

# Application Report

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



<b>Application No:</b>	79237
<b>Application Type:</b>	Full Application
<b>Application Expiry:</b>	11 November 2024
<b>Extension of Time Expiry:</b>	11 November 2024
<b>Publicity Expiry:</b>	21 October 2024
<b>Parish/Ward:</b>	LANDKEY/LANDKEY
<b>Location:</b>	12 The Orchards Landkey Barnstaple Devon EX32 0QP
<b>Proposal:</b>	Extension and alterations to dwelling to provide new entrance and wet room
<b>Agent:</b>	David Wilson Partnership Ltd
<b>Applicant:</b>	Mr & Mrs Richardson
<b>Planning Case Officer:</b>	Mr M. Hughes
<b>Departure:</b>	N
<b>EIA Development:</b>	
<b>EIA Conclusion:</b>	Development is outside the scope of regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	Committee – agent is a District Councillor

## Site Description

12 The Orchards is located on a residential cul-de-sac in the village of Landkey. The Orchards is a modern development of single and two storey detached with varying finishes.

The application site is a 2 storey dwellinghouse with attached double garage. The property has a red brick plinth, cream rendered walls and a tiled roof. There is a double driveway to the west or front of the dwelling together with small open garden and entrance porch and an enclosed garden at the rear.



Figure 1. Application Site.



Figure 2. Neighbours Opposite



Figure 3. Existing porch viewed from the south.

### **Recommendation**

**Approved**

Legal Agreement Required: No

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>25057</b>	PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING OF 24 NO. DWELLINGS AND GARAGES TOGETHER WITH ROAD IMPROVEMENTS TO ACLAND ROAD AND JUNCTION IMPROVEMENTS TO BLAKES HILL ROAD PLUS PROVISION OF OPEN SPACE (FURTHER DETAILS & AMENDED PLANS & DESCRIPTION) at LAND OFF - OS 6923 & 7620, THE ORCHARDS, LANDKEY, BARNSTAPLE, EX320QP	FULL PLANNING APPROVAL	13 October 1998
<b>25942</b>	PROPOSED CHANGE OF USE OF AGRICULTURAL LAND TO FORM COMMUNITY USE/ PUBLIC OPEN SPACE (AMENDED CAR PARK LAYOUT) at LAND OFF OS 058324 0016 & 0420, ACLAND ROAD, LANDKEY, BARNSTAPLE, EX320LB	FULL PLANNING APPROVAL	23 February 1999
<b>34112</b>	EXTENSION TO DWELLING at , 12 THE ORCHARDS, , LANDKEY, BARNSTAPLE, EX320QP	FULL PLANNING APPROVAL	15 November 2002

Reference Number	Proposal	Decision	Decision Date
52135	ERECTION OF REPLACEMENT CONSERVATORY at 12 THE ORCHARDS, LANDKEY, BARNSTAPLE, DEVON, EX32 0QP	FULL PLANNING APPROVAL	1 July 2011

### **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
Landscape Character is: 1D Estate wooded ridges and hilltops	Within constraint
Unclassified Road	
USRN: 27504914 Road Class:R Ownership: Highway Authority/Private	10.3
Within adopted Development Boundary: Landkey Development Boundary ST07	Within constraint
Within Adopted Sports Hub: Millennium Green	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint

SSSI Impact Risk Consultation Area	Within constraint
DM01 - Amenity Considerations DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM25 - Residential Extensions and Ancillary Development ST01 - Principles of Sustainable Development ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST14 - Enhancing Environmental Assets	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Councillor G Lane  Reply Received	No comment received.
Councillor M Haworth-Booth  Reply Received	No comment received.
Landkey Parish Council  Reply Received 2 October 2024	Recommended APPROVAL
Sustainability Officer  Reply Received 24 September 2024	No comment

### **Neighbours / Interested Parties**

<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
0.0	0.0	0.0	0.0	0.0

No representations received.

### **Considerations**

#### **Proposal Description**

This application seeks detailed planning permission for the erection of porch to include wet room and new entrance at 12 The Orchards, Landkey.

Should the application be approved the porch will measure 3.2m deep and project out a further 2.26m than the existing porch, the height and width will remain the same. The proposal details the use of materials similar to those on the existing porch. The footprint of the proposed new porch will exceed 3m<sup>2</sup> which is the maximum allowed under the (General Permitted Development) Order 2015 as amended therefore planning permission would be required for the development. It has been noted that permitted development rights have been removed on plot numbers 2, 3 & 4 of the Orchards only as part of the original planning approval 25057 from the 13/10/1998.

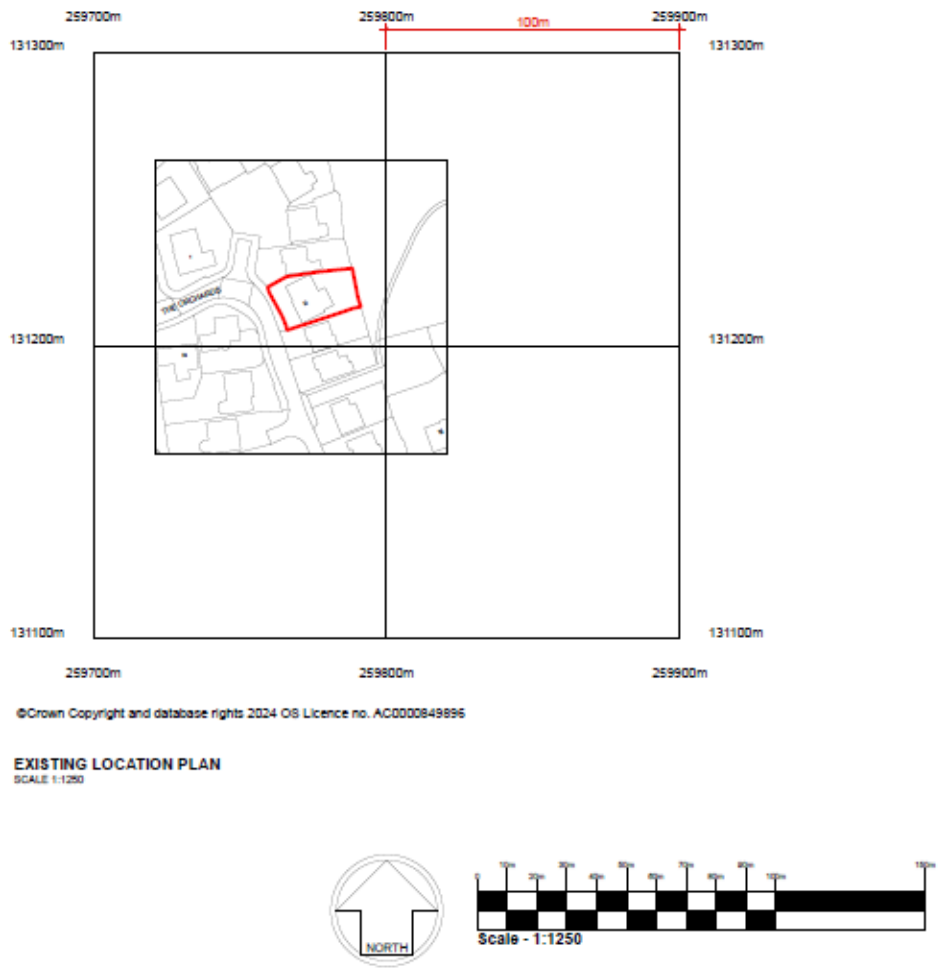


Figure 5. Location Plan.

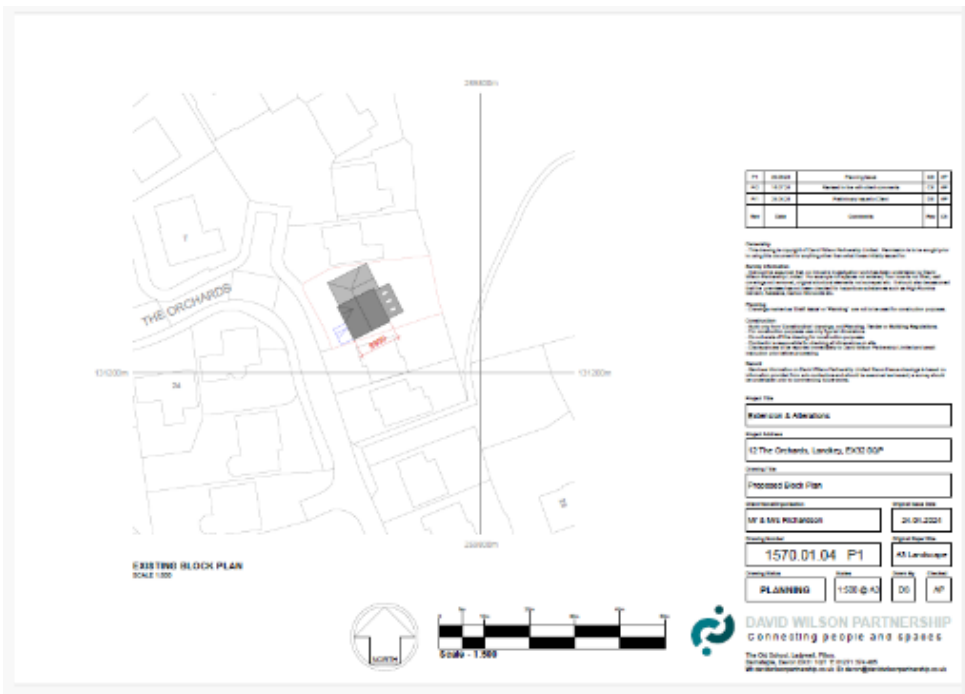
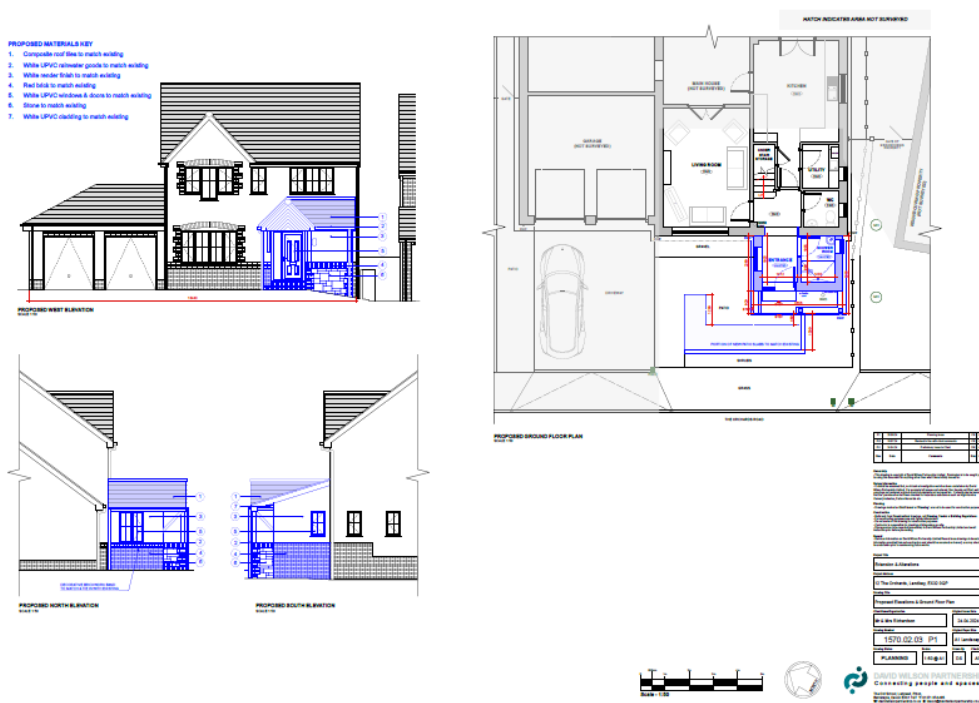


Figure 6. Block Plan.



Figure 6. Existing Elevations.



Existing 7. Proposed Elevations.

### Planning Considerations Summary

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

### Planning Considerations

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

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

### Design Principle of Development

The proposal represents the extensions to an existing dwellinghouse which will enhance the quality of the accommodation it offers to occupants and is found within a defined settlement development boundary for Landkey. Policies ST01 Sustainable Development, ST07 Spatial Development Strategy for North Devon’s Rural Area, schedule B villages of the NDTLP are relevant, which looks to achieve an economically resilient and active rural area and supports development within in the development boundary.

The application will be considered with particular regard to Policy DM25 (Residential Extensions and Ancillary Development) of the NDTLP that supports the development of residential extension to a dwelling and other ancillary development where:

- (a) the form, scale, setting and design of the proposal respecting existing development, its context, setting and surroundings;*
- (b) adequate residential amenity space and parking provision being maintained; and*
- (c) there being no significant adverse impact on the amenity of the occupants of neighbouring properties.*

The proposed development is considered acceptable in principle provided the proposal complies with relevant planning considerations and development management policies of the NDTLP.

## **Design**

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

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

Policy DM25 of the Local Plan in respect of design states that the extension of a residential dwelling and other ancillary development, beyond that enabled through permitted development, will be supported subject to: (a) the form, scale, setting and design of the proposal respecting existing development, its context, setting and surroundings.

The proposed ground floor porch extension will be situated upon the principle west facing elevation of the existing dwellinghouse. If approved, this would increase the internal footprint of the property by 5.47m<sup>2</sup> but the height and width will be equal to the existing porch, see Figures 6 and 7. The proposed roof elements will use similar tiles but set on shallower pitch to allow for the extra 2.26m depth required to incorporate the addition of wet room.

The proposed material will be identical to those used on the existing porch. It is noted there are no similar extension on The Orchards although, there are several differing design of detached property some with protruding porches and garage elements on this residential estate, see Figure 2. It is not considered the design will be incongruous with the wider street scene.

The proposals are not considered to the detriment of the eclectic character of The Orchards, if approved, the scale and mass of the design and sympathetic use of materials is thought to be a suitable addition to the application site. The extension complies with design guidelines in ST04, DM04 and DM25 of NDTLP.

## **Amenity**

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

- (a) it would not significantly harm the amenities of any neighbouring occupiers or uses;*
- and*



*(b) the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.*

Policy DM25 of the Local Plan states that the extension of a residential dwelling and other ancillary development, beyond that enabled through permitted development, will be supported subject to: (c) there being no significant adverse impact on the amenity of the occupants of neighbouring properties.

The extension is proposed to be sited on the western elevation at the front of the dwellinghouse, should the application be approved, the extensions will be visible from the access road, there is limited screening and the porch will be set just to 2m from the neighbouring dwelling of 13 The Orchards. There should be little or no overshadowing as the proposal site is north of this neighbouring occupier. A bathroom window will face towards this neighbour's dwelling but this should not allow any overlooking but, see Location Plan: Figure 4.

To the north of the application site is the immediate neighbour at 11 The Orchards. As the proposed extension will be set to the southern aspect of the principle elevation it will be over 10 m from the shared boundary with this neighbour, see Figure 4 and 5. It is evident from the Block Plan that Number 11 The Orchards is set on a slightly differing orientation compared to the application site and as such there should be no overshadowing or privacy concerns arising from the development if approved.

Opposite the application site is the gable end of 25 The Orchards there are no privacy or over shadowing concerns that are envisaged by the approval of this proposal on this neighbouring occupier.

The eclectic mix of housing styles is such it is reasonable to suggest that the effect of the proposal would be localised with very little visual or loss of light impacts on the immediate adjacent neighbours. No letters of representation from neighbours or objections to this application have been received. As such the proposal is considered to be in accordance with Policies DM01 and DM25 of the NDTLP.

### **Ecology**

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

Given the limited size of the extension the proposed development would have limited if any impact on any protected species or their habitats. The sustainability officer did not comment on this application. As such, the proposal is considered to be in accordance with DM08 and ST14.

### **Flood Risk and Drainage**

Consideration will be given to policy ST03 (Adapting to Climate Change and Strengthening Resilience) of the Local Plan. This states development will be supported where it would take account of impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by (among other things) minimising runoff. The proposed application does not lie within the Critical Drainage Area (CDA) or Flood zones 2 or 3.

This application is applying for a small porch extension providing less than 6m<sup>2</sup> increase in built form. This structure will be built over existing hard standing. It is considered this proposal, given its modest scale, will have a very limited impact on the existing drainage network. As a result, the proposal is considered to comply with Policy ST03.

### **Highways Access and Parking Access & Parking**

Policy DM04(h) and DM05 of the Local Plan, sets out that all development must ensure safe and well designed vehicular access and egress, as well as adequate parking. Policy DM06(1) of the Local Plan which expects development to provide an appropriate scale and range of parking provision.

The proposals does not seek to adjust the size of the sufficient off street parking available at the application site, the access to the highway is suitable. The proposed application is considered to comply with Policy DM04, DM05 and DM06 of the Local Plan and accords with standing advice provided by Devon County Council. There are no unacceptable highway safety or parking implications which warrant refusal of the application.

### **Other Matters**

There are no other relevant material considerations.

### **Conclusion**

Landkey Parish Council support this application. The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

### **Human Rights Act 1998**

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

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

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**

Legal Agreement Required: No

## **Conditions**

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

Reason:

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

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

1570.01.01P1 Location Plan received on the 03/09/24

1570.01.04P1 Proposed Block Plan received on the 03/09/24

1570.02.03P1 Proposed Elevations & Ground Floor Plan received on the 03/09/24 ('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 external finishing materials to be used for the extension hereby approved shall match those of the existing dwelling/building in colour, form and texture.

Reason:

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

## **Informatives**

1. BIODIVERSITY NET GAIN

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be North Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or

(ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

ii) is carried out on a site which has an area no larger than 0.5 hectares; and  
iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

\* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions

## 2. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included Design, Heritage, Amenity, Ecology, Flood Risk, Drainage, Highways Access, Parking Access and Parking.