

## PLANNING APPLICATION REPORT

**Case Officer:** Sarah Carroll

**Parish:** Staverton **Ward:** Dartington and Staverton

**Application No:** 3111/21/HHO

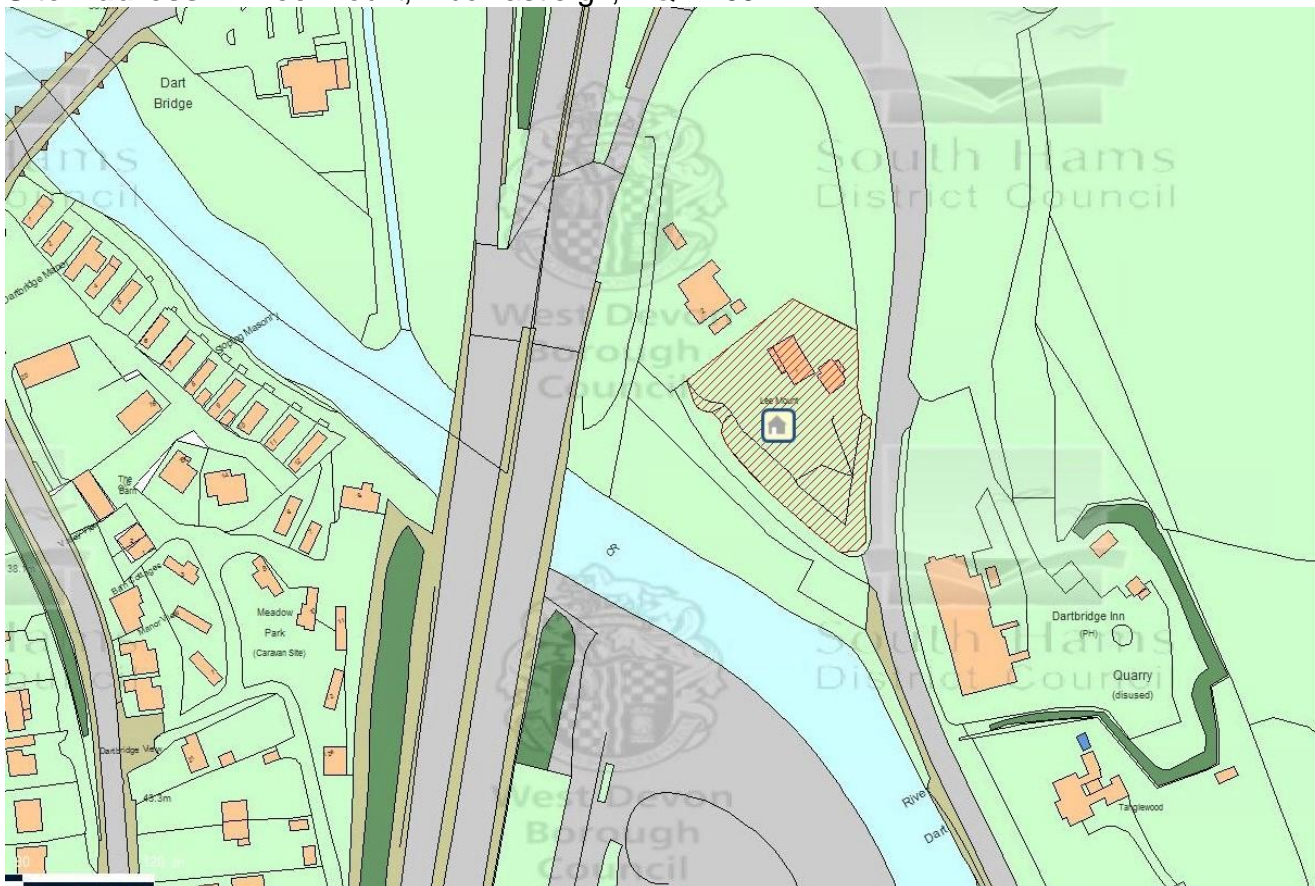
**Agent:**

Mr Simon Ellis - SIMON J ELLIS & Co.  
Woodhill Manor Barns  
Liskeard  
PL14 6RD

**Applicant:**

Mrs J. Nichols  
1 Lee Mount  
Buckfastleigh  
TQ11 0JR

**Site Address:** 1 Lee Mount, Buckfastleigh, TQ11 0JR



**3515/22/HHO Development:** Householder application for proposed garden room and studio.

Reason item is being heard by Committee: The Local Ward Member has asked that it be heard by Committee for the following reason: *I believe it is borderline regarding whether it is outside of the JLP policies for a garden room / annex and some of the points regarding flood risk and potential use as a separated residence do not seem to me to be borne out in the documents provided. Staverton PC are supportive of this application.*

**Recommendation:** Refusal

**Reasons for refusal**

1. The proposed building is not considered to be a subservient addition to the site, due in part to its footprint, which is almost as large as the host dwelling, as well as its design features, such as the glazed gable, the wrap-around decking, two separate entrances, and domestic pattern of fenestration. The application is therefore contrary to policies DEV10.4 and DEV20 of the Plymouth & South West Devon Joint Local Plan (2014-2034), paragraph 130 of the National Planning Policy Framework (2021), and paragraphs 4.128, 4.129, 4.130 and 4.131, 4.133 of the Plymouth & South West Devon Joint Local Plan Supplementary Planning Document (2020).
2. Insufficient information has been submitted to demonstrate that the proposal will not have an adverse impact on protected species and the nearby SSSI or have a biodiversity net gain contrary to policy DEV26 of the Plymouth & South West Devon Joint Local Plan, paragraphs 7.86 and 7.95 of the Plymouth & South West Devon Joint Local Plan Supplementary Planning Document (2020) and paragraphs 179 to 182 of the NPPF
3. No information has been submitted to show how the development will reduce the energy load of the development, maximise the energy efficiency of fabric and deliver on-site low carbon or renewable energy systems and is therefore contrary to policy DEV32 of the Plymouth & South West Devon Joint Local Plan, paragraphs 9.5 to 9.28 of the Plymouth & South West Devon Joint Local Plan Supplementary Planning Document (2020) and section 14 of the NPPF

### **Key issues for consideration:**

Principle of development, design, landscape impact, neighbour amenity, impact on trees with a Tree Protection Order, consequences of development in the Flood Zone 2 and 3 and biodiversity risks as the site is in a Bat Special Area of Conservation.

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### **Site Description:**

The site lies just off the A384 that wraps around the north east of the site, the Devon Expressway is to the west of the site and the River Dart to the south. There is one neighbouring property number 2 Lee Mount to the north west of the bungalow.

The site contains three outbuildings, a garage, store and shed, and two static caravans. The driveway slopes up to the main dwelling and there is a large front and side garden.

The site lies within Flood Zones 2 and 3 and the Greater Horseshoe Bat Special Area of Conservation.

### **The Proposal:**

The proposal is for a single storey garden room and studio timber boarded building almost parallel to the main dwelling, within the residential curtilage of the site. There are two static caravans in the position of the proposal and another behind to be removed as part of the proposal. There is a garage and store between the main dwelling and the proposed garden room.

The footprint is almost identical to the main dwelling, measuring 64.8 meters squared. It is single storey with a wraparound terrace with glass balustrading, bi-fold doors onto the terrace and front entrance into a lobby that separates the garden room from the studio. There is also a set of steps to a rear entrance which leads to the studio.

### **Consultations:**

- County Highways Authority: No implications
- Town/Parish Council: *Staverton Parish Council support this application, subject to it being ancillary to existing use.*
- Tree Officer: *The scheme if approved would not prevent the replacement planting for T1 Copper Beech of TPO Ref 314 as required by Condition 1 of Tree Work application reference 0273/21/TEX, therefore I would raise No Objection to the proposed garden room and studio.*
- Drainage Engineer:  
*The development has little impact in terms of surface water so No comment in terms of drainage.*

*Please note that the development is with Flood zone 2/3 and will require comment from the EA with regard to flood risk and suitability. Generally raising the levels to mitigate the risk is not the best solution as this results in loss of functional flood plain.*

*Please ensure that the Environment Agency are consulted on the application.*

- Environment Agency: No response at the time of writing this report.
  - DCC Ecology: See Analysis section

### **Representations:**

None

### **Relevant Planning History**

50/1499/78/3 - 05/12/1978 Conditional Approval  
Internal alterations and extensions to form new cellar and toilet.

3430/20/TPO - T1: Copper Beech - Fell due to close proximity to surrounding buildings.

50/1504/89/3 - 23/08/1989 Conditional Approval  
Erection of store and double garage.

### **ANALYSIS**

Principle of Development/Sustainability:

1. The site is an established residential property outside the village confines of Buckfastleigh, which would be considered unsustainable under the terms of policy STP1, STP2 and TTV1. Being located in the countryside the erection of an ancillary building is the subject of policy TTV29 which permits development in the countryside provided that the extension is appropriate in scale and design in the context of the setting of the host dwelling. Officers are therefore satisfied that the principle of a residential extension here is acceptable under the terms of policy TTV29.
2. However, Officers are concerned that the proposed garden room/studio building is not of an appropriate scale, position or design in this instance. The building would be separated from the main house. It measures in the order of 13m x 7m, almost the same scale as the footprint of the main house which measures some 14m x 8m.
3. The Plymouth & South West Devon Joint Local Plan SPD provides further advice on policy interpretation and in respect of TTV29 it states at paragraph 11.85 an extension may be considered 'appropriate' if it does not seek to increase the internal floorspace (on its own or in combination with all subsequent extensions) of the original house by more than 50 per cent. Given the previous approved extensions and the advice in the SPD, the size of the building is not considered to accord with adopted policies.
4. The JLP Supplementary Planning Document (SPD, adopted July 2020) provides further guidance on the acceptability of residential annexes and outbuildings, stating that they should be; 'accessed via the main dwelling or its garden and not by means of an independent access, be reliant on facilities and floor space provided by the main dwelling such that it cannot be occupied completely independently, and be an extension to the existing dwelling, or an outbuilding sited within its garden' (amongst other things, full list in paragraph 4.130 of the SPD).
5. In this case the layout, as shown, provides two main rooms, a garden room of about 22m<sup>2</sup> and a studio of about 38m<sup>2</sup>-40m<sup>2</sup>. In between the two rooms is a large store. Although it is not accessed from the main dwelling it is within the garden area and, if built as shown, does not provide for independent living. However the proposal still significantly exceeds the Council's advisory advice on size and will not be subservient to the main dwelling and not appear as a subordinate addition to the site.

#### Design:

6. In design terms the proposal also has to be considered against policies DEV10 and DEV20.
7. The proposed building is set on a raised plinth to lift the level above the flood zone 3 level. A ramped access wraps around the side and a part of the front elevation to the main access. Its setting on a plinth makes it a dominant feature which is exacerbated by the design of the building. It's features such as the glazed gable, on the front elevation heighten the overall massing and visual impact of the building and ensures that it is not a subservient addition to the existing dwelling
8. Other design features such as the extensive glazing to the entrance area, the bi-fold doors and other windows ensure that the building would have the appearance of a residential unit in its own right. The internal floor space would exceed the minimum requirements of the Nationally Designated Space Standards for a new dwelling, and

whilst Officers acknowledge that the proposal is for an incidental building, rather than a dwelling, and that this use can be secured by condition, the size of the building, aforementioned design features, and the physical separation from the main dwellinghouse do not give the appearance of a subservient domestic outbuilding.

9. Policy DEV10.4 states that residential annexes (which this proposal is) will be supported where they are within the same curtilage and ownership as the principal dwelling. Annexes should be clearly ancillary to the principal dwelling via a functional link, with no separate demarcation or boundary. This proposed building does not meet these requirements and is contrary to DEV10
10. Policy DEV20 at 20.2 and 20.3 requires proposals to have proper regard, amongst other things, to siting, layout, scale, massing and height and achieve a good quality sense of place and character. This proposal is of a scale, height and massing that is out of character with ancillary buildings and will be a dominant feature in the curtilage of this dwelling.
11. The JLP Supplementary Planning Document (SPD, adopted July 2020) provides guidance on the acceptability of residential annexes and outbuildings as outlined in paragraph 4 above. The SPD also gives guidance on the features and elements of the proposal to consider: 'When considering whether an extension or outbuilding is capable of being occupied independently of the main dwelling, the LPAs will have regard to its relationship to the main dwelling, and the extent to which facilities such as bathrooms, kitchens and toilets are shared.' In this case the layout shown does not contain such facilities but is, by virtue of its size, easily convertible to be occupied independently.
12. The SPD goes further and states that LPAs will normally expect an annex to:
  - Be an extension to the existing dwelling, or an outbuilding sited within its garden - the positioning of the outbuilding is within the curtilage of the main dwelling of 1 Lee Mount, but located parallel and raised to a similar height to the main dwelling its height and massing appears equal to the existing house.
  - Be functionally related to the main dwelling – the use of the building as stated on the plans (as a garden room/studio) would be related to the main dwelling. The external features are modern, they are excessive in relation to its intended ancillary use and incongruous to the host dwelling, which will be forced to compete with the features of the proposed building.
  - Be used only in conjunction with the main dwelling - as above.
  - Be in the same ownership as the main dwelling - the whole site is owned by the applicant, however the proposal is to accommodate a family member's need's an is considered below in the material considerations section
  - Be accessed via the main dwelling or its garden and not by means of an independent access - the proposed building would benefit from its own access, separated from the main dwelling. There would be no need to access the main dwelling in order to use the additional building.
  - Be reliant on facilities and floor space provided by the main dwelling such that it cannot be occupied completely independently- the plans include a WC, three areas for storage, a garden room with a terrace and a large studio. Once constructed, the

building could potentially be severed from the main dwelling to form a separate unit due to its size and location with little adaptation, and internal works which would not require further planning permission in themselves. The footprint is almost identical to the host dwelling. However, an incidental outbuilding has been applied for, and a condition could be applied to ensure that the use remains as such, should planning permission be granted to prevent the establishment of another unit of accommodation.

- 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 outbuilding- although the external space at the site is currently open, the location of the proposed building would lend itself to easily be separated, providing separate amenity and parking areas.
- Be designed in such a way as to easily allow the outbuilding to be used as an integral part of the main dwelling at a later date- the proposed building has a detached relationship from the main dwelling and is separated into the garden area on the other side of the driveway and parking area. It is not integral to the house and it is unlikely that it could be integrated in the future without significant extension works.

13. Although the SPD is guidance, rather than policy, when assessing the proposed building against the key considerations (above), it conflicts with the majority of them. The proposal is therefore considered contrary to policy DEV10 of the JLP.

14. It is important to note that Officers are not making any assessment on the planning merits of constructing a residential unit on the site, as this is not what has been applied for. In this instance, the concern is that the proposed building is not of a scale and design that it is considered to be a building incidental to the enjoyment of the main dwellinghouse, and as such, is not acceptable when considering the relevant policy for domestic outbuildings.

15. In summary:

- the design of the proposal is not thought to be appropriate for a domestic ancillary outbuilding having the appearance of a dwelling in its own right. . The proposed building would be vertical timber clad, of a similar footprint and levels as the main house, with a glazed front gable, bi-fold doors that open onto a wrap-around glass balustrade terrace and full length narrow windows.
- It fails to appear as a subservient, incidental building. The design of the building has had no regard for the character of the host dwelling, and when considered alongside the separation between the two, it would not appear as an outbuilding which is respectful of development in the locality, contrary to policy DEV20 of the JLP.
- It is considered to be excessive in terms of scale and design given the proposed use.. This is exacerbated by the building being of a comparable height to the main dwelling taking into account the difference in ground levels required to accommodate the proposal, whilst the floorspace of the building would be great enough that it is comparable with the host dwelling.
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- the design and scale of the proposed ancillary building does not appear to have had regard for the context of the site, and therefore conflicts with policy DEV20 of the JLP, which

requires development to be in keeping with the site and surroundings in terms of density and scale, and in proportion with the existing building.

#### Neighbour Amenity:

16. The siting of the proposed building does not raise any concerns with regard to neighbour amenity, subject to the use of the building in the manner proposed, rather than for any residential purposes, and no objections have been received.

#### Highways/Access:

17. The proposal would not impact upon the existing highways arrangements provided the building is used as proposed.

#### Flood Zone:

18. As the site is located in the Flood Zone 2 and 3 and the proposal is to develop the land as a permanent building in residential use there is a potential safety issue. The Environment Agency Flood Map indicates that the proposed structure would encroach into Flood Zone 2 and 3. To mitigate this flood risk the applicant proposes to raise the levels of the existing garden where the building is to be located such that the building will be set above the 100 year flood level. It will also allow for an evacuation route to be created to higher ground at the rear of the property.
19. The raised ground level will locate the structure in Flood Zone 2 which in accordance with the Flood Risk Vulnerability and Flood Zone 'compatibility' table would make the development acceptable. Flood resilience measures such as raised electrical sockets and tiled floors are recommended to address flood risk associated with the Q1000 event.
20. The loss of flood plain storage at the higher elevation, associated with the raising of the plateau levels, will be offset by excavation of the fill material from the lawn area.
21. The proposed structures location is shown to be unaffected by both overland flow and flood flows associated with the failure of the Venford Reservoir.
22. In summary the applicant's consultant concludes that the proposed scheme will not be subject to unacceptable flood risk and should not increase the risk of flooding elsewhere.
23. Officers have consulted the Environment Agency and the Councils Drainage Department. There has been no response from the EA at this time. A drainage response has been received from our engineers which is outlined above in the Consultations section.

#### Biodiversity:

24. DCC Ecology response states that the site is situated only 280m from the edge of the Buckfastleigh SSSI designated roost for the South Hams SAC – at the very least, a Habitat Regulations Assessment will need to be completed and agreed with Natural England prior to determination. They recommend that Natural England should also be consulted on this application, given the location of this site next to a highly sensitive

statutory designated site. They also note from the Wildlife Checklist that the requirement for an ecological report has been ticked given the size of the application site. Given the detail in the completed wildlife checklist and the close location of the site next to a SSSI/SAC boundary, they believe an ecology report should therefore be undertaken and accompany this application

25. There are no biodiversity enhancements proposed, contrary to policy DEV26 which requires the protection, conservation, enhancement and restoration of biodiversity across the plan area and net gains in biodiversity. Although the policy is directed towards major proposals the JLPSPD gives further advice. It states that LPAs will also encourage provision for biodiversity net gain where appropriate for smaller developments. Use of the Defra Biodiversity Metric would be disproportionate for minor development applications. Nonetheless, minor developments are able to deliver proportionate (in relation to type, scale and impact of the development) and measurable net gain or enhancements for biodiversity. As a consequence the proposal is contrary to DEV26

### Tree Preservation Order

26. There is a TPO application 3430/20/TPO for a Copper Beech Tree that required felling due to the close proximity of surrounding buildings. The Council's Tree Officers is satisfied there are no further impacts to the trees on site as a result of the development but would like the condition of the TPO upheld by the applicant.

### Landscape

27. The landscape character for the area is 'Settled valley floors', meaning the '*landscape type contains the flat, settled river valleys of the River Yealm and the River Avon as the flow from their origins on Dartmoor towards the sea.*' It is '*low lying and enclosed, containing a mix of recreational, industrial and agricultural land uses.*' This is taken from the Landscape Character Assessment (2018). It is a guidance document but provides an informative description as to what is generally expected from the wider landscape. Officers note the site is an established residential unit and do not consider the proposal to be significantly impacting on the wider landscape, however the scale, design and positioning of the outbuilding increases the built form of the site. The design as a contemporary building is also visible from the surrounding area and although Officers would not refuse the proposal based on landscape impacts itself, if the site were to become split into two separate residential units the potential impact to the landscape may differ when considering the additional footfall, domestic features and infrastructure required.

### Climate Change

28. DEV32 requires developments to reduce the energy load of the development, maximise the energy efficiency of fabric and deliver on-site low carbon or renewable energy systems. The application contains no details of how these are to be achieved. For a minor proposal such as this simple measures such as consideration of the layout, orientation and design to maximise natural heating, cooling and lighting and a consideration of minimising heat loss are the key factors. Also a consideration of the use of renewable technology would be expected. This proposal does not indicate what measures are either being considered or adopted and the development is contrary to policy.



## Material Considerations

29. The applicant has put forward personal circumstances to justify the proposed building which is précised here. For health reasons a family member is currently supplying domiciliary and health care for their relative. This building will provide space for their substantial record collection and home entertainment system, which will be relocated into the studio, the remaining area, garden room will be used ancillary to the parent dwelling by the son and other members of the family when they visit. The existing bungalow is only two bedroom and modest in size and therefore the garden room will provide additional space when family members stay at the bungalow, it will also provide an area of rehabilitation for the applicant, the decking reflects the similar detail to the bungalow, it also provides a levels access approach avoiding steps which would be necessary due to the Topography of the site. There will be an accessible toilet and wash hand basin to meet the Building Regulations in terms of spaces sizes. The proposal is a considerable visual improvement over the two ageing caravans that exist in the lovely garden, and has purposely been designed to maximise the south westerly aspect of the garden.
30. Officers consider the personal circumstances outlined above do not carry sufficient weight in a consideration of the planning balance to overturn the potential harms arising from the proposal and outweigh the policy objections, especially when there may be more acceptable alternatives to the current proposal.
31. The removal of the existing static caravans will improve the appearance of the site but their replacement with a permanent building of such size will compromise the modest domestic scale of the existing dwelling and the benefit arising from the removal will be lost.

## Conclusion

32. The proposed garden room and studio building is not of an appropriate size, position or design. A small-scale incidental building is likely to be acceptable provided the design and position were also policy-compliant. Similar concerns have been raised by the Parish Council who request that it remain ancillary to the main building.
33. On balance, the scale and design of the proposed development is such that it would not appear to be a subservient building, given the footprint of the building, the separation from the main dwelling and design features. The proposal is therefore contrary to policy, and for these reasons Officers recommend refusal.

## **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 14<sup>th</sup> January 2022 the Department for Levelling Up, Housing and Communities published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None".

Therefore a 5% buffer is 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 5.97 years at end of March 2022 (the 2022 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2022 (published 19th December 2022).

[\*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.**

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

DEV23 Landscape character

DEV26 Protecting and enhancing biodiversity and geological conservation

DEV28 Trees, woodlands and hedgerows

DEV32 Delivering low carbon development

DEV35 Managing flood risk and Water Quality Impacts

**Neighbourhood Plan – Not yet made**

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 130 and guidance in Planning Practice Guidance (PPG).

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

**Plymouth & South West Devon JLP Supplementary Planning Document (2020)**

**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.