at the worst affected locations and times. The assessment should consider impacts within existing dwellings and also at any outside amenity spaces. Where potentially significant impacts are identified, the report should include recommendations relating to any constraints and/or mitigation required.</p> <p>2 Construction Phase Noise Notwithstanding the above, in order to reduce the risk of nearby residents being significantly impacted by noise during the construction phase of the development I recommend the following condition be imposed:</p> <p>- Construction Times Condition</p> <p>During the construction phase of the development no machinery shall be operated and no noisy processes undertaken 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>Sustainability Officer</p> <p>Reply Received</p>	<p>Further to my comments in April:</p> <ul style="list-style-type: none"> <li>• The Ground Level Tree Assessment (GLTA) is appropriately detailed and concludes that the existing trees to be felled have negligible value as bat roosts and therefore impacts on protected species are not anticipated</li> <li>• The BNG Report clearly identifies the required number of onsite and offsite habitat and linear units required to deliver a net gain. The offsite habitats to be provided within the wider Westacott development will need to be secured via s106 to ensure that this provision is in addition to any habitat provision required to deliver BNG on the development as a whole.</li> <li>• The BNG Report identifies the loss of 0.058 ha area of broad-leaved woodland (5 trees) which does not appear to be adequately compensated. The proposals include offsite habitat of grassland,</li> </ul>



Name	Comment
	<p>ponds and hedgerow and therefore the BNG Metric trading rules for broad-leaved woodland do not appear to have been met. This should be rectified with specific recommendations for appropriate compensatory habitat to be included within the Westacott landscape proposals.</p> <ul style="list-style-type: none"> <li>• The current supporting information does not provide any assurances that the PEA requirement for keeping a tree canopy connection above the road on each side will be delivered.</li> </ul>
<p>Sustainability Officer</p> <p>Reply Received 12 July 2023 11 April 2023</p>	<p>The BNG report adequately quantifies the habitat loss and mitigation required to deliver the required BNG.</p> <p>However, we currently have no means of securing the specified habitat and linear units within the subsequent Westacott development. Of course it will also be important to ensure that this provision is double counted within the subsequent BNG assessment on the Westacott site.</p> <p>Returning to the original issues identified in the my consultation response which were recommendations contained in the applicants own PEA. It appears the applicants Ecologist (red) is simply agreeing with the recommendations rather than specifying the further work required to satisfy the recommendations? I have highlighted the further information which is deemed necessary to demonstrate compliance with the PEA.</p> <p><i>The submitted PEA provides an appropriate assessment of site composition and value, including consideration of recent site clearance and tree felling. However the PEA does not appear to quantify the extent of site clearance and habitat loss that will be required. <b>This should be covered by the BNG report</b> The PEA recommends that further work is required which does not appear to have been submitted in support of the current application:</i></p> <ol style="list-style-type: none"> <li>1. <b><u>A Ground Level Tree Assessment (GLTA)</u> should be carried out to identify features which are suitable to support roosting bats</b> <i>Agreed, trees which could have features suitable for roosting bats may be lost from the hedgerows</i></li> <li>2. <i>In order to maintain the sunken lane flight corridor for use by bats vegetation clearance should be undertaken with an aim of keeping <b>a canopy connection above the road on each</b> side agreed, as per the earlier survey work the sunken lane was found to be used by commuting and foraging bats. Maintain the canopy link would help to maintain its suitability.</i></li> <li>3. <i>A bat sensitive lighting scheme should also be designed for the finished development with input from a suitably experienced ecologist. The scheme should aim to maintain a dark corridor by restricting lighting used in the vicinity of the hedgerows <b>Agreed, as above, the previous survey work found the site to be used by bats. This would help maintain its suitability.</b></i></li> <li>4. <i>A Biodiversity Net Gain report will be required to demonstrate that a 10% gain in biodiversity units can be delivered. Achieving this gain will not be possible with land within the redline boundary for the access, for this reason it is recommended that habitat creation and enhancement for the wider Westacott development are used</i></li> </ol>

Name	Comment
	<p><i>as off-site compensation. This approach should be discussed with the LPA at the earliest opportunity to ascertain whether they consider it appropriate. Agreed, and it sounds like the LPA has agreed with our approach based on this so we can begin writing the report</i></p> <p>5. <i>Enhancement recommendations have been made for the habitat remaining following the works; compensation measures have also been recommended for trees which have already been felled. Agreed, recommendations were made within the PEA</i></p>
<p>Sustainability Officer</p> <p>Reply Received 2 March 2023</p>	<p>I appreciate this application is to facilitate delivery of a strategic allocation but I remain unconvinced the applicant is appropriately addressing the habitat losses associated with the proposed access.</p> <p>The submitted PEA provides an appropriate assessment of site composition and value, including consideration of recent site clearance and tree felling. However the PEA does not appear to quantify the extent of site clearance and habitat loss that will be required. <b>This should be covered by the BNG report</b> The PEA recommends that further work is required which does not appear to have been submitted in support of the current application:</p> <ol style="list-style-type: none"> <li>1. A Ground Level Tree Assessment (GLTA) should be carried out to identify features which are suitable to support roosting bats <b>Agreed, trees which could have features suitable for roosting bats may be lost from the hedgerows</b></li> <li>2. In order to maintain the sunken lane flight corridor for use by bats vegetation clearance should be undertaken with an aim of keeping a canopy connection above the road on each side <b>agreed, as per the earlier survey work the sunken lane was found to be used by commuting and foraging bats. Maintain the canopy link would help to maintain its suitability.</b></li> <li>3. A bat sensitive lighting scheme should also be designed for the finished development with input from a suitably experienced ecologist. The scheme should aim to maintain a dark corridor by restricting lighting used in the vicinity of the hedgerows <b>Agreed, as above, the previous survey work found the site to be used by bats. This would help maintain its suitability.</b></li> <li>4. A Biodiversity Net Gain report will be required to demonstrate that a 10% gain in biodiversity units can be delivered. Achieving this gain will not be possible with land within the redline boundary for the access, for this reason it is recommended that habitat creation and enhancement for the wider Westacott development are used as off-site compensation. This approach should be discussed with the LPA at the earliest opportunity to ascertain whether they consider it appropriate. <b>Agreed, and it sounds like the LPA</b></li> </ol>

Name	Comment
	<p>has agreed with our approach based on this so we can begin writing the report</p> <p>5. Enhancement recommendations have been made for the habitat remaining following the works; compensation measures have also been recommended for trees which have already been felled. Agreed, recommendations were made within the PEA</p>

### **Neighbours / Interested Parties**

Comments	No Objection	Object	Petition	No. Signatures
5	0.00	3	0.00	0.00

The following concerns have been raised in respect of the proposed development which are discussed in the main considerations below:

- 1) Access to Westacott Lane by vehicles and pedestrians
- 2) Rat-running through Westacott Lane
- 3) Antisocial behaviour on Westacott Lane (fly tipping, theft)
- 4) Link to BAR01 site
- 5) Amenity impacts
- 6) Security of part a Community Asset
- 7) Drainage
- 8) Need for secondary access to Westacott

### **Considerations**

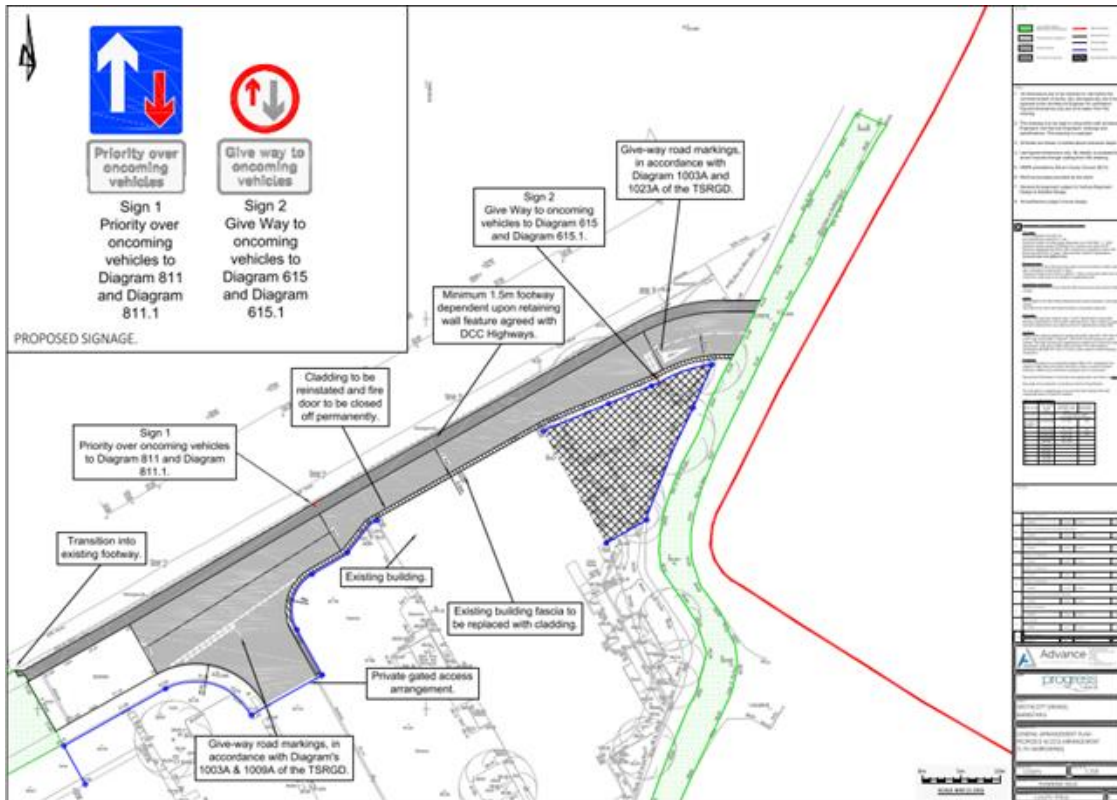
#### **Proposal Description**

This application seeks detailed planning permission for the creation of a vehicle access from Castle Park Road Industrial Estate to the edge of Westacott Lane.



Site location plan

The proposal for a service road, which as a stand-alone planning application. The proposed road extends 104 metres with a maximum width of 7.3 metres and minimum width of 3.7 metres where a give-way arrangement is designed to provide access as detailed in the plan below:



General Arrangement Plan

The proposal involves the removal of a section of hedgerow adjoining Westacott Lane, which is in highways ownership.





View from entrance to Trittech



Northern boundary with Trittech/Westacott Meadows



View looking west from within Trittech site



View of eastern boundary with Westacott Lane

## Planning Considerations Summary

The main consideration in relation to the development are:

1. Principle of Development
2. Character and Appearance
3. Amenity
4. Ecology
5. Highways
6. Drainage and Flood risk
7. Other matters
8. Planning Balance

## Planning Considerations

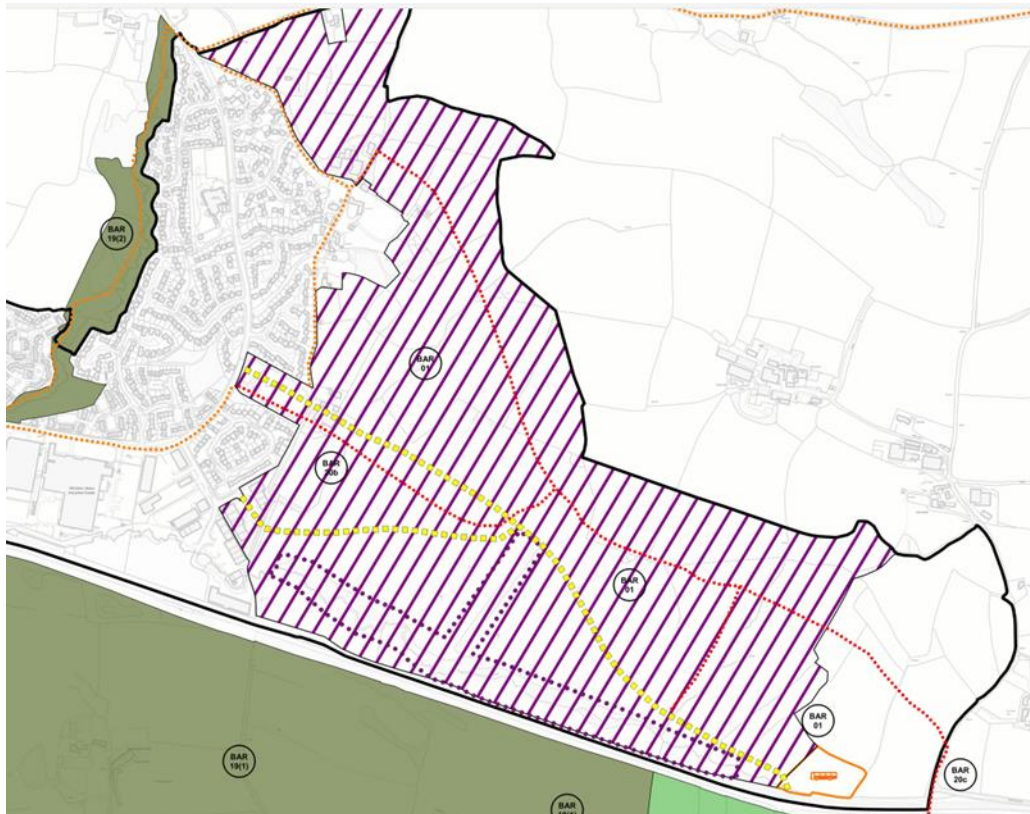
### 1. Principle of Development

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. Policy ST06 is clear that Barnstaple is the focus for future growth in northern Devon with the town expected to accommodate significant levels of growth. The proposals for a section of roadway within the development boundary would be acceptable in principle subject to meeting other development management policies of the NDTLP.
- 1.4. The intention would be for the proposed road to eventually, subject to further planning permissions and highway agreements on land to the east, to form the secondary access to the BAR01 allocation.

The land allocation map can be seen below:



Local Plan Map extract BAR 01

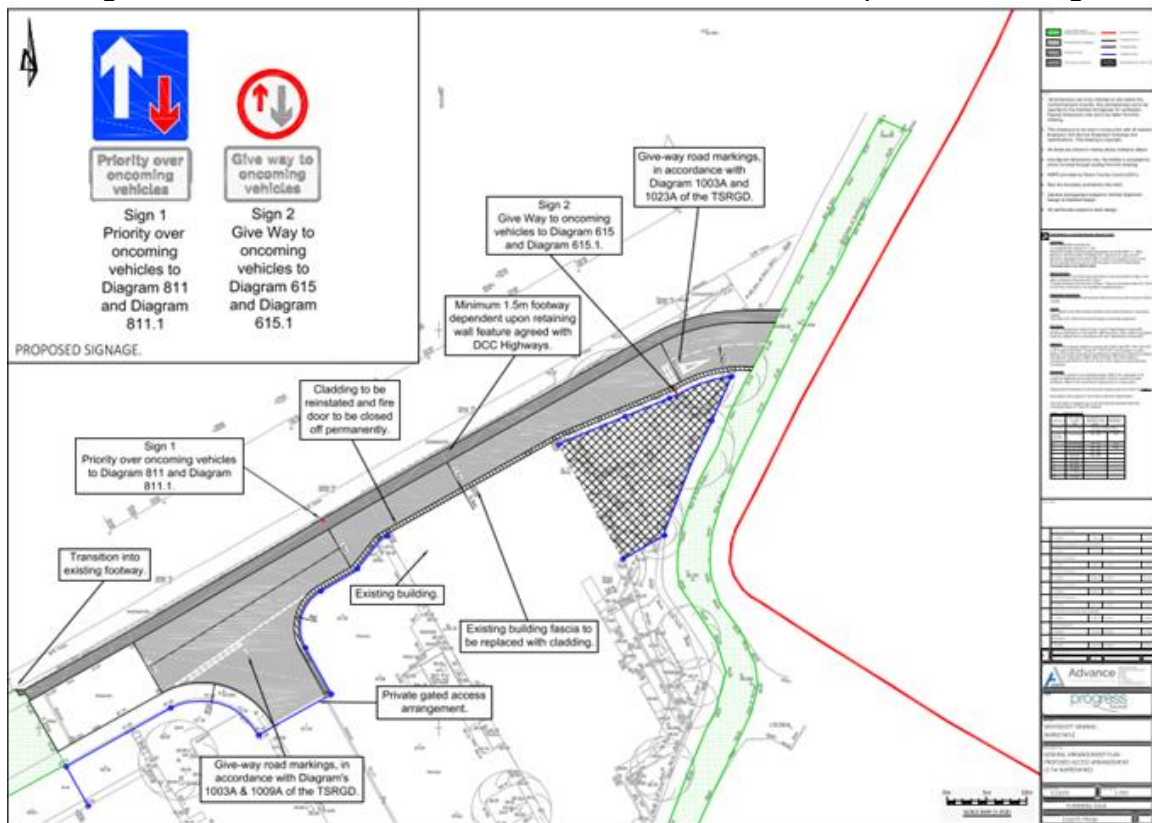
- 1.5. The above plan shows the additional accesses (marked with the yellow broken line) on the western side of the allocation, with an access anticipated through to Castle Park Road, albeit this was indicated in a varied location to that now proposed which due to site logistics of the company operating from the site.
- 1.6. Whilst planning permission was granted in outline for up to 149 dwellings reference 62187 and secured access through a North Devon Council owned park north-west of the site, a decision by Full Council has withdrawn this as an access option therefore the third site access option as indicated on the above allocation has now been explored by the developer resulting in the current application.
- 1.7. As the red line on the approved outline consent 62187 does not include the land subject of this application, a separate full application is required for the road as presented in this application, however no connection can be made until such a time an amended reserved matters application is presented, which cannot be achieved until an alternative access arrangement to the site has been secured.



- 1.7. On the basis of the above, this application must be considered on its own merits as a standalone application for a road connecting to Westacott Lane. It would not at this stage provide any connectivity to the Westacott Strategic Allocation BAR01 in the North Devon and Torridge Local Plan, as this will be subject of a revision to the reserved matters application which is with the Council at present reference 73578.
- 1.8. The intention is that in the event this permission is successful, the reserved matters application would be amended to deal with connection to the allocation and the planning and highways implications arising from that.

## 2. Character and Appearance

2.1. The proposed access would utilise a strip of land which lies to the south (rear) of properties in Westacott Meadow and the north elevation of the existing industrial buildings on site. Below is a detailed site plan showing this:



General Arrangement Plan

- 2.2. The properties within Westacott Meadow sit at a higher level than the ground level of the industrial buildings and 1.8 metres high fencing tops a bank which face onto the access road through the site and adjacent a grassed area to between the industrial building and rear boundaries of properties in Westacott Meadows.
- 2.3. The development would take a level access road through the gap which would have a single width, give-way pinch point at the narrowest part adjacent the elevation of the industrial building. There would be a loss of an area of managed amenity grassland in the curtilage of the industrial building, and part of the hedgerow along Westacott Lane, and replacement with road surfacing and signage as indicated above.

- 2.4. In terms of the impact of the development on the character and appearance of the area, given the developed nature of the site and character of the modern industrial estate, hard landscaped setting and neighbouring development, the overall impact of the development would not be out of context with the general area and would be consistent with Policies ST04 and DM04 of the NDTLP.
- 2.5. There would be some loss of character resulting from the loss of hedgerow in Westacott Lane however this would be compensated for with conditions to retain tree canopy and appropriate off-site biodiversity net gain. This is discussed in detail in the ecology section, but would also serve to soften the access where it transitions into the residential site, where appropriate landscaping could be secured, by conditions and Section 106 to mitigate the minor loss identified by the above development. The breach in the lane is also accepted by the provisions of Policy BAR01 therefore subject to appropriate mitigation is accepted and does not result in any wider landscape impacts.
- 2.6. In light of the above, the proposed access would not impact adversely on the character and appearance of the area in accordance with Policies ST04, BAR01, DM04 and DM08A of the NDTLP or design and landscape objectives of the NPPF.

### **3. Amenity**

- 3.1. 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.
- 3.2. In terms of the development proposed, as a stand-alone application, vehicle movements would be limited as there would be no connections through the Westacott Lane subject to the conditions imposed. However, due to the wider implications with BAR01 there could be future impacts on residents in Westacott Meadow were a link application successful on the reserved matters application.
- 3.3. In consultation with the Council's Environmental Health team they have requested a noise assessment to assess traffic noise to be generated from the Westacott extension. Given this application relates only to a road which would terminate at with Westacott Lane, and cannot be connected to the BAR01 site without further planning permission as identified in the conditions, there is no need for this to be supplied as part of this application.
- 3.4. A condition is however imposed requiring submission of a Noise Assessment in the event a subsequent application for planning permission or a highways agreement is achieved for a link into the allocated site to ensure and appropriate assessment is carried out in relation to traffic movements along this length of the roadway.
- 3.5. In relation to construction noise associated with the development, given the proximity to the dwellings in Westacott Meadows, a Construction Management Plan condition and condition restricting construction hours are considered to be necessary to safeguard neighbouring amenity appropriately.
- 3.6. As such, as a stand-alone road, the proposed development would not have any adverse impacts on occupiers of Westacott Meadows and the proposed condition



would adequately safeguard any future connection plans where wider impacts will need to be considered. This would therefore accord with Policies DM01 and DM02 of the NDTLP.

#### 4. Ecology

- 4.1. 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).
- 4.2. 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;'*
- 4.3. 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.
- 4.4. Initial consultations with the Council's Sustainability Officer identified deficiencies in the submission in relation to the assessment of ecological impact of the development. These have now been address by the submission of further information as discussed below.
- 4.5. The development proposed seeks to remove the existing hedgerow boundary with Westacott Lane and trees have been removed from within the Trittech site which will need to be compensated for elsewhere, and this will need to be secured as off-site compensation via a Section 106 agreement.
- 4.6. The submitted Preliminary Ecological Appraisal (PEA), Biodiversity Net Gain (BNG) Assessment and Bat Report including Ground Level Tree Assessment looks to identify the ecological impact of the development and make recommendations on how these can be mitigated as part of the development or via off-site compensation.
- 4.7. The submitted PEA, made clear that the removal of trees on the Trittech site and removal of part of the hedgerow into Westacott Lane would require compensation/mitigation. In terms of the trees already removed, these would be

compensated for off-site, on land within the control of the applicant/developer and will be subject of a Section 106 agreement and conditions.

- 4.8. The section of hedgerow being removed was assessed with a Bat Report and Ground Level Tree Assessment, as recommended by the PEA which concludes low potential for ecological impact on protected species however the continuous tree canopy across Westacott Lane is an important habitat feature, with hedgerows identified as a priority habitat and as such a scheme to maintain the canopy has been suggested to the Council as detailed below:

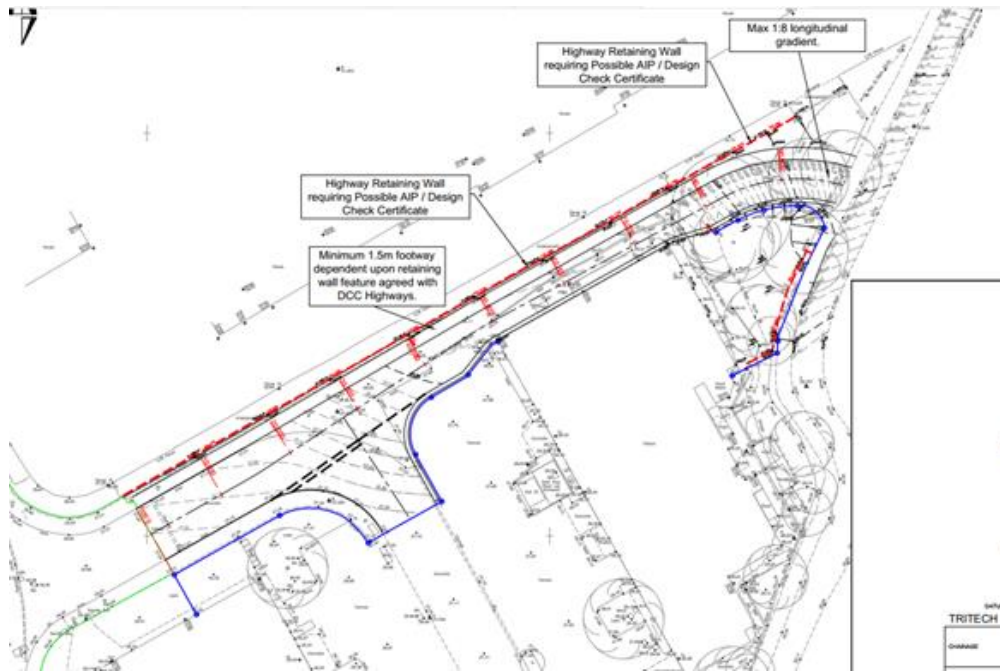
*'Progress land commit to maintaining a canopy connection above the proposed access road, on both the east and the west sides. If during construction it becomes evident the canopy connection will be lost due to the required tree felling, Progress land agree to investigate additional tree planting and agree to provide and establish these additional trees to restore the connection. If additional trees would not restore the canopy connection, Progress land will investigate and implement a bridging structure to act as an artificial canopy. Whilst studies have found bridging structures to be sub-optimal over larger roads it is considered a bridging structure will likely be more effective in this instance due to the comparatively small break in the canopy and the existing linear habitat that the structure will follow.'*

- 4.9. The above suggestion has been subject of discussions with the Council's Sustainability Officer, who has commented that subject to the removal of the suggestion highlighted grey above, and constructed in a suitably worded condition, this would appropriately deal with the mitigation and enhancement required to retain the important tree canopy habitat feature. The Sustainability Officer comments have all now been fully addressed.

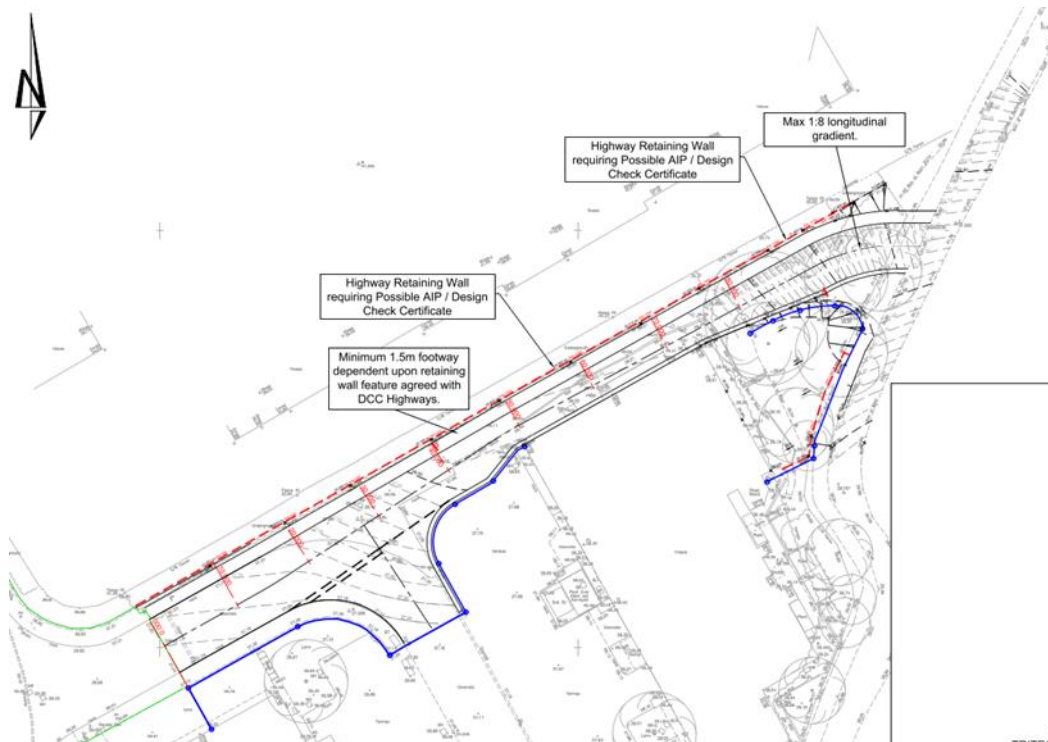
- 4.10. As such, subject to a legal agreement and suitable conditions, securing mitigation and enhancement of the tree canopy and securing BNG on the adjacent land in the control of the applicant, the development would comply with the above statutory duties as well as the requirements of Policies ST14 and DM08 of the NDTLP and biodiversity objectives of the NPPF.

## **5. Highways**

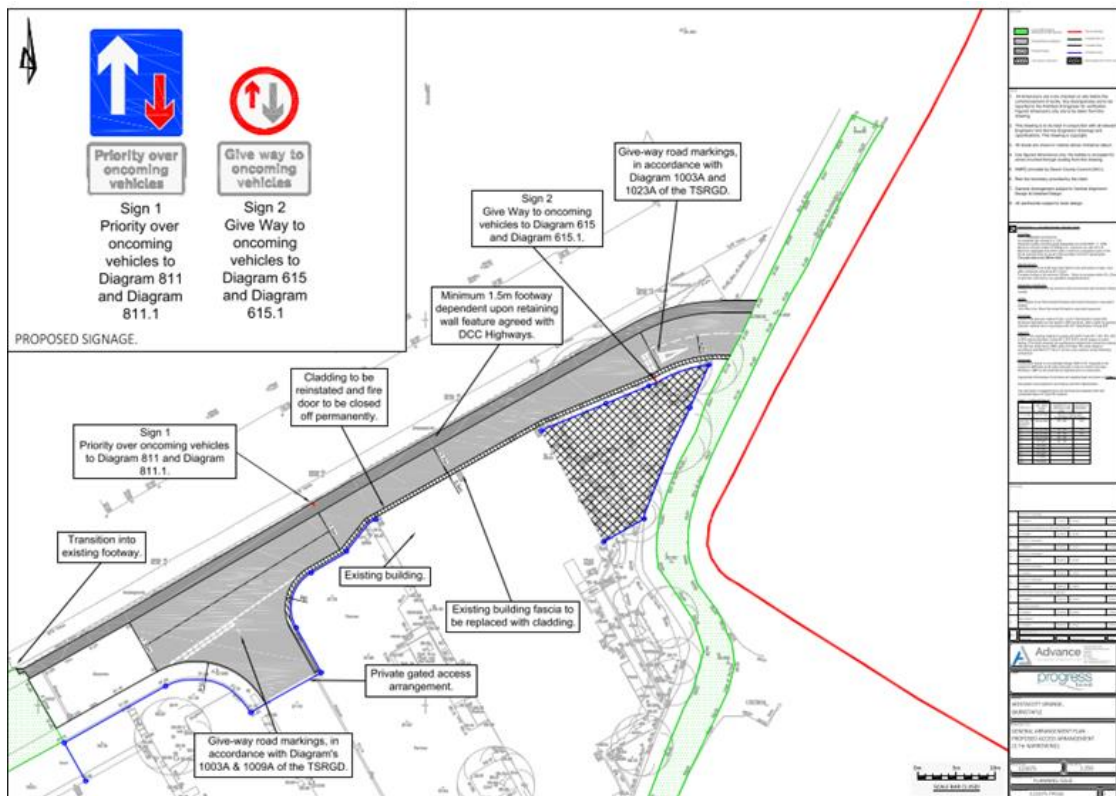
- 5.1. Policies ST10, DM05 and DM06 of the NDTLP require development to safe and suitable access for all road users, providing sufficient access to alternative modes of travel to reduce the use of the private car, to safeguard strategic routes and provide appropriate transport infrastructure across the area to ensure the above is achieved. This is further enshrined in chapter 9 of the NPPF.
- 5.2. In terms of technical highway design, there has been some extensive discussion with the Highway Authority in respect of the access design and alterations were made to its overall design in response to this as seen below:



First layout plan

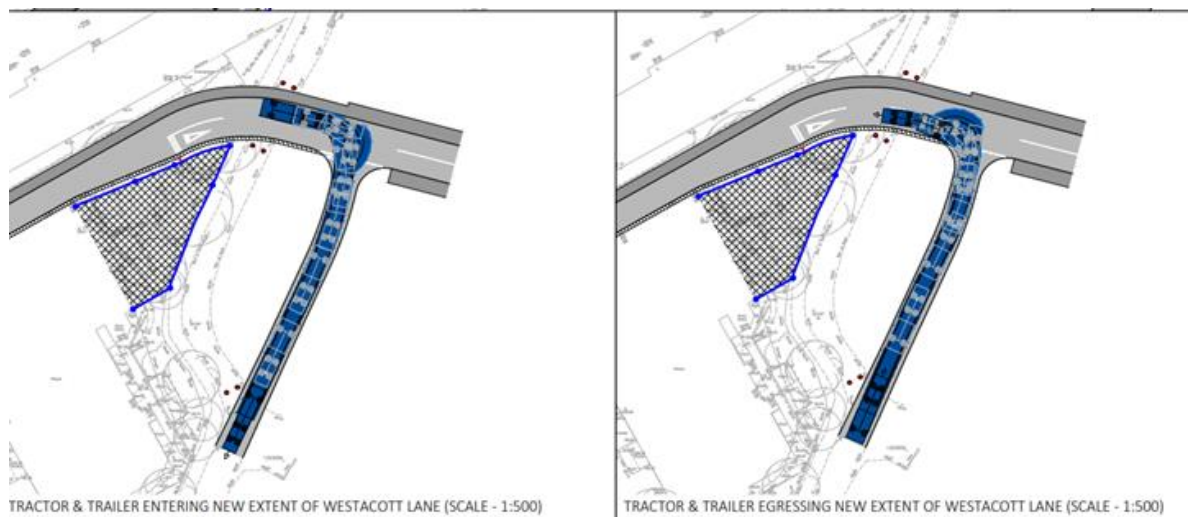


Revised layout plan



General Arrangement Plan

- 5.3. The Highway Authority have commented that the design of the road is still such that the road may not be adoptable however this would be reflected in detailed access design works which would follow the planning process and does not impact on the ability to consider a planning application as they road could be retained in private ownership and privately managed as such.
- 5.4. Another area of concern was the ability for Westacott Lane to become a 'rat-run' between the A361 and Goodleigh Road further North of the site once the western hedgerow is breached. This was a common issue for the outline application approved for the original access through the park area where it was considered that the use of a TRO and relevant Grampian condition would be satisfactory to ensure that through traffic to the north would be prevented before the access could be brought into use.
- 5.5. Another issue with Westacott Lane, is the need for landowners to access land south of the site, which would be prohibited by the discussion in 5.4 above and at present the land available and alignment of the proposed access is such that larger vehicles such as tractors may not be able to achieve the right hand turn to descend southwards and similarly the turn to exit the site through the new access.
- 5.6. In terms of achieving the necessary turning area for decent southwards on Westacott Lane, the developer has provided the below indicative drawings which show that appropriate swept paths can be achieved for agricultural tractors and trailers where required, which requires utilising land to the west part of the BAR01 site and included in the aforementioned reserved matters application before the Council.



Swept path for Agricultural vehicles accessing Westacott Lane south

5.7. The above demonstrates, that subject to a Grampian condition on this consent (securing works on land outside of the site yet in control of the developer) and subject to provision of revisions to the reserved matters application layout, the development, once implemented, will give suitable access to land to the South of Westacott Lane.

5.8. The technical design of the road itself is acceptable in highway safety terms as a standalone application, and wider traffic implications on the transport network from the link to the BAR01 allocation, would need to be considered on the revised reserved matters application.

5.9. In light of the above, the application currently presented would comply with Policies ST10 and DM05 of the NDTLP and highway objectives of the NPPF.

## 6. Flood Risk and Drainage

6.1. The application site is located in flood zone 1 therefore is not at risk of flooding, however it is located in the Barnstaple Critical Drainage Area (CDA) whereby new development must look to better existing greenfield run-off rates in the interests of reducing flood risk elsewhere within the CDA.

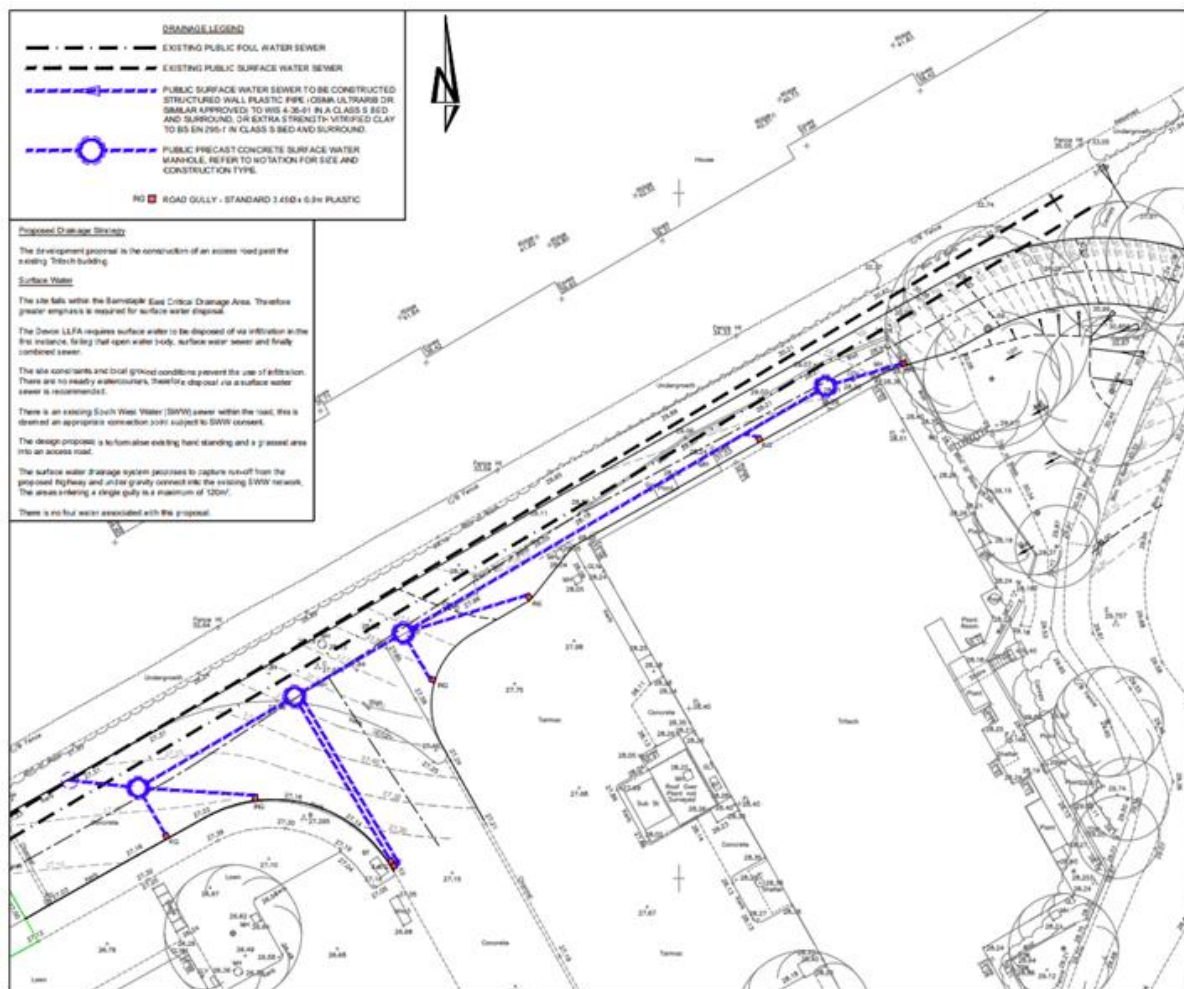
6.2. This is explicitly required by Policy ST03 (b) stating:

*'Development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by:...*

*...(b) reducing existing rates of surface water runoff within Critical Drainage Areas;'*

6.3. The below drainage plan is supplied with the application which shows that the development will utilise an existing South West Water sewer within the site who have not objected to the proposed connection.





Drainage Strategy

6.4. The supporting comments on the plan states that due to ground conditions and site constraints, infiltration is not possible, and an absence of a nearby water course, prevents that being utilised for surface water generated by the section of road proposed.

6.5. On the basis of the above rationale, it is considered in this instance that the proposed connections to the mains surface water sewer would be acceptable and therefore the development is able to demonstrate that it has sought to comply with policy ST03 above.

## 7. Other Matters

7.1. A number of public comments have been submitted and matters in relation to the BAR01 site, access to Westacott Lane, amenity and drainage are dealt with above.

- 7.2. Other matters, which are not material planning considerations in relation to this application, have been raised, being securing the Westacott Park as a community asset, fly tipping and thefts along Westacott Lane and the need for the secondary access.
- 7.3. In terms of the community asset, the nomination for this by certain groups with a community interest can be done via a different route through the Council whereby a formal written nomination under the Localism Act 2011 can be submitted.
- 7.4. In terms of the issues of fly tipping and thefts, these are issues for the Council's Environmental Health Team and the police in relation thefts. At present Westacott Lane has no natural surveillance and limited movements in terms of vehicles therefore has the potential to attract this kind of behaviour.
- 7.5. Finally in terms of need for the access. Whilst not a consideration for this application. It is questioned by a representation that DCC Highways do not require a secondary access to the BAR01 allocation therefore it is unnecessary in the future for a link to be provided to the west to join with Westacott Road.
- 7.6. As the land allocation plan in section 1.4 shows, as part of the strategic allocation, there is a requirement to provide access permeability to the west. This link, regardless of where it is delivered, allows for permeability for both vehicles and other modes to access facilities to the west, and will lead to more sustainable travel times, particularly for residents on the western part of the large allocation, which extends approximately 1.2km to the east. As such, in the interests of good place-making and regardless of the County Council's highway network capacity position, a secondary access to the west is considered to be necessary and to accord with BAR01, as well as Policies DM04 and ST04 of the NDTLP.

## **8. Planning Balance**

- 8.1. The proposed development would accord with principle policy ST06 of the NDTLP.
- 8.2. The location and design of the access would not have a severe impact on the character and appearance of the local area and wider locality.
- 8.3. The development would maintain amenity enjoyed by neighbouring residents in its proposed form. Safeguards via planning conditions ensure that any construction impacts are mitigated and any future connection to the east.
- 8.4. Highway links to the south and prevention of rat-running to the north can be adequately safeguarded through conditions and a TRO and the technical design of the highway is acceptable in planning terms.
- 8.5. Ecological impacts have been appropriately considered and mitigation and enhancement measures can be achieved through off site contributions and safeguarding of the tree canopy.
- 8.6. A justified drainage scheme has been presented to the LPA which utilised an existing surface water drain connection to the SWW sewer.

8.7. The proposed development would demonstrate compliance with the development plan as a whole and as such should be approved in accordance with the objectives of the NPPF at paragraph 11 (c).

## **9. Conclusion**

In light of the above, no conflict with the development plan has been identified therefore approval of the application is therefore recommended subject to the imposition of planning conditions and Section 106.

### **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**

**Approval subject to a Section 106 agreement securing off-site biodiversity net gain, with delegated authority sought for the final wording of the conditions set out below:**

### **Conditions**

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

Reason :

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

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

C21075-SPA003G Swept Path Analysis Plan received on the 08/11/22

C21075 C021A Indicative Drainage Strategy received on the 08/11/22

C21075 Tp016l General Arrangement Plan received on the 08/11/22

C21075 Tp017F Location Plan received on the 08/11/22

C21075 C 020E Proposed Access Road Highway Levels Plan received on the 08/11/22



('the approved plans').

Reason:

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

3. The access road hereby approved shall not be connected to land to the east forming part of the BAR01 allocated site unless there is subsequent planning permission to do so.

Reason:

To ensure matters relating to residential amenity, and highways are considered as part of those applications whereby these would facilitate a strategic link to the BAR01 site.

4. In relation to condition 3 above, in the event planning permission is obtained for connection to be formed to the east to provide vehicle access to the BAR01 allocation, a Noise Impact Assessment assessing the impacts of traffic noise on the residents of Westacott Meadow, shall be submitted to and agreed in writing with the Local Planning Authority prior to the approved service road being brought into use. Any mitigation measures required by that assessment will be installed and retained thereafter before the access road is brought into use.

Reason:

In the interests of safeguarding neighbouring amenity in accordance with Policies DM01 and DM02 of the North Devon and Torridge Local Plan.

5. No development shall take place until a scheme for off-site biodiversity net gain has been submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure adequate off-site provision, on land in control of the applicant/developer has been identified, with a delivery time table, to mitigate against the loss of biodiversity on site in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan and biodiversity objectives of the National Planning Policy Framework.

6. Prior to removal of the hedgerow forming the boundary with Westacott Lane, a scheme to provide suitable vehicular access, to include agricultural vehicles and trailers, to land on the southern part of Westacott Lane shall be submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with the agreed scheme prior to the access being brought into use and shall be retained thereafter.

Reason:

To ensure existing access is maintained to this part of the highway network in accordance with Policies ST10 and DM05 of the North Devon and Torridge Local Plan.

7. Prior to removal of the hedgerow forming the boundary with Westacott Lane, a Traffic Regulation Order shall have been obtained for prohibition of motor vehicles on Westacott Lane directly north of the application boundary and a detailed scheme

detailing how access will be restricted for vehicles shall have been submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be completed prior to the access being brought into use and retained thereafter.

Reason:

In the interests of highway safety and the impact on the wide highway network to prevent the single track rural lane becoming a thoroughfare from the A361 to Goodleigh Road to accord with Policies ST10 and DM05 of the North Devon and Torridge Local Plan.

8. Prior to their construction, full details of the retaining wall and their finishes shall be submitted to and agreed in writing with the Local Planning Authority. The development shall then be carried out in accordance with the agreed details.

Reason:

In order to establish the suitability of the structures and their impacts on the character and appearance of the area to accord with Policies DM02 and DM04 of the North Devon and Torridge Local Plan.

9. No lighting shall be installed on the access road until a lighting scheme, designed in accordance with advice from a suitably qualified Ecologist, has been submitted to and agreed in writing with the Local Planning Authority. The development will be carried out in accordance with the agreed details and retained thereafter.

Reason:

In the interests of safeguarding protected species and their habitats in accordance with 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), and Policies ST14 and DM08 of the North Devon and Torridge Local Plan, and biodiversity objectives of the National Planning Policy Framework.

10. During the construction phase of the development no machinery shall be operated and no noisy processes undertaken outside the following times:

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

Reason:

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

11. Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environmental Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local

Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-

- a) measures to regulate the routing of construction traffic;
- b) the times within which traffic can enter and leave the site;
- c) details of any significant importation or movement of spoil and soil on site;
- d) details of the removal /disposal of materials from site, including soil and vegetation;
- e) the location and covering of stockpiles;
- f) details of measures to prevent mud from vehicles leaving the site / wheel-washing facilities;
- g) control of fugitive dust from demolition, earthworks and construction activities; dust suppression;
- h) a noise control plan which details hours of operation and proposed mitigation measures;
- i) location of any site construction office, compound and ancillary facility buildings;
- j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;
- k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.

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

Reason:

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

12. If during construction it becomes evident the tree canopy connection will be lost due to the required tree felling detailed in the Preliminary Ecological Appraisal, a scheme to restore its connection, or if that is not feasible, details of a bridging structure to act as an artificial canopy shall be submitted to and agreed in writing with the Local Planning Authority. The development will be carried out on accordance with the agreed details and retained thereafter.

Reason:

In order to maintain the linear habitat features of the hedgerow to protect in accordance with 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), and Policies ST14 and DM08 of the North Devon and Torridge Local Plan, and biodiversity objectives of the National Planning Policy Framework.

## **Informatives**

1. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.
2. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.
3. The above consent requires the submission of further details to be approved either before works commence or at identified phases of construction.

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

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 obtaining further information in respect of ecological impacts to safeguard protected species and habitats on site.

**END OF REPORT**