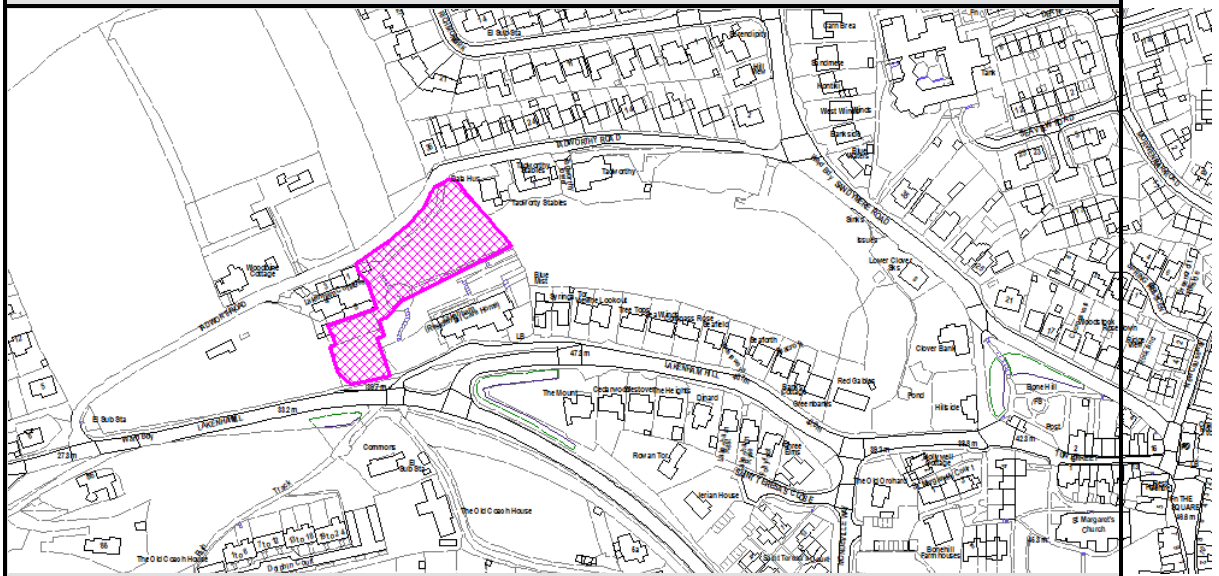


## Committee Report – 7<sup>th</sup> December 2023

|                            |                                                                                                  |
|----------------------------|--------------------------------------------------------------------------------------------------|
| <b>Application Number:</b> | 1/0647/2023/OUT                                                                                  |
| <b>Registration date:</b>  | 20 July 2023                                                                                     |
| <b>Expiry date:</b>        | 14 September 2023                                                                                |
| <b>Applicant:</b>          | Mr Hampton & Mrs Murphy                                                                          |
| <b>Agent:</b>              | KOST Architects                                                                                  |
| <b>Case Officer:</b>       | Sarah Boyle                                                                                      |
| <b>Site Address:</b>       | Lakenham Residential Care Home,<br>Lakenham Hill,<br>Northam,<br>Bideford,<br>Devon,<br>EX39 1JJ |
| <b>Proposal:</b>           | Outline application for 3no. dwellings with all matters reserved except access                   |
| <b>Recommendation:</b>     | Grant                                                                                            |



## Reason for referral:

The application has been called-in to Committee by the Ward Member Councillor Lo-Vel if minded to approve, for the following reason:

*'Access: the proposed development uses the existing driveway, parking and garages for the Residential home to service the new properties in site. This would leave the Residential home with its nineteen residents, visitors and staff with no option but to park on the already congested nearby roads.'*

## Relevant History:

| <b>Application No.</b> | <b>Description</b>                                                                          | <b>Status</b> | <b>Closed</b> |
|------------------------|---------------------------------------------------------------------------------------------|---------------|---------------|
| 1/0424/2000            | INSTALLATION OF LIFT SHAFT & ALTERATIONS                                                    | PER           | 09.05.2000    |
| 1/0922/1985            | ALTERATIONS AND EXTENSIONS TO PREMISES TO PROVIDE ADDITIONAL STAIRCASES & TOILET FACILITIES | PER           | 19.09.1985    |
| 1/0783/1988            | RECONSTRUCTION OF EXISTING CONSERVATORY AND CONSTRUCTION OF NEW UTILITY ROOM                | PER           | 27.05.1988    |
| 1/1832/1994            | ALTERATIONS TO FORM UTILITY ROOM EXTENSION                                                  | PER           | 06.02.1995    |
| 1/0877/2018/OUT        | 1 no. open market detached residential dwelling with all matters reserved                   | PER           | 03.10.2018    |

## Site Description & Proposal

### Site Description

The application site relates to a parcel of land located within the development boundary of Northam (including Appledore and Westward Ho!) which is designated as a 'Main Centre' in the adopted North Devon and Torridge Local Plan (NDTLP). The application site sits within a wider parcel of land in the applicant's ownership. The site does fall within the Coast and Estuary Zone as indicated on the NDTLP polices map and the closest protected heritage asset is located approximately 50 metres to the east.

The site consists of greenfield land, which is seen in connection with the wider use of the site as a residential care home. The site is neighboured by residential properties to the north and east of the site, with public highways running along the north and south boundaries. The site currently slopes, steeply, downward from south to north, with varying ground levels throughout the site.

In addition to this, the application site falls within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is consider a low probability of flooding.

### **Proposed Development**

The application seeks outline permission for 3 no. dwellings with all matters reserved except access. Drawings have been submitted as part of the application, but these are indicative as appearance, landscaping, layout and scale will be assessed at the reserved matters stage.

The existing access on site will be blocked up and the proposed access will be off Tadworthy Road which will provide the driveway to all three properties with parking and turning on site. It is indicated that the site will provide at least two car parking spaces per dwelling.

### **Consultee representations:**

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

Northam Town Council resolved to recommend the proposal be granted permission, though concern was noted regarding the location, size and indicative built form of the property at plot 2. Its close proximity to Lakenham Cottages would mean that should it be built would have a significant detrimental effect on the amenity of the Cottages.

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

Standing Advice.

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

The following consultation response is provided by the Environmental Protection Team in relation to the above application.

The application site neighbours existing residential properties and as such, the Environmental Protection Team considers there to be no conflict of land use arising from the proposed residential use. Subsequently, the proposed development is considered to accord with Policy DM01. Due to the presence of existing dwellings in close proximity, there is the potential for residential amenity to be adversely affected from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

The Stage One Geo-environmental Assessment indicates that the application site may contain contamination from historic use and as such, recommends further intrusive groundworks to be undertaken to assess the extent of any potential ground contamination. The Environmental Protection Team concurs with this proposal and should planning consent be granted, recommends the imposition of the Authority's full standard contaminated land condition in order to protect human health and the environment.

The application form indicates that the proposed development is to be served by a new package treatment however, no detailed information has been provided. The Environmental Protection Team will require a FDA assessment form to be submitted as well as the means of discharge, namely a drainage field or watercourse. If a drainage field is to be installed, percolation testing will need to be undertaken in accordance with BS6297 and the subsequent test results, calculated drainage field area and location submitted for review. If foul waste is to discharge to a watercourse, photographic evidence and video footage demonstrating that the receiving watercourse has continual annual flow, in accordance with DEFRA's General Binding Rules, will be required. The Environmental Protection Team will provide further comments upon receipt of the above information.

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

I can confirm South West Water has no comment or concern.

#### **Conservation Officer:**

The proposal seeks to infill a green ribbon that remains at the bottom of the escarpment separating Northam from Westward Ho!

While there is no objection in planning terms to the construction of dwellings on this site there is much that is not understood about the evolution of the settlement and this reserved green area must have been for some reason.

The building at Lakenham can be viewed as a non-designated heritage asset and its location is visually important within the landscape.

The comments from pre application stage remain:

'In this case this area of Northam is not well understood. There is an old settlement at Tadworthy and the Nursing home building itself was described to me as a former hunting lodge granted to a Mistress of the King who then gave the premises to the church. As such little is known about the origins of the building and while not listed it is clearly an important building within the landscape which is sited to be seen on this escarpment. It was designed to be the most visible building on the hillside at sits at the end of a ribbon of green which runs from the coastal preservation area designation to the edge of the settlement at Northam.

There needs to be some further investigation as part of any development proposals to ensure that the building and any below ground evidence are understood before development takes place.'

**AONB Team:**

No response received.

**Environmental Protection Officer:**

The Environmental Protection Team refers to its previous consultation response dated 24 July.

**Representations:**

|                                     |    |                                    |   |
|-------------------------------------|----|------------------------------------|---|
| Number of neighbours consulted:     | 18 | Number of letters of support:      | 0 |
| Number of representations received: | 9  | Number of neutral representations: | 1 |
| Number of objection letters:        | 8  |                                    |   |

Eight objection and 1 neutral comment have been received for the application outlining the following reasons:

- Environmental
- Overlooking
- Privacy
- Noise
- Visual Amenity
- Policy Reasons
- Biodiversity
- Traffic or Highways
- Impact on wildlife
- Plot 1 overlooking garden
- Removal of trees and impact on wildlife
- The grounds of Lakenham Home are not included in the local plan
- Plot 3 would be a large house that is too close to the small Victorian cottages and is out of scale.
- Plot 3 would be built over the existing sewer which services the five houses of Lakenham Cottages.
- History and Heritage Asset
- Housing need
- Conflict with North Devon and Torridge Local Plan and Northam Neighbourhood Plan
- Coast and Estuary Zone development fails to comply
- Access driveway and parking
- Where will the new vehicular access to Lakenham Residential Care Home be located.
- Displacement of cars to either Tadworthy Road or Lakenham Hill

- Development would remove the last piece of green wedge.

The above concerns will be addressed within the relevant sections of the report.

## Policy Context:

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

ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); NOR (Northam Spatial Vision and Development Strategy); ST08 (Scale and Distribution of New Development in Northern Devon); ST17 (A Balanced Local Housing Market); ST04 (Improving the Quality of Development); DM04 (Design Principles); ST09 (Coast and Estuary Strategy); ST15 (Conserving Heritage Assets); DM07 (Historic Environment); DM01 (Amenity Considerations); DM02 (Environmental Protection); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); ST03 (Adapting to Climate Change and Strengthening Resilience); DM08 (Biodiversity and Geodiversity); ST14 (Enhancing Environmental Assets); DM10 (Green Infrastructure Provision);

### 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 planning considerations with this application are:

1. Principle of Development
2. Impact on Character and Appearance
3. Impact on Amenity
4. Highway Safety
5. Drainage
6. Ecology
7. Other Matters
8. Section 106 Contributions
9. Conclusion

### 1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (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 planning terms, the application site is located within the development boundary of Northam, which is designated as a 'Main Centre' and is guided by Policy ST06 of the NDTLP. The policy states that development will be supported within the development boundary of the main centres [Northam]. The policy supports 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.

Policy NOR of the NDTLP illustrates the spatial strategy for Northam, which states the three centres, including Northam, will continue to provide a range of services and facilities to meet locally generated needs and across Appledore, Northam and Westward Ho! a minimum provision of 1,916 dwelling over the period of the local plan.

The application site is not a designated housing site within the NDTLP, however it is a windfall site with a reasonable prospect of being brought forward and therefore the three windfall dwellings within the development boundary of Northam would positively contribute to the planned 1,916 dwellings set

out in the policy and on a wider scale contribute to the overall housing supply of northern Devon. Additionally, the site is considered to be a sustainable location, being located with the development boundary of Northam. Many of the desired services and facilities are within the prescribed 'walkable distance' (800 metres) as defined within the National Design Guide.

Considering the above, the proposed development of three dwellings on the application site is acceptable under NDTLP policies ST06, ST08 and NOR, provided it complies with all other material planning considerations.

## 2. Housing Provision

Policy ST17 of the NDTLP, aims to ensure that the residential developments proposals deliver housing in a way that contributes to the re-balancing of the housing stock to reflect the identified needs and demands for housing of existing and future communities in northern Devon. In doing so, developments will create sustainable, inclusive and mixed communities that are attractive places to live.

The required housing mix is set out within the published Housing and Economic Needs Assessment (HEDNA), used as a core evidence document in the preparation and submission of the North Devon and Torridge Joint Local Plan. The HEDNA report produced in May of 2016, assessed the housing and economic development needs for the area of Torridge and North Devon. More specifically, the table which can be found on page 180 identifies the proportion of 1 bed, 2 bed, 3 bed and 4+ bed houses necessary in order to meet the district's housing needs as a whole (please see table below). This evidence is considered to be a material planning consideration, and therefore housing sites will have to adhere to the proportions identified below, unless suitably and robustly justified otherwise.

The proposal is for the erection of three residential properties. While it is recognised that the application would not be considered a 'major development' as it falls below the threshold of 5 dwellings or an area of 0.5 hectares or more; the housing mix should provide a wider housing mix. Indicative plans have been submitted which indicates 3 no. 4/5 bedroom properties, however this is indicative, and the property sizes would be secured during a reserved matters application.

## 2. Impact on Character and Appearance

Policy ST04 supports development proposals that 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 taking full account of the principles of design found in Policy DM04.

Policy DM04 supports developments with good design and the policy seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new developments. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change. The policy lists 13 design principles that proposals must meet in order to be supported by the policy.

Policy ST09 of the NDTLP, ensures that the sustainability of Northern Devon's coastal communities are maintained and enhanced with regard to their distinctive cultural heritage, diverse maritime economy, landscape setting and regeneration opportunities. The separate identity of these settlements will be maintained and enhanced.

Policy ST15 of the NDTLP, states that 'great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment by:

- (a) Conserving the historic dimension of the landscape;
- (b) Conserving the cultural, built, historic and archaeological features of national and local importance and their setting, including those that are not formally designated;
- (c) Identifying and protecting locally important buildings that contribute to the area's local character and identity; and
- (d) Increasing opportunities for access, education and appreciation of all aspects of northern Devon's historic environment, for all sections of the community.

Policy DM07 of the NDTLP requires that all proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. The policy also outlines that proposals that conserve and positively enhance the heritage asset and their setting will be supported and where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible.

The NPPF also strongly emphasises the need for well-designed places, in which Part 12 of the Framework is solely dedicated to the achieving well-design places. Paragraph 126 of the NPPF notes 'the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities.' Part 12 of the framework lists 6 key design principles that are required to be met in order to demonstrate the design is of high quality.

In addition to the above, paragraph 203 of the NPPF states "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing application that directly and indirectly affect non-designated heritage assets, a balance judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

In addition to this, the National Design Guide is considered to be the most up to date national guidance in relation to design. The design addresses the question of how we recognise well-designed places and outline and illustrate the priorities for well-designed places and provides ten characteristics that should be considered in any forthcoming design and decision making.

The application seeks outline permission for the erection of three residential properties on the site used in association with Lakenham Residential Care Home. The proposal consists of two separate parcels of land, land to the west of the Residential Care Home and land to the north of the residential care home. The application is submitted with all matters reserved except access.

An indicative site plan and drawings of some of the plots have been submitted detailing proposed locations of the dwellings, including accesses and parking and turning. It also details proposed landscaping and amenity space for the dwellings. However, it should be noted that these are only indications on property sizes in terms of number of bedrooms, and this is not set, as it is not a matter for considerations at this stage.

Objection representations submitted have commented on the layout, size and positioning of the plots for the proposed scheme as well as conflict with the Northam Neighbourhood Plan. However, the Northam Neighbourhood Plan carries no weight at this stage and is therefore not a material planning consideration when assessing the application and as discussed above, the application is for outline with all matters reserved other than access, so the indicative plans are not for assessment under this form of application, they are to demonstrate how the site could be developed.

The Conservation Officer was consulted during the process of the application and has made the following comments:

*'The proposal seeks to infill a green ribbon that remains at the bottom of the escarpment separating Northam from Westward Ho!*

*While there is no objection in planning terms to the construction of dwellings on this site there is much that is not understood about the evolution of the settlement and this reserved green area must have been for some reason.*

*The building at Lakenham can be viewed as a non-designated heritage asset and its location is visually important within the landscape.*

*The comments from pre application stage remain:*

*In this case this area of Northam is not well understood. There is an old settlement at Tadworthy and the Nursing home building itself was described to me as a former hunting lodge granted to a Mistress of the King who then gave the premises to the church. As such little is known about the origins of the building and while not listed it is clearly an important building within the landscape which is sited to be seen on this escarpment. It was designed to be the most visible building on the hillside at sits at the end of a ribbon of green which runs from the coastal preservation area designation to the edge of the settlement at Northam.*

*There needs to be some further investigation as part of any development proposals to ensure that the building and any below ground evidence are understood before development takes place.'*

It is considered that any reserved matters stage that the scale, form and design of the dwellings must reflect that of the surrounding context. The dwellings in this location should not detract from the character and appearance of the area and need to be read in connection with the existing built residential form of the surrounding area. Full details should be submitted in relation to design and materials at the reserved matters stage.

### 3. Impact on Amenity

Policy DM01 of the NDTLP relates to amenity considerations and notes, development will be supported where:

- (a) It would not significantly harm the amenities of any neighbouring occupiers or uses; and
- (b) The intended occupants of the proposed development would not be harmed as a result of the existing or allocated uses.

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. In addition to this, one of the core principles of the NPPF is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings.

DM02 of the NDTLP, states that development will only 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 ground water including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea;
- (c) Noise or vibration; and
- (d) Light pollution where light overflows on to areas not intended to be lit.

Part H1 of the National Design Guide states that 'good design promotes quality of life for the occupant and users of buildings. This includes function [...] comfort, safety, security, amenity, privacy, accessibility and adaptability.'

Nine objection comments have been submitted for the application, detailing the impact on neighbouring occupiers, the position of the dwellings creating additional housing in the area, highways, disturbance and preferable locations.

The application site is located within the development boundary of Northam and is neighboured by residential properties to the north and east and the Residential Care Home to the south. Indicative plans have been submitted outlining the plot sizes, however these are only indicative and will be assessed at the detailed reserved matters stage. Taking the above into account and after visiting the site it is considered that the site could adequately accommodate the proposed development without impacting on the neighbouring occupiers or the intended occupants of the proposed dwellings.

As such, it is considered dwellings in this location would not have a harmful impact on the amenity of the neighbouring occupiers or the intended occupants of the dwelling and therefore in accordance with policy DM01 of the NDTLP.



#### 4. Highway Safety

Paragraph 110 of the NPPF indicates that access should be safe and suitable for all users. Paragraph 111 proceeds to advise that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 112 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

Policy DM05 of the NDTLP relates to highways, and notes:

- (1) All development must ensure safe and designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highways users including cyclists and pedestrians.
- (2) All development shall protect and enhance existing public rights of way, footpaths, cycle ways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

In addition to this, Policy DM06 of the NDTLP relates to parking provision and states:

- (1) Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to:
  - (a) Accessibility and sustainability of the site;
  - (b) Availability of public transport;
  - (c) Provisions of safe walking and cycle routes; and
  - (d) Specific sale, type and mix of development.
- (2) Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration of the existing built form.

Devon County Council Highways have been consulted on the application and have commented that the application should be dealt with under standing advice.

The development proposes to use a new access off of Tadworthy Road to the north west of the site, this access would accommodate all three properties. The existing access along this road would be closed up as a result of the works. The access provides adequate visibility splays, and it is detailed that there will be a low-level verge alongside the highway no higher than 300mm high. The proposed site plan details at least two parking spaces and turning for each property on site.

The call-in reason for the application was in relation to highways impact and the loss of parking for the Residential Care Home. During the process of the application, it was confirmed by the Agent and Applicant that the land subject to this application, is not utilised by the residents of the care home due to its topography as there is a steep elevational change, and therefore lays redundant. All access is via the main entrance on Lakenham Hill. The home has never provided parking and staff and visitors to the site utilise nearby parking facilities and therefore there is no expected change when considering the proposed development.

Taking the above into account it is considered that the site is going to provide a safe and suitable access and the site itself will provide adequate parking and turning for the intended occupants of the dwellings. As such the application is considered to accord with the policies outlined in the NDTLP.

#### 5. Drainage

Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and the use of rainwater'. In addition, Policy DM04 notes development should provide effective water

management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The NPPF and Planning Practice Guidance provide further advice on foul drainage, with a hierarchical approach being used. The Planning Practice Guidance notes that new development should aim to discharge foul water into the public sewer; however, if this not possible then a package treatment plant may be used. However, if a package treatment plant is not possible to use, then a septic tank will be considered. Justification for the use of alternative drainage systems other than mains drainage is required.

Policy DM02 of the NDTLP states that 'developments will be supported where it does not cause an unacceptable risk to public health and safety due to:

- (a) Coastal erosion or land stability;
- (b) Its siting on known or suspected contaminated land which is unsuitable for the use proposed; or
- (c) The storage or use of hazardous substance;

Unless taking account of appropriate remedial, preventative or precautionary measures to remove, reduce or mitigate risk to an acceptable level.'

The application form details that foul water will be disposed of through an off-mains drainage solution i.e., package treatment plant or septic tank unless they are able to connect into the Tadworthy development infrastructure. In terms of surface water drainage, subject to ground conditions the proposal is looking to utilise soakaways. Environmental Protection have commented on the proposed drainage and indicated that further information would be required to satisfy them. Notwithstanding this, the application is for outline permission and drainage will be considered in full at the reserved matters stage. It is considered that, given the extent of the application site, there would be sufficient space to accommodate adequate drainage.

## 6. 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). This is further reinforced within the NDTLP through Policies DM08 and ST14 which state that development proposals should conserve and, where possible, enhance biodiversity interests.

A wildlife trigger list, a Preliminary Ecological Appraisal (PEA), Tree Assessments and an Arboricultural assessment have been submitted for the application.

Within the original Ecology Report it is stated the following in the conclusion:

'The proposed development has the potential to affect bats, dormice, nesting birds, reptiles, amphibians, and hedgehogs, if present. The clearance of scrub and longer modified grassland should be carried out under ecological watching brief, to prevent accidental injury or killing of reptiles, amphibians and hedgehogs, and nesting birds if timed within nesting bird season. Endoscope surveys are recommended to determine the presence, or likely absence, of bats if it becomes necessary to fell the willow with potential roosting features. The survey would enable a full impact assessment to be made, and measures provided to avoid, mitigate, and compensate for any impacts.'

In light of this a further survey was commissioned and undertaken by Lakeway Ecology which stated that the tree was actually a white poplar which was identified from its location and photos in the PEA report. The report stated the following:

### *'Discussion*

*No evidence of roosting bats was found, but three of the features did provide some bat roosting potential, including space for more than one individual bat.*

*Bats can and do change roosting sites frequently (between 2 and 11 days depending on species, on average), and throughout the year and the chance that bats would be present in a tree roost (encounter probability) has been documented in the BTHK1. This suggests that up to 14 visits would be needed in July and August to reliably confirm presence of a colony of bats.*

*For this site, this approach would be disproportionate and still carries a high level of uncertainty that bats would not be encountered when it comes to start on Site (pending planning permission). Even if absence is presumed following survey work, there is a risk that bats may have moved in prior to commencement of work (tree removal).*

#### *Recommendations*

*Rather than repeat survey effort pre-planning, we therefore recommend that the tree is reinspected from a cherry picker/ MEWP immediately prior to planned works, as a precaution.*

*The inspection will be carried out by an ecologist with a Level 2 bat licence. If a bat is encountered, or suspected, then work will pause and a derogation licence will be secured, to allow the bat roost(s) to be lawfully impacted, and proportionate compensatory roosting opportunities will be installed within the Site. This could either be the retention of the roost feature, by strapping it to a retained tree, or by the provision of bat boxes suitable for the species encountered under the guidance of the ecologist. Features would be secured by mitigation licence terms rather than planning condition and this would be in addition to any enhancement features detailed in Richard Green Ecology's PEA report.*

*It is recommended that the tree work is carried out in autumn or spring, (September/ October or March/ April) when bats are least vulnerable to disturbance i.e., not in hibernation and not with dependant young, to further reduce the risk of harm to bats, if encountered prior to start of works.'*

Taking the above into account and the addition of a conditions if the application is approved, the proposal is considered to comply with Policies DM08 and ST14 of the NDTLP.

#### 7. Other Matters

Environmental Protection have commented on the application in terms of construction hours, contamination and drainage. Conditions have been applied at the outline stage and further details will be submitted as part of the reserved matters.

#### 8. Section 106 Contributions

Any shortfall in infrastructure for the proposed development should be funded by developer contributions in accordance with Policy ST23: Infrastructure, which requires development to provide or contribute towards the timely provision of physical, social and green infrastructure made necessary by the specific or cumulative impacts of those developments.

Policy DM10 of the NDTLP states that 'development will provide new accessible green infrastructure, including public open space and built facilities, to meet at least the green infrastructure quantitative and accessibility standards, as set out in Table 13.1 and infrastructure Delivery Plan, to meet the needs of its intended occupants.'

The supporting text for the policy then references the Green Infrastructure Strategy as the basis for establishing more detailed requirements. The quantitative standards are depicted in a requirement per thousand population and occupancy assumptions can be applied to convert these standards into requirements generated from particular levels of housing development. The presumption is that the Green Infrastructure requirements are met on site as part of a development proposal; however, there may be opportunities for alternative direct off-site provision or for financial contributions to be provided to deliver enhancements to existing provision, where appropriate opportunities and projects can be identified and said provisions would continue to meet necessary accessibility standards.

The proposed development seeks the provision of three residential dwellings and therefore it triggers the need for an open space provision. If the application is approved the contributions would be formalised within a Section 106 legal agreement. The contributions will currently be calculated on a per dwelling requirement as the housing mix and sizes are not confirmed at the outline stage.

## 9. Conclusion

The application site lies within the development boundary of Northam and although not allocated for housing would be considered a windfall site. The proposed development is in outline form with all matters reserved apart from access. The access has been assessed and considered to be safe and suitable and in line with the Devon County Council Highways standing advice. The site will provide parking and turning on site for the three dwellings and will have a minimal impact on the highway network. Indicative plans have been submitted, however as the application is in outline detailed matters will be assessed further at the reserved matters stage. Taking the above into account it is considered that the principle of three dwellings on this parcel of land is in accordance with the relevant policies in the NDTLP.

## 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

- 1 Approval of the details of
  - a) layout,
  - b) scale,
  - c) appearance,
  - e) 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 2015.

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

(ii) The development hereby permitted shall be begun either before the expiration of three 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.

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

- 4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no

development of the types described in Part 1 of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.

Reason: In the interest of retaining the character and appearance of the area and surrounding landscape in accordance with Policies ST04, DM04 and DM08A in the North Devon and Torridge Local Plan 2011-2031.

- 5 Construction works shall not take place other than between 0700hrs to 1900hrs on Mondays to Fridays, and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

- 6 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.

- 7 The development hereby approved shall be carried out in accordance with the recommendations, mitigation and enhancement details contained in sections 5 and 6 of the Preliminary Ecological Appraisal prepared by Richard Green Ecology Ltd received June 2023 and the recommendations section within the Tree Assessment prepared by Lakeway Ecology received 30th June 2023. The Reserved Matters shall include details of how the mitigation and enhancement measures shall be delivered on site together with proposals for their ongoing management and maintenance.

All mitigation and enhancement measures shall be implemented prior to occupation and retained and maintained as such thereafter.

Reason: In the interests of enhancing the habitats of protected species in accordance with the duties outlined in the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006 and The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010) and requirements of the NPPF.

- 8 The existing access indicated on drawing number 2104\_P\_004(a) received on 21.11.2023 shall be effectively and permanently closed in accordance with the details provided, prior to the new access being brought into use.

Reason: To prevent the use of a substandard access and to minimise the number of accesses onto the public highway.

- 9 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:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o archaeological 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.

This is a pre-commencement condition which is imposed to ensure that the Local Planning Authority is satisfied of the ground conditions of the site prior to works commencing on site. Failure to provide this information prior to works commencing on site could lead to the risk of land contamination and an adverse impact on human health.

- 10 Prior to or as part of the Reserved Matters, a scheme for foul and surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. If a drainage field is to be installed, percolation testing will need to be undertaken in accordance with BS6297 and the subsequent test results, calculated drainage field area and location submitted for review. If foul waste is to discharge to a watercourse, photographic evidence and video footage demonstrating that the receiving watercourse has continual annual flow, in accordance with DEFRA's General Binding Rules, will be required.

No dwelling hereby permitted shall be occupied until the drainage works serving that dwelling 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.

Reason: To ensure the development does not result in environmental harm.

- 11 The development hereby approved shall be carried out in accordance with the recommendations, mitigation, arboricultural impact assessment and tree protection plan contained in the Arboricultural Survey prepared by ARBMARK TREE CARE received 30th June 2023. The mitigation measures shall be installed on site and retained thereafter until the completion of the relevant phase to which the tree/hedge protection relates.

Reason: To protect trees and hedgerow within and surrounding the site.

## Plans Schedule

| Reference     | Received   |
|---------------|------------|
| 2104_P_001    | 20.07.2023 |
| 2104_P_004(a) | 21.11.2023 |

## 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.