

App. No.: **63167** Reg. : **06/06/2017** Applicant: **ACORN BLUE**
L. Bldg. : Expired: **05/09/2017** Agent : **PLANNINGSPHERE LTD**
Parish : **ILFRACOMBE**
Case Officer : **Mr. R. Pedlar**

Proposal: **DEMOLITION OF EXISTING HOTEL, ERECTION OF 21 DWELLINGS, FORMATION OF NEW PUBLIC OPEN SPACE, EXTENSION TO EXISTING CAR PARK, ERECTION OF CAFE & WC BLOCK & ASSOCIATED LANDSCAPING, DRAINAGE & HIGHWAY WORKS (AMENDED PLANS & DOCUMENTS) (REVISED INFORMATION) (ADDITIONAL INFORMATION) (AMENDED PLANS AND DOCUMENTS)**
Location: **LEE BAY HOTEL LEE ILFRACOMBE EX34 8LR**

INTRODUCTION

When the application was last considered at the meeting on 13th February 2019 it was resolved that consideration of the application should be deferred to enable statutory consultation to be undertaken with consultees and the public on the revised plans received on 12th February 2019. That consultation period has now expired.

Following an earlier deferment, the applicant was reminded that at the October 2018 meeting members resolved that separate from the viability consideration, the applicant should take on board other elements of concern relating to:

- A reduction of the number of units
- Re-design of the scheme to open up the centre of the site
- Provision of affordable housing
- A section 106 agreement to be agreed in principle for contributions for public open space and education.

It was reported to the last meeting that in respect of bullet point 4, the applicant has confirmed that the commuted sum contributions towards POS and Education are agreed and can be secured by a S106 agreement.

Since a previous meeting in November 2018, a Housing Needs Report (copy attached) has been published which establishes the need in Lee for 7 affordable homes within the next 5 years. The applicant has been made aware of this in relation to bullet point 3.

In response to a request of the applicant for an update on the proposals, taking on board the above points including bullet points 1 and 2, the agent sent an email on 29th January, which is attached for information.

In terms of viability a further updated appraisal was submitted by JLL at the beginning of March on behalf of the applicant and made publicly available. A copy has been sent to Plymouth City Council (PCC) for independent assessment.

PROPOSAL

Following various revisions, the applicant advises that the amended scheme comprises a residential-led scheme of 21 dwellings comprising a mix of flats, maisonettes and houses that could be accommodated together with the elements outlined below:

- An Arrival Building similar in scale to that of the original hotel (without the 70s extension) comprising a mix of 2/3 and 4 bed maisonettes, apartments, and

penthouses. This new building will allow for greater public/highway/building interface give more openness and presence to the frontage. The break between it and the next block will align with the junction of the lane which is the route of the SW Coastal Path and this will allow an open vista across to the woodland on the far side of the valley to those moving down the lane.

- A Middle Building comprising 4 No. 2-storey houses;
- An Upper Building comprising 2 No. flats and 2 No. houses.
- Two parking areas for residents, one between the buildings along the alignment of the former hotel and one on the site of the existing former hotel car park.
- Restored gardens and an enhanced public seating area on the beach frontage.
- Extension and enhancement of the beach carpark and the erection of a café which will house the relocated public toilets. The existing toilet block will be demolished. Seating and open space will create a stopping point that contributes to the proposed new public frontage at the bay end. This stopping point will act as a node for those visiting the bay, for those parking and moving on, or for those on their way through via foot or bike. The total of 0.64ha of the overall site will be publicly accessible.

Associated landscaping, drainage and highway works are also proposed.

The applicant explains 'The concept behind the design will capture the opportunities that the site presents as follows:

- The development will be kept to the valley sides to minimise the impact on the openness of the setting.
- Generous breaks in the built form will allow views across the landscape towards the valley floor.
- Further views open up in line with the tourist path and road at right angles to the valley side. The replacement building is pulled away from the road edge to open up the road and allow better views of the sea front.
- Highway improvements through additional pavement route to the sea front.
- A large area of the site is left free of built form to maintain the natural green landscape.
- Existing stream reworked to provide a natural feature as well as increasing biodiversity and improving flood risk conditions.
- Proposed public open space is extended from the bay into the grounds of the former hotel to help bring the seafront further up the valley with valuable space for visitors to take a pause and enjoy the views.
- A new building housing a café and public toilets marks the end of the newly surface and reorganised car park. This subtle but well detailed building helps mark the end of the journey and the arrival to Lee Bay.
- Proposed new footpaths running through the site will connect the existing public routes on either side of the site and encourage people to experience the green landscape and reworked stream.
- Proposed routes link to the wider network of existing footpaths.
- Existing Car Park upgraded with improved landscaping, access and additional spaces added'.

In support of the application the agent states that the key public benefits of the proposals can be summarised as follows:

- Regeneration of a derelict / eyesore site that is on the Council's 'stalled sites' list and highlighted for regeneration in the Council's Draft Lee Bay Conservation Area Appraisal.
- Replacement of the redundant hotel building with domestic scale and contextually designed new residential development that works with the site topography creating new views and vistas.
- Provision of 21 No. residential units.
- A landscape-led design with integrated 'blue' and 'green' infrastructure.
- A net biodiversity gain as confirmed in the biodiversity metric analysis.
- The proposed redevelopment of the site will generate significantly fewer vehicle movements than the extant Hotel use.
- New footway provision and associated highway safety betterment.
- Provision of new public open space on the sea frontage and a publicly accessible area of the site extending 0.64ha.
- Provision of a new landscaped public car park.
- Provision of a new cafe building also providing public toilets to replace the existing.
- Private Management Company to ensure long term maintenance of the extensive grounds.

RECOMMENDATION

Refuse

SITE AND SURROUNDINGS

The existing site comprises an imposing empty hotel building which has been unused as such since 2005 that previously provided accommodation in 56 guest rooms, plus ancillary facilities. The main building is primarily arranged over three floors and is sited on the north side of the site, linear in footprint, looking out on to extensive grounds which have now become overgrown and contain Japanese Knotweed. Immediately to the east is a car park. The grounds are divided by a stream and pond. On the south side of the grounds, are a former open-air swimming pool and a car park, used by the public.

The site is located at the bottom of a valley next to the sea, to the west of Ilfracombe. The application site is located within the Area of Outstanding Natural Beauty, Coastal Preservation Area, Heritage Coast and Lee Conservation Area. At the northwest corner of the site on the opposite side of the road is a grade 2 listed building.

A number of dwellings are located on higher ground to the north of the hotel and there is also a cluster of properties along the seafront to the west. To the south of the site on the valley side is an area of woodland. Further dwellings and commercial premises are located to the east, in the main part of the village.

The principal access to the site is from Ilfracombe, with minor routes to Morteheo and Woolacombe. The South West Coast Path runs between the hotel site and the sea and a public footpath linking the sea front with the village, runs to the south of the site.

REASON FOR REPORT TO MEMBERS

This is a 'major' application that has attracted comment both in support and objection, which the Head of Place considers should be determined by Planning Committee.

POLICY CONTEXT

The North Devon and Torridge Local Plan has recently been adopted and the following policies are relevant:

North Devon and Torridge Local Plan (2011-2031)

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
ST09: Coast and Estuary Strategy
ST10: Transport Strategy
ST14: Enhancing Environmental Assets
ST15: Conserving Heritage Assets
ST16: Delivering Renewable Energy and Heat
ST17: A Balanced Local Housing Market
ST18: Affordable Housing on Development Sites
ST19: Affordable Housing on Exception Sites
ST22: Community Services and Facilities
ST23: Infrastructure
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 & Seascape Character
DM09: Safeguarding Green Infrastructure
DM10: Green Infrastructure Provision
DM17: Tourism and Leisure Attractions
DM24: Rural Settlements
DM27: Re-use of Disused and Redundant Rural Buildings
Town Strategy - Ilfracombe

Devon County Waste Local Plan
W4: Waste Prevention
W21: Making Provision for Waste Management

National Planning Policy Framework

Lee Conservation Area Character Appraisal 2018

AONB Management Plan

CONSULTEE RESPONSES

Ifracombe Town Council:

(19/3/19) Recommendation – members would like to see the results of all the viability studies. Until a compromise is found between residents and the developer, this application was moved for Refusal and with 3 members in favour and 1 against, the motion was carried.

Planning Policy:

(5/4/19) Thank you for consulting the Planning Policy team concerning the above planning application for the demolition of the existing hotel and the erection of 21 dwellings, public open space, extension to car park, new café and toilet block and associated landscaping and infrastructure provision..

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. As you are aware, the Council have a recently adopted Local Plan (October 2018) which was considered by the Inspector to be 'Sound' and in general conformity with the NPPF; therefore, policies in the Local Plan are up to date. The NPPF is a material consideration in planning decisions.

Firstly, in policy terms this is a relatively large previously developed site which has been left derelict for a number of years and where its current condition is having a negative impact on this environmentally sensitive area (AONB, Heritage Coast, Coast & Estuarine Zone, adj. Marine Conservation Zone – Policy ST14). Paragraph 5.11 recognises *'there are a number of large rural brownfield sites across northern Devon that are not subject to specific site allocations. The Local Plan recognises and supports opportunities to regenerate these sites where it secures economic growth and contributes to and enhances the natural and local environment'*. Also, paragraph 118(c) of the NPPF seeks to *'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land'* It is clear that the re-use of sites such as this are encouraged by both national and local planning policy (Policies ST01 and ST02) and therefore I would suggest there is clear policy support in principle for the sites redevelopment but you must be assured that the current scheme is policy compliant in terms level of development proposed within a rural settlement; and the potential impacts of the development on environmental and heritage assets.

As mentioned above, the village of Lee is a recognised Rural Settlement where Policy ST07 (3) will apply. The status of Lee is further clarified by paragraph 4.15 which states

'Beyond Local Centres and Villages, the opportunity to achieve sustainable development is diminished by the increasing absence of services and facilities. It is however recognised that there is a further tier of generally small settlements, with and without services, which contribute to the overall sustainability of the rural area. Appropriately scaled and located development to meet locally generated housing needs will be supported in qualifying Rural Settlements (requiring the settlement to have at least one service or community facility from the following:- community/village hall, post office, public house, convenience shop, place of worship, sports playing field, primary school), as enabled by Policy DM24: Rural Settlements'. As Lee has at least one prescribed community facility there is no contention over its status within the settlement hierarchy of the Local Plan. Within a Rural Settlement, appropriately located development of a modest scale will be enabled to meet locally generated needs.

In terms of the erection of a new café and extended car park Policy ST12 (5) will support the provision of new locally important shops, services and community facilities where they are appropriately scaled. It is also recognised that within Rural Settlements, the development of individual shops or small groups of shops to serve neighbourhood or village needs will be supported provided that: it is of a scale and location appropriate to serve the shopping needs of the local community; the operation of the retail unit(s) would not be detrimental to the amenity of neighbouring residents; and the local highway network can accommodate additionally generated traffic and the safety of public highway users is maintained (Policy DM21). It could also be argued that as Lee Bay is considered a tourist destination where opportunities to support tourism in this area would be supported in principle subject to the stated criteria within Policy DM17. Also, the provision of open space within the development is fully supported subject to the proposal meeting the standards within Table 13.1 and Policy DM10 as well as the views of Lucy Wheeler. Therefore, with regard to this element of the proposed redevelopment I would suggest there is policy support in principle.

Policy DM24 will support local occupancy dwellings in order to meet a locally identified housing need subject to the stated criteria (a) to (f). Paragraph 13.132 recognises that in *'Rural Settlements residential development will be supported by means of infilling, the conversion or replacement of appropriate buildings, re-development and small scale rounding off. Any acceptable development scheme should maintain the settlement's rural character and setting'.* The current scheme is proposing 21 open market dwellings which would appear are not being restricted to meeting a locally identified housing need as required by Policy DM24. I should point out that new local needs housing secured under Policy DM24 are not necessarily considered as affordable housing only but the open market housing will be subject to secure arrangements to ensure occupancy is limited both initially and in the future to residents meeting the stated criteria. Also, I am concerned that this level of growth for Lee is far too high for a Rural Settlement (approximately 37% growth) above the existing baseline number of households within Lee (57 households) which have been indicatively identified from Cliffe to west, Briarwood / The Coash House to the east and Home Lane to the north. Therefore, I am concerned this number of residential units would not maintain the settlement's rural character and setting and I am of the opinion this level of new housing and car parking, particularly to the east of the existing hotel would start to erode the rural character and create a more urbanised feel in this part of Lee.

I note the agent / applicant has set out the argument that vacant building credit will apply in this instance and no affordable housing should be sought. However, I do not fully accept that VBC should apply to the former Lee Bay Hotel as the PPG (Paragraph: 028

Reference ID: 23b-028-20190315) clearly sets out that *'the vacant building credit applies where the building has not been abandoned'*. I would suggest there is an argument here that the former Lee Bay Hotel has been abandoned and has been so for a number of years and its poor state of repair is a reflection of the building not being maintained to a satisfactory standard over many, many years. Therefore, it would be appropriate for the agent / applicant to provide the necessary evidence that the referenced building is not considered as an 'abandoned building' or vacated solely for the purpose of redevelopment. In my opinion the onus should be on the applicant to demonstrate this, although I would suggest this could be very difficult to successfully evidence. The PPG further clarifies the factors the LPA should take into account when determining abandonment which are as follows:

- i) the physical condition of the building;
- ii) the length of time that the building had not been used;
- iii) whether it had been used for any other purposes; and
- iv) the owner's intentions.

Therefore, from a policy perspective there should not be a general acceptance of the implications around vacant building credit when assessing the need to deliver a policy compliant scheme in terms of on-site affordable housing in accordance with Policy ST18 without conclusive justification as set out above regarding abandonment. However, I do accept that where viability is likely to be an issue then it would be more appropriate to secure a long term viable future for this site as opposed to securing an element of affordable housing or other financial contributions as required by policy but this would still preclude allowing an over intensive form of development. Such an approach is also advocated by paragraph 202 of the NPPF which states *'Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies'* although I would still consider further justification is required regarding the lack of affordable housing delivery.

The site, as currently proposed falls within the threshold of being considered as major development (10 or more dwellings or at least 0.5 hectares), subject to any amendments following the initial policy concerns with the current proposal, there is a policy requirement for any future planning application to be supported by a Building for Life 12 assessment (BfL12) where optimum design outcomes will minimise 'amber' scores and 'red' scores should be avoided. The site of the Lee Bay Hotel is within the defined conservation area as well as being with close proximity to a number of listed buildings (The Old Mill-Grade II; Smugglers Cottage – Grade II and White House – Grade II). You must ensure the proposed development would conserve and enhance the character and appearance of the heritage assets, including their setting in accordance with Policies ST15 and DM07. The overall design and layout of the development should be considered against Policies ST02, ST03, ST04, ST05, ST15, DM01, DM04 and DM07 of the adopted Local Plan.

As set out in paragraph 6.5 of the Local Plan, *'all development will be expected to provide a net gain in biodiversity where feasible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support 'biodiversity offsetting' to deliver a net gain in bio-diversity off-site'*. If there is some loss of existing habitat then this should be mitigated against by providing additional planting on or off site. The Defra metric should be used to ensure there is an overall net gain in biodiversity. All issues around ecology should be considered against ST14 and DM08.

On balance, the principle on redeveloping this brownfield site is potentially acceptable subject to the above considerations being adequately addressed. However, I would suggest the current proposals are contrary to policy and should not be supported although there would be less of a policy objection to the redevelopment of this previously developed site if it included greatly reduced housing numbers, maybe involving a number of townhouses on the footprint of the existing hotel and maybe a very small number of larger detached properties on the site of the former car park, reflecting the general character and appearance of Lee but again this housing would be subject to Policy DM24 unless a compelling case can be made for an element of unrestricted open market housing due to concerns around viability.

All highway issues should be considered against Policies ST10, DM05 and DM06 of the adopted Local Plan.

Designing Out Crime Officer:

(21/3/19) Police have no further comments to add to those of 20th June 2017 which remain relevant from a crime reduction and anti-social behaviour perspective.

(21/6/17) Police have no objections in principle, I note and welcome the inclusion of a Crime and Disorder Summary within the Design & Access Statement and its commitment to safety and security including the proposal for the use of 'secure certified' locks for all external doors and windows. Please could it be confirmed that this is indeed referring to Secured By Design products and if so, I would request that this level of certification, PAS24 2012 or PAS24 2016 for example, applies to all external door and window sets, not just the locks. (Secured by Design (SBD) is a crime prevention initiative owned by the Mayor's Office for Policing and Crime (MOPAC) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for ASB and conflict within developments by applying the attributes of Environmental Design (as above) in conjunction with appropriate physical security measures)

Apartments & Houses

I have concerns regarding the proposal for informal garden spaces and in particular the apparent open access to the rear of dwellings. This does not address possible issues with security, privacy and keeping young children and dogs secure and safe. I would recommend that all rear gardens are enclosed with 1.5m close boarded fencing, topped with 300mm trellis. This combination would provide both security and privacy for residents but still allow neighbour interaction. The likelihood is that when presented with the open informal gardens, residents will feel the need to install, in some cases unsightly boundary treatments of their own.

Care is required when providing communal parking areas as experience shows they can become unofficial play parks and targets for crime, vandalism and anti-social behaviour, forcing residents to park on the street. The proposed resident's car parks are overlooked at each end from gable end windows, whilst this is welcomed, it does place the burden of surveillance on the occupants of these dwellings. Regrettably, there is overwhelming evidence to suggest that unless a crime directly involves a member of the public, many will not report it for fear of repercussions. I recommend the car parks have gated entrances for both vehicles and pedestrians, not only restricting access to the car parks but further into the proposed development and the rear of the properties. Car parking areas should be well illuminated to provide the potential for natural surveillance during hours of darkness and make them feel as safe as possible for users.

Café, toilets & public car park

As previously stated, the isolated position of the café and public toilets leaves the building potentially vulnerable to crime, damage and anti-social behaviour. I therefore reiterate the advice given:-

- Toilets being closed to public when café is closed
- Consideration of materials and fittings used in toilets (stainless steel for example)
- Level of enhanced security for café, including monitored alarm system.

Consideration should be given to gating all or part the car park in line with operating hours of the café.

Gates / barriers help prevent potential misuse of the car park particularly by groups of young drivers gathering in their cars, not an altogether uncommon problem for car parks elsewhere in North Devon which can arise at any time.

Flood and Coastal Risk Management Team:

(Re-consulted 15/2/19) No response.

(20/6/17) Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning conditions are imposed:

1. The swale design as shown in 'Drawing No. C14641 - C001, Revision D, Date 17/06/2015' is acceptable, however we would like further detailed drawings of these SuDS features in accordance with *The SuDS Manual, CIRIA C753*. Required design information will include headwalls, vegetation, gradients and show its suitability for filtration.
2. Within the given 'Flood Risk Assessment, R/C14641/001.05, Section 6.2', the existing car park to the south of the watercourse is to be reconstructed with permeable materials. This is acceptable; however there is no mention for the same to be undertaken to the car parks adjacent to the residences at the north of the site. I understand that it is the intention for the swale draining the residential area to allow pollutants to settle, however we would like this added precautionary measure of permeable paving to be introduced.
3. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
 Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
4. It is noted that within the 'Flood Risk Assessment, R/C14641/001.05, Section 4.3', any works in, over, under or within 8m of the watercourse will require the prior consent of the EA. As the watercourse in question is classed as an ordinary watercourse, any consent must be directed through consultation with Devon County Council as the Lead Local Flood Authority.

SWW:

(22/2/19) I refer to the above application and would advise that South West Water has no comment.

Project and Procurement Officer Parks, Leisure and Culture:

(18/2/19) Revised calculation is £103,615.

(27/2/18) Thank you for the update – it's most helpful.

Firstly I attach a revised calculation which takes into account the seafront public open space of 164sq.m, which generates a slightly reduced request of £92,468.37, down from £94,714.40.

In terms of point 5, highlighted on the covering letter requesting a reduction in £20k against the now £92k contributions, on what grounds is there request coming forward and how has this figure been arrived at. We do not normally reduce an open space contribution which enables the application to pay for on-site delivery. I am unclear as to why this has been request and as to the level of the financial reduction request.

In terms of the National Trust, if they have a number of projects for the area, then yes it is something we can consider in conjunction with the area priorities and ward member consultation. Please forward any relevant information over to me.

(14/6/17) I have reviewed the above application and attach an initial POS calculation. I note a significant area will now be provided as lawned resident's gardens rather than public open space, therefore no offsetting of on-site POS has taken place. The existing public terrace appears to be retained. With no on-site public open space being secured an off-site contribution (£94,714.40) would be requested.

Sustainability:

(Re-consulted 15/2/19) No response.

(27/6/17) The Ecological Appraisal (24 September 2014) and Protected Species Survey Report (6 August 2015) have been submitted alongside a Verification Survey Report (16 February 2017) which provides an appropriate update and clarifies that the site has not changed significantly since habitats/species were described in the original reports.

The Verification Survey Report states that a CEMP, LEMP and Reptile Mitigation Strategy are required prior to commencement of works on site and should be submitted as part of the current application. The reports should set out specific measures to ensure all identified habitat and species impacts are appropriately mitigated and side wide ecological enhancement is deliverable This should include a detailed lighting plan for both the construction and operational phases of the development to ensure vegetation around buildings will be retained, and kept dark to provide corridors for bats and other wildlife to move across the site.

Housing Market Balance:

(26/2/19) The applicant's Planning and Regeneration Statement Rev C states in *Appendix A – Vacant Building Credit* that the total proposed floor space is less than the existing floor space and that consequently the affordable housing requirement is negated by the application of Vacant Building Credit.

Further to my responses dated 26 June 2017 and 1 September 2017, I confirm that if the proposed floor space is less than the existing floor space then Vacant Building Credit means that no affordable housing would be required (provided that the floor space figures include any usable space, such as garages, attics, outbuildings, etc. that could at a future date be converted into living accommodation).

(6/3/19) If it were determined that VBC would not apply then the requirement would be for 30% affordable housing provision. 30% of 21 is 6.3. There should therefore be 6 affordable dwellings and an off-site financial contribution equivalent to 0.3 of a dwelling. The formula we use to establish an off-site financial contribution figure is (Open Market Value – Registered Provider price) x % of affordable housing required.

The tenure mix of the affordable dwellings would need to be at least 75% social rent (in accordance with policy) and the remainder intermediate (shared ownership, intermediate rent or discounted sale).

Those who are allocated or buy the housing would need to meet a local connection criteria. As Lee is a rural area within the parish of Ilfracombe, the cascading process for this would need to be established.

The affordable homes should be designed and of the same material and construction as the open market – including car parking.

The table below shows the policy requirement for dwelling mix, occupancy levels and the range of absolute minimum size values accepted locally depending on the Registered Provider chosen. If they are within this minimum range the applicant should ensure they find a Registered Provider sooner rather than later to (1) ensure that the Registered Provider will want the homes and (2) work with the chosen Housing Association to make most efficient use of the space. The best solution is to ensure the homes are built above the highest minimum size indicated in the range.

Bed size & dwelling type	Occupancy	NDC dwelling mix requirement	The minimum range of RPs who work in North Devon (m2) (inc. storage, internal walls; exc. party and external walls, chimney breast & any floor area where ceiling height is <1.5m)
4 bedroom house (2-storey) or bungalow	6 person	5-10%	95-106
3 bedroom house (2-storey) or bungalow	5 person	20-25%	82-93
2 bedroom house (2-storey) or bungalow	4 person	35-40%	70-79
1 bedroom house (2-storey) or bungalow	2 person	30-35%	45-58

A housing needs survey report for Lee and Lincombe dated December 2018 identified a need for 7 affordable homes within the next five years.

Natural England:

(21/2/19) Based on the additional information provided, we do not have any additional observations to make at this time further to our previous detailed comments. If however you consider there are implications for the natural environment as a result of any changes, or have specific questions, we would be happy to consider them.

In our response of 9th March 2016 we noted the technical note from Environmental Gain (eg14632) and welcomed the proposal to create a wetland to receive the discharge from the package treatment plant before it enters the stream. This removed our concerns about any possible eutrophication of the foreshore and the Bideford to Foreland Point Marine Conservation Zone. This wetland does not appear to be included in the revised landscape masterplan (LEE-003 rev L dated February 2019) unless the area of reed on the south bank of the stream represents the wetland.

Natural England advises that the planning authority consults the North Devon AONB partnership, giving their advice careful consideration alongside national and local policies to determine the proposal.

Please do not hesitate to contact me if you wish to discuss this further.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered.

(21/09/17) Thank you for your email of 19th September 2017 consulting Natural England on further information/amended plans for the above proposal.

The submitted documents now include reference to the creation of reed beds (technical note eg14632-2 reed bed design parameters Engain 6th September 2017) to receive the discharge from the package treatment plant before it enters the stream. This removes our concerns about any possible eutrophication of the foreshore as a result of the current application. Our advice is that the wetland habitat should be secured as a condition of any permission.

(For a copy of the full letter 26/6/17 see Inserts)

Summary of Natural England's advice

Further information required to determine impacts on designated sites

As submitted, the application could have potential significant effects on Bideford to Foreland Point Marine Conservation Zone (MCZ).

Natural England advice is that further information is required in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

Bideford to Foreland Point MCZ – detail of proposed wetland to receive the discharge from the package treatment plant before it enters the stream.

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

Natural England's advice on other issues is set out in Annex A.

AONB:

(22/3/19) As the revised proposals do not appear to constitute a change in design or location of the proposed buildings and infrastructure on the former Lee Bay hotel site, as a result the North Devon Coast AONB Partnership has no further comments to make.

Should this not be the case, please let me know and we will arrange to send further comments through to you as soon as possible.

(27/2/18) Thank you for contacting us regarding our lack of response to the amended plans relating to the redevelopment of Lee Bay Hotel.

However, we were of the opinion that the additional information submitted in February was related to the viability of the site regarding its operation, or non-operation as a hotel, rather than any material changes to the application as submitted.

We therefore stand by our most recent response to this application which was submitted in September 2017.

However, should this not be the case and you feel you require further information from the AONB Partnership please do not hesitate to contact me again.

(25/09/17) Thank you for consulting the North Devon Coast AONB Partnership, with regard to the Amended Plans for this planning application, for the redevelopment of the old Lee Bay Hotel. We have the following observations to make.

In our initial response to the application in July (enclosed for your review), we raised a number of issues of concern, most of which appear to have been addressed in this amendment and in discussions with interested parties in the intervening period these were:

1. Detailed design of the West Elevation: - Changes to the design of the western elevation of the main building will in our opinion reduce its impact on views from the beach and we therefore withdraw our objection on these grounds. We would be happy to follow the lead of the District Council Conservation Officer on the impact of the revised design on the significance of the Old Mill, which is a listed building and a building of some significance within the settlement of Lee.

2. Detailed treatment of the pavement and its impact on character: It would appear that no additional information has come forward, however, we would be content for the detail to be dealt with by condition

3. Viability of the proposed cafe: Having studied the amended application, we are now reassured that a sustainable, long term operator for the cafe would appear to have been secured and our concerns about the sustainability of the cafe have been allayed;

4. Design of the toilets: Our advice is that the layout proposed is not the most conducive for ease of management, but understand that this is not necessarily a planning issue. However we would suggest that the existing toilets are not demolished, and remain available for use, until the new toilets have been built.

5. Pedestrian link between cafe and footpath to Lee village: Our view is that the proposed application reduces accessibility of the toilets from the existing situation, especially in the case of people accessing the beach on the public footpath from Lee village. We would therefore urge you to try to address this relatively minor point with the applicants. Currently, this is the only outstanding area of objection to the application as it stands. In addition, we would draw your attention to the Protected Species Report submitted with the application. The area in and around the current site is an important area for Bats, something which was borne out by a recent Bat Walk that the AONB team undertook. We would therefore ask that appropriate lighting and mitigation measures, in terms of providing alternative and new roosting sites for bats, be conditioned, if the planning application were approved.

Finally, we have much sympathy with the view of the Lee Bay Residents Association that the site offers opportunities for affordable housing in the village. New, affordable dwellings would help to increase the balance of permanent residents in Lee and would support the sustainability of the settlement in line with AONB Management Plan policies. However, we are aware that because of the empty building credit scheme, you are not able to require any affordable housing as part of this development.

We trust you will make note of our comments when considering this application.

(10/7/17) Thank you for giving the AONB Partnership the opportunity of commenting on the latest planning application for this site. As with previous proposals, the application covers the demolition of the existing Lee Bay Hotel, the erection of new housing (23 units), a public car park, public open space café and toilet block.

Our concerns with previous schemes as outlined in our previous submission for the site were:

- The scale, height and design of new buildings being out of keeping with local character and the setting of heritage assets;
- The suburbanising effect of a pavement on the northern site boundary;
- The long term sustainability of the café business and the toilet block layout;
- The missed opportunity for affordable housing.

Having studied the submitted plans we are of the opinion that the revised scheme has responded to some of these comments. The main elements of the project that have changed in response to AONB concerns are:

- The scale and height of the lower, westernmost building has been reduced and the building has moved slightly further back away from the beach;
- There is more separation between the middle and upper (easternmost) buildings and the buildings have been redesigned.

In our opinion, the design of the proposed residential accommodation reflects the local pattern of large, individual properties seen throughout Lee. The three buildings have clear differences in architectural style and design when seen from the road frontage so that they will be perceived as three, large separate and individual buildings. A common palette of

materials is proposed on all buildings and this will help to provide harmony between these elements.

The glazing in the northern elevations is more restrained than in previous versions, the use of slate, stone and render to walls, stone lintels and composite windows and natural slate to roofs matches the local vernacular. The southern elevations are more glazed, but views of these from public areas will be heavily filtered by trees and the impact on the local landscape will not be that great.

However, the western elevation (overlooking the bay and close to the listed Old Mill) has a high proportion of glazing that does not appear appropriate to its context. Other buildings locally seem to respect the wild power of the sea by being built defensively - with strong walls and small windows. The western elevation as proposed does not continue that tradition and, as a result, does not respect the vernacular and its coastal setting. With the exception of this last point, we believe that the revised scheme responds well to its setting within Lee Bay and the designated AONB.

Other concerns that we raised with regard to the previous planning application still stand however, you may be able to deal with these by condition or by seeking further clarification from the applicants:

- We remain concerned about the long term viability of two café businesses so close to each other. It would provide us with some comfort to know that a long term tenant had been secured for the café.
- We have concerns about the layout of the public toilets, but recognise that this is a management issue for the management company.
- The detailed design of the proposed pavement will be key in ensuring that it does not have a suburbanising impact on the local area.
- We also believe that a pedestrian link between the proposed café/toilets and the public footpath to Lee village would encourage greater public use of the new facilities.

In conclusion, we are of the opinion that this is a much improved application, if it were possible to address the design of the main building western elevation and to deal with the issues noted above, then we would have little grounds for recommending refusal of the planning application.

We hope that these comments are of assistance to you in helping to determine the application.

Lee & Lincombe Residents Association:

(22/2/19) The Association and its members continue to strongly oppose planning application 63167 submitted by Acorn Blue. We have carefully studied the amendments and all our previous objections still stand. However, given the introduction of the new North Devon and Torridge Local Plan, a revised National Planning Framework, the Lee Conservation Area Character Appraisal, and many additional documents including the viability assessments, we wish to reiterate and emphasise the following specific objections in light of the changes to PA 63167. (Full response attached as an Insert).

(25/2/19) Please read the forwarded email from Devon and Cornwall Police. You'll see they have responded to an incident of squatters. They state that the site is insecure and

there have been other similar reports. Acorn Blue have not responded to their calls. We have had a similar experience, with no response from Acorn Blue.

The Hotel is derelict with plumbing and internal infrastructure stripped. Windows have been removed.

This has occurred during their tenure since 2010 and is a result of deliberate neglect.

There are serious breaches of National Planning Guidance:

1. Paragraphs 130 and 190 of National Planning and Policy Frameworks (2012 & 2019) clearly both state:

“Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision”

2. The Planning and Regeneration Statement (Amended 2019) submitted by Acorn Blue repeatedly (5.49, 5101, 5.103, 6.1 and 6.4) refers to the derelict state of the hotel as evidence for its compliance with the NPPF and the Local Plan (exceptional circumstances and public interest). THIS IS NOT PERMITTED UNDER THE NPPF.

3. The evidence of the police and of their own regeneration and planning statement surely amounts to ‘abandonment’ both literally and technically for the purposes of negating vacant building under the National Planning Guidance?

(Previous response of 30/8/17 attached as an Insert)

Heritage & Conservation Officer:

(14/3/19) This application, for the erection of 21 dwellings, formation of new public open space, extension to existing car park, erection of café and w/c block and associated works, is an amendment to the scheme submitted in June 2017 which was for a scheme for 23 dwellings. The reduction in numbers and consequent amendment to the design has arisen following discussion of the application at NDC planning committee.

My consultation response to the original application number 63617 was made on 26.7.17, and has been supplemented by further responses on 19.9.17, 20.6.18 and 17.8.18. This response is an addition to those earlier responses.

The current proposal for the 21 units involves amended designs for the upper and middle buildings. The design for the apartment block next to the beach and the grade II listed Old Mill stays the same. The alterations to the designs for the upper and middle buildings both involve a reduction in height from two and a half and three storeys to two storeys. The long elevation of the middle building has increased, in the amended design, by one metre, whilst the long elevation of the upper building remains the same. The widths of the side elevations remain approximately the same. The amended designs are generally simpler, have more regular patterns of fenestration, and are more traditional in appearance. In my view these amended designs are an improvement on the original submission, and fit better into the context of the Lee Conservation Area.

My consultation response of 19.9.17 outlined my concerns about the impact of the proposal on heritage assets:

In summary these are:

- The loss of the non-designated heritage asset, the core of the Hotel, still remains a fact of the proposal.
- The effect on the setting of the grade II listed Old Mill adjacent. The footprint of the Apartment building has been moved further away from the listed building than the existing Hotel, which is welcomed. The treatment of the western end of the arrival building is,

however, not as successful in complementing the local vernacular as the existing hotel building, in my view, and therefore a degree of less than substantial harm to the significance of the listed building arising from the contribution made by its setting can be identified.

- The effect on the character and appearance of the Conservation Area. As stated previously, the Hotel is in a poor condition and there is scope, through the redevelopment of the site (whether this involves retaining the existing building or not) either to preserve or enhance the character of this part of the Conservation Area. The question, relating to paragraph 134 of the NPPF, is whether the proposed development achieves this, or whether it causes a degree of less than substantial harm to the significance of the Conservation Area.

As discussed above, the designs and massing for the middle and upper blocks has been improved, and my concerns about these elements have been allayed to a degree. The design for the apartment building has, however, remained the same, so concerns expressed in my consultation response of 19.9.17 about the design, detailing and massing for this element still hold.

On the whole, I remain of the view that the development will result in less than substantial harm to the significance of the heritage assets, and that therefore, under the terms of paragraph 196 of the NPPF (updated February 2019), “this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use”. Paragraph 194 of the NPPF states that “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.” This justification will be strongly, but not exclusively, influenced by financial considerations. To this end, the applicants have provided an amended viability report. If this is to be used to provide ‘clear and convincing justification’ then it needs to be verified by an independent professional. This process has been undertaken on previous financial submissions, and I would suggest that in order for the LPA to be properly informed in its decision making process, the amended viability report does need to be subject to the same scrutiny.

The justification also needs to take into account other factors: the proposal also involves the loss of the undesignated heritage asset – the Lee Bay Hotel itself. I have previously acknowledged that the later eastern elements of this building are not of interest, and could be removed, but the western elements, nearest the sea, do have some significance. In my consultation response of 17.8.18 I gave comments on the ‘Conversion Option’ report which, in summary, I did not feel had explored the potential for retaining the core building sufficiently. I would again suggest that the contents and conclusions of this report should be given further scrutiny.

It is worth pointing out that, if the core of the Hotel building were retained and converted, minus the eastern element and the southern arched extensions, then taking into account the amended designs for the middle and upper blocks, the concerns on heritage grounds would be largely addressed – the undesignated heritage asset would not be lost, and the effect on the setting of the listed building would be much reduced.

(17/8/18) I last responded to this application on 12th June 2018 and that response, plus previous responses, are still relevant.

In particular, I would draw your attention to the paragraph which refers to the conclusion reached by the independent review of the viability of the scheme, which was that a reduced scheme for 18 units will also be viable.

Since my last response, we have received a new report, 'Conversion Option', which is, I assume, the additional information upon which we are now being consulted. The Conversion Option report looks at the possibility of converting the existing building. It assumes that the eastern section will be removed, but retains the modern extensions on the southern, garden front, which are not of historic or architectural value, and which we have said at various times, could be removed without detriment to the character of the historic element of the building, or of the Conservation Area. Retention of these elements does make the lighting of the rear, northern elements on the Lower Ground floor very difficult and these areas are therefore shown as non-habitable space on the plan. If the later extensions were removed, however, and the ground floor taken back to the line of the original building, it might become rather easier to light the northern parts of this floor, particularly if borrowed light and open plan apartments were designed. In my view it is not beyond the wit of a competent architect to achieve a better use of this part of the building, or to identify a way of protecting against damp.

The Conversion Option report states that there are no structural drawings for the building, therefore there are some uncertainties about the need for new structural supports. It also makes the point that there have been 10 years of progressive moisture damage. Both of these points are true; the first can be remedied through the provision of a structural survey and the second could have been addressed if the building had been maintained, rainwater goods cleared etc. From the appearance of the building it is evident that this has not been the case.

There are several relevant paragraphs in the NPPF, among them:

P191 "Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision." (Note that 'heritage asset' includes non-designated heritage assets)

P197 "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

I am not convinced that the Conversion Option Report provides sufficient certainty that there is no viable means of retaining the historic core of the building. I would suggest that, in the same way that the viability assessment has been scrutinised by an independent professional, the contents and conclusions of this Report should also be subject to the same process.

(12/6/18) This application proposes the demolition of the existing Lee Bay Hotel, and the erection of 23 dwellings, formation of new public open space, extension to existing car park, erection of café and WC block, and associated highway and landscaping works. It was received by the LPA in May 2017, following the refusal, in November 2016, of application 59766 for demolition of the hotel and erection of 20 dwellings.

I have already made comments on the current application in my email of 19.9.17. To my knowledge, the plans and elevations for the buildings have not changed, so my previous comments relating to those elements still hold. To summarise, I identified that the scheme

would cause harm to the significance of heritage assets on three counts: the loss of the core of the Hotel, which is a non-designated heritage asset; the effect on the setting of the grade II listed Mill House adjacent; and the net effect on the Conservation Area. In relation to the latter, although I acknowledge that there are some benefits brought by the scheme, my conclusion was that on balance it does not preserve or enhance the character or appearance of the Conservation Area.

The current consultation relates to various documents submitted by the applicant in relation to the viability of the scheme. These documents have been scrutinised by various consultees, among them Historic England, who made a response on 23.4.18. In general I do agree with the comments made in their letter. Page 3 of the letter includes the following:

“A summary of the Alder King Report has been provided. The full report has been submitted to the council on a confidential basis. It is the Local Planning Authorities responsibility as part of their assessment of the proposals to robustly interrogate the viability assessment provided by the developer.... Through that robust analysis it will establish whether there is sufficient justification for the harm caused to the heritage asset and whether the quantum of development proposed is the minimum necessary to secure the regeneration of the site (Para 132 NPPF). It will also need to demonstrably outweigh the harm caused to the conservation area as identified under Para 134 NPPF, which includes securing the assets optimum viable use as well as associated public benefits. ...”

The LPA has accordingly sought an independent review of the viability of the scheme, undertaken by Plymouth City Council. That review considers the various costs and benefits of the scheme. The review considers the current scheme for 23 units, and on page 5 concludes that this is “comfortably viable”. The review also considers a reduced scheme for 18 units and states “the results from our appraisal indicate that this reduced number of units will also be viable and return an industry acceptable profit level”.

From the above, it is apparent that the proposed scheme for 23 units is not the “*minimum necessary to secure the regeneration of the site*” to repeat the words from Historic England. It appears that this could be achieved with a reduced scheme of 18 units. Therefore, in my view, the level of harm which will arise from the current proposal is not justified.

Given that the density of the proposed development and the levels of ancillary structure needed, particularly parking areas, are one of the factors that are judged to cause harm to the significance of the heritage assets, it would seem obvious that a reduced scheme could potentially cause less harm, and therefore be more acceptable in heritage terms. If this is considered I would suggest that the opportunity to retain and convert the historic core of the hotel (again referred to in both responses from Historic England and myself) is investigated, and that if any units are to be removed from the scheme, the central block and associated parking would be the better candidates.

The Lee Conservation Area Character Appraisal has been adopted whilst this application has been open, and does contain a section on the Lee Bay Hotel (Paragraphs 9.4 to 9.10). Any amended application should take the advice contained in these paragraphs on board.

(19/9/17) My original consultation response to this application was made on 26.7.17, but was withdrawn pending clarification by the applicant of figures contained within the Planning and Regeneration Statement. The applicant also amended some design details

of the scheme. The response below is my updated response and relates to the amended plans and Planning and Regeneration Statement sent to NDC on 11th August 2017.

This application, for the demolition of the Lee Bay Hotel and the erection of 23 dwellings, café and wc block, associated car parks and landscaping is the second recent application for the redevelopment of this site. The earlier application, 59766 for the erection of 20 dwellings, café and wc block, car parks and landscaping, was refused permission in November 2016. The first reason for refusal related to the impact on heritage assets, specifically: less than substantial harm in relation to the impact on the character and appearance of the Conservation Area, and the setting of the grade II listed Old Mill adjacent, and the loss of significance of a non-designated heritage asset (the Hotel). The public benefits of the scheme were not considered sufficient to outweigh the identified harm. My consultation response to that application should be read in conjunction with the comments below:

The current scheme is a revision of the previous scheme, and does appear to have taken on board several of the points which caused concern in relation to heritage issues. For example, the overall heights have been reduced, and the appearance of the middle block has been altered to remove the row of staggered gable ends facing the street. More local materials have been introduced, and the landscaping of the public area at the west end of the site has been softened. All of these revisions are welcomed, but do not allay concerns about the impact on heritage assets. In summary these are:

- The loss of the non-designated heritage asset, the core of the Hotel, still remains a fact of the proposal.
- The effect on the setting of the grade II listed Old Mill adjacent. The footprint of the Apartment building has been moved further away from the listed building than the existing Hotel, which is welcomed. The treatment of the western end of the arrival building is, however, not as successful in complementing the local vernacular as the existing hotel building, in my view, and therefore a degree of less than substantial harm to the significance of the listed building arising from the contribution made by its setting can be identified.
- The effect on the character and appearance of the Conservation Area. As stated previously, the Hotel is in a poor condition and there is scope, through the redevelopment of the site (whether this involves retaining the existing building or not) either to preserve or enhance the character of this part of the Conservation Area. The question, relating to paragraph 134 of the NPPF, is whether the proposed development achieves this, or whether it causes a degree of less than substantial harm to the significance of the Conservation Area.

To elaborate on the last point:

The established character of Lee is of a dispersed settlement, with individual buildings set in generally large plots, with open spaces between. The sizes and styles of the historic buildings vary greatly from modest cottages to small country houses. The Lee Bay Hotel as existing is by far the largest building within the Conservation Area, and as such its bulk, when viewed from surrounding areas, does not fit well with the overall character of the historic surroundings. This element of discord is mitigated to a degree by the architectural interest of the historic element of the building, and the positive contribution that this aspect makes, despite its dilapidated condition, to the character of the street scene. Given the low intensity of development within the Conservation Area, and the size of the existing building, it is not difficult to see that any proposals which involve an increase in built form and associated hard surfacing are unlikely to maintain the character of this particular locality.

The revised Planning and Regeneration Statement, in paragraph 3.3, sets out a comparison between the footprints, floor-space and volume of the existing hotel and the residential proposal. It shows that the residential proposal is slightly smaller on all counts than the existing Hotel. This is noted, however, the comparison does not appear to take account of the increased areas of car parking that are needed, or the increase in perceived level of development over the site arising from the splitting of the accommodation into three separate blocks, and the provision of the café and car park to the south. These elements are likely to combine to form an increase in development over the whole site.

Turning to the overall design, in my view the proposals for the upper building are the most successful in complementing the overall character and appearance of the Conservation Area. I would suggest that the pitch on the dormer and porch roofs should match that of the main roof and that the central inset row of three glazed doors and balcony on the upper floor of the south-west elevation should be reduced in size so that it is smaller than the doors on the floor below (does not appear to have been addressed in latest amendments). This comment is made, however, on the basis that the building is sunk down into the site, and the landscaping on the northern boundary is strong and viable, given the amount of windows that are likely to face onto trees and the earth bank. The Landscape and Countryside Officer will no doubt give a view on this.

In my view the middle building is less successful; the south west elevation, which will be prominent in views across the valley, has large amounts of glass with no legible hierarchy of proportions, large glazed doors inset into the roof, and an asymmetrically glazed gable on the western end, all of which do not fit well with the more traditional character of surrounding buildings. The north east elevation is more standardised, following the recent amendments, and has the look of a terrace of houses. The south east elevation now incorporates a large flat roofed area with a railing around it on the second floor, which I think is less successful than the earlier version.

The apartment building has incorporated some traditional details such as the fish scale slate hanging, to advantage, but this is offset by elements which are less harmonious with the surroundings, such as the glazing patterns on the south elevation which appear random with no legible hierarchy of proportions. The north elevation remains unchanged, and resembles a row of terraced houses fronting a pavement. As highlighted in the last application, this is an urban form of development which does not have a precedent in Lee, and is not appropriate to the character of the Conservation Area. The western quarter of the apartment building, perhaps because the ground level drops abruptly so that the full three storeys are evident on the road side, appears somewhat disjointed from the rest of the building, which at two storeys on the roadside and east elevation at least, appears to have a more domestic scale. The large windows and glazed doors on the west elevation together with the large areas of balcony and terrace on the upper storeys do tie in with the south elevation, but as per the comments on the above, not necessarily with the surrounding Conservation Area, nor do they maintain the qualities of the setting of the adjacent listed building.

The design for the public area to the west of the site has changed, and again our Landscape and Countryside Officer will no doubt give a view on the suitability of the scheme. I am assuming that more detailed plans of the walls, seats and surface materials will be provided for this area. This area does offer an opportunity to reflect the local vernacular, so if stone walls and paving are to be used, it would make sense to reflect locally distinctive patterns and materials here.

In summary my view in relation to the effect on the Conservation Area is that the proposal will result in less than substantial harm to the significance of this heritage asset. As detailed above I consider that the proposal will not preserve the setting of the listed building, leading to a degree of less than substantial harm in this respect. The proposal will also result in the total loss of a non designated heritage asset. Therefore, under the terms of the NPPF, a balanced judgement which takes into account the scale of harm, the significance of the assets affected, and the public benefits of this proposal will need to be made.

Historic England:

(13/3/19) Thank you for your letter of 15 February 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England has had a long running involvement with this application at the former Lee Bay Hotel. The site is within Lee Bay Conservation Area, a lush sheltered valley with a craggy inlet along the North Devon coast. This letter should be read in conjunction with the previous advice provided by Historic England on this application.

Historic England's Advice

Since our last engagement in August 2018, further amendments have been received including a revised design of the upper and middle buildings following an updated viability assessment reducing the number of units from 23 to 21. The amendments have taken steps to moderate aspects of the design that appeared more conspicuous within the landscape.

Historic England remains of the view that the loss of the historic hotel, identified as a positive building within the conservation area, will result in harm. The Hotel is a significant and landmark structure within the bay, and is a key phase of the settlement's development in to a holiday destination.

Historic England maintains the concerns regarding the visual intensification of development through the introduction of a landmark building and two additional sizable structures including associated car parking into this lush rural landscape.

We acknowledged that the steps taken through the revised designs have looked to moderate the visual prominence of the two sizable buildings within the valley setting. Increased level of tree planting has also been incorporated into the landscaping scheme around the car-parking. Therefore, the harm identified in the previous correspondence has been reduced. However, it has not been avoided and this harm will need to be considered within the planning balance.

Policy

As the application affects the conservation area, the council has a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (S72 Planning (Listed Building and Conservation Area) Act 1990).

Historic England considers that the proposal will continue to result in harm to the conservation area. This is through the loss of the positive contribution made by the former hotel as well as the visual intensification of development on the site.

The NPPF makes it clear that *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)* (Para 193). It goes on to say that all harm should be clear and convincingly justified (Para 194). Therefore the council need to robustly assess the evidence provided for the loss of the hotel to ensure that it has been rigorously justified.

Para 201, identifies that *the loss of a building ... which makes a positive contribution to the significance of the conservation area should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.* The hotel is a landmark building within the conservation area and reflects a key aspect of the settlement's development. Its loss will result in harm. The visual intensification of development will erode the open character of this large plot in a prominent location within the village, and although overgrown, it contributes positively to the character and appearance of the conservation area. Subsequently, its loss will result in harm.

This harm would be quantified as less than substantial; however, it does not mean that it is acceptable harm. Consequently, if the harm can be justified then it will need to be considered against the public benefits presented by the scheme, including the optimum viable use for the site. In assessing the proposals, the council need to rigorously assess the public benefit to ensure that it demonstrably outweighs the identified harm as required under Para 196 NPPF.

Recommendation

Historic England has identified that this scheme will result in harm to the character and appearance of the conservation area. Therefore the council need to rigorously assess that this harm can be shown to be clear and convincingly justified (Para 194) and if it can be, that there is sufficient public benefit to outweigh that harm (Para 196).

The council should be mindful of their requirement to have great weight for an asset's conservation (Para 193) and also their statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (S72 Planning (Listed Building and Conservation Area) Act 1990).

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us.

(For a copy of the full letters dated 17/7/17, 20/9/17 and 23/4/18 see Inserts)

Senior Historic Environment Officer:

(26/3/19) My comments are the same as previously made - see attached.

(11/07/17) I refer to the above application. I have no additional comments to make to those made on the earlier planning application 59766, namely:

The proposed development lies within the Lee Conservation Area and the Lee Bay Hotel contributes to the Conservation Area. As such, in the first instance I would advise that the North Devon Council's Conservation Officer was consulted with regard to any comments

she will have on the proposed development and the impact of the demolition of this significant building within the Conservation Area.

The following comments are made without prejudice to any comments made by the North Devon Council's Conservation Officer.

The desk-based assessment indicates that the site on the Lee Bay Hotel has been occupied by since at least the late 17th century. Historic maps show the northern part of the site to have contained a mill leat as well as a millpond that fed the Old Mill to the north-west which possibly dates to the late 16th century. Prehistoric activity in the wider landscape is demonstrated by the presence of a standing stone to the north-east. As such, groundworks associated with the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the occupation of the site and with any archaeological features associated with the mill on the northern part of the site.

For this reason and in accordance with Policy ENV14 of the North Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012) I would advise 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:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure, in accordance with Policy ENV14 of the North Devon Local Plan and paragraph 141 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of the archaeological monitoring and recording of all groundworks associated with the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. In addition, further historic building recording may be required of the Lee Bay Hotel prior to its demolition. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

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: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Environmental Health:

(26/2/19) I have reviewed the amended plans and additional information in relation to Environmental Protection matters and comment as follows:

1 Foul Drainage Proposals

The revised proposals, as described within the Planning and Regeneration Statement dated February 2019, retain proposals to install a new package treatment plant to deal with foul sewage from the development. The statement mentions discussions with the Environment Agency.

My previous comments on this application (email to you on 17 July 2017) raised concerns about the lack of information on proposals for dealing with foul drainage and on potential health risks depending on detailed proposals. Those comments stand.

2 My Previous Comments

Notwithstanding the above, I have nothing to add to comments I made on this application by email on 17 July 2017. Those comments stand.

(15/3/19) I think the Applicant will need to provide a specialist assessment of potential risks to public health that considers the specific circumstances involved. The assessment would need to be prepared by a suitably qualified person and make reference to relevant standards and guidance. The aim will be to consider where the proposals might create any unacceptable health risks (for example whether members of the public such as young children might be exposed to unacceptable levels of pollution risk when using publically accessible areas of the beach / watercourse) and to propose monitoring and mitigation options to address any significant health risks identified. The assessment should consider risks associated with normal operation of any proposed system and also risks associated with any potential malfunctioning of the system along with how any malfunctioning risks could be monitored for and controlled. It may be helpful if the assessment can refer to comparable sites at which similar circumstances have been successfully addressed.

Once the above assessment has been prepared and assuming an acceptable scheme can be identified; implementation, operation and maintenance of the scheme could then be conditioned on any planning permission.

Any proposed scheme will clearly need to meet Environment Agency permit requirements.

Concerns raised by Natural England and associated responses relate to protection of natural habitats. They do not consider risks to public health.

(22/3/19) I have no major issue with dealing with this via a pre-commencement condition but such an approach might create additional work down the line if the assessment throws up any significant problems. This is a very particular set of circumstances so I can't prejudge whether significant difficulties are likely to arise - that's the point of the assessment. Ultimately, I am concerned to ensure that potentially significant risks to human health are properly investigated and any unacceptable risks are adequately addressed prior to any system going into operation.

(For a copy of the full letter of 17/7/17 see Inserts)

Devon Fire & Rescue:

(Re-consulted 15/2/19) No response.

(10/8/17) The access route to the proposed development for fire appliances along the public roadway is restricted, the provided plans are unclear as to available access for fire appliances into the site for access to each type of property.

The fire authority consider that matters regarding provision of access for fire fighting vehicles and provision of fire hydrants are given full consideration, to ensure that adequate access to both property and water supplies can be provided within the proposed development.

Currently the roadway to the northwest and west of the site is provided with fire hydrants. The fire authority considers that due to the restricted vehicle access along the public roadway to the site, further provision of hydrant facilities should be considered to meet the requirements for firefighting for premises to the north eastern area of the proposed development.

The fire authority will comment on these matters as part of the statutory consultation process under the Building Regulations 2010.

Development Management (Highways):

(Re-consulted 15/2/19) No response.

(19/9/17) There are no objections in principle to the proposed development. It is advisable to obtain confirmation from the applicant's that the provision of the 1.2 metre footway is to be provided with no encroachment onto the running carriageway. The submission indicates there is no existing footway but there is in part between the Upper Car Park and the Public Terrace. The footway will need to be secured by a Section 38/278 Agreement with full engineering submissions to be agreed with the Local Highway Authority in due course.

The following conditions are recommended:

1) The proposed footway shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before its 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 for approval.

Reason

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

2) No other part of the development hereby approved shall be commenced until the footway on the public highway frontage required by this permission has been completed in accordance with details previously submitted for approval.

Reason

In the interest of the safety of users of the adjoining public highway and to protect the amenities of adjoining residents.

Strategic Planning Children's Services:

(25/3/19) DCC Education originally replied to this application on 01/09/17 based upon the original 23 dwellings. Please see the updated response below based upon the now proposed 21 dwellings.

I can advise that 21 family-type dwellings can expect to produce an additional 5 primary pupils & 3 secondary school pupils which would have a direct impact on Ilfracombe Infants School, Ilfracombe Junior school and Ilfracombe 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:

We have forecast that the nearest primary and secondary schools have not got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek a contribution towards this additional education infrastructure to serve the address of the proposed development.

The contribution sought towards primary is £80,095 (based on the DfE new build rate of £16,019 per pupil). As a new primary school is required, we would also need to request a proportionate land contribution of 10sqm per family-type dwelling. Based upon a land value of £320,000 per hectare, this land contribution would equate to £6,720, (or £320 per family type dwelling), and would be used towards the procurement of the new school site.

In addition, a contribution towards Early Years education is required to ensure delivery of provision for 2, 3 and 4 year olds. The contribution sought is £5,250 (or £250 per dwelling). This will be used to provide additional early years provision for children expected to be generated by the proposed development.

Since the original submission of this application, the designated secondary provision at Ilfracombe Academy is now at capacity. Therefore Devon County Council seek a contribution to extend existing secondary provision of £65,763 (based on the DfE extension rate of £21,921 per pupil). These contributions will relate directly to providing additional education facilities for those living in the development.

Finally, DCC seek a school transport contribution for both primary and secondary pupils due to the development being further than the statutory distances of 1.5miles from Ilfracombe primary schools and 2.25 miles from Ilfracombe Academy, and not on a safe walking route. The transport costs required are as follows: -

Primary

5 primary pupils = £3.98 per day x 5 pupils x 190 academic days x 7 years = £26,467

Secondary

3 secondary pupils = £3.98 per day x 3 pupils x 190 academic days x 5 years = £11,343

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015 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 It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

If this application reaches the stage of preparing a Section 106 agreement, it is considered that the contribution can be allocated in accordance with the pooling regulations set out in the CIL Regulation 123.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

Environment Agency:

(1/3/19) We confirm that we have no objection to the proposal. The submitted Flood Risk Assessment (FRA) by Hydrock dated April 2017 has correctly identified the flood risks and suggested suitable mitigation measures, which include taking a sequential approach to siting, appropriate finished floor levels and landscaping measures. You may wish to include a planning condition to secure the implementation of these measures.

We also refer the applicant to our previous advice relating to foul drainage in our response dated 9 October 2017 (attached).

(15/3/19) We would agree that they will need to assess the potential risks as David (Environmental Health) has suggested. We would be happy to review any details submitted to ensure they satisfy our requirements with regard to impacts on the water environment.

(9/10/17) We have no objection to the proposal. The submitted Flood Risk Assessment (FRA) by Hydrock dated April 2017 has correctly identified the flood risks and suggested suitable mitigation measures, which include taking a sequential approach to siting, appropriate finished floor levels and landscaping measures. You may wish to include a planning condition to secure the implementation of these measures.

We also have the following advice in respect of the proposed foul drainage arrangements and recommend that you consult with your Environmental Health team on these before the application is granted.

Advice – Foul drainage

Any non-mains foul drainage system associated with this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010. Appropriate permit conditions will be agreed through the permitting process. However, the applicant should be aware that there is no guarantee that a permit will be granted.

At this stage we can offer the following advice. Given the location of the site, it is unlikely that it would be reasonable to connect to the public sewer, and the development will therefore need to be served by a private treatment system. Given the footprint of the site, effluent from the proposed sewage treatment plant will probably be discharged to the watercourse south of the site which then drains to the sea, rather than being discharged to ground.

Whilst we have no objections to this in principle, we advise that, although the beach is not a designated bathing water, because there will be public access to both the watercourse and the beach, we have to be mindful of risk to public health and nuisance issues. We

recommend that you consult with your Environmental Health team to obtain their views on the proposal to discharge onto the beach. The applicant should also be aware that they may need to consider what additional treatment may be required to mitigate against risk to public health.

The applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. Additional 'Environmental Permitting Guidance' can be accessed online at <https://www.gov.uk/permits-you-need-for-septic-tanks>.

Economic Development:

(Re-consulted 15/2/19) No response.

(7/3/18) Thanks for sending us the details for the above planning application.

Looking at the application, it has not changed significantly since the last (two?) iterations. Therefore our comments from previous consultations still stand.

We get the feeling that the applicant will keep on putting in what is essentially the same application repeatedly until everyone is worn down, and no longer has the resource to respond in any meaningful way. It has also been suggested that the proposed scheme is "better than nothing" – not a sentiment we agree with. It would be a shame to see such a development in this location go through because no one has the will to keep responding and looking at the applications.

Please feel free to come back to me if you need any further information, or if I can help in any other way.

Countryside & Landscape Officer:

(5/4/19) As requested I have reviewed the Ecology Technical Note dated 01.03.19 in relation to our policy expectation for new development to demonstrate biodiversity net gain (BNG) using the DEFRA metric.

Unfortunately the technical note has not calculated the habitat gains correctly as the post development habitat values need to take into account the baseline value of the habitat that is being modified/enhanced. As a consequence of not taking account existing habitat values of the areas to be enhanced the numbers provided appear to give a much higher gain figure.

I have discussed this issue with the ecologist and hope that they will be able to provide a revised figure prior to planning committee as irrespective of the calculation error I am reasonably content that the habitat creation and management proposed within the landscape strategy should enable effective delivery of biodiversity net gain.

As stated previously, whilst content with the strategy proposed, the level of detail provided does not constitute a fully detailed and enforceable landscape scheme and if the proposed development is to be approved I would suggest that we impose a precedent condition to secure a detailed landscape and ecological management plan (LEMP) by using the condition below. This would also secure a revised BNG figure for the detailed scheme.

Provision, implementation and maintenance of detailed landscape and ecological management plan (LEMP)

Prior to [*insert appropriate trigger point*] a detailed landscape and ecological management plan (LEMP) has 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 and managed and the 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 the proposed landscape and ecological provisions;
- d) Appropriate management options for achieving the stated aims and objectives;
- e) Detailed hard landscape proposals including proposed finished levels or contours, means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
- f) Soft landscape proposals including planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities); Implementation and management programme.
- g) Prescriptions for management actions;
- h) Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);
- i) Details of the body or organization responsible for implementation of plan;
- j) Details of ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;
- k) Means 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 (is) 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.

(9/10/18) My comments from the earlier applications in relation to this site still apply;

I do not consider that the proposed tree removals to facilitate the proposed development raise a significant conflict with policy and can be appropriately mitigated for through the provision of new planting in association with the proposed development. Similarly I have no objections to the hard/soft landscape design proposals but would wish to see further

detail in respect of these matters which could be secured through the imposition of an appropriate condition. (I believe previously we merely sought a detailed landscape scheme – but in terms of securing ‘net gains’ for biodiversity we may wish to use the more recent landscape and ecological management plan approach.)

Overall I would consider the proposed development of the site to provide an opportunity to secure a net gain in respect of how the grounds could contribute to a more naturalistic appearance and ecological enhancement of the site over the previous/existing position.

PROW:

(Re-consulted 15/2/19) No response.

(Comments on previous application 59766)

Thank you for consulting me on this application, I make the following observations:

- *The main impact on the public rights of way network by the proposed development is at the beach access to the public car park area, where Ilfracombe Footpath 36 leaves the road and runs through to The Grampus. This is a very well used public footpath, referred to in the supporting documents and the Design and Access Statement. Not only is it used by people moving between the village centre and the car park / beach, it is also used to connect into the footpath network in Borough Valley, with walkers using the car park / toilet facilities here.*
- *Should the development go ahead in line with the submitted plans, measures must be put in place to protect users of the footpath at the access point by the sea wall from site traffic. All contractors and delivery vehicles should be pre-warned that members of the public may be walking here, and reinforced with onsite safety signs. Should it be necessary to close the public right of way at any stage during the development (for example the laying of tarmac as outlined in the submitted documents) then a formal temporary closure must be in place. This can be obtained from Devon County Council if required.*
- *I cannot determine from the plans and documents whether the footpaths across the site, mentioned in the Design and Access Statement, will be designated as public footpaths connecting to the public highways etc, or will be restricted to use by residents. If routes are to be made public, they will need to be the subject of an adoption process as part of any highway measures agreed, and/or a creation agreement in the case of unmetalled surfaces. Could this be clarified by the applicants please?*
- *Also I cannot determine whether there will be any direct link from the line of Ilfracombe Footpath 36 into the site in the area of the proposed café and toilet block, as the public toilets are currently accessed directly off the footpath here. Could this be clarified by the applicants please?*

I have copied this response to my colleague in Highway Development Control, as any future corporate responses on reserved matters etc would be coordinated through that section.

REPRESENTATIONS

At the time of preparing this report 256 letters of objection, 11 letters of comment and 6 letters of support have been received relating to the application (copies of all the letters have been made available prior to the Planning Committee meeting in accordance with

agreed procedures). A petition with 1237 signatories has also been received setting out objections to the application.

Main Issues

Objection

- Likely to be second homes/holiday lets/lack of permanent residents/no affordable housing.
- Increase in housing in Lee/no need for 23.
- Does not comply with planning policy for housing.
- Does not preserve or enhance the extended Conservation Area.
- Heritage asset (building) demolished.
- Design does not blend with adjoining listed building.
- Visual impact of the development on the character of the village and the local area in terms of style and material.
- Scale, massing, height and design contrary to AONB, CPA. Larger footprint than last time. Third block of houses. Suburbanised.
- Not in the public interest/major development in the AONB.
- Not sustainable development in terms of DVS1A.
- No benefit to local economy/no tourism element of consequence.
- Inadequate infrastructure – roads, shops, schools, bus service, phone signal.
- Traffic generation unacceptable (as with previous use), difficulties for emergency vehicles.
- No need for extra parking.
- No benefit to the community.
- No access for locals to the site/more public space required/gated community.
- Nothing for hikers and kayakers visiting Lee.
- Little provision for tourists/walkers.
- Increased crime likely.
- Less opening hours for the toilet.
- Loss of employment.
- Damage to eco system/area of scientific interest.
- Loss of trees.
- Knotweed problem is not a reason for development/intentional neglect.
- Superficial revisions.
- Previous refusal.
- Local opinion ignored lack of support/lack of engagement on this application.
- Already being marketed.
- Decision could be liable to JR.
- Alternative schemes available, including tourism, local housing and conservation friendly.
- Lack of transparency with VA.
- Impact on the seascape.
- The café is wrongly located and too small.
- The building has been abandoned.
- Light pollution.
- Public health risk from foul drainage.
- Content of Building for Life Assessment.

Observations

- Any dwellings should be restricted to holiday use and some local occupancy.
- Café/Restaurant should be at the sea front/larger.
- Café toilets should be open 24 hours.
- Needs affordable housing.
- Access road improvements are required.
- NT in advanced discussions regarding the café, toilet and car park element.

Support

- The site is an eyesore.
- In keeping with the character of Lee.
- Gradual deterioration has a negative impact on the AONB
- The existing building had lost any character.
- Life will be brought to the village.
- Construction jobs created for local tradesmen.
- Improvement on previous plans.
- Benefits from public seating area, car park and toilets.
- Possible alternative plans are from a small company in Lancashire.
- A step in the right direction.

See attached list for representation names and addresses.

PLANNING HISTORY

Reference	Proposal	Decision	Decision Date
ND AD 153	Proposed advertisement sign	CC	21.11.62
ND AD 257	Proposed advertisement sign	R	15.09.67
ND 945	Proposed erection of Public Conveniences	W	
ND 1065	Proposed Public Conveniences	CC	19.12.62
ND 1279	Proposed swimming pool, cubicles & pump house	CC	25.02.64
ND 1403	Proposed extension to hotel	UC	08.12.64
ND 1426	Proposed staff quarters	UC	19.10.64
ND 1517	Proposed sewage disposal works	CC	21.07.65
ND 1557	Proposed car parking facilities & improved access	CC	02.07.65
ND 1673	Proposed garages & store	CC	21.02.66
ND 1746	Proposed car park	CC	26.10.66
ND 1870	Proposed conversion of shop & flat to dwellinghouse	CC	24.05.67
ND 1874	Proposed covering & enlarging outside passage	CC	23.05.67
ND 2572	Proposed hardening of footpath for public use on OS 2239 & engineering works on part OS 2233	R	23.02.71
ND 2615	Proposed provision of private footpath for public use through amenity area & provision of service access to Chapel Cottage	W	06.04.71
ND 3286	Proposed private drive & pond (Chapel Cottage)	CC	13.09.73
74/0002/34/3	Proposed construction of 2no. tennis courts	CC	08.05.74
75/257/34/3	Proposed fire prevention work	CC	04.03.75
75/394/34/5	Proposed illuminated single sided box sign	W	
75/445/34/5	Proposed single sided illuminated box sign	CC	12.11.75
77/120/34/3	Proposed conversion of store to form 2no. bedrooms, shower room and toilet	CC	02.03.77

Reference	Proposal	Decision	Decision Date
77/748/34/3	Proposed foul drain to serve 4no. dwellings and discharge to existing sewage works within grounds of Lee Bay Hotel, OS 2546, 3144 & pt 2851	CC	17.06.77
79/188/34/3	Proposed additional staff accommodation	R Appeal Allowed	26.06.79 28.01.80
79/1315/34/3	Proposed alterations and extension to existing hotel	CC	06.02.80
0/1040/34/3	Proposed revised entrance (amendment to 2/79/1315/34/3)	CC	07.07.80
83/1924/34/3	Proposed enclosure of existing swimming pool together with the provision of additional leisure facilities and alterations to access	W	
84/845/34/3	Proposed alteration to existing access	CC	28.08.84
84/1685/34/3	Proposed swimming pool extension to existing premises	CC	20.02.85
85/293/34/3	Proposed conversion of gift shop to form dwelling	R	10.06.85
85/2043/34/3	Proposed alterations and extension to existing swimming pool	CC	27.03.86
86/1516/34/3	Proposed store for garden machinery	R	16.09.86
86/2161/34/3	Proposed replacement car park kiosk and change of use to sale of beach goods from Easter to end of September each year	R	15.01.87
2104	Proposed conservatory	CC	13.10.87
2105	Proposed replacement of LPG storage tanks	CC	26.11.87
7423	Proposed glazed covered walkway link between hotel and proposed leisure complex for disabled persons	R	04.01.89
7424	Proposed extension to hotel to form 7no. double bedrooms with en-suite facilities for disabled persons and new reception area	R	07.03.89
7425	Proposed erection of building to enclose existing swimming pool and to provide leisure complex	R	07.03.89
11800	Proposed demolition of stone wall and re-building of same	CC	25.06.90
11801	Conservation Area Application: Proposed demolition of a non-listed wall in a Conservation Area	CC	25.06.90
12096	Proposed temporary siting of 6no. caravans for staff accommodation	R	10.07.90
28983	Notification of works to trees situated in a Conservation Area in respect of felling of 4no. Sycamore & 1 no. Oak trees (Lee Manor)	CC	11.05.00
29579	Proposed formation of tennis court (Chapel Cottage)	W	27.07.00
35198	Proposed formation of tennis court for community use (amended plans) (Chapel Cottage)	CC	12.08.03
45227	Extension & alterations including minor demolition, slate terracing & formation of turning area (amended & additional plans)	W	18.12.07
49712	Redevelopment of redundant hotel complex to form 19 shared ownership holiday apartments, 5 further new build holiday apartments in grounds together with associated cafe/bistro/bar, restaurant, spa, pool complex, kiosk & associated works (amended drawings & flood risk assessment)	FDO	15.11.12

Reference	Proposal	Decision	Decision Date
59766	Demolition of existing hotel & public wc block; erection of 20 Dwellings; formation of new public open space; extension to Existing car park; erection of cafe & wc block; & associated Landscaping, drainage & highway works	R	01.11.16

SUMMARY OF ISSUES

- Previous Decision
- Policy Context
- Housing
- Ecology
- Design
- Heritage Assets
- Landscape
- Amenity
- Drainage
- Transport
- Other issues
- S106

PLANNING CONSIDERATIONS

Previous Decision

Members will recall that a previous similar planning application 59766 was refused for the following two reasons:

1. The proposed development would fail to preserve or enhance the character or appearance of the designated Lee Conservation Area contrary to the statutory requirement set out in the Planning (Section 72 Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area; neither would the proposal preserve the setting of the adjacent Grade II listed Old Mill contrary to the requirements of Section 16 (2) of the Act and its advice that LPAS have 'special regard' to the desirability of preserving listed buildings or their settings. Specifically, the proposal would result in the loss of significance of a non-designated heritage asset (NPPF paragraph 135), less than substantial harm to a designated asset (NPPF paragraph 134) in adversely affecting the setting of the grade II listed Old Mill and would result in a high degree of less than substantial harm to a designated heritage asset in terms of its impact on the character and appearance of the designated conservation area. In this instance, the benefits of the proposed development are not considered such as to outweigh the harm caused to the heritage interest. In these respects the proposal is accordingly considered to be contrary to Policy ENV 16 (Development in Conservation Areas) and Policy ENV17 (Listed Buildings) of the adopted North Devon Local Plan.

2. The proposed development, by reason of its scale, massing, height and design would be detrimental to the conservation and enhancement of the designated Area of

Outstanding Natural Beauty in conflict with Policy DVS1 (Design) of the adopted North Devon Local Plan and Policy ENV2 (The Area of Outstanding Natural Beauty). The proposal would also be in conflict with the conservation, protection and enhancement of the Heritage Coast contrary to Policy ENV3 (The Heritage Coast) of the adopted North Devon Local Plan and would detract from the unspoilt character and appearance of the Coastal Preservation Area contrary to Policy ENV5 of the adopted North Devon Local Plan. As the development represents major development within the designated Area of Outstanding Natural Beauty, the proposal therefore conflicts with the advice set out in paragraphs 115 and 116 of the NPPF.

3. In the opinion of the LPA the proposal would not represent sustainable development contrary to the principles set out in Policy DVS1A of the adopted North Devon Local Plan having particular regard to the adverse environmental impact on the designated heritage assets noted and the loss of use of the site for tourism purposes to the detriment of the sustainable economy of the area.

This previous decision is a material planning consideration.

Policy Context

In the North Devon and Torridge Local Plan (NDTLP) the supporting text explains that beyond Local Centres and Villages, the opportunity to achieve sustainable development is diminished by the increasing absence of services and facilities. It is however recognised that there is a further tier of generally small settlements, with and without services, which contribute to the overall sustainability of the rural area.

Appropriately scaled and located development to meet locally identified generated housing needs will be supported in qualifying Rural Settlements (requiring the settlement to have at least one service or community facility from the following:- community/village hall, post office, public house, convenience shop, place of worship, sports playing field, primary school), as enabled by Policy DM24: Rural Settlements. Lee has three of the aforementioned facilities.

However, it must also be recognised that Policy DM24 is intended for local occupancy dwellings to meet a locally identified housing need, which will be supported where:

- (a) the development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from urban areas of other defined settlements;
- (b) the scale is proportionate to the settlement's size, form and character;
- (c) the site is within or directly adjoining the built form of the settlement;
- (d) the size of the dwellings are no larger than can be justified by the established need;
- (e) it would not harm the settlement's rural character and setting; and
- (f) secure arrangements are made to ensure the dwellings remains available to meet the locally identified housing needs of the local community both initially and in the long term provided the need exists;

The proposal does not comply with this policy.

On the other hand it must be recognised that this is not a greenfield site but previously developed land. The NDLP states 'The Plan aims to maximise the re-use of previously developed sites and the existing building stock in order to promote urban regeneration and minimise the loss of countryside. Generally, all forms of development will be encouraged

to make use of previously developed land and buildings where appropriate and practical to their circumstances in preference to using greenfield sites’.

This approach is reflected in paragraph 117 of the NPPF which requires that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land (Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity).

In terms of potential alternative uses of the site, the Economic Development Officer confirms her previous comments on the last application 59766, which questions the exclusion of tourism use of the site and the impact of a large housing scheme on the attractiveness of the area and the tourist economy.

A further review of the viability of the re-use of the site for on-going holiday use was submitted in February 2018 which concludes that a proposed hotel use would be unviable due to the location, associated high wage costs and challenging occupancy. It was also considered whether the site could be redeveloped as 24 self-catering holiday apartments, but this was also found not to be viable. The opinion from Savills is that there is no viable future holiday use for the Lee Bay site.

The AONB team who had initially raised concerns about the viability of the proposed café are now reassured that a sustainable long term operator would appear to have been secured.

It is worth noting that the last tourism led scheme proposed for the site (49712), including retention of the historic core of the hotel did not materialise, despite a resolution to grant planning permission.

Generally in terms of alternative uses, the applicant advises that *‘Colliers have identified that the site has been unsuccessfully marketed in the past, since the closure of the hotel. Colliers have considered the possible reuse of the building for residential care, offices, medical, educational or other leisure uses but because of the relative remoteness of the location and the high associated rebuilding cost it is highly unlikely that any alternative use could be achieved for the site.*

In conclusion, market advice as outlined above, and the experience of seeking funding for the previous scheme has confirmed that re use of the site as a hotel, an apart hotel and/or scheme of holiday-let apartments or other alternative uses would not be viable in this location. Acorn Blue and its consultant team has reasonably concluded that the only way in which the site can be regenerated will be through a residential-led scheme of regeneration. To ensure that a scheme is viable, and can maximise opportunities to deliver an appropriate package of community benefits and address the technical constraints, it will be necessary to develop a range of residential units from flats through to family homes’.

Further comment on viability issues is set out in the section Heritage Assets below.

Whilst it is accepted that the loss of tourism use is regrettable, no alternative tourism based schemes have been submitted to the Council for consideration since the last

planning application either as informal pre-application enquiry, or formal planning application.

Housing

North Devon Council considers that they are able to demonstrate a 5YHLS in accordance with the provisions of their adopted development plan, as evidenced through their North Devon 2016/2017 Authority Monitoring Report (AMR). On this basis the “tilted balance” need not apply to decision taking in North Devon and the demonstration of a joint 5YHLS at adoption of the North Devon and Torridge Local Plan simply reinforces that position.

In terms of housing proposals in the adopted Local Plan, the site is an unallocated brownfield site outside the development boundary. The site has not been identified in the SHLAA.

In rural settlements such as Lee, the policy is that the occupancy of any dwellings will be restricted to meeting the needs of the local community in accordance with the occupancy restrictions set out in paragraph 13.133 of the Plan. Consideration of Policy DM24 is set out above and is related to spatial strategy Policy ST07 which supports development in Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs.

Clearly the proposal is at odds with the general approach to housing provision in Lee, because the scheme is for 21 open market dwellings. Consequently, there is an understandable concern locally that the dwellings proposed will become second and holiday homes. The LPA does not have the ability to prevent this type of occupancy, whether in new or existing open market dwellings.

A concern expressed in some public representations is that the scheme lacks any element of affordable housing.

It will be noted that the Housing Officer accepts that Vacant Building Credit means that there is no requirement of affordable housing in this instance.

It should be noted that the Housing Officer has also provided guidance on what is required in terms of affordable housing, should it be considered that VBC does not apply in this case.

The Written Ministerial Statement relating to thresholds for affordable housing contributions and more significantly in this case Vacant Building Credit, has been re-introduced by the government and incorporated into the NPPF and NDTLP in Policy ST18.

Planning practice guidance advises that the vacant building credit applies where the building has not been abandoned.

The Council needs to consider whether any building is not an ‘abandoned building’ or vacated solely for the purpose of redevelopment and the factors to take into account include:

- i) The physical condition of the building;
- ii) The length of time that the building had not been used;

- iii) Whether it had been used for any other purposes; and
- iv) The owner's intentions.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

On the basis that the hotel has not been 'abandoned' in planning terms, there will be no affordable housing requirement. This is because the existing hotel floor space of 2,772 sqm (GIA) is greater than the cumulative proposed residential floor space across all 23 units of 2,666 sqm (GIA). The cumulative residential floor space is therefore 106 sqm (GIA) less than the total floor space of the former hotel building.

Objectors to the scheme suggest that the hotel has been abandoned and consequently, VBC does not apply. The applicant has been asked to comment further on this matter and comments 'I recall that the Council sought its own legal advice on the matter of abandonment in 2016 prior to the consideration of planning application 59766. There has been no material change in circumstance at the application site since the provision of this advice in 2016. The building's superstructure remains substantially intact. It is our view that the building could be brought back into use through the reinstatement of services, repairs and refurbishment – if it were viable to do so'.

As stated in the Introduction to this report, members were keen to see affordable housing included in the scheme, whether vacant building credit applies or not. On the question of affordable housing need, the recently completed Lee & Lincombe Housing Needs Report concludes that there is a need for 7 dwellings over the next 5 years comprising 6 one or two bedroom properties and 1 five bedroom property.

The applicant has been made aware of this, but the latest response is 'the application of Vacant Building Credit negates any requirement to provide affordable housing. Furthermore, the Viability Appraisal will confirm that neither the current 23 No. scheme, or proposed revised 21 No. unit scheme, would generate sufficient revenue to enable the provision of affordable housing'.

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).

The application is accompanied by an Ecological Appraisal and Protected Species Survey Report, supplemented by a further update survey in February 2017. The Appraisal concluded that the existing ecological value of the proposed development site is moderate.

It is likely that the site is used by bats, badgers, nesting birds and reptiles, which led to the Protected Species Survey Report.

The following enhancement measures were proposed and have been re-confirmed by the 2017 survey:

- The inclusion of appropriate locally native plant species in landscape garden planting plans. The Devon Biodiversity Action Plan will be used as a guide to the appropriate species mix;
- Habitat improvements to the stream corridor and culvert including landscaping incorporating locally native aquatic and water-margin plants;
- Installation of bat and bird boxes in existing trees, and installation of artificial features for bats, birds and insects within the development
- The management and enhancement of hedgerows to improve ecological quality and structure and the retention and protection of mature trees.

Slow worms have also been found on site, which will require translocation.

A concern was initially raised by Natural England about potential impact on the Marine Conservation Zone, but this has been allayed by confirmation that the proposal includes creation of a reed beds to receive discharge from the packet sewage treatment plant before it enters the stream. This is again mentioned in the latest consultation response, but the wetland/reed bed although not specifically shown as such in latest landscape plan, is still included in the earlier Engain Reed bed details and Hydrock FRA, Drainage and Hydraulic Modelling Report, which form part of the application submission.

With regard to Biodiversity, Policy ST14 and DM08 of the NDTLP requires that losses to biodiversity must be minimised, fully mitigated and compensated for by the creation or enhancement of habitat and the Government policy set out in section 15 of the NPPF is to minimise impacts on biodiversity and provide net gains.

Following adoption of the North Devon and Torridge Local Plan, Policy DM08 relating to Biodiversity and Geodiversity states at (8) 'Development should avoid adverse impact on existing features as a first principle and enable net gains by designing in biodiversity features and enhancements and opportunities for geological conservation alongside new development. Where adverse impacts are unavoidable they must be adequately and proportionately mitigated. If full mitigation cannot be provided, compensation will be required as a last resort'.

'New development will contribute towards a net gain in northern Devon's biodiversity. All development will be expected to provide a net gain in biodiversity where possible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support 'biodiversity offsetting' to deliver a net gain in biodiversity off-site in accordance with adopted protocols. The DEFRA metric (Technical Paper: The metric for the biodiversity offsetting pilot in England, DEFRA (2012) or subsequent revisions) will be used to assess the extent of any net gain and acceptability of developments having an impact on biodiversity'. The applicant has submitted a Biodiversity Offsetting Metric for consideration and a response from the Landscape & Countryside Officer is awaited.

Natural England welcomes the proposal to deal with invasive species such as Japanese knotweed.

Design

Criticism of design remains an issue with the public and certain consultees, with the suggestion that this will have a detrimental impact on the character of the conservation area. The criticisms relate primarily to scale, massing, height and materials. Heritage issues are specifically considered in the next section.

Part 12 of the NPPF establishes the parameters for new design, identifying at paragraph 127 that planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This approach is echoed in Policy DM04 of the NDTLP which relates to Design Principles.

A summary of the design is set out in the Proposals section above, changes having been made to the detailed design in August and September 2017 and more recently in February 2019.

The 'Arrival Building' comprising apartments, stands on the area occupied by the core of the existing hotel. The ridge of the roof of this building will be for the most part no higher than that of the existing building. At the western end the new building is set 4 metres back from the site boundary, reducing impact on the listed building opposite.

With regard to the most recent amendments to the design, the agent advises 'Further to the decision of the Council's Planning Committee to defer consideration of the application for three months at its November 2018, the scheme was amended. The design and dwelling mix of the previously proposed 'Middle' and 'Upper' Buildings have been revised with the loss of two residential units, and removal the upper storeys. The changes to the scheme are summarised below:

- The Middle Building now comprises a terrace of 4 No. 2-storey houses: 2 No. 3-beds; and 2 No. 4-beds.

- The Upper Building comprises a block comprising 2 No. 4-bed houses and 2 No. 3-bed flats.
- The reduction in units has enabled all residential car parking and visitor spaces to be accommodated within the residential part of the site'.

The Middle Building is now 2.6 metres longer, but the road facing gable at the lower western end has been reduced in height, which has lowered the ridge line by 1.75m. A road facing gable has been introduced at the eastern end and the ridge height at this end is unchanged. Removing roof level accommodation has resulted in a greater expanse of roof, but also the opportunity to step it down halfway along the building. On the south side of the building, the change is significant as a consequence of removing the top floor, resulting in a more appropriate elevation in terms of the locality. Timber cladding and fish tail slates no longer feature on the middle building.

The Upper Building has changed more significantly in terms of the roadside view, with a simpler façade and again the opportunity taken to step the roof down towards the sea front. A gable at the western end has been omitted, resulting in a drop in ridge height of 1.5m. As with the Middle Building, on the south side of the building, the change is significant as a result of removing the top floor, resulting in a simpler, more compact elevation and a scale more representative of the locality. Timber cladding and fish tail slates no longer feature on the upper building.

The palette of materials used, which is reflected in the appearance of the apartment block, the middle and upper blocks to the east and the café can be found in the village, comprising render, substantial areas of natural rubble stone and natural fish tail slate detailing (to the apartment block only), under a natural slate roof, although the use of timber cladding in some elevations to the apartment block and café is less prevalent.

The overall appearance of the buildings in terms of detailing, arrangement of materials and proportions does not exactly reflect existing buildings in the village and has a distinctive style of its own, although the middle and upper blocks have moved a long way towards an appearance which is more sympathetic to the character of Lee. The merits or otherwise of this approach is to some extent subjective, but the existing hotel building is also unique in terms of the village, in its scale and appearance.

The design is discussed further in the next section of the report relating to Heritage Assets.

Policy DM04 (2) requires that 'All major residential proposals will be expected to be supported by a Building for Life 12 (BfL12) (or successor) assessment. High quality design should be demonstrated through the minimisation of "amber" and the avoidance of "red" scores'. The applicant has now submitted a Building for Life Review, although the content of the document has drawn criticism from objectors.

With regard to Policies ST01 to ST05 and ST16 relating to sustainable development and renewable energy as applied to the buildings to be constructed, the Design & Access Statement sets out energy considerations and how sustainable construction will be achieved.

The Designing Out Crime Officer has no objections in principle, but seeks clarification in respect of Secured By Design requirements and has some concerns about informal garden spaces, communal parking areas and arrangements for the café, toilets and public

car park. Some of the enhanced security suggestions are welcome, but additional fencing and gates, for the apartments and housing and car parking, is likely to have a detrimental effect on the openness of the valley.

A landscaping scheme has been submitted which is intended to 'integrate the proposed landscape into its context and reconnect the existing alluvial landscape with the water'. The proposals include: private tarmac car parks; back gardens with informal shrub boundaries; terrace to the café; reinforced grass café service area; central pond and stream; public car park with a porous surface; central meadows and woodland; wild stream garden; stone paved public terrace; shared front gardens; and, wild front gardens. These proposals are acceptable in principle to the Landscape & Countryside Officer.

Heritage Assets

A designated heritage asset can be a listed building (including curtilage listed building), Conservation Area, Registered Park or Garden or Scheduled Ancient Monument.

An undesignated heritage asset is one that has been identified by the Local Planning Authority. These can include locally listed buildings, archaeological sites, and buildings or structures considered to have local heritage significance.

A Core Planning' principle of the NPPF in terms of sustainable development is to contribute to protecting and enhancing our natural, built and historic environment (paragraph 8).

In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a general duty on a Local Planning Authority in respect of conservation areas in the exercise of their planning functions. In the exercise, with respect to any buildings or other land in a designated conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area which may be identified in a Character Appraisal .

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act states that 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. The same duty is repeated relating to planning permissions affecting listed buildings at Section 66 of the Act and applies to all decisions concerning listed buildings.

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 193 to 197 of the NPPF will need to be applied.

It will be noted from the response from Historic England (27/2/18) following submission of additional information, that there are concerns about the visual intensification of development within the location, which conflicts with the character and appearance of the conservation area.

In response to the structural report from Savills they take the view that although the site has been made secure, there has clearly been no maintenance carried out on the building since its closure. They consider that the building could be reused and comment that 'The cost of full repair and renovation put forward in the application is significant. However, it is not clear how this compares to the cost associated with the demolition and construction of the proposed new buildings within the locality. They query the potential difference in expense and maintain that 'the building could be converted and adapted to reflect some of its former glory. The structural report does identify some concerns but we are not convinced that the associated costs would defer substantially from that of the new builds. Consequently, we would question the justification present through the associated costs compared to the current proposals'.

(Further information was submitted on 24th July 2018 including a Conversion Option Report for a scheme of 14 residential units and confidential appraisal of the hypothetical conversion scheme).

With regard to the Financial Viability Assessment, concern is maintained about the visual density of development along the north-east side of the site and HE comment that through robust analysis it will establish whether there is sufficient justification for the harm caused to the heritage asset and whether the quantum of development proposed is the minimum necessary to secure the regeneration of the site. It will also need to demonstrably outweigh the harm caused to the conservation area as identified in the NPPF, which includes securing the assets optimum viable use as well as associated public benefits. The council should be mindful that in the Planning Practise Guide optimum viable use *does not relate to the most profitable solution but the one most compatible with the long term conservation of the asset.*

In terms of the previously amended plans, the Heritage & Conservation Officer view (19/9/17) was that in summary *'my view in relation to the effect on the Conservation Area is that the proposal will result in less than substantial harm to the significance of this heritage asset. As detailed above I consider that the proposal will not preserve the setting of the listed building, leading to a degree of less than substantial harm in this respect. The proposal will also result in the total loss of a non designated heritage asset. Therefore, under the terms of the NPPF, a balanced judgement which takes into account the scale of harm, the significance of the assets affected, and the public benefits of this proposal will need to be made'.*

The Lee Conservation Area Character Appraisal has recently been adopted and any development schemes for the Lee Bay Hotel should seek to:

- Maintain a robust sense of enclosure along the northeast side of the site along the main road;

- Maintain a varied roof-scape, as this will be prominent from elevated viewpoints around the village – mixtures of roof-forms and junctions including steps in both eaves and ridge could be used to add interest;
- Attain a high architectural standard which takes design cues from prevalent local styles where possible;
- Reflect the varied and eclectic forms of development within the village, avoiding standard urban designs with no local distinctiveness;
- Provide publically accessible, and appropriately landscaped open space overlooking the beach frontage;
- Enhance, through water and landscape design, the condition of the valley setting;
- Maintain open elements within the site to avoid harm to the significant contribution undeveloped spaces make to local character.

The original full Financial Viability Assessment was considered by the Council's independent adviser and subsequent discussions took place to see if an agreed position could be reached. The Council adviser was of the view that a scheme for 18 dwellings rather than 23 would be viable based on that FVA.

The issue here is the comment from Historic England that the main justification for the loss of the building and the quantum of development is the viability of the scheme. The optimum viable use does not relate to the most profitable solution but the one most compatible with the long term conservation of the asset (Planning Practice Guide).

Therefore, the LPA need to robustly assess the viability of the proposals and ensure that the quantum of development proposed is the minimum necessary to secure the regeneration of the site. This assessment needs to be considered along with any public benefits offered by the scheme and should demonstrably outweigh the harm identified to the heritage assets affected.

With reference to the Conversion Option Report, it is noted that it is feasible to convert the building into 14 apartments, but the applicant sets out a number of technical and financial points stemming from the Report stating why in the applicant's view this would not be practicable.

Additionally, the applicant's view was that if the 14 unit conversion scheme were to be included, it would still be necessary to construct 10 new build units in the middle and upper blocks, plus an additional 250 sqm of GIA, resulting in more than 24 units.

The Heritage & Conservation Officer and Historic England were re-consulted on the Conversion Option Report and their views are set out in the letters included as Inserts.

Essentially, the comments were:

- The independent review of the viability of the scheme, which was that a reduced scheme for 18 units will also be viable.
- The Conversion Option report assumes that the eastern section will be removed, but retains the modern extensions on the southern, garden front, which are not of historic or architectural value which could be removed without detriment to the character of the historic element of the building, or of the Conservation Area.

- It is not beyond a competent architect to achieve a better use of this part of the building, or to identify a way of protecting against damp.
- The Conversion Option report states that there are no structural drawings for the building, therefore there are some uncertainties about the need for new structural supports. It also makes the point that there have been 10 years of progressive moisture damage. Both of these points are true; the first can be remedied through the provision of a structural survey and the second could have been addressed if the building had been maintained, rainwater goods cleared etc. From the appearance of the building it is evident that this has not been the case.
- There are several relevant paragraphs in the NPPF, among them:
- P191 “Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.” (Note that ‘heritage asset’ includes non-designated heritage assets)
- P197 “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
- I am not convinced that the Conversion Option Report provides sufficient certainty that there is no viable means of retaining the historic core of the building.

The comments of Historic England on this matter are set out in their letter of 22nd August 2018.

The applicant disagreed with the appraisal produced by the Council adviser and maintained that 23 units was the minimum required to produce a viable scheme and that the adviser is wrong to have indicated that the loss of 5 units would still be viable. The applicant’s letter confirmed that there remained areas of disagreement, principally in terms of GDV and developers profit.

The letter was accompanied by a shadow appraisal Rev B in which it is stated an 18 unit scheme renders the Council adviser’s appraisal as -£72,139 in deficit. The Council adviser does not agree with the conclusions in that letter, other than where it also concludes that an impasse has been reached.

His view was that the previous VA that he carried out still showed that a lesser scheme of 18 units would be viable based on his figures as opposed to those used by the applicant’s consultant.

On the basis of the above, it appeared that no further progress could be made on this issue and the proposal would not comply with policy relating to heritage assets.

As referred to in the Introduction an updated appraisal has been submitted by JLL on behalf of the applicant and made publicly available. A copy has been sent to PCC for independent assessment.

The applicant states that the result of this engagement (with PCC), was a difference of opinion in respect of the scheme costs. To address this matter the applicant has sought a detailed construction quote from a local well-reputed contractor, Classic, and a detailed full costing appraisal from a nationally renowned Quantity Surveyor, Taylor Lewis’.

In response to correspondence from the applicant, the view from NDC's viability adviser at the time of the last Planning Committee was *'The NPPF/PPG states that an applicant must demonstrate why a proposed development is not able to comply with the policies adopted in the current Local Plan, and the LPA as the decision maker, consider how much weight to attach to such an application.'*

Following the deferment of the original application Acorn Blue decided to update their viability submission, and instructed JLL to present a viability report, which was produced in November 2018. PCC had been engaged to carry out an independent review of the original viability report submitted and asked to comment on this updated appraisal from the deferred application.

The results from the JLL appraisal demonstrate that the application for a 23 unit scheme provides an acceptable profit level and is therefore viable. Whilst considering alternative inputs PCC also reach the same conclusion, and therefore there is 'no case' to consider on viability terms.

The Applicant also requested JLL to consider the hypothetical case of 18 units (through the removal of one of the 5 unit blocks) and concluded that the profit level would not be sufficient, and therefore not viable.

Obviously an 18 unit scheme will produce a lower total sales income (GDV) but PCC believe that the removal of one of the blocks will show additional savings in build cost, and still result in a profitable development in accord with the NPPF.

In order to reach an agreement on the predicted build cost for a reduced unit development, PCC proposed that an independent local QS be engaged to review the cost plan, but this has yet to be undertaken.

PCC understand that the applicant is considering a further reduction in the impact of the structure by introducing an alternative 21 unit scheme. Perhaps this proposal will be more acceptable from a landscape and heritage point of view, and provide the profit levels required.

However planning policy requires that the viability review is to consider the application as submitted, and the only validated application at this date is the 23 unit scheme, which both JLL acting for Acorn Blue, and PCC as the independent consultant concur is viable'.

In terms of both heritage and design considerations, there was a request from members that the applicant look at opening up the centre of the site through re-design of the layout, that could possibly include moving, reconfiguration and resizing of the accommodation in the different blocks. This is to reduce impact on the Conservation Area relating to the concerns of conservation officers. If the number of units was reduced to 18 this would have allowed removal of the middle block, further opening up views.

The applicant response was, *'noting the Planning Committee's clear preference to secure an amendment to the scheme that would further reduce the quantum of the development, the applicant has examined alternative options relating to the design and mass of the proposed 'Upper' and 'Middle' buildings. I can advise that it is the applicant's intention to submit further and final revised plans 'compromise' proposal for 21 No. dwellings which*

will reduce the 'Upper' and 'Middle' buildings by one storey whilst retaining the absolute minimum quantum of proposed development to enable a viable scheme'.

Amended drawings have now been received.

From the responses of the HCO and HE set out above, a number of points are made:

- The amended designs to the middle and upper buildings are an improvement, but concerns about the apartment building remain in respect of design, detailing and massing.
- Concerns remain about: loss of the non-designated heritage asset, which results in less than substantial harm but harm nonetheless; impact on the setting of the adjoining listed building; effect on the character and appearance of the Conservation Area.
- Any justification for the development needs to take account of the Viability Assessment and scrutiny of the Conversions Options Report.
- Visual intrusion into the Conservation Area will result from the landmark building, upper and middle buildings which are sizeable structures, and parking areas.
- Justifiable harm must be considered against public benefits, including optimum viable use, requiring a rigorous assessment of public benefit.

Returning to the question of viability, PCC have analysed the latest information and conclude:

PCC has undertaken a review of the original Alder King financial viability assessment of the Acorn Blue application for a 23 unit scheme last year. PCC has subsequently considered the viability advisor's report of November 2018, and also the subsequent revised 21 unit scheme of February 2019. PCC concur with JLL that both the 23 and 21 unit schemes are viable.

PCC conclude that there is sufficient headroom within scheme to allow for all the requested S.106 contributions.

It appears that the cost information supplied by the applicants' consultants is confusing and misleading. Therefore PCC will reply on the opinion by Gates, the independent local expert QS, whose conclusion is that assessment "indicate that the rate used in Cost Estimate 3, is very high and includes preliminary costs."

PCC have also commented on the possible reduction to provide 17 units. As mentioned this is based on a further re-run of the appraisal. We have made the assumption that there will be an adjustment of the abnormal costs which are still applicable, and have been incorporated in our appraisal.

PCC has undertaken additional research into the local property sales market, and been informed of sales of properties in the Bay in excess of previous comparable data.

As mentioned, PCC have reviewed prices achieved in other exclusive seaside locations and are of the opinion that the sales values exceed the figures suggested in the VA submitted by JLL and consequently have increased some of the GDV in line with this research.

PCC has reviewed the data supplied by the applicant and their advisors, and believe that some of this information is conflicting and potentially confusing.

In conclusion, based on the observations outlined above reviewed by Gates, PCC has analysed both the 21 unit and the potential 17 unit scheme and conclude that both developments are viable.

Landscape

The site is located within an area that is designated as Area of Outstanding Natural Beauty, Coastal Preservation Area and Heritage Coast. Consequently, policies ST09 and ST14 are relevant, as is paragraph 172 of the NPPF.

The NPPF states at 172 that 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated'.

For the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

It is worth noting that on the question of whether this proposal is EIA development, partly on the basis of potential impact on the AONB, whilst not commenting on the merits of the scheme, a response from DCLG states 'having taken into account the selection criteria in Schedule 3 to the 2017 Regulations the Secretary of State does not consider that the proposal is likely to have significant effects on the environment' further commenting: 'While this essentially involves redevelopment of a previously developed site, the Secretary of State recognises that the scheme would still involve building works in an area of environmental sensitivity, which raises issues on scale, massing, height and design. However, given the nature of the proposal, he considers that any impact on sensitive areas would be largely visual and he considers that these matters could be handled through the normal planning process, by considering the documents supporting the planning application for example, without subjecting the scheme to full EIA'.

North Devon Coast AONB originally raised concerns about certain design aspects, whilst accepting that this was an improved application compared to the previous proposal.

On consideration of the amended plans their view was that the revised plans addressed those areas of concern relating to: detailed design of the west elevation; detailed treatment of the pavement and its impact on character, which could be conditioned; viability of the

proposed café; and design of the toilets. A pedestrian link between the café and footpath to Lee village was their only outstanding area of objection. They also expressed sympathy with the view of the L&LRA about the opportunity for affordable housing.

Taking into account the tests in paragraph 172, clearly the condition of the existing building and its grounds is not in the public interest and redevelopment of the site in some form would be. In proposing the current scheme the applicant cites in support of the proposals: failure to find an alternative use; limited loss of historic features; landscape improvement to the hotel grounds and watercourse; the opening up of views across the valley; new public open space; improved and extended public car park; provision of housing; new sewage treatment plant; café provision; re-use of recycled materials; employment opportunities; and, energy efficient buildings. The development could have a positive impact on the local economy. On the other hand the need for 23 open market dwellings in Lee is questionable.

There is scope for developing this level of housing outside the designated area, now that the Planning Inspector has found the NDTLP to be sound and the Council position that a 5 year housing land supply can be demonstrated. Alternative sites are available for housing within the parish, but it is the case that no other similar brownfield redevelopment sites are available in Lee.

The existing hotel building which has been the subject of extension is of a scale that is untypical of the rest of the village. The amended proposals in terms of buildings comprise three blocks of dwellings. The largest westernmost building is three storey viewed from the south, two storey for the most part viewed from the north, with a terraced cottage character. Horizontal features help to reduce the sense of height. A palette of materials mostly found elsewhere in the village is to be used. The middle and eastern blocks are smaller, but are similar in design. The latter block is also largely hidden from the road by a tree screen. Views of all three blocks are available from the south, but are seen against the backdrop of the north side of the valley and other dwellings higher on the hillside. The café and toilet building to the south of the site is single storey and again uses an appropriate palette of materials. On balance, it is considered that the scale, massing, height and design of the development will not have a detrimental effect on the AONB or other landscape designations.

Amenity

In consideration of environmental protection matters, the Environmental Health Officer recommends the inclusion of conditions relating to: Contaminated Land survey and reaction; Construction Management Plan; Demolition/Construction Times; and Asbestos survey and removal.

With regard to Policy DM01 and DM02 it is not considered that the development will adversely increase impacts on the occupiers of neighbouring residential property.

Drainage

The EA advise that 'We have no objection to the proposal. The submitted Flood Risk Assessment (FRA) by Hydrock dated April 2017 has correctly identified the flood risks and suggested suitable mitigation measures, which include taking a sequential approach to siting, appropriate finished floor levels and landscaping measures. You may wish to include a planning condition to secure the implementation of these measures'.

With regard to surface water drainage SUDS is not a feasible option on this site. It is therefore proposed to discharge surface runoff rate at the existing greenfield runoff rate to mimic the existing situation. All impermeable areas will be positively drained via gulleys and rainwater downpipes to dedicated surface water sewers discharging to the existing watercourse. The discharge from the development will be via a headwall outfall structure to the existing watercourse which then immediately discharges to Lee Bay via an existing culvert under the main road. Excess volumes of water generated by the restricted discharge flow rates will be contained within cellular storage tanks which will be located outside of the 100 year flood plain to the existing watercourse. The existing car park to the south of the watercourse will be revised in terms of layout and will be reconstructed using permeable materials that will allow water to percolate direct to ground. The Flood and Coastal Risk Management Team recommend conditions.

Foul drainage requires improvement and it is proposed to site a new foul package treatment plant beneath the car park to the south. This will need to include provision for some properties to the north of the hotel that link in to the existing hotel system, including a small private pumping station on-site. There are no objections from consultees in principle, but the Environment Agency and Environmental Health raise a concern about public health implications from the foul drainage and suggest the need for further information. Environmental Health comment that the applicant will need to provide a specialist assessment of potential risks to public health that considers the specific circumstances involved. The assessment would need to be prepared by a suitably qualified person and make reference to relevant standards and guidance. The aim will be to consider where the proposals might create any unacceptable health risks (for example whether members of the public such as young children might be exposed to unacceptable levels of pollution risk when using publically accessible areas of the beach / watercourse) and to propose monitoring and mitigation options to address any significant health risks identified. The assessment should consider risks associated with normal operation of any proposed system and also risks associated with any potential malfunctioning of the system along with how any malfunctioning risks could be monitored for and controlled. It may be helpful if the assessment can refer to comparable sites at which similar circumstances have been successfully addressed.

Once the above assessment has been prepared and assuming an acceptable scheme can be identified; implementation, operation and maintenance of the scheme could then be conditioned on any planning permission.

Any proposed scheme will clearly need to meet Environment Agency permit requirements.

This approach is confirmed by the Environment Agency.

In response, the applicant suggests the use of a pre-commencement condition, which is acceptable in principle to officers, but may require a significant amount of additional work by the applicant to provide an acceptable standard of drainage.

Transport

The Transport Statement originally submitted with the application reaches the following conclusions:

- It is proposed that the former Lee Bay Hotel site at Lee Bay near Ilfracombe be redeveloped from the current 56 bedroom Hotel to 23 residential dwellings consisting of

a mixture of detached houses, terraced houses, and apartments. Of these, ten are proposed to be 2-bed units, seven are 3-bed units, and six are 4-bed units.

- Lee and Lee Bay benefit from a small local store located within the Grampus Inn from which a limited range of convenience goods are available. This is located within an easy walking distance of the development site. Public transport services are also available to and from the nearest town of Ilfracombe.
- The parking needs of the proposed development can be readily accommodated on the site. A total of 41 residential parking spaces are proposed within two proposed car parks. In providing this level of parking, the area of existing hard standing located to the west of the former Hotel building can be closed off to vehicular traffic and converted to a public terrace.
- The existing public car park accessed from the Sea Front will be resurfaced and rationalised to improve the quality of the parking area and to increase the number of spaces available to the general public from approximately 40 to 75 (including 3 spaces for disabled drivers. This will help to reduce on-street parking in the local area which can take place in inappropriate and / or illegal locations.
- The proposed access arrangements to the site involve the creation of two new priority junctions on the site's northern boundary to provide access to the two new car parks associated with the residential aspects of the scheme. Access to the publically accessible car park and the proposed commercial aspects of the scheme on the southern edge of the site will remain the same as currently exists.
- Traffic flows associated with the proposed development have been shown to be considerably less than those that might otherwise be associated with the extant Hotel use of the site. This provides a considerable benefit to highway safety on the local roads in the vicinity of the site particularly given the removal of coach trips previously associated with the extant Hotel use.

No objections have been received from the Local Highway Authority, which recommend conditions to be used if approval is granted.

In the meantime, the scheme has been reduced by 2 dwellings to 21.

No response has been received from the PROW officer, but in response to the previous application he requested protection is put in place for users of the public footpath adjoining the site during construction. This can be required as part of Construction Management Plan (CMP) condition.

Other Issues

Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act 1990 so that when determining planning applications, Local Planning Authorities should also have regard to any local finance considerations, so far as material to the application. Local finance considerations means a grant or other financial assistance that has been, or will or could be provided to the relevant authority by a Minister of the Crown, or Sums that a relevant authority has received, or will or could receive, in payment or a Community Infrastructure Levy. In respect of this proposal consideration should be given to the fact that a New Homes Bonus may be generated by this application.

S106

DCC as education authority have requested a contribution totalling £195,638 plus legal costs in respect of secondary and primary school provision and transport costs in respect of both primary and secondary schools serving the site, plus early year's provision.

In consideration of Policy DM10, a revised contribution of £103,615 is requested by the Project and Procurement Officer Parks, Leisure and Culture, part of which could be used in conjunction with National Trust schemes, provided they meet the relevant tests.

CONCLUSION

As reported to previous meetings, this site comprises an empty hotel, grounds and car park located behind the beach at Lee Bay.

Paragraph 47 of the NPPF states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The presumption in favour of sustainable development means that Councils should approve development proposals that accord with an up to date development plan without delay and that development that is considered sustainable should be supported.

Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The NPPF is clear that Decision-makers at every level should seek to approve applications for sustainable development where possible (paragraph 38).

In this instance, as detailed in the committee report, the development now proposed has attracted a large number of objections from local residents and beyond, although it is also recognised that the Town Council have recommended approval in the past, albeit their most recent recommendation was one of refusal.

The NPPF reflects Government policy that there is a presumption in favour of sustainable development and to boost the supply of homes and to take a positive approach to applications for residential development in sustainable locations.

When considering whether development is sustainable, it is necessary to look at the NPPF as a whole, considering all of the policies contained in the NPPF and the actual assessment of whether a development is sustainable or not comes from the weighing up exercise of the impacts and benefits and is not a separate assessment. All relevant issues must be considered as part of this, including the NPPF.

The three dimensions of sustainable development are economic, social and environmental and as a Local Planning Authority it is necessary to apply the presumption in favour of sustainable development and to consider whether the present development would deliver such an outcome.

In applying a balanced approach to decision making, issues relating to ecology, amenity, drainage and transport, whilst drawing some criticism in representations, are supported by consultees and are not seen as a hindrance to the proposed development. Circumstances will in fact be improved in these areas.

Representations question the loss of tourist use provided by the hotel or an alternative tourism use, but tourist accommodation uses are shown by the applicant to be unviable and no alternative schemes have been submitted. The scheme includes an element of tourism use in the form of a proposed café.

A number of public benefits identified by the applicant stem from the application that can be summarised as:

- Regeneration of a derelict / eyesore site that is on the Council's 'stalled sites' list and highlighted for regeneration in the Council's Draft Lee Bay Conservation Area Appraisal.
- Replacement of the redundant hotel building with domestic scale and contextually designed new residential development that works with the site topography creating new views and vistas.
- Provision of 21 No. residential units.
- A landscape-led design with integrated 'blue' and 'green' infrastructure.
- A net biodiversity gain as confirmed in the biodiversity metric analysis.
- The proposed redevelopment of the site will generate significantly fewer vehicle movements than the extant Hotel use.
- New footway provision and associated highway safety betterment.
- Provision of new public open space on the sea frontage and a publicly accessible area of the site extending 0.64ha.
- Provision of a new landscaped public car park.
- Provision of a new cafe building also providing public toilets to replace the existing.
- Private management company to ensure long term maintenance of the extensive grounds.

On the other hand the dis-benefits of the scheme are:

- This is an un-allocated housing site outside any development boundary.
- Lee is a settlement where only limited residential development would be expected to take place.
- On the basis that Vacant Building Credit applies, no affordable housing is included in the scheme.
- A scheme for 21 open market dwellings in Lee represents a significant increase in the size of the village.
- Alternative allocated sites are available for the proposed level of housing within the parish.
- The effect on the Conservation Area is that the proposal will result in (less than substantial) harm to the significance of this heritage asset.
- The proposal will not preserve the setting of the listed building, leading to a degree of (less than substantial) harm in this respect.
- The proposal will also result in the total loss of a non designated heritage asset, when it appears feasible to convert the older (historic core) part of the existing building.
- A scheme for 18 dwellings rather than 23 originally proposed could be viable, bearing in mind that optimum viable use does not relate to the most profitable solution but the one most compatible with the long term conservation of the asset.

There are conflicts with the policies in the adopted Local Plan, particularly in terms of those relating to the distribution of housing, the AONB and the impact on heritage assets.

The NPPF is a material consideration which includes a presumption in favour of sustainable development, taking into account the three dimensions: economic, social and environmental.

The NPPF advises that planning applications should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against this Framework taken as a whole.

Of particular concern is that under the terms of the NPPF, with regard to heritage assets a balanced judgement which takes into account the scale of harm, the significance of the assets affected, and the public benefits of this proposal will need to be made.

Following earlier consideration by members, issues to be explored further were:

- Independent review of the latest viability assessment
- A reduction of the number of units
- Re-design of the scheme to open up the centre of the site
- Provision of affordable housing
- A section 106 agreement to be agreed in principle for contributions for public open space and education.

The earlier indications were that a scheme for 18 units, including some reduction in financial contributions, would be financially viable bearing in mind government advice that 15-20% of GDV is a suitable developer return and would allow for a proposal that would resolve the first two issues, which may mean a scheme on such a scale could be supported by officers.

However, the latest indication is that the applicant is unwilling to pursue this option or provide affordable housing.

The independent assessment from Plymouth City Council concurred with the view that a scheme of 23 units is viable. Whilst they accepted that an 18 unit scheme would produce a lower total sales income, the removal of one of the blocks would show additional savings in build cost, and still result in a profitable development in accord with the NPPF. PCC proposed that an independent local QS be engaged to review the cost plan, subject to the receipt of further detailed cost information, but this has been slow in forthcoming.

PCC has analysed both the 21 unit and the potential 17 unit scheme and conclude that both developments are viable.

In conclusion, although now more finely balanced as a result of the latest design amendments, your officers conclude that the benefits of the proposals do not outweigh the disadvantages and the recommendation remains one of refusal.

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

DETAILS OF RECOMMENDATION

Refuse, for the following reasons:

1. The proposed development would fail to preserve or enhance the character or appearance of the designated Lee Conservation Area contrary to the statutory requirement set out in the Planning (Section 72 Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area; neither would the proposal preserve the setting of the adjacent Grade II listed Old Mill contrary to the requirements of Section 16 (2) of the Act and its advice that LPAs have 'special regard' to the desirability of preserving listed buildings or their settings. Specifically, the proposal would result in the loss of significance of a non-designated heritage asset (NPPF paragraph 197), less than substantial harm to a designated asset in adversely affecting the setting of the grade II listed Old Mill and would result in a high degree of less than substantial harm to a designated heritage asset in terms of its impact on the character and appearance of the designated conservation area (NPPF paragraphs 192 and 196). In this instance, the benefits of the proposed development are not considered such as to outweigh the harm caused to the heritage interest. In these respects the proposal is accordingly considered to be contrary to Policy ST15 (Conserving Heritage Assets) and Policy DM07 (Historic Environment) of the North Devon and Torridge Local Plan.

2. As the development represents major development within the designated Area of Outstanding Natural Beauty, the proposal therefore conflicts with the advice set out in paragraphs 172 and 173 of the NPPF because the applicant has not demonstrated that there are exceptional circumstances or that the development is in the public interest. In these respects the proposal is accordingly considered to be contrary to Policy ST14 (Enhancing Environmental Assets) and Policy ST09 (Coast and Estuary Strategy) of the North Devon and Torridge Local Plan.

3. The North Devon and Torridge Local Plan contains Policy ST07: Spatial Development Strategy for Northern Devon's Rural Area, which in Rural Settlements that contain at least one prescribed service or community facility, enables appropriately located development of a modest scale to meet locally generated needs. Policy DM24: Rural Settlements supports in qualifying Rural Settlements, proposals for local occupancy dwellings to meet a locally identified housing need. The proposed development is not considered to be of a modest scale or proportionate to the settlement's size, form or character, does not meet an established housing need including secure arrangements and will harm the settlement's rural character and setting. Consequently, the proposal is contrary to these policies.

INSERT(S) TO FOLLOW OVERLEAF

1. OS Location Plan
2. List of representation names and addresses
3. Natural England 26/6/17
4. Lee & Lincombe Residents Association 31/08/17
5. Heritage and Conservation Officer 15/9/17 and 12/6/18.
6. Historic England 17/7/17, 20/9/17, 23/4/18 and 22/8/18.
7. Environmental Health 17/7/18
8. Conclusions page of Viability Assessment. Plymouth City Council 28/05/18
9. Housing Needs Report – December 2018
10. Summary of Viability – Plymouth City Council 31/1/19

11. Lee & Lincombe Residents Association 22/2/19
 12. Financial Viability Assessment by JLL – March 2019
 13. Lee Bay viability review 17 unit scheme – 28 February 2019
 14. Lee Bay viability review 21 unit scheme – 28 February 2019
 15. Viability Review – Plymouth City Council - 5/04/19
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