

# Application Report

Strategic Development & Planning

Place Services

North Devon Council

Lynton House, Commercial Road,

Barnstaple, EX31 1DG



<b>Application No:</b>	<b>64000</b>	<b>Application Expiry:</b>	<b>31 January 2018</b>
<b>Application Type:</b>	Outline Application	<b>Ext Of Time Expiry:</b>	29 November 2019
		<b>Publicity Expiry:</b>	13 August 2020
<b>Parish/Ward:</b>	Heanton Punchardon/Heanton Punchardon		
<b>Location:</b>	Land At Chivenor Cross, Chivenor Devon		
<b>Proposal:</b>	Outline application for residential development for up to 94 dwellings (all matters reserved) (additional ecological information) (amended information)		
<b>Agent:</b>	RGP Architects Ltd		
<b>Applicant:</b>	Mr Stuart Maskell		
<b>Planning Case Officer:</b>	Mrs J. Meakins		
<b>Departure:</b>	Y		
<b>EIA Development:</b>	N	<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	<p>Committee – Application has been called to be considered by Committee by Ward Member Councillor Davis on the basis of a recommendation of approval for the following reasons:</p> <p>‘My Parish Councils and residents feel passionately that there should be no further development on the North side of the A361. This is something I feel very strongly about, the setting of Heanton village itself would be compromised by any development in this area. This is development in the countryside and as such should be resisted by the Planning authority.</p> <p>The impact of this proposal on highways, infrastructure and the landscape make this speculative application unacceptable.</p> <p>The proposal is using the current poor access onto the A361, the junction is near to the Chivenor roundabout but not onto it, creating heavy traffic flows trying to join the</p>		

busy A361, I would suggest that Mr Young would have a view on this as the professional officer.

There are no community facilities on this side of the A361, the local primary schools are oversubscribed by local children and the site is unsustainable with regard to activities for daily living; schools, doctors, work etc.'

### **Site Description**

The 3.8 ha site is located in the countryside on the northern side of the A361 at Chivenor and consists of land use for a commercial nursery and riding stables subject of application 44374. The site sits within a flat area of land which runs parallel with the A361 for a 542 metre stretch from the right turn only junction with Heanton Hill and to the east of the site. The site is bounded by a variety of treatments, from native hedgerow, fencing and low scrub and ornamental tree planting.

The site is accessed from Heanton Hill Lane to the east and an access track runs parallel to the northern boundary of the site providing access to the various uses across the site.

The land rises steeply to the north where it meets the Heanton ridge with the Grade I Listed Church of St Augustine located approximately 380 metres north of the site. Land levels to the east, west and south remain relatively flat. Woodland and farmland extends from the west of the site towards Wrafton, and farmland extends on the slopes to the north.

To the east of the site lies existing built form at Heanton Lea, formerly holiday chalets and a dwelling, which are now mainly in full residential use and beyond this is Chivenor Caravan Park; a mobile home and touring caravan site with holiday use.

On the adjacent side of the A361 to the north lies the allocated BRA01 site in the North Devon and Torridge Local Plan, which is a mixed use development of residential and employment uses with sustainable transport links. The residential unit are now largely developed, and a small amount of the commercial land has been developed to date. The BRA01 site provided dedicated bus stops on either side of the A361, improved footway provision, a park and change facility and a direct link to the Tarka Trail further north of the allocated site.

The site is located in Flood Zone 1, therefore at the lowest risk of flooding. The site does not lie within any statutory or locally designated landscape area and is Grade 3 agricultural land.

### **Recommendation:**

Approved

Legal Agreement Required:- YES

## Planning History

<b>Planning</b>	<b>Decision</b>	<b>Decision Date</b>
<b>20414</b>	Prior Approval Not Required	16 May 1995
Address: Land At Chivenor Cross (Adj. A361), Heanton Punchardon, EX31 4DJ		
Proposal: Agricultural Building Notification in respect of formation of Nursery		
<b>44374</b>	Full Planning Approval	20 September 2007
Address: Field adjacent to Stuart Holder's Nursery, Chivenor, Barnstaple, EX31 4DJ		
Proposal: Retrospective Application in respect of erection of stables & change of use of field to Riding School (Amended Plan)		
<b>46218</b>	Full Planning Approval	15 April 2008
Address: Stuart Holders Nursery, Chivenor, Barnstaple, EX31 4DJ		
Proposal: creation of new vehicular access		

## Constraints/Planning Policy

### **Constraint / Local Plan Policy**

### **Distance (Metres)**

Class I Road  
Flood Zone 1

DM01 - Amenity Considerations  
DM02 - Environmental Protection  
DM03 - Construction and Environmental Management  
DM05 - Highways  
DM06 - Parking Provision  
DM07 - Historic Environment  
DM08 - Biodiversity and Geodiversity  
DM08A - Landscape and Seascape Character  
DM10 - Green Infrastructure Provision  
ST01 - Principles of Sustainable Development  
ST02 - Mitigating Climate Change  
ST03 - Adapting to Climate Change and Strengthening Resilience  
ST04 - Improving the Quality of Development  
ST07 - Spatial Development Strategy for Northern Devon's Rural Area  
ST10 - Transport Strategy  
ST14 - Enhancing Environmental Assets  
ST15 - Conserving Heritage Assets  
ST17 - A Balanced Local Housing Market  
ST18 - Affordable Housing on Development Sites  
ST21 - Managing the Delivery of Housing  
ST23 - Infrastructure

## Consultees

Name	Comment
<p data-bbox="201 376 442 450">Ashford Parish Council</p> <p data-bbox="201 488 442 562">Reply Received 17 July 2020</p>	<p data-bbox="467 376 639 414">07/12/2017:</p> <p data-bbox="467 450 1425 524">Ashford Parish Council wish to recommend refusal on the following grounds:</p> <ul data-bbox="467 524 1425 819" style="list-style-type: none"><li data-bbox="467 524 1425 598">• Concern has been expressed about the access to and from the site onto the highway, the busy A361</li><li data-bbox="467 598 1425 672">• This is a high density, creeping development, out of keeping with the area and with no infrastructure, e.g. shops</li><li data-bbox="467 672 1425 710">• There are concerns regarding a flooding issue</li><li data-bbox="467 710 1425 784">• Increased intensity of traffic through Ashford being used by local people</li><li data-bbox="467 784 1425 819">• The proposed site is destroying the countryside</li></ul> <p data-bbox="467 857 639 893">05/09/2018:</p> <p data-bbox="467 931 1302 1005">Ashford Parish Council responds in the same way as it did previously in respect of this Application:</p> <p data-bbox="467 1005 1425 1079">Ashford Parish Council wish to recommend refusal on the following grounds:</p> <ul data-bbox="467 1079 1425 1375" style="list-style-type: none"><li data-bbox="467 1079 1425 1153">• Concern has been expressed about the access to and from the site onto the highway, the busy A361</li><li data-bbox="467 1153 1425 1227">• This is a high density, creeping development, out of keeping with the area and with no infrastructure, e.g. shops</li><li data-bbox="467 1227 1425 1265">• There are concerns regarding a flooding issue</li><li data-bbox="467 1265 1425 1339">• Increased intensity of traffic through Ashford being used by local people</li><li data-bbox="467 1339 1425 1375">• The proposed site is destroying the countryside</li></ul> <p data-bbox="467 1413 639 1449">17/07/2020:</p> <p data-bbox="467 1487 1410 1592">Ashford Parish Council wish to recommend refusal, as it has done on two previous occasions on 16 November 2017 and 3 September 2018, as follows:</p> <ul data-bbox="467 1592 1425 1888" style="list-style-type: none"><li data-bbox="467 1592 1425 1666">• Concern has been expressed about the access to and from the site onto the highway, the busy A361.</li><li data-bbox="467 1666 1425 1740">• This is a high density, creeping development, out of keeping with the area and with no infrastructure, e.g. shops</li><li data-bbox="467 1740 1425 1778">• There are concerns regarding a flooding issue</li><li data-bbox="467 1778 1425 1852">• Increased intensity of traffic through Ashford being used by local people</li><li data-bbox="467 1852 1425 1888">• The proposed site is destroying the countryside</li></ul>
<p data-bbox="201 1955 442 2024">Braunton Marsh Drainage Board</p>	<p data-bbox="467 1955 730 1993">No reply received.</p>

Braunton Marsh Drainage Board	No reply received.
Braunton Marsh Drainage Board  Reply Received 25 July 2020	Braunton Marsh Drainage Board have no comments or observations to make on this Application.
Braunton Parish Council  Reply Received 11 August 2020	<p>08/12/2017: Braunton Parish Council wishes to recommend refusal on the following grounds: -</p> <ul style="list-style-type: none"> <li>• It is outside of the development boundary.</li> <li>• It does not fit with the Local Plan or emerging Local Plan.</li> <li>• This application would adversely affect the intrinsic environmental value and character of the landscape as the proposal will harm local wildlife and result in the loss of important wildlife habitat.</li> <li>• Over intensification of the site.</li> <li>• Inappropriate highway access and insufficient visibility.</li> <li>• Flooding concerns the development will increase surface water runoff and impact on the adjacent Chivenor Cross development.</li> <li>• Concerns that the development will increase traffic movement through Braunton which has been declared an Air Quality Management Area.</li> </ul> <p>14/09/2018: Braunton Parish Council wishes to reiterate its previous reasons for refusal, as follows:</p> <ul style="list-style-type: none"> <li>• Outside the development boundary.</li> <li>• Does not fit with the Local Plan or emerging Local Plan</li> <li>• Would adversely affect the intrinsic environmental value and character of the landscape as the proposal will harm local wildlife and result in loss of important wildlife habitat.</li> <li>• Over intensification of area</li> <li>• Inappropriate highway access and insufficient visibility.</li> <li>• Flooding concerns the development will increase surface water runoff and impact on the adjacent Chivenor Cross development.</li> <li>• Concerns that the development will increase traffic movement through Braunton which has been declared an Air Quality Management Area (AQMA).</li> </ul> <p>13/08/2019:  Braunton Parish Council wishes to reiterate its previous comments to recommend refusal on the grounds, as follows:</p> <ul style="list-style-type: none"> <li>• It is outside of the development boundary.</li> </ul>

	<ul style="list-style-type: none"> <li>• It does not fit with the Local Plan or emerging Local Plan.</li> <li>• This application would adversely affect the intrinsic environmental value and character of the landscape as the proposal will harm local wildlife and result in the loss of important wildlife habitat.</li> <li>• Over intensification of the site.</li> <li>• Inappropriate highway access and insufficient visibility.</li> <li>• Flooding concerns the development will increase surface water runoff and impact on the adjacent Chivenor Cross development.</li> <li>• Concerns that the development will increase traffic movement through Braunton which has been declared an Air Quality Management Area.</li> </ul> <p>11/08/2020:</p> <p>Braunton Parish Council wishes to recommend refusals on the grounds, as follows:</p> <ul style="list-style-type: none"> <li>• Outside of the development boundary.</li> <li>• Does not fit with the Local Plan.</li> <li>• It would adversely affect the intrinsic environmental value and character of the landscape as the proposal will harm local wildlife and result in the loss of important wildlife habitat.</li> <li>• Over intensification of the site.</li> <li>• Inappropriate highway access and insufficient visibility.</li> <li>• Flooding concerns the development will increase surface water runoff and impact on the adjacent Chivenor Cross development.</li> <li>• Concerns that the development will increase traffic movement through Braunton which has been declared an Air Quality Management Area.</li> </ul>
<p>DCC - Childrens Services</p> <p>Reply Received 21 November 2017</p>	<p>The proposed 94 family-type dwellings, will generate an additional 23.5 primary pupils and 14.1 secondary pupils.</p> <p>There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development and therefore a contribution towards primary education would not be sought. However, Devon County Council would likely seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought would likely be £309,086 (based on the current DfE extension rate of £21,921 per pupil) which will be used to provide education facilities for those living in the development.</p> <p>A contribution towards Early Years education is also needed to ensure the delivery of provision for 2, 3 and 4 year olds. This would cost £23,500 (based on £250 per dwelling). This will be used to</p>

	<p>provide additional early years provision for pupils likely to be generated by the proposed development.</p> <p>In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. 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.</p>
<p>DCC - Childrens Services</p> <p>Reply Received 23 August 2018</p>	<p>Please note that DCC's Education response to this application submitted on 21 November 2017 still applies to this amended application.</p>
<p>DCC - Childrens Services</p> <p>Reply Received 28 July 2020</p>	<p>Regarding the proposed application, Devon County Council has identified that the proposed 94 family type dwellings will generate an additional 23.5 primary pupils and 14.1 secondary pupils which would have a direct impact on Caen Primary school, Southmead School, Kingsacre Primary School and Braunton Academy. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:</p> <p>The designated primary schools for this site are forecast to have enough capacity for the number of pupils expected to be generated from this development and therefore a contribution towards primary education would not be sought. We have forecasted that the nearest secondary school has not got capacity for the number of pupils likely to be generated by the proposed development and therefore, Devon County Council will seek a contribution towards this additional education infrastructure to serve the address of the proposed development. The contribution sought for secondary would be £317,433 (based on the DfE extension rate of £22,513 per pupil). These contributions will relate directly to providing education facilities for those living in the development.</p> <p>All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 prices and any indexation applied to contributions requested should be applied from this date.</p> <p>The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.</p>
<p>DCC - Development</p>	<p>In further consideration of the proposed development, the following highway works are identified as being necessary to provide safe</p>

<p>Management Highways</p> <p>Reply Received 12 January 2018</p>	<p>and suitable access for pedestrian, cyclist and other non-motorised users:</p> <p>1) the upgrading of the existing footway to a 2.5 metre cycleway/footway generally along the southern frontage of the application site. More specifically, to be considered from the newly provided eastbound bus lay-by on the A361 to a point close to the formal crossing facility (non-signalised) at Chivenor Cross roundabout.</p> <p>2) the upgrading of the existing footway/footpath to the south of the A361 from a point at the existing formal crossing facility to a point in close proximity to the bus lay-by at the internal roundabout serving RMB Chivenor. Such improvement being the provision of a 2.5 metre cycleway/footway, including lighting, as necessary.</p> <p>3) I am currently investigating upon the need for a formal Toucan Crossing facility to replace the existing formal (non-signalised) crossing.</p> <p>The following contribution requirements are identified:</p> <p>1) the requirement of a contribution towards the upgrading of the traffic signals within the centre of Braunton.  2) the provision of a public transport voucher per household; and  3) the provision of a cycling voucher per household.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 16 April 2020</p>	<p>I have checked this further and confirm my response remains as before.</p> <p>Any reference to lay-by's is due to a point of reference and refers to the need to upgrade existing footways to provide improved connectivity and accessibility to both Braunton Village and the 'Tarka Trail' . This is separate to any upgrading of footways that has taken place over the last 3/4 years.</p> <p>I note your reference to the existing condition of the footways from the application site to 'Wrafton Road' but is it not the case this formed part of the upgraded network referred to above and does not exhibit the maintenance issues which you have identified? I can confirm the need to upgrade the formal crossing facility to a 'Toucan' Crossing, particularly in light of pedestrian and cyclist movements to and from the 'Tarka Trail'.</p> <p>For clarity, the following contribution requirements are reconfirmed:</p> <p>1) the requirement of a £60,000 contribution towards the upgrading of the traffic signals within the centre of Braunton.  2) the provision of a £250 Public Transport voucher per household; and  3) the provision of a £50 Cycling voucher per household.</p>
<p>DCC - Historic Environment</p>	<p>I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the</p>

<p>Team</p> <p>Reply Received 20 November 2017</p>	<p>desk-based assessment submitted in support of the planning application submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.</p> <p>The Historic Environment Team has no comments to make on this planning application.</p>
<p>DCC - Historic Environment Team</p> <p>Reply Received 17 July 2020</p>	<p>The Historic Environment Team has no comments to make on this planning application.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 15 November 2017</p>	<p>Recommendation: At this stage, we object to this planning application because we believe it does not satisfactorily conform to saved Policy DVS6, relating to flooding and water quality, and saved Policy DVS7, relating to sustainable drainage systems, of North Devon Council's Local Plan (1995-2011). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.</p> <p>Observations: The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. Although a Flood Risk Assessment has been submitted, no detail of the proposed surface water strategy has been included nor does the submitted Masterplan include provision of above ground surface water management features.</p> <p>The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's Sustainable Drainage Design Guidance, which can be found at the following address: <a href="https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/">https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/</a>.</p> <p>I would also add that for outline planning applications, we require the following information for review:</p> <ul style="list-style-type: none"> <li>• Description of the type of development;</li> <li>• Location plan at an appropriate scale with a grid reference, showing geographical features, street names, watercourses or other water bodies in the vicinity;</li> <li>• Site plan showing the red line boundary and any land under the applicants' control;</li> <li>• Site survey showing the existing topography;</li> <li>• Assessment of all existing flood risks to the site, including from sewer networks, groundwater, overland surface water flows,</li> </ul>

	<p>reservoirs, ponds, canals, and other watercourses</p> <ul style="list-style-type: none"> <li>• Calculations of the current surface water runoff for the site;</li> <li>• Calculations of the proposed surface water runoff for the site;</li> <li>• Calculations of the surface water attenuation storage volume required for the 1 in 100 (+40% allowance for climate change) year rainfall event;</li> <li>• Evidence that the site has an agreed point of discharge;</li> <li>• Evidence that the drainage hierarchy has been followed, providing robust evidence as to the viability or otherwise of: <ol style="list-style-type: none"> <li>1. Discharge into the ground (infiltration);</li> <li>2. Discharge to a surface water body (with written permission);</li> <li>3. Discharge to a surface water sewer, highway drain, or other drainage system (with written permission);</li> <li>4. Discharge to a combined sewer (with written permission).</li> </ol> </li> <li>• Explanations of the proposed flood risk mitigation measures;</li> <li>• Non-technical summary of the proposed surface water drainage management system;</li> <li>• Plans of the proposed surface water drainage management system, demonstrating that the proposed system fits within the proposed site layout, and is practical and sustainable;</li> <li>• Outline operation and maintenance plan and timetable for the proposed surface water drainage management system over the entire lifetime of the development.</li> </ul>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 22 December 2017</p>	<p>Recommendation: At this stage, I am unable to withdraw our objection, but would be happy to provide a further substantive response when the applicant has formally submitted the additional information requested below to the Local Planning Authority.</p> <p>Observations: Further to our previous consultation response the applicant has submitted a revised Flood Risk Assessment (16097/FRA, Rev. A, dated April 2017) and although this indicates that the site will either utilise infiltration or the use of an attenuation feature discharging at Qbar (which is acceptable) however no detail is provided on indicative sizing's of these feature or indeed if they can be accommodated within the masterplan as proposed. Given that infiltration in the location is very limited, it would be sensible to assume at this stage that infiltration is limited and that an outline attenuation system designed.</p> <p>The applicant will be required to submit MicroDrainage model outputs, or similar, in order to demonstrate the required sizing's of the components of the proposed outline surface water drainage system (which have been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event) and that they can be accommodated with the masterplan.</p>

	<p>It is also not clear what form the attenuation facility will take, given the indicative sketch and limited green space in the masterplan it is assumed this will take the form of a attenuation tank. However, these underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground SuDS components should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground components can be used in combination where development area is limited.</p> <p>At the detail design stage, the applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 20 June 2019</p>	<p>Recommendation: At this stage, I am unable to withdraw our objection, but would be happy to provide a further substantive response when the applicant has formally submitted the additional information requested below to the Local Planning Authority.</p> <p>Observations: Following my previous consultation response, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. However, further details should be submitted to ensure that suitable principles for surface water management are carried forward to the reserved matters application. The greenfield runoff rate has been calculated using the entire site area. However, the entire site area is not reflected in the storage calculations. The greenfield runoff rate should be calculated for the area being positively drained only.</p> <p>A more detailed statement regarding water quality should be provided within the Flood Risk Assessment, Surface Water Strategy and Sewerage Statement (Ref. 16097/FRA; Rev. B; dated May 2018). Reference should be made to a SuDS Management Train to ensure that surface water is effectively treated before being discharged into the ground or into a watercourse. Above-</p>

	<p>ground, planted sustainable drainage features should be implemented to effectively treat surface water runoff.</p>
<p>DCC - Lead Local Flood Authority</p> <p>Reply Received 17 April 2020</p>	<p>Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:</p> <ul style="list-style-type: none"> <li>• No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces. If infiltration proves viable, then groundwater will need to be assessed, over a period of 12 months, and the results submitted to the Local Planning Authority. The monitoring will need to provide adequate coverage of the site, with particular focus planed on the locations and depths of the proposed infiltration devices.</li> </ul> <p>Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.</p> <p>Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.</p> <ul style="list-style-type: none"> <li>• No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment, Surface Water Strategy and Sewerage Statement (Ref. 16097/FRA; Rev. C; dated July 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.</li> </ul>

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

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

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

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

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

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

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

Reason: To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

- 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.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

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

Observations:

Following my previous consultation response (FRM/ND/64000/2017; dated 17th April 2020), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has proposed two options to manage surface water within this site.

The applicant has firstly proposed to manage surface water via infiltration. This will require testing the site for the viability of infiltration. The testing should adequately cover the site and, if viable, the designs for infiltration devices will need to be within the limits of the testing (i.e. the devices will need to be within an area where testing demonstrated infiltration to be viable, and will also need to be within the depths of the testing). If infiltration is viable, then the applicant should also assess the suitability of permeable paving as well as the highway draining to an infiltration device (e.g. an infiltration basin).

If infiltration does not prove to be viable, then the applicant has proposed to store surface water within the site and discharge to the watercourse at greenfield runoff rates. The applicant should utilise above-ground features for this. The applicant has assessed the greenfield runoff rates based on the entire site area, and has used the entire site area for the storage calculations. The principle of using the same area within the greenfield runoff calculations as the storage calculations should be carried forward to the reserved matters stage, if infiltration is not viable. If the whole site is not deemed to drain to the surface water drainage system, then the greenfield runoff rates will need to be recalculated and the same are will need to be used in the storage calculations.

The applicant has discussed the principles of the SuDS Management Train and has also proposed some examples of what will be incorporated when a detailed design is developed. The applicant will need to ensure that the site layout allows enough space for these features to be incorporated.

The applicant should also ensure that the site layout and levels allow for exceedance flows to be managed safely.

Details of how the surface water drainage system will be maintained will need to be submitted at the reserved matters stage.

	<p>The applicant will need to submit MicroDrainage model outputs (or similar) at the reserved matters stage to demonstrate that the proposed surface water drainage system has been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event. More detailed outputs, such as MicroDrainage Network, will be needed at the discharge of conditions stage.</p> <p>The applicant will also need to submit plans at the reserved matters stage to demonstrate that the proposed surface water drainage system has been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event.</p>
<p>DCC - Public Health</p> <p>Reply Received 15 July 2020</p>	<p>Public Health's comments:</p> <p>The local population in Ashford, Chivenor, Wrafton and Heanton Punchardon is predominantly made up of the following characteristics:</p> <ul style="list-style-type: none"> <li>-Age profile of the population is predominantly 20-39 years</li> <li>-Home owners</li> <li>-Live in good health</li> <li>-Achieve a good education</li> <li>-Are in full time employment</li> <li>-In need of affordable housing</li> </ul> <p>Road safety is a key area of concern for the local area, with there being a high rate of injury admissions to hospital for those aged 0-14years compared to Devon.</p> <p>There are many features of the application that we support including:</p> <p>The desire for superfast broadband, this will aid the economy and enable households and employers choice in being able to work from home. The application would be strengthened by ensuring each dwelling includes office space.</p> <p>Sustainable modes of travel are discussed in the travel plan and good connectivity to the cycle network are documented. It is encouraging to see that each household will have access to cycle storage and that electric bikes are being investigated for the development. The application would be strengthened by exploring whether there is a need for the large employers in the area to improve provision for secure cycle storage in order to assist with modal shiftsince many of the employment journeys are within cycle distance. Care sharing is promoted throughout the travel plan and the application would be strengthened by working with the large employers in the area to facilitate this.</p> <p>The application provides conflicting details about the volume of affordable housing that will be provided. The design and access documents suggests 30% whilst the build for life assessment document suggests 50%.</p> <p>Access to green space provides benefits to both physical and mental wellbeing and opportunities to engage with nature. We support the need for a children play space whilst additional green</p>

	<p>spaces should enable all residents opportunities to enjoy the outdoors.</p> <p>The application fails to highlight how the plans contribute towards meeting climate and ecological emergency proposals. We would recommend consideration be given as to how the design of the buildings and wider development will assist with creating a net zero carbon development.</p>
<p>Defence Estates Air &amp; Land Safeguarding</p> <p>Reply Received 27 November 2017</p>	<p>The applicant has submitted an outline planning application, seeking permission for the development of up to 94 dwellings (all matters reserved) on land at Chivenor Cross, Chivenor in Devon. The application site is approx. 1.17 km to the north east of the centre of the runway at RAF Chivenor and occupies the statutory aerodrome height 15.2m, technical and birdstrike safeguarding zones surrounding the aerodrome.</p> <p>Based upon the outline information provided an initial assessment has been completed and we can provide the following advice:</p> <p>The proposed development site occupies the statutory height and technical safeguarding zones that ensure air traffic approaches and the line of sight of navigational aids and transmitters/receivers are not impeded.</p> <p>The MOD may have safeguarding concerns if any of the proposed dwellings exceeded 15.2m above ground level. However, the MOD would need to be consulted to make a technical assessment to determine any safeguarding concerns at future reserved matters application stages.</p> <p><b>Birdstrike safeguarding zone</b> It is noted within the outline application that there is a proposal for a Sustainable Drainage System (SUDS) to mitigate any flood risk at the site of the development.</p> <p>Within this zone, the principal concern of the MOD is the creation of any water bodies as part of a SUDS which may attract and support populations of large and, or, flocking birds close to the aerodrome, which may potentially increase birdstrike risk to aircraft operations at Chivenor RM.</p> <p>Again the MOD would need to be consulted to make a technical assessment for any such proposals at future reserved matters/full planning application stages.</p> <p>In summary, the MOD maintains no objection to the principal of houses at this location.</p> <p>However, the MOD should be consulted at all future application stages for this proposed development to complete a full detailed safeguarding assessment.</p>

<p>Defence Estates Air &amp; Land Safeguarding</p> <p>Reply Received 24 August 2018</p>	<p>DIIO Safeguarding have received the outline application above on the 15 August 2018.</p> <p>Unfortunately I am unable to access the relevant documents from North Devon Council website to assess the application, could you please forward all related documents as soon as possible. Also due to the location of the development I will need to refer the proposal to more specialist advisors. Therefore the MOD will require an extension to the permitted deadline to possibility 24 September.</p>
<p>Defence Estates Air &amp; Land Safeguarding</p> <p>Reply Received 31 July 2020</p>	<p>The MoD has noted the amendments and our letter of 27th November 2017 (attached) is extant.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 13 November 2017</p>	<p>It is appreciated that at this time it is for outline only, as such I am unable to comment in depth as the available Illustrative Masterplan does not reveal any specific details that would be of concern to the police.</p> <p>However, all relevant planning applications should demonstrate, generally within the Design and Access Statement (DAS), the principles of Crime Prevention through Environmental Design (CPTED) and how they have been considered and incorporated into the design and layout of all new developments.</p> <p>The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community and in addition to the layout the physical security is now a consideration.</p> <ul style="list-style-type: none"> <li>• Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.</li> <li>• Structure: Places that are structured so that different uses do not cause conflict</li> <li>• Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.</li> <li>• Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community</li> <li>• Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016</li> <li>• Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of</li> </ul>

	<p>safety at all times.</p> <ul style="list-style-type: none"> <li>• Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB.</li> </ul> <p>With an application of this size, areas of concern tend to be in relation to defensible space, clear ownership of property including parking spaces, defensive planting preventing conflict with youths and ball games etc, desire lines, and unwarranted permeability allowing potential offenders to wonder unchallenged.</p> <p>Early consultation with the police frequently prevents delays further down the planning process when crime and disorder issues present a problem with the layout of a submitted design.</p> <p>I look forward to reviewing a more detailed application in due course but in the meantime please do not hesitate to contact me if I can assist further.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 20 August 2018</p>	<p>Police have no further comments at this time.</p>
<p>Designing Out Crime Officer</p> <p>Reply Received 17 July 2020</p>	<p>The additional information is noted, Police have no further comments at this time.</p>
<p>Environment Agency</p> <p>Reply Received 16 January 2018</p>	<p>We have no comments to make on this application.</p>
<p>Environmental Health Manager</p> <p>Reply Received 23 November 2017</p>	<p>I have reviewed this outline application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Land Contamination</p> <p>I have reviewed the Red Rock Geo-Environmental Desk Study and Intrusive Investigation Report dated May 2017. The report concludes that the levels of contamination recorded in the investigation are not potentially harmful to human health given the proposed end use or to the water environment and no specific remedial measures are required. I accept these findings.</p> <p>Given the above, I recommend the following condition be imposed:</p> <ul style="list-style-type: none"> <li>- Contaminated Land Reactive Condition</li> </ul> <p>Should any contamination of soil or groundwater not previously identified be discovered during development of the site, the</p>

Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

#### 2 Air Quality

I have considered the RGP Air Quality Statement dated September 2017.

I recommend the applicant be asked to provide an operational phase air quality impact assessment to assess impacts on local air quality as a result of increased traffic flows resulting from the development.

The above assessment should be carried out by a suitably qualified air quality specialist, having regard to relevant standards and guidance including that contained in the EPUK & IAQM document: Land-use Planning and Development Control: Planning for Air Quality - January 2017. The assessment should give particular attention to any adverse impacts affecting the existing Braunton Air Quality Management Area and also take account of any relevant additional developments that have already received approval in the locality but are yet to be developed.

#### 3 Noise

I have reviewed the Soundguard Acoustics Environmental Noise Impact Assessment dated 25 May 2017.

The report considers potential environmental noise impacts affecting the application site and finds that only local traffic noise is potentially significant. The report concludes:

"Additional noise control considerations are required to achieve 'good' and 'reasonable' internal performance standards for daytime resting and night time standards but these are not insurmountable and noise control solutions have been provided as part of this report."

I accept the findings of the report and recommend that noise mitigation details be provided at reserved matters stage. Such details should describe how the development will implement the full recommendations for noise control set out at section 8 of the report.

#### 4 Construction Phase Impacts

In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the construction phase of the development I recommend the following conditions be imposed:

**- Construction Management Plan Condition**

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

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

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

Reason: To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway.

**- Construction Times Condition**

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries

taken at or dispatched from the site outside the following times:

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

Reason: To protect the amenity of local residents

<p>Environmental Health Manager</p> <p>Reply Received 24 August 2018</p>	<p>I have reviewed this amended application in relation to Environmental Protection matters and refer you to comments I made by email to you on 23 November 2017 and 24 April 2018 regarding this application.</p> <p>I do not wish to add anything to my previous comments, which stand.</p>
<p>Environmental Health Manager</p> <p>Reply Received 22 July 2020</p>	<p>I have reviewed the Kairus Air Quality Technical Note dated 8 May 2020. The note addresses the potential requirements of the Council's recently adopted Air Quality SPD.</p> <p>The Note finds that, although the proposals do not trigger a requirement for an AQIA in relation to operational impacts, an AQIA is needed to consider impacts associated with the construction phase.</p> <p>An AQIA has previously been submitted with the Application which included consideration of operational and construction phase impacts. I have commented previously on this assessment and accepted its conclusions (see my emailed comments of 24 April 2018).</p> <p>I have no further comments on this issue.</p>
<p>Heanton Punchardon Parish Council</p> <p>Reply Received 21 July 2020</p>	<p>22/11/2017:</p> <p>The following are the comments and recommendation of Heanton Puchardon Parish Council for application no.64000:</p> <p>Heanton Puchardon Parish Council strongly object to any development on the north side of the A361 in the Parish. Councillors have been made aware of serious concern from residents about the proposed development at this site.</p> <p>The speculative application represents development in the countryside, in a location not allocated for development in either the past or the draft local plan, which is unsuitable for development on landscape, highways, sustainability and infrastructure grounds.</p> <p>The Parish Council feels that such a development would impact negatively on the already oversubscribed local primary schools. There is concern regarding the public drainage system as well as surface water run-off issues which already affect the development on the other side (south) of the A361.</p> <p>The highway concerns are extensive, including the wholly inadequate access to the A361 via Heanton Hill Lane, the increased volume of local traffic and the known traffic and pollution problems affecting Braunton and the A361 west of Barnstaple, particularly acute at this location.</p> <p>In addition, there is already concern about the lack of local facilities</p>

	<p>on that side of the busy A361 as well as the complete lack of economic benefit which could justify further residential development in this locality.</p> <p>The Parish Council strongly objects to the application and supports the "calling in" of the application by District Councillor Andrea Davis.</p> <p>04/09/2018: The Council would reiterate its comments reported to you in November 2017: Objection to any developments on the north-side of A361 in the Parish; in a location not allocated for development in Local Plans; highway concerns with volume of traffic and air pollution; a negative impact on local primary schools and hospital; surface water run-off which already affects the area; lack of local facilities and economic benefit Recommend : Refusal</p> <p>21/07/2020: Heanton Punchardon Parish Council reiterates its comments and recommendation for REFUSAL based on the extensive current and planned development already zoned for this area (South of the A361) and that the area to the North of the A361 has never been within the development boundary in any strategic plan. The local infrastructure is not sufficient for this development.</p>
<p>Heritage &amp; Conservation Officer</p> <p>Reply Received 28 November 2017</p>	<p>This application is for outline permission to erect up to 94 residential dwellings on land to the north of the new roundabout that has been constructed at Chivenor Cross. The land is currently used partly as a nursery and partly as fields for a riding school. It is rural in character, with the fields and other enclosures surrounded by substantial hedges. As such, it forms part of the rural setting for the grade I listed Church of St Augustine, at Heanton, which is sited to the north.</p> <p>Heanton is a relatively small village, containing several listed buildings, and the focal point of the village, and indeed this part of the landscape, is the monumental tower of the Church, which is unusually tall and acts as a prominent local landmark. The need to protect the setting of this nationally important listed building, and the significance of the church as a landmark in a rural context has been considered a material factor in other planning decisions, recently including the solar array at Luscott Barton to the north. The Tower is visible from many viewpoints; in the context of this application it is readily visible over the open landscape from the main road immediately to the south of the application site. There are also extensive views from the churchyard to the south over the application site, to the base at Chivenor, the River Taw, and the</p>

	<p>countryside beyond.</p> <p>I note that the application is in outline with all matters reserved, but it is my view that the erection of a quantity of dwellings on land which is currently undeveloped will inevitably change the character of that land, notwithstanding any landscaping or tree planting, or provisions contained in detailed plans. This element of the setting of the listed building will therefore be altered, not preserved, as is indicated to be desirable under Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990. Given that some of the significance of the listed building derives from its function as a readily visible landmark, and that this part of the setting does have some historic significance as open land, I consider that this proposal is likely to result in a degree of less than substantial harm to the significance of this heritage asset. Therefore, under the provisions of paragraph 134 of the NPPF, the public benefits of the proposal will need to be taken into account when the decision is made.</p>
<p>Heritage &amp; Conservation Officer</p> <p>Reply Received 18 September 2018</p>	<p>The proposed site does not appear to have altered since I made my original consultation response on 28th November 2017. I therefore maintain that response, which to summarise, is that the proposal is likely to have an effect on the setting of the grade I listed Church of St Augustine at Heanton.</p>
<p>Heritage &amp; Conservation Officer</p> <p>Reply Received 4 August 2020</p>	<p>Please see my original consultation response of 28.11.2017, which still stands.</p>
<p>Historic England</p> <p>Reply Received 27 November 2017</p>	<p>On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.</p> <p>Historic England Advice</p> <p>The site is adjacent to Chivenor Cross on the low lying land along the banks of the Taw Estuary towards Braunton. On the hill side above sits the grade I listed church of St Augustine. The church retains C13 fabric but was largely remodelled in the late C15/ early C16, when the 3 stage tower with its corner pinnacles, was added. It maintains a prominent location in an elevated position, along the ridge of the hill. Its tower forms a striking landmark, being visible in views on both sides of the estuary.</p> <p>The church is situated within Heaton village but has retained a strong rural character, as the side of the valley visible from the river remains largely agricultural land with no significant modern intervention. This green apron is an important feature within the setting of the church and contributes to its tower retaining its</p>

primacy within the wider locality.

The proposal is for an outline application, with all matters reserved. As all matters are reserved, the council need to be satisfied they have sufficient information by which to appropriately assess the impact of the development on the historic environment (Para 128, NNPF).

There is development already along the banks of the river. In longer ranged views towards the church, the development has a limited impact due to the low lying nature of the topography and the screening provided by the trees. As this is outline only, the council need to be satisfied that the proposed development of the land will not impinge

into the green apron of the church, an important aspect of its setting. Landscaping as well as the height of the buildings will be key to maintaining the low impact of the development under the reserve matters.

In views from the church the new development will be visible but it will sit against the back drop of the existing urbanisation occurring along the low lying banks of the Taw.

It will start to encroach into the rural setting of the church. The impact would be minor and results in some harm. We would encourage consideration is given to the boundary treatment between any new development and the existing agricultural land in order to soften the transition between the two.

The main impact relates to views to the church across the site, which will be inhibited by the new development. We would stress the need for careful analysis through a detailed visual appraisal to inform the layout and density of the development on the site and how best this can be used to mitigate the potential impact on the setting of the church. The loss of these views will result in harm.

Under the NPPF, Local planning authorities should look for opportunities for new development ... within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (Para 137). If a conflict between the proposed development and the asset's conservation is identified, then steps should be taken to avoid or minimise harm (Para 129, NPPF).

#### Recommendation

The proposal will result in modest harm to the setting of the grade I listed Church of St Augustine through the erosion of its strong rural setting. The harm would be less than substantial, however, no

	<p>harm is acceptable and it would need to be appropriately justified and balanced against the public benefit offered by the proposal (Para 132 &amp; 134, NPPF).</p> <p>As all matters are reserved, it is difficult to appreciate what steps could be taken within the layout and design to avoid or minimise the harm to the affected asset (Para 129, NPPF). It may be possible that this harm could be minimised further, and if the council are minded to approve the scheme, we would strongly urge that a detailed analysis is undertaken in respect of the church including views to and from it, which should inform the final design and layout.</p> <p>Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.</p>
<p>Historic England Reply Received 21 August 2018</p>	<p>Thank you for your letter of 15 August 2018 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.</p> <p>It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.</p>
<p>Historic England Reply Received 27 July 2020</p>	<p>Thank you for your letter of 10 July 2020 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.</p> <p>It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.</p>
<p>Housing Enabling Officer Reply Received 29 November 2017</p>	<p>The applicant's Affordable Housing Statement dated June 2017 states that the development will include 30% affordable housing (as per Emerging Local Plan, Policy ST18). However, as the site is outside of the development boundary in both the current local plan and the emerging local plan, if the site is acceptable in planning terms we would expect a least 50% affordable housing (for a rural greenfield site). At least 50% of 94 dwellings equates to 47 affordable homes. If the applicant cannot offer 47 affordable homes then I would ask that a viability assessment is submitted by the applicant in order to establish the numbers that are viable. The viability assessment would be reviewed by our independent</p>

	<p>consultant at the applicant's cost.</p> <p>At least 75% of the affordable homes should be for social rent, then the balance intermediate housing for sale or rent (intermediate rent at 80% of Local Housing Allowance or shared ownership or discounted sale if preferred). 47 affordables equates to 36 social rent and 11 intermediate. On Section 106 schemes we would expect this to be delivered grant free so hence no affordable rent can be charged. Plus, we have strong evidence in North Devon that three quarters of those in housing need can only afford social rent so we need to ensure that we deliver the right type of housing.</p> <p>Local connection on all affordable housing whether rented or for sale. First cascade is to Heanton Punchardon, second cascade is to the adjoining parishes (Ashford, Braunton and Marwood) and third cascade to the whole of North Devon District Council's area.</p> <p>The affordable homes should be pepperpotted throughout the site in clusters of no more than 10 units.</p> <p>The affordable homes should be designed and of the same material and construction as the open market – including car parking.</p> <p>The table below shows 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.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 21 August 2018</p>	<p>Further to my consultation response dated 29 November 2017 and my e mail to you dated 9 July 2018, I have no further comments to add with reference to this consultation.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 27 July 2020</p>	<p>I refer to my e mail dated 6 May 2020 in which I advised that if the site is acceptable in planning terms and is determined as an exception site then we would seek 100% affordable housing.</p> <p>However, we need to also bear in mind the ongoing examination of the current five year land supply and the fact that the applicant's Built for Life Assessment dated June 2020 clearly states that "A significant Affordable Housing contribution of 50% of the housing mix is proposed". Therefore, we would be prepared at this present time to accept a minimum of 50% affordable housing (75% social rent &amp; the balance as shared ownership/discounted sale) without a viability assessment to move the site forward without delay.</p>

<p>Landscaping &amp; Countryside Officer</p> <p>Reply Received 24 January 2018</p>	<p>The submitted LVIA provides an appropriately detailed consideration of effects on landscape character and visual amenity and also outlines landscape enhancement proposals including perimeter buffer zones and retention and enhancement of boundary vegetation. The LVIA contains an appropriate set of viewpoints from within the immediate vicinity of the site, elevated views from Heanton Punchardon and Down Lane, and more distant views from Braunton Burrows and Tarka Trail. I am generally content with the methodology and concur with much of its content however there are some areas of difference which are worth considering within the overall planning balance.</p> <p>The LVIA assesses the magnitude of change resulting from the proposal in the context of proposed and under construction mixed use development to south of the A361 at Chivenor. This development was granted in spite of an identified major to moderate major adverse landscape and visual impacts on the basis that the site was required to deliver high quality employment land and that the principle of development was only considered acceptable subject to the provision of substantive structural planting adjacent to the A361 which is yet to be delivered. Further development to the north of the A361 would have even greater adverse landscape and visual impacts resulting in an urbanising effect and the erosion of the current open character of the area. While it is accepted that the consented mixed use development reduces landscape sensitivity of the site in comparison with the overall sensitivity of the LCT it is not accepted that the proposal "would not appear uncharacteristic in the context of the surrounding development that exists and is due to take place". The quality and character of the site is not strongly influenced by any existing or proposed development and would be subject to a noticeable deprecation as a result of encroachment into the rising topography north of the A361. The site currently maintains a strongly undeveloped character and is separated from the consented mixed use development to the south by the A361 and the existing and proposed strategic planting required to mitigate impacts on the wider landscape character to the north.</p> <p>The extent of planting proposed as mitigation to the southern boundary in order to screen the development from views experienced along the A361 corridor would significantly reduce the areas open character. When considered alongside the delivery of strategic planting to the south this would result in a significant tunnelling effect when moving through the area particularly travelling westward towards Braunton. Views towards the open hill summit at Heanton and its Grade I listed church of St Augustine would be severely limited both of which feature as key characteristics of the 5C Downland landscape character type (LCT). The LCT strategy seeks to "protect the landscape's far reaching views" and "ensure local church towers remain landmark</p>
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	<p>features on skylines".</p> <p>It remains unclear from the submitted Masterplan whether the prescribed number of units could be accommodated on site given the extent of strategic planting, buffer zones and open space required as mitigation by the submitted supporting ecology and landscape assessments. If on balance you were to consider the benefits of the outline scheme to outweigh the landscape harm and were to recommend approval of the development it is suggested that any associated landscape and ecology conditions make reference to delivery of the mitigation measures set out within the applicant's LVA and Ecology Assessment at the reserved matters stage.</p>
<p>Natural England Reply Received 6 December 2017</p>	<p>Natural England provided advice to the applicant's consultants through our Discretionary Advice Service on 30th August 2017 (ref: 12501/223433). The advice provided in this letter is based on that advice.</p> <p>European Designated Sites – further consideration required Braunton Burrows Special Area of Conservation (SAC); The Culm Grasslands SAC</p> <p>This site is a departure from the Joint Torridge and North Devon emerging Local Plan. It does not therefore benefit from the conclusions drawn in the Local Plan Habitat Regulations Assessment (HRA) when considering impacts on European sites.</p> <p><b>SUMMARY OF NATURAL ENGLAND'S ADVICE EUROPEAN DESIGNATED SITES – FURTHER CONSIDERATION REQUIRED</b></p> <p>The proposal is not in accordance with the emerging local plan Site Allocations Development Plan Document and we would refer you to the standard advice (Annex 2) we have provided to your Authority with regard to impacts on designated sites.</p> <p><b>NATIONALLY DESIGNATED SITES – NO OBJECTION SUBJECT TO MITIGATION</b></p> <p>A Construction Environment Management Plan (CEMP) to include implementation of best practice measures to protect the SSSI interest.</p> <p>A Landscape and Ecological Mitigation Plan as proposed by Green Ecology's Ecological Appraisal (October 2017).</p> <p>We advise that appropriate planning conditions or obligations are attached to any planning permission to secure these measures. Natural England's advice on protected species and other natural environment issues is provided at Annex 1 of this letter.</p> <p>The HRA at the Joint Plan level considered whether there would be an increase in recreational pressures on the Braunton Burrows SAC and air quality impacts on the Culm Grasslands SAC associated with housing development allocated in North Devon and Torridge Districts over the life of the Joint Plan.</p>

It is our advice that, given the scale of this development, it is unlikely to have a significant effect alone on the Braunton Burrows SAC and the Culm Grasslands SAC. However, your Authority will be required to consider 'in combination' effects before determining any planning application.

Please refer to Annex 2 of this letter for more detail.

Nationally designated sites – no objection subject to mitigation  
Taw Torridge Estuary Site of Special Scientific Interest (SSSI); The recommended Taw Torridge Estuary Marine Conservation Zone (MCZ)

The development is within 700m of the Taw Torridge estuary which is designated SSSI and recommended as an MCZ.

The SSSI is notified for its overwintering bird interest (aggregations of overwintering Golden Plover, Lapwing and Curlew, >20,000 Non-Breeding Water birds) and intertidal habitats. Further information on the SSSI and its special interest features can be found at [www.magic.gov.uk](http://www.magic.gov.uk)

The rMCZ was recommended as part of the regional 'Finding Sanctuary' project. It is not subject to an MCZ assessment, however we wish to make the applicant aware of its recommendation.

Based on the information submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which these sites have been or are likely to be notified for.

Natural England has no objection subject to:  
Securing a Construction Environment Management Plan (CEMP) to include implementation of best practice measures to protect the SSSI/rMCZ during construction and operation e.g. in terms of storage of materials, surface water drainage, waste management and pollution control.

Securing the mitigation measures outlined in section 5 of the Green Ecology Ecological Appraisal (October 2017) through a Landscape and Ecological Mitigation Plan.

The fields to the east of Heanton Hill Lane are known to be used by birds associated with the SSSI. It may be that the northern boundary is sufficient to screen the development and the ecological appraisal has referenced management of the hedgerow, but consideration could also be given to the use of acoustic screening to mitigate noise and visual disturbance during construction.

Foul water from the site will be discharged to an existing connection point in Wrafton Road. We note that one of the representations submitted has raised concerns about sewer capacity and your Authority should satisfy itself that there is sufficient capacity to deal with the additional 94 dwellings.

#### Caen Valley Bats SSSI

The application site lies within the 4km Greater Horseshoe Bat roost sustenance zone associated with the Caen Valley Bats SSSI which is notified for its maternity and hibernation colonies of Greater Horseshoe bats.

Based on the information submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which this site has been notified and has no objection subject to suitable mitigation being secured.

The area around Shelleys Riding School is not identified as a key flight line in the 2002 English Nature radio tracking report. However, small numbers of Greater Horseshoe bats are known to commute along the nearby Tarka Trail to foraging areas further afield as indicated in the ecological appraisal.

The key element of any mitigation strategy would be to secure a lighting strategy with appropriate lux levels to ensure commuting and feeding bats are not disturbed by light pollution as proposed in the ecological appraisal. The proposed buffer to the boundary hedgerows will also contribute to maintaining a dark flight corridor. Lighting should be as low as guidelines permit and if lighting is not needed it should be avoided.

We would draw your attention to the Institute of Lighting Engineers guidelines for the reduction of obtrusive light and the Bats and lighting guidance (BCT)

#### Local sites

Parsons Copse unconfirmed wildlife site is adjacent to the development site.

You should consider the impacts of the proposed development on any local wildlife sites in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity.

#### Ecological Mitigation Plan

Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 9, 109 and 152 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 118 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or

enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures.

The mitigation for the site is outlined in section 5 of the Ecological Appraisal (Green Ecology October 2017) and includes the retention of Priority Habitat (hedgerows and ponds); compensation for the loss of habitat (conifer woodland and hedgerow); a dark wildlife corridor at the rear of gardens; bird and bat boxes, permeable fencing, habitat creation as part of the public open space and SuDS.

Where sustainable drainage systems are proposed their amenity and wildlife value can be increased with careful design  
[https://www.rspb.org.uk/Images/SuDS\\_report\\_final\\_tcm9-338064.pdf](https://www.rspb.org.uk/Images/SuDS_report_final_tcm9-338064.pdf)

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex 1 of this letter.

#### Annex 1

Natural England offers the following additional advice:

##### Landscape

Paragraph 109 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

##### Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.

##### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply the requirements of the NPPF. This is the case

regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in Natural England's Technical Information Note 049.

Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

#### Protected Species

Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

1 <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

#### Annex 2

##### BRAUNTON BURROWS SPECIAL AREA OF CONSERVATION (SAC) AND THE CULM GRASSLANDS SAC.

Information is required to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your Authority. European designated sites

Based on the information provided, this site appears to be a departure from the Joint Torridge and North Devon emerging Local Plan.

As submitted, the application could have potential significant effects on Braunton Burrows Special Area of Conservation (SAC) and the Culm Grasslands SAC. Natural England's advice is that your Authority is required to conduct a Habitat Regulations screening to determine the significance of these impacts on the SACs and the scope for mitigation and to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your authority, i.e. a Habitats Regulations Assessment (HRA).

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.

We recommend you refer to the evidence submitted for the emerging Joint Plan HRA to help undertake an HRA screening for these sites.

The Conservation Objectives for the Braunton Burrows SAC and the Culm Grasslands SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Braunton Burrows Special Area of Conservation (SAC)  
Your Authority's Habitat Regulations Assessment (HRA) at the Joint Plan level considered whether there would be an increase in recreational pressures on the Braunton Burrows SAC associated with housing development allocated in North Devon and Torridge Districts over the life of the Joint Plan.

The Plan HRA concluded that there is unlikely to be an adverse effect on the integrity of the interest features for which the Braunton Burrows SAC has been notified. This conclusion was based on improved evidence and supported by mitigation measures. However, the current planning proposal is not allocated in the Local Plan and as such does not benefit from the conclusions drawn in the Joint Local Plan HRA.

Taking a precautionary approach, your authority should therefore determine whether the proposal is likely to have a significant effect on Braunton Burrows SAC, alone or in-combination, against the Plan and any other proposals coming forward outside the Plan you are aware of, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found

	<p>on the Defra website. <a href="http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/">http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/</a></p> <p>The Culm Grasslands SAC Your Authority's Habitat Regulations Assessment (HRA) at the Joint Plan level considered whether there would be air quality impacts on the Culm Grasslands SAC associated with housing development allocated in North Devon and Torridge Districts over the life of the Joint Plan.</p> <p>The Plan HRA concluded that there is unlikely to be an adverse effect on the integrity of the interest features for which the Culm Grasslands SAC has been notified.</p> <p>However, the current planning proposal is not allocated in the Local Plan and as such does not benefit from the conclusions drawn in the Joint Local Plan HRA.</p> <p>Taking a precautionary approach, your authority should therefore determine whether the proposal is likely to have a significant effect on the Culm Grasslands SAC, alone or in-combination, against the Plan and any other proposals coming forward outside the Plan you are aware of, such as the Mid Devon Plan, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.</p>
<p>Natural England Reply Received 21 August 2018</p>	<p>Thank you for your consultation email of 15th August 2018 regarding the additional information submitted for the above application. Natural England has the following comment. Statement to inform an Appropriate Assessment Green Ecology August 2018</p> <p>The current planning proposal is not allocated in the Local Plan and as such does not benefit from the conclusions drawn in the emerging North Devon and Torridge Joint Local Plan Habitat Regulations Assessment (HRA).</p> <p>Based on the information submitted, Natural England's advice is that your Authority is now required to conduct an HRA for this development to determine the significance of the identified impacts<sup>1</sup> on the Braunton Burrows SAC and the Culm Grasslands SAC to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your authority.</p> <p>The Conservation Objectives for the Braunton Burrows SAC and the Culm Grasslands SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.</p> <p>Taking a precautionary approach, your authority should therefore</p>

determine whether the proposal is likely to have a significant effect on the Braunton Burrows SAC and the Culm Grasslands SAC, alone or in-combination, against the Plan and any other proposals coming forward outside the Plan you are aware of, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Competent authorities undertaking HRAs should be aware of a recent ruling made by the Court of an increase in recreational pressures on the Braunton Burrows SAC associated with housing development allocated in North Devon and Torridge Districts over the life of the Joint Plan air quality impacts on the Culm Grasslands SAC associated with housing development allocated in North Devon and Torridge Districts over the life of the Joint Plan. 2 Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. [http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/Justice of the European Union \(the CJEU\) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta \(ref: C-323/17\)](http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/Justice%20of%20the%20European%20Union%20(the%20CJEU)%20on%20the%20interpretation%20of%20the%20Habitats%20Directive%20in%20the%20case%20of%20People%20Over%20Wind%20and%20Sweetman%20vs%20Coillte%20Teoranta%20(ref:%20C-323/17).). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, Natural England advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained. In light of the recent case law, any reliance on measures intended to avoid or reduce harmful effects at the likely significant stage is vulnerable to legal challenge.

We are aware that North Devon Council has taken it's own legal advice on any implications of this recent ruling for their decisions.

Ecological Appraisal August Green Ecology 2018  
Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural

	<p>England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances. Your authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. Development provides opportunities to secure a net gain for nature and local communities, as outlined in the revised NPPF and within the Defra 25 year Environment Plan.</p> <p>The emerging joint North Devon and Torridge Local Plan also expects all development to provide a net gain in biodiversity (note 6.4 of Policy ST14). Policy ST14 Enhancing Environmental Assets aims to protect and enhance northern Devon’s natural environment by ensuring development contributes to (relevant bullet points selected):</p> <p>a) providing a net gain in northern Devon’s biodiversity, through positive management of an enhanced network of designated sites and green infrastructure;</p> <p>(h) conserving and enhancing the robustness of northern Devon’s ecosystems and the range of ecosystem services they provide.</p> <p>Please do not hesitate to contact me if you wish to discuss anything further.</p>
<p>Natural England Reply Received 27 July 2020</p>	<p>Thank you for your consultation email dated and received by Natural England on 13 July 2020 regarding the above application. Based on the information provided we have the following comment.</p> <p>Designated sites Braunton Burrows Special Area of Conservation (SAC) The application site is within the Zone of Influence (Zol) for the Braunton Burrows SAC within which impacts of residential and tourist development on the SAC would arise in the absence of appropriate mitigation.</p> <p>Further evidence submitted following your Joint Local Plan Habitats Regulations Assessment indicates that it would not be possible to reach a conclusion of ‘no likely significant effect’ for housing in this location, in combination with other residential/tourist development within the Zol, in the absence of appropriate mitigation.</p> <p>North Devon Council and Torridge District Council have adopted an Interim Scheme ‘Braunton Burrows Special Area of Conservation Visitor Impacts and Mitigation’ (July 2019) whereby impacts can be avoided and mitigated through financial contributions in order to avoid significant effects of recreational impacts on the Braunton Burrows SAC from new housing/tourist developments within the Zol.</p> <p>Natural England therefore advises that you: ? Undertake an Appropriate Assessment<sup>2</sup> of the proposal and any mitigation proposed, prior to determining the application.</p>

? Seek agreement from the applicant on funding of a package of measures which will permit you to reach a conclusion of no adverse effect on integrity before granting permission. Your Authority should not grant permission until such time as this mitigation has been secured.

1 This reply comprises our statutory consultation response under the provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, Section 28 of the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended).

2 As the Competent Authority, North Devon Council is required to conduct a Habitat Regulations screening to determine the significance of impacts on Braunton Burrows Special Area of Conservation (SAC) and the scope for mitigation and to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority.

The Conservation Objectives for the Braunton Burrows SAC explain how the sites should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Taw Torridge Estuary Site of Special Scientific Interest (SSSI) Natural England's Impact Risk Zones (IRZ) have highlighted the proximity of the proposal to the above designated site. Further information on the designation can be found at [www.magic.gov.uk](http://www.magic.gov.uk) Given the location of the development, Natural England's advice is that without mitigation this application has the potential to damage or destroy the interest features for which the Taw Torridge Estuary Site of Special Scientific Interest has been notified.

It will add to the recreational activity on and around the estuary and is likely to contribute to disturbance and displacement of the overwintering estuary birds on the estuary.

The Local Authority needs to ensure that sufficient design measures to avoid and mitigate recreational impacts are incorporated into the proposal to be certain there would not be significant adverse impacts during construction and operation. The data gathered through the Taw Torridge Estuary High Tide Roost and Recreational Impacts study<sup>3</sup>, of which your Authority is a partner, highlights that this sector (11488) contains two important high tide roosts and is of particular importance for birds feeding through all states of the tide.

A strategic approach to mitigation would secure better environmental outcomes with all development adding to recreational impacts making a financial contribution to measures

	<p>that avoid impacts.</p> <p>Biodiversity net gain Development provides opportunities to secure a net gain for nature in line with paragraphs 170 and 174 of the revised NPPF (2018) and the Defra 25 year Environment Plan.</p> <p>Policy ST14 Enhancing Environmental Assets of the North Devon and Torridge Joint Local Plan expects all development to provide a net gain in biodiversity (note 6.4 of Policy ST14).</p> <p>An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions<sup>4</sup> (under Section 40 NERC Act, 2006). Biodiversity metrics<sup>5</sup> are available to assist developers and local authorities in securing net gain. Local Authorities can set their own net gain thresholds but the Environment Bill currently sets a target of 10%.</p>
NHS England	No reply received.
Open Space Officer Reply Received: 16 April 2020 Received	On site requirement 3587.04 Off site contribution £275,006
Planning Policy Unit	No reply received.
Recycling & Commercial Services	No reply received.
South West Water  Reply Received 9 November 2017	I refer to the above application and would advise that South West Water has no objection.
South West Water  Reply Received 16 July 2020	I refer to the above and would advise that South West Water has no comment.
Sustainability Officer  Reply Received 23 January 2018	24/01/2018 Landscape Appraisal Consultation Response The submitted LVIA provides an appropriately detailed consideration of effects on landscape character and visual amenity and also outlines landscape enhancement proposals including perimeter buffer zones and retention and enhancement of boundary vegetation. The LVIA contains an appropriate set of

viewpoints from within the immediate vicinity of the site, elevated views from Heanton Punchardon and Down Lane, and more distant views from Braunton Burrows and Tarka Trail. I am generally content with the methodology and concur with much of its content however there are some areas of difference which are worth considering within the overall planning balance.

The LVIA assesses the magnitude of change resulting from the proposal in the context of proposed and under construction mixed use development to south of the A361 at Chivenor. This development was granted in spite of an identified major to moderate major adverse landscape and visual impacts on the basis that the site was required to deliver high quality employment land and that the principle of development was only considered acceptable subject to the provision of substantive structural planting adjacent to the A361 which is yet to be delivered. Further development to the north of the A361 would have even greater adverse landscape and visual impacts resulting in an urbanising effect and the erosion of the current open character of the area. While it is accepted that the consented mixed use development reduces landscape sensitivity of the site in comparison with the overall sensitivity of the LCT it is not accepted that the proposal "would not appear uncharacteristic in the context of the surrounding development that exists and is due to take place". The quality and character of the site is not strongly influenced by any existing or proposed development and would be subject to a noticeable deprecation as a result of encroachment into the rising topography north of the A361. The site currently maintains a strongly undeveloped character and is separated from the consented mixed use development to the south by the A361 and the existing and proposed strategic planting required to mitigate impacts on the wider landscape character to the north.

The extent of planting proposed as mitigation to the southern boundary in order to screen the development from views experienced along the A361 corridor would significantly reduce the areas open character. When considered alongside the delivery of strategic planting to the south this would result in a significant tunnelling effect when moving through the area particularly travelling westward towards Braunton. Views towards the open hill summit at Heanton and its Grade I listed church of St Augustine would be severely limited both of which feature as key characteristics of the 5C Downland landscape character type (LCT). The LCT strategy seeks to "protect the landscape's far reaching views" and "ensure local church towers remain landmark features on skylines".

It remains unclear from the submitted Masterplan whether the prescribed number of units could be accommodated on site given the extent of strategic planting, buffer zones and open space

required as mitigation by the submitted supporting ecology and landscape assessments. If on balance you were to consider the benefits of the outline scheme to outweigh the landscape harm and were to recommend approval of the development it is suggested that any associated landscape and ecology conditions make reference to delivery of the mitigation measures set out within the applicants LVA and Ecology Assessment at the reserved matters stage.

27/01/2018

The Amended Ecological Appraisal does not address several issues:

1. AEA Table 8 does not adequately present the results of a valid attempt at applying the DEFRA biodiversity offsetting metric. <https://www.gov.uk/government/publications/technical-paper-the-metric-for-the-biodiversity-offsetting-pilot-in-england>. The assessment does not appropriately assess the condition and distinctiveness of habitat losses and therefore fails to apply habitat specific multipliers which would result in mitigation provision across the site capable of delivering a net biodiversity gain.

2. AEA Figure 6: Mitigation Plan – the plan refers to an external lighting design which does not appear to have been submitted at this stage. The AEA should set out the lighting parameters necessary to ensure that the indicative ‘dark corridors’ apply the appropriate level of protection for commuting and foraging bats. The AEA Table 17 states that ‘boundaries will be unlit (no more than 0.5 lux) during construction and operation; external lights will be directed downwards, away from any retained hedgerows, and lights will be set on motion sensors or timers to illuminate the area for as short a time as possible’. The submitted plan indicates development immediately adjacent to dark corridors and no substantive detail has been provided to ensure that this measure will ensure light levels are acceptable at all retained and enhanced boundaries.

19/03/2018

The offsetting metric has been adopted in the Biosphere Management Plan and we seek to encourage this approach across the board, but in particular on sites where there is clearly a substantial loss in a variety of habitats. Achieving a net gain in biodiversity is also a key aim of the emerging Local Plan’s spatial vision and is set out in Policy ST14 and DM08. Of course the NPPF and draft revised NPPF also require planning policies to seek a net gain in biodiversity.

Unfortunately Table 8: Biodiversity net loss and gains of the aEA confirms that there appears to be a simplistic approach of replacing lost habitat with relatively modest gains in some receptors. This does not adequately assess the value of habitats lost to

development and fails to apply even low value multipliers to the proposed gains. This is of particular concern regarding the key network feature and it is not sufficiently clear how the provision of 'potentially 0.33 ha of new buffers plus approximately 30% of the central POS given to native trees and tussocky flower-rich grassland contributing to connectivity to Parson's Cops' would provide appropriate mitigation for this identified loss.

The submitted Mitigation Plan is clearly illustrative and such measures could potentially be secured by condition.

However, the Plan states that 'lighting across the Site has been designed to minimise light spill onto hedgerows and tree-lined boundaries, providing dark corridors and preventing impacts on commuting bats' and this statement should be further substantiated prior to determination.

16/04/2020:

Having reviewed my previous correspondence (23/01/18, 24/01/18 and 27/02/18) and that of the statutory consultees I would consider the following to be the main outstanding issues:

1. The extent of planting proposed as mitigation to the southern boundary in order to screen the development from views experienced along the A361 corridor would significantly reduce the areas open character. Views towards the open hill summit at Heanton and its Grade I listed church of St Augustine would be severely limited both of which feature as key characteristics of the 5C Downland landscape character type (LCT). The LCT strategy seeks to "protect the landscape's far reaching views" and "ensure local church towers remain landmark features on skylines". It remains unclear from the submitted Masterplan whether the prescribed number of units could be accommodated on site given the extent of strategic planting, buffer zones and open space required as mitigation by the submitted supporting ecology and landscape assessments.

2. The Amended Ecological Appraisal Table 8 does not adequately present the results of a valid attempt at applying the DEFRA biodiversity offsetting metric. The assessment does not appropriately assess the condition and distinctiveness of habitat losses and therefore fails to apply habitat specific multipliers which would result in mitigation provision across the site capable of delivering a net biodiversity gain. been submitted at this stage. The AEA should set out the lighting parameters necessary to ensure that the indicative 'dark corridors' apply the appropriate level of protection for commuting and foraging bats. The AEA Table 17 states that 'boundaries will be unlit (no more than 0.5 lux) during construction and operation; external lights will be directed downwards, away from any retained hedgerows, and lights will be set on motion sensors or timers to illuminate the area for as short a time as possible'. The submitted plan indicates development

immediately adjacent to dark corridors and no substantive detail has been provided to ensure that that this measure will ensure light levels are acceptable at all retained and enhanced boundaries.

3. The Amended Ecological Appraisal Figure 6: Mitigation Plan – the plan refers to an external lighting design which does not appear to have been submitted at this stage. The AEA should set out the lighting parameters necessary to ensure that the indicative ‘dark corridors’ apply the appropriate level of protection for commuting and foraging bats. The AEA Table 17 states that ‘boundaries will be unlit (no more than 0.5 lux) during construction and operation; external lights will be directed downwards, away from any retained hedgerows, and lights will be set on motion sensors or timers to illuminate the area for as short a time as possible’. The submitted plan indicates development immediately adjacent to dark corridors and no substantive detail has been provided to ensure that that this measure will ensure light levels are acceptable at all retained and enhanced boundaries.

4. In terms of the location of the site, it is within the Zone of Influence (ZOI) identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the ZOI is considered to have recreational impacts on the SAC and is therefore required to pay a contribution of £100 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972. Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of these impacts on the SAC and the scope for mitigation. North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence. The submitted Braunton Burrows Shadow HRA/AA as previously stated is unacceptable as it seeks to justify no Likely Significant Effect (LSE) resulting from the proposed development. Strategic HRA/AA, Strategic Impact Assessment, Visitor Surveys, Identified Zone of Influence (ZOI) and draft Visitor Impact Mitigation Strategy undertaken on behalf of the LPA have established that the site is within the established ZOI and therefore any development is considered likely to contribute towards an

unacceptable cumulative effect of visitor impacts as defined in the Strategic Impact Assessment. Should the applicant wish to amend the existing sHRA/AA it should be on the basis that the LSE is established and therefore mitigation will be required. Any subsequent sHRA/AA should clearly establish a long term implementation and management strategy for mitigation measures that appropriately address the identified impacts and ensure that proposed measures compliment the draft strategic mitigation proposed by the LPA, Natural England and Christies Estates.

20/04/2020:

The Ecological Appraisal (2020) does not provide an appropriate response to the requirements set out below or provide the necessary update on survey dates and results. The EA has been amended from an earlier version to reference the partial Biodiversity Metric assessment submitted separately but does not make a definitive statement clarifying whether the habitat baseline has altered since the protected species surveys which are now out of date were undertaken. A standalone Ecological Survey update statement should be provided demonstrating that the site has been visited since the original surveys and identifying the requirement for any further survey effort as a result of changes to the site in the interim.

The partial Biodiversity Metric simply sets out the site baseline and anticipated losses as a result of the development. The metric should also be used to provide an initial view on the extent of habitat proposed under the current Block Plans and that which would be required to satisfy the requirement for a 10% gain across the site. Despite the application being at the Outline stage it is disappointing the assessment has clearly not been used to inform the current Plans and provide an indication of the potential shortfalls in provision that maybe expected. It is noted that the applicant is resigned to the current proposal resulting in a net gain and necessitating offsite provision. This may indicate an over intensification of the site under current proposals and a subsequent impact on protected species as noted in Section 7 of the EA 'the proposed development has the potential to impact hedgerows, badgers, foraging and commuting bats, breeding birds and reptiles'.

There remains no substantive demonstration that the current proposals can be accommodated on site while also maintaining hedgerow buffers and dark corridors as required by the EA. Retention and enhancement of boundary features to maintain landscape and ecological value will be necessary and these features will need to be clearly protected from residential internal and external lighting and also delineated from residential curtilage and boundary treatments.

20/07/2020:

The submitted Ecological Appraisal July 2020 (EA) and Biodiversity Net Gain Assessment July 2020 (BNG) provide an appropriately detailed assessment of the existing site composition and includes detailed recommendations for post development habitat management to deliver an onsite net gain for biodiversity. The EA has been updated to reflect the changes in habitat value since the previous habitat and protected species surveys were completed. The BNG also includes management recommendations for a significant extension to the north of the existing site boundary designated for habitat enhancement. It is unclear whether amended Site and Landscaping Plans have been submitted to reflect the extended site boundary referred to in the BNG.

The BNG provides a clear indication that a net gain can be achieved across the extended site, however the submitted net gain assessment calculations do not correspond with the BNG. The full metric assessment tool supporting the BNG conclusions should be submitted.

The indicative 'Masterplan' contained in the BNG does not appear to correspond exactly with the more detailed Mitigation Plan contained in the EA, e.g. the 'enhanced' western boundary adjacent to Parson's Copse Unconfirmed Wildlife Site. For clarity you may wish to request these two plans used to inform a revised Landscaping Plan prior to determination. The EA and BNG outline recommendations for measures to protect and enhance individual habitats within the site and appropriate provision for each should be clearly demonstrated on all revised plans:

- Retention of the row of oak trees along the northern Site boundary (TN 7) and protection from illumination and disturbance to any bats roosts in the trees
- Creation of buffer strips, including species-rich tussocky grassland, dark corridors and fruiting trees in areas of POS
- Loss of 120m of HPI hedgerow; 60m along the eastern boundary of the western improved grassland field (H6), approx. 10m of H7 to facilitate a new road, and approx. a 55m length line of trees adjacent to the nursery. The proposals also detail the creation of 100m of native hedgerow forming part of the southern boundary. Along with the enhancement of approximately 340m of hedgerow around the Site
- Protecting all retained trees, hedgerows and woodland with a buffer strip of at least 3m, extended to 10m adjacent to Parsons Copse UWS at the western boundary
- Avoiding the use of lighting during the bat active season (April to October) or designing construction lighting to avoid illumination of boundaries
- Retaining and protecting the pond and wet ditches during construction and operation

	<ul style="list-style-type: none"> <li>• Protection from construction impacts and retention of the lines of trees along the northern and southern boundaries to avoid potential impacts to roosting bats</li> <li>• Approximately 340m of retained hedgerow along the southern Site boundary is to be planted up with native woody species and managed to at least 2m in height with a bushy structure</li> <li>• Commuting features used by bats will be unlit (no more than 0.5 lux) during construction and operation</li> <li>• Retained hedgerows and scrub will be supplemented with additional native planting and managed to at least 2m in height</li> </ul> <p><b>AND WIDTH</b></p> <p>The EA recommends that a LEMP and CEMP should be produced prior to construction, although I would recommend that both documents are secured by condition for submission alongside any future reserved matters application. The LEMP should include a revised BNG statement and full calculation metric demonstrating any necessary changes to the site layout and subsequent impacts on habitat provision.</p> <p>A detailed Ecological Lighting Plan should also be conditioned and demonstrate that dark corridors are maintained in accordance with the EA and <a href="https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/">https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/</a>. This will reflect illumination arising from internal and external light spill from all residential units in addition to external street lighting.</p> <p>The indicative 'Masterplan' (BNG) and Mitigation Plan (EA) indicate that the area immediately to the east of Parson's Copse UWS is for high density development. The area is identified in the EA as 'deciduous woodland' and a North Devon Biodiversity Network (NDBN) key feature considered likely to contain trees with bat roost potential. Particular consideration to density and lighting will be necessary in any development adjacent to this habitat.</p> <p>10/08/2020</p> <p>This is a re submission of the detailed Mitigation Plan contained in the EA (Figure 6: 0466-F6 v2 10/08/18), which only focuses on mitigation for protected species, and does not include the extended site area. The indicative 'Masterplan' contained in the BNG (Figure 2: 0466-BNG-F2 08/07/20) represents the extended site and includes areas of habitat retention, enhancement and creation. Having two landscaping plans appears confusing even if the BNG masterplan uses the same basemap as the EA mitigation plan.</p>
The Biosphere Service	No reply received.

## **Neighbours**

Comments	No Objection	Object	Petition	No. Signatures
<u>2</u>	<u>1</u>	<u>50</u>	<u>0.00</u>	<u>0.00</u>

The following issues have been raised in the neighbour letter supplied which are addressed in the main considerations below:

- Principle of development on greenfield site
- Traffic implications
- Local Infrastructure capacity
- Surface run off
- Development design, and layout
- Housing need and 5 year housing land supply
- Heritage impacts
- Landscape impacts
- Best and most versatile agricultural land
- Air Pollution
- Ecological impacts
- Noise and amenity impacts

## **Considerations**

### **Proposal Description**

The application seeks outline planning consent with all matters reserved for 94 dwellings, including community facilities and Public Open Space. The plans as submitted are indicative given matters of access, appearance, landscaping, layout and sale are reserved for future applications.

The indicative layout plan indicates a development served by a central access track from Heanton Hill Lane extending through the centre of the site with varying densities of housing along its extent and a central area of Public Open Space utilising part of the route of an existing watercourse. The average density of housing is 25 homes per hectare comprised of houses of a terrace, semi-detached, detached and executive design. The height parameters are indicated at 2-2.5 storey dwelling, with a maximum height of 12 metres to the ridge in high density areas. The mix of housing would look to meet identified market housing needs. The scheme would look to provide 30% affordable housing across the site.

Wildlife and landscaping buffer strips around the perimeter of the site are indicated. An area for a shop or community use is indicated south of the access adjacent a further area of POS. Surface water generated by the development would be dealt with by a Sustainable Urban Drainage System, the detailed design of which would be secured at reserved matters stage and through conditions on any approval.

### **Planning Considerations Summary**

The main considerations in the determination of the application are:

- 1) Principle of development
- 2) Character and appearance
- 3) Heritage and Archaeology

- 4) Highway considerations
- 5) Ecology
- 6) Amenity Impacts
- 7) Flood Risk and Drainage
- 8) Infrastructure requirements
- 9) Planning balance

## Planning Considerations

### 1) Principle of development

#### Policy Position

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

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

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

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

Whilst the development of 94 family dwellings, with 30% affordable units would carry both social and economic benefits consistent with the above. Given that allocated sites exist undeveloped in Braunton and Wrafton, this development does not necessarily require a rural location and does not include building re-use and as such is contrary to the above policy.

As such it is necessary to assess the other material considerations in relation to the development below:

#### Five year housing land supply

The Councils; being North Devon and Torridge jointly, recognise that in light of the Burwood appeal decision in Torrington ( [APP/W1145/W/19/3238460](#) and attached at Appendix 3), they are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1<sup>st</sup> April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031.

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

The outcome of the appeal is considered to supersede the conclusions of the Five Year Housing Land Supply Position Statement for North Devon and Torridge published in November 2019 (North Devon and Torridge Five Year Housing Land Supply Position Statement; North Devon Council and Torridge District Council, 19th November 2019; available at: <https://consult.torridge.gov.uk/file/5528729>).

As stated above, the starting point for decision making remains that, as per Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. This is not affected by the application of the presumption in favour of sustainable development (see Paragraph 12, National Planning Policy Framework (NPPF)).

The NPPF is capable of being a material consideration in the determination of planning applications (paragraph 2, NPPF) and the weight to be afforded to it is likely to be significant.

By virtue of not being able to demonstrate a five year supply of deliverable housing sites (footnote 7, NPPF), there is a need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF) as a material consideration in determining planning applications for housing.

The lack of a 5YHLS only results in proposals for housing needing to be considered in accordance with the Presumption and not all applications for other forms of development. The lack of a 5YHLS will be a material consideration that will affect the weight that should be afforded to particular policies of the NDTLP; such as the provisions of ST06 and ST07 and in particular the application of development boundaries.

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

For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS.

Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. Due weight should be given to policies, according to their degree of consistency with the NPPF; the closer the policies in the plan are to the policies in the NPPF, the greater the weight that may be given to them (Paragraph 212, NPPF).

As the NDTLP was adopted relatively recently, none of the policies are generally considered to be out-of-date for the application of the Presumption.

The Presumption is set out in two parts;

First stage of the Presumption is to check if the policies of the NPPF that protect areas or assets of particular importance give a clear reason to refuse the development that is proposed (Paragraph 11(d)(i) and Footnote 6, NPPF). This is only done by reference to the provisions of the NPPF and not the NDTLP. There needs to be a clear reason to refuse and not simply that it affects one or more of those areas or assets.

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

The courts have concluded that the application of the tilted balance takes into account both the provisions of the NPPF and development plans as relevant and when taken as a whole. As such it can include the consideration of the relevant provisions of the development plan (NDTLP) and not only the provisions of the NPPF. The decision taker will however need to assess the weight to be given to development plan policies, including whether or not they are in substance out-of-date and if so for what reasons.

The application is contrary to the Development Plan ST07 as the site lies outside the designated development boundary as identified in the NDTLP, however the Local Planning Authority therefore needs to determine whether there are material considerations which would override the Development Plan in permitting this development. In this instance, the absence of a 5YHLS would indicate that Policy ST07 is out-of-date, only in so far as it relates to housing applications in locations which would otherwise be deemed as sustainable; subject to the consideration and application of the tilted balance against any policy conflicts identified in relation to other development plan policies and whether these conflicts and impacts result in both significant and demonstrable harm. It is noted that this site, lies on the adjacent side of the A361 from allocated site BRA01 which was brought forward in advance of the adoption of the NDTLP in October 2018. The 150 approved dwellings have been constructed on site along with a small section of the employment development. It is also noted that the application site, whilst not brought forward as a site allocated in the current NDTLP, has been subject of assessment as part of the Strategic Housing Land Availability Assessment reference SHA/HPU/475 (see Appendix 4) and it was concluded to be developable and therefore included in the SHLAA supply.

#### *Deliverability*

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

This site is not currently owned by the applicant, who has an option on the land subject to planning permission. It is intended that the application for outline consent will be presented to the Planning Committee in September 2020, and where the recommendation is agreed, the Section 106 agreement will then need to be prepared and signed, which may take several months. The applicant has agreed to accept a significantly shortened timeframe of 12 months (normally 3 years) for the submission of a reserved matters application from the date a decision is issued. This in reality would leave a sufficient period for development to be delivered on the site within a 5 year period, including land acquisition, and thus contributing to the deficit identified in 5 year housing land supply with an additional 94 units. The agreement to this restrictive commencement date shows a commitment to delivery of housing and as such is considered to meet the objectives in Policy ST21 of the NDTLP and provides significant weight in the above overall argument.

### Summary

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

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

## **2) Character and appearance**

### *Landscape*

The land on the north side of the A361 in this location is described as Downland (Landscape Character Type (LCT) 5C) and is described as having the following defining qualities and key characteristics:

- *Dramatic and far-reaching views*
- *Smooth rolling skylines, often only broken by protruding square church towers*
- *Valued wildlife habitat within the farmland and associated with the hedge network*
- *Large square fields*
- *Small communities*
  
- *“Rolling downland landscape with broad rounded ridges and hilltops, dropping in altitude in the south to meet the Taw/Torridge estuary and Barnstaple. Hill summits afford expansive views across the landscape and beyond, including to the coast and estuary.”*

- *“Range of boundary styles including grassy Devon banks with patches of wind-pruned gorse and scrub (particularly where exposed to coastal winds), flower-rich banks with mixed-species hedges, and Morte slate-faced grassy banks.”*

The site directly to the south, on the adjacent side of the A361 is described as Estuaries (LCT 4a) where the key characteristics include:

- *“Tree cover limited to overgrown hedges and areas of scrub within fringing farmland, with small blocks of broadleaved and ancient woodlands overlooking the tidal reaches of the Taw and Torridge rivers.”*
- *“Strong sensory characteristics: colour and texture of habitats; smell of mudflats and the sea; birdsong and calls; sight of sunlight reflecting off water.”*

The site is flat lying at the bottom of the hillslopes projecting to the North to Heanton. The above definitions are for both areas, reflect the site itself and its context. There is however a significant amount of built form on the surrounding flat land to the south, and east of the site, and generally around the Chivenor extent of the A361. To the south lies to BRA01 extension of 150 dwellings and employment land, and to the east is the further development in the form of dwellings, caravans and a caravan site. In the context of landscape impacts the site has been subject of consultation with the Council’s Sustainability Officer who comments as below:

*‘The submitted LVIA provides an appropriately detailed consideration of effects on landscape character and visual amenity and also outlines landscape enhancement proposals including perimeter buffer zones and retention and enhancement of boundary vegetation. The LVIA contains an appropriate set of viewpoints from within the immediate vicinity of the site, elevated views from Heanton Punchardon and Down Lane, and more distant views from Braunton Burrows and Tarka Trail. I am generally content with the methodology and concur with much of its content however there are some areas of difference which are worth considering within the overall planning balance.*

*The LVIA assesses the magnitude of change resulting from the proposal in the context of proposed and under construction mixed use development to south of the A361 at Chivenor. This development was granted in spite of an identified major to moderate major adverse landscape and visual impacts on the basis that the site was required to deliver high quality employment land and that the principle of development was only considered acceptable subject to the provision of substantive structural planting adjacent to the A361 which is yet to be delivered. Further development to the north of the A361 would have even greater adverse landscape and visual impacts resulting in an urbanising effect and the erosion of the current open character of the area. While it is accepted that the consented mixed use development reduces landscape sensitivity of the site in comparison with the overall sensitivity of the LCT it is not accepted that the proposal “would not appear uncharacteristic in the context of the surrounding development that exists and is due to take place”. The quality and character of the site is not strongly influenced by any existing or proposed development and would be subject to a noticeable deprecation as a result of encroachment into the rising topography north of the A361. The site currently maintains a strongly*

*undeveloped character and is separated from the consented mixed use development to the south by the A361 and the existing and proposed strategic planting required to mitigate impacts on the wider landscape character to the north.*

*The extent of planting proposed as mitigation to the southern boundary in order to screen the development from views experienced along the A361 corridor would significantly reduce the areas open character. When considered alongside the delivery of strategic planting to the south this would result in a significant tunnelling effect when moving through the area particularly travelling westward towards Braunton. Views towards the open hill summit at Heanton and its Grade I listed church of St Augustine would be severely limited both of which feature as key characteristics of the 5C Downland landscape character type (LCT). The LCT strategy seeks to “protect the landscape’s far reaching views” and “ensure local church towers remain landmark features on skylines”.*

*It remains unclear from the submitted Masterplan whether the prescribed number of units could be accommodated on site given the extent of strategic planting, buffer zones and open space required as mitigation by the submitted supporting ecology and landscape assessments. If on balance you were to consider the benefits of the outline scheme to outweigh the landscape harm and were to recommend approval of the development it is suggested that any associated landscape and ecology conditions make reference to delivery of the mitigation measures set out within the applicants LVA and Ecology Assessment at the reserved matters stage.’*

It is identified above, that the proposal will result in changes to landscape character which require consideration in the context of Policies ST14 and DM08A of the NDTLP. These require development to conserve/preserve and enhance the local distinctiveness and landscape qualities of the area. It is considered from the assessment by the Sustainability Officer in the context of existing developments and the LVIA conclusions on the submission documents, that the degree of landscape change is not mutually agreed and the LPA consider that a greater degree of landscape harm results from the development than that assessed in the LVIA, particularly in the context of major to moderate major harm assessed on the site to the south of the A361.

As such, the above clearly conflicts with policy objectives to conserve or preserve and enhance landscape character, matters which will therefore need to be weighed in the planning balance, in relation to other material consideration at Section 9 in reaching the recommendation. It is however noted the site is outside of any landscape designation and is partially seen in the context of other built form. As such, moderate weight is afforded to the identified harm arising from the proposals.

### *Design*

In terms of general design and layout issues, the application is made in outline with matters of scale, appearance, landscaping and layout saved for consideration at reserved matters stage. Some consideration of layout has been necessary in relation to habitat provision which will be discussed under Ecology below, however at this stage, it is not possible to consider the final form of development. An indicative masterplan and parameters in terms of heights and density has been considered and in the event

approval is recommended, this plan would form a basis of guiding the above reserved matters.

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

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

A BfL12 assessment has been supplied as part of the application and it is acknowledged it can be difficult to assess a scheme purely based upon an outline scheme and indicative layout. The LPA would question the extent of green scores given the indicative layout only and would advise that some of these currently unknown aspects should have been scored amber at this stage to indicate that they hadn't yet been achieved however it appears feasible that they could. The LPA can see no clear reason at this stage why any red scores should have been attracted and it will be key for this assessment to be re-run at reserved matters stage in order to ensure that the highest number of green scores can be achieved to comply with the above policy and provide the highest quality development.

### **3) Heritage and Archaeology**

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.

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

A sustainable development principle of the NPPF at paragraph 8 is to –'contribute to protecting and enhancing our natural, built and historic environment'. Local planning authorities have specific duties to make informed planning decisions on how development impacts on Heritage Assets and their settings.

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 193-196 of the NPPF will need to be applied. Policies ST15 and DM07 of the NDTLP apply to the development where they require development to 'preserve and enhance' heritage assets and great weight should be afforded to such protections.

A detailed Heritage Assessment was prepared as part of the application submission and assesses the impact of the proposed development on the significance of heritage

assets identified in a zone of influence. This document effectively identifies heritage assets with a suitable locality of the site and provide an assessment of the impacts. Its conclusions do not identify any notable impacts on the significant of other heritage assets. The assessment is made in relation to an outline consent where scale is not yet fixed and assesses the whole site identified for development. It is therefore considered to cover a relevant area for assessment in this instance.

The Heritage & Conservation Officer comments:

*'This application is for outline permission to erect up to 94 residential dwellings on land to the north of the new roundabout that has been constructed at Chivenor Cross. The land is currently used partly as a nursery and partly as fields for a riding school. It is rural in character, with the fields and other enclosures surrounded by substantial hedges. As such, it forms part of the rural setting for the grade I listed Church of St Augustine, at Heanton, which is sited to the north.*

*Heanton is a relatively small village, containing several listed buildings, and the focal point of the village, and indeed this part of the landscape, is the monumental tower of the Church, which is unusually tall and acts as a prominent local landmark. The need to protect the setting of this nationally important listed building, and the significance of the church as a landmark in a rural context has been considered a material factor in other planning decisions, recently including the solar array at Luscott Barton to the north. The Tower is visible from many viewpoints; in the context of this application it is readily visible over the open landscape from the main road immediately to the south of the application site. There are also extensive views from the churchyard to the south over the application site, to the base at Chivenor, the River Taw, and the countryside beyond.*

*I note that the application is in outline with all matters reserved, but it is my view that the erection of a quantity of dwellings on land which is currently undeveloped will inevitably change the character of that land, notwithstanding any landscaping or tree planting, or provisions contained in detailed plans. This element of the setting of the listed building will therefore be altered, not preserved, as is indicated to be desirable under Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990. Given that some of the significance of the listed building derives from its function as a readily visible landmark, and that this part of the setting does have some historic significance as open land, I consider that this proposal is likely to result in a degree of less than substantial harm to the significance of this heritage asset. Therefore, under the provisions of paragraph 134 of the NPPF, the public benefits of the proposal will need to be taken into account when the decision is made..'*

Historic England comments:

**Historic England Advice**

*The site is adjacent to Chivenor Cross on the low lying land along the banks of the Taw Estuary towards Braunton. On the hill side above sits the grade I listed church of St Augustine. The church retains C13 fabric but was largely remodelled in the late C15/ early C16, when the 3 stage tower with its corner pinnacles, was added. It maintains a prominent location in an elevated position, along the ridge of the hill. Its tower forms a striking landmark, being visible in views on both sides of the estuary.*

*The church is situated within Heanton village but has retained a strong rural character, as the side of the valley visible from the river remains largely agricultural land with no significant modern intervention. This green apron is an important feature within the setting of the church and contributes to its tower retaining its primacy within the wider locality.*

*The proposal is for an outline application, with all matters reserved. As all matters are reserved, the council need to be satisfied they have sufficient information by which to appropriately assess the impact of the development on the historic environment (Para 128, NNPF).*

*There is development already along the banks of the river. In longer ranged views towards the church, the development has a limited impact due to the low lying nature of the topography and the screening provided by the trees. As this is outline only, the council need to be satisfied that the proposed development of the land will not impinge into the green apron of the church, an important aspect of its setting. Landscaping as well as the height of the buildings will be key to maintaining the low impact of the development under the reserve matters.*

*In views from the church the new development will be visible but it will sit against the back drop of the existing urbanisation occurring along the low lying banks of the Taw. It will start to encroach into the rural setting of the church. The impact would be minor and results in some harm. We would encourage consideration is given to the boundary treatment between any new development and the existing agricultural land in order to soften the transition between the two.*

*The main impact relates to views to the church across the site, which will be inhibited by the new development. We would stress the need for careful analysis through a detailed visual appraisal to inform the layout and density of the development on the site and how best this can be used to mitigate the potential impact on the setting of the church. The loss of these views will result in harm.*

*Under the NPPF, Local planning authorities should look for opportunities for new development ... within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (Para 137). If a conflict between the proposed development and the asset's conservation is identified, then steps should be taken to avoid or minimise harm (Para 129, NPPF).*

### **Recommendation**

*The proposal will result in modest harm to the setting of the grade I listed Church of St Augustine through the erosion of its strong rural setting. The harm would be less than substantial, however, no harm is acceptable and it would need to be appropriately justified and balanced against the public benefit offered by the proposal (Para 132 & 134, NPPF).*

*As all matters are reserved, it is difficult to appreciate what steps could be taken within the layout and design to avoid or minimise the harm to the affected asset*

*(Para 129, NPPF). It may be possible that this harm could be minimised further, and if the council are minded to approve the scheme, we would strongly urge that a detailed analysis is undertaken in respect of the church including views to and from it, which should inform the final design and layout.*

*Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.'*

It is noted that the above comments were made on the initial consultation in 2017 therefore paragraph references to the NPPF are now out of date as the NPPF was updated in 2018. Chapter 16 paragraph 184 -202 are now relevant to impact on Historic Environment.

It is clear from the above replies that there is an identified impact to the setting of the Grade I Listed Church, which by virtue of its Grade of Listing commands greater consideration of its significance in relation to paragraph 193 of the NPPF. The comments above identify a degree of less than substantial harm to the asset and suggest the trigger of now relevant paragraph 196 of the NPPF, whereby this harm is required to be assessed in the balance against public benefits of the proposals. Historic England suggests that detailed design and landscaping could be used as a mitigation technique.

It is clear that a conflict with Policies ST15 and DM07 of the NDTLP and duty of Section 66 of the above act exists in that the development is not considered to 'preserve or enhance' the setting of heritage assets, namely the context of Heanton's St Augustine's Church, however the harm identified is less than substantial, albeit this harm will be assessed as carrying great weight as advised by the NPPF, and this will therefore be required to be considered in the balance with the public benefits of the scheme in section 9 of this report.

#### *Archaeology*

Buried archaeology has been considered as part of the application, through the submission of an Archaeology assessment. This concludes that the site is of low archaeological value. The assessment has been subject of consultation with Devon County Council's Archaeologist who raises no objections to the scheme. As such archaeology is considered to have been appropriately assessed and does not raise any conflicts in relation to Policies ST15 and DM07 of the NDTLP or the NPPF.

#### **4) Highway considerations**

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

In terms of the highway access to the site, whilst the application is made in outline with all matters reserved, the proposal indicates a singular access point at the bottom of

Heanton Hill Lane into the site, which would then allow users the option of left turn only onto the adjacent A361. The principle of the access point in this location has been supported by the Highway Authority and any technical access layout would be fixed as part of layout reserved matters. The Transport Assessment submitted with the application looks at the baseline conditions of the site and explains the rationale behind the proposed access point as well as the impacts of the movements generated by the site and necessary infrastructure improvements to meet policy objectives.

It was originally investigated as to whether a fourth arm to the new roundabout serving the BRA01 site allocation could provide the access to the site however given the roundabout design it provides insufficient space for this to be achieved safely and this option has been discounted and the assessment of the Heanton Hill Lane access was undertaken which with localised improvement is suitable for the access point.

In terms of the movements generated from the site, the nearest sustainable centre is Braunton to the west however the strategic centre of Barnstaple is located east of the site and is therefore likely to generate the higher distribution of trips given its service provision. Highway safety records have been investigated for the area around the site and whilst accident records have been identified, the cause of these accident was related to drive error rather than highway suitability, such there is not considered to be an overarching safety issue with the local highway network in this location. TRICS data has been used as the best practise for calculating likely movements from the site at peak times which are summarised in the table from the transport assessment below:

Table 6.1 - Proposed Trip Generation – Residential 94 Dwellings

Residential – 94 Dwellings	Trip Rate per Dwelling		Total Trips		
	Arrivals	Departures	Arrivals	Departures	Total
Network AM Peak 08:00 – 09:00	0.127	0.335	12	32	44
Network PM Peak 17:00 – 18:00	0.347	0.187	33	18	51

Relevant junction modelling has been undertaken along the access routes and capacity exists such that the highway network is capable of accommodating the volume of traffic generated by the development.

In terms of the strategic sustainability of the site, access to the site by alternative modes, namely bus, cycle or foot is a key aspect of the development, with the site directly adjacent to bus stops on the A361 which access the nearest centres on a frequent basis 7 days a week, and walking and cycling access to the Tarka Trail is within 400 metres of the site. It is clear that the site has good access to alternative modes which will be promoted through the travel plans associated with application, localised infrastructure improvements and this will be reinforced by the section 106 requirements of the Highway Authority.

In terms of the planning obligations requested by the Highway Authority in order for the Travel Plan to be successfully implemented the following improvements have been requested and agreed with the developer:

- Upgrade existing footways to provide improved connectivity and accessibility to both Braunton Village and the 'Tarka Trail'
- Upgrade the formal crossing facility to a 'Toucan' Crossing, particularly in light of pedestrian and cyclist movements to and from the 'Tarka Trail'.
- The requirement of a £60,000 contribution towards the upgrading of the traffic signals within the centre of Braunton.
- The provision of a £250 Public Transport voucher per household; and
- The provision of a £50 Cycling voucher per household.

These requirements are necessary to make the application acceptable in planning terms in relation to providing safe and suitable access and access to alternative modes consistent with Policy DM05 of the NDTLP. In terms of the CIL Regulation 123 tests, the above demonstrates the requirements are necessary and directly related to the planning application given the findings of the transport assessment and Highway Authority objectives to maintain the A361 as a strategic route.

In light of the above discussion it is considered by officers that all of the criteria of Policies DM05 and DM06 of the NDTLP and paragraph 108 of the NPPF has been satisfied by the information presented as part of the application and subsequent comments from the Highway Authority. Whilst the development of the scale proposed is likely to result in impacts on the highway network, as demonstrated by the transport assessment, indicative layout plans and infrastructure improvements sought and agreed the development would not have residual cumulative impacts, which would be severe to warrant refusal of the application on the basis of highway impacts.

## 5) 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).

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

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

This is further enshrined in development management Policy DM08 (biodiversity and geodiversity) whereby this policy provides detailed criteria on the above consideration in

relation to the assessment of planning applications. Paragraph 170 and 171 of the NPPF also seek the same set of objectives in respect of the above and reiterates the statutory duties.

#### *Protected species and Biodiversity Net Gain*

In terms of protected species, the ecological appraisal work supplied with the application looks to assess the impact of the development on protected species. The initial survey work carried out in 2017 has now been updated to reflect the time which has elapsed since the scheme was submitted and to ensure the surveys are up-to-date. The survey work acknowledges the potential impacts on a number of species and provides appropriate details in the commentary of mitigation and enhancement required to negate any impacts arising from the development and provide an overall enhancement on site. This also involves due consideration of the location of the development in the Bat Sustenance Zone in relation to the Caen Valley Bats SSSI. The survey work carried out is considered to meet the relevant Natural England Standing Advice in relation to protected species and they raise no objection to the proposals. As such, this can be conditioned for detailed design and mitigation measures to form part of any subsequent reserved matter application.

In terms of the assessment on protected species carried out as part of this document, in consultation with the Council's Sustainability Officer, there was no dispute in relation to the extent of survey works and the findings of the works. Issues were namely raised in respect of the mitigation and enhancement requirements in order to achieve the necessary Biodiversity Net Gains (BNG) and safeguard existing habitat on the site, which the applicant wished to leave for a Landscape and Ecological Management Plan to be submitted and considered at reserved matters stage.

Protracted discussions and submission of further documents have followed on from the above however a suitable strategy has now been agreed whereby the necessary mitigation, and enhancements resulting in the minimum 10% net gain in biodiversity have been demonstrated through revised calculations and an agreed Ecological Management Plan. It has been identified that some of the land required to implement the necessary measures is outside of the defined site boundary and at present not in the control of the applicant, yet with the option to acquire the land. As such, these plans cannot be conditioned as the land is outside of the site boundary however it is considered that this additional land can be controlled using a Section 106 agreement as it is required to make the development acceptable in planning terms and is reasonably related to the development proposed. A Landscape and Ecological Management Plan will then need to be supplied with the reserved matters application and discharged in respect of the S106 agreement to secure these measures.

#### *Habitat Regulations Assessment*

In consultation with Natural England and consideration of the Conservation of Habitats and Species Regulations 2017 (as amended), known as the 'Habitat Regulations', it must be assessed as to whether the project, given its scale and likely impacts, warrants a full Habitat Regulations Assessment (HRA) to be carried out.

In consultation with Natural England they confirm that the development proposed is not likely to impact on the Taw and Torridge Estuary Site of Special Scientific Interest (SSSI) or MCZ. In relation to the Special Areas of Conservation (SAC) being the

Braunton Burrows SAC and Culm Grassland SAC, the response in 2017 by Natural England highlighted the need for an appropriate assessment to be carried out in relation to the Habitat Regulations in order to ascertain whether significant effects were likely to result from the proposals. The applicant undertook to demonstrate the impacts of the development, concluding that they did not consider any significant effects were likely to result. This conclusion was not agreed with the LPA who have subsequently commissioned a strategic assessment which demonstrates that new residential development of up to 10,000 non-plan led dwellings could occur before significant effects would be deemed to result on the Culm SAC. In terms of Braunton Burrows SAC, as North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence. The submitted Braunton Burrows Shadow HRA/AA is unacceptable as it seeks to justify no Likely Significant Effect (LSE) resulting from the proposed development. Strategic HRA/AA, Strategic Impact Assessment, Visitor Surveys, Identified Zone of Influence (Zol) and draft Visitor Impact Mitigation Strategy undertaken on behalf of the LPA have established that the site is within the established Zol and therefore any development is considered likely to contribute towards an unacceptable cumulative effect of visitor impacts as defined in the Strategic Impact Assessment. On this basis the applicant has been advised that a contribution of £100 per unit will be sought towards the implementation of the Mitigation Strategy which will be secured through the section 106 agreement.

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

Policy ST14 (d) and Paragraph 170 (b) of the NPPF recognises the natural capital associated with the Best and Most Versatile Agricultural Land (BMV) which is land classed as 1-3a as defined by the glossary to the NPPF and classed by the Agricultural Land Classification Map South West Region produced by the Ministry for Agriculture Fisheries and Food (MAFF), subsequently superseded by the Department for Environment, Food, and Rural Affairs (DEFRA).

As part of the application, the applicant was asked to prepare an Agricultural Land Assessment which provides an appropriate assessment of the Grade of the land and its productivity. The land is classed as ALC 2 therefore is considered to be BMV in the context of the above assessment and policy provisions. It is acknowledged that the land has a high quality in terms of its value to agriculture, however it is a small parcel of land, severed from larger agricultural holdings and is in part use for equestrian purposes and the production of nursery stock therefore is not in high agricultural productivity. The Agricultural Land Quality Report prepared in respect of the application identifies these factors and concludes that the site is not likely to have a viable agricultural future.

In terms of the role of the LPA to assess development which uses BMV agricultural land in the context of paragraph 170 of the NPPF and Policy ST14 of the NPPF; the developable areas identified through the SHLAA and Local Plan allocation process have invariably encountered some land which is considered to be a of a high grade and to

identify poorer land as an alternative would take development away further from the existing built form of the Chivenor, Braunton and Wrafton.

In doing so this would mean the identification of land which, whilst on poorer grade land, would fail the key principles of the NPPF in relation to sustainable development objectives, being isolated from other development resulting in potential landscape harm and with inappropriate links to existing facilities and services resulting in environmental harm.

As such, whilst the land is considered to have an environmental and economic value attributed to agricultural production and ecological value, the benefits in terms of the appropriate location for development (particularly given the deficit in a 5 year housing land supply) along with significant economic and social implications, are such that, on balance, the loss of 3.8 ha of BMV agricultural land is justified in this instance.

## **6) Amenity Impacts**

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

### *Noise*

The application submission is supplied with an Environmental Noise Impact Assessment which assesses the location of the development in relation to noise generating existing uses. Of key importance is the presence of the A361 to the south of the site and the need to protect any future occupiers of dwellings from in appropriate noise levels. The report has been reviewed by the Council's Environmental Health Officer and its conclusions are agreed in that with appropriate good acoustic design, the BS8233:2014 guidance for 'good' and 'reasonable' internal noise level conditions could be achieved. As such the occupiers of the development would experience appropriate amenity levels, which will be fully secured at reserved matters stage.

In terms of the impacts of noise arising from the developments construction phases, given the background noise levels and the restrictions available through a Construction and Environmental Management Plan (CEMP), and limiting construction hours through planning conditions, the amenity of the nearest neighbouring residential dwellings to the east and south would be appropriately maintained. As such this would comply with Policies DM01 and DM02 of the NDTLP.

### *Air Quality*

It is acknowledged that the centre of Braunton is identified as an Air Quality Management Area, however the location of the site is outside of this. The application was accompanied by an Air Quality Impact Assessment which has been updated to reflect the new policies in the NDTLP and the Supplementary Planning Document (SPD) regarding Air Quality. The report concludes that the air quality impacts generated by the development, both at construction and operational phase would not result in detriment to air quality, with construction impacts also mitigated by the CEMP condition. These findings are agreed with the Council's Environmental Health Officer and are

considered to meet the requirements of Policies DM01 and DM02 of the NDTLP and the requirements of the Air Quality SPD.

#### *Land Contamination and stability*

The application is accompanied by a geo-technical and geo-environmental report which deals with the above issues. In terms of land stability, the site is comprised of relatively flat land used mainly for equestrian and horticultural purposes recently and agriculture historically. Land stability is not an issue at the site and construction methods can be used which would deal with the soil and land conditions at the site. In terms of land contamination, the geo-environmental assessment confirms that there are no known contaminants at the site and radon gas risk is low. The Environmental Health Officer comments on this matter confirming they have no objections and therefore advising that a reactive condition to deal with any unforeseen contamination discovered during the construction phase, should be imposed. Subject to this condition the requirement of policy DM02 of the NDTLP are satisfied.

#### *Residential amenity*

In terms of neighbouring residential amenity, such as the ability for dwellings to be delivered on site whilst preventing any overlooking, overbearing or loss of light to the nearest neighbours south and east of the site. Given the indicative layout show, height parameters and separation distances involved, it is considered that dwellings can be delivered on this site whilst maintaining appropriate amenity to existing dwellings in the area, therefore in compliance with Policy DM01 and DM04 of the NDTLP.

### **7) Flood Risk and Drainage**

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

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

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

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

Subsequent further information has been submitted to demonstrate that, whilst a detailed layout has not yet been fixed, that the site is capable of dealing with the surface water generated on the site, particularly as the site does may provide adequate infiltration rates to support natural infiltration measures, however the Lead Local Flood

Authority (LLFA) do not require this to be fully demonstrated until reserved matters stage where detailed design will dictate the appropriate measures alongside these test results however, additional information has been needed to demonstrate to the LLFA that the quantities generated can be dealt with by other SUDS methods, preferably above ground attenuation in the first instance, however acknowledges that an attenuation tank may also be required. Whilst the latter is not the first preference of the LLFA, the MOD consultation reply does seek to avoid potential bird strike issues associated with water bodies therefore this will need to be considered further at reserved matters stage when a detailed SUDS layout has been provided.

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

## **8) Infrastructure requirements**

### *Open Space*

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

The on-site requirement is 3587.04m<sup>2</sup>. This would be secured by the approved plans and section 106 agreement whereby a management company would be responsible for the long-term upkeep of the area and they would be made publically available at the earliest opportunities through the development of the site.

In terms of the off-site contribution this amounts to £275,006. These monies would be secured via S106 and used to deliver a named project within the local area.

### *Highway Improvements*

As identified above, the Highway Authority will seek through the Section 106 agreement and Highways agreements the following infrastructure improvements:

- Upgrading footway from bus layby on southern part of site
- Upgrading footway between site and Chivenor bus stop
- Improvement to crossing at island to the south-west of site on A361
- Contributions
  - o Upgrade of traffic signals in village
  - o Public transport voucher
  - o Cycle voucher

These are required for the development to comply with Policies ST10, ST23, and DM05 of the NDTLP and transport objectives of the NPPF.

### *Education Contributions*

Appropriate infrastructure in accordance with Policy ST23 of the NDTLP is required which includes contributions towards education facilities and capacity. A secondary education contribution is required for the sum of £317,433. Devon County Council have

confirmed that sufficient capacity existing at early years and primary stages that contributions are not required for these.

#### *Affordable Housing*

The scheme is required to deliver 30% affordable housing in order to accord with Policy ST18 of the NDTLP. Earlier Housing replies treated the site as an exceptions site where 100% AH was required however given the outcome of the Burwood Appeal and 5YHLS position, compliance with ST18 is required. This will be comprised of a tenure split of 75% social rent and the balance as shared ownership/discounted sale, will be pepper potted across the site and will in the first instance provide for locally identified need with as cascade approach in accordance with good, inclusive design principles require by the NDTLP and NPPF. This will be secured by the Section 106 agreement.

#### *Special Area of Conservation Contribution*

A sum of £9400 would be payable via Section 106 towards to mitigation of recreational impact identified to the Braunton Burrow SAC as a result of the appropriate assessment and mitigation strategies commissioned by the LPA in communication with Natural England.

#### *Biodiversity Net Gain*

As discussed above, some of the land required to achieve the appropriate BNG amounts is currently outside of the applicants control and the site boundary of the planning application, albeit the applicant has an option on this land subject to the outcome of the planning application. As such it is necessary to secure the BNG on this site via the Section 106 agreement.

### **9) Planning balance**

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

Landscape impacts are considered to be localised, reducing in magnitude at a wider context and not impacting on any designated landscape. It is considered with appropriate landscaping secured at reserved matters stage the impacts will reduce throughout the lifetime of development. This issue is therefore afforded moderate weight.

In highway terms the development would result in additional pressures to the highway network which can be mitigated through financial contributions towards upgrading the highway network. The design and location of the access proposed is considered to be acceptable.

The ecological impacts from development can be mitigated through appropriate construction management, and monitoring along with green infrastructure provision on and off site.

The amenities of local residents can be appropriately safeguarded through the parameter plans and conditions imposed in relation to noise, land contamination and construction measures.

The site can appropriately deal with surface water run-off in accordance with Environment Agency and DCC Flood Risk advice and national requirements.

The site would result in less than substantial harm of heritage assets in the locality identified as sharing their setting with the site and significant weight is afforded to this matter.

Turning to the NPPF and the 3 dimensions of sustainability, and this the presumption in favour of sustainable development;

The economic benefits of the proposal would be strong, including the creation of jobs, the addition of spending power to the local economy and the new homes bonus.

Social benefits would include meeting general housing needs and affordable housing needs, which much of the currently identified local AH need is deliverable on the site.

Environmentally the impact of development would be moderate in landscape terms and significant in heritage terms, however mitigation exists which would reduce these impacts over time and beyond a local context, but not negate them entirely.

The location of the site and contributions for alternative transport modes offers the potential for reductions in car use, which would be an environmental benefit.

As such considered as a whole, with the significant weight attributed to the Council's absence of a 5 year housing land supply, the site is sustainable in NPPF terms, and that the provisions of paragraph 11 of the NPPF are engaged. Paragraph 11(d) of the NPPF is clear that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. Given the above discussion it is considered, on balance, that there would not be significant and demonstrable harm in landscape and heritage terms, which would outweigh the substantial benefits attributed from the provision of much needed housing, including a significant element of affordable housing on an otherwise sustainable site. As such with the imposition of appropriate conditions and S106 obligations the balance is considered to be, on balance in this instance, to fall in favour of the proposal.

## HUMAN RIGHTS ACT 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained

in this report. The articles/protocols identified below were considered of particular relevance:

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

### **Recommendation**

Approved

Legal Agreement Required:- YES

### **Conditions**

1. Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission. The development hereby permitted shall be begun either before the expiration of one year from the date of this permission or before the expiration of one year from the date of approval of the last reserved matters to be approved whichever is the later.

Reason:

To ensure that the development, which has been considered in light of the presumption in favour of sustainable development (paragraph 11 (d) of the National Planning Policy Framework) delivers housing within an appropriate timeframe to meet the shortfall in housing identified in the Local Plan area.

2. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the access, appearance, landscaping, layout, and scale of the development on the site (hereinafter referred to as 'reserved matters') have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.

Reason:

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Part 3, Article 6 (b) of the Town and Country Planning (General Development Procedure) Order 2015.

3. As part of the first reserved matters application a detailed phasing plan for the whole site shall be submitted to the local planning authority for approval in writing. The phasing plan shall include details of:
  - a) intended number of market and affordable dwellings for each phase; and,
  - b) general locations and phasing of key infrastructure including, surface water drainage, green infrastructure, community facilities and access for pedestrians, cyclist, buses and vehicles.
  - c) Chronological timing of delivery of dwellings in any given phase.

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

Reason:

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

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

Drawing No.	Date received:
16097 L1 (Location Plan)	08/11/2017
16097 P1_A (Masterplan)	07/11/2018
Figure 6 (Ecological Mitigation Plan)	03/08/2020

('the approved plans').

Reason:

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

5. No more than 94 residential dwellings (Use Class C3) shall be constructed on the site pursuant to this planning permission.

Reason:

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

6. As indicated on the masterplan, the following development densities identified shall not exceed the height parameters as indicated below:

High Density - 2 storeys (+room in a roof) height to ridge 12 metres  
Medium Density - 2 storeys (+possible room in a roof) height to ridge 10 metres  
Low Density - 2 storeys height to ridge 8 metres

Reason:

In the interests of the character and appearance of the area in accordance with Policies ST04, ST14, ST15, DM04, DM07 and DM08A of the North Devon and Torridge Local Plan.

7. No development shall take place until 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 the implementation and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the Ecological Impact Assessment (EclA)

and shall include:

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

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

Reason:

In order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08A of the North Devon and Torridge Local Plan, paragraph 170 of the National Planning Policy Framework and the requirements of the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). This is a pre-commencement condition which is imposed to ensure that the Local Planning Authority is satisfied of mitigation measures prior to works commencing on site. Failure to provide this information prior to works

commencing on site could lead to the risk of loss of biodiversity or protected species and their habitat in contravention of the above legislation.

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

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

This scheme shall include [include those that are pertinent]:

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

(b) a tree survey schedule in accordance with paragraph 4.2.6 of BS5837: 2005.

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

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

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

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

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

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

ground.

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

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

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

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

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

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

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

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

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

(r) If any retained tree, or hedge is removed, uprooted or destroyed or dies, another tree or hedge shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

Reason :

To safeguard the appearance and character of the area in accordance with Policies DM04 and DM08A of the North Devon and Torrington Local Plan.

9. Prior to commencement of development a Public Open Space and Landscape Management Plan, including long-term design objectives, management responsibilities and maintenance schedules for all public open space and landscape areas (other than small, privately owned, domestic gardens) shall be

submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

Reason:

To ensure the proper management of the public spaces within the development in the interests of visual amenity. This is a pre-commencement condition which is imposed to ensure that the Local Planning Authority is satisfied of long term management of public spaces prior to works commencing on site. Failure to provide this information prior to works commencing on site could lead to the risk of areas being provided on site for which no management has been agreed.

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

Reason:

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

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

Reason:

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

12. The occupation of any building in an agreed phase of the development shall not take place until the following works have been carried out:
- (a) The carriageway including the vehicle turning head to serve that building shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - (b) The footways and footpaths which provide that building with a direct pedestrian route to an existing highway maintainable at public expense has been constructed up to and including base course level;
  - (c) The visibility splays have been laid out to their final level;
  - (d) The street lighting for the roads and footpaths applicable to (a) and (b) above has been erected and is operational;
  - (e) The car parking and any other vehicular access facility required for the

building by this permission has been completed;

(f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;

(g) The street nameplates for (a) above, have been provided and erected.

Upon occupation, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained.

Reason:

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

13. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:
- a) Monday - Friday 08.00 - 18.00,
  - b) Saturday 09.00 - 13.00
  - c) nor at any time on Sunday, Bank or Public holidays.

Reason:

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

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

Reason:

To ensure that any contamination existing and exposed during the development is identified and remediated in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

15. Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environment Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-
- a) measures to regulate the routing of construction traffic;
  - b) the times within which traffic can enter and leave the site;

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

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

Reason:

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

16. As part of any subsequent reserved matters application, full details of noise control measures set out in Section 8 of the Soundguard Acoustics Environmental Noise Impact Assessment dated 25 May 2017 shall have been designed into the detailed scheme and shall be submitted to the Local Planning Authority for consideration.

Reason:

In the interests of the resulting amenity of future residents of the development to comply with Policies DM01, DM02 and DM04 of the North Devon and Torridge Local Plan.

17. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces. If infiltration proves viable, then groundwater will need to be assessed, over a period of 12 months, and the results submitted to the Local Planning Authority. The monitoring will need to provide adequate coverage of the site, with particular

focus planned on the locations and depths of the proposed infiltration devices.

Reason:

To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible. Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

18. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment, Surface Water Strategy and Sewerage Statement (Ref. 16097/FRA; Rev. C; dated July 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

Reason:

To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

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

Reason:

To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

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

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

Reason:

To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

21. 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.

Reason:

To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development. Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

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

Reason:

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

### **Informatives**

1. The development to which this permission relates is the subject of an agreement under, inter alia, Section 106 of the Town and Country Planning Act 1990.
2. Statement of Engagement  
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission. This has included seeking further information in respect of SUDS,

ecology, and affordable housing. The LPA has been required to apply the titled balance in regard to Paragraph 11 (d) of the National Planning Policy Framework and in this instance, on balance it is considered that the environmental harm to landscape and heritage assets is not considered to significant and demonstrable harm when considered in the balance with the Council's absence of a 5 year housing land supply.

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## **Appendices**

1. Location Plan
  2. Representations received
  3. Appeal Decision re Burwood
  4. SHLAA reference SHA/HPU/475
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