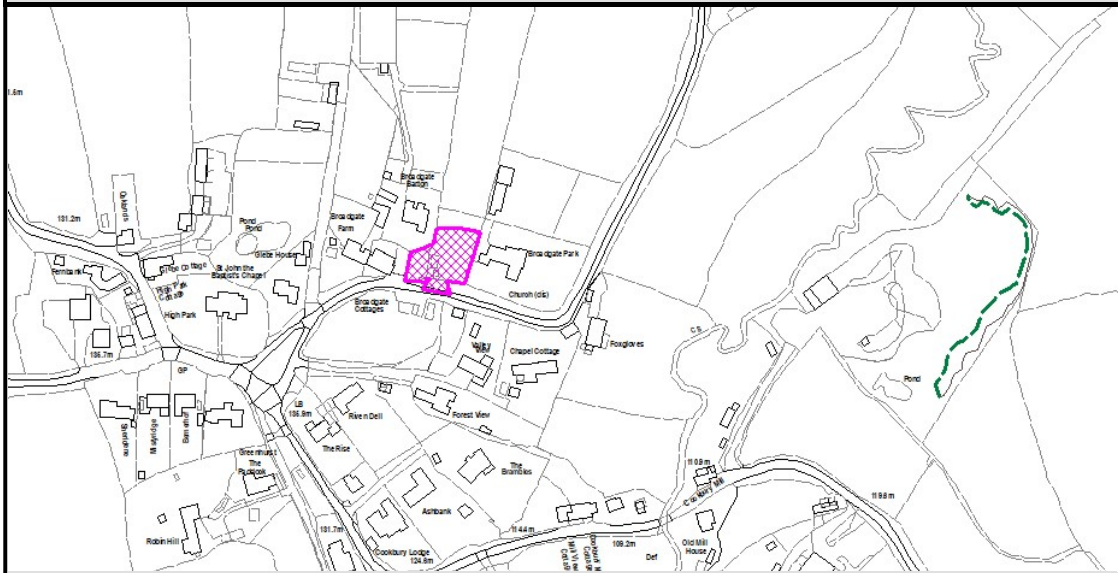


## Committee Report – 4 November 2022

<b>Application Number:</b>	1/0740/2022/OUT
<b>Registration date:</b>	13 July 2022
<b>Expiry date:</b>	7 September 2022
<b>Applicant:</b>	H, L & P Peppiatt & Larkworthy
<b>Agent:</b>	WMW Consultants - Walter Wonnacott
<b>Case Officer:</b>	James Jackson
<b>Site Address:</b>	Land At Broadgate, Cookbury, Devon
<b>Proposal:</b>	Outline application for 1 no. dwelling with all matters reserved except for access
<b>Recommendation:</b>	GRANT



## Reason for referral:

Cllr Hepple has called the application to Plans Committee for the following reasons:

- Close proximity of sewage plant to boundary of neighbouring property
- Inadequate road access
- Contaminated land issues

## Relevant History:

Application No.	Description	Status	Closed
1/1033/1978	RE-SALE OF AGRICULTURAL VEHICLES	PER	12.09.1978
1/0936/2004/OUT	2 no. detached dwellings and garages	REF	25.06.2004
1/2172/2004/OUT	4 no. terraced dwellings for affordable housing	REF	21.09.2005

## Site Description & Proposal

### Site Description

The application relates to a parcel of land located within the cluster of dwellings that comprise Cookbury.

The site is currently overgrown with vegetation and accommodates a small building at the front of the site, which is largely obscured from view by vegetation. It is understood that the site also accommodates an existing septic tank, which has historically accommodated the foul drainage arrangements that relate to Broadgate Cottage, to the west of the site. An existing access at the site's southern boundary provides access to the public highway. A large Sessile oak tree which is protected by a Tree Preservation Order is located within the site's north western corner.

The site boundaries are formed from Devon hedgebanks with intermittent trees. Existing residential dwellings and their curtilages border the site on its eastern, western and northern sides.

The site is located approximately 6kms to the north east of Holsworthy.

### Proposed Development

The application seeks outline planning permission for 1 no. dwelling, with all matters reserved except for access.

As proposed, the access would be relocated to a position broadly in the centre of the site's southern boundary, with visibility splays equal to 43m to the west and 56m to the east.

Surface water is proposed to be drained to a soakaway.

Foul water would be drained to a package treatment plant which would then discharge to a drainage field on the site. A second package treatment plant would also be installed, to serve the dwelling to the west known as Broadgate Cottage. This would also discharge to the drainage field on the site.

The existing septic tank that has historically served the property to the east would be decommissioned.

The indicative site plan shows that the dwelling proposed could be located within the south eastern corner of the site, noting however that layout is matter reserved for future consideration.

### **Consultee representations:**

#### **Bradford & Cookbury Parish Council:**

The presence of a TPO for an existing Oak tree, overhead power cables and past contamination of the land by an ancient soakaway sewage system appear to make this an unsuitable site for such a development. Objections by neighbouring landowners make this apparent, especially the close proximity of the proposed replacement sewage plants to the boundary of a neighbouring property. Road access to Allens Lane could also cause traffic congestion and nuisance problems for parishioners further down the road and especially during construction. This application needs to be brought to the attention of the council tree officer, environmental team, Devon Highways and Western Power.

#### **Devon County Council (Highways):**

Standing Advice

#### **Environmental Protection Officer:**

##### First Response

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

There is the potential for detriment to neighbouring 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.

There appears to be no detailed information provided on the historic use and subsequent land quality of the application site. Agricultural use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation. Given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that may impact future occupants and, where identified, remediated accordingly. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition.

The FDA assessment form states that an existing non-mains foul drainage provision will be used but the site plan suggests a new package treatment plant will be implemented. Clarification will be required and if a new non-mains provision is to be implemented, the Environmental Protection Team will require percolation test results to be submitted to assess the suitability of the ground to accommodate a drainage field. The foul drainage provision will also need to ensure it accords with Building Regulations with regards acceptable separation distances.

##### Second Response

I write further to the previous consultation responses and email exchanges with the agent in relation to the above application.

Having reviewed the information provided, including the percolation test results, drainage field calculations and the revised site plan (ref. J-2406 drawing no. 3001 rev. 1), the Environmental Protection Team is now satisfied that the proposed development will be served by a suitable foul drainage proposal, consisting of two package treatment plants discharging to a drainage field, having been designed in accordance with British Standard BS6297.

Should you have any queries please do not hesitate to contact me.

## Representations:

Number of neighbours consulted:	4	Number of letters of support:	0
Number of representations received:	3	Number of neutral representations:	1
Number of objection letters:	2		

Two objections have been received. The following issues have been raised:

- Environmental
- Noise
- Overlooking
- Pollution (other than noise/traffic)
- Privacy
- Residential Amenity
- Traffic or Highways
- Visual Amenity
- Loss of light
- Overbearing impact
- Character and appearance
- Limited parking
- Surface runoff
- Overdevelopment
- Odour
- Land stability
- Biodiversity
- Contamination
- Insufficient drainage proposals
- Flood risk
- Power cables need to be relocated
- Disruption from construction

One general comment has been received, which raises the following issues:

- Do not agree to share electricity supply (civil matter)
- Land is contaminated
- Existing septic tank serves our property
- Have not agreed to package treatment plant

## Policy Context:

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

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); DM24 (Residential Development in Rural Settlements); ST21 (Managing the Delivery of Housing); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM08A (Landscape and Seascape Character); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM08 (Biodiversity and Geodiversity); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); DM02 (Environmental Protection); ST03 (Adapting to Climate Change and Strengthening Resilience);

### Government Guidance:

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

## Planning Considerations

The main considerations with this application are:

- Principle of Development
- Character and Appearance
- Residential Amenity
- Biodiversity
- Highways
- Foul and Surface Water Drainage

## 1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (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.

Cookbury is a Rural Settlement in planning terms, by virtue of the church of St John the Baptist and the Seven Maccabees that is located within the settlement. This meets the glossary definition of a Rural Settlement as set out within the adopted North Devon and Torridge Local Plan 2011-2031 (the 'NDTLP').

Policy ST07 of the NDTLP establishes that within Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs. Policy DM24 sets out the specific policy requirements relating to local needs dwellings. It is clear that the NDTLP provides in principle support for local needs dwellings within Rural Settlements. However, the dwelling proposed is an unrestricted open market dwelling, not a local needs dwelling as defined by the NDTLP.

The principle of an open market dwelling at the site would ordinarily be unacceptable and the proposal therefore conflicts with Policy ST07.

Notwithstanding, 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 5YHLS, 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 maker in this case only 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).

In addition to the 'tilted balance', some weight can be given to Policy ST21 of the NDTLP which relates to managing the delivery of housing. In particular, ST21(2) is relevant, which supports development outside of settlement limits (where completions are below 90% of the annual requirement). The Burwood Appeal decision determined that ST21(2) is currently engaged, which requires any proposal to be in a location and of a scale and nature commensurate with the deficit in required housing (criterion a); demonstrate the ability to contribute in a timely manner to addressing the deficit in housing supply (criterion b); be broadly consistent with the plan's spatial strategy/vision along with the relevant settlement vision and development strategy (criterion c); and be compliant with the remaining plan where relevant (criterion d). Addressing each of these points in turn:

- (a) The deficit of housing within Northern Devon is clearly substantial as a 5YHLS supply cannot be proven. The proposal for a single dwelling is modest in scale, however, combined with other development, can assist in the contribution towards a 5YHLS. The proposal is considered to accord with (a).
- (b) The application is made in outline, with the result that reserved matters approval would need to be obtained and any pre-commencement conditions would need to be discharged, prior to commencement on site. However, given the modest scale of the proposal, the site could be brought forward for development relatively quickly. Once on site, the development could be built out relatively quickly, given the modest scale of the development proposed. The proposal is considered to accord with (b).
- (c) As discussed earlier, the site is located within the Rural Settlement of Cookbury. The provision of open market residential development in this location would be contrary to the aims of the NDTLP's spatial development strategy for northern Devon's rural area, which seeks to guide such development towards established settlements with development boundaries that can offer some or all of the services and facilities (schools, health facilities, retail opportunities, leisure facilities, etc.) required to support a residential use. This principle is established by Policy ST07 which adopts a hierarchical approach in recognition of the scale of each settlement and the availability of the facilities and services that are available therein, noting that Local Centres will be the primary focus for development within the rural area, with Villages also identified to accommodate more modest levels of open market residential development in accordance with local spatial strategies. It is noted, however, as discussed above, that the principle of a dwelling at the site to meet a locally generated need would be acceptable.

Whilst Cookbury does not contain the majority of the day-to-day facilities and services necessary to support a residential use within the settlement itself, the proximity of Bradford Primary School and the Bradford and Cookbury Village Hall approximately 0.8 miles to the east is noted. Bradford Primary School provides two classes of primary education within this rural area, whilst it is clear from the village hall's website that it plays an important role within the rural community, offering meeting spaces, a large hall which can seat approximately 150 and can be used for a variety of functions, excellent acoustics, portable staging, PA system

and hearing loop, a well-equipped large kitchen for catering, a skittle alley and a snooker room. The website advises that there are varied weekly and monthly activities based at the hall. In addition, the location of the Bickford Arms public house approximately 1.5 miles to the south, within the small Rural Settlement of Brandis Corner, is noted.

Given the isolated location of the school and village hall, neither facility can rely on the population of one settlement to ensure its viability and vitality. It is clear that pupils of the school and users of the village hall will be drawn from the rural hinterland. Ordinarily, a situation where the provision of open market residential accommodation would encourage the use of the private car to access key facilities and services would be undesirable. However, given the relatively isolated location of the school and village hall it is clear that it will be necessary for a large proportion of users to access these facilities using private vehicular transport. As such, in this instance the benefit of a modest quantum of open market residential development within the built form of Cookbury is recognised. Paragraph 79 of the NPPF recognises that in rural areas, development in one village may support services in another nearby village; given the isolated location of the school and village hall this principle is considered relevant in this instance.

Taking account of the above, it is considered that the proposal accords with criterion (c).

- (d) The following sections of this report assess the proposal in the context of the other relevant NDTLP policies.

Taking account of the above, it is considered that the proposal is contrary to Policies ST07 and DM24, however it is in broad conformity with Policy ST21(2). However, as set out above, the tilted balance applies in this case. The following sections of this report provide an assessment of the other material considerations pursuant to the application, followed by the planning balance to weigh the factors in support of and against the granting of planning permission, which will enable a conclusion to be made in relation to The Presumption and the tilted balance, in accordance with paragraph 11(d) of the NPPF.

## **2. Character and Appearance**

Policies ST04 and DM04 of the NDTLP both have a strong design focus and establish the need for development to be appropriate in, and have respect for, its context and setting. In addition, Policy ST14 sets a number of requirements relating to the protection of environmental assets, whilst Policy DM08A requires development to respect landscape character of both designated and undesignated landscapes and seascapes.

In this instance the landscape is undesignated.

Clearly the residential development of the site would change its character and appearance to some degree, given its currently undeveloped state. However, the proposed development would be surrounded on three sides by existing residential uses and a well-designed dwelling would not appear as being incongruous when seen in this context. Objections received raise concerns that a dwelling would likely have to be sited towards the front of the site and would appear as being incongruous, however the nearby dwellings to the west also occupy prominent positions towards the front of their respective plots. In addition, a well-considered landscaping scheme and appropriate boundary treatments would provide an acceptable setting for the development. It is noted that scale, appearance, layout and landscaping are matters reserved for future consideration, and these issues would therefore be the subject of a future reserved matters submission.

It is noted also that the large Sessile oak in the corner of the site occupies a prominent position within the site and would be retained as part of the proposals. The tree is protected by a TPO. Objections received have questioned the methodology used by the Arborist to calculate the tree's root protection area (RPA); in this regard the agent has spoken to the Arborist who has confirmed that the tree was accurately measured on site and that the maximum RPA is 15m, regardless of stem diameter above 1250mm. It is considered that the retention of the tree would further safeguard the rural character of the site and wider area.

For the reasons above the proposal is considered to accord with policies ST04, DM04, ST14 and DM08A of the NDTLP.

### **3. Residential Amenity**

Policy DM01 of the NDTLP confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses, or result in harm to the future occupiers of the development from existing or allocated uses. Part (i) of Policy DM04 also includes a similar policy direction.

Objections have been received that raise issues relating to residential amenity. It is noted that layout, scale and appearance are matters reserved for future consideration, with the result that the detailed design of the dwelling and layout of the site are not yet known. Notwithstanding, it is clear that a dwelling could be designed so that it is not overbearing, does not overlook adjoining sites and does not result in a loss of light.

Concerns have also been raised in relation to the foul drainage proposals. A site visit with neighbouring occupiers demonstrated that the land to the north and east is set at a lower level than the site and there are therefore concerns from the adjoining neighbour that the drainage field would drain onto the adjacent property. However, the percolation tests demonstrate that infiltration is a feasible solution, with the result that this is not considered to represent significant harm to amenity.

Concerns have also been raised in relation to noise and odour from the package treatment plants, however this issue has been discussed with two Environmental Protection Officers, who have both confirmed that this is not an issue.

It is noted that the septic tank that is currently installed on the site has been discharging untreated foul water onto the site, potentially for a number of years. There are however no suggestions that this has resulted in significant harm to the amenities of the occupiers of adjoining properties and it is considered that the foul drainage arrangements now proposed would be an improvement to the existing facilities.

Concerns have also been raised that the site is contaminated, due to the existing foul drainage situation. The Environmental Protection Officer has advised that this does not represent contamination in an environmental protection sense, and in any case a condition is recommended in respect of a phase 1 contamination survey.

It is recommended that a condition be attached to the permission to control the hours of construction and delivery of materials, to ensure that neighbouring residents would not be unacceptably affected during the construction phase.

Taking account of the above, it is considered that a well-designed scheme and appropriate conditions attached to an outline permission would ensure the adequate safeguarding of the amenities of the occupiers of neighbouring dwellings.



Turning to the amenities of the future occupiers of the site, it is considered that an acceptable standard of amenity can be provided. The detailed design of the dwelling and layout of the site would be considered as a part of a future reserved matters approval.

In conclusion, taking account of the above, it is concluded that the proposal is considered to accord with Policy DM01 and part (i) of Policy DM04.

#### **4. Biodiversity**

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). This is also supported by Policy DM08 of the NDTLP. Policy ST14 of the NDTLP seeks to deliver biodiversity net gain where possible.

The application is accompanied by an Ecological Appraisal prepared by Penpont Ecology Services Ltd dated June 2022.

The report concludes that the site is of low ecological importance, noting however that it has the potential to form part of a larger territory for bats and nesting birds, as well as offering limited suitable habitat to support reptiles.

The Ecologist recommends mitigation in the form of the creation of garden areas to replace cleared vegetation; commencement of works outside of the bird nesting season; and the avoidance of unnecessary night-time lighting. A condition is recommended to secure these measures.

Biodiversity net gain can be achieved on the site and in this regard the Ecologist recommends the strengthening of the existing defunct hedgebanks. In addition, other measures such as bird and bat friendly features, rocks for reptiles and native planting are recommended. A condition is recommended to secure these measures.

It is concluded that the proposal accords with NDTLP Policies DM08 and ST14, as well as the other legislation referred to above.

#### **5. Highways**

Policies ST10 and DM05 of the NDTLP seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. In addition, DM06 of the NDTLP seeks to ensure that appropriate parking provision is delivered as part of development. Paragraph 111 of the NPPF advises that development should only be refused if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. Paragraph 110 states, inter alia, that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, should be cost effectively mitigated to an acceptable degree. Paragraph 110 also requires 'safe and suitable' access to the site to be achieved.

The Local Highways Authority has been consulted and has referred to its Standing Advice document.

Access is to be considered as part of the current application. Visibility splays of 56m to the east and 43m to the west would be formed at the site; these are considered to be appropriate given the modest scale of the development and the relatively light trafficked highway that passes the site. In addition, the condition and narrow width of the lane are likely to ensure that vehicles speeds are relatively low.

In particular, the poor condition of the highway surface is noted, however it is considered that the addition of the traffic associated with one dwelling would not result in a 'severe' impact, as is the test set out within the NPPF. Taking account of these factors, it is considered that the proposal would not unacceptably affect highway safety, nor would it have a severe impact on the road network.

The site is of sufficient size to ensure that parking and turning facilities can be accommodated within, to ensure that vehicles are able to leave the site in a forward gear. It is noted that the layout of the site is a matter reserved for future consideration.

It is noted that the sustainable transport options at the site are limited. However, for the reasons discussed above in the 'principle of development' section, in this instance the site is considered as an appropriate location for residential development of a modest scale.

Taking account of the above, it is concluded that the proposal accords with policy DM05, ST10 and DM06, as well as the relevant parts of the NPPF.

## **6. Foul and Surface Water Drainage**

Policy DM02 of the NDTLP requires that development must not result in unacceptable impacts in relation to the pollution of surface or ground water, whilst Policy DM04 establishes that water management must be addressed by development. Policy ST03 requires development to minimise flood risk.

It is proposed that foul water associated with the proposed dwelling would be discharged to a package treatment plant. Foul water associated with the dwelling to the west would be drained to a separate package treatment plant. Both would then discharge to a drainage field within the site. Percolation tests have been submitted which indicate acceptable Vp values. It is understood that the dwelling to the west has historically utilised a septic tank that is located on the site, however it was recently found to be discharging untreated foul water onto the site. As such, the Council's Environmental Protection Officer has issued an enforcement notice under separate legislation that requires an appropriate drainage solution to be approved and installed. The current proposal would deliver an appropriate solution, noting however that compliance with the enforcement notice would still be required in the event that planning permission is not granted. The drainage solution has been revised such that the drainage field is now located a minimum of 2m from any site boundary and a minimum of 7m from any dwelling. The Environmental Protection Officer has confirmed that the drainage proposals meet the requirements of BS6297:2007. In this instance, given the various constraints on the site and that the site is to also accommodate the drainage solution relating to the adjacent dwelling, a condition is recommended to ensure that the drainage is installed in accordance with the approved plans.

Surface water is proposed to be drained to a soakaway. Percolation tests at the site have shown that this is a feasible solution and there are therefore no concerns in this regard. The indicative site plan has been revised to demonstrate that the soakaway can achieve a 5m separation from the public highway.

Taking account of the above, it is considered that the proposal accords with Policy DM02, ST03 and DM04 of the NDTLP.

## **7. Tilted Balance and Conclusion**

As discussed earlier, the site is located within a Rural Settlement, outside of any defined development boundary. The principle of open market residential development in this location would ordinarily be

unacceptable. However, as discussed earlier it is necessary to undertake a 'tilted balance' assessment as the Local Planning Authority cannot currently demonstrate a 5YHLS.

The development plan policies referred to above are in broad conformity with the NPPF and therefore are not considered to be out of date.

In terms of the matters that weigh in favour of the proposal; the single dwelling proposed would make a contribution, albeit modest, to the housing stock within the district at a time that the Local Planning Authority cannot demonstrate a 5YHLS. The provision of housing must be given weight in favour of the consideration of the application. In addition, the dwelling proposed, in combination with other modest developments, would likely make a positive contribution to the viability of the nearby local school and village hall, as highlighted by paragraph 79 of the NPPF. There would also be a modest economic benefit resulting from the construction period, as well as a further modest benefit from the payment of council tax. Biodiversity net gain at the site would also be a modest benefit. The proposal would also deliver a solution for the existing foul water drainage issues relating to the existing dwelling to the west of the site.

Weighing against the application, the proposed development would be located within a rural settlement, remote from the majority of the services and facilities that are necessary to support a residential use. This would be likely to result in an increase in the use of private motor vehicles, which would be contrary to the sustainability aims of the NDTLP.

In respect of the overall balancing exercise, it is considered that the consideration of the application turns on the isolated location of the school and village hall. As discussed earlier, neither facility can rely on the population of one settlement to ensure its viability and vitality and users of both will rely on private vehicles to reach the area. It is also pertinent to note that the village hall offers a wide range of facilities and diverse community events. Consequently, in this instance and for these reasons it is considered that Cookbury is a suitable location for modestly scaled open market residential development at this time that the Local Planning Authority cannot demonstrate a 5-year supply of housing sites. On this basis, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits and it is therefore recommended that outline permission be granted, subject to the conditions set out below.

## **Human rights**

Consideration has been given to the Human Rights Act 1998.

## **Recommendation**

GRANT subject to the following conditions

1. Approval of the details of:

- (a) Layout;
- (b) Scale;
- (c) Appearance; and
- (d) Landscaping

(hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To comply with the provisions of Part 2 (4) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

2. (i) Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

(ii) The development hereby permitted shall be begun either before the expiration of two years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92(2) of the town and Country Planning Act 1990 (as amended).

3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule. For the avoidance of doubt, the site plan reference 3001 Revision L is approved solely to secure the foul drainage proposals.

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

4. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the approved drawings 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 a minimum of 56 metres to the east and 43 metres to the west.

Reason: To ensure the safety of all road users in the area.

5. Prior to the occupation of the dwelling hereby permitted, a minimum of two vehicle car parking spaces and turning facilities to enable vehicles to leave the site in a forward gear shall be provided on the site and retained as such thereafter.

Reason: To avoid vehicle parking on the public highway, in the interests of highway safety.

6. The development hereby permitted shall only be carried out, (including the delivery of construction materials), during Monday to Friday between the hours of 07:00 to 19:00 and Saturday between the hours of 08:00 to 13:00 with no works, (or the delivery of construction materials) being carried out on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

7. The development hereby permitted shall be carried out in accordance with the recommendations and enhancement measures set out at sections 9, 10 and 11 of the Ecological Appraisal prepared by Penpont Ecology Services Ltd dated June 2022. The biodiversity enhancement measures shall be delivered on site prior to occupation of the dwelling hereby approved and retained thereafter as such.

Reason: To ensure the protection and enhancement of the biodiversity value of the site.

8. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) A detailed surface water drainage design.

- (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site.

The dwelling hereby permitted shall not be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

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

9. Prior to the occupation of the dwelling hereby permitted, the foul drainage proposals hereby permitted shall be installed to serve the dwelling hereby permitted and the dwelling to the west of the site known as Broadgate Cottage. An 'as built' survey plan shall be submitted to and approved by the local planning authority to demonstrate that the drainage has been installed as approved, also prior to the occupation of the dwelling hereby permitted. Thereafter, the drainage shall be retained.

Reason: To ensure that the drainage proposals are installed as approved.

10. All existing trees and hedges to be retained shall be protected for the duration of the construction works by tree protection fencing in accordance with BS5837:2012, as shown on the approved Tree Protection Plan received 13 July 2022.

Reason: To ensure the protection of the Sessile oak and other arboricultural features to be retained.

11. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions a) to d) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Approval by the Local Planning Authority of the report submitted at this stage will confirm whether there is a need to undertake remediation measures under conditions b), (c) and (e) below.

b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition c).

e) Long Term Monitoring and Maintenance

Where an approved remediation scheme includes a requirement for a monitoring and maintenance scheme to ensure the long-term effectiveness of the proposed remediation over time, a report setting out monitoring and maintenance requirements must be submitted in writing for the prior approval of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## Plans Schedule

Reference	Received
22.HP.1.C	13.07.2022
Tree Protection Plan	13.07.2022
3001 Rev L	20.09.2022

## **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.