

# South Hams Development Management Committee



<b>Title:</b>	<b>Agenda</b>															
<b>Date:</b>	<b>Wednesday, 10th April, 2024</b>															
<b>Time:</b>	<b>10.00 am</b>															
<b>Venue:</b>	<b>Council Chamber - Follaton House</b>															
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Long <b>Vice Chairman</b> Cllr Taylor</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Abbott</td> <td style="width: 33%;">Cllr Nix</td> <td style="width: 33%;"></td> </tr> <tr> <td>Cllr Allen</td> <td>Cllr O'Callaghan</td> <td></td> </tr> <tr> <td>Cllr Bonham</td> <td>Cllr Pannell</td> <td></td> </tr> <tr> <td>Cllr Carson</td> <td>Cllr Rake</td> <td></td> </tr> <tr> <td>Cllr Hodgson</td> <td></td> <td></td> </tr> </table>	Cllr Abbott	Cllr Nix		Cllr Allen	Cllr O'Callaghan		Cllr Bonham	Cllr Pannell		Cllr Carson	Cllr Rake		Cllr Hodgson		
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Cllr Bonham	Cllr Pannell															
Cllr Carson	Cllr Rake															
Cllr Hodgson																
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.															
<b>Committee administrator:</b>	Amelia Boulter - Democratic Services Specialist 01822 813651															

**1. Minutes**

**1 - 6**

To approve as a correct record the minutes of the meeting of the Committee held on 13 March 2024

**2. Urgent Business**

Brought forward at the discretion of the Chairman;

**3. Division of Agenda**

to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;

**4. Declarations of Interest**

In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting;

**5. Public Participation**

The Chairman to advise the Committee on any requests received from members of the public to address the meeting;

**6. Planning Applications**

To see Letters of Representation and further supplementary information relating to any of the Applications on the agenda, please select the following link and enter the relevant Planning Reference number:

<http://apps.southhams.gov.uk/PlanningSearchMVC/>

**(a) 0384/23/OPA**

**7 - 32**

**Land at Sx 652 517, Modbury**

READVERTISEMENT (viability appraisal submitted with revised affordable housing provision and open market housing mix). Outline Planning Application (with all matters reserved apart from access) for demolition of existing buildings and a residential redevelopment of up to 40 dwellings, including the formation of access and associated works on land at Penn Park, Modbury

- (b) 4021/21/VAR** **33 - 62**  
**Development site at SX 809597, Steamer Quay Road, Totnes**  
READVERTISEMENT (revised plans) Application for variation of condition 2  
(approved drawings) of planning consent 4165/17/FUL

*\*Please Note: The following Application will not be heard before 2.00 pm*

- (c) 0156/24/HHO** **63 - 74**  
**28 Redwalls Meadow, Dartmouth. TQ6 9PR**  
Householder application for erection of single storey ancillary residential  
annexe & associated works

- 7. Planning Appeals Update** **75 - 76**

- 8. Update on Undetermined Major Applications** **77 - 84**

- 9. Exclusion of Public and Press**

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”;

- 10. Enforcement Report**

Report to follow

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**MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE held in the COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES, on WEDNESDAY, 13 MARCH 2024**

Members in attendance * Denotes attendance ∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr A Nix
*	Cllr G Allen	*	Cllr D O’Callaghan
∅	Cllr L Bonham	*	Cllr G Pannell
*	Cllr J Carson	*	Cllr S Rake
*	Cllr J Hodgson	∅	Cllr B Taylor
*	Cllr M Long (Chairman)	*	Cllr T Edie (substituting for Cllr Bonham)
*	Cllr M Steele (substituting for Cllr Taylor)		

**Other Members also in attendance:** Cllrs Dennis and Thomas

**Officers in attendance and participating:**

Item No:	Application No:	Officers:
All agenda items		Head of Development Management, Senior Planning Officers, Principal Housing Officer; IT Specialists and Senior Democratic Services Officer

**DM.56/24 MINUTES**  
The minutes of the meeting of the Committee held on 14 February 2024 were confirmed as a correct record by the Committee.

**DM.57/24 DECLARATIONS OF INTEREST**  
Members and officers were invited to declare any interests in the items of business to be considered and none were made.

**DM.58/24 PUBLIC PARTICIPATION**  
The Chairman noted the list of members of the public, Town and Parish Council representatives, and Ward Members who had registered their wish to speak at the meeting.

**DM.59/24 PLANNING APPLICATIONS**  
The Committee considered the details of the planning applications prepared by the relevant Case Officers as presented in the agenda papers, and considered the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

- 6a) 3650/23/FUL Land At Sx 782 623, Symonds Drive, Dartington Parish: Dartington Parish Council**

**Development: Application for the erection of a single residential dwelling (Affordable Discount Market)**

Case Officer Update: The Case Officer summarised the key issues, namely that:

- Discount to remain at 80% of open market rate.
- Additional information submitted to confirm trees and biodiversity enhancements.

The Officer reported that this was policy compliant and would not ask for a viability study because the site was 30% compliant. The open market value for this property was £450,000.

During the debate, one Member felt there was need to challenge large developers and £450K was not affordable and not meeting local housing needs. Also felt it was wrong to approve this and would see further applications coming forward on spare pieces of land. This was an ancient hamlet being flooded, over developed and not affordable. Another Member felt garden sizes being reduced were acceptable within the JLP and this was infill housing.

**Recommendation:** Conditional approval subject to completion of S106.

**Committee decision:** Conditional approval subject to completion of S106.

**Conditions:** Standard time limit  
Accord with plans  
No additional openings  
Parking to be provided prior to occupation  
Incidental use of garage  
Adherence to submitted lighting strategy  
Installation of EV charging point prior to occupation

**6b) 3048/21/FUL Montgo, Maudlin Road, Totnes, TQ9 5TG  
Town: Totnes**

**Development: Provision of single dwelling house (resubmission of 1668/20/FUL)**

Case Officer Update: The Case Officer summarised the key issues, namely that:

- Principle of development.
- Design/scale/landscape.

- Neighbour amenity.
- Highways and parking.
- Drainage.
- Land stability.
- Earlier refusal in 2020.

In response to questions raised, it was reported that:

- The Drainage Officer felt that the permeable paving was acceptable.
- They would be requesting oversight for a practical solution for land stability.
- The Totnes Town Council had been consulted on 4 occasions.

Having heard from speakers on behalf of the objector and the supporter, Members debated the application. During the debate, one Member raised concerns on the impact on neighbouring properties and felt that it was important to respect local distinctiveness and maintaining local identity. This site has the potential to be something wonderful and also felt that this was too big for the site, but they had dealt with the drainage and parking issues. Another Member felt this was not overbearing and the site was not being used and would now provide housing. It was also raised that the applicant had addressed the issues and therefore supported the officer's decision.

**Recommendation:** Conditional Approval

**Committee decision:** Conditional Approval to include a pre-commencement condition - a report on land stability to be approved by SHDC.

**Conditions:**

1. Time limit
2. Approved plans
3. Land stabilisation details
4. Site levels
5. Construction management plan
6. Construction environmental management plan
7. Access, parking and drainage
8. External materials
9. Boundary treatments
10. Landscaping scheme
11. EV charging point
12. Bin storage
13. Surface and foul water drainage
14. DEV32
15. Unidentified contamination
16. PD Removal

**6c) 3928/23/HHO Eldoret, Galmpton Cross, Galmpton, TQ7 3EH**

**Parish: South Huish**

**Development: Householder application for demolition of outbuildings & single storey extension to East elevation. Creation of enclosed balcony to top of existing garage.**

Case Officer Update: The Case Officer summarised the key issues, namely:

- Highly visible from the public realm due to countryside location, topography of landscape and lack of surrounding tree cover.
- Extension was overbearing at 74m<sup>2</sup> in footprint and 6.2m in height (300mm lower to ridge than previous two-storey proposal).
- Ridge higher the eaves of the two-storey host dwelling despite being single storey.
- Perception of a two-storey addition and rivals the primary of the parent dwelling.
- Inharmonious design which does not sit well with parent dwelling in terms of size, scale and fenestration.
- Excessive amount of glazing in this protected 'dark skies' landscape (approx. 50m<sup>2</sup> increase) risks the property becoming a 'beacon'.

In response to questions raised, it was reported that there was no formal way to measure light pollution however there was a need to take a pragmatic view because of the location and the impact on dark skies. The north elevation would be less impactful but would still create a glow.

Having heard from speakers on behalf of the supporter, statement from the Parish Council and Ward Member, Members debated the application. During the debate, one Member supported the officer's recommendation. Other Members felt that this breached a number of policies, over dominant and subservient to the main building and could have an extension that blends better with the original building. Another Member felt although visible it was also quite well hidden by the wooden area and hedge. Concerns were raised on the glazing and closeness to the undeveloped coast.

**Recommendation:** Refusal

**Committee decision:** Refusal

DM.60/24

**PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report.

DM.61/24

**UPDATE ON UNDETERMINED MAJOR APPLICATIONS**

Members noted the update on undetermined major applications as outlined in the presented agenda report.



(Meeting commenced at 10.00 am and adjourned at 11.35am. Meeting concluded at 12.48 pm)

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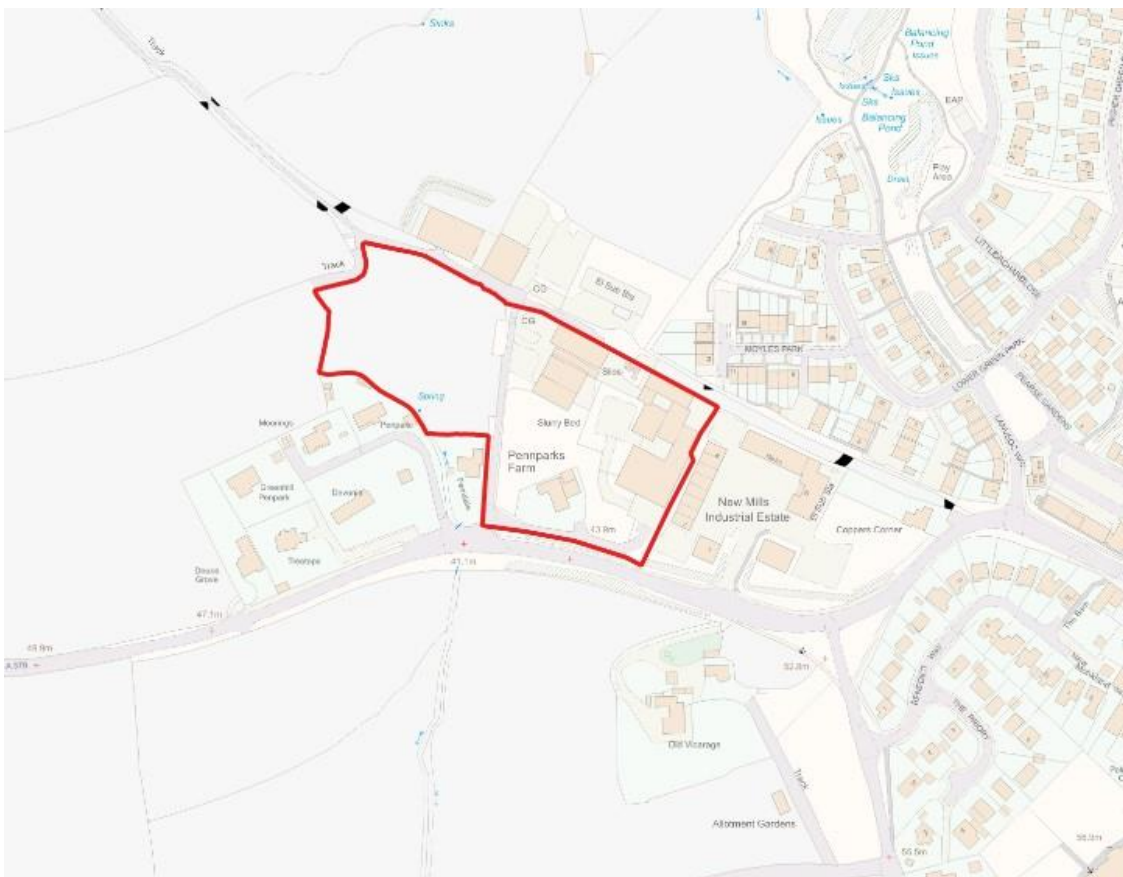
Chairman

Voting Analysis for Planning Applications – DM Committee 13 March 2024

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
3650/23/FUL	Land At Sx 782 623, Symonds Drive, Dartington	Conditional approval subject to completion of S106.	Cllrs Abbott, Carson, Long, Nix, Rake and Steele (6)	Cllr Hodgson (1)	Cllrs Allen, Edie, O'Callaghan, and Pannell (4)	Cllrs Bonham and Taylor (2)
3048/21/FUL	Montgo, Maudlin Road, Totnes, TQ9 5TG	Conditional Approval	Cllrs Abbott, Allen, Carson, Edie, Long, Nix, Pannel, Rake and Steele (11)		Cllrs Hodgson and O'Callaghan (2)	Cllrs Bonham and Taylor (2)
3928/23/HHO	Eldoret, Galmpton Cross, Galmpton, TQ7 3ET	Refused	Cllrs Abbott, Allen, Carson, Edie, Hodgson, Long, Nix, O'Callaghan, Pannel and Steele (10)		Cllr Rake (1)	Cllrs Bonham and Taylor (2)

## COMMITTEE REPORT

<b>Case Officer:</b>	Bryn Kitching		
<b>Parish:</b>	Modbury	<b>Ward:</b>	Charterlands
<b>Application No:</b>	0384/23/OPA		
<b>Applicant:</b>	Baker Estates Ltd Green Tree House Silverhills Road Decoy Industrial Estate Newton Abbot TQ12 5LZ	<b>Agent:</b>	Miss Jessica Crellen - Collier Planning 2nd Floor Unit 2, Chartfield House Castle Street Taunton TA1 4AS
<b>Site Address:</b>	Land At Sx 652 517, Modbury		
<b>Development:</b>	READVERTISEMENT (viability appraisal submitted with revised affordable housing provision and open market housing mix). Outline Planning Application (with all matters reserved apart from access) for demolition of existing buildings and a residential redevelopment of up to 40 dwellings, including the formation of access and associated works on land at Penn Park, Modbury		



**Reason item is before Committee:** The Head of Planning considers that the views of members are essential due to the nature of the development proposed and the number of representations received.

**Recommendation:** Refusal

**Reasons for refusal:**

- 1 The proposals do not deliver the policy requirement of 30% affordable housing and fails to contribute towards sustainable, inclusive and mixed rural community as set out in the Development Plan. The proposal would not constitute sustainable development and is contrary to Policies SPT2, TTV2 and DEV8 of the Plymouth and South West Devon Joint Local Plan, Policy MNP3 of the Modbury Neighbourhood Plan and the objectives of the National Planning Policy Framework.
- 2 The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraphs 114 and 115 of the National Planning Policy Framework and Policies SPT2, TTV2 and DEV29 of the of the Plymouth and South West Devon Joint Local Plan, Policies MNP5 and MN6 of the Modbury Neighbourhood Plan

**Key issues for consideration:** Principle of Development/Sustainability, Affordable Housing and Housing Mix, Local Infrastructure, Noise and disturbance from adjoining buildings/uses, Contamination and geotechnical, Heritage, Landscape and trees, Ecology, Travel Plan, Vehicle Access, Low Carbon Development, and Drainage

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**Site Description:**

The application site is approximately 1.86 hectare comprising agricultural buildings, associated bungalow and paddock/field. It is known as Penn Park Farm. The site is on the western side of Modbury between a group of 7 detached residential dwellings to the west and New Mills Industrial Estate to the east. Vehicle access to the site is off the A379 with a track running through the centre of the site that provides access to farm buildings, bungalow and an electricity sub station to the north.

The site slopes upwards from the main road, rising about 6m from south to north. The bungalow is in the south eastern part of the site, about 3m above the main road. The application documents state that the bungalow is subject to an agricultural tie. The agricultural buildings are to the north of the bungalow and site approximately 3m higher. The western part of the site comprises agricultural field that rises up to the north west, with the highest point about 8m above the main road level. The site is bordered by native hedgerows.

To the north of the application site is part of a track that runs from the surrounding agricultural fields to the west, to an overgrown track that exits at Coppers Corner on The A379. This track is known as the Drivers Way and is thought to be historically used for driving cattle

linked to the wider agricultural unit. Parts of the Drovers Way are blocked at the north eastern corner of the site and there is currently no through route for pedestrians or agricultural vehicles. It does not form any part of the application site. The northern side of the track contains more agricultural buildings and an electricity sub station that are also outside of the application site and not subject to any of the proposals.

To the south of the A379 is the South Devon National Landscape (formerly known as the South Devon Area of Outstanding Natural Beauty or AONB). Although the application site is outside of the designated area, it should be considered as being within the setting of the South Devon National Landscape. The application site is within the 12.3km buffer zone of influence for the Plymouth Sound and Estuaries Special Area of Conservation (SAC)

Access from the site to facilities in Modbury is via the main road with some of the pedestrian route via Church Lane and Benedict Way as there is no pavement on part of the main road between Church Lane and Lanveoc Way (Palm Cross development site).

The site is allocated for housing under policy TTV24 of the Joint Local Plan with an estimated provision of about 40 homes. Modbury has a settlement boundary defined by the Neighbourhood Plan and the application/allocation site is within that boundary.

### **The Proposal:**

This application is for outline planning consent for residential development of up to 40 dwellings with detailed approval being sought for access. All other matters of detail (appearance, landscaping, layout and scale) are reserved for later determination. The proposed description of development includes the demolition of existing buildings which would include both the agricultural barns and residential bungalow.

The submitted application forms indicated that the development would comprise 28 units of Open Market Housing and 12 units of Social, Affordable or Intermediate Rent Housing. However, during the course of the application the applicant has amended the affordable housing offer to 4 dwellings (10%) with the remainder of the dwellings being for open market. The amended proposal would be for 2 of the dwellings to be 2-bed houses and the other 2 dwellings to be 3-bed houses.

The application seeks to fix the open market mix at outline stage and the original housing mix sought has also been amended alongside the change to affordable housing so that it would provide:

- 36% (13) 2-bed homes
- 39% (14) 3-bd homes
- 25% (9) 4/5-bed homes

The application is accompanied by a parameters plan which defines areas of the site where different scales of housing would be located, hedgebanks and associated bat foraging corridor, surface water attenuation areas, and potential access links for vehicles and pedestrians.

Detailed vehicle access plans and off site highway works are included in the application which show an new vehicle access approximately 10m to the east of the existing access. Off site highway works include the creation of an uncontrolled crossing point (with central island) on the A379, new footways leading to Church Lane and Benedict Way, pedestrian

deterrent surfaces on the existing A379 footway (that terminates further north), relocated bus stops and refreshed road markings.

The following documents were submitted with the application:

- Site location plan
- Parameter plan
- Site Constraints and Opportunities Plan
- Access plans
- Design and Access Statement (including illustrative masterplan);
- Ecological Report;
- Carbon Reduction Statement;
- Flood Risk Assessment & Drainage Strategy;
- Transport Statement, including Travel Plan measures and accessibility;
- Historic Environment Statement;
- Landscape Visual Appraisal (LVA);
- Tree/Hedge survey and Tree/Hedge Protection Plan;
- Open Space, Sport, Recreation Assessment;
- Assessment of Housing Mix; and,
- Preliminary Phase 1 and 2 Ground Investigation.

Following the initial consultation period, the applicants put forward an argument that the development of this allocated site has viability issues and that the policy requirement of 30% Affordable Housing could not be achieved. Following discussion with officers and external viability specialists, the applicants submitted further documents that include:

- Viability Assessments commissioned by the applicants (with an offer of 10% affordable housing)
- Economic & Social Assessment Report

Following the submission of the additional documents and change to the affordable housing provisions, a full reconsultation has been carried out.

### **Consultations:**

The views of Modbury Town Council are reproduced in full and all other consultation responses have been summarised. Full copies of all consultation response can be found here <https://southhams.planning-register.co.uk/Planning/Display/0384/23/OPA>

- **Modbury Town Council** – Object:

1. The Council accepts that the site was allocated in the JLP and generally agrees with the principle of housing on this site subject to certain conditions. These conditions would ensure the quality of housing as well as the drainage, environment and pedestrian and vehicular access. We are not yet in that position. There are a number of serious problems with the application as proposed.

2. Pedestrian Access. - We generally agree with the objections to the application raised in the letter from the Devon County Highway Engineer dated 22.3.23. Specifically we would make the following points:-

- I). The site is very poorly connected to the Town and particularly the Primary School. The pedestrian route is tortuous (569m) and the natural desire lines for pedestrians and children are unsafe.
- II). Bus stops on both carriageways and on right angle bends will lead to severe vehicular conflict at a point where pedestrians are crossing. This is on a road that carries over 10,000 vehicles per day in summer. This vehicular conflict will further exacerbate the safety of pedestrians. This has not been addressed with the minor amendments proposed.
- III). The footpaths alongside the highways are the minimum widths of 1.15m. Satisfactory safe havens are not provided for pedestrians, wheel chair users, mobility scooters, or buggies. This further exacerbates the safety of highway users and is contrary to JLP Policies DEV1: Protecting health and amenity and DEV29: Provisions relating to transport and to NP Policies MNP3: Future development and MNP6: Safe movement and transport.
- IV). The conclusion of both ourselves and the County council is that an alternative access via Green Lane is essential before the application is approved. This access needs to be well lit, drained and hard surfaced. (Hard surfaces and not 'hoggin' as 'hoggin' will wash out on the slope of the path.)
- V). In short the community safety should not be compromised because the developer 'is finding it difficult' to secure a pedestrian access.

3. Vehicular Access. — As a result of the poor pedestrian access people will be forced to use vehicles to access the Town and school. This will lead to further pedestrian/vehicular conflict as outlined in the County Highways letter dated 22.3.23. This is contrary to the policies contained in the Joint Local plan (JLP) Policies DEV1: Protecting health and amenity and DEV29: Provisions relating to transport. It is also contrary to the Neighbourhood Plan (NP) Policies MNP3: Future Development, MNP6: Safe Movement and Transport and MNP12: Community Facilities and Infrastructure.

We do, however disagree with the comments of the highway engineer that his concerns on vehicular access have been mainly addressed. The combination of the desire lines, vehicular movements, proximity of the school and lack of pedestrian access via Green Lane all combine to make the proposed development unacceptable and unsafe. The Highway Engineer even summarises the situation himself as "far from ideal".

#### General Points

It is suggested by the applicant and the Highway Engineer that it could prove difficult to condition any of the above points. This should not be used as a reason for not providing satisfactory conditions on developments. Indeed it is essential that the community is protected by both conditions and a legal agreement as the development progresses.

This is the crux of the matter. Despite housing being agreed for the site this application is premature until such time as issues are satisfactorily dealt with. Whilst we recognise that all matters other than transport are reserved at this time, should this application go forward it is essential to ensure that the following issues are protected and are dealt with by conditions:

1. Density of site: Proposed density is up to 45.6 homes. The JLP TT24 site allocation is for 40 homes.
2. Capacity of infrastructure, including drainage.
3. Light pollution
4. Sustainability, including design, construction and energy efficiency.
5. Amenity land, parking, fencing and planting.

*Further comments following reconsultation on viability:*

Modbury Parish Council objects to this application on the grounds of unsafe pedestrian access from the site to the town. The proposed access necessitating crossing and re crossing the busy A379 does not fulfil the requirement for a safe route, particularly for children and anyone with mobility needs and is contrary to both the Modbury Neighbourhood Plan's central theme of safe pedestrian access and to the Joint Local Plan's emphasis on the same. The Council cannot approve the application on the basis that the green lane known as Drovers Way might be viable in the future. Confirmation of safe access must come before approval of the application.

The proposal to reduce the affordable housing component from the 30% mandatory requirement from SHDC to 10% is unacceptable. We do not believe that there are any exceptional circumstances which should exempt the developer from this obligation. The current proposal does not represent the best interests of our community.

- **County Highways Authority** – Object: Site is poorly connected for pedestrians accessing public amenities in the town and certain users will choose to take the shorter and dangerous route along the A379 which lacks footways at certain places. Sole pedestrian access via new off-site highway works on the A379, Church Lane and Benedict way require crossing the busy A379 in two places which is far from ideal. The application should include pedestrian access via the Drovers Way to the north which is not in the control of the applicant. Do not support the relocation of the 30mph speed limit to the West.
- **Environmental Health** – Comment: The submitted contaminated land recommends further exploration and either removal or covering of an infilled slurry pit. Recommend removal and further details can be secured by planning condition. Noise assessment regarding adjoining commercial/industrial estate would be required at reserved matters stage. Standard CEMP condition required if approved.
- **Affordable Housing** – Object: The application is not policy compliant with DEV8 of the Joint Local Plan. The application is proposing just 10% affordable housing. An Independent Viability Appraisal (IVA) of the applicant's submission has been scrutinised. The IVA, which has been carried out by Lionel Shelley of William Lean, also taking advice from Gates Consultancy, to agree the cost plan figures is attached. This information details where the applicants Viability Appraisal and the IVA conflict and costs have not been agreed. Whilst 30% Affordable Housing may not be achievable, South Hams District Council, based on the IVA believes that 22.5% Affordable Housing should be provided along with a late review clause on an open book basis to capture any lower than expected costs and higher achieved sales values, in addition to profit above what is anticipated.



Initial comments dated 12th April 2023 were ones of support as 30% (12 Affordable Houses) were proposed in the original application.

- **Conservation and Design** – No objection / Comment: The site was fully assessed when it was considered for allocation. The possibility of impact on all heritage assets, including the Church of St George, the Modbury CA, Flete and Edmeston, was considered.

Assuming the dwellings will be standard 2 storey types I consider there to be no adverse impact on the setting of any heritage assets. The physical separation and lack of meaningful inter-visibility means any visual connection is minimal and would not amount to harm. There are no other characteristics to the site that have not been suitably covered in the Heritage Statement supplied with the application.

The highway revisions will not impact on the setting of the grade I church or the approach to the CA. The junction is already a modern highway layout and views of the church spire are partly obscured by late 20th century building.

- **Open Space, Sport and Recreation Specialist** – No objection subject to conditions and Section 106 Agreement to secure open space with appropriate management, on site Local Area for Play (or off-site contribution), sports and allotments contributions.
- **Tree Specialist** – No objection on arboricultural merit in respect of access location only. Agreement is found with the location of access and it is considered that any adverse impact may be addressed by mitigation planting, to be reviewed by the ecologist and landscape specialists. Note T8 and T9 are not afforded proposed protection within the constraints plan and T11 is not depicted as being present. Comments are reserved at this stage on wider constraints posed between the as yet unknown layout and trees and hedges of merit. Any RM application would be expected to address the omissions noted above.
- **Landscape Specialist** – No objection to the outline application, but note that considerable work is needed to secure an appropriate site layout and detailed design of buildings and landscape. This additional design development is considered essential to ensure that development respects scenic quality and maintains the area's distinctive sense of place and reinforces local distinctiveness, in order to accord with adopted policy DEV23, and noting that the site is in the setting of the South Devon National Landscape, so adopted policy DEV25 must also be complied with.
- **South Devon National Landscape** – No comments received:
- **DCC Historic Environment** – Comment: The results of the desk-based assessment and geophysical survey reports do not suggest the presence of heritage assets with archaeological interest of such significance that preclude development here, and any impact upon any archaeological deposits present here may be mitigated by a programme of archaeological work undertaken in advance of development commencing. Recommend that application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets

with archaeological interest. If WSI is not submitted before the determination of the application it should be secured by planning condition.

- **DCC Ecology** – No objection subject to conditions (LEMP, CEMP, compensatory bat roost, lighting design, development carried out in accordance with Ecological Impact Assessment, no hedge clearance during bird nesting season, repeat Hazel dormouse and badger survey) and legal agreement securing mitigation of the additional recreational pressures upon the Plymouth Sound and Estuaries European Marine Site, and to secure Biodiversity Net Gain.
- **DCC Education** – Comment: Nearest primary and secondary schools have capacity for the number of pupils likely to be generated by the proposed development. Require a £24,063 contribution towards school transport costs due the development being 2.25 miles from Ivybridge Community College.
- **Local Lead Flood Authority** – No objection assuming that planning condition is imposed to secure detailed drainage designs (based on the Flood Risk Assessment Rev 4) being secured.
- **DCC Waste** – Comment: This application is not supported by a Waste Audit Statement, although we note that section 7.33 of the planning statement requests a planning condition to be imposed on any grant of outline permission to secure a Waste Audit Plan. It is therefore recommended that a condition is attached to any consent to require the submission of a statement at the reserved matters stage.
- **Environment Agency** – No objection provided that conditions relating to contaminated land are included within any permission granted.
- **Historic England** – No Comment: Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.
- **Natural England** – No objection: subject to appropriate mitigation being secured to ensure no adverse effect on the integrity of South Hams Special Area of Conservation (SAC) and Plymouth Sound and Estuaries SAC & Tamar Estuaries Complex Special Protection Area (SPA)
- **NHS Devon Integrated Care Board** – Comment: The GP surgeries within the catchment area that this application would affect, currently have sufficient infrastructure capacity to absorb the population increase that this potential development would generate.

## Representations:

Representations from Residents

16 letters of objection received which raise the following issues:

- If residents want to walk to Modbury to access services they will be required to cross the busy A379 twice. This will be more difficult some people.

- This is likely to force some people to use cars.
- Pedestrian access should be via the 'Drovers Way' to the north of the site as this is much shorter and safer.
- People will walk along the A379 where there is no footpath rather than take the longer route around Benedict way – this will be dangerous due to speeding traffic.
- Distances along the proposed walking route exceed those recommended in the applicants own reference material.
- Children will be driven to school rather than use the proposed walking route and the extra traffic will add to existing problems at start and end of school day.
- Unless future residents pay for upkeep on Palm Cross, they must not have access that way.
- Access should be provided through to Palm Cross.
- The submitted safety audit only relates to the new access and proposed crossing point. It does not consider whether the complete walking route to town is safe.
- Benedict Way (part of the proposed walking route) does not have footways along its entire length.
- The proposed walking route has a number of obstacles, road crossings and necessitates doubling back. The shorter alternatives are dangerous.
- Support the development as long as it provides a good percentage of affordable housing.
- No consideration for encouraging walking or cycling from the site. How does this fit with green policies?
- The eastern end of 'Green Lane' (the Drovers Way) has been cleared over the last few years with pedestrians passing between my bottom hedge and the old call centre at New Mills Industrial Estate.
- Light pollution and disturbance from predicted 50 pedestrians a day passing Coppers Corner.
- Conflict between pedestrians and vehicles exiting Coppers Corner.
- Proper access and supervision should be part of any plan.
- Policy DEV 10 of the Joint Local Plan states development should be integrated with adjacent developments and provide good pedestrian, cycling and public transport connectivity to existing developed areas, open spaces and local facilities.
- The Neighbourhood Plan calls for integrated development. This is not.
- Moving the bus stop could cause more traffic backing up around a blind bend.
- Lack of community consultation prior to submission.
- Health Services already have long waiting lists.
- Do the schools have capacity for extra pupils?
- Water and sewage capacity
- 100 houses at Palm Cross has resulted in minimal extra footfall in the town centre. Have steps are being taken to integrate new estates into the community? Free parking for 30 mins?
- The proposed bus stops do not have any bus bays, resulting in dangerous overtaking.
- Neighbour Plan Policy MNP6 (Safe Movement and Transport) requires good safe pedestrian access and enhance walking, cycling and public transport opportunities.
- Improving safe pedestrian and cycle access to all facilities has been an overwhelming priority for the community.
- Neighbour Plan Policy MNP12 requires new development, where appropriate and the requirement arises directly from the new development, to contribute to improved pedestrian and cycle access to all facilities, improve road safety around the school and to protect and improve public rights of way, footpaths and cycle routes.

Following submission of revisions relating to viability, a further 4 letters have been received from people who had already commented which repeat earlier objections and raise the additions points:

- Four affordable homes instead of the policy requirement of twelve is completely unacceptable.
- Abnormal costs appear to be high.
- Once the viability has been tested by the council, the results should be made public and for review during the consultation period.
- The pedestrian access to the site will default to the Drovers Way.

1 letter of support received which raise the following issues:

- Live at Penn Parks (next to the application site) for 35 years and have never experienced a problem walking children to school.
- Have been kept updated and informed of the proposals by the applicant.

### Relevant Planning History

Although there are various historical consents for agricultural buildings and conservatory extension to the bungalow, there is no specific application history that is relevant to this planning application.

The site was allocated for residential development in The Plymouth & South West Devon Joint Local Plan under Policy TTV24. The plan was adopted by South Hams District Council on 21st Marc 2019. Policy TTV24 reads:

### Site allocations in the Smaller Towns and Key Villages

The following sites in the smaller towns and key villages are allocated for development:

	Site	Proposal	est. of housing provision / employment floorspace	Policy Consideration / things to be provided for by the development
13	Pennpark, Modbury	Housing	40 homes	<p>a. Sensitive and high quality design which conserves and enhances the heritage assets.</p> <p>b. Layout and design to be guided by landscape assessment.</p>

*Note – other allocations/sites removed from above table as not relevant to this application.*

TTV24 allocates a total of 911 new homes across the smaller towns and key villages.

## ANALYSIS

### 1 Principle of Development/Sustainability:

1.1 In accordance with Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 planning applications have to be determined in accordance with the development plan unless there are material considerations that indicate otherwise. For the purpose of decision making for this application, the development plan comprises the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (JLP) and Modbury Neighbourhood Plan 2022 - 2034.

1.2 Policy TTV1 – Prioritising growth through a hierarchy of sustainable settlements, sets out the principles to be used to distribute new employment and housing across the Thriving Towns and Villages Policy Area. It identifies four categories of settlement type where development will be distributed as part of that hierarchy.

- The Main Towns
- Smaller Towns and Key Villages
- Sustainable Villages
- Smaller Villages, Hamlets and the Countryside

1.3 Modbury is identified as being in the smaller towns and key village's category where there are allocations for 173 new homes during the plan period.

1.4 JLP Strategic Objective 8 (SO8) – Maintaining the vitality and viability of the smaller Towns and Key Villages, promotes the provision of homes, jobs, services and community infrastructure in settlements such as Modbury as they are characterised by a level of services and amenities that can support the daily needs of the rural population. One of the ways that this will be achieved is through the appropriate level and mix of new homes that responds positively to local housing needs and improves long-term sustainability.

1.5 The JLP identifies Modbury as a small town that has a range of services and amenities typically found in a larger settlement. It benefits from a main road and public transport links to Plymouth to the west, and Kingsbridge to the east.

1.6 Modbury supports many rural communities between the town and coast to the south west. These small villages and hamlets sit firmly within the National Landscape (previously known as AONB), and even moderate growth in these locations would be neither sustainable or appropriate. As such, Modbury is the most appropriate location to provide new homes to ensure that local housing needs are met, and that the level of services and amenities enjoyed by the local and surrounding communities are retained and enhanced where possible. Services and facilities in Modbury include shops, pubs, post office, primary school, churches and meeting places, allotments, open space and sports and play facilities.

1.7 The Modbury Neighbourhood Plan (NP) identifies a settlement boundary that includes the Penn Parks allocation alongside the completed allocations at Palm Cross and West of Barracks Road.

1.8 One of the requirements NP policy MNP3 is that development sites should be well connected to the town centre, especially for pedestrians. The NP states in paragraph 4.31 that “the need to improve safe pedestrian and cycle access to all facilities has been an

overwhelming priority of the community expressed in both formal and informal consultations, to enable community life, social cohesion and healthy lifestyles to be sustained.” Paragraph 4.33 requires new development “to contribute towards improving pedestrian links to the Recreation Ground and Pavilion, road safety around the school and safety and provision for pedestrians and cyclists in general, particularly aimed at supporting the more vulnerable groups, including children, the elderly and those living with disability”. NP Policy MNP12 requires new developments to contribute to safe pedestrian and cycle access to all facilities, improve road safety around the school and protect and improve public rights of way, footpaths and cycle routes.

1.9 SPT2 of the JLP provides for sustainable linked neighbourhoods and sustainable rural communities. This policy states that development should support the overall spatial strategy through the creation of neighbourhoods and communities which have reasonable access to a vibrant mixed use centre which meets daily community needs for local services, have a good balance of housing types and tenures, and are well served by public transport, walking and cycling opportunities. Supporting text identifies sustainable communities as having facilities in walking distance along safe, accessible and convenient routes.

1.10 Figure 3.2 of the JLP identifies the following measures that should be used when implementing SPT2. The measures are aspired and not intended to be applied through an inflexible ‘tick box’ exercise. For example, there will be occasions where distances may exceed those in the table but in the context of the surrounding area are still reasonable to the point that people would be prepared to walk them. Likewise, there may be cases where the distances are met, but the overall route is so inconvenient, awkward or perceived to be dangerous, that people would not choose to walk. Walking distances to following features are set out as follows:

Bus stop	600m
Convenience store	800m
Primary school	800m
Local accessible natural space	300m
Local playable space / LEAP	400m
Neighbourhood/strategic playable space	1,000m

1.11 Measurements taken from the centre of the application site show that bus stops would be about 170m, convenience store 1000m, primary school 700m, LEAP 650m and playing fields 1,300m. Local accessible natural space would be on-site and therefore no measurement for this has been taken. These distances assume that the proposed walking route through Benedict Way and via off-site highway works is being taken. This route involves crossing the A379 twice via an existing and proposed uncontrolled crossing point with central refuge area. New footways are proposed on the Church Lane / A379 junction as part of the off-site highway works. This new footway would join existing footways on Church Lane and Benedict Way where pedestrians would reach the footpath that links Benedict Way with the A379 (near the Barrack Road Junction). This would provide a walking route on footways, other than a short section on Benedict Way where walking on a quiet part of cul-de-sac is required. The route is not a direct as the A379 driving route, but there are pinch points on that road where the creation of new footway is not possible due to the width of the highway. The County Highway Authority object to the application because Manual for Streets 2007 stipulates that pedestrians prefer convenient and direct routes. 40 dwellings are likely to result in 56 two way pedestrian trips per day and the Highway Authority consider that some will chose to walk along the shorter unsafe route

along the A379. The footway is not continuous along this route and pedestrians would need to walk in the busy and narrow carriageway. Due to the narrow width and high number of vehicle movements there is serious risk of strikes or rear end shunt type accidents should pedestrians take this route. While they consider that the proposed works to provide footways and uncontrolled crossing point to direct pedestrians to the safer (but longer) route, they do not deem it sufficient to remove the overall risk to some types of highway user walking the desire line along the A379. They recommend refusal on this point.

1.12 Notwithstanding their objection to the application on the above safety grounds, the Highway Authority welcome the off site highway works which do provided safety improvements for those accessing the Church and nearby residential areas by foot. However, they do not consider that it would eliminate the risks identified above.

1.13 During pre-application discussions, the applicants, planning officer and highway officer explored the possibility of a second walking route using the track between the application site and Copper Corner. This track is currently blocked at one end (by the application site) and is known locally as the Drovers Way. Although overgrown in places, there is evidence of part of the track being used as informal pedestrian access to New Mills Industrial Estate with a clear trodden path in places. The track is not a formal public right of way and not in the control of either the applicant or any public body. It is unregistered land and therefore there is no-one to approach to establish whether it is available for a formalised walking route to be constructed. Suggestions were made that if it were to be designated a Public Right of Way then it may be possible to then require suitable upgrades so that it could be used as a hard surfaced walking and cycling route. However, that has not been pursued and the application does not include any firm proposals to upgrade the track. The parameter plan includes a potential pedestrian link from the application site to the Drovers Way but goes no further than allowing for future connection to the track.

1.14 The second part of the Highway Authority objection relates to this Drovers Way and the potential creation of a Public Right of Way not being pursued. They consider “that it is essential that to understand the outcome of the [Public Right of Way application] process to enable the Highway Authority to make an informed recommendation and also so that the Planning Authority can make an informed decision.” However, it is a well established planning principle that when determining planning applications, the decision maker should look at the application in front of them and decide whether the proposals contained in the application, meet the requirements of the planning policies and development plan. In this case, it is necessary to look at the existing pedestrian routes (with the proposed upgrades contained in the application) and decide whether they meet the requirements of policies DEV29, TTV2 and SPT2 of the JLP and Policies MNP3 and MNP6 of the NP.

1.15 Policy DEV29 requires development to provide for high quality, safe and convenient facilities for walking, cycling, public transport and zero emission vehicles. TTV2 contains the specific objective of sustainable transport accessibility appropriate to the specific context of the proposal, which in this case is the pedestrian access. SPT1 contains the broader strategic requirements of sustainable rural communities where development has reasonable access to a vibrant mixed use centre and is well served by walking and cycling opportunities. MNP3 requires development to be well connected to the town centre, especially for pedestrians. MNP6 requires good, safe pedestrian access to new housing development.

1.16 If the comments of the Highway Authority about the suggested walking route through Church Lane and Benedict Way not being used by all, and their belief that people will take the more direct and unsafe route along the A379 are accepted, the application would not meet the requirements of the above policies. This is a judgement call about whether people would choose to walk the more direct but unsafe route along the A379, or whether they would choose the longer and indirect route that involves crossing the main road twice. There is also the third option where they do not choose to walk at all and use motor vehicles to access daily services. It is noted that on a nearby application for a single dwelling linked to a vet practice, it was not accepted that residents would walk the more dangerous route along the A379 and would choose an alternative safer route. However, the circumstances are different between a single property linked to an adjoining business and 40 dwellings that are suitable for family occupation which means that members are not bound by previous decisions. As the professional advice from the Highway Authority is that they consider the development would generate increase in pedestrian traffic on a highway lacking adequate footways with consequential additional danger to all users of the road, the officer recommendation is to follow that advice.

1.17 However officers consider that the highway objection in relation to the application not including an alternative route along the Drivers Way should not be followed as that could be considered unreasonable behaviour due to not determining the proposals that are in front of the Council.

## **2 Affordable Housing and Housing Mix**

2.1 When the application was originally submitted, the application form stated that 12 of the 40 dwellings would be affordable housing. This equated to 30% as set out in Policy DEV8 of the JLP. The application documents also sought to fix the open market mix of housing to be within the following ranges:

- 20%-30% (5-8) 1/2-bed homes
- 28%-37% (8-11) 3-bed homes
- 20%-30% (9-15) 4/5-bed homes

2.2 During the consideration of the application, the applicant claimed that due to the changing local house prices and costs of construction, that a development of 40 houses with 30% affordable housing was no longer viable. They provided a Viability Assessment for discussions with officers and an external consultant (Lionel Shelly of Willam Lean) was appointed to review the documentation. Their originally submitted documentation claimed that the site is not viable at 30% affordable housing and marginal with nil affordable housing. Further submissions were then made that claimed that due to deteriorating market conditions, the site was no longer viable with nil affordable housing but they were willing to recognise that the improvements to the market could allow for 10% affordable housing (4 dwellings out of 40). That is the application that the Council are being asked to determine with regard to affordable housing provision. The applicant's offer is clear that this would be for 4 dwellings and not include any review or clawback mechanism. Alongside the change to the affordable housing, the applicants also proposed to change the open market mix to better reflect the feedback and advice provided by officers on that issue. As open market mix is very much related to development viability, it is no longer being expressed as a range and would be fixed at:

- 36% (13) 2-bed homes
- 39% (14) 3-bed homes



- 25% (9) 4/5-bed homes

2.3 This revised open market mix broadly aligns with officer comments in terms of redressing the imbalance within the existing housing stock in the area, meeting a requirement of part 1 of DEV8.

2.4 In relation to the Affordable Housing offer of 10%, part 3 of Policy DEV8 of the JLP is clear that within the whole policy area a minimum of at least 30% on-site affordable housing will be sought for all schemes of 11 or more dwellings. The Modbury Neighbourhood Plan is also clear in MNP5 that “each new housing development which exceeds 10 units shall provide the proportion of affordable homes consistent with JLP policy”.

2.5 The supporting text to DEV8 states that where viability is identified as a constraint on the delivery of the policies, this will be considered in the context of Policy DEL1. Part 5 of DEL1 requires robust viability evidence to be submitted where a developer contends that planning obligations sought, including for affordable housing, would make a proposal economically unviable. The LPAs will seek an open book approach in these cases. In determining whether or not to grant planning permission, the LPAs will have regard to the overall economic, social and environmental benefits of the development and whether, on balance, some relaxation of planning obligations is justified.

2.6 The professional advice received from the external consultant (Lionel Shelly of Willam Lean) and the Council's Principal Housing Enabler is that although 30% (12 homes) might not be achievable on this site, it is considered that 22.5% (9 homes) could be delivered and that any legal agreement should include a review or clawback mechanism to capture any lower than expected development costs and higher sales values achieved. The differences between the applicants submissions and the external consultant viability conclusions are generally around the 3 main headlines of land value, development costs and sales values. All of the viability submissions from the applicant and the external consultant conclusions are published on the Councils website and in the public domain. They can be found here <https://southhams.planning-register.co.uk/Planning/Display/0384/23/OPA>. This committee report does not intend to provide a further detailed analysis of the areas of dispute but it does recognise that there are serious questions around existing land value and gross development value where (in the applicants submissions) the existing bungalow is attributed an open market value of £620,000 but the sales value of a new build 3-bed bungalow is estimated at £450,000. This is given as an example of undervaluing potential sales and the external consultant viability assessment and Principal Housing Enabler comments (including evidence of property values of the local area and other development sites advertised sales values) is available on the Councils website for further review if necessary.

2.7 Notwithstanding the differences between the viability assessments, the Development Plan policies are quite clear that new housing development should provide for 30% affordable housing. Where viability is an issue, Policy DEL1 is also quite clear that the Local Planning Authority will have regard to the overall economic, social and environmental benefits of the development and whether on balance, some relaxation of planning obligations is justified. It is acknowledged that all new development has some economic and social benefits but the Council declared a Housing Crisis in September 2021 due to the high cost of housing to buy and privately rent. Affordable and low cost market housing are in particular need. Even if it were accepted that 10% (4 homes out of 40) was the only viable way of delivering development on this site, given the other

objections relating to pedestrian accessibility and conflict with the recently adopted Modbury Neighbourhood Plan, it is not accepted that the overall economic, social and environmental benefits are so great that it would warrant a grant of planning permission. The proposals do not accord with policies DEV8, TTV2, SPT2 and SPT3 of the JLP and Policy MNP6 of the NP

### **3 Local Infrastructure**

3.1 Devon County Council are the Local Education Authority and have advised that the proposed increase of 39 dwellings would be likely to generate an additional 9.75 primary pupils and 5.85 secondary pupils which would have a direct impact on Modbury primary school and secondary schools in Iybridge. Their latest forecasts conclude that the nearest primary and secondary schools have got capacity for the number of pupils likely to be generated by the proposed development and therefore a contribution towards primary or secondary education would not be sought. However, they require a contribution towards secondary school transport costs due the development being 2.25 miles from Iybridge Community College. The contribution is calculated at £4.33 per day x 5.85 pupils x 190 academic days x 5 years = £24,063. Such a contribution would need to be secured by legal agreement and is considered to meet the statutory tests set out in CIL regulation 122.

3.2 NHS Devon Integrated Care Board have confirmed that the GP surgeries within the catchment area of the application have sufficient capacity to absorb the population increase that the potential development would generate. This is based on a snapshot taken on the date of the response and they then suggest that although there is no need for a Section 106 contribution towards NHS Primary Care, an estimated sum of £580 per dwelling for Primary Care is factored into any viability assessments. Officers consider that when dealing with a planning application that doesn't generate a need for a specific Section 106 contribution, this suggested sum should not be included in any viability assessment as it is not an actual development cost. Such an approach would skew a viability assessment in a way that would suggest a development is less viable than it actually is. Therefore the sums suggested have not been included in the viability assessment for this application.

3.3 Although the application is made in outline with layout reserved, any future development on this site would need to provide accessible natural greenspace with future management. Although the layout and location of open space is a reserved matter, the delivery and management would need to be secured by legal agreement at outline stage. The Joint Local Plan Developer Contributions Evidence base sets out a required provision of 1.91ha/1000 people of accessible natural greenspace. This can be calculated using average household size and based on 2.25 people per dwelling, there would be a requirement of at least 1,719m<sup>2</sup> of accessible green space. Indicative plans appear to show that the appropriate level of green space could be achieved with two areas of public open space. These would need to be designed to a greater level of detail as part of any reserved matters, including ensuring that they are useable, are sufficiently overlooked and any drainage/attenuation features are safe. It is considered that the application could deliver the required amount of accessible open greenspace and this would need to be secured by Section 106 Agreement.

3.4 Existing play provision is located at Palm Cross Green, Memorial Hall and at the Palm Cross development. The walking distance to these three sites range between 650m

and 830m via the Church Lane/ Benedict Way walking route. As discussed in the above section of this report, the route to these sites involves the crossing of the main road on two occasions and some of the responses received question whether children would be safe taking that route. The indicative plans and application documents suggest that a Local Area for Play (LAP) would be provided on the application site and the Open Space Specialist considers that this may be the best option as the other sites are greater than the suggested 400m walking distance away. Although LAPs tend to small with limited equipment aimed at younger children, it would be the most appropriate way to deliver play provision in this instance. If future pedestrian access were to be provided along the Drivers Way, the walking distance to other nearby facilities would be around 460m and it could be possible to seek a contribution to the on-going maintenance of these facilities in lieu of on-site provision. However, that route does not form part of the application and therefore on-site provision of an equipped LAP of no less than 100m<sup>2</sup> and a minimum of 3 play experiences would need to be secured by legal agreement.

3.5 Due to the size of the site, no on-site playing pitch or sports provision is proposed and the nearest facilities are at the QEII Recreation Ground on Barracks Road. This is approximately 1,300m walking distance away and includes a multi use games area (MUGA), football pitches, cricket nets, tennis courts and pavilion building with changing facilities. The Open Space Specialist advises that although most of the facilities have undergone recent improvement, a project is being developed to provide lighting to the tennis courts and there are future plans to carry out work on the pavilion to improve storage. As it is highly likely that new residents would use the existing facilities at the QEII recreation ground and would add pressure to the facilities that have been identified as needing improvement, mitigation to make these facilities sustainable is required. Based on the figures in the JLP Developer Contributions Evidence Base this would amount to £379 per person capital and £442.47 per person maintenance, with the number of people based on the average household size set out in the JLP Developer Contributions Evidence Base. This would need to be secured by legal agreement and would be approximately £74,000.

3.6 Allotment contribution of £2,575 would be sought for the provision of/improvements to and maintenance of allotments in Modbury. This sum is calculated using the figures in the Joint Local Plan Developer Contributions Evidence Base.

#### **4 Noise and disturbance from adjoining buildings/uses.**

4.1 Immediately to the east of the site is New Mills Industrial Estate which is separated from the proposed development by hedgerow. The indicative layout shows the potential for some properties to be in quite close proximity with the backs of houses and their gardens facing on to the back of some of the industrial buildings. As design and layout are reserved for subsequent consideration, and specific impacts can not be assessed at this stage, it would be necessary to require a noise assessment to be submitted with any reserved matters. This would need to put forward appropriate glazing, ventilation and boundary treatments to ensure that any future occupants would be protected from noise and disturbance and to accord with the provisions of Policies DEV1 and DEV2 of the JLP.

4.2 Similar issues could also arise from the use of the agricultural buildings to the north of the application site. These buildings are also not in the control of the applicant and there is potential for either normal agricultural operations, housing of livestock (or even other uses allowed by permitted development rights) to impact on future residential amenity. The potential for impact would need to be designed out as part of reserved

matters and may require additional reports to demonstrate that the layout, design and landscaping have specifically taken into account the adjoining uses such as noise or odour. It is noted that the existing agricultural unit already operates in quite close proximity to the existing dwellings without evidence of any harm. Subject to appropriate conditions regarding submission of a noise assessment, it is considered that potential impacts could be controlled.

## **5 Contamination and geotechnical**

5.1 As an agricultural unit with buildings, yards and slurry pit, the application site has the potential for contamination that would need to be dealt with. The comments received from the Environmental Health Team identify that the slurry pit has been infilled but it is unlikely that the materials are known or recorded, or whether any compaction took place. The application is accompanied by a Ground Investigation Report which categorises different parts of the site as having potential geotechnical hazards. The report recommends further investigations, some of which would be post demolition of the existing agricultural buildings and bungalow. Although the Environmental Health Team initially requested further information and specific recommendations from the authors of the report, they have agreed that conditions requiring further site investigation and remediation could secure the necessary information. The Environment Agency have also commented on the application and acknowledge that although further investigation is required, this would be on parts of the site that currently have operational buildings on and would need to be carried out post demolition. They have no objection subject the conditions to secure further investigation and mitigation.

5.2 The submitted ground investigations report suggests that pile foundations and suspended floor slabs are likely to be required due to different settlement across the site, the potential that the existing buildings are constructed on made ground, and a requirement to remove any organic matter used to infill the slurry lagoon.

## **6 Heritage**

6.1 In the table that allocates the site for development under policy TTV24 there are specific policy considerations set out that need to be provided for by development. One of the two identified criteria is "sensitive and high quality design which conserves and enhances the heritage assets." The Council's Heritage Specialists have been consulted and they confirm that the site was fully assessed when it was considered for allocation. The possibility of impact on all heritage assets, including the Church of St George, the Modbury Conservation Area, Flete and Edmeston, was considered. They advise that assuming all dwellings would be standard 2-storey types that there would be no adverse impact on the setting of any heritage assets. The physical separation and lack of meaningful inter-visibility means any visual connection is minimal and would not amount to harm. They advise that there are no other characteristics to the site that have not been suitably covered in the submitted Heritage Statement. As the submitted parameter plan suggests 1 and 2 storey development (with potential 2.5 storey development next to the industrial estate), it is agreed that the development on the application site would not adversely impact the setting of any heritage assets.

6.2 Off-site highway works which include the creation of new footways and crossing points have been considered in relation to potential impact on the setting of the Grade 1 church and conservation area to the east. The specialist advice is that these highway works will not impact on their setting. The A379/Church Lane junction is already a modern

highway layout and views of the church spire are partly obscured by late 20th century building.

6.3 The county Historic Environment Record (HER) identifies the wider area of archaeological potential with regard to the site of the Civil War but the precise location is unknown. The results of desk based assessment and geophysical survey do not suggest the presence of heritage assets with archaeological interest of such significance to preclude development. The advice of the Senior Historic Environment Officer is that any impact can be mitigated by a programme of archaeological work in advance of development commencing. The work should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development. A Written Scheme of Investigation should be submitted or secured by planning condition. It is envisaged that investigation would start with evaluative trenches and subject to the results gained from these initial works, further archaeological mitigation can be determined and implemented. It is also advised that post investigation assessments are completed and published, which could also be secured by planning condition.

6.4 Historic England have been consulted on the application however they have responded to say that the Council should seek the views of their own conservation and archaeological advisors.

## **7 Landscape and trees**

7.1 The application is made in outline so detailed aspects of landscaping are reserved for subsequent consideration. The allocation of the site for development has already required some consideration of landscape impact on a wider landscape character level. The existing agricultural buildings on the eastern part of the site are well contained into the landscape and replacement with appropriately designed dwellings is unlikely to cause harm. The western part of the site is more open but the surrounding development (to the north and south west) and existing hedgerows would allow for modest development that would not significantly change local character or views.

7.2 The submitted parameter plan, design and access statement and indicative layout seek to provide confidence that a development of 40 dwellings could be accommodated on the site in an acceptable manner. Retaining, infilling and creation of new hedgerows, combined with 5m wide dark corridor should provide a suitable green edge to the site. The policy requirements for accessible open greenspace would also give opportunity for green links into the central areas of the site to be created. Restriction on buildings heights, particularly in the western part of the site, are required and are shown on the parameter plan. Careful use of materials and colours would be required at subsequent design stages to ensure that the development assimilates into the landscape.

7.3 Although the site is not with the South Devon National Landscape, it is immediately adjacent and considered to be within the setting. Views from the ridge road to the north would see a development that has the National Landscape as a backdrop. Nearby development demonstrates that where darker materials (such as stone or slate handing) have been used, those dwellings are more successful in assimilating. Appropriate control of lighting would also need to be secured to ensure development conserve and enhances the setting of the protected National Landscape.

7.4 Within the application site are a few trees or hedgerows with most being on a boundary. Some of the trees and hedgerows shown on the tree survey plans are outside

of the application site. A tree survey has been submitted which claims that most are in good or moderate health. No specific works to trees is proposed in any of the submitted documents and given that almost all are either on the boundary or outside of the application site, it is concerning that the submitted viability documents suggest over £31,000 of tree/hedge clearance and management works. Subsequent reserved matters proposals would need to show such works and given that other application documents suggest retention and enhancement, there is some concern that a greater amount of work is assumed than shown in any of the submissions.

## **8 Ecology**

8.1 The site lies within the South Hams SAC Landscape Connectivity Zone for greater horseshoe bats (GHB) and the majority is modified grassland that is unsuitable for GHB. Surveys indicate that the adjacent, but off-site, double hedge to the northeast is being used as a commuting corridor. The Council's Ecologist considers that the proposed development would not lead to loss, damage or disturbance at a landscape scale to a network of GHB commuting routes. Nor will it lead to the loss damage or disturbance to a pinch point or an existing mitigation feature. The Ecologist advises that there is unlikely to be significant effect on the South Hams SAC and Appropriate Assessment is not required.

8.2 The site surveys have identified lesser horseshoe bat night roost and a common pipistrelle maternity roost in the existing bungalow. This bungalow is to be demolished and therefore a European Protected Species (EPS) License would be required from Natural England to avoid an offence being committed. Proposed mitigation measures include no works being carried out on or close to the maternity roost during the bat maternity season and an alternative structure that is suitable for use as a maternity roost would be constructed prior to any demolition. Integrated bat boxes would also be installed at a rate of one box per two dwellings. Government guidance on EPS states that the local planning authority must be satisfied that if a license is needed it's likely to be granted by Natural England or Defra before they give planning permission. This involves the consideration of three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended):

- I. The consented operation must be for 'preserving public health or public safety or other imperative reasons for overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment';
- II. There must be 'no satisfactory alternative';
- III. The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'

8.3 As the application is not recommended for approval (for other reasons) this report does not carry out a consideration of whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed. If it was determined that planning permission should be granted for the proposed development, then consideration of the above tests would be required. The Council's Ecologist concludes that the 3rd test would be passed based on the mitigation measures but the first two tests are largely 'planning tests' and not for their consideration. If the Committee were minded to approve the proposed development, the first two tests would need to be considered before a decision is made.

8.4 Bat activity surveys indicated commuting and foraging by common pipistrelle bats (most likely linked to the maternity roost). Activity was also recorded along the northern boundary and farm track outside of the application site. As this northern boundary is deemed to be of highest importance to light sensitive species such as GHB, there is potential for them to be negatively impacted due to loss of hedgerow and artificial lighting. In order to mitigate this, a 5m buffer is proposed along the western boundary and this is shown on the parameter plan. The gappy hedgerow along the northern boundary is to be reinforced and new hedgebanks constructed where buildings are to be removed. A lighting strategy is proposed to be submitted alongside any reserved matters which would need to demonstrate no light spill from the site. This lighting strategy could be secured by planning condition and it is considered that suitable mitigation could be put in place. The mitigation would need to guarantee that any boundary hedges are not in the house owners control to ensure that it is maintained in the long term.

8.5 The Habitats Regulations Assessment (HRA) of the Joint Local Plan (JLP) identified that new residential development supported through the JLP would lead to increased levels of recreational pressure on the Plymouth Sound and Estuaries European Marine Site (EMS) that may lead to a significant adverse effect on site integrity. A Mitigation Tariff is currently in place to fund additional management/mitigation measures within the EMS. The proposals include a commitment to making the appropriate contributions set out in the Supplementary Planning Document (SPD) and could be secured by Section 106 Agreement.

8.6 Although no dormice were found by nest tube survey (or any signs of presence during any monitoring site visit) there is a possibility that they may move on to the site in the future. As this is an outline application the Councils Ecologist advises that condition requiring further surveys is necessary. A Construction Environmental Management Plan (CEMP) could be conditioned to ensure appropriate protection for nesting birds, hedgehogs, reptiles and amphibians. Although no evidence of badger activity was recorded the habitat assessed offers moderate value for foraging and commuting badgers. Conditions for a CEMP and resurvey prior to commencement are suggested by the Ecologist.

8.7 Although this application was submitted prior to the mandatory Biodiversity Net Gain (BNG) regulations came into force, there remains a requirement under Policy DEV26 and the Supplementary Planning Document (SPD) for major development to include a 10% increase to BNG. The application was submitted with a completed Biodiversity Metric that shows that the development will result in an onsite net loss of biodiversity units. Off site provision is therefore required and the application identifies an area of modified grassland land approximately 500m to the northwest which is suitable for 0.38ha of broadleaf woodland planting and creation of 221m of native species rich hedgerow. This would provide 1.8 habitat units and 2.59 hedgerow units resulting in a 13.26% increase in habitat units and 10.89% increase in hedgerow units. As this is off site, it would need to be secured by legal agreement to ensure provision and subsequent management for a 30 year period (including provision of 5 yearly monitoring reports).

## **9 Travel Plan**

9.1 The submitted Transport Statement (TS) includes a section on travel planning measures. While some hard measures such as new pedestrian footways, crossing points and revised bus stop locations are proposed (discussed in previous section of this report) there are also soft proposals included in the TS. These include the appointment of a

Travel Plan Co-ordinator, provision of 'welcome packs' and a Travel Plan Budget of £300 per dwelling to fund travel planning measures. This would need to be secured by legal agreement and the applicants have confirmed that this forms part of the proposed Section 106 package of contributions.

## **10 Vehicle Access off A379**

10.1 Although the application is made in outline, detailed consent for the access is sought. Some of the issues relating to the wider accessibility of the site have been discussed in previously and this section of the report looks at the vehicle access off the A379. The existing access to the site is to be closed up and a new access constructed immediately to the east. This would involve the removal of earth bank and hedgerow and would have appropriate visibility in both directions. The access would include a 2m wide footway to tie into to the exiting footway. There would be some cutting back of the vegetation from the existing footway (but no widening) leaving it 1.5m to 1.2m wide next to the busy main road. Part of the Parish Council objection is that this is not wide enough for two people to easily pass, particularly if one had a pushchair or mobility scooter.

10.2 At the proposed point of access, the A379 is subject to the National Speed Limit (60mph for cars) and the 30mph sign is on the eastern edge of the site, close to the New Mills Industrial Estate. The Transport Statement suggests that the applicant fund the cost of a Traffic Regulation Order (TRO) to move the 30mph speed limit to the west of the access, however, the highway authority are not supportive of this measure. The reasons given for this are that the 85th percentile speed is too high and would leave a non-compliance issue for the police to enforce, it would detract from current speed limit policy that there should be 3 house frontages over 100m, and there is no injury accident record providing justification for departure from policy.

10.3 Access would need to be maintained to the electricity substation and agricultural buildings to the north of the site. It is understood that Western Power require HGV and plant access/right of way to the substation and therefore the access and subsequent road design would need to accommodate this. Future vehicle access is shown of the submitted parameter plan.

10.4 Although the Highway Authority object to the application for the reasons discussed in previous sections of this report, they have not raised any objection to the detailed design of the vehicle access and pavement width along the site frontage. The vehicle access is therefore considered to be acceptable.

## **11 Low Carbon Development**

11.1 Joint Local Plan Policy DEV32 includes a Plan Area target to halve 2005 levels of carbon emissions by 2034. It also states: "All major development proposals should incorporate low carbon or renewable energy generation to achieve regulated carbon emissions levels of 20 per cent less than that required to comply with Building Regulations Part L." In November 2022, the Council adopted the Climate Emergency Planning Statement which is an interim policy statement and guidance and therefore must be taken into account when determining a planning application. It is a new material consideration in the development management process.

11.2 The application is accompanied by a Carbon Reduction Statement and Climate Emergency Compliance Form. The Carbon Reduction Statement states that the proposed



development seeks to deliver sustainable development that is in accordance with Policy DEV32, however as the application is made in outline, there is little detail of how this would be achieved. The location of the development is an important factor when considered against the Spatial Strategy parts of the JLP. Modbury is defined as one of the Smaller Towns and Key Villages that have levels of services and amenities which can support the daily needs of a rural population. However, the location on its own can not deliver low carbon development. and there will be a number of specific design requirements secured by a combination of updated building regulations and planning requirements. DEV32 requires major development to incorporate low carbon or renewable energy generation but the level of detail of how it will be achieved is not normally fully set out in an outline application. Although the Carbon Reduction Statement could have included clear commitments to the use of alternatives to gas boilers, battery storage and onsite energy generation, it does not do so. The measures required to achieve compliance with DEV32 are being deferred to the detailed design and reserved matters stage. Therefore it would be necessary to impose a suitable worded planning condition requiring demonstration of how the requirements of DEV32 and Climate Emergency Planning Statement are to be met. Although that approach does not secure specific technologies at this stage, it does give some flexibility of approach to allow for most up to date measures to be integrated into the overall design.

## **12 Drainage**

12.1 The application site is in the Modbury Critical Drainage Area and Flood Zone 1 (low risk of surface water flooding).

12.2 The submitted Flood Risk Assessment (FRA) proposes a surface water drainage strategy that is based on attenuation and discharge into the wider drainage network to the south. Infiltration testing has been carried out and the FRA concludes that soakaways are not viable due to low permeability in the soils. There is an existing culvert to the south of the site which takes flows from a natural spring on the western boundary. It is proposed to connect to this existing culvert and provide on-site attenuation to accommodate all storm events up to the 1 in 100 years plus 50% climate change and 10% urban creep. A greenfield run-off rate of 4.4 litres per second has been calculated for the site area and discharge to the culvert (from the attenuation features) would be limited by hydro brake. On-site attenuation is shown on the submitted parameter and indicative plans. This comprises an above ground basin and a below ground attenuation tank based on an indicative layout of 40 dwellings.

12.3 The FRA also contains statements that where possible on-plot water butts and rain gardens could be incorporated into detailed design but due to these types of features being under private home ownership and not under the control of approved management companies, they are not included in the storage calculations. It should also be possible to include additional swales in any detailed design. As the application is made in outline it would be necessary for a planning condition requiring detailed drainage design at the reserved matters stage. The Local Lead Flood Authority have no objections subject to such a condition. They advise that the exact location of the spring must be confirmed during the detailed design. The application demonstrates that surface water drainage can be adequately dealt with on-site and discharged into the wider drainage network at appropriate quality and rates. It is considered that this part of the application complies with the requirements of policy DEV35 of the JLP.

## 13 Conclusion

13.1 While many of the issues related to an outline application on this allocated site can be satisfactorily controlled by condition and legal agreement, there are two fundamental issues in relation to sustainable development where the application does not accord with the development plan.

13.2 Policies SPT2, TTV2 and DEV29 of the Joint Local Plan and MNP5 and MNP6 of the Modbury Neighbourhood Plan require new development to be well connected to services by good and safe pedestrian routes. The Highway Authority object on the grounds of highway safety and danger to all road users and consider that the proposed pedestrian route is convoluted to the point that some people would choose not to use it.

13.3 Policies SPT2, TTV2 and DEV8 of the Joint Local Plan and MNP3 of the Modbury Neighbourhood Plan require residential development to create sustainable communities which meet housing need and deliver affordable homes at a minimum of 30% on site. The proposals to deliver 10% affordable housing and submitted viability appraisals have been tested by external consultants and while it has been found that 30% may not be achievable, the development should be able to provide a greater amount of affordable housing to meet that local need and demonstrate sustainable development.

13.4 The proposals are therefore recommended for refusal.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and, with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.***

### Planning Policy

#### Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)\* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change.

On 19th December 2023 the Department for Levelling Up, Housing and Communities published the HDT 2022 measurement. This confirmed the Plymouth, South Hams and West Devon's joint measurement as 121% and the policy consequences are "None".

Therefore no buffer is required to be applied for the purposes of calculating a 5 year housing land supply at the whole plan level. The combined authorities can demonstrate a 5-year housing land supply of 5.84 years at end of March 2023 (the 2023 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2023 (published 26th February 2024).

[\*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

**The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.**

SPT1 Delivering sustainable development  
SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
SPT3 Provision for new homes  
SPT10 Balanced transport strategy for growth and healthy and sustainable communities  
SPT11 Strategic approach to the Historic environment  
SPT12 Strategic approach to the natural environment  
SPT13 Strategic infrastructure measures to deliver the spatial strategy  
SPT14 European Protected Sites – mitigation of recreational impacts from development  
TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV24 Site allocations in the Smaller Towns and Key Villages  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV3 Sport and recreation  
DEV4 Playing pitches  
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area  
DEV9 Meeting local housing need in the Plan Area  
DEV10 Delivering high quality housing  
DEV19 Provisions for local employment and skills  
DEV20 Place shaping and the quality of the built environment  
DEV21 Development affecting the historic environment  
DEV23 Landscape character  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV27 Green and play spaces  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV30 Meeting the community infrastructure needs of new homes  
DEV31 Waste management  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts  
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

**The Modbury Neighbourhood Plan 2022-2034** - Following a successful referendum, the Modbury Neighbourhood Plan was adopted on 30th March 2023. It now forms part of the Development Plan for South Hams District Council and should be used in deciding planning applications within the Modbury Neighbourhood Area.

MNP1: Location, Scale and Character of Development  
MNP2: Design and Construction  
MNP3: Future Development in and Around Modbury PED  
MNP4: Heritage and Conservation  
MNP5: Housing Development AH  
MNP6: Safe Movement and Transport PED  
MNP9: Broadband and Communications Infrastructure  
MNP12: Priorities for Community Facilities and Infrastructure  
MNP13: Protecting the Landscape  
MNP14: Supporting Biodiversity

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to sections 5, 8, 9, 11, 12, 14, 15 and 16 and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- **Devon County Council (DCC) Waste Management and Infrastructure Supplementary Planning Document (July 2015)**
- **South Devon Area of Outstanding Natural Beauty Management Plan (2019-2024)**
- **Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)**
- **SPD Developer Contributions Evidence Base (June 2020)**
- **Plymouth and South West Devon Climate Emergency Planning Statement (2022)**

#### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

## PLANNING APPLICATION REPORT

**Case Officer:** Steven Stroud

**Parish:** Totnes **Ward:** Totnes

**Application No:** 4021/21/VAR

**Agent:**

Melissa Magee  
Carless & Adams Architects  
6 Progress Business Centre  
Whittle Parkway  
Slough  
SL1 6DQ

**Applicant:**

Stephen Patrick  
Luna Rock Ltd  
57/63 Line Wall Road  
Gibraltar

**Site Address:** Development site at SX 809597, Steamer Quay Road, Totnes

**Development:** Application for variation of condition 2 (approved drawings) of planning consent 4165/17/FUL [*erection of a 68 bed Care Home (use class C2) with associated car parking, refuse and external landscaping*]



**Reasons for taking item to committee –**

It was at the request of Cllr Birch, for the following reason(s):

“The variation application is contrary to the following sections of the JLP

DEV20

The proposal does not have proper regard to the requirements of para 2 and para 8

DEV23

Specifically the amended design is not of high quality architecture and has lost most of the benefits of the consented scheme.

DEV2

The large volume of construction traffic having to move through an Air Quality Management Area conflicts with para 2. This exacerbated by the additional excavation and materials required by this revision.

TTV22

This is a major over-development of the site which SHDC only consider suitable for 3,200 Sq.M.”

**Recommendation:** Grant Conditional Planning Permission

**Conditions (summarised; in full at end of report):**

- i. Approved/varied Plans
- ii. All 68no. residential units to be single occupancy
- iii. No part of the building including any related or attached structures or plant shall exceed 20.00m AOD
- iv. No external plant to be installed without agreement (subject to demonstration of no adverse impact on amenity)
- v. Compliance with updated lighting strategy
- vi. Compliance with DEV32 energy statement/agreement of final measures
- vii. Updated drainage scheme condition
- viii. Tree protection
- ix. Updated hard and soft landscape scheme (inc. increased sedum provision)
- x. Green wall details
- xi. Secured by Design compliance/scheme to be agreed
- xii. Land Stability Strategy
- xiii. Revised Construction Management Plan (accounting for additional excavation)
- xiv. Balcony glazing to be obscured; details to be agreed before occupation
- xv. Conditions that remain relevant from the host permission/compliance with previously approved details. [including contamination, noise and emissions/as required by EHO]

**Key issues for consideration:**

- Whether a s73 application can be made
- Housing Mix/Quality of Accommodation
- Design, Landscape/Townscape Character and Appearance; Trees
- Highways
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Energy Efficiency and Climate Change
- Planning Balance and Conclusion

**Financial Implications (Potential New Homes Bonus for major applications):**

The application may give rise to income through the New Homes Bonus. However, no material weight is afforded to this consideration in accordance with advice contained within the national Planning Practice Guidance ('PPG').

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### **Site Description:**

The site (0.45ha) is located on the north-east side of Steamer Quay, close to the River Dart, to the south of the town of Totnes. The site is on sloping land and has a considerable fall in levels of c.11m from east to west; new housing to the east is set on significantly higher land than the application site (albeit the rear gardens of those properties also fall westwards towards the river). As well as residential development abutting the eastern site boundary, the 'Quayside' extra care facility (Guinness Partnership) is immediately to the north. Agricultural land bounds to the south/southeast, beyond the 'Paradise Walk' footpath/cycleway that snakes its way along the southern boundary linking the upper part of Camomile Lawn/Sparkays Drive with Steamer Quay. The Longmarsh public car park is immediately to the southwest. By foot, the site is around 1km from the centre of town.

The access to the site, shared with the Guinness scheme is within Flood Zones 2 and 3 (however the development would be sited within Flood Zone 1).

The site is allocated for employment uses in the Joint Local Plan, under policy TTV22(4). Historically the site was also allocated under policy T7 of the previous local plan.

The site is within a Greater Horseshoe Bat ('GHB') Special Area of Conservation ('SAC').

There are no heritage assets that would be affected by the development.

### **The Proposal:**

Planning permission was granted in 2018 (application ref. 4165/17/FUL) for the following development:

*'Application for erection of a 68 bed Care Home (use class C2) with associated car parking, refuse and external landscaping.'*

The above description of development is the operative part of the permission that fixed the nature of the development. It cannot be amended save for any immaterial changes approved pursuant to s96A of the Town and Country Planning Act 1990 ('1990 Act') i.e. it is not possible to derogate from that description.

The present application is made pursuant to s73 of the same 1990 Act where the applicant seeks to vary condition 2 (approved plans) of the planning permission to provide for an alternative form of development but remaining as a 68-bed care home with associated car parking, refuse and external landscaping. The access to the site would remain unchanged.

In essence, it is the scale, form and certain design elements of the care home building that vary between the permitted scheme and the new proposal, and those changes are discernible from the submitted drawings (which include overlays to show how the two schemes compare against one another, at least in terms of height and massing). Where the new proposal is taller in certain places than the previously approved building, it is however generally of a lower overall height and this is due to additional excavation/cut proposed into the site, making use of the significantly sloping topography (the building's ground floor finish level lowered c.1m below the approved).

However, for ease, a broad summary of differences and common elements are described below, and these are consistent with explanations provided by the Applicant in response to

questions raised by the Town Council and other interested parties [a more detailed schedule is also provided within the submitted Design and Access Statement]:

- The building will remain a 68-bed care home, save for 5no. upper floor rooms comprising a bedroom with en-suite, lounge and kitchenette. They would remain single occupancy with the C2 use class. [For the avoidance of doubt can be secured by condition]
- The overall height of the building would not exceed 20m above AOD, identified as around 19.93m on the submitted drawings and undulating between 19.15m and 19.98mAOD, in contrast to the permitted scheme which had a parapet height of c.21m. The proposed building is therefore of a lower height in real terms overall due to the additional 1m of excavation. It remains a four-storey building but must be acknowledged that the three-storey southern block would now have an additional storey. It would still sit significantly lower than the adjacent Guinness development.
- The overall building footprint remains essentially unchanged from permitted, albeit the basement area has been extended within that footprint, and balcony features have been incorporated/extended beyond the approved silhouette.
- Balcony side widths have increased from 1.62m to 2.95m. This is to accommodate chairs and circulation space. The 2.95m figure includes a 450mm-wide upstand wall, so the actual useable space by width is 2.5m.
- “Back-to-back” distances between the building and nearby residential properties to the east would remain similar, more than 23m at the closest point. The more slender, southern block would be over 35m away from the nearest dwelling.
- The garden area would be reconfigured to provide a larger, single space, rather than an additional small first-floor/split-level garden area in the permitted scheme.
- Introduction of green/living walls to the large bays on the front/western elevation (details can be secured by condition).
- Continued provision of sedum roofing on southern block, measured at around 85% of the previous scheme. An updated landscape plan is to be secured.
- Additional communal/activity and service areas and improved natural lighting.
- The total parking provision remains unchanged (19 spaces plus two disabled)
- The same number of resultant job opportunities are anticipated (68no. FTE).

In terms of floor areas between permitted and proposed, the differences are as follows:

*Original/Permitted:*

Total GIFA (gross internal floor area): 4120sqm

Lower ground floor: 825sqm

Ground floor: 1166sqm

First floor: 1360sqm

Second floor: 769sqm



*Proposed:*

Total GIFA: 5185sqm  
Lower ground floor: 1456sqm  
Ground floor: 1393sqm  
First floor: 1385sqm  
Second floor: 951sqm

The total overall increase in GIFA: 1065sqm.

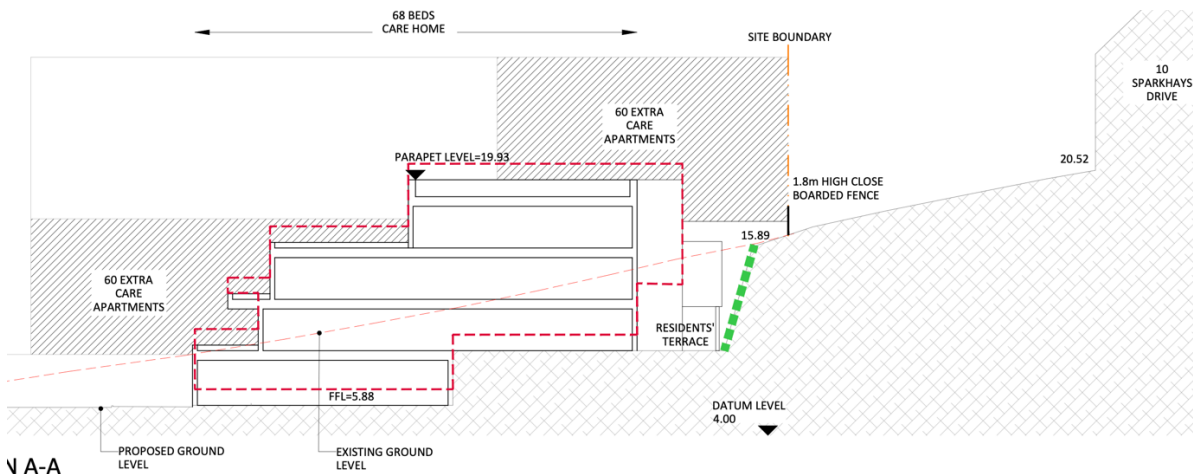
It should be noted that 631sqm is in the lower ground floor area which is an enlarged basement.

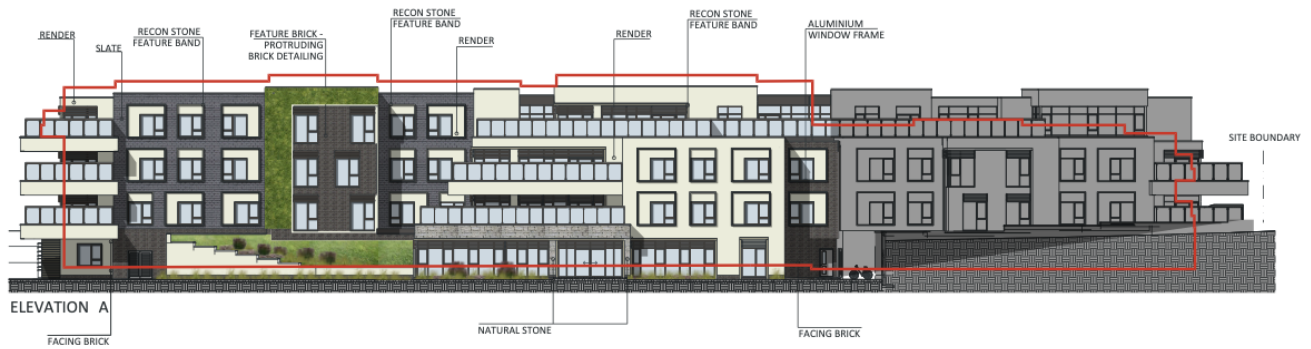
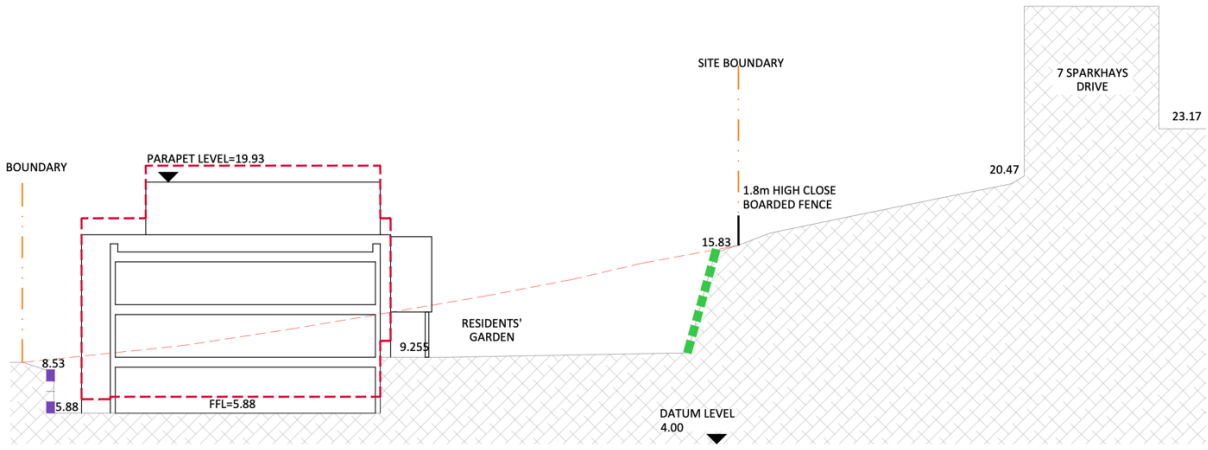
Regarding the additional excavation proposed and potential issues regarding stability, the Applicant has explained as follows:

*'Prior to any excavations for the building on site, a row Contig pile retaining wall will be constructed. Contiguous pile wall will be constructed by drilling successive, adjacent piles. The retaining wall will extend into the ground approximately 11m below the targeted ground level, to ensure safety of the retaining wall. Only after the construction of the retaining wall is complete, excavations for the building will commence. This sequence of actions will ensure stability of the gardens at Sparkhays.'*

Whilst matters of potential damage to properties during construction are typically of a civil nature such that they go beyond the scope of planning assessment, in this case the applicant has agreed to the imposition of a planning condition to ensure that the final strategy is agreed before any further development takes place. [such condition is provided as part of the proposed schedule of conditions at the end of this report and would run alongside the existing condition requiring agreement of boundary/retaining walls]

Extracts of submitted drawings are set out below which illustrate the nature of some of the changes referred to and in relation to the silhouette (outlined in red) of the permitted scheme.





Further elevational differences highlighted as follows, extracts show: 'Elevation A' as the western/frontage elevation; 'Elevation E', which is the southern block facing Paradise Walk that has increased from three to four storeys; and 'Elevation F' which is the same block as facing the rear of properties on Sparkhays Drive >35m away.



[Approved Elevation A]



[Proposed Elevation A]



ELEVATION E

[Approved Elevation E]



ELEVATION E

SLATE

[Proposed Elevation E]



ELEVATION F

[Approved Elevation F]



ELEVATION F

### **Consultations:**

The application has been through several rounds of consultation as the application has been amended. The most up to date comments received from each consultee is summarised below. Full details are available for viewing on the planning pages of the Council's website and due to the lengthy nature of some of the responses received, Members are directed to review them at:

<https://southhams.planning-register.co.uk/Planning/Display/4021/21/VAR>

All consultee responses and representations received have been read, duly considered, and taken into account when preparing this report for Members.

Totnes Town Council – objects, and the previous concerns raised still stand:

- Overmassing of the site in the revised extension plans which seem too significant a change to be a variation to an application that has expired in terms of the volume of the building (rather than footprint), and the Committee would suggest that a new application is submitted given timing and the scale of the changes applied for.
- Flood risk
- Car Parking – there are very few spaces (19) provided for the number of staff and visitors which will exacerbate parking on neighbouring residential roads.
- Design – the building will look very monolithic from the river which is a tourist access point to the town (contrary to DEV20 Place shaping and the quality of the built environment). The previous stepping down of the top storey at the South Eastern end towards Paradise Walk was critical to ensuring that the building form responded to its landscape context, this has now been lost.
- On reviewing the latest variations to revised plans, the Committee also has concerns about:
  - o Facade treatment – appears fussy and incoherent in appearance.
  - o Fencing – the Committee understands the requirement of the high fence to ensure the safety of residents but is concerned that running alongside the existing Paradise Walk footpath in its entirety is detrimental to the public realm. Could the fence return to the side of the building to enclose the residents garden, thereby lessening the impact?
  - o Lack of a revised hydrology report to address the lowering of the building and additional excavation required.
  - o NHS provision – how the overstretched local NHS provision in the town will bear the additional pressure brought on it by this facility.

*[Officer comment: so far as possible the Town Council's concerns are dealt with in this report, but it is important to recognise that, as will be explained, the application is made under s73 so any 'in-principle' issues raised cannot be used to withhold a grant of permission. The NHS have been consulted and they raise no objection, as below.]*

Environmental Health Officer – no objection:

- We have considered the documents submitted and have no environmental health concerns. We note that the Town Council mentioned concerns about light pollution, but the changes suggested will not alter the situation regarding this and it is the responsibility of the applicant to select outside light fittings that will not cause local light pollution or glare that could impact on residents living nearby.

*[Officer comment: notwithstanding the EHO comments, it is recommended to include conditions relating to external lighting and the requirement to agree any external plant to be installed including on the roof.]*

Landscape Specialist – support:

- Overall, the amendments are welcomed, which suggest that the site has the capacity to provide an acceptable layout with the quantum of development proposed, whilst complying with adopted policy on design (DEV20), landscape character (DEV23), trees, woodlands and hedgerows (DEV28).
- Retain previous relevant conditions and seek submissions of any necessary mitigation measures for the roofscape.

Trees – no objection, subject to TPP condition.

OSSR – no objection:

- The proposed variations to the approved drawings make a number of changes to the external form of the building. However, the level of resident's greenspace proposed remains similar to the consented scheme and is considered to provide suitable amenity and landscape benefit.

DCC Ecology – no objection:

- This application is for the amendment of Condition 2 to allow for a change to design of the care home compared with already approved plans. Multiple internal and external changes to the design of the building are proposed.
- A Habitats Regulations Assessment (HRA) was completed by the LPA and agreed with Natural England for application 4165/17/FUL. This HRA made it a requirement of the development to ensure that light levels did not exceed 0.5 LUX at features identified as likely to be used by Greater Horseshoe Bats. These features included the western boundary hedgerow. Despite this feature being 'off-site' in terms of being outside the red line of this current planning application, the requirement applies equally to this development, to ensure illumination associated with the care home does not have an impact on GHS bats use of the feature.
- The previously approved proposal accorded with these HRA requirements and showed that light levels did not exceed 0.1 LUX at the off-site western boundary hedgerow, and that light levels did not exceed 0.5 LUX within 10m of this hedgerow.
- The lighting proposed for this variation of conditions application is in line with the approved HRA for application 4165/17/FUL. No further ecological comments.

Local Highway Authority – no comments to make.

Lead Local Flood Authority – no objection subject to condition.

*[a pre-commencement condition has been requested but as development has already begun it is sufficient to direct that the required details be agreed before any further development takes place – the recommend condition is included within the schedule at the end of this report]*

DCC Heritage – no comments to make.

Historic England – do not wish to offer comments.

Devon and Cornwall Police – no objection/comments:

- No in-principle objection but disappointing that the crime considerations are not contained within the DAS.
- Recommend a condition in lieu of further information.

Environment Agency – no objection:

- The flood map indicates that a small area of flood zone 3 encroaches within the red line boundary but there does not appear to be any development taking place within that area.
- Refer to standing advice.

NHS Devon ICB – comments:

- Residents of care homes often have complex health needs and therefore create additional operational pressures on GP services however rather than visiting the GP surgery for treatment they are visited at their place of residence. Therefore, on this occasion the ICB will not be requesting a contribution for additional infrastructure capacity.
- However, the ICB would like to highlight that if there is already sufficient Care Home capacity within the area then this development could lead to a population increase of patients who will have higher than average health and care needs.

### **Representations:**

A significant number of representations have been received through the life of the application and rounds of consultation undertaken; some respondents have made multiple representations. For sake of prudence the material issues raised in all responses received are summarised below, but Members are directed to read them in full on the Councils website:

<https://southhams.planning-register.co.uk/Planning/Display/4021/21/VAR>

### **Objections**

- The application is in breach of policy TTV22 which sets a limit of 3,200sqm of employment floorspace.
- The GIA of the proposed scheme is 25% greater than permitted. This cannot be assessed under s73.
- Pre-commencement conditions were not discharged / the permission was not lawfully implemented.
- Poor design/contrary to DEV20.
- Land stability concerns; breach of DEV2.
- Noise concerns.
- Light concerns on amenity/ dark skies.
- Odour concerns.
- The original profile has been significantly altered in raising to four-storeys at southern end.
- Concern about loss of sedum roofing.

- Dwellings on Sparkhays Drive are not shown on drawings.
- No reasonable sections have been provided.
- Concern regarding capacity from 68 to 73 beds.
- Inconsistent and contradictory drawings/application material.
- Highway safety concerns.
- Construction management concerns / evidence of previous damage.
- Insufficient parking.
- Flood risk issues/contrary to policy.
- Overlooking/harm to residential amenity.
- Harm to infrastructure/pressure on healthcare.
- Object to planned route of foul and surface water drainage.
- Access safety issues due to flooding.
- Harm to ecology.
- Harm to townscape/landscape character and appearance.
- No social housing.
- Impedes public right of way.
- Siting of plant on the roof needs to be considered (noise and heights above the parapet).
- Flood evacuation needs consideration.
- Traffic increase issues.
- Concern regarding management of the spoil from excavation
- No longer blends into hillside.
- No provision for EV.
- Building will overshadow neighbouring residents.

Undecided (inc. comments from Dart Totnes Rowing Club, and Totnes and District Society )

- No objection to building but object to proposed route of foul and surface water drainage close to clubhouse.
- Groundworks to facilitate the strategy are likely to be disruptive to club activities.
- Alternative route should be found/utilise our own compound adjacent to Unit D.
- Surface water outfall should be located within the sheet piling of the former Baltic Wharf turning bay.
- Details of roof plant should be provided.

**Relevant Planning History:**

The Host Permission

Planning permission was granted 22<sup>nd</sup> May 2018 (application ref. 4165/17/FUL) for the following development: *'Application for erection of a 68 bed Care Home (use class C2) with associated car parking, refuse and external landscaping.'* That is the 'host permission' for the determination of this s73 application.

Pre-commencement and other conditions imposed upon the host permission were discharged under the follow application references, and this will be considered further in the next section of this report:

- 3088/18/ARC  
Application for approval of details reserved by conditions 6, 9, 11, 15, 22, 23 and 24 of planning consent 4165/17/FUL – approved, 6<sup>th</sup> September 2019.
- 4006/19/ARC

Application for approval of details reserved by conditions 3, 16, 17, 18, 19, 20, and 21 of planning consent 4165/17/FUL – approved, 11<sup>th</sup> January 2021.

- 2082/20/ARC

Application for approval of details reserved by condition 8 of planning consent 4165/17/FUL – approved, 25<sup>th</sup> January 2021.

### Other History

Other history relevant to the site and adjacent land, includes:

- 03\_56/0447/12/0, which was allowed on appeal.

Outline application for mixed use development comprising about 100 dwellings. Up to 5350 sqm of office/light industrial floorspace. Up to 60 units of extra care accommodation and associated communal facilities. Up to 350 sq.m of floorspace for community use. Provision of public open space. Creation of new vehicular and pedestrian/cycle accesses and associated works.

- 03\_56/0695/14/RM, approved.

Approval of reserved matters following outline consent 03\_56/0447/12/0 for landscaping, scale, appearance and layout solely for Weston Lane access road (Phase 1 of the development)

- 03\_56/1419/14/RM, approved.

Approval of reserved matters following outline consent 03\_56/0447/12/0 for landscaping, scale, appearance, and layout of 100 dwellings (Phase 2 of the development).

- 56/1792/15/RM, approved.

Approval of reserved matters (appearance, landscaping, layout and scale) following outline approval 03\_56/0447/12/0 increasing number of dwellings on western portion of site from 29 to 35.

- 56/3099/14/RM, approved.

Approval of reserved matters following outline approval 03\_56/0447/12/0 for appearance, landscaping, layout and scale of mixed use Extra Care Scheme development.

Concern has been raised that there is a potential breach of the legal agreement relating to outline permission ref. 56/0447/12/O and its related employment land obligations that would affect the application site. However, the host permission in this case is a stand-alone planning permission that is unrelated to, and independent of, the outline permission ref: 56/0447/12/O. It relates to a new planning unit and is a full planning permission and there is no reference to the legal obligations applying to the other permission. To all intents and purposes, the host permission has opened a new chapter in the planning history of the site. As explained below, the host permission has not lapsed and has been implemented, so any previous employment land obligations no longer apply and are incapable of applying in this case.

## **ANALYSIS**

### **Whether a s73 application can be made:**

A number of objections to the application have alleged that it is invalid and cannot be determined because either the host permission is no longer extant, or that the proposed



scheme is so different from the development approved under the host permission that it is more than a “minor material amendment” and therefore cannot be made under s73.

This section of the report will respond to those in-principle issues as well as explaining the ambit of assessment for this s73 application.

Whether the host permission (4165/17/FUL) was lawfully implemented/can be relied upon

This issue itself comprises two parts: first, whether all the relevant pre-commencement conditions were satisfied; and second, whether a material operation was undertaken to implement permission in time (the permission due to expire on 22<sup>nd</sup> May 2021).

The planning permission, which was issued 22<sup>nd</sup> May 2018, is subject to conditions, some of which require certain things to happen before the commencement of development. The relevant conditions are conditions, 3, 6, 8, 15,16, 17, 19, 20, 21 and 23.

Conditions 6, 15, and 23 were approved 6<sup>th</sup> September 2019 (3088/18/ARC). The details reserved for approval by conditions 3, 16, 17, 18, 19, 20, and 21 were approved 11<sup>th</sup> January 2021 (ref. 4006/19/ARC). The details reserved for approval by condition 8 were approved 25<sup>th</sup> January 2021 (ref. 2082/20/ARC). [all as listed above under relevant planning history]

The details approved in relation to condition 18 are important. These include a proposed drainage strategy and related drawing ref. 10230-500 P2. That drawing is important because it shows a hydrobrake flow-control chamber in the location of the works said to have been undertaken to implement the permission.

Those works were undertaken on or before 30<sup>th</sup> April 2021 and photographic evidence has been provided by the applicant to that effect, alongside an Initial Notice under the Building Regulations dated 26<sup>th</sup> March 2021. Topographical survey data shows that the works in question accord with the hydrobrake chamber shown on the approved drainage drawing. The nature of those works is sufficient to amount to a material operation in accordance with s56 of the 1990 Act and were clearly undertaken to further the permission (i.e. they were not random or unrelated to it).

Having sought legal advice, officers are content that on the balance of probabilities (which is the legal burden of proof in such cases): all pre-commencement conditions were settled in time; that works to implement the permission accorded with the approved details and were carried out in time; and the nature of those works amounted to a material operation in accordance with the Town and Country Planning Act 1990 (‘1990 Act’).

On that basis officers are satisfied that the planning permission was lawfully implemented and is extant.

Whether the current application is capable of determination

As above, officers’ view taken under legal advice is that the 2018 planning permission was lawfully implemented and can be relied upon. It therefore follows that the applicant is entitled to make an application under s73 of the 1990 Act.

The next issue which arises is the breadth of changes that may be permissible under such an application, recognising that until very recently the national Planning Practice Guidance described such an application as only being for “minor material amendments”.

However, officers consider it to be clear that planning law does not stipulate that s73 applications are for 'minor' variations only, and this is not a phrase recognised in the 1990 Act. The power to make changes to existing permissions is wider than making 'minor' amendments and this has been repeatedly confirmed by the courts (recent case law going so far as to direct that previous advice published by Government was incorrect in implying that only minor material amendments could be made, hence the recent PPG updates).

Having sought legal advice, and where the nature of the development proposed remains consistent with the description of development (being a 68-bed care home with associated car parking, refuse and external landscaping), officers are content that the plans condition is capable of being varied in the manner proposed. The newly proposed scheme is obviously different, and this report tests the merits of the changes sought, but it is not fundamentally at odds with the permission that was granted.

It follows that the application has been properly made and should be determined.

#### Determination of s73 Applications

The application is made under s73 of the 1990 Act. s73(2) explains how in such circumstances an application should be determined:

*'On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and –*

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.'*

The updated national PPG, at paras. 13, 14, and 15 of the 'Flexible options for planning permissions' chapter, provides further advice regarding such applications, now reflecting updated case law, stating:

*'Amending the conditions attached to a permission (application under Section 73 TCPA 1990):*

- *How are the conditions attached to a planning permission amended?*
  - o *In contrast to section 96A, an application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.*
  - o *Provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider whether the scale or nature of the change warrants consultation, in which case the authority can choose how to inform interested parties.*
- *Are there any restrictions on what section 73 can be used for?*
  - o *Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of*

*reserved matters must be made. Section 73 cannot be used to change the description of the development.*

- *What is the effect of a grant of permission under section 73?*
  - o *Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.*
  - o *A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.*
  - o *As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.*

Section 73 applications are commonly referred to as variation applications, but that is a misnomer. They result in an independent permission to carry out the same development as previously permitted, but subject to the new or amended conditions.

In that context the key issue for the purposes of determining the current application would be to consider whether the amended design and other related changes proposed would be acceptable in planning terms when judged against the development plan and other material considerations. The compass of assessment is necessarily narrower because it is only the subject matter of the changes proposed/condition to be varied that is under assessment. In this case, that relates to the proposed changes to the scale, form, and appearance of the proposed revisions including reconfiguration of accommodation and other spaces within the site and care home building.

Thus, under a s73 application the nature of the development i.e., its principle, is fixed and cannot be set aside. The scope of assessment is confined solely to the conditions proposed to be varied or removed. Therefore, whether objected to in principle or not, it should be settled that a 68-bed care home can be delivered on the site because the planning permission is extant. This is relevant when considering matters of flood risk later in this report.

The Council must also have regard to the practical consequences of refusing the current application because the extant host permission is a material consideration as a 'fallback' position. The host permission is a fallback because, notwithstanding correspondence suggesting that there is a covenant on the land that would currently prevent the host permission from being carried out (a civil matter), there remains a prospect of it being brought forward and this has been confirmed with the applicant alongside their intention to do so should this application fail. To be clear: a fallback does not have to be probable or even likely. A mere possibility is sufficient to establish the position.

Obviously, by law material considerations must be taken into account (as s70(2) of the 1990 Act) and planning decisions are taken in accordance with the development plan unless other material considerations indicate otherwise (as s38(6) of the 2004 Planning and Compulsory Purchase Act). In such circumstances where the host permission is a fallback for the applicant, case law directs that the Council must consider whether the implications of the proposed revisions be better, worse, or broadly similar to the already permitted/host scheme.

For the reasons that will be given in this report, officers conclude that the proposed changes are in accordance with the development plan such that the direction is to grant planning permission without delay. However, even if that is disputed, the overall effects of the proposed development are considered to be broadly similar to those of the host permission as a fallback position and this is a material consideration sufficient to decisively direct that approval should be given in any event.

Objectors point out that the application is in breach of policy TTV22, which sets a limit of 3,200sqm of employment floorspace. This is not a point that can form a reason for refusal: firstly, as the above decision-taking framework makes clear, the nature of a s73 application is such that the principle of development cannot be revisited in this case; secondly, the permitted and extant scheme is *already* in breach of that policy requirement where it has a GIFA of 4,120sqm so the proposed scheme is no different in exceeding the 3,200sqm threshold.

The appropriateness of the changes sought are now considered in the subsequent sections of this report.

### **Housing Mix/Quality of Accommodation**

It is already established that the principle of development is settled and cannot be revisited under the s73 application that has been made. However, in consideration of the internal reconfiguration of flats, particularly in relation to the 5no. 'suites', it is important to ensure that the overall mix remains both compliant with planning policy and consistent with the operative part of the host permission being a 68-bed care home.

Firstly, it should be uncontroversial that, as made clear by Government, the need to provide housing for older people is *critical*: people are living longer lives and the proportion of older people in the population is increasing. Likewise extra care and other specialist housing is crucial in helping people to live safe and independent lives. Those objectives are consistent with the JLP (e.g. policy DEV8) and Totnes Neighbourhood Plan ('TNP', policy C4) in seeking to meet housing needs, and the housing crisis declared by the Council. The proposed development would continue to satisfy those objectives and compared with the host permission there would be improvements to the quality of accommodation provided recognising the increased balcony sizes/circulation space and improved communal and service areas.

Consideration has been given to the concern that the development would increase from a 68-bed scheme to a 73-bed scheme. This is due to the provision of 5no. suites on the upper/2<sup>nd</sup> floor (rooms 59, 60, 62, 66, and 68), where the DAS has described them as being suitable for residents and their partners. The relevant floor plan extract is copied below:



The applicant has since confirmed that in respect of those rooms:

*'The building will remain a 68-bed care home, the upper floor units offer unique proposal where the resident's accommodation will comprise of bedroom with en-suite, lounge and kitchenette but it will remain a single occupancy unit.'*

This can be secured by planning condition and officers are therefore satisfied that the accommodation meets the policies of the development plan and remains consistent with the operative part of the host permission as a 68-bed care home.

**Design, Landscape/Townscape Character and Appearance; Trees:**

The policies of the development plan seek to secure high-quality design (policy DEV10) and recognise the intrinsic character and beauty of the countryside; the application of JLP policies DEV20 and DEV23 seek to secure development that is compatible with it. Relevant TNP policies include V1, En2, En3, and En4.

The above local policies are consistent with the policies of the NPPF where national policy also directs that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (para. 140).

The application site is on rising land close to the River Dart and is in a sensitive location potentially visible from a number of locations within and around Tones; in particular the site is visible from the public footpath/Paradise Walk [see Elevations A and E extracts, above].

The Council's reasons for granting the host permission included consideration of the significant reduction in height in comparison to the Guinness Partnership scheme, and varieties in height and articulation of the subject building so that it would not appear monolithic or dominant in the landscape, with the use of sedum roofing on the southern block to soften roofscape views from Paradise Walk. Officers consider that those same considerations apply in this case and the views of the two landscape specialists that have passed comment on the application, and who raise no objection, are endorsed. As the first specialist officer noted:

*'The proposed variation does introduce a variety of changes to the external form of the previously consented scheme on the site. Nevertheless, the changes being proposed to the previously consented scheme are not considered so great as to bring about any notable changes to the level of effects on visual amenity or landscape character than previously identified; the proposed variation would remain consistent with the requirements of DEV20 and DEV23 in landscape and visual terms.*

*The submission is supported by a Soft and Hardworks Plan – 07530-1 that if implemented as shown, would provide a suitable landscape and green setting to the proposed development.'*

The second officer states:

*'As previously recognised the proposed variation introduces a number of changes to the external form and appearance of the consented scheme and earlier iterations. These includes changes to the building profiles across the site and reduced areas of sedum roof on the eastern end. Additionally, the proposed landscape plan submitted with the current proposal has been revised with increased tree planting at the eastern elevation. The areas of planted land beyond the application site remain the same.*

*The building heights overall are consistent with the approved scheme but with some elements of the roofscape having changed, with some slightly higher profiles in places. However, there is indication of roof mounted services which are not illustrated; this has the potential to be visually discernible from some limited, but more elevated, public views. This should therefore be fully mitigated with physical screening and mechanical structures should not exceed the current parapet heights (currently at circa. 20.93m).*

*In reviewing the overall variations to the design in the context of the wider landscape, including more sensitive views some distance to the south from within the AONB, the changes are not considered significant against the approved scheme; in particular recognising the site context with the existing Extra Care Home and Camomile Lawn developments, above and beyond views from locations to the south and west. Officers are therefore satisfied that any resulting effects on the visual amenity and landscape character remain consistent with those previously assessed, and therefore accord with the requirements of JLP Policies DEV20 and DEV23.'*

In respect of roof plant, the applicant has commented as follows:

*'No part of the building including any related or attached structures or plant equipment would exceed 20.00m AOD however, as the line of the parapet undulates to height between 19.15m AOD and 19.98m AOD, some parts of the equipment would be visible above the parapet should we look at a flat elevational drawings.*

*In real life, it is unrealistic that any elements of the plant would be visible from the pedestrian level as all elements are pushed inwards in comparison with the façade. As for the residents of Sparkhays Drive, their properties' first floor windows are placed above the roofline of the proposed care home therefore they would be looking onto the roof from a height and whether the plant would protrude above the parapet is not relevant.'*

Officers are inclined to accept the applicant's position. However, recognising the importance of the issue to local stakeholders it has been agreed that by planning condition it will be ensured

that no part of the building (including any plant), shall break the 20.00m AOD line. Officers additionally propose to condition the final approval of the location and treatment of any plant including enclosures/screening, to ensure that impacts are minimised noting the potential for visibility from Paradise Walk (this would also deal with potential emissions issues, as considered later in this report). Likewise, the inclusion of living/green walling is a positive addition that offers betterment to the host scheme; the final details of this element can also be secured by condition including measures for future management and aftercare.

Overall, the development is considered to be compatible with the wider townscape pattern of development and setting and would respect local distinctiveness in accordance with the aforementioned planning policies. In comparison to the host permission the overall effects are considered to be broadly similar.

### **Highways:**

The LHA has raised no objection to the application/does not wish to make any comments. This is understandable because the nature of the proposed development is fundamentally the same as the host permission.

It continues to be the case that safe and suitable access can be achieved for all users and that impacts upon the local highway network would be acceptable. The application therefore accords with policy DEV29 and the NPPF in that respect. Relevant parking conditions and implementation of EV charging would remain/would be transferred from the host permission to the new permission.

In having regard to the above, it is considered that the proposal accords with JLP Policy DEV29. Even if the level of parking proposed was deficient when tested against any improved or new policy standard or guidance, because the parking arrangements would remain unchanged from the fallback position this would not be a justifiable reason to refuse permission.

Respondents have observed that the new scheme involves a greater level of excavation such that increased construction movements are likely (also recognising the nearby Air Quality Management Area). Officers agree. However, the effects of such an impact would be relatively short-lived and can be adequately managed through a revised Construction Management Plan, controlled by condition. The effects between schemes would remain broadly similar.

### **Residential Amenity:**

It is always necessary for developments to take into account the amenities of neighbours, third parties and impact on the environment. In this case, the proposed development would continue to comply with the principles of good neighbourliness and the protection of existing residential amenities.

Following a request from a member of the public, the drawings were annotated to show the back-to-back distances between the proposed building and existing residential properties on Sparkhays Drive. Those distances all exceed usually acceptable tolerances (noting also the guidance in the JLP SPD): there would be no unacceptable loss of outlook to residents (existing or future occupants) and risk relating to overlooking would be manageable through planning condition ensuring that balcony features are obscurely glazed. Overshadowing issues also do not arise due to the degree of separation and the nature of topography.

Respondents have also raised concern regarding the likelihood of plant being installed on the roof of the development and where the plant room(s) have also been reconfigured so that they are closer to existing properties. Notwithstanding that the EHO raises no objection, and that

existing conditions relating to noise and odour would continue to apply (as imposed on the host permission, as conditions 6 and 7) officers additionally recommend that no external plant shall be installed without prior approval so that adverse impacts can be avoided.

The development would therefore accord with JLP Policies DEV1, DEV2, DEV10 and the requirements of the NPPF. The effects between the proposed scheme and host permission would remain broadly similar.

### **Flood Risk and Drainage:**

Most of the application site is within Flood Zone 1, and it is only the access that falls within Flood Zone 3. The application therefore takes a sequential approach in siting the vulnerable aspects of the development to an acceptable area of reduced flood risk.

There is inconsistency and debate within planning and appeal decisions regarding the requirement to comply with the 'Sequential Test' and 'Exception Test' in such circumstances. In this case the Environment Agency raise no objection but as part of their standing advice have indicated that this should be carried out. However, regardless of whether policy DEV35 or the NPPF are complied with in this discrete respect, this would not be a reason for refusing the current application because the principle of development (with the development being permitted to be sited as it is) is already settled and so this is beyond the scope of the s73 process.

Nevertheless, the applicant has amended the proposed plans to include a safe, paved passage labelled a 'Flood Exceedance Route', to be used in case of the site entrance being flooded while the site was to be vacated. This flood evacuation route has been consulted with Environmental Agency and their latest response raises no objection.

In respect of the management of surface water, the LLFA no longer raise any objection to the application based on updated information from the applicant where it is proposed that water is drained via an attenuated discharge offsite to the River Dart, via a dedicated new requisitioned sewer by South West Water. Officers are satisfied that there remains a technical solution to drainage matters (recognising that the host permission has already been signed off in that respect) and the reimposition of a condition to agree a final strategy, as recommended by the LLFA, is recommended. This routing is then also capable of taking into account the views of the local rowing club, and this has been confirmed with the applicant.

SWW raise no objection. The relevant foul water condition would be re-imposed for agreement before any further development takes place.

The application is considered to accord with policy DEV35 but insofar as there is any objection due to the access falling within Flood Zone 3 this is not fatal to the application because it remains similar to the host permission in that regard and permission for development in the location proposed already exists.

### **Ecology and Biodiversity:**

The key consideration in relation to this issue is the potential for impact upon bats, as recognised when the host permission was granted. As set out by the county ecologist, a Habitats Regulations Assessment (HRA) was completed by the Council and agreed with Natural England for application 4165/17/FUL. This HRA made it a requirement of the development to ensure that light levels did not exceed 0.5 LUX at features identified as likely to be used by Greater Horseshoe Bats. These features included the western boundary hedgerow.



Despite this feature being 'off-site' in terms of being outside the red line of this current planning application, the requirement applies equally to this development, to ensure illumination associated with the care home does not have an impact on the bats' use of the feature.

The previously approved proposal accorded with these HRA requirements and showed that light levels did not exceed 0.1 LUX at the off-site western boundary hedgerow, and that light levels did not exceed 0.5 LUX within 10m of this hedgerow. The lighting proposed for this variation of conditions application is in line with the approved HRA for application 4165/17/FUL. It is therefore acceptable in this regard. Other conditions from the host permission relating to landscape and ecological management would continue to apply.

No Biodiversity Net Gain has been proposed as part of the application but as a s73 application for a permission that precedes the current legislation, it is exempt. Policy DEV26 does require an element of BNG on all major schemes but the latest Government policy is that:

*'Decision makers should not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework.'*

Therefore, despite an overall compliance with policy DEV26 there is a degree of conflict due to the lack of BNG. However, the Government is clear that no weight should be given to this matter and in any event, this was not a requirement of the host permission so the impacts remain broadly similar. General enhancements to biodiversity can be secured and the condition from the host permission (bat/bird boxes) will be carried across alongside the LEMP requirement.

### **Energy Efficiency and Climate Change**

The application is accompanied by an Energy and Sustainability/DEV32 statement which details how the policy requirements are capable of being met. Relevant measures include energy-efficient building design as well as low and zero-carbon technologies such as air-source heat pumps and PV.

Because the final details are not yet known, they can be secured by condition to ensure that such measures are appropriately sited. In doing so, it should be recognised that this is a significant improvement upon the host permission where no such provision was made.

### **Planning Balance and Conclusion:**

Case law has emphasised that a key part of the s38(6) statutory duty is to determine whether the development accords with the development plan when viewed as a whole. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision taker must therefore make a judgement as to whether a proposal is in accordance with the plan as a whole, bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach.

Overall and in the round, the application is considered to accord with the development plan insofar as the changes proposed under this s73 application.

However, the issue for the Council in determining the s73 application is not to revisit the questions of principle (i.e. should there be any development of this nature and scale on this site at all in the first place). The compass of debate is narrower, i.e. would the implications of the proposed revisions be better, worse or broadly similar to the already permitted scheme

which is a fallback position. For the reasons given, the impacts and effects of the proposed scheme are broadly similar to those of the host permission.

In light of the above analysis the application falls in favour of a grant of planning permission, consistent with the direction of the development plan where the proposed development – in so far as the issues raised by the amended details and the delta of change between “as permitted” and “as now proposed” – complies with the plan as a whole.

Permission can be granted subject to the proposed conditions, including those that remain relevant from the host permission being re-imposed as required.

***This application has been considered in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004 and Sections 70 and 73 of the Town and Country Planning Act 1990.***

## **Planning Policy**

### Relevant policy framework

Section 70 of the Town and Country Planning Act 1990 requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the Planning and Compensation Act 2004 requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26<sup>th</sup> 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)\* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13<sup>th</sup> May 2019 confirming the change.

On 19<sup>th</sup> December 2023 DLUHC published the HDT 2022 measurement. This confirmed the Plymouth, South Hams and West Devon’s joint HDT measurement as 121% and the consequences are “None”.

The combined authorities can demonstrate a 5-year land supply of 5.84 years at end March 2023 (the 2023 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities’ Housing Position Statement 2023 (published February 2024).

[\*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

**The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21<sup>st</sup> 2019 and West Devon Borough Council on March 26<sup>th</sup> 2019.**

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

SPT14 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV26 Development in the Countryside  
TTV27 Meeting local housing needs in rural areas  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area  
DEV9 Meeting local housing need in the Plan Area  
DEV10 Delivering high quality housing  
DEV20 Place shaping and the quality of the built environment  
DEV23 Landscape character  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV30 Meeting the community infrastructure needs of new homes  
DEV31 Waste management  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts  
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

### **Neighbourhood Plan:**

Following a successful referendum, the Totnes Neighbourhood Plan was adopted on 30<sup>th</sup> November 2023. It now forms part of the Development Plan and should be used in determining planning applications within the Totnes Parish.

Relevant policies include:

V1 Local Identity  
En1 Sustainable Development and the Settlement Boundary  
En2 Development and Design  
En3 Historic and Built Character  
En4 Landscape Setting of Totnes  
En5 The River Dart  
En6 Enhancing Local Environmental Capacity  
C4 Housing

### **Other Material Considerations:**

Additionally, the following planning documents are also material considerations in the determination of the application:

- The Plymouth and South West Devon Supplementary Planning Document (JLP SPD)

Other material considerations include the policies of the NPPF and guidance or policy in the national Planning Practice Guidance (PPG).

The development complies with the policies of the NPPF when considered as a whole. That consideration reinforces the direction of the development plan in approving the development and, in accordance with the presumption in favour of sustainable development (para. 11.c)), planning permission should be granted without delay.

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

.....

## Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - A-730 01 Rev C Location Plan
  - A-730 02 Rev G Proposed Site Plan
  - A-730 03 Rev C Floor Plans
  - A-730 04 Rev C Floor Plans
  - A-730 05 Rev C Roof Plan
  - A-730 06 Rev A Site Sections
  - A-730 07 Rev A Site Sections
  - A-730 08 Rev B Site Plan with Sections
  - A-730 09 Rev D Site Sections
  - A-730 10 Rev A Site Sections
  - A-730 11 Rev D Proposed Elevations
  - A-730 12 Rev D Proposed Elevations
  - A-730 20 Rev E Retaining Structures and Site Boundary Treatments
  - 1156 EXT-001 Rev C External Lighting

2. All 68no. residential units shall be single occupancy.

*[Reasons for conditions 1 – 2: For the avoidance of doubt and in the interests of proper planning to secure an orderly development and to ensure that the resultant development is consistent with the operative part of the planning permission]*

3. No part of the building including any related or attached structures or plant shall exceed 20.00m AOD.
4. No external plant shall be installed without the prior written agreement of the planning authority, following a submission of details including the nature of the plant to be installed, any related emissions, means of enclosure and/or screening and the timescale for their installation, and arrangements for future management and maintenance). The development shall be carried out in accordance with the approved details.

*[Reasons for conditions 3 – 4: In interests of conserving landscape/townscape character and visual amenity, as well as residential amenity (condition 4), in accordance with policies DEV1, DEV2, DEV10, DEV20, and DEV23.]*

5. The development shall be carried out in strict accordance with the External Lighting Proposal (Betton Consulting Rev C, April 2023) including drawing no. 1156-EXT-001 Rev B. All lighting shall be installed prior to first occupation and no other external lighting shall be installed and the approved lighting levels shall not be exceeded at any time.

*[Reason: To safeguard ecology consistent with the previous HRA, and to safeguard residential and public amenity in accordance with policies DEV1, DEV2, DEV20, DEV23, and DEV26.]*

6. No further development shall take place until details of how the development will meet with the objectives of policy DEV32 of the Plymouth and South West Devon Joint Local Plan have been submitted to and approved in writing by the local planning authority. Such details shall be based on the measures contained within the Energy and Sustainability Statement (Aval Consulting, April 2023). The development shall be carried out in accordance with the approved details and maintained in perpetuity thereafter.

*[Reason: To demonstrate that the development that the development can deliver low carbon development in accordance with Policy DEV32 of the Plymouth and South West Devon Joint Local Plan.]*

7. No further development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority:
- a. A detailed drainage design based upon the approved Steamer Quay Drainage Strategy Report (Report Ref. CB2324-CAM-ZZ-XX-RP-C-001, Rev. P02, dated 10th July 2023).
  - b. Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - c. Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - d. A plan indicating how exceedance flows will be safely managed at the site.

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

*[Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017), policy DEV35, and national policies including NPPF and PPG.]*

8. No further development shall take place until a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. Specific issues to be dealt with in the TPP and AMS:
- a. Location and installation of services/ utilities/ drainage.
  - b. Details of construction within the RPA or that may impact on the retained trees.
  - c. Full specification for the installation of boundary treatment works.
  - d. Full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
  - e. Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
  - f. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
  - g. Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.

- h. Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires.
- i. Reporting of inspection and supervision

The development thereafter shall be implemented in strict accordance with the approved details.

*[Reason: Required to satisfy the Local Planning Authority that the trees to be retained will not be damaged during construction and to protect and enhance the appearance and character of the site and locality, in accordance with policy DEV28.]*

9. No further development shall take place until an updated hard and soft landscaping plan generally based on drawing ref. 07530-1 (HCUK) has been submitted to and approved in writing by the Local Planning Authority. The details shall include:
- a. Location, species and spread of all trees, shrubs, hedges, hard landscaping, boundary treatments existing on the site, distinguishing those proposed to be removed and those to be retained;
  - b. a landscaping scheme showing ground moulding, screen banks, hedgebanks, trees, shrubs, and hedges, including proposals for protection and maintenance of the landscaping;
  - c. details of materials to be used for hard landscaping and the provision of samples if requested by the LPA.

The scheme submitted shall be fully implemented in the planting season following the substantial completion of the development and the plants shall be protected, maintained and replaced as necessary to the reasonable satisfaction of the Local Planning Authority for a minimum period of five years following the date of the completion of the planting.

*[Reason: To protect and enhance the visual amenities of the site and locality, in accordance with policies DEV20 and DEV23. The currently submitted plan is broadly acceptable but does not account for recent scheme amendments including and agreed increased provision of sedum roofing.]*

10. Prior to development proceeding above slab level, full details for the green “living walls” as shown on the approved elevations shall be submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include:
- a. Planting details including planting schedules, noting species, planting sizes and proposed numbers/densities where appropriate, written specifications (including cultivation and other operations associated with plant establishment).
  - b. Management plan, including management responsibilities, and a schedule of maintenance operations.

The development shall be carried out in accordance with the details as agreed and thereafter on completion retained as such. The approved green walls shall be installed prior to first occupation.

*[Reason: In the interests of the character and appearance of the area in accordance with policies DEV20 and DEV23.]*

11. The development shall be constructed to achieve Secured by Design compliance.

*[Reason: In accordance with policies DEV10 and DEV20, to ensure a consistent level of security throughout and opportunity for crime, fear of crime, ASB and conflict are minimised.]*

12. No further development shall take place until a site investigation in relation to the retaining walls has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.

13. If, during the course of development, any unexpected land instability issues are found which were not identified in the site investigation, additional measures for their remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

*[Reason for conditions 12 – 13: To ensure that surrounding land is safeguarded noting the severe topography/levels difference and extensive excavations required to facilitate the development adjacent to existing properties.]*

14. Notwithstanding any previously approved details, no further development shall take place until a revised Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority, detailing measures to mitigate or reduce the impact of the construction activities. The revised CEMP shall be based upon the details previously approved under condition 8 of the host permission (discharge ref. 2082/20/ARC) and shall additionally deal with considerations arising from the additional excavation and retaining features proposed. Once approved all construction activities shall be carried out in accordance with this management plan.

*Reason: In the interests of the safety and amenities of neighbouring occupiers and the safety of highway users. A revised CEMP is required recognising the additional excavation and retaining features proposed.*

15. The development shall not be occupied until details of the glazing of the balcony features (as identifiable on the approved drawings) have been submitted to and approved in writing by the Local Planning Authority. The balconies shall be obscurely glazed.

*[Reason: In the interests of residential amenity in accordance with policies DEV1 and DEV2.]*

16. Notwithstanding any previously approved details, no further development shall take place until a revised acoustic assessment of the site and proposed development with details of any attenuation necessary, in accordance with BS8233:2014 and BS4142:2014, has been submitted to and approved in writing by the Local Planning Authority for approval. This scheme once approved shall be implemented and maintained in perpetuity.

*[Reason: In the interests of amenity for future and neighbouring residential occupants in accordance with policies DEV1 and DEV2. A revised assessment is required accounting for the amendments to the scheme including reconfigured internal layout.]*

17. Prior to occupation of the development, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to, and approved in writing by, the local planning authority and the approved scheme shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

*[Reason: In the interests of amenity for future and neighbouring residential occupants in accordance with policies DEV1 and DEV2. This condition remains relevant from the host permission and is reimposed.]*

18. Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the previously approved remediation strategy (under condition 3 of the host permission, approved under application 4006/19/ARC) and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

*[Reason: To safeguard against environmental risks in accordance with policy DEV2. This condition remains relevant from the host permission and is reimposed.]*

19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amended investigation and risk assessment and, where necessary, an amended remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

*[Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately, in accordance with policy DEV2. This condition remains relevant from the host permission and is reimposed.]*

20. Notwithstanding any previously approved details, prior to development continuing above slab level the applicant shall submit for approval, full details of proposed electric vehicle charging points to be provided, these details shall include the location, number and power rating of the charging points. This shall accord with good practice guidance on mitigating air quality impacts from developments produced by the Institute of Air Quality Management.

*[Reason: In the interests of air quality. This condition remains relevant from the host permission and is reimposed. Previously approved details require resubmission to ensure compliance noting that whilst the overall provision of parking remains the same, the layout has been revised.]*



21. The measures set out to reduce reliance on use of the private car as set out in the Travel Plan prepared by Transport, Planning & Highways Ltd dated November 2017 shall be adhered to during the lifetime of the development, including monitoring of the plan. Monitoring records shall be made available for inspection by the Local Planning Authority for a period of time of a minimum of the preceding 12 months of the request and shall be provided within 10 working days of such a request being made to the site operator.

*[Reason: To minimise the use of the private car in the interests of air quality and the safety and convenience of users of the highway. This condition remains relevant from the host permission and is reimposed.]*

22. Notwithstanding any details indicated within the application, prior to development continuing above slab level full details, including samples, of the materials to be used in the external elevations and roofs and including details of doors, windows and rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

*[Reason: In the interests of visual amenity. This condition remains relevant from the host permission and is reimposed.]*

23. No part of the development hereby approved shall be brought into its intended use until the parking facilities, including parking and electrical charging facilities and turning area have been provided in accordance with the approved plans. The approved parking and turning areas shall be maintained and retained for that purpose at all times.

*[Reason: To ensure that adequate facilities are available for the traffic attracted to the site and in the interests of the safety and convenience of users of the highway This condition remains relevant from the host permission and is reimposed.]*

24. Prior to occupation of the development the pedestrian access onto Paradise Walk in the south east corner of the site shall be provided in accordance with details that shall have previously been approved in writing by the Local planning Authority.

*[Reason: To provide an alternative safe pedestrian access in the event of flood. This condition remains relevant from the host permission and is reimposed.]*

25. Notwithstanding any previously approved details, no further development shall take place until full details for the management of foul water have been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details and shall be maintained in perpetuity.

*[Reason: In the interests of managing flood risk and pollution, in accordance with policies DEV2 and DEV35. This condition remains relevant from the host permission and is reimposed. Updated details are required noting the amended nature of the scheme.]*

26. Prior to development continuing above slab level details of bat and bird boxes to be incorporated into the fabric of the building shall be submitted to and approved in writing by the Local Planning Authority. The approved boxes shall be installed prior to the occupation of the building, and they shall be retained and maintained in perpetuity.

*[Reason: In the interest of biodiversity, in accordance with policy DEV26. This condition remains relevant from the host permission and is reimposed.]*

27. Notwithstanding any previously approved details, no further development shall take place until an updated Landscape and Ecology Management Plan has been prepared, submitted to and approved in writing by the Local Planning Authority. The plan shall be fully implemented and adhered to at all times and shall include measures for on-going monitoring.

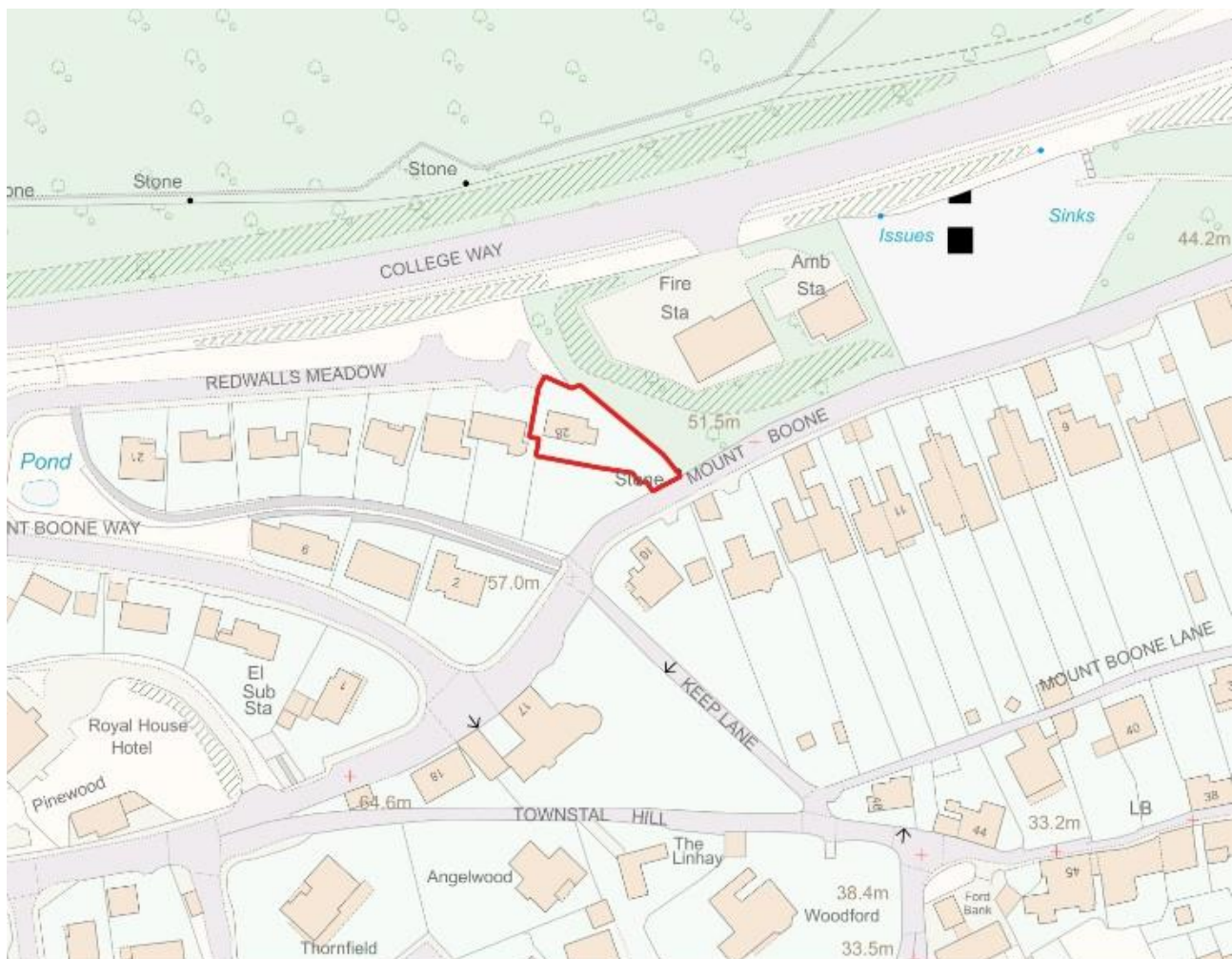
*[Reason: In the interests of bio-diversity in accordance with policy DEV26. This condition remains relevant from the host permission and is reimposed. Updated details are required noting the amended nature of the scheme.]*

28. Prior to development continuing above slab level full details of all boundary treatments and any retaining walls shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details and shall be maintained and retained in perpetuity.

*[Reason: In the interests of visual amenity in accordance with policies DEV20 and DEV23. This condition remains relevant from the host permission and is reimposed. Updated details are required noting the amended nature of the scheme.]*

## OFFICER'S REPORT

<b>Case Officer:</b>	Alexis Wilson		
<b>Parish:</b>	Dartmouth	<b>Ward:</b>	Dartmouth & East Dart
<b>Application No:</b>	0156/24/HHO		
<b>Applicant:</b>	Mr Bradley Hughes 1b Mile End London Road Bath BA1 6PT	<b>Agent:</b>	Mr Matthew Halstead 1b Mile End London Road Bath BA1 6PT
<b>Site Address:</b>	28 Redwalls Meadow Dartmouth TQ6 9PR		
<b>Development:</b>	Householder application for erection of single storey ancillary residential annexe & associated works		



**Reason item is being put before Committee:** Cllrs Cooper and Yardy request the application is brought before Committee “on the grounds that DTC identified as grounds for refusal”.

**Recommendation: Conditional Approval**

**Conditions:**

1. Standard Time Limit
  2. Adherence to Plans
  3. Pre-Commencement – Drainage Scheme (*agreed in writing 29/02/2024*)
  4. Natural Slate of UK/EU origin
  5. Natural stone
  6. Natural timber cladding
  7. Ancillary use only
  8. Removal of PD Rights
- 

**Consultations:**

- Town Council: Comment: *The Committee recommend refusal on the grounds the annexe was a standalone building and the development was a sub division of a plot. Reference DNPT1 of the Dartmouth Neighbourhood Plan*
- DCC Highways: No Highways Objections

**Representations:**

Representations from Residents

Eight (8) letters of objection have been received, which raise the following points:

- The building of yet another dwelling is neither necessary or needed.
- 28 Redwalls Meadow is currently being advertised as an Air B and B offering accommodation for up to ten people
- This is the latest in a series of failed or withdrawn applications for the site
- The remaining plot comprising 28 Redwalls Meadow is constrained a
- There is no additional parking provided.
- Would represent an overdevelopment of a constrained site and cause further disturbance for those living nearby
- Actual content / layout is not specified
- Independent one or two bedroom house
- Seriously affecting neighbourhood amenity, privacy, and noise levels would create additional parking issues on Mount Boone and/or Redwalls Meadow
- Would be dominant and this proposal is out-of-keeping with the historic environment in this part of Dartmouth
- This proposed "annexe" does not comply with DEV20 (Place shaping and the quality of the built environment), DEV 23 (Landscape Character) and DEV25 (Nationally protected landscapes) of the Adopted Plymouth and South West Devon

Joint Local Plan; also DEV 10.4 (Residential Annexes) and DEV 10.6 (Development of Garden Space) of the adopted Supplementary Planning Document 2020 and DNP GE1 (Impact on the South Devon AONB).

- The plot is not large enough for two additional properties
- As an annex it would contravene JLP Policy DEV10.4, since (a) it is physically separate from the main building, (b) it has its separate access on to Mount Boone, (c) it has little dependence on the main house and (d) it has no functional relationship with the main house.
- Appearance is not sympathetic with, or subservient to, the main house.
- It is my understanding that letting the existing property for 10 people is a material change of use for which planning permission has not been obtained.
- The proposed building could easily be adapted to be a self-contained property, separate from 28 Redwalls Meadow, and then how would the Council enforce the principle residence requirements set out in the JLP and DNP?
- Adopted planning policies require development to conserve and enhance landscape and scenic beauty within the AONB; poor design is recognised as harmful
- The proposal does not fit the development pattern of Mount Boone and Redwalls Meadow and will harm local character
- It does not maintain local distinctiveness and adversely impacts on heritage assets in the immediate vicinity (Dartmouth Conservation Area, Listed Building and Walls 1197501, DNP non-designated heritage asset historic wall north side of Mount Boone).
- Green landscape character has been eroded following approval of 0445/23/FUL with large retaining structures and fences. The proposal will exacerbate hard landscaping and reduce garden area contrary to JLP Policy DEV23.
- The proposal fails in any way to meet local housing needs as set out in the DNP and so is contrary to Policy DNP H1. If used as a self-contained unit this would in addition be contrary to DNP H4.
- The design is worse than the previous withdrawn application (3221/23/HHO) which proposed a 'green monopitch roof'
- A pitched slate roof is now proposed, with numerous roof lights set in rows, more in keeping with a factory than a domestic building. This would create ugly light and noise pollution.
- It is out of keeping with the surrounding residential area
- The drainage plan is misleading and inaccurate as the conditions refer to the withdrawn application, i.e. 'green roof'. The slate roof will increase run off to soakaways in what is a constrained area, steeply sloping below the boundary
- The increase in accommodation would add to the number of people using the recently approved pedestrian access onto Mount Boone, by possibly up to a dozen people including children and pushchairs.
- The ancillary residential annexe is not integral to but severed from the main residence and could possibly form a separate dwelling at some future date
- No statement of use has been provided with the application.

#### Representations from Internal Consultees

None sought.

#### Representations from Statutory Consultees

None sought.

**Relevant Planning History:**

- 0400/22/PR4: Full Pre App - Pre Application Enquiry For - New dwelling to rear of property. (Re 3529/20/FUL withdrawn)
- 0445/23/FUL: Erection of a single dwelling and associated works.
- 15/0049/87/3: Alterations
- 15/0275/82/7-77: Erection of TV Aerial
- 15/0686/82/7-77: New two bay fire station.
- 15/0864/86/3: Alterations and extensions,
- 15/1171/86/3: Alterations and additions,
- 15/1340/78/1: Proposed Fire Station
- 15/1789/95/3: Erection of a conservatory,
- 1596/20/HHO: Householder application for erection of single storey garage, demolition of existing conservatory, alterations to existing fenestration and replacement cladding
- 1770/21/ADV: Advertisement consent for 2no. Dartmouth Fire Station entrance signs in reflective aluminium to be placed on grass verge in view of road
- 2097/22/FUL: Erection of a single dwelling & associated works (Resubmission of 3158/21/FUL)
- 3158/21/FUL: Erection of two dwellings and associated works
- 3221/23/HHO: Householder application for erection of two-storey ancillary residential annexe and associated works
- 3529/20/FUL: Application for erection of dwelling and associated residential annexe
- 0305/24/ARC: Application for approval of details reserved by conditions 3 (CMP), 5 (Soil Management Plan), 6 (Surface Water Drainage Strategy), 7 (Hedges / Stone Walls) , 10 (Boundary Treatments), 11 (Hard & Soft Landscaping) and 12 (Lighting Strategy) of planning consent 0445/23/FUL

Design	YES OR NO
Would the proposal maintain the character and qualities of the area in which it is proposed?	Yes
Would the proposal appear in-keeping with the appearance of the existing dwelling, street and area?	Yes
Would the materials, details and features match the existing dwelling and be consistent with the general use of materials in the area?	Yes
Would the proposal leave adequate garden area and green space to prevent the proposal appearing as an overdevelopment of the site?	Yes
Is the parking and turning provision on site acceptable?	Yes
Would the proposal generally appear to be secondary or subservient to the main building?	Yes

Amenity	YES OR NO
Is the proposal acceptable with regard to any significant overlooking/loss of privacy issues?	Yes
Has the proposal been designed to respect the amenities of neighbouring properties avoiding unreasonable loss of light or an overbearing impact?	Yes

Is the proposal acceptable with regard to any significant change or intensification of use?	Yes
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<b>Heritage</b>	<b>YES OR NO</b>
If sited within a Conservation Area, would the proposal preserve or enhance the character and appearance of the Conservation Area?	N/A
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building? b) Will the development preserve the setting of the building? Grade I II II*	Grade I II II* N/A
(WD only) If sited within the World Heritage Site will the development affect the outstanding universal value of the designated area?	N/A
Other Impacts	
Does the proposal comply with DCC Highways standing advice such that it does not adversely affect highway safety?	Yes
Is the relationship with the PRow acceptable?	Yes
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	Yes
Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been demonstrated to be unavoidable?	Yes
If the proposal within the National Landscape, is the impact acceptable upon the special qualities of the National Landscape?	Yes
Are the drainage details acceptable?	No
If sited within a Flood Zone 2 or 3 or Critical Drainage Area is the application accompanied by an acceptable Flood Risk Assessment?	N/A

## ANALYSIS

The following **analysis** is given where the answer to any of the preceding questions is **no** or there are comments from any party or consultee.

### 1. Principle of Development/Design/Scale:

1.1 When assessing the overall acceptability of a new building in this location, Policy DEV10.4 of the Plymouth and South West Devon Joint Local Plan (JLP) notes that annexes should be 'clearly ancillary' to the principal dwelling. In order to help both Officers and applicants understand whether the relationship between a proposed annex and the host dwelling is acceptable, the Supplementary Planning Document (SPD) provides guidance on the key features to be expected of a truly ancillary unit. The SPD notes that the level of dependence will be consistently considered by the LPAs based on the criteria set out below.

1.2 Annexes that demonstrate little dependence, i.e. are self-contained of the main dwelling, and appear effectively to be proposals for a new dwelling, will likely be refused planning permission .... the LPA will normally expect an annex to:

- o Be an extension to the existing dwelling, or an outbuilding sited within its garden;
- o Be functionally related to the main dwelling, for example where the occupant is a dependent relative of the main dwelling's resident(s);
- o Be used only in conjunction with the main dwelling;
- o Be in the same ownership as the main dwelling;
- o Be accessed via the main dwelling or its garden and not by means of an independent access.
- o Be reliant on facilities and floor space provided by the main dwelling such that it cannot be occupied completely independently;
- o Share a garden or other outdoor amenity space with the main dwelling, with no boundary demarcation or sub division of the land between the main dwelling and the annexe; and
- o Be designed in such a way as to easily allow the annex to be used as an integral part of the main dwelling

*(paragraph 4.130 of the JLP Supplementary Planning Document)*

1.3 The proposed annex contains a single room with attached shower room, with no additional living area or kitchen facilities, is set close to the parent property, within the immediate garden space and is accessed via the main property entrance, with which it shares parking space. There is no request for change of use (a Householder application type – as has been submitted - cannot be used to change use in any case) with the description stating that the building is to be used as an annex ancillary to the main house. In addition, the size falls below that required for an independent two-person dwelling in space standards guidance (44m<sup>2</sup> compared to a required 50m<sup>2</sup>).

1.4 Using the guidance given within DEV10.4 and paragraph 4.130 of the JLP SPD, Officers consider that the application meets the parameters to be assessed as being an annex, and is therefore acceptable in terms of proposed use. For this reason, Neighbourhood Plan Policies DNP TE1 (subdivision of existing plots) and DNP H4 (Principle Residence) - as noted by Dartmouth Town Council as not being adhered to - are not deemed to apply as the permission requested is for an annex to an existing residential property, not a new independent dwelling.

1.5 With regards scale, design and material finish, policy DEV20 of the Plymouth and South West Devon Joint Local Plan (JLP) requires development to meet good standards of design. Proposals must have proper regard to the pattern of local development and wider surroundings in terms of (amongst other things), style, local distinctiveness, scale, materials, historic value, and character. DEV23 requires development to conserve and enhance the townscape by maintaining a local area's distinctive sense of place and reinforcing local distinctiveness. Neighbourhood Plan Policy DNP TE2 reiterates this, specifying that design be "reflective of the appearance and character of the area" (DNP TE2a) and that the external materials should be locally distinctive, natural and "where possible sourced within South Devon" (DNP TE2d).



1.6 The proposed single storey annex is to be constructed of natural slate and natural stone with a small element of natural timber cladding to the front, all of which are considered good quality low carbon materials which can be found throughout the local built landscape. The roof echoes that of the host dwelling in terms of pitch and material finish. The single storey height is more than 4m lower than the ridge of the host, and 2m below eaves height; as such the annex respects the primacy of the parent dwelling and is not deemed overbearing. The remaining garden area is adequate, and the available amenity space not impacted to a detrimental degree.

1.7 With regard the skylights, these are deemed modest in scale compared to the total roof area and unlikely to have a substantive impact in terms of light-spill, set as it is amidst a large number of other residential dwellings and well-lit public road networks.

1.8 Overall the scheme is considered to meet the provisions of DEV10, DEV20 and DEV23 of the JLP and DNP TE2 of the Dartmouth Neighbourhood Plan.

## 2. Landscape/South Devon National Landscape:

2.1 The development site is situated in the South Devon South Devon National Landscape (SDNL). Policy DEV25 requires that proposals “conserve and enhance the natural beauty of the protected landscape with particular reference to their special qualities and distinctive characteristics or valued attributes”. Officers are required to assess the direct, indirect and cumulative impacts on natural beauty and policy encourages small-scale proposals that are sustainably and appropriately located and that conserve and enhance the natural beauty of the landscape.

2.2 Whilst the proposal does not specifically enhance the natural beauty of this protected landscape, the design is deemed to be neutral within the wider built environment and appropriate to its landscape context. As such the proposal is considered to be compatible with the provisions of DEV23 and DEV25 of the JLP.

## 3. Heritage:

3.1 Policy DEV21 of the JLP requires that “the significance, character, setting and local distinctiveness of heritage assets should be considered within an appropriate assessment to determine impact (DEV21.1) and “great weight will be given to the conservation of the Plan Area's designated heritage assets” (DEV21.2). Neighbourhood Plan Policy DNP TE3 requires development to “respect and enhance the Dartmouth Conservation Area” (TE3a).

3.2 Officers note that the application site is outside of the Conservation Area and Conservation Area buffer (100m and 60m away respectively), and the closest heritage asset is No.17 Mount Boone - ‘The Keep’ - located 63m away to the southwest. The topography of the site, height of surrounding walls and single storey design of the proposed annex results in there being no visibility from the wider public realm and no impact on these local heritage assets.

## 4. Neighbour Amenity:

4.1 Policy DEV1 requires that all proposals safeguard the health and amenity of local communities. To this end, new development should provide for satisfactory daylight,

sunlight, outlook, privacy and protection from noise disturbance for both new and existing residents.

4.2 The proposal is an annex to the main dwelling. It is single storey and set away from neighbouring properties. Due to the topography of the site and surrounding area it will sit well below the level of the boundary fences/walls. Parking will be provided within the context of the parent dwelling, which has a private parking space which could easily accommodate up to 6 vehicles. There is no visibility into the gardens or windows of the neighbouring dwellings and no detrimental impact on the daylight, sunlight and privacy afforded to these dwellings. As such the proposal is deemed to meet the requirements of DEV1.

## 5. Drainage:

5.1 DEV35 states that, where development is necessary LPAs will “ensure that it is safe without increasing flood risk and pollution elsewhere” and that development should incorporate sustainable water management measures to minimise surface water run off (DEV35.4).

5.2 The site does not fall within a Critical Drainage Area or Flood Zone 2/3 and is not, therefore, considered a high risk flood area. Details of the drainage scheme have not been provided and as such it was considered necessary to attach a pre-commencement condition to the approval requiring that full details of the drainage scheme be provided to, and agreed by, the Local Planning Authority prior to any development commencing. This condition was provided to the applicant and agreed in writing on 29<sup>th</sup> February 2024. With this condition attached the application is considered to meet the provisions of DEV35.

## 6. Conclusion:

6.1 For the aforementioned reasons, the scheme is considered to meet the provisions of DEV1, DEV2, DEV10, DEV20, DEV21, DEV23, DEV25, DEV32 and DEV35 as well as Neighbourhood Plan policies DNP TE1, TE2, TE3 and H4 and guidance contained within the JLP Supplementary Planning Document (including, but not limited to, paragraph 4.130).

6.2 As such Officers recommend the application for Conditional Approval.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.***

## **Planning Policy**

### Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26<sup>th</sup> 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon

Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

The relevant development plan policies are set out below:

**The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.**

SPT1 Delivering sustainable development  
SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV10 Delivering high quality housing  
DEV20 Place shaping and the quality of the built environment  
DEV21 Development affecting the historic environment  
DEV23 Landscape character  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts

### **Neighbourhood Plan:**

Following a successful referendum, the Dartmouth Neighbourhood Plan was adopted at South Hams District Council Committee on 15th December 2022. It now forms part of the Development Plan for South Hams and should be used in deciding planning applications within the Dartmouth Neighbourhood Area.

The application is not considered to be against the provision of the following policies contained within the Neighbourhood Plan:

DNP GE1 – Impact on the South Devon Area of Outstanding Natural Beauty (AONB) Undeveloped Coast and Heritage Coast  
DNP GE2 – Safeguarding the biodiversity and Green infrastructure throughout the Parish  
DNP GE10 – Prevention of Light Pollution  
DNP TE1 - Subdivision of existing plots  
DNP TE2 – Design Quality throughout the Parish  
DNP TE3 – Safeguarding Designated and Non-designated heritage assets and the conservation area of Dartmouth

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

**South Devon Area of Outstanding Natural Beauty Management Plan (2019-2024)**

**Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)**  
**Plymouth and South West Devon Climate Emergency Planning Statement (2022)**

**Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

**Conditions in Full:**

**1. Standard Time Limit:** The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**2. Accord to Plans:** The development hereby approved shall in all respects accord strictly with drawing number(s)

2706 P501 Residential Annex, Floor Plans and Elevations received on 16 January 2024

2706 LA01 The location plan received on 16 January 2024

2706 P500 Rev A Existing & Proposed Site Plans received on 16 January 2024

2706 P502 Existing & Proposed Sections received on 16 January 2024

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

**3. Prior To Commencement – Drainage Scheme:** Notwithstanding the submitted information, no development shall be commenced until full details of the most sustainable drainage option has been submitted to and approved in writing by the Local Planning Authority (LPA). Thereafter, the drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development. Design steps as below:

1. Soakaway testing to DG 365 to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in the report.

2. If infiltration is suitable then the soakaway should be designed for a 1:100 year return period plus an allowance for Climate change (currently 50%)..

3. Only once all of the above have been assessed and discounted will an offsite discharge be deemed acceptable. Attenuation should be designed for a 1:100 year return period plus an allowance for Climate change (currently 50%).

4. The offsite discharge will need to match the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the

critical return periods. Full details of the flow control device will be required. OR IF IN CDA:

The site is within a Critical Drainage Area which means that any surface water leaving the site must be limited to the 1:10 year green field runoff rate. This must be calculated in accordance with CIRIA C753. Full details of the flow control device will be required.

5. If discharging surface water to the main sewer, then written permission from SWW will be required.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development in accordance with DEV35 of the Plymouth and South West Devon Joint Local Plan.

(Agreed in writing 29/02/2024)

**4. Natural Slate:** The roofs hereby approved shall be clad in blue-grey natural slates from a European source, shall be traditionally fixed using nails, not hooks, and thereafter shall be so maintained for the life of the development.

Reason: To perpetuate the use of vernacular materials and to secure the environmental credentials of the development in accordance with DEV20, DEV21 and DEV32 of the Joint Local Plan.

**5. Natural Stone:** All stonework, including alterations and repairs to the existing walls and the construction of new stone walls, shall be constructed of natural stone which matches the geological type, colour and texture of that occurring locally. The stonework shall be laid on its natural bed and pointed using a lime mortar with well graded sand and brush stippled joints, either flush or slightly recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones. Thereafter, the stonework will be maintained in its natural state and shall not be rendered, colour washed or otherwise treated.

Reason: To ensure that the finishes and colours retain the character of the locality in accordance with DEV20 and DEV23 of the Joint Local Plan.

**6. Natural Timber Cladding:** The cladding hereby approved shall be natural timber. The cladding shall be allowed to patinate naturally and shall not be stained, colourwashed, or otherwise treated in a manner which would obscure the natural finish.

Reason: To retain the character and appearance of the host building and setting in accordance with DEV20 and DEV23 of the Joint Local Plan.

**7. Ancillary Use:** The annex hereby permitted shall not be occupied other than for purposes ancillary to the residential use of the dwelling known as 28 Redwalls Meadow.

Reason: The establishment of an additional independent unit of accommodation would give rise to an over intensive use of the site and have a poor spatial relationship with the main dwelling contrary to DEV10 of the Joint Local Plan.

**8. Removal of PD Rights:** Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order, 2015 (and

any Order revoking and re enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:

- (a) Part 1, Class A (extensions and alterations)
- (b) Part 1, Class AA (enlargement of a dwellinghouse by construction of additional storeys)
- (c) Part 1, Classes B and C (roof addition or alteration)
- (d) Part 1, Class D (porch)
- (e) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwellinghouse and; (b) container used for domestic heating purposes/oil or liquid petroleum gas)
- (f) Part 1, Class F (hardsurfaces)
- (g) Part 1, Class G (chimney, flue or soil and vent pipe)
- (h) Part 1, Class H (microwave antenna) and;
- (i) Part 2, Class A (means of enclosure)

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality, in accordance with policies DEV20 and DEV23 of the Joint Local Plan.

# South Hams District Council ~~Agenda~~ Item 7

## Development Management Committee 10 Apr 2024

Appeals update for 26 Feb 2024 to 18 Mar 2024

<b>Ward:</b>	<b>Charterlands</b>
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<b>4092/23/CLP</b>		<b>PINS Ref: APP/K1128/X/24/3338918</b>
<b>Original Decision:</b>	Cert of Lawfulness (Proposed) Refusal	<b>Appeal Status:</b> Start Letter Received
<b>Appellant Name:</b>	Mr Russell Quick - Quick Planning Solutions	<b>Appeal Start Date:</b> 7 Mar 2024
<b>Site Address:</b>	Development Site At Sx 656 515, Church Lane, Modbury	<b>Appeal Decision:</b>
<b>Proposal:</b>	Certificate of lawfulness for proposed erection of a 2m high fence above natural ground level, set in from the front boundary with Church Lane	<b>Appeal Decision Date:</b>

<b>Ward:</b>	<b>Salcombe &amp; Thurlestone</b>
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<b>3283/22/HHO</b>		<b>PINS Ref: APP/K1128/D/23/3323966</b>
<b>Original Decision:</b>	Refusal	<b>Appeal Status:</b> Appeal Approved
<b>Appellant Name:</b>	Mr A Rochford	<b>Appeal Start Date:</b> 10 Aug 2023
<b>Site Address:</b>	Towans, Grenville Road, Salcombe, TQ8 8BJ	<b>Appeal Decision:</b> Upheld
<b>Proposal:</b>	Householder application for erection of a western red cedar clad bin & bike store to front garden (Retrospective)	<b>Appeal Decision Date:</b> 8 Mar 2024

<b>Ward:</b>	<b>Totnes</b>
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<b>1273/23/HHO</b>		<b>PINS Ref: APP/K1128/D/23/3328692</b>
<b>Original Decision:</b>	Refusal	<b>Appeal Status:</b> Appeal Approved
<b>Appellant Name:</b>	Mr Simon Brook	<b>Appeal Start Date:</b> 12 Oct 2023
<b>Site Address:</b>	9, North Street, Totnes, TQ9 5NZ	<b>Appeal Decision:</b> Upheld
<b>Proposal:</b>	Householder application for proposed single storey extension(resubmission of 3539/22/HHO)	<b>Appeal Decision Date:</b> 28 Feb 2024

<b>1816/23/FUL</b>		<b>PINS Ref: APP/K/1128/W/24/3336854</b>
<b>Original Decision:</b>	Refusal	<b>Appeal Status:</b> Start Letter Received
<b>Appellant Name:</b>	Mr Richard Forster	<b>Appeal Start Date:</b> 13 Mar 2024
<b>Site Address:</b>	30, Westonfields, Totnes, TQ9 5QU	<b>Appeal Decision:</b>
<b>Proposal:</b>	Demolition of existing utility/workshop & construction of 1 bedroom 2 storey attached dwelling with associated works	<b>Appeal Decision Date:</b>

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## South Hams District Council

### Undetermined Major Applications

as at 18 Mar 2024



3623/19/FUL			
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 14 Apr 2020	<b>Expiry Date:</b> 14 Jul 2020
<b>Location:</b>	Land off Godwell Lane, Iybridge		<b>Extension Date:</b> 31 Mar 2024
<b>Proposal:</b>	READVERTISEMENT (Revised plans received) Full planning application for the development of 104 residential dwellings with associated access, parking, landscaping, locally equipped play area and infrastructure		
<b>Officer Comments:</b>	Extension of time in place until end of March; still awaiting drainage information to overcome LLFA objection.		
4158/19/FUL			
<b>Officer:</b>	Patrick Whymer	<b>Valid Date:</b> 17 Jan 2020	<b>Expiry Date:</b> 17 Apr 2020
<b>Location:</b>	Development Site At Sx 734 439, Land to Northwest of junction between Ropewalk and Kingsway Park, Ropewalk, Kingsbridge, Devon		<b>Extension Date:</b> 06 Feb 2021
<b>Proposal:</b>	READVERTISEMENT (Revised Plans Received) Residential development comprising of 15 modular built dwellings with associated access, carparking and landscaping		
<b>Officer Comments:</b>	Applicant is reviewing the proposal		
4181/19/OPA			
<b>Officer:</b>	Ian Lloyd	<b>Valid Date:</b> 09 Jan 2020	<b>Expiry Date:</b> 30 Apr 2020
<b>Location:</b>	Land off Towerfield Drive, Woolwell, Part of the Land at Woolwell, JLP Allocation (Policy PLY44)		<b>Extension Date:</b> 30 Apr 2024
<b>Proposal:</b>	READVERTISEMENT (revised plans & description of development) Outline application for up to 360 dwellings, associated landscaping and site infrastructure. All matters reserved except for new access points from Towerfield Drive and Pick Pie Drive.		
<b>Officer Comments:</b>	Along with 4185/19/OPA a year-long PPA initially agreed until end of December 2020 was extended to the end of February 2024. Both parties agree more time is still required to resolve matters and a revised extension of time has been agreed until the end of April 2024		
4185/19/OPA			
<b>Officer:</b>	Ian Lloyd	<b>Valid Date:</b> 09 Jan 2020	<b>Expiry Date:</b> 30 Apr 2020
<b>Location:</b>	Land at Woolwell, Part of the Land at Woolwell JLP Allocation (Policy PLY44)		<b>Extension Date:</b> 30 Apr 2024
<b>Proposal:</b>	READVERTISEMENT (revised plans) Outline application for provision of up to 1,640 new dwellings; up to 1,200 sqm of commercial, retail and community floorspace (A1-A5, D1 and D2 uses); a new primary school; areas of public open space including a community park; new sport and playing facilities; new access points and vehicular, cycle and pedestrian links; strategic landscaping and attenuation basins; a primary substation and other associated site infrastructure. All matters reserved except for access.		
<b>Officer Comments:</b>	Along with 4181/19/OPA] a year-long PPA initially agreed until end of December 2020 was extended to the end of February 2024. Both parties agree more time is still required to resolve matters and a revised extension of time has been agreed until the end of April 2024		
0544/21/FUL			
<b>Officer:</b>	Patrick Whymer	<b>Valid Date:</b> 15 Feb 2021	<b>Expiry Date:</b> 17 May 2021

<b>Location:</b>	Land at Stowford Mills, Station Road, Ivybridge, PL21 0AW	<b>Extension Date:</b> 31 Oct 2023
<b>Proposal:</b>	Construction of 16 dwellings with associated access and landscaping	
<b>Officer Comments:</b>	On hold - if 2733/23/VAR approved, likely 0544/21/FUL will be withdrawn.	
<b>2379/21/FUL</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 10 Jun 2021 <b>Expiry Date:</b> 09 Sep 2021
<b>Location:</b>	Riverford Wash Barn, Buckfastleigh, TQ11 0JU	<b>Extension Date:</b> 31 Mar 2024
<b>Proposal:</b>	Formation of car park (Retrospective)(Resubmission of 1760/20/FUL)	
<b>Officer Comments:</b>	EoT agreed until end of March. Applicant addressing outstanding queries and report can be finalised.	
<b>2982/21/FUL</b>		
<b>Officer:</b>	Charlotte Howrihane	<b>Valid Date:</b> 13 Oct 2021 <b>Expiry Date:</b> 12 Jan 2022
<b>Location:</b>	Land Opposite Butts Park, Parsonage Road, Newton Ferrers, PL8 1HY	<b>Extension Date:</b> 29 Mar 2024
<b>Proposal:</b>	Erection of 20 residential units (17 social rent and 3 open market) with associated car parking and landscaping	
<b>Officer Comments:</b>	Delegated authority to approve, awaiting S106 which is with Legal	
<b>3053/21/ARM</b>		
<b>Officer:</b>	David Stewart	<b>Valid Date:</b> 05 Aug 2021 <b>Expiry Date:</b> 25 Nov 2021
<b>Location:</b>	Noss Marina, Bridge Road, Kingswear, TQ6 0EA	<b>Extension Date:</b> 24 Mar 2022
<b>Proposal:</b>	Application for approval of reserved matters relating to layout, appearance, landscaping and scale, in respect to Phase 16 – Dart View(Residential Northern) of the redevelopment of Noss Marina comprising the erection of 40 new homes (Use Class C3), provision of 60 carparking spaces, cycle parking, creation of private and communal amenity areas and associated public realm and landscaping works pursuant to conditions 51, 52, 54 and 63 attached to S.73planning permission ref. 0504/20/VAR dated 10/02/2021 (Outline Planning Permission ref. 2161/17/OPA, dated 10/08/2018) (Access matters approved and layout, scale, appearance and landscaping matters	
<b>Officer Comments:</b>	Revised drawings have been received and are currently being advertised. The changes to the scheme reduce the number of units on this phase and amend the design. It is anticipated that the application will be determined by the end April 2024.	
<b>4021/21/VAR</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 24 Nov 2021 <b>Expiry Date:</b> 23 Feb 2022
<b>Location:</b>	Development site at SX 809597, Steamer Quay Road, Totnes	<b>Extension Date:</b> 15 Mar 2024
<b>Proposal:</b>	READVERTISEMENT (revised plans) Application for variation of condition 2 (approved drawings) of planning consent 4165/17/FUL	
<b>Officer Comments:</b>	Report being drafted now consultation closed. EoT in place for March.	
<b>4317/21/OPA</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 05 Jan 2022 <b>Expiry Date:</b> 06 Apr 2022
<b>Location:</b>	Land at SX 5515 5220 adjacent to Venn Farm, Daisy Park, Brixton	<b>Extension Date:</b> 31 Mar 2024
<b>Proposal:</b>	READVERTISEMENT (amended plans) Outline application with all matters reserved for residential development of up to 17 dwellings (including affordable housing)	
<b>Officer Comments:</b>	EoT in place for end of March. Latest consultation has resulted in further LLFA queries which are currently being addressed.	
<b>0303/22/OPA</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 04 Mar 2022 <b>Expiry Date:</b> 03 Jun 2022

<b>Location:</b>	Land off Moorview, Westerland, Marldon, TQ3 1RR	<b>Extension Date:</b> 29 Feb 2024
<b>Proposal:</b>	READVERTISEMENT (Updated Site Address) Outline application (all matters reserved) for erection of 30 homes of two, three and four bedroom sizes with associated roads, paths, landscaping and drainage 30% of which would be affordable housing	
<b>Officer Comments:</b>	S106 being sealed for permission to be granted subject to further foul drainage condition as discussed with ward member. EoT agreed.	
<b>1522/22/FUL</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 09 May 2022
		<b>Expiry Date:</b> 04 Jul 2022
<b>Location:</b>	Proposed Development Site East, Dartington Lane, Dartington, TQ9 5LB	<b>Extension Date:</b> 31 Jan 2023
<b>Proposal:</b>	READVERTISEMENT (revised plans & documents) Construction of 6 No. two-storey residential dwellings with associated landscaping	
<b>Officer Comments:</b>	Still working through issues. EoT until end March.	
<b>1523/22/FUL</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 20 Jun 2022
		<b>Expiry Date:</b> 19 Sep 2022
<b>Location:</b>	Proposed Development Site West, Dartington Lane, Dartington	<b>Extension Date:</b> 31 Jan 2023
<b>Proposal:</b>	READVERTISEMENT (revised plans & documents) Construction of 39 No. two-storey dwellings with associated landscaping	
<b>Officer Comments:</b>	Still working through issues. EoT until end March.	
<b>1629/22/ARM</b>		
<b>Officer:</b>	Steven Stroud	<b>Valid Date:</b> 20 Jun 2022
		<b>Expiry Date:</b> 19 Sep 2022
<b>Location:</b>	Dennings, Wallingford Road, Kingsbridge, TQ7 1NF	<b>Extension Date:</b> 30 Jun 2023
<b>Proposal:</b>	READVERTISEMENT (revised plans & supporting information) Application for approval of reserved matters following outline approval 2574/16/OPA (Outline application with all matters reserved for 14 new dwellings) relating to access, appearance, landscaping, layout and scale and discharge of outline planning conditions	
<b>Officer Comments:</b>	Under consideration.	
<b>2412/22/OPA</b>		
<b>Officer:</b>	Clare Stewart	<b>Valid Date:</b> 25 Jul 2022
		<b>Expiry Date:</b> 24 Oct 2022
<b>Location:</b>	Land South of Dartmouth Road at SX 771 485, East Allington	<b>Extension Date:</b> 31 Oct 2023
<b>Proposal:</b>	READVERTISEMENT (amended description & documents) Outline application with some matters reserved for residential development & associated access	
<b>Officer Comments:</b>	Approved by Committee on 18/10/23 subject to S106 completion, which is in progress	
<b>0384/23/OPA</b>		
<b>Officer:</b>	Bryn Kitching	<b>Valid Date:</b> 09 Feb 2023
		<b>Expiry Date:</b> 12 Apr 2024
<b>Location:</b>	Land At Sx 652 517, Modbury	
<b>Proposal:</b>	READVERTISEMENT (viability appraisal submitted with revised affordable housing provision and open market housing mix). Outline Planning Application (with all matters reserved apart from access) for demolition of existing buildings and a residential redevelopment of up to 40 dwellings, including the formation of access and associated works on land at Penn Park, Modbury	
<b>Officer Comments:</b>	Outline application on site allocated for residential development in the JLP. Viability documents submitted with Affordable Housing offer of 10% (4 houses) and revised open market mix. Full reconsultation on viability documents talking place. Expected to be presented to the Development Management Committee on 10 <sup>th</sup> April 2023. Extension of time agreed to 12 <sup>th</sup> April 2023 as part of Scheme Development Agreement	
<b>1887/23/ARM</b>		

<b>Officer:</b>	Tom French	<b>Valid Date:</b> 01 Jun 2023	<b>Expiry Date:</b> 31 Aug 2023
<b>Location:</b>	Sherford Housing Development Site, Land South & South West of A38 Deep Lane junction & East of Hays Road, Plymouth		<b>Extension Date:</b> 31 Mar 2024
<b>Proposal:</b>	Application for approval of reserved matters following outline approval 0825/18/VAR (Variation of conditions 3 (approved drawings), 6, 7, 8, 10, 11, 12, 13, 14, 18, 19, 20, 21, 26, 28, 35, 36, 45, 46, 52, 53, 54, 57, 66, 67, 68, 69, 70, 71, 99, 100, 101, 102, 104, 106, 107 and 110 and Informative of outline planning permission ref.1593/17/VAR to accommodate proposed changes of the Masterplan in respect of the 'Sherford New Community') for 284 residential dwellings, on parcels L1-L12, including affordable housing and associated parking along with all necessary infrastructure including, highways, drainage, landscaping, sub stations, as part of Phase 3B of		
<b>Officer Comments:</b>	Still working through issues. EoT until end March.		
<b>1888/23/ARM</b>			
<b>Officer:</b>	Tom French	<b>Valid Date:</b> 01 Jun 2023	<b>Expiry Date:</b> 31 Aug 2023
<b>Location:</b>	Sherford New Community, Land south west of A38, Deep Lane and east of Hays Road, Elburton, Plymouth, PL9 8DD		<b>Extension Date:</b> 29 Feb 2024
<b>Proposal:</b>	Application for approval of reserved matters for 269 no. dwellings on parcels B1-11, including affordable housing and associated parking along with all necessary parcel infrastructure including drainage and landscaping, as part of Phase 3B of the Sherford new Community, pursuant to approval 0825/18/VAR (which was an EIA development and an Environmental Statement was submitted)		
<b>Officer Comments:</b>	Still working through issues. Further EoT to end of March sought.		
<b>2058/23/ARM</b>			
<b>Officer:</b>	Tom French	<b>Valid Date:</b> 09 Jun 2023	<b>Expiry Date:</b> 08 Sep 2023
<b>Location:</b>	Sherford New Community, Phase 3 A/B Land south of Main Street, Plymouth, PL8 2DP		<b>Extension Date:</b> 29 Feb 2024
<b>Proposal:</b>	READVERTISEMENT (amended plans) Application for approval of reserved matters application for strategic infrastructure including strategic drainage, highways, landscaping and open space, and amendment to phasing plan as part of Phase 3 A/B of the Sherford New Community pursuant to Outline approvals ref: 0825/18/VAR (the principle permission that was amended by this consent was EIA development and was accompanied by an Environmental Statement)		
<b>Officer Comments:</b>	Still working through issues. Further EoT to end of March sought.		
<b>2505/23/VAR</b>			
<b>Officer:</b>	Peter Whitehead	<b>Valid Date:</b> 02 Aug 2023	<b>Expiry Date:</b> 01 Nov 2023
<b>Location:</b>	Deer Park Inn, Dartmouth Road, Stoke Fleming, TQ6 0RF		<b>Extension Date:</b> 29 Feb 2024
<b>Proposal:</b>	Application for variation of Condition 2 (approved plans) of planning consent 0679/18/FUL		
<b>Officer Comments:</b>	Member delegated approval. Currently awaiting completion of Deed of Variation of existing s106 Agreement (so current application ties back to original s106 and secures the contributions set out therein), following which conditional permission will be granted		
<b>2733/23/VAR</b>			
<b>Officer:</b>	Lucy Hall	<b>Valid Date:</b> 09 Aug 2023	<b>Expiry Date:</b> 08 Nov 2023
<b>Location:</b>	Stowford Mill, Harford Road, Ivybridge, PL21 0AA		<b>Extension Date:</b> 30 Nov 2023
<b>Proposal:</b>	Application for variation of condition 3 (approved drawings) of planning consent 27/1336/15/F (part retrospective)		
<b>Officer Comments:</b>	All technical matters resolved. Officer to seek delegation from ward members. Agent preparing Deed of Variation.		
<b>2929/23/FUL</b>			
<b>Officer:</b>	Peter Whitehead	<b>Valid Date:</b> 25 Oct 2023	<b>Expiry Date:</b> 14 Feb 2024
<b>Location:</b>	Land at Littlehempston Water Treatment Works, Hampstead Farm Lane, Littlehempston		<b>Extension Date:</b> 14 Apr 2024

<b>Proposal:</b>	Installation of photovoltaic solar arrays together with transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements		
<b>Officer Comments:</b>	Application under consideration.		
<b>3203/23/FUL</b>			
<b>Officer:</b>	Charlotte Howrihane	<b>Valid Date:</b> 16 Oct 2023	<b>Expiry Date:</b> 15 Jan 2024
<b>Location:</b>	Land at SX 808 599, Totnes		<b>Extension Date:</b> 30 Mar 2024
<b>Proposal:</b>	Demolition of 36 two/three bed flats to be replaced with 35 new homes, consisting of one, two & three bed accommodation for social rent, as well as landscaping, car parking & associated works		
<b>Officer Comments:</b>	Delegated authority to approve, awaiting S106 which is with Legal		
<b>3251/23/VAR</b>			
<b>Officer:</b>	Peter Whitehead	<b>Valid Date:</b> 27 Sep 2023	<b>Expiry Date:</b> 27 Dec 2023
<b>Location:</b>	Development Site At Sx 580 576, Seaton Orchard, Sparkwell		<b>Extension Date:</b> 26 Mar 2024
<b>Proposal:</b>	Application for variation of condition 20 (windows) of planning consent 3445/18/FUL		
<b>Officer Comments:</b>	Currently awaiting completion of Deed of Variation to original s106 Agreement (so current application ties back to original s106 and secures the contributions set out therein), following which planning permission will be issued.		
<b>3358/23/FUL</b>			
<b>Officer:</b>	Liz Payne	<b>Valid Date:</b> 22 Nov 2023	<b>Expiry Date:</b> 21 Feb 2024
<b>Location:</b>	Ash Tree Farm, Ash, TQ6 0LR		
<b>Proposal:</b>	Change of use of 1.4 hectares of land to animal rescue centre		
<b>Officer Comments:</b>	Application under consideration		
<b>3861/23/FUL</b>			
<b>Officer:</b>	Charlotte Howrihane	<b>Valid Date:</b> 21 Nov 2023	<b>Expiry Date:</b> 20 Feb 2024
<b>Location:</b>	Hendham View, Woodleigh, Kingsbridge, TQ7 4DP		<b>Extension Date:</b> 18 Mar 2024
<b>Proposal:</b>	READVERTISEMENT (Major application) Retrospective application for agricultural access tracks		
<b>Officer Comments:</b>	Application readvertised, currently in consultation period. No officer concerns but objection received		
<b>3995/23/FUL</b>			
<b>Officer:</b>	Lucy Hall	<b>Valid Date:</b> 02 Jan 2024	<b>Expiry Date:</b> 02 Apr 2024
<b>Location:</b>	Baltic Wharf Boatyard St Peters Quay Totnes TQ9 5EW		
<b>Proposal:</b>	Full planning application for the phased delivery of a mixed-use development comprising marine workshops (Use Class B2) and boat storage, offices (Use Class E), care home (Use Class C2), houses and apartments (Use Class C3), mixed commercial uses (Use Class E) and associated infrastructure.		
<b>Officer Comments:</b>	Application under consideration.		
<b>4263/23/VAR</b>			
<b>Officer:</b>	Clare Stewart	<b>Valid Date:</b> 21 Dec 2023	<b>Expiry Date:</b> 21 Mar 2024
<b>Location:</b>	Field To Rear Of 15 Green Park Way Port Lane Chillington		

<b>Proposal:</b>	Variation of conditions 1 (approved drawings), 5 (materials), 6 (boundary treatments and retaining walls/structures)), 7 (external levels) and 9 (planting proposals) following grant of planning permission ref. 0742/23/VAR		
<b>Officer Comments:</b>	Application under consideration		
<b>0103/24/FUL</b>			
<b>Officer:</b>	Tom French	<b>Valid Date:</b> 11 Jan 2024	<b>Expiry Date:</b> 11 Apr 2024
<b>Location:</b>	Langage Energy Park Kingsway Plympton PL7 5AW		
<b>Proposal:</b>	Proposed construction of a 9.25km hydrogen pipeline running from consented Langage Green Hydrogen Project to the Sibelco and Imerys sites		
<b>Officer Comments:</b>	Currently in consultation period		
<b>0278/24/ARM</b>			
<b>Officer:</b>	Bryn Kitching	<b>Valid Date:</b> 24 Jan 2024	<b>Expiry Date:</b> 24 Apr 2024
<b>Location:</b>	Land at SX 855 508 Violet Drive Dartmouth		
<b>Proposal:</b>	Application for approval of reserved matters (layout, appearance, scale and landscaping) following outline approval 0479/21/VAR for Erection of a 3-storey, 105-bedroom hotel with ancillary restaurant and all associated works		
<b>Officer Comments:</b>	Currently considering consultation responses, seeking additional information and minor alterations to overcome areas of concern.		
<b>0292/24/VAR</b>			
<b>Officer:</b>	Charlotte Howrihane	<b>Valid Date:</b> 24 Jan 2024	<b>Expiry Date:</b> 24 Apr 2024
<b>Location:</b>	Development Site At Sx 783 624, Broom Park, Dartington		
<b>Proposal:</b>	Application for variation of condition 1 (approved drawings) of planning consent 4442/21/ARM		
<b>Officer Comments:</b>	Currently in consultation period, waiting for comments from Landscape Officer and Ecology Officer which will be key to assessment		



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