

PLANNING APPLICATION REPORT

Case Officer: Cheryl Stansbury

Parish: Milton Abbot **Ward:** Milton Ford

Application No: 0016/20/OPA

Agent/Applicant:

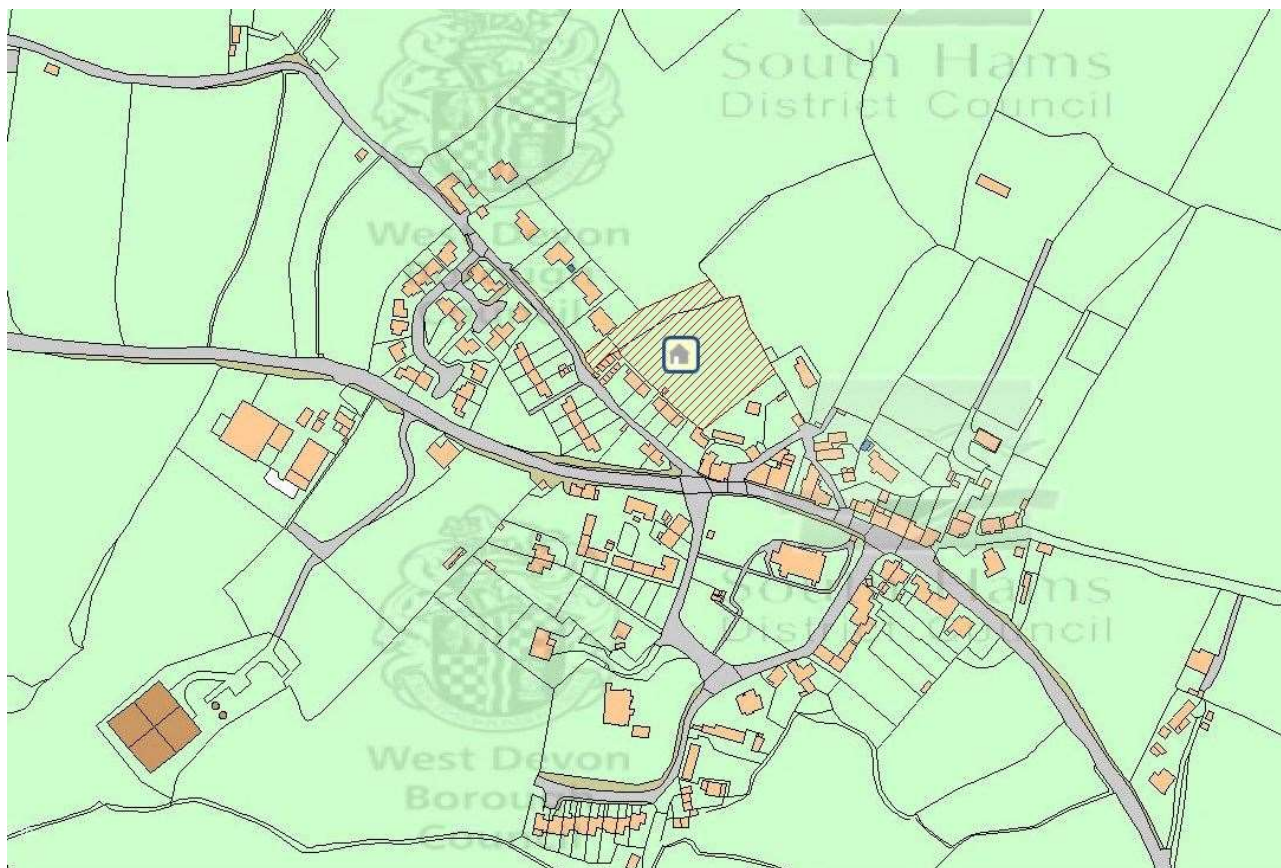
Mr Edward Persse - EJFP Planning Ltd
49 Bannawell Street
Tavistock
Devon
PL19 0DP

Applicant:

Mr & Mrs R & J Cole
Mallows Farm
Yelverton
PL20 7HT

Site Address: Land to the rear of Edgcumbe Terrace, Edgcumbe Road, Milton Abbot, PL19 0PE

Development: READVERTISEMENT (Revised plans received and amended development description) Outline application with all matters reserved except access and siting for the erection of 5 dwellings (Resubmission of 0889/19/OPA)



Reason item is being put before Committee: At the request of the Head of Development Management in light of the significant number of public comments and progress of the MACK Neighbourhood Plan.

Recommendation: Refuse

1. The proposal is not considered to constitute sustainable development in that it is tandem backland development which fails to have proper regard to local character and the development context of the village, contrary to the good design aims of the NPPF, JLP Policies SPT1, TTV2, TTV25, DEV10 and DEV20 of the Plymouth and South West Devon Joint Local Plan and the JLP Supplementary Planning Document.
2. The proposal is considered to be an unneighbourly form of development, likely to result in a loss of privacy and overlooking to the existing dwellings in Edgcumbe Terrace, contrary to the aims of the NPPF in relation to good design, particularly (but not limited to) section 12, DEV1, DEV10 and DEV20 of the Plymouth and South West Devon Joint Local Plan and Appendix 1 of the SPD.
3. The proposal fails to demonstrate that adequate methods of surface water drainage can be provided and maintained through the lifetime of the development, contrary to section 14 of the National Planning Policy Framework, Plymouth and South West Devon Joint Local Plan Policy DEV35, and DEV35.4 of the JLP Supplementary Planning Document.
4. Through a lack of a S106 agreement, the development fails to demonstrate that adequate maintenance will be in place for communal areas and drainage, and to secure the necessary Tamar Estuary Zone Mitigation, contrary to paragraphs 54, 56 and 176 of the National Planning Policy Framework and Plymouth and South West Devon Joint Local Plan Policies DEV26 and DEL1 and the JLP Supplementary Planning Document.
5. The development fails to demonstrate that there would not be harm to the setting of heritage assets including the Grade 1 listed church and the conservation area, or that a very low level of harm would be outweighed by demonstrable public benefit, contrary to the National Planning Policy Framework, particularly paragraphs 193, 194, 195 and 196 and DEV21 of the Plymouth and South West Devon Joint Local Plan.

Key issues for consideration:

The principle and sustainability of the development
Impact on the character and appearance of the area
Heritage impacts
Residential amenity
Highway safety
Biodiversity
Drainage

Site Description:

The application site measures approximately 0.60 ha and is located on the northern side of Milton Abbot village. The site is located behind the public house and a row of terraced cottages known as Edgcombe Terrace, to the north of the historic part of the village.

The site is currently agricultural land, with hedgerow boundaries, and slopes down towards the south/south west, towards the existing properties in Edgcombe Terrace; the floor level of these properties is lower than the site. It is accessed via an existing entrance to the south west which also serves a row of garages; the garages are in third party ownership.

There are residential properties located to three sides of the site, to the northwest, south west and south. Open countryside lies to the north/north east.

The site is just outside the Conservation Area (the southern boundary adjoins the Conservation Area; Edgcumbe Terrace sits within), with the grade I listed Church of St Constantine located to the south, across the highway/crossroad.

There are no public rights of way across the site. It is not in a Flood Zone 2 or 3 or a Critical Drainage Area. It is also outside of the Tamar Valley AONB.

Private water supplies do run across the site serving Edgcumbe Terrace and a disused cow shed.

The Proposal:

This application is for outline planning permission for 5 dwellings with access and layout the only matters being considered. The scale of the dwellings and bed numbers are not being fixed at this stage; the drawings (indicative) originally indicated 3 and 4 bed properties, but the application form states this is unknown. The Planning Statement makes reference to "...responding to the evidence in DEV8...and a focus on smaller, 1, 2 and 3 bedroom dwellings", although the Design and Access Statement notes the dwellings will be 3 and 4 bed.

An indicative drawing was submitted showing what has been described as 1 ½ storey properties although they essentially appear as 2 storey, with lowered eaves and a reduced roof line; ridge heights measure at 7.7 and 8.3 metres.

The drawings indicate 5 dwellings located towards the north-eastern edge of the plot, in the form of a semi-detached pair and a terrace of 3. Access is via the existing field gate which runs between the garages/end of the dwellings in Edgcumbe Terrace and the detached dwelling to the north. Parking is shown to the north of the dwellings, separated by the internal access road. The application form indicates 10 parking spaces in total; there is no visitor parking provision shown.

A footpath link to the village is shown from the south of the site, however this is not within the red line application site boundary; it is within the blue outline being land owned by the applicant. Field gates are provided both north and south to the applicant's other land.

The application has not been subject to pre-application advice following withdrawal of an earlier application.

Consultations:

Devon County Council Highways Authority; the number of proposed residential units, 5, is generally considered the maximum number that can be served by a private access. The use of the garages adjoining the access road will not unacceptably conflict with the use of the proposed access to the site. The LPA needs to be satisfied the plans showing the applicant's ownership are correct.

The proposed access details shown on the revised plans are now acceptable and conditions are recommended to be imposed on any permission granted.

Historic England; Development has potential to cause harm to heritage assets. We are concerned at the lack of appropriate assessment of the significance of the heritage assets potentially affected, how their settings contribute to their significance, and what harm may be caused by the proposal. The outline nature of the application makes it very difficult for your authority to properly consider impacts, give appropriate weight to the assets or minimise or avoid harm. We reiterate the need for great weight to be afforded to the conservation of heritage assets, in particular those of exceptional special interest.

WDBC Conservation Officer; Given the uncertainty of an outline proposal where topographic detail is lacking and no accurate representations are possible from key vantage points it is necessary to take a precautionary approach. I must agree with the Historic England comment that the level of information is insufficient for us to make an informed judgement.

I would not completely rule out development in this location from a heritage viewpoint, but only if it is convincingly shown that there is no harm to the setting of heritage assets or that a very low level of harm is outweighed by demonstrable public benefit. That is not the case so based on S66 and 72 of the 1990 Act, the NPPF and JLP support cannot be given.

Milton Abbot Parish Council; Object

January 2021;

The Planning committee resolved to include the points made in the AECOM study (below) in ADDITION to the original six made during the Planning meetings of 25th Feb 2020 and 19th Oct 2020. The AECOM study (commissioned by MACKPlan as suggested by WDBC) identified a number of reasons why this site is not suitable for development; landscape and visual sensitivities, flood risk concerns, impacts to residential amenity, the potential for adverse impacts to the setting of heritage assets, access concerns, and potential impacts to the spring-fed water supply and existing utilities infrastructure. In this respect, the site is not suitable to take forward for the purposes of the MACK Plan.

The AECOM report identifies other sites which are suitable to deliver the 20 new homes proposed by the JLP for this area. They also offer the best prospect of delivering the number of affordable homes required by local residents and identified in resident surveys.

The MACKPlan is now in Regulation 14 Consultation and a copy has been sent to WDBC Planning Department.

October 2020;

1. There appears to be a question about the legal right to the access shown on the plans; this needs to be fully resolved.
2. Edgecumbe Lane is a busy road with no pavements – a further increase in traffic both during construction and after is a danger.
3. The site is currently one of 10 submitted for the draft Neighbourhood Plan. These are currently being independently assessed to identify which sites best meet the local need. This application should at least be postponed until residents have had a chance to vote on the Neighbourhood plan and its recommended sites.

March 2020;

- 1) The plans submitted shows where the current spring water flows on the land. The plans show the plots well within the mandated four metre clearance. There needs to be an absolute minimum of four meters of clearance.
- 2) There has been recent flooding of the pub and housing along Edgcumbe Terrace/Lane due to a recent altered water course and drainage issues of the field.
- 3) The plans, plots and size of housing does not meet the needs of the village, as highlighted within phase 1 of the MACPLAN survey. The main points to note are (a) that the housing is not in keeping with the current architecture of the village and (b) there is no mention of affordable housing which is a key objective on the council core aims of new housing. This is reflected and supported by Historic England.

Devon County Council Education; Will not making a section 106 request for education contributions. There is sufficient forecast capacity at the local primary and secondary school to mitigate the impact of this proposed scheme.

WDBC Strategic Planning; The site is clearly within the countryside when applying para 5.5. Principle starts with SPT1 and SPT2. TTV1 and TTV25 also apply.

The Supplementary Planning Document (SPD) states that schemes of 5 and over can count towards the figure of 550 in TTV25, so if the site relates well to the village this potentially weighs in favour of the proposal.

The land slopes to the north, so setting of AONB will need to be considered. If approved, need to condition housing mix to be considered at reserve matters.

Neighbourhood Plan Officer; March 2021; The Reg 14 consultation has now ended and responses have been collated. There are objections to this site. At this stage some weight can be given, but is limited. The weight will increase once the plan reaches Reg 15 submission over the next few months.

Environmental Health Specialist (water) - There is little Government guidance available. The mitigation proposed is sensible and should be formalised into a condition.

WDBC Drainage Specialist; Objection. Insufficient information provided.

WDBC Landscape Specialist; No objection. Landscape comments that were made previously (14 May 2020) on the nature of the site, the noted existing landscape features and the site's sensitivities and vulnerabilities remain relevant to the revised plans.

The orientation of the dwellings has reversed but they are located roughly in the same part of the site as previous revisions, but with the private access road now located further to the northeast, behind the dwellings, and serving a bank of parking bays. The position, behind the proposed dwellings, will help to screen the parking from general view, which will be beneficial to local views.

Previously, the development maintained a 'buffer' of green space along the southwestern boundary, to the rear of Edgcumbe Terrace. Whilst it is noted that the new dwellings will be more than 20m from the rear of those properties, the proposed rear gardens now run directly to those property boundaries, and the rear elevations of the existing houses are less than 2

metres from those boundaries. Given that the site is elevated above the terrace, this does raise concerns about the potential effects on the privacy of residents.

The existing oak in the hedge to the southeast is a prominent landscape feature; its retention is noted and welcomed. The proposed new hedgebanks along the northeast and southeast boundaries should match the form and materials of the existing banks around the field, which should be conserved and enhanced as part of a comprehensive landscape scheme to be addressed at Reserved Matters stage.

Development within the site should be limited in scale and addressed through reduced building heights, avoiding the higher land to the north of the site. The indicative design and layout of the new development lacks any detail. However, there will be opportunities to mitigate at RM by controlling the layout, mass, form and orientation of the dwellings, to ensure that the development will conserve and enhance the local character.

In assessing the wider the landscape character and visual amenity, the overall position is conserved, but it is acknowledged that at a local level, changes will occur from a loss of a small area of pasture land adjacent to the settlement. Long views across the landscape to and from TVAONB will be protected and largely unaffected by the proposals.

A Landscape and Visual Impact Appraisal should be undertaken to inform the design of the scheme, and the development of a landscaping scheme that will enhance the proposals, and to ensure that the development does not conflict with the LCT landscape guidelines.

Representations:

135 letters of objection are reported during the 4 rounds of public consultation. These responses can be viewed in full on the file, and are summarised as follows;

- Access is opposite a layby which has cars parked day and night
- The road is single track with no passing places
- Insufficient room to access the site
- Will increase parking problems in the immediate area
- The lack of a pavement is dangerous for pedestrians
- Land ownership is uncertain at the access point from the main road
- Loss of historical rights of way
- Will cause difficulties for refuse vehicles
- Concerns over the lack of clarity around the private water supply, that it could be compromised or polluted
- Water run-off in heavy rain is a real problem for residents in Edgcumbe Terrace
- Will increase flood risk
- Does not meet a proven need or provide affordable housing
- Historic centre of the village would be compromised from all aspects
- Harmful to listed buildings and the conservation area
- Archaeology and the need for a dig have been ignored
- Not a sustainable location as the village has almost no amenities and a poor bus service
- Will increase CO2 emissions when Devon has committed to reducing them
- Harm to landscape and AONB as the site is higher than the village and prominent in the landscape. Any housing will be very visible
- Loss of green undeveloped land
- The plans show an over-dominant development
- Would have devastating impacts on the existing properties as the proposed properties will be significantly higher
- Loss of privacy to Edgcumbe Terrace

- Concerns this will open up the adjacent field for development as trial pits have already been dug
- The MACK Plan has now reached Regulation 14 stage and can be considered for planning applications
- This site is extremely unlikely to be chosen as a development site in the MACK Plan; the independent consultants, Parish Council and residents have all rejected it
- WDBC officers must endorse the community led approach
- Residents are becoming disillusioned that the MACK Plan is being ignored
- The MACK Plan has been prepared using public money, over 2 years and is properly evidenced by many technical studies and reports
- Whilst the Plan might not yet carry significant weight, the evidence behind it, including the rejection of this site, is sound
- The housing need is clearly evidenced; the JLP proposes 20 dwellings, to include 6 affordables, and the MACK Plan will deliver this
- The community fully support the 2 identified sites but not this site
- To ignore the MACK Plan will be squandering public money

Relevant Planning History

0889/19/OPA- Residential development - Withdrawn

ANALYSIS

Principle of Development/Sustainability:

The application site adjoins the built form of Milton Abbot. It is not allocated for development in the Joint Local Plan (JLP), nor in the emerging Milton Abbot, Chillington and Kelly Neighbourhood Plan (MACKNP).

JLP Policies SPT1 and SPT2 set the spatial strategy for development, seeking to locate it in sustainable locations. In terms of its location, the site can be seen to be well related to the centre of the village, accessible on foot, where the majority of the services are provided (shop, pub, church and so on) and therefore scores well against some of the sustainable development considerations identified in those policies. The plans do show an off-road footpath link to the centre of the village, but as this is not within the redline site area, it cannot be secured; it is not necessary for this development to be seen as linking well to the village however.

Policy TTV1 of the JLP sets out the Authority's development strategy across the Thriving Towns and Villages Policy Area (TTV). The policy describes how the following settlement hierarchy will be used to inform whether a development proposal can be considered sustainable or not:

- (1) Main Towns
- (2) Smaller Towns and Key Villages
- (3) Sustainable Villages
- (4) Smaller Villages, Hamlets and the Countryside,

Paragraphs 5.8-5.10 of the supporting text to TTV1 identify the hierarchy of named settlements; Milton Abbot is a tier 3 Sustainable Village. TTV1.3 states "*Sustainable villages - where development to meet locally identified needs and to sustain limited services and amenities will be supported.*" Table 5.8 of the JLP identifies that the settlement is able to accommodate 20 dwellings, this is the indicative figure.

The JLP has not allocated any sites in the Sustainable Villages, and paragraph 5.12 anticipates that development will come forward through neighbourhood plans, the application of development management policies where there is no neighbourhood plan, or new sites identified during the next JLP review.

The MACKNP is not yet finalised. At the time of writing this report the Regulation 14 consultation period has ended and the MACKNP group are currently reviewing responses to it, before publishing a further report for a Regulation 15 consultation, expected to be in a few months time. At this stage, the plan has not been subject to “qualified professional” review to determine conformity to the JLP and NPPF.

In so far as giving weight to the MACKNP, the National Planning Policy (NPPG) guidance is clear:

Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.

An emerging neighbourhood plan is likely to be a material consideration in many cases. Paragraph 48 of the revised National Planning Policy Framework sets out that weight may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. A referendum ensures that the community has the final say on whether the neighbourhood plan comes into force as part of the development plan. Where the local planning authority publishes notice of a referendum, the emerging neighbourhood plan should be given more weight, while also taking account of the extent of unresolved objections to the plan and its degree of consistency with NPPF. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals. All representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority’s publicity period.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. (Paragraph: 007 Reference ID: 41-007-20190509 Revision date: 09 05 2019)

It has been put forward that this application is premature and would undermine the MACKNP. The NPPG refers to the NPPF in relation to the circumstances in which it might be justifiable to refuse planning permission before a neighbourhood plan has been brought into force on the grounds of prematurity. Paragraphs 48 to 50 advise:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

49. However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

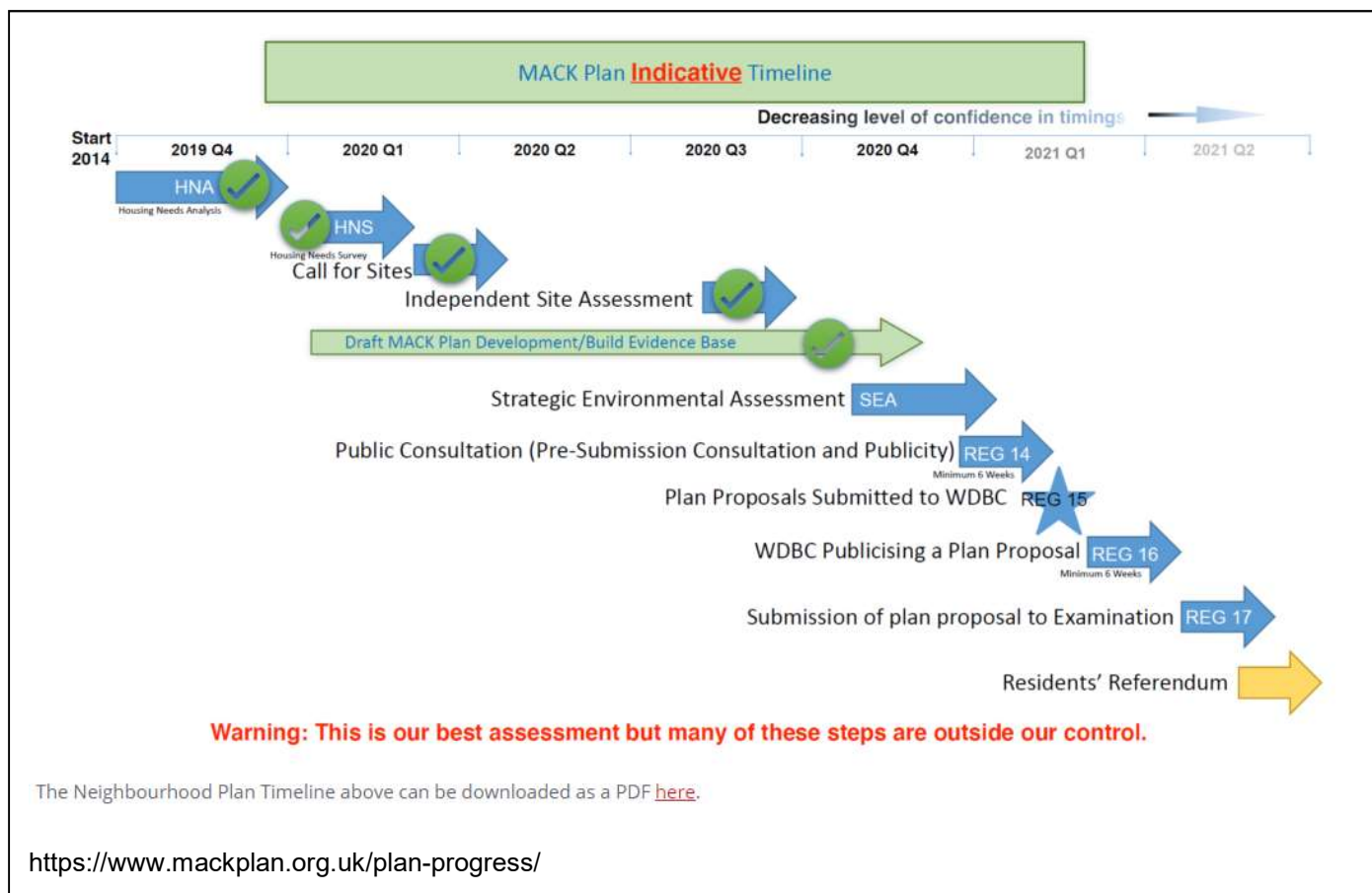
b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

The MACKNP is still at a fairly early stage, having just completed its Reg 14 consultation (see chart on next page for the stages) and responses to that are being examined. It cannot therefore be said to be advanced, and in line with the advice above from central Government, it cannot yet be given great weight. What is clear is that there is an overwhelming rejection of this application site in the Plan, albeit it is recognised the site put forward was larger than that now under consideration.

Officers do consider though that it can be given some weight, and that is supported by a recent appeal decision in Lamerton, under application 3404/19/OPA appeal ref: Q1153/W/20/3248731. This was an outline application, also for 5 dwellings and the Lamerton NP was at Reg 14 stage. The Inspector dismissed the appeal, noting that whilst the application

was in conflict with the emerging neighbourhood plan, the plan was not at an advanced stage and carried only limited weight.



A more recent appeal, dated September 2020, also involved the Lamerton NP. The inspector noted the development “wold not accord with the emerging NP...” and that whilst at Reg 14 stage and not adopted, “...its intentions still carry weight in the decision.” (APP/Q1153/W/20/3253445 Application 2291/19/FUL).

In any event, it is worth noting that whilst the MACKNP has proposed to allocate sites for housing development, the site subject to this application is not one of those. It was proposed and is discussed in the MACKNP as “MA Site D: Land to the North of Edgcumbe Terrace and Higher Edgcumbe Lane.” The site put forward is larger than the current application site, containing other land also owned by the applicant to the north. The MACKNP notes:

“Assessment of the proposal against the defined housing needs and design intent is difficult as the proposer has stated that “At this stage it is not clear how the site would be developed”. However, the submission suggests that the site could provide for 30 dwellings.

Compliance to any of the community’s aspirations or legislative requirements is simply addressed by the statement “The site would assist in delivering the required number of homes in the plan area and as required by the Joint Local Plan. The delivery of this site will in meeting the required mix of housing required in relation to the relevant ONS data and Housing needs survey relating to the plan area”.

The consultants responsible for the MACKNP, AECOM, have summarised the site as:

Major constraints to development at this location include landscape and visual sensitivities, flood risk concerns, impacts to residential amenity, the potential for adverse impacts to the setting of heritage assets, access concerns, and potential impacts to the spring-fed water supply and existing utilities infrastructure. In this respect, the site is not suitable to take forward for the purposes of the MACK Plan.

- *Access; Safe access for cars to this site is a major concern and would represent hazards to those wishing to access basic services. It is difficult to see how safe access can be provided to this site and so any development would increase the dangers to road users.*
- *Landscape and Ecology; The site is raised above the village and the AONB. Any development would have a negative impact on views from the AONB towards the village and its setting.*
- *Heritage and Archaeology; With the position of the site being above the village any development will have negative impact on the historic buildings within the village conservation area.*
- *Flood Risk, Water Quality and Drainage; As pointed out in the MAGPC response to the current planning application there has been flooding of buildings adjacent to this land from water running off this site. There is potential risk that this could be exacerbated by development of this site.*
- *Contamination and Environmental Health; This land includes or is adjacent to spring water supplies to the village and so there is a significant risk to the health of those residents' dependent on these supplies.*

The MACKNP goes on to discuss the current application, noting the Parish Council have raised objections including;

- *There appears to be a question about the legal right to the access shown on the plans – this needs to be fully resolved. This issue has also been raised by the County Council Highway Management assessment (Consultation response - External - Highways - 24/01/2020).*
- *Edgcumbe Lane is a busy road with no pavements – a further increase in traffic both during construction and after is a danger.*
- *The site is currently one of 10 submitted for the draft Neighbourhood Plan. These are currently being independently assessed to identify which sites best meet the local need. This application should at least be postponed until residents have had a chance to vote on the Neighbourhood plan and its recommended sites.*
- *The plans show the plots well within the mandated four meter clearance from current spring water that flows on the land, where there needs to be an absolute minimum of four meters of clearance.*
- *There has been recent flooding of the pub and housing along Edgcumbe Terrace/Lane due to a recent altered water course and drainage issues of the field considered for building.*
- *The plans, plots and size of housing does not meet the needs of the village, as highlighted within phase 1 of the MACK Plan survey.*

The main points to note are

- *That the housing is not in keeping with the current architecture of the village and*
- *There is no mention of affordable housing which a key objective on the council core aims of new development.*

Formal comment has also been received from the Inspector of Historic Buildings and Areas “Historic England has concerns regarding the application on heritage grounds. These concerns relate to the outline nature of the planning application and the consequential lack of ability of your authority to make a proper assessment of impact on nearby heritage assets”.

Community Feedback

In excess of 100 objections have been raised on the current application by the community. Issues raised include (but are not limited to):

The MACK Neighbourhood Plan – Shaping Our Community, Our Future

- *Access*
- *Affordable homes*

- Topography
- Over dominance
- Private water supply
- Flood risk
- Established rights of way
- Historical environmental and assets
- Meeting the defined housing need for 1, 2 and 3 bedroom houses.

The MACKNP concluded:

Given that this is a community led endeavour, the significant objections against development of this site by local residents supported by the independent views of AECOM, this site is not suitable to take forward for the purposes of the MACK Plan.

It is therefore clear that this site is not supported by the emerging MACKNP, nor by the local community given the significant number of objections on file.

JLP Policy TTV2 supports sustainable development in the TTV Policy area, which reinforces the settlement hierarchy in TTV1 and delivers a sustainable pattern of development. The principles of SPT1 and SPT2 should also be met.

Specific elements of TTV2 relating to housing provision to be delivered include locating housing where it enhances or maintains the vitality of rural communities and the delivery of affordable homes.

Policy TTV25 concerns development in sustainable villages. The JLP seeks 550 homes from these villages as part of the overall housing supply for the TTV Policy Area; neighbourhood plans are seen as the key to identifying needs. TTV25 identifies that the settlement is able to accommodate 20 dwellings, which should be provided through a neighbourhood plan. Where there is no neighbourhood plan, the Local Planning Authority is still able to support development which meets the identified need of local communities and which responds positively to the indicative figures set out in the policy.

The supporting text to TTV25, at 5.161, notes it is important to strike a balance between maintaining viability of a village but that any development must also respect the character of the village and important designations such as AONBs, whilst being at an appropriate scale to meet the needs of local people.

DEV10 seeks to deliver high quality housing, and whilst relates largely to design and adequate space to achieve good living standards, it also requires developments to integrate with adjacent developments and not appear as unrelated additions.

DEV20 relates to place shaping and the quality of the built environment. It is applicable to rural areas, and relevant points states that:

Development proposals will be required to meet good standards of design, contributing positively to both townscape and landscape, and protect and improve the quality of the built environment.

DEV20.2 Having proper regard to the pattern of local development and the wider development context and surroundings in terms of style, local distinctiveness, siting, layout, orientation, visual impact, views, scale, massing, height density, materials, detailing, historic value, landscaping and character, and the demands for movement to and from nearby locations.

DEV20.3 achieving a good quality sense of place and character through good utilisation of existing assets....

DEV20.4 Delivering locally distinctive design

The supporting text, at 6.80, notes it is important to maintain the distinctiveness of rural settlements. Paragraph 6.81 elaborates further in that it is not just the architecture of buildings but "...also about the spaces within which the development sits, the quality of the relationships between the development and surrounding areas...."

The delivery of 5 dwellings can be seen to make a positive contribution towards meeting the aspirations of TTV25 and maintaining the vitality of the village, which carries weight in favour of the development. However, the application includes layout as one of the matters under consideration and when assessing the proposal against the pattern of development in the village, there is a clear conflict with DEV20 and also elements of SPT1, which requires development to maintain local distinctiveness and sense of place.

The centre of the village is the older core, with more recent development on the edges. The Majority of dwellings either front the main roads through the village, face side roads, or are of cul-de-sac form, with some infill development. The layout submitted shows a linear form of tandem/backland development which is at odds with the overall village development pattern. The proposed dwellings will not be seen as infill development. It does, to a degree, respect the linear form of Edcombe Terrace, although turns it back towards the Terrace, but does not respect the wider pattern of the village. This is considered important in such a small settlement, where a smaller development can have a greater impact than would be seen in a larger settlement or town.

Furthermore, an additional hedgerow boundary is to be created to the rear of the parking areas for the dwellings, leaving the original hedgerow boundaries, again, creating a development and landscape feature that is out of character.

Also of consideration is DEV8, which seeks an appropriate housing mix based on identified local needs or to address any imbalance. In this case, the most recent data for the village is provided by the ONS data, which indicates that there is an oversupply of 3 and particularly 4 bedroom houses and an under provision of 1 and 2 bedroom properties. In addition, a shortage of terraced housing and an oversupply of semi-detached and a slight oversupply of detached houses.

As the appearance and scale of the proposed dwellings is not being fixed at this stage, the bedroom provision is not being agreed. The layout is being fixed and does show the dwellings to be smaller than those originally shown. Given the terraced form, it is reasonable to assess the application on the basis that smaller dwellings will be provided; this is reflected by the parking provision, which is stated to be 2 spaces per dwelling, which equates to 2 and 3 bed properties as set out in the SPD under DEV29.3. Subject to a condition on any approval requiring the reserved matters application to demonstrate it meets the need in line with DEV8, there is not considered to be a conflict with this policy. If the reserved matters scheme did not provide an appropriate mix or sufficient parking, it would most likely be refused.

Setting aside the concerns discussed above, the site is large enough to accommodate the 5 proposed dwellings and provide each with more than adequate amenity area to conform to the figures set in the Supplementary Planning Document (SPD).

Objectors note that no affordable housing is provided. Policy DEV8 also sets the threshold for when a site needs to provide affordable housing. DEV8.2 identifies that in designated rural areas developments of between 6 and 10 are required to provide a commuted sum for affordable housing off site. The objecting comments are noted, but as this proposal is for 5 dwellings the development does not need to provide affordable housing either in the form of a commuted sum or on site. The development does, however, still need to provide an appropriate mix of dwelling types.

Furthermore, DEV9 requires consideration is given to the range and mix of housing. DEV9.4 requires that at least 20% of the 5 dwellings, where practicable, meet national standards for accessibility and adaptability under Category M4(2) of Building Regulations. This could also be addressed by condition, to be secured at reserved matters stage, and there is no reason to indicate it cannot be achieved.

Development is also expected to meet sustainability aims in relation to DEV32 and waste management through DEV31. Given the outline nature of the proposal, it is considered these could also be addressed at reserved matters stage, and secured by condition.

In light of the above, whilst there are elements weighing in support of the development and that the MACKNP only carries limited weight at this stage, for the reasons set out above, it is considered the proposal fails to have proper regard to local character and the development context of the village, contrary to the good design aims of the NPPF, JLP Policies SPT1, TTV2, TTV25, DEV10 and DEV20, and the SPD.

Heritage impacts:

The application site lies immediately to the north of the Milton Abbott conservation area, the boundary being the rear of the dwellings in Edgumbe Terrace, the special character and appearance of which it is desirable to preserve or enhance; the setting of the conservation area is also a consideration. Within the conservation area there are a number of listed buildings, the most significant of which is the Church of St Constantine, to the south, which is Grade I listed.

This application site is set behind existing properties. The site layout is being fixed and shows the dwellings set towards the north of the plot.

The land slopes up to the north and the higher parts of the site are both more sensitive within the landscape and have a greater opportunity to impact upon designated heritage assets. As a result, additional information was requested to support the application and this resulted in additional layout drawing, together with a Heritage Impact Assessment being submitted. As a result of these, an additional round of public consultation was undertaken including with Historic England and the WDBC Conservation Specialist.

JLP Policy DEV21 identifies that development proposals will need to sustain the local character and distinctiveness of the area by conserving, and where appropriate, enhancing the historic environment; great weight will be given to the conservation of designated and non-designated heritage assets, and their settings. The following apply;

1. The significance, character, setting and local distinctiveness of heritage assets should be considered within an appropriate assessment to determine impact

2. Where development proposals lead to any harm to the significance of a designated heritage, asset they must be fully justified against:

i. The public benefits of the development, and whether there are substantial public benefits in cases where there would be substantial harm.

ii. Whether it has been demonstrated that all reasonable efforts have been made to sustain the existing use, find new uses or mitigate the extent of the harm to the assets significance and if the work is minimum to secure its long term use.

Any harm to non-designated heritage assets must be fully *justified on the basis of a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset.*

Paragraphs 193 and 196 of the NPPF require the harm to designated heritage assets to be balanced against the public benefits, and great weight needs to be given to their conservation.

Historic England (HE) have been consulted on this application given the site's relationship with the Grade I listed church and the conservation area, both of which are designated heritage assets. HE have advised that housing on this site will have a greater impact on long views into the village conservation area and towards the site. HE have also commented that the position of the road in the landscape is relatively high level, with broad views into the village and have advised that their concern relates to the visibility of the field and creating a linear development which in combination with the existing terrace will be a distracting feature with the church.

Furthermore HE have advised that the outline nature of the application makes it difficult to properly understand the potential impacts. They maintain their concerns, but do agree with the conclusions of the submitted Heritage Impact Assessment, in that the any harm would be less than substantial.

As discussed above' this is an application at outline level only but layout has been included, along with access. A revised site layout was submitted showing a liner development in 2 blocks comprising a pair of semi-detached buildings and a terrace of 3. Whilst further details will be required at reserved matters stage in terms of scale and appearance, as well as landscaping, the LPA must assess the layout as shown and make a judgment whether that would be likely to result in harm to heritage assets.

The Council's Conservation Specialist has viewed the proposals and has supported HE in their concerns, noting that the main heritage issues are the effect on the setting of the adjacent conservation area and the setting of the Church of St Constantine.

Key views of the site are from the important PRow south of the village and from the village entrance to the east; the former is considered to be underplayed in the otherwise thorough and informative Heritage Appraisal.

The prospect of any development spreading too far up the hillside is a concern as the village remains well contained on the northern side and the backdrop of the village remains strongly agricultural in views from the south. The form of development now presented has more connection to the form of development in the conservation area than the 5 detached dwellings previously suggested.

Concerns are also noted over the indicative dwelling elevations, in that the south facing gables that would be an assertive visual feature in the distant views. Development of a very high quality could achieve a neutral result in this location purely from a heritage viewpoint, but the Conservation Specialist does not feel the application demonstrates that with the layout being fixed.

Further difficulties arise due to the nature of this outline proposal where topographic detail is lacking and no accurate representations are possible from key vantage points; it is therefore necessary to take a precautionary approach. The development, as proposed, fails to convincingly show that there is no harm to the setting of heritage assets or that a very low level of harm is outweighed by demonstrable public benefit. That is not the case and the proposal is considered to conflict the NPPF, particularly paragraphs 193, 194, 195 and 196 and JLP DEV21.

Landscape:

In terms of the landscape the site is not located within the Tamar Valley AONB (TVAONB), the boundary of which lies approximately 0.3km from the centre of the site, on the southern edge of the village. There is therefore the potential for the development to affect the setting of the AONB.

Policy DEV25 requires proposals that are located within the setting of designated landscapes to conserve and enhance the natural beauty.

Also applicable is DEV23 which relates to landscape character and requires development to respect scenic quality, conserve and enhance characteristics and views of the area, maintain dark landscapes and mitigate any impacts where appropriate.

The site is generally well contained, screened from view behind existing dwellings and hedgerows from much of the village and its surroundings. In terms of landscape impacts, it is considered that some development in this location could be assimilated into the village. The Landscape Specialist notes that building on the higher ground of the site should be avoided, as any structures close to the north-east boundary would be more prominent when viewed from public vantage points.

The site is visible as part of the village from the B3362 road when approaching from the west and from the unnamed lane leading to Bridleway number 3 to the south (which is part of the Tamar Valley Trail), leading towards Endsleigh. There are impressive views of Milton Abbot within the wider landscape from this elevated land.

In addition to these visual effects, the proposal would result in the development on a historic field, affecting some lengths of hedge banks, which are key characteristics of the LCT 3G: River Valley Slopes and Combes.

In assessing the wider the landscape character and visual amenity, the overall position is conserved, but it is acknowledged that at a local level, changes will occur from a loss of a small area of pasture land adjacent to the existing settlement. The long views across the landscape to and from TVAONB will be protected and largely unaffected by the proposals as set out in the outline.

The majority of site hedgerows will be retained. The north-eastern hedged boundary is a particularly strong and important feature that visually contains the site, and that will provide some screening of the proposed development from more elevated vantage points to the north-east of the site (such as the Public Right of Way Milton Abbot Footpath 2, part of the Tamar Valley Trail).

The existing oak tree in the hedge line to the south-east is a prominent landscape feature, and its retention within the scheme is noted and welcomed. The proposed new bank along the south-eastern boundary of the site should match the form and materials of the existing banks around the field, which should be conserved and enhanced as part of a comprehensive landscape scheme, to be addressed at Reserved Matters stage.

Development within the site should be limited in scale, addressed through reduced building heights, and should avoid the higher land to the north of the site. Whilst the design and scale is not being agreed at this stage, there will be opportunities to mitigate at reserved matters stage by controlling the mass and form of the dwellings, to ensure that the development will conserve and enhance the conservation area setting and emulate the local character. Concerns are noted however, that an appropriate design might not be possible based on the layout being fixed.

Subject to securing appropriate details and a comprehensive landscape scheme to be informed by a Landscape and Visual Impact Assessment at reserved matters stage, it is considered this outline application has demonstrated that the site can be developed without significant detrimental impacts to the character of the immediate landscape and wider TVAONB, in accordance with JLP policies DEV23 and DEV25.

Neighbour Amenity:

Policy DEV1 is the key consideration relating to residential amenity;

Development proposals will be required to safeguard the health and the amenity of local communities. In addition to measures set out in other policies of the plan, this will be through appropriate:

1. Ensuring that new development provides for satisfactory daylight, sunlight, outlook, privacy...for both new and existing residents...Unacceptable impacts will be judged against the level of amenity generally in the locality.

This is emphasized in the Supplementary Planning Document (SPD) 3.7 *Developers will need to demonstrate through the application process that these points have been considered.*

JLP policy DEV10 requires high quality housing which should be designed to be integrated with adjacent developments and not appear to be an unrelated addition to the rest of the ...village.

DEV20 is also considered to be applicable in that it requires development to have proper regard to local development patterns, including siting, layout and orientation.

As discussed above, the proposal is backland development, of a linear form set behind, and turning its back to, the existing dwellings of Edgcumbe Terrace. There is a clear conflict with the aforementioned policies in this regard.

The revised drawing details that a 24 m back-to-back distance can be achieved between the development and the boundary of the neighbours at Edgcumbe Terrace. This separation distance shown indicatively complies with the guidance in the SPD if the site were level; 21 m is the minimum distance between habitable rooms. However the site does slope northwards. The SPD notes that levels of privacy to be expected from residential development will differ depending on the location; privacy in densely built up areas may be expected to be less than lower-density areas.

For a sloping site, the SPD suggests 28 m where there is a drop in levels and where there is a difference in ground levels, the distance should normally be increased by an extra 3 m for every 2 m increase in height.

Were layout not being fixed, this could be left to the detailed designed at reserved matters stage, and potentially a reorientation of adjustment to the siting. However, layout is being fixed so it is appropriate to give consideration to neighbour amenity at this point.

The applicant's agent has put forward that the SPD is silent in so far as distances relating to new dwellings, and this it only relates to extensions and alterations to existing dwellings. Officers consider the guidance is equally applicable to new dwellings, and perhaps even more so, given the significant change resulting from a new dwelling compared to an addition to one that already exists.

The application has not been accompanied by any drawings showing existing or proposed levels, nor will any cross sections to show the relationship be acceptable. The application has therefore been assessed through a visit to site and based on the Council's OS based mapping system.

The difference in levels is approximately 4 metres across the site; the applicant's agent has indicated 3 to 5 m. Therefore the minimum 21 m distance should be increased by around 6m (3m for every 2 m height difference), giving a back-to-back distance of 27m. Screening could undoubtedly be provided on the boundaries of the new dwellings, however, given these are effectively the rear boundaries of the existing dwellings, that they sit much lower and their rear elevations look out directly onto the site, it is not considered this could be achieved without detriment to the outlook and living conditions of the existing properties.

Consideration could be given at reserved matters stage to fitting obscure glazing in the rear elevations of the proposed dwellings, but it is likely this would then not result in a good quality living environment for residents of the new dwellings.

The provision of bungalows on site would go some way to addressing the identified conflict, but based on the submitted layout and indicative elevations, bungalows are not being proposed; the dwellings are stated to be 1 ½ storey, but measure at standard 2 storey height (around 8m). In any event, bungalows would be very much out of character with the development pattern.

In terms of vehicular movements, the access drive was re-routed to the rear of the site, away from Edgcumbe Terrace. It is not considered that the traffic that would be generated by 5 dwellings would be so detrimental to the properties at either side of the access point to be unneighbourly, particularly when considering vehicles already use it to access their garages.

The proposal is considered to be an unneighbourly form of development, likely to result in a loss of privacy and overlooking to the existing dwellings in Edgcumbe Terrace, contrary to the aims of the NPPF in relation to good design, particularly (but not limited to) section 12, DEV1, DEV10, DEV20 and Appendix 1 of the SPD.

Highways/Access:

Access is under consideration as part of this outline application. There have been a number of representations that have identified areas of dispute with regards to the access. It is understood there has also been a land owner dispute about access.

During the course of the application revised plans have been received and reviewed by the Local Highway Authority, and their observations are based on the content of those plans.

It is considered that the number of proposed dwellings is the maximum number that can be suitably served by a private access. Noting the garages in third party ownership that sit alongside the access, it is not considered there would be any conflicts arising through their use; access to them will still be maintained.

A turning area is shown on site, along with 10 parking spaces.

Objections refer to poor visibility to/from the access and that the resultant increase in traffic would be dangerous to highway and pedestrian safety. The Highways Authority consider the access arrangements to be acceptable, subject to conditions on any approval. It is not considered that the traffic this development would generate would be so significant to warrant refusal on highway safety grounds.

In so far as ownership of the access and visibility splays, it is clear there is a dispute over this. The applicant has supplied Land Registry deeds to show they own the necessary land. Were this not the case, it would become a civil/legal matter for the applicant to resolve.

It is worth noting that the development is proposing a link to the centre of the village through a new pedestrian access to the south. This will improve the permeability of the site and link the site to the village centre off road. However, this is not within the red line application site boundary and cannot be given much weight in favour of the proposal. The Highway Authority are not insisting it is a requirement and it has not featured in their considerations.

The development is therefore considered acceptable in relation to highway safety, in accordance with DEV29 which requires safe and satisfactory traffic movements and access to and within the site.

Drainage:

JLP policy DEV35 requires development to incorporate sustainable drainage measures to minimise water run-off and ensure it does not increase flood risk or water quality impacts elsewhere; drainage should follow national SuDS standards.

The development proposes to connect to the existing mains foul system. It does not appear that confirmation has been provided that the system has capacity, but in light of the MACKNP

allocating sites for housing, it is reasonable to reach that conclusion. In light of the identified policy conflicts, this has not been pursued.

Little detail has been provided in relation to surface water, only some percolation tests and a statement that soakaways would be used; given the site layout and lie of the land, it is reasonable to conclude these would be located in the rear gardens of the proposed dwellings. It would be expected, even at outline stage, and especially where layout is being fixed, for an indicative plan to be submitted.

The Council's Drainage Specialist has assessed the proposal and raised an objection over insufficient information, noting the soakaway testing shows that the infiltration rate is very low and the only suitable area is behind the existing houses, TP1-3. There is a water course at the top of the site but closer to it, the infiltration rates worsen; it has even failed in the adjacent field which demonstrates how variable the soil in the area is.

No topographic information has been provided to show if the watercourse at the top of the site may offer a fall back. Given the sloping site, placing soakaways in the rear gardens, close to the existing properties could result in some down slope re-emergence of the water; this would be particularly problematic given those properties sit as a lower level.

A further concern was highlighted in that the access is to remain as private but it will still need to be drained. The revised site plan has reduced the area available for soakaways or drainage solutions.

The Drainage Specialist considers that given the above concerns, there needs to be a worst case drainage scheme (controlled discharge to a watercourse or sewer) proposed to demonstrate that the site can be suitably drained. The site is too steep and limited infiltration to be able to deal with the drainage by condition.

Therefore the proposal is in conflict with JLP Policy DEV 35 and the NPPF.

Biodiversity:

The application has been submitted with a preliminary ecological survey, dated January 2019, which concludes that subject to mitigation, there is potential for biodiversity gain; mitigation comprises of native species in the landscaping and the provision of bat and bird boxes on the dwellings.

Given the scale of development, if secured by condition, this would be seen to be acceptable and accord to DEV26. However, it should be noted the survey states "If no action or development of this land takes place within twelve months of the date of this survey, then the findings of this survey will no longer be considered reliable and should be repeated. The survey is now over 24 months old, and was 12 months old at the point of the application submission.

The site falls within the Tamar European Marine Site Zone of Influence (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA). A scheme to secure mitigation of the additional recreational pressures upon the Tamar European Marine Site would be needed and secured by legal obligation. No legal obligation has been submitted and therefore it cannot be concluded the development would not have significant in combination effect upon the integrity of the European Site.

The proposal is therefore in conflict with JLP DEV26, the SPD, the aims of the NPPF in section 15 (paragraphs 170d, 175 and 177), the NERC Act 2006 and the Conservation of Habitats and Species Regulations 2017.

S106 Contributions:

A S106 would need to be in place to secure the habitat contributions, together with maintenance and management of all communal areas and drainage. Nothing has been submitted.

Given the policy conflicts identified above, the Case Officer has not pursued this in order to not incur wasted legal expenses for the applicant.

Therefore the development fails to contribute towards the necessary infrastructure and JLP policy requirements under DEV26 and DEL1.

Other Matters:

A number of residents have raised a concern about the supply of water to the village and the impact that this development would have on this supply. The applicant has provided a report and this has been reviewed by the Council's Environmental Health Officer. It is considered that the assumptions within the report are reasonable and that the development would not result in an interruption of the supply; the supply pipe is shown on the site plan running between the pair of semi-detached dwellings and the end of the terrace (plots 2 and 3). A buffer would need to be maintained either side of water supply pipes. However, essentially, this would be a civil issue to address between the parties.

DEV2 does refer to water quality, but it would not be applicable to use this to protect a private water supply. A condition could be used to secure a scheme of construction detailing how that supply would be protected, as suggested by the Environmental Health Officer.

Planning Balance:

As discussed above, there are some elements weighing in favour of this proposal, namely the provision of 5 dwellings which will contribute towards meeting the JLP targets and enhancing the vitality of the village. However, this should be taken into consideration with the identified policy conflicts, the fact the site is not proposed to be allocated in the emerging MACKNP, the proposed inclusion of which has received significant objection, and that the Council can identify a 5 Year Housing Land Supply. There is therefore no requirement or need to deliver additional sites or windfall housing such as this.

There is limited landscape harm, however, heritage harm has been identified.

As identified in this report the development fails to have proposer regard to local character and the development context of the village, has not demonstrated an appropriate method of surface water drainage and has not addressed the need to provide mitigation towards the Tamar Marine Estuary.

Therefore this application is recommended refusal for the reasons as set out above.

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

Planning Policy

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 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) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

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
- SPT11 Strategic approach to the Historic environment
- SPT12 Strategic approach to the natural environment
- 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
- TTV25 Development in the Sustainable Villages
- 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
- DEV15 Supporting the rural economy
- 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

DEV30 Meeting the community infrastructure needs of new homes

DEV31 Waste management

DEV32 Delivering low carbon development

DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Neighbourhood Plan

In terms of the status of the MACK Neighbourhood Plan, the Regulation 14 consultation has now ended and the responses being reviewed. At this stage, it carries limited weight.

Other material considerations include the policies of the National Planning Policy Framework, guidance in Planning Practice Guidance and the JLP Supplementary Planning Document.

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.