

## Committee Report – 28th July 2022

**Application Number:** 1/0576/2021/FUL

**Registration date:** 24 June 2021

**Expiry date:** 19 August 2021

**Applicant:** Mr Philip Waters

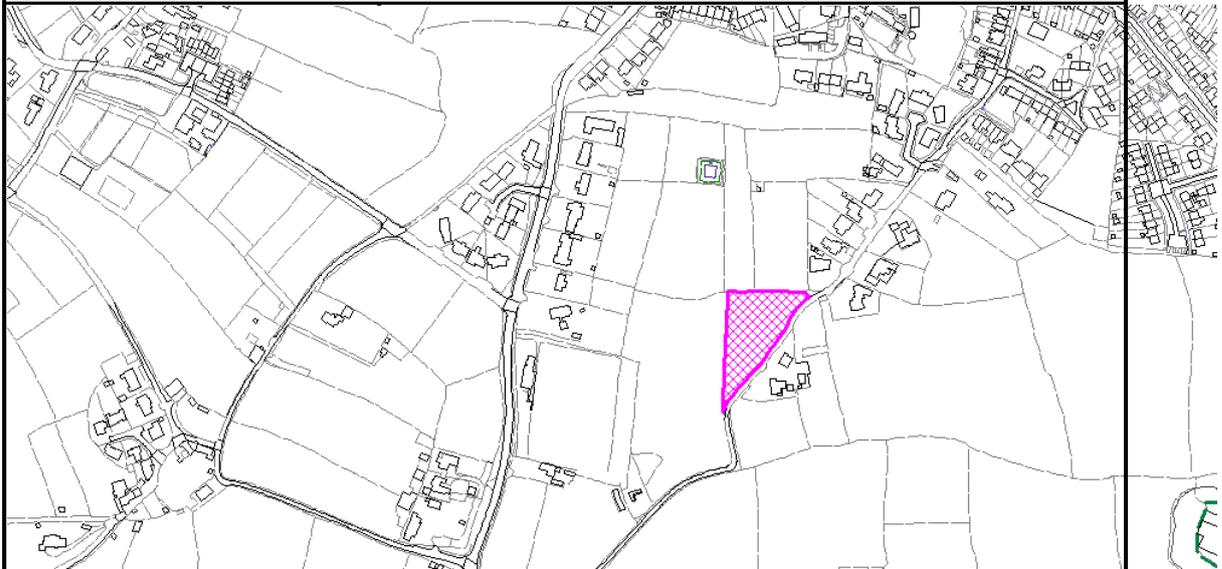
**Agent:** Mr Lewis Johnson

**Case Officer:** Helen Smith

**Site Address:** Land Adjacent To Greenacres,  
Pitt Lane,  
Appledore,  
Devon,

**Proposal:** Erection of 2 dwellings

**Recommendation:** Grant



## Reason for referral:

The application has been called-in by Cllr Hames as Ward Member for the following reasons:

- Piecemeal development which should link with development under 1/0769 given that Policy NOR07 para 10.383 states the allocated site should be developed in a 'comprehensive manner.'
- This development would create another access on to Pitt Hill and potentially serving further development on the land marked in blue therefore adversely affecting traffic and pedestrian safety on the narrow lane.
- Lack of green infrastructure contrary to NOR07 requirements.
- No affordable housing.
- Drainage issues adversely affecting amenity of neighbouring property.

## Relevant History:

There is no planning history of relevance.

## Site Description & Proposal

### The Site:

The site is located to the south of Appledore and to the northeast of Northam. It forms part of a wider residential allocation (NOR07) in the adopted North Devon and Torridge Local Plan and is located within the development boundary for Appledore.

The site lies approximately half a mile from Appledore village centre and occupies an area of circa 0.35 hectares. It forms a triangular piece of agricultural land sloping from north to south/west. It is bounded by Pitt Hill to the south and east and fields to the north and west, with mature hedgerows forming site boundaries. Access is provided via a field gate and short track off Pitt Hill. The dwelling known as Greenacres is located on the opposite side of Pitt Hill to the southwest and a group of existing detached dwellings are located to the immediate northeast. Land to the west is currently subject to a full planning application for 27 dwellings under reference 1/0652/2022/FULM and land further to the south is currently under construction for 89 dwellings (1/1343/2018/OUTM and 1/0717/2021/FULM).

The site is located within walking distance to the established village centre of Appledore that provides a range of facilities including schools, a variety of shops, places of worship, sports facilities and play areas. Public transport routes run along Churchill Way.

The site is within Flood Zone 1 so has less than a 0.1% chance of fluvial or tidal flooding in any one year. It is not subject to any landscape or heritage designations. The site is, however, located within the Coast and Estuarine Zone, as identified by the North Devon and Torridge Local Plan.

### The Proposal:

The application is made in full for the '*erection of two dwellings*'. The dwellings would be sited at the southern part of the site, slightly staggered to allow for the geometry of the south/east boundary. Plot 1 would be sited to the eastern part of the site, and Plot 2 to the west.

The dwellings would share a single point of vehicular access at the southwest site corner from Pitt Hill; it would be necessary to remove a small section of hedgerow to create this access and to translocate a further minor section to enable the required visibility splay. A pedestrian link would be provided from the vehicular access to join with the proposed access to the adjoining development currently being considered under planning application 1/0652/2022/FULM.

Both plots include integral garaging and external hardstanding to accommodate further car parking and manoeuvring.

Plot 1 would comprise of four bedrooms, a utility, snug and bathrooms at ground floor and, at first floor, an open plan kitchen/dining/living space, a playroom and fifth bedroom. Plot 2 would accommodate three bedrooms, a utility, an office, bathrooms and a sauna at ground floor together with an open plan kitchen/dining/living area at first floor. Both dwellings would include external terrace areas at first floor level and privacy screening is proposed to prevent overlooking.

The dwellings would be constructed in natural stone, timber cladding, natural slate and metal profiled roofing and grey UPVC windows and doors. Significant tree and hedgerow planting is proposed to screen the development and assimilate it into the landscape setting. Whilst the buildings would be provided over two storeys, due to the levels on site they would take the appearance of single storey from certain views.

The northern part of the site would be subject to significant tree planting with a footpath to be provided and available for public use to link Pitt Hill through to the open space associated with the development to the west (application 1/0652/2022/FULM currently being considered).

The application originally proposed the erection of three dwellings, two of which were proposed to be sited further north within the site and at a greater height. Due to concerns raised over visual impact and landscape harm, the applicant subsequently redesigned the scheme and reduced the number of dwellings to two.

### **Consultee representations:**

#### **Northam Town Council:**

It was resolved to recommend the proposal be refused on the grounds that:

The proposal was contrary to policy NOR07 of the North Devon and Torridge Local Plan (Local Plan) 2031, the development would be piecemeal rather than a part of a comprehensive development of the allocated site.

The traffic generated from the proposed separate access to the development would have an adverse impact on road safety in Pitt Lane and the access would be contrary to Local Plan 2031 policy NOR07 which requires highway improvements to be established as part of a comprehensive development.

Given the location of the development near the highest point of the allocated it would have an adverse impact on the landscape, contrary to Local Plan 2031 policy NOR07. As a piecemeal development, rather than part of a comprehensive development the proposal makes no contribution to the provision of a better mix of housing, contrary to Local Plan 2031 policy ST17: A Balanced Local Housing Market.

There is no safe route provided in the application for pedestrians and cyclists within the southern boundary of the development site, contrary to Local Plan 2031 policy DM05.

The arrangements for the footpath to the north of the site are inadequate, there is no hard surfacing or lighting is indicated and it would appear cyclists would be precluded from using the path given the siting of a kissing gate on the route. Additionally, the site plan appears not to show where the path would access Pitt Lane. The site plan appears not to show how the residents of the proposed development would access the northern footpath from their properties.

There would be an adverse impact on biodiversity and visual amenity caused by the proposed removal of hedging to make the access to the development and also removal of hedging to allow the proposed northern footpath to enter adjacent development site(s), contrary to Local Plan 2031 policies ST14: Enhancing Environmental Assets (a), (f) & (g); DM08: Biodiversity and Geodiversity; DM08A: Landscape and Seascape Character (1); and DM10: Green Infrastructure Provision.

The submitted plans appear to not show all the elevations of the proposed houses and it is unclear which plots are being referred to. The plans appear to show solar panels on only one of properties, contrary to Local Plan 2031 policy ST02: Mitigation of Climate Change.

**Devon County Council (Highways):**

Observations: The revised proposal is considered acceptable in highway/transport terms, and I have no objection to it.

While I agree with many of the comments from local residents, I have no evidence to support a reason for refusal of this application on highway grounds.

A different arrangement for access might be preferable, but that is not what has been presented for consideration. The proposal will provide an access for vehicles with adequate visibility splays of 43m in both directions from 2.4m behind the carriageway edge. The site will link to the adjacent footway network with the rest of the allocated development site from where people can walk to the bus stop, Appledore via the A386 or even Bideford.

**AONB Team:**

No response.

**Environmental Protection Officer:**

In relation to the above application, the Environmental Protection Team comments are outlined below.

**Residential Amenity**

Due to the existence of neighbouring dwellings in close proximity, there is the potential for detriment to residential amenity from the construction works associated with the proposed development if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and delivery times to 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

**Land Quality**

The Geotechnical and Contamination Assessment Report concludes that the application site presents no risk of contamination that may be harmful to human health. The Report does suggest further intrusive ground investigations in relation to geotechnical issues but this is outside the scope of land contamination. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition to cover any unexpected contamination discovered during development:

‘Should any contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that phase or sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that phase or sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.’

**DCC Archaeology Section:**

I refer to the above application and your recent re-consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant - in particular the results of the archaeological geophysical survey - do not suggest that the scale and situation of this development will have any impact upon any known heritage assets. The Historic Environment Team has no comments to make on this planning application.

**Natural England:**

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England's generic advice on other natural environment issues is set out at Annex A.

**Sites of Special Scientific Interest** Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. **Sites of Special Scientific Interest Impact Risk Zones** The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

#### **South West Water:**

I refer to the above application and would advise that South West Water have no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy.

#### **Historic England - Southwest Casework:**

Thank you for your letter of 21 February 2022 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

#### **Representations:**

Number of neighbours consulted:	3	Number of letters of support:	29
Number of representations received:	45	Number of neutral representations:	0
Number of objection letters:	16		

The application has attracted 45 letters of representation across 2 separate consultation period; 16 of these have been made in objection and 29 in support.

#### Revised scheme for 2 dwellings:

The letters of objection raise the following concerns:

- The elevations do not confirm the materials to be used
- There would be overlooking and loss of privacy between the two dwellings
- Sections are needed to show the rear walls of the two dwellings and how they will be waterproofed
- There is no detail of ventilation for the ground floor rooms
- There is insufficient drainage information
- A Preliminary Ecological Assessment prepared by Bioscan and dated April 2022 has been submitted and raises the following key points:
  1. The loss of biodiversity is in excess of 40% if the grassland condition is 'moderate'
  2. The net gain proposal falls short of the 10% set out in the Environment Act 201 and none of the replacement habitats can be guaranteed as deliverable due to their being within private gardens
  3. Significant post-development impacts anticipated to bats from light spill due to proximity of housing to hedgerows
  4. Lack of nay bat survey or dormouse survey information specific to this site
  5. Potential indirect impacts on the adjacent Broad Lane unallocated wildlife site, or potential direct impacts if access will be through this site
- The scale and design of the dwellings does not respect the surrounding landscape character

- The proposed access will result in loss of hedgerow – there should be a shared access with the adjoining development
- The proposed access will create another unnecessary and dangerous opening onto Pitt Lane
- There would be overlooking of neighbouring dwellings (Greenacres, Portholes and Marshwood)
- The overhead electricity cable to the north of the site should be underground
- Alternative comprehensive access arrangements are suggested for the application site and adjoining development
- The proposed footway to the north should be detailed and should be able to accommodate cyclists and be wide enough for dual use. It should be drained and have discreet lighting. The kissing gate is not appropriate and would not provide easy access for all users of this path
- The development would cause harm to ecology
- There will be harm to neighbours during the construction phase

The letter of support raises the following points:

- This application is made by a local family who have history of being residents of Appledore for several generations and have been involved in supporting the local community. This is a joint family home application for two generations.

#### Originally submitted scheme for 3 dwellings:

The letters of objection raise the following concerns:

- Loss of hedgerow and habitat
- Drainage is a problem in this location
- There is no credible plan for sewage or drainage
- Concerns over the originally proposed foul drainage disposal proposal to the north
- The visual impact of the development will be overbearing and dominate the skyline
- The development will have a negative impact on rural character
- There is no affordable housing or smaller units
- The development is piecemeal and does not connect to other proposed developments in the area
- There is no play area
- Two of the proposed dwellings are excessively high and dominant on the skyline
- The proposed drainage system by pumping to the existing combined sewer is unworkable
- The scheme is contrary to national and local planning policy in terms of highway safety and to overcome this objection there is insufficient information to suggest the proposal will be acceptable in terms of landscape and visual impacts and securing biodiversity net gain
- The drainage strategy involves pumping uphill via pitch fibre drains containing asbestos
- The proposed house types do not reflect the areas historic character
- The adjoining fields owned by the applicant should not be used for the construction process
- The dwellings should not be sold as second homes
- An opening in the hedge would allow surface water to flow towards the dwelling on the opposite side of the road

The letter of support raises the following points:

- The architect has clearly worked hard to achieve a compelling scheme that meets policy, landscape and visual impact, drainage etc requirements – a large developer would not go to these lengths to make the scheme so diverse for nature and wildlife
- The applicant and extended family will live in the properties, continue to work and educate their children in the area and contribute to the local economy
- The design takes a sustainable approach to sourcing natural materials in construction and to minimise environmental impact through the use of natural resources
- This project cannot be compared to the mass housing projects currently in progress – a sad state of affairs if these are allowed to go ahead and local projects denied
- The inclusion of tree planting will capture carbon
- The eco-friendly architectural design means these homes will blend in with the natural surroundings

- The proposed properties are of individual architectural merit and incorporate many eco and environmental features
- There is a lack of this type of accommodation in Appledore

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

DM01 (Amenity Considerations); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM07 (Historic Environment); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); NOR07 (Site Adjoining Pitt Hill (Appledore)); NOR (Northam Spatial Vision and Development Strategy); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST09 (Coast and Estuary Strategy); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); ST15 (Conserving Heritage Assets); ST17 (A Balanced Local Housing Market);

### Government Guidance:

NERC (Natural Environment & Rural Communities); NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); WACA (Wildlife & Countryside Act 1981);

## Planning Considerations

The main planning considerations of relevance to this proposal are:

1. Principle of Development;
2. Layout, Design and Impact on Landscape Character;
3. Impact on Residential Amenities;
4. Access and Parking;
5. Heritage;
6. Drainage;
7. Ecology;
8. Planning Balance.

### Principle of Development

Paragraph 2 of the NPPF states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

In policy terms, the application site is located within the development boundary for Appledore (Proposals Map 8B). Policy ST06 of the North Devon and Torridge Local Plan 2018 (NDTLP) identifies Appledore as forming part of the Main Centre of Northam, where appropriate levels of growth that will increase the towns' capacities to increase self-containment, to meet their own needs and those of surrounding communities where such is sought through the local vision, will be supported. Policy ST06 is clear that development will be supported within the development boundaries of the Main Centres.

NDTLP Policy NOR (Northam Spatial Strategy) states: *'The three centres will continue to provide a range of services and facilities to meet locally generated needs and to accommodate the expanded needs of visitors to the area. Across Appledore, Northam and Westward Ho! a range of housing appropriate to local needs will be provided. Development will be supported by necessary infrastructure that will be delivered in a manner to minimise deficiencies against service capacity.'*

Policy NOR further advises that the spatial vision will be delivered through: (a) 'provision of a minimum of 1,916 dwellings to meet all the communities housing needs, including affordable and supported homes together with an expanded supply to meet the increasing needs of the area's

*ageing population, which will be supported with associated development and infrastructure on a continuous basis'.*

Paragraph 10.358 of the NDTLP reiterates the delivery of a minimum of 1,916 dwellings and clarifies that this will be delivered through a mixture of development completed since April 2011, existing commitments, identified housing allocations and non-strategic housing sites as set out in Table 10.14. Table 10.14 indicates that 1,735 dwellings will be delivered through allocations. Policy ST08 reiterates and confirms this housing provision for Northam.

The application site forms a part of an allocation for housing development, as prescribed by NDTLP Policy NOR07. This policy states:

*'Policy NOR07: Site Adjoining Pitt Hill (Appledore)*

- (1) Land adjoining Pitt Hill, extending to about 6 hectares and as defined on Policies Map 8B, is allocated for housing development that includes:
  - (a) approximately 130 dwellings, providing a mix of housing type and size to reflect local need, including affordable housing; and*
  - (b) as necessary the relocation of a Public Right of Way to support its contained presence through the site.**
- (2) The site will be developed in accordance with the following site-specific development principles:
  - (a) Development located and of a form that minimises any loss of landscape character of the surrounding area;*
  - (b) Areas of green infrastructure providing opportunities for biodiversity enhancement and informal recreation focused to the south of the site within the coastal and estuarine zone;*
  - (c) Vehicular access achieved from Wooda Road, by improvement to Pitt Hill and an access from Pitt Hill Road and the provision of a right-hand turn from Churchill Way into Wooda; and*
  - (d) Safeguarding an appropriate vehicular access extending to the northern boundary, to enable the future delivery of the adjoining site on land east of Churchill Way'.**

Supporting paragraph 10.383 confirms that the site will be developed in a comprehensive manner to ensure the necessary highway improvements to Pitt Hill are secured as housing delivery is achieved. The application covers an area of approximately 0.35 hectares and therefore only forms a small part of the wider allocated area of 6 hectares. Third parties have raised concern over the consideration of the application site in isolation from the rest of the allocation and how this prevents a comprehensive approach prejudicing the ability for necessary infrastructure to be delivered. In total, when considering the 3 elements that are being brought forward as part of this allocation, 118 dwellings would be delivered against an allocation requirement of 'approximately' 130. Whilst this total is lower than the policy aspiration, given the sensitive approach that is required to layout, density and design resulting from the context of these sites, it can be seen that the allocation can still broadly achieve the housing numbers expected of it.

The NOR07 policy text does not require a comprehensive approach to the whole 6-hectare site and given a significant part of the allocation already benefits from planning permission and is under construction, with the other remaining field currently subject to a full planning application, it is not considered that this proposal coming forward in isolation would prejudice the delivery of the wider allocation. In fact, the application will provide connectivity to the site to the west via pedestrian links which will in turn enable connectivity to the larger site to the south. Policy NOR07 accepts and requires improvements to Pitt Hill to facilitate development; the Baker Estates scheme to the south will provide access from Wooda Road which will connect through to Pitt Hill. In addition, it is proposed for the two dwellings subject of this application to connect into the drainage infrastructure being provided as part of the 89 dwellings to the south. This application does not affect any public rights of way and it is considered most appropriate for the larger site to the west to secure the safeguarding of a possible future vehicular access to the north. Policy NOR07(b) requires green infrastructure and biodiversity enhancements to the south of the site; the Baker Estates scheme provides a policy compliant level of green infrastructure and the current application for 27 dwellings to the west provides a significant area of public open space to the north of the allocation; this application for 2

dwellings would enable connectivity to this wider green infrastructure network and would also provide a significant area of new tree planting within the northern part of the site.

It is also important to note that Policy NOR07 seeks development to be located and of a form that minimises landscape harm and the supporting text highlights the northern part of the allocation as being sensitive to development. NOR07 Part 2 (a) is considered under the relevant section below.

Given the above, it is clear that the principle of development is acceptable in this location given the sites position within the development boundary for Appledore and it forming part of an allocation for residential development. The site was allocated for residential development through the extensive consultation involved in the preparation of the NDTLP and contributes, alongside identified brownfield sites, towards meeting the necessary housing supply for the District up to 2031.

Notwithstanding the above acceptance of the principle of development, as a result of the Burwood Appeal (APP/W1145/W/19/3238460), the Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites (5YHLS); with the appeal concluding that there is a supply of 4.23 years across Northern Devon. By virtue of not being able to demonstrate a five-year supply of deliverable housing sites (footnote 7, NPPF), there is a need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF) as a material consideration in determining planning applications for housing.

Paragraph 11 (d) notes:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, Local Planning Authorities should grant planning permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (National Parks, AONB, SSSI, Heritage Assets, Habitat Sites) provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS. Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. As the NDTLP was adopted relatively recently, none of the policies are generally considered to be out-of-date for the application of the Presumption.

The Presumption is set out in two parts by Paragraph 11 (d) of the NPPF, however, as this proposal does not harm a 'protected area', the decision taker in this case needs to consider the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; the so-called tilted balance (Paragraph 11(d)(i), NPPF).

#### **Layout, Design and Impact on Landscape Character;**

NDTLP Policy ST04: 'Improving the Quality of Development' requires that *'development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area'*. Policy DM04 sets out a series of Design Principles which are overarched by a desire for good design to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new development. Paragraph 30 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

NDTLP Policy DM08A concerns landscape and seascape character and states in part (1) that *'development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid*

*adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible'.*

The site is located within the Coast and Estuary Zone where the NDTLP distinguishes between 'developed' and 'undeveloped coast', with stricter development controls being applied within the latter. The application site falls to be within the 'developed coast', due to it being within the development boundary for Appledore and allocated for development.

NDTLP Paragraph 10.385 requires a high-quality design throughout the development, which provides a reflection of the area's historic character with an emphasis on green infrastructure delivery. It further requires the layout of development within the site to minimise any consequent landscape impact, particularly in respect of the area to the north of Wooda Road.

Paragraph 10.385, as quoted above, seeks a sensitive approach to development to the north of Wooda Road and this area has been identified as sensitive to development by the Local Planning Authority's independent Landscape Consultant in his consideration of the Baker Estates scheme to the south.

It is accepted that in allocating the site for development, the principle of some associated harm to the landscape has been accepted, including any harm attributed to external lighting. The originally submitted scheme proposed 3 dwellings which were set at a much higher level and further within the northern part of the site. Your Officer raised concern over this approach citing conflict with the landscape and design policies of the NDTLP. At pre-application stage the potential for up to 5 dwellings was explored however, again, your Officer considered such a form of development would be inappropriate in this sensitive part of the site and the applicant was encouraged to come forward with a landscape-led design.

Letters of representation raise concern over harm to the local landscape. The application is supported by a Landscape and Visual Impact Assessment (LVIA). The LVIA sets out the following design and mitigation measures that have been adopted in the redesign of the scheme:

- Reducing the number of dwellings down from 3 to 2 dwellings.
- Avoiding development on the upper part of the site with this area maintained as greenspace with the planting of a native tree copse.
- Setting the buildings at a lower level in the slope so that in effect the built form is read as single storey dwellings.
- Relocating the access to the site to the lowest, most southern point of the site.
- Taking the opportunity of a greater set-back from Pitt Hill lane to incorporate more tree planting on the eastern boundary of the site.

These changes have allowed a more sympathetic scheme which better integrates with the existing landscape context and has resulted in reduced effects for a number of key visual receptors as has been set out in detail in the amended LVIA. The LVIA concludes that none of the landscape or visual effects would be any greater than Minor Adverse by year 15 as the proposed mitigation planting establishes.

In terms of cumulative landscape effects, due to the rolling topography, built form and tree cover in the area, the LVIA indicates that views of the site are largely limited to near and mid-distance views from nearby roads and a public right of way. Long-range views from locations such as Tapeley Park, Torridge Bridge and locations on the South West Coast Path are possible, but the LVIA concludes that from these points only glimpses of the site can be appreciated. It is accepted that the site from these distant viewpoints would be seen in the context of other skyline elements in Appledore, Appledore Shipyard and elements of new development associated with the wider allocation. The proposals would represent only a small additional cumulative effect in this context. The proposals would be seen in the context of nearby/adjointing urbanising elements and would be seen as part of the natural extension of the settlement area of Appledore rather than as an incongruous new feature in a hitherto undeveloped landscape.

The submitted Design and Access Statement (DAS) explains that the dwelling design has taken reference from rural buildings, for example a barn/longhouse. The dwellings are designed with long primary living areas and the DAS states that such a long linear form aims to visually look less intrusive than a square form. The ground floor elements sit within the site and below the boundary hedge lines meaning that the main visual massing is the first-floor linear elements. The scheme incorporates high-quality, sensitive, natural materials with natural stone facing the ground floor and timber cladding at first floor level which will weather with age and develop grey tones. Your Officer considers this proposal to be of a high design quality, respecting its setting within the landscape. The amendments that have been made in response to early concerns have resulted in a scheme that is sensitive to its setting but also distinctive and well-referenced to the rural context. It would not have been appropriate for this site to be developed with further 'estate-style' dwellings and this more distinctive architecture is welcomed in this location between the other new build elements associated with the rest of the allocation and the existing detached dwellings which sit on the skyline at the top of Pitt Hill.

The amended scheme as proposed for consideration by Plans Committee incorporates the following changes:

- The omission of 1 dwelling
- Pulling each dwelling down the site (south) by up to 16.4m when compared against the previous iteration
- Reduction in ridge heights of between 2.45 & 3.3m
- Revised access point nearer to the entrance to the Bunny Homes scheme
- Increased density of planting to the north creating a natural visual buffer
- Planting proposed to the eastern boundary alongside Pitt Lane
- Pedestrian footpath suggested linking the top of Pitt Hill with the Bunny Homes scheme

The significant landscaping proposals would assist with assimilating the development into the landscape, screening it from public views. This landscaping and tree planting and its future maintenance/management is proposed to be secured via a legal agreement.

NDTLP Policy ST17 states that *'the scale and mix of dwellings, in terms of dwelling numbers, type, size and tenure provided through development proposals should reflect identified local housing needs, subject to consideration of: (a) site character and context; and (b) development viability'*. Supporting Paragraph 7.13 requires the housing mix to be provided by an individual development proposal to have regard to relevant up-to-date and robust evidence. Paragraph 7.13A indicates that Policy ST17 recognises that *'the character and context of an individual development site may influence or constrain the types of residential development that are appropriate in individual circumstances'*. The Housing and Economic Needs Assessment (HENA) for Torridge and North Devon Councils undertaken by GL Hearn and dated May 2016, concludes based on the evidence, that it is expected for the focus of new market housing provision to be on two and three-bed properties. Continued demand for family housing can be expected from newly forming households. There may also be some demand for medium-sized properties (2- and 3-beds) from older households downsizing and looking to release equity in existing homes, but still retain flexibility for friends and family to come and stay. The HENA sets the following required housing mix on development sites:

- 1 bed = 15%
- 2 bed = 35%
- 3 bed = 35%
- 4 bed = 15%

Given the application proposal is for just two dwellings, it is not reasonable to require a specific housing mix. That said, and in recognition of the application being a component part of a wider allocation, the overall housing mix across the 3 elements of NOR07 is as follows (assuming all elements as currently proposed/approved come forward):

- 1 bed = 3%
- 2 bed = 39%

- 3 bed = 39%
- 4 bed = 19%

The above overall housing mix is considered to broadly reflect the requirements of the HENA.

Third parties have raised concern over the creation of a new vehicular access and resultant harm to the character of Pitt Hill. The access arrangements have been amended to bring the new vehicular access down to the southern part of the site so it would be read in the context of the proposed access to the scheme to the west and the access from the Baker Estates scheme to the south. In allocating the site, it was accepted that improvements and alterations would be required to Pitt Hill – this is unfortunately a necessary consequence of the allocation. It is considered that the revised siting of the access minimises disruption and harm to the character of Pitt Lane and enables longer stretches of hedgerow to remain intact.

On matters of crime and disorder, the Police Architectural Liaison Officer (PALO) was engaged in terms of the proposed public footpath to the north of the site. The PALO has provided advice as to the specification of this footpath and it is proposed that together with the proposed landscaping, the specification and ongoing maintenance of this path is secured via a legal agreement. The PALO has suggested that this footway should be:

1. as straight as possible;
2. wide;
3. well lit;
4. devoid of potential hiding places;
5. overlooked by surrounding buildings and activities;
6. well maintained so as to enable natural surveillance along the path and its borders.

The PALO recognises that the proposed path may not comply with points 4 and 5 above, in this instance, therefore completing the path with the addition of wayfinding signage, vehicle barriers/gates, suitable plot rear boundary treatments (1.8m minimum), defensive planting and lighting would reduce the potential vulnerability of the proposed dwellings by offering increased casual surveillance opportunities by encouraging legitimate users. Third parties have raised concerns over the suitability of this path for all users, particularly cyclists, wheelchair users and those pushing buggies due to the layout plan showing a kissing gate. This matter is considered further below however it must be recognised that as is often the case with planning proposals, there are competing considerations in terms of crime and disorder, safety and accessibility.

Against this background, whilst recognising there would be resultant minor adverse harm in landscape terms, the scheme has been designed sensitively to sit within the landscape and is of a high design quality. The proposal is considered to meet the requirements of NDTLP policies ST04, NOR07, DM04 and DM08A as well as the relevant sections of the NPPF although the minor adverse landscape harm should be considered under the tilted balance against the benefits of the scheme

#### **Impact on Residential Amenities:**

NDTLP Policy DM01 requires that development should secure or maintain amenity appropriate to the locality with special regard to the likely impact on neighbours, the operation of neighbouring uses, future occupiers, visitors on the site and any local services. Policy DM02 (2) states development will be supported where it does not result in unacceptable impacts to (a) atmospheric pollution by gas or particulates, including smell, fumes, dust, grit, smoke and soot; (b) pollution of surface or groundwater (fresh and salt) including rivers, canals, other watercourses, waterbodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea; (c) noise or vibration; and (d) light pollution. Policy DM04 (i) requires development to ensure the amenities of existing and future neighbouring occupiers are safeguarded.

The application site is located some distance from the nearest existing residential properties; namely 37 metres from Greenacres to the south and 75 metres from nearest property to the east. Given these distances, the intervening vegetation and highway between the site and Greenacres, and that

property's outlook to the south east, it is not considered that there would be scope for unacceptable overlooking or loss of privacy. The land to the west is subject to a current planning application for residential development and Plot 2 would be sited along this shared boundary. A privacy screen is proposed along the western boundary of the upper floor to Plot 2 which, together with the existing hedge vegetation, will prevent overlooking. There are not considered to be any overbearing impacts arising from the siting and scale of Plot 2 so as to unacceptably harm the amenities of the future residents to the west.

In terms of the amenity relationship between Plots 1 and 2, privacy screening will be secured to ensure there is no overlooking to an unacceptable degree between the two properties and new planted hedge boundaries will be provided between the plots and along the northern boundary with the copse and footpath.

It will be important to protect residential amenities from the effect of development, but this should not mean that development should be resisted. Short-term disruption through the build process can be addressed through appropriate conditions and the Environmental Protection Officer (EPO) has recommended a condition to control hours of construction works.

Accordingly, the proposal is considered to be in accordance with the provisions of Policies DM01, DM02 and DM04 of the NDTLP.

### **Access and Parking:**

NDTLP Policy DM05 requires development to have safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and that all development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so. Policy DM06 states that proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

Paragraph 110 of the NPPF requires specific applications for development to ensure that safe and suitable access to the site can be achieved for all users. Paragraph 111 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.

A number of letters of objection raise highway capacity and safety concerns along with concern over the introduction of a further access on to Pitt Hill. Furthermore, the Local Highway Officer (LHO) initially raised objections to the original scheme due to it failing to provide sufficient visibility and no safe pedestrian access.

As indicated above, the LHO is now raising no objection to the proposed development considering it to be acceptable in highway terms. The amended access and proposed connection to the pedestrian infrastructure to be associated with the development to the west, allows for pedestrians to access the rest of the allocation and therefore Appledore via the A386 and the bus stop on Churchill Way. Given this, and subject to the access and footpath provision being secured, there are no highway objections. In addition, the proposal includes a more informal pedestrian access along the northern part of the site connecting the development to the west with the top of Pitt Hill – this will be secured via a legal agreement, as discussed above. The legal agreement will require a detailed specification for this path and a plan for its ongoing maintenance and availability for public use. The Applicant has been asked to provide a further plan showing how this path would likely be surfaced and to also consider an appropriate barrier between the access to the field gate and then beyond to the site to the west. The PALO has suggested a need for a barrier however third parties have raised concern that this would not facilitate easy access for certain users. A balance will need to be struck here and your Officer will report further detail on this verbally at the Committee meeting.

A number of representations suggest that an alternative access arrangement from the development to the west should be required to avoid additional points of access/egress on to Pitt Hill. As noted by the LHO, a different access arrangement might be preferable however there is no evidence to support a reason for refusal on highway grounds - the decision taker is required to consider what is before them

and this is deemed acceptable. Furthermore, there is no provision within Policy NOR07 to require such an access arrangement as put forward by third parties and there is no mechanism to insist on this given the different landowners and the fact the schemes may not come forward at the same time.

Given all of the above, and the support afforded to the scheme by the LHO, the application proposal is considered to be in accordance with NDTLP Policies ST10, NOR07, DM05 and DM06 as well as paragraphs 110 and 111 of the NPPF.

**Heritage:**

There are no listed buildings within or adjoining the site and it is not located within a Conservation Area.

Historic England was consulted due to the application site being within the wider setting of Grade II\* Listed Tapeley Park, however they informed the Council they did not wish to make any comments.

The County Archaeology Officer is raising no objections noting that the Assessment of the Historic Environment Record (HER) and the details submitted by the applicant - in particular the results of the archaeological geophysical survey - do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

Given the above, the development raises no concerns in respect of heritage and is in accordance with NDTLP Policies ST15 and DM07.

**Drainage:**

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

The site is not within an Environment Agency flood risk zone.

The original drainage scheme proposed connection to a combined sewer to the north of the site and within third party land. This third-party landowner raised significant objection to this proposal and an alternative solution being sought.

The Applicant has considered drainage options in light of the destination hierarchy. Discharge to ground, infiltration or to a surface water body (which are the preferred destinations) have been demonstrated to not be possible in this instance. Percolation testing has demonstrated that soakaways will not work, and the nearest water course is over 500 metres away from the site. Consequently, the applicant proposes to connect into the new drainage system associated with the Baker Estates scheme to the south, which will ultimately be adopted by South West Water (SWW).

Given the applicant's reliance on the delivery and adoption of the drainage infrastructure to the south, it is considered necessary to impose a Grampian style condition requiring drainage arrangements to be agreed together with a clear timescale for implementation, prior to commencement of development. The National Planning Practice Guidance allows such an approach and states:

*'Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.'*

The Baker Estates scheme is subject to an approved phasing plan (application 1/0005/2022/DIS) and their onsite adopted infrastructure to which the scheme will ultimately connect is under construction and well progressed. It is understood that construction for the offsite foul has started but is several

months work due to the location of the existing foul pump station. The offsite storm connection is contracted with SWW under requisition, and these works are also well progressed. Therefore, all adopted infrastructure necessary to serve the remainder of the allocated land is contracted, secured by planning and guaranteed through the adoption process for which there will be a bond. That bond and its later recovery will be important to the developer to the south hence they are unlikely delay the delivery of this infrastructure. Whilst there can be no guarantee as to the speed by which SWW will deliver the storm requisition and speed to adoption, your Officer considers there to be reasonable prospect that the wider drainage infrastructure will be available to connect into within the lifetime of any permission that might be granted.

SWW is raising no objection.

In light of the above, and subject to the suggested Grampian style condition, the application is considered to meet the requirements of NDTLP Policies ST03 and DM02.

### **Ecology:**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). Policy DM08 of the NDTLP concerns biodiversity and requires development to conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance. The policy further requires all development to '*ensure that the importance of habitats and designated sites are taken into account*' and to '*consider opportunities for the creation of a local and district wide biodiversity network of wildlife corridors which link County Wildlife sites and other areas of biodiversity importance*'.

The application is supported by an Ecological Impact Assessment (EIA) dated May 2021 and prepared by Richard Green Ecology (RGE). The EIA concluded:

*'The site measures 0.3578 ha, and consisted of a poor semi-improved grassland field bounded by three species-poor hedgerows, with occasional young trees along the western boundary and at the north-eastern corner of the site.*

*The hedgerow boundaries are likely to be used by foraging and commuting bats and the grazed poor semi-improved grassland provides low value bat foraging habitat. Ecological surveys of adjacent sites confirmed the presence of rarer bat species in the area. The same bats are likely to use the application site in a similar manner. The site is, therefore, considered to be of district to county value to bats (Wray et al, 2010).*

*Dormouse surveys of similar habitat on the adjacent sites concluded that dormice are likely to be absent from the area. Therefore, it is considered likely that dormice are absent from the application site.*

*A low population of slow worms was found on an adjacent site, and it is considered possible that low numbers of slow worms may be present along the hedgerows on the application site.*

*Ecological mitigation, compensation and enhancements are proposed in the form of habitat creation (native tree and ornamental shrub planting, wildflower meadow and flowering lawn mixes, formal ornamental plantings, and native species-rich hedgerows), protective measures (sensitive lighting plan, protection of bat commuting and foraging areas across the site, working methods to avoid killing or injury of species present) and bird, bee and bat nesting/roosting provisions within new structures (integrated bird, bee and bat nesting/roosting provisions).*

*The proposed development would deliver biodiversity net gain and provide habitat enhancement for species, including bats, nesting birds, reptiles, amphibians, and hedgehogs. Whilst only a 7.01% biodiversity net gain is predicted for habitats, additional hedgerow would provide a net gain of 86.54%. In addition, the addition of three integrated bat boxes, three integrated bird bricks, three bee*

*bricks and three amphibian/reptile hibernacula would provide further enhancements that are not accounted for within the Biodiversity Metric calculation. There is the potential for adverse ecological effects caused by insensitive lighting. It is recommended that provision and approval of a sensitive lighting plan, to avoid lighting of the hedgerows and Pitt Hill Lane, be made a condition of planning approval.'*

Third parties have raised concern over the impact of the development on ecological interests. In addition, a preliminary ecological appraisal has been submitted on behalf of a third-party objector raising, primarily, the following issues:

1. The loss of biodiversity is in excess of 40% if the grassland condition is 'moderate'
2. The net gain proposal falls short of the 10% set out in the Environment Act 201 and none of the replacement habitats can be guaranteed as deliverable due to their being within private gardens
3. Significant post-development impacts anticipated to bats from light spill due to proximity of housing to hedgerows
4. Lack of any bat survey or dormouse survey information specific to this site
5. Potential indirect impacts on the adjacent Broad Lane unallocated wildlife site, or potential direct impacts if access will be through this site

The Applicant was asked to respond to these third-party concerns and submitted a further report prepared by their RGE in May 2022. This rebutted the position put forward as follows:

Points 1 and 2:

*'The ecologist conducting the Bioscan survey could not access the field, which significantly limits their assessment of the habitats present. This is disclosed in the Bioscan report at paragraph 2.1.9. Furthermore, the survey was only conducted from one corner of the field, evidenced by the three photographs taken from the same viewpoint. As Bioscan has not completed a botanical assessment of the grassland and has not provided a list of the plant species found, their comments on the condition of the grassland being "moderate" are unfounded and cannot be evidenced.'*

*Richard Green Ecology assessed the modified grassland condition using the Natural England Biodiversity Metric 3.0 Technical Supplement (Panks et al., 2021). The grassland had three undesirable species: spear thistle *Cirsium vulgare*, white clover *Trifolium repens* and greater plantain *Plantago major*, which all occurred "occasionally" as per the DAFOR scale (i.e., they covered 11-25% of the grassland). Therefore, the grassland only met three criteria of the Technical Supplement (namely 1, 2 and 6), so it was classified as "poor" condition. The BNG calculations in 2021 were conducted using the 2.0 metric, whereas the 2022 BNG used the newer 3.0 metric. It was considered that, with the provision of the new habitat classifications afforded in metric 3.0, the category of "vegetated garden" better employed the precautionary principle for describing the curtilage around the houses, rather than "wildflower mix". The Bioscan report is incorrect to say that all the biodiversity gains will fall within private ownership. For example, the northern copse is not part of the private plots, which delivers a gain of 0.45 habitat units. Instead, its planting will comprise part of a legal agreement with the local planning authority to ensure it is perpetually retained. Additionally, the change of "wildflower mix" to "vegetated garden" between the two BNG metrics pointed out by Bioscan actually helps to account for the possibility that the private gardens could be degraded. For vegetated gardens, the distinctiveness is "low" and the condition is "poor", which is more similar to hardstanding/astrotuf than a wildflower mix.'*

Point 3:

*Manual bat activity surveys of Land at Pitt Hill (immediately to the west of the site) were undertaken by Richard Green Ecology in 2020, in accordance with the current Bat Survey Guidelines (Collins 2016). These consisted of a continuous walked transect around the site each month between May 2020 and October 2020 inclusive (April survey was missed due to late instruction). The surveys started at sunset and continued for three hours.*

*Bat calls were continuously recorded using an Elekon BatLogger M bat detector. Observations of bats and bats heard were noted manually on a plan of the survey area. Recordings were analysed using Elekon BatExplorer software to assist with species identification and a plot of the transect route and*

species recorded was mapped using QGIS. Bat species call identification was based on parameters from Russ 2012.

In accordance with the current Bat Survey Guidelines (Collins 2016), static bat activity surveys of the site were also undertaken. Two Anabat Swift full spectrum bat detectors were deployed during each activity survey, for a comparison of bat activity in different areas of the site. The static bat detectors recorded for a minimum of five consecutive nights, once a month between May 2020 and October 2020. Recordings were subsequently analysed using Analook Insight software to assist species identification.

At least nine bat species were recorded over the adjacent site, including barbastelle, greater horseshoe bats and lesser horseshoe bats, which are all Annex II species. These species appear to be using the site in small numbers, which is typical for most sites in Devon. It is considered that the site is unlikely to represent a significant commuting or foraging area for bats. Given the diversity of bat species present, and the occasional presence of rarer Annex II bat species, the site is considered to be of District to County value to commuting and foraging bats (Wray et al, 2010).

EAD Ecology (2018) also confirmed the presence of rarer bat species (i.e., greater horseshoe, lesser horseshoe *Rhinolophus hipposideros*, and barbastelle *Barbastella barbastellus*) in the area and determined that their site had a moderate level of bat activity. As all the sites are very similar, the same bats are likely to use all the sites similarly. Therefore, the site is considered to be of district to county value to bats.

[Paragraph 4.3.2 of Richard Green Ecology's February 2022 report submitted as part of this planning application sets out various mitigation measures. RGE propose further mitigation measures in their May update report, which they suggest would not only mitigate against any adverse impacts upon bats but also enhance the site for bats and other ecological receptors].

### Point 3

'British Standards Institution created a publication entitled *Biodiversity – Code of practice for planning and development (BS 42020:2013)* and includes a section on 'Proportionality'. This document states that work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation, and enhancement should be proportionate to the predicted degree of risk to biodiversity and the nature and scale of the proposed development. Consequently, the decisionmaker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

It is considered that the reliance on adjacent survey data is proportionate as the sites are all very similar, and the results are similar too.

There are no records of dormice within the site boundary or within the 2 km study area. Bioscan also acknowledges that although dormice are known to be present throughout Devon, it is likely that the River Torridge and the settlements in the area have caused the site to become isolated. As such, dormice are likely to be absent from Appledore.

Bat activity surveys and dormouse nest tube surveys of the adjacent land at Pitt Hill (on the western boundary of the site) were undertaken by Richard Green Ecology in 2020 (see above - this site has not yet applied for planning permission so we are unable to provide a planning reference). The dormouse survey followed current best practice guidance (Bright et al., 2006) and under a Natural England dormouse survey licence. Fifty nest tubes were deployed in hedgerows on the site in May 2020. They were checked every month until November 2020 to achieve an adequate thoroughness score of 20, required by English Nature guidelines. The suggested minimum score for adequate survey effort is 20 (Chanin & Woods 2003). No dormice were found.

Additionally, bat activity surveys and dormouse surveys of Land off Wooda Road (~75 m south of the site) (planning reference 1/1343/2018/OUTM) were undertaken by EAD Ecology in 2017/8. The EAD

dormouse survey also followed standard methodology (Bright et al. 2006) and was conducted under a Natural England dormouse survey licence. One hundred nest tubes were deployed in hedgerows on the site in September 2017 and were checked every month until November 2017 to achieve an adequate thoroughness score of 22. No dormice were found.

*Dormouse nest tube surveys of contiguous and similar habitats on the adjacent sites concluded that dormice are likely absent from the area. If dormice were present on the application site, then it is reasonably likely that we would have detected them on the adjacent sites as dormice do not respect ownership boundaries. Therefore, it is considered likely that dormice are absent from the application site. In 2017/18 EAD recorded similar bat activity levels and similar species as Richard Green Ecology in 2020 (see above response to statement 2).*

*Ecological surveys of adjacent sites confirmed the presence of rarer bat species in the area. As all the sites are very similar (the application site, the adjacent site to the west and the land off Wooda Road to the south), the same bats are likely to use the application site similarly. Therefore, the level of survey effort, the mitigation and the enhancement measures for these rarer bats are considered appropriate given that the site is considered to be of district to county value to bats.'*

Point 4:

*'Paragraph 6.1.3 of the Bioscan report states: "Should the site be entered from the north during the construction phase then direct impacts on Broad Lane Unallocated Wildlife Site would be expected to occur from construction access. Indirect impacts from dust and disturbance are also possible given the site's immediate proximity."*

*Please note that Broad Lane is an Unconfirmed Wildlife Site (UWS), not an "unallocated" wildlife site. UWS are sites which may contain important or rare habitats but have not yet been confirmed to contain these habitats.*

*Access to the site would not be through the UWS, neither pre-, during or post-construction of the proposed development. Therefore, there would be no direct impact on the UWS.*

*Standard practice is that any pollution prevention measures included in a Construction Environmental Management Plan (CEMP) could be conditioned through planning. However, any pollution (e.g., dust) entering the UWS is highly unlikely due to the small scale of the development and the fact that the UWS is situated uphill of the proposal.*

*In conclusion, the "key ecological considerations" stated in paragraph 6.1.11 of the Bioscan report are unfounded or irrelevant. Without Bioscan undertaking an appropriate phase one habitat survey and producing a plant species list, they cannot assess the condition of the habitats adequately, and their comments regarding biodiversity net gain should be disregarded. As recommended in our report, adopting a sensitive lighting plan will prevent any impacts on bat species using the hedgerows. In addition, the proposed planting will enhance the site for bats. Sufficient survey effort for both bats and dormice has been conducted in two adjacent areas, and their survey findings have been inferred to advise the mitigation measures for these species. The comments regarding the UWS are irrelevant.'*

The further submission by RGE is considered to adequately justify the approach taken and given the scale of the proposal the level of net gain is considered acceptable.

Given all of the above, and notwithstanding concerns raised in letters of representation, the application proposal is considered acceptable with regards to ecology, subject to appropriate conditions to secure mitigation measures and net gain as detailed. The proposal is considered to be in accordance with NDTLP Policies ST14, NOR07 and DM08.

### **The Planning Balance:**

Paragraph 2 of the NPPF states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

As discussed above, the Local Planning Authority cannot currently demonstrate a five-year supply of housing land to meet the identified need within the district. It is therefore necessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits (the tilted balance).

In this instance, the proposal would provide a contribution of 2 dwellings towards local housing supply on a site that is allocated for residential development and located within the development boundary of Appledore. Future residents will be able to access a range of facilities and services, as well as sustainable travel options; this would be a moderate benefit of the proposal. It would also provide a benefit to the local economy in respect of the construction of the development and improve the sustainability of Appledore in respect of the viability of local services and facilities.

Turning to the other impacts, as discussed earlier the highways impacts are acceptable, both in respect of traffic generation and the proposed access. The development proposal would ensure that residential amenity can be maintained to an adequate standard and foul and surface water will be appropriately managed via a Grampian condition.

New habitats will be created through the new hedge banks and extensive tree planting together with bat and bird boxes – it is considered that the development will deliver ecological enhancements which is considered to be a benefit. Any ecological impacts can be mitigated by condition.

The proposal includes a pedestrian access across the northern part of the site, which will enable residents to access the adjoining development site to the west. This connectivity is considered a benefit of this proposal.

It is acknowledged that whilst the proposed dwellings would be of a high-quality design, there would be a minor adverse long term landscape impact once the landscape mitigation has established. In addition, there would be some localised harm to Pitt Hill through the loss of hedgerow to create a new vehicular access.

Third parties have raised that the development would fail to provide affordable housing or other contributions towards infrastructure. The development falls below the trigger for affordable housing or contributions towards any further infrastructure.

Against this background, it is considered that the benefits of the proposal to provide residential development at a high design quality and in a sustainable location, together with the delivery of ecological enhancements and a publicly accessible footpath connection, outweigh the identified landscape harm and therefore approval is recommended.

The comments of the Parish Council and third parties are noted, however for the reasons set out above there is no technical reason to refuse the application and, on balance, the development of 2 dwellings on this allocated site is supported.

## **Human rights**

Consideration has been given to the Human Rights Act 1998.

## **Conclusion**

It is therefore considered that subject to the compliance with the attached conditions and taking into account all other material planning considerations, including the development plan the proposal would be acceptable.

## Recommendation

GRANT subject to the following conditions and the prior satisfactory completion of a legal agreement to secure tree planting and landscaping and its ongoing maintenance together with delivery of the public footway to the north of the site at a confirmed specification (to include lighting, surfacing, width) and its ongoing management and availability for public use.

1. The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

3. No development hereby permitted shall commence until a scheme for foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the works have been approved and implemented in accordance with the approved details.

Reason: The above condition is required to ensure the proposed surface water and foul drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water and foul drainage system is shown to be feasible before works begin.

4. Notwithstanding the details hereby approved, no works or development shall take place until full details (including species, type and size at the time of planting) of all proposed tree planting and landscaping and the proposed times of planting, have been approved in writing by the Local Planning Authority. The agreed details shall be implemented in accordance with the agreed scheme and at those times specified. If within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: This is a pre-commencement condition which is imposed to ensure that the Local Planning Authority is satisfied of the landscape impacts of the proposed planting across the site prior to work commencing on site. Failure to provide this information prior to works commencing on site could lead to the risk of the development being out of keeping with the surrounding landscape and edge of settlement location and an adverse impact on neighbouring sites.

5. Prior to the commencement of any development hereby granted planning permission and before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby granted planning permission, details of the specification and position of the fencing for the protection of any retained hedgerow shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved and the fencing shall be erected prior to the commencement of any of the development hereby permitted and shall be maintained until the development has been completed and all equipment, machinery and surplus materials have been removed from the site.

Reason: This is a pre-commencement condition which is imposed to ensure that the Local Planning Authority is satisfied of hedgebank protection measures prior to works commencing on site. Failure to provide this information prior to works commencing on site could lead to the risk of the loss of existing hedgebanks from the site, to the detriment of the surrounding landscape character.

6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the approved plans where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be at least 43 metres in both directions.

Reason: To provide adequate visibility from and of emerging vehicles.

7. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than six metres back from its junction with the public highway

Reason: To prevent mud and other debris being carried onto the public highway

8. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

Reason: In the interest of public safety and to prevent damage to the highway

9. No dwelling shall be occupied until the footway works shown on the approved plan linking the site to the position of the footway at the access to the development subject to application reference 1/0652/2022/FULM have been provided and made available for public use. The said pedestrian link shall thereafter be retained as approved and shall be maintained to a standard suitable for its intended use to the reasonable satisfaction of the local planning authority.

Reason: To provide safe and suitable access for pedestrians.

10. Construction works shall not take place other than between 0700hrs and 1900hrs on Mondays to Fridays, Saturdays between 0800hrs and 1300hrs and at no time on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

11. The proposed development must be carried out in full accordance with the mitigation and biodiversity net gain measure detailed in the Ecological Impact Assessment Report dated May 2021 and the Rebuttal Statement dated 16<sup>th</sup> May 2022, both carried out by Richard Green Ecology.

The net gain features shall be provided on site prior to occupation of the dwellings hereby approved and retained thereafter.

Reason: To mitigate against the loss of potential wildlife habitats to accord with Policies DM08 and ST14 of the North Devon and Torridge Local Plan 2011-2031

12. The privacy screening to the external terraces as shown on the drawings hereby approved shall be provided prior to the associated dwelling coming into use and retained as such thereafter. In addition, the identified green roof areas shall not be used as external terraces.

Reason: In the interests of residential amenity.

13. Should any contamination of soil or groundwater be discovered during development of the site; the Local Planning Authority should be contacted immediately. Site activities within that phase or subphase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that phase or sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

Reason: To ensure that there is no risk to human health and the environment and thus ensuring the development accords with Policy DM02 of the North Devon and Torridge Local Plan 2011-2031

14. Notwithstanding the details indicated on the approved drawings, prior to construction of any of the dwellings hereby permitted above slab level, a schedule of materials and (colour) finishes and samples of materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and shall be retained and maintained in that form.

Reason: Notwithstanding the details indicated on the approved drawings, this condition is imposed to enable the Local Planning Authority to consider the details of all external finishing materials at an appropriate stage in the course of the development to ensure that the development displays good design practise and reflects local distinctiveness, having due regard to safeguarding visual and residential amenity.

15. Other than to provide the vehicular access hereby approved, the existing boundary hedgerows of the site shall be retained in perpetuity, and shall not at any time be removed, either in whole or in part.

Reason: In the interests of the visual amenities of the area and biodiversity.

16. Before the development hereby permitted is brought into use, the vehicular access, parking and manoeuvring facilities hereby approved shall be provided surfaced and drained and shall, thereafter, be permanently set aside and reserved for such purposes.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

17. Prior to the commencement of the development a scheme showing the external lighting to be provided on the site shall be submitted to the Local Planning Authority for approval. The scheme shall be supported by a lighting impact assessment. The development shall not commence until written approval has been issued by the Local Planning Authority. Only the approved lighting scheme shall be implemented on the external areas of the site and shall be retained in accordance with the approved scheme thereafter unless agreed by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, the amenities and living conditions of the occupiers of the neighbouring properties and protected species.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C, D, E, F, G and H of Part 1 and Class A of Part 2 to Schedule 2 of the said Order shall be carried out without an express grant of planning permission.

Reason: To ensure that the form and bulk of the development is not changed by inappropriate alteration and extension and in the interests of the character and appearance of the area.

## Plans Schedule

Reference	Received
2009 P 001 002	21.02.2022
2009 P 003 02	13.07.2022
2009 P01 001 01	13.07.2022
2009 P01 002 01	13.07.2022
2009 P01 003 01	13.07.2022
2009 P01 004 01	13.07.2022
2009 P01 005 01	13.07.2022
2009 P02 001 01	13.07.2022
2009 P02 002 01	13.07.2022
2009 P02 003 01	13.07.2022
2009 P02 004 01	13.07.2022
2009 P02 005 01	13.07.2022
GE.LAGA.02 C	13.07.2022

## Statement of Engagement

The National Planning Policy Framework (paragraphs 38) requires local planning authorities to work positively and proactively with applicants to achieve sustainable development. Throughout the application process guidance has been given to the applicants and all outstanding issues have been identified.

In this instance the Council required additional information following the consultation process. The need for additional information was addressed with the applicant and submitted for further consideration.

The Council has therefore demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.