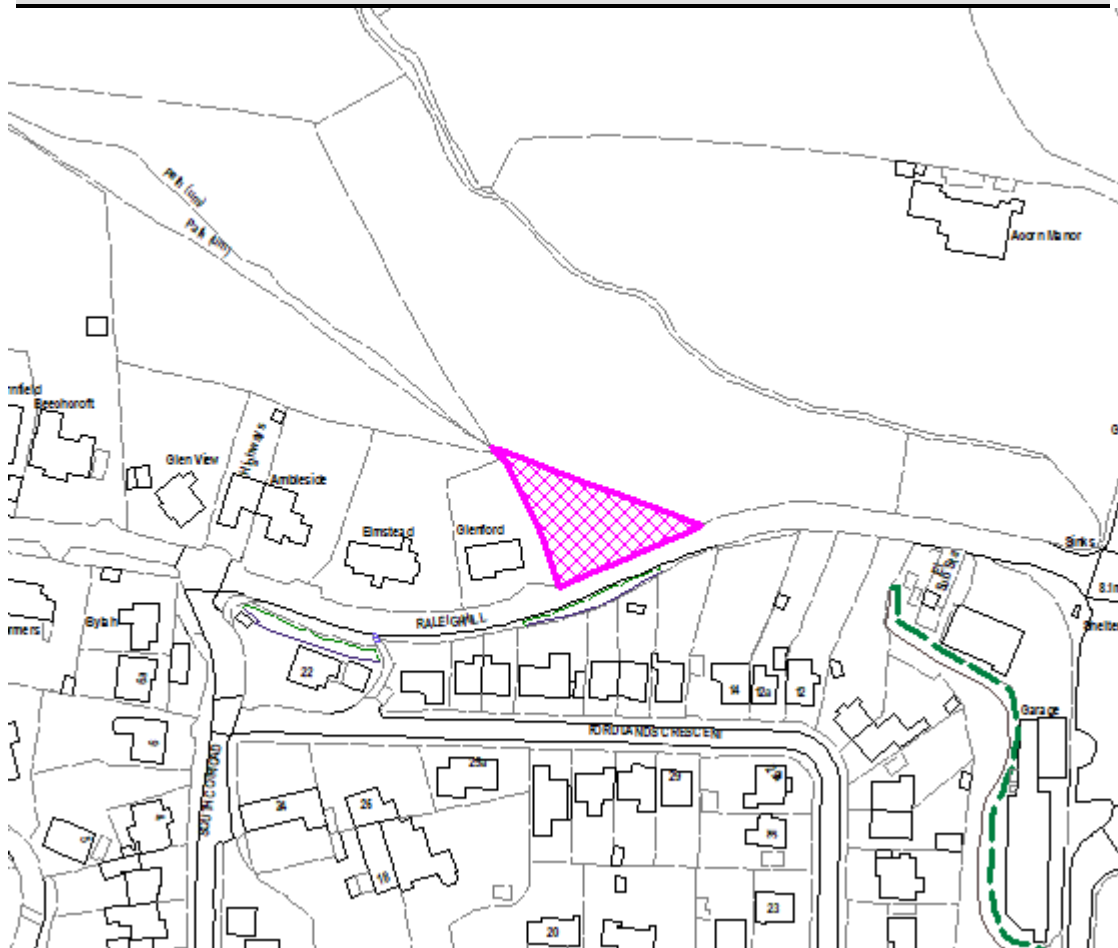


Committee Report – 5th of December 2024

Application Number:	1/0972/2023/OUT
Registration date:	6 October 2023
Expiry date:	1 December 2023
Applicant:	Mr Haime & Mrs Wilson
Agent:	Tree Tops Planning
Case Officer:	Debbie Fuller
Site Address:	Land At Grid Reference 244709 127666, Raleigh Hill, Bidford, Devon
Proposal:	Outline application for 1no. dwelling with all matters reserved (Affecting a Public Right of Way)
Recommendation:	Refuse



Reason for referral:

Councillor Chris Leather called the planning application in 'For Plans Committee to consider all the issues and planning policies concerning this location.'

Relevant History:

None.

Site Description & Proposal

Site Description

The proposed site is located at Raleigh Hill, Bideford, which is in the development boundary of Bideford as shown in the North Devon and Torridge Local Plan (NDTLP). The land is vacant and overgrown, has no former planning use and/or planning history. The site is adjoined by a neighbouring residential property ('Glenford'), to the west. 'Raleigh Hill,' is a classified highway, which links to the main route through Bideford. A Public Right of Way (PROW) ('Northam Footpath 18'), runs along the northern boundary. On the southern boundary is a line of six Sycamore and two Ash trees of around 16-18 metres in height, growing on a Devon bank, which is about 1.5 metre above the road.

Proposed Development

The application is for one dwelling. It is an Outline application with all matters reserved, so no details of the scale of the house, its design and materials, the layout of the site, access and/or drainage were submitted with the original planning application and plans.

The following was submitted with the planning application form in October 2023:-

- Location Plan
- Block Plan
- Planning Statement
- Wildlife Trigger List

An 'Arbicultural Constraints Survey' and 'Tree Constraints Plan' was submitted in February 2024.

Following comments from Devon County Council Highways, the planning agent submitted details of the access, including visibility splays.

Consultee representations:

Northam Town Council:

Northam Town Council resolved to recommend the proposal be refused permission on the grounds that it would have a detrimental effect on the ecology and biodiversity of the site. It would have a detrimental effect on PROW 18. Highway access from the proposed dwelling would be dangerous, being close to the junction with the main road connecting Bideford and Northam and a narrow section of Raleigh Hill. Pedestrian access to the property would be severely limited by the lack of pavement along that section of Raleigh Hill.

DCC Rights of Way:

The planning application affects Northam Footpath No. 18, which runs along the inside boundary on the northeast side of the site. The public rights of way are looked after in the area by the PORW Warden Martin Caddy, who I've copied in, so that he may comment directly.

Prior to the commencement of any development, the definitive alignment of Northam Footpath No. 18 should be marked out on site in agreement with the warden. Any fencing to be erected on site should not be within the distance of the public right of way specified by the warden. The same also applies to any excavation or tipping of surface material or temporary storage of soils or other materials. Provision

should be made for the installation and maintenance of a drainage system to ensure that no slurry/water from the permitted area flows onto the public right of way. Also, the public right of way should be kept clean, free of mud and other debris, and maintained in a good state of repair. Such conditions are in the interests of the amenity of the public and protect users of the way, as well as highway safety and safeguarding the local environment.

Devon County Council (Highways): (14th November 2023)

I appreciate from the comments that have been submitted on this application and that there is considerable concern regarding highway issues, particularly with regards to how vehicles will gain access to the proposed development. As a result, the Planning Officer has requested a comment from the Highway Authority beyond the normal 'standing advice' process.

Although this application is in 'outline' with all matters reserved for future consideration; which includes access. However, I believe it is appropriate to determine the efficacy of a vehicular access at this stage otherwise, notionally, an application could be approved with no reasonable prospect of achieving 'safe and suitable' access.

As it stands, no information has been included; neither for the proposed access point nor accompanying visibility splays. Given the width of the site frontage (40 metres), I have concerns whether suitable visibility is achievable within the land that the applicant has 'control' over.

Therefore, in the first instance, I would expect this information to be submitted. As a starting point, I would expect visibility splays of 2.4 x 43 metres in either direction when measured to the nearside edge of carriageway; these splays should pass over no feature greater than 600mm in height. As always, I would accept a compromise to these details if a speed/volume count was undertaken and submitted as an evidence base. A lower 85th percentile would equate to commensurate visibility splay measurements. Please note that any counts should be over the space of a week.

I await this information.

I acknowledge that there are other issues beyond the access and its visibility; I will address these once access matters are clearer.

Recommendation: THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION

Devon County Council (Highways): (5th April 2024)

Further to my previous recommendation, I note the additional information that has been submitted as a response. This clarifies the access location and, most importantly, the visibility splay measurements.

Instead of the 2.4 x 43 metre visibility splays I mentioned in my earlier response, it appears that 2.4 x 31 metres in either direction is what is achievable. Clearly, this is below the standard that is laid out in the Manual for Streets (MfS) document. Therefore, as it stands, the proposed access cannot demonstrate acceptable visibility and a subsequent condition could not be secured.

Again, as previously mentioned, if a further evidence base can be submitted in the form of a traffic speed/volume count, then this could be given consideration.

Without any further information being provided, I have to consider the tests of the National Planning Policy Framework (NPPF) on the information that is in front of me. As a result, I do not believe that the proposed development offers 'safe and suitable' access. I raise highway objections on this basis.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASON

1. The proposed development would be likely to result in a material increase in the volume of traffic entering and leaving the Class C County Road through an access which does not provide adequate visibility from and of emerging vehicles, contrary to Section 9 of the National Planning Policy Framework.

Devon County Council (Highways): (6th November 2024)

Further to my previous recommendation, dated 14 November 2023, I note that the applicant has submitted updated information in the form of speed / volume counts. As per that recommendation, I added that if a suitable evidence base is offered to demonstrate that 'actual' speeds are lower than the posted 30mph limit, then this would be taken into consideration and commensurate visibility splays could be accepted.

Having considered the speed / volume figures offered, as well as the accompanying report by the applicant's Engineer, I accept these as an appropriate evidence base. I would also add that I have been on site to conduct my own observations of existing vehicle and pedestrian movements on Raleigh Hill. Finally, within these above points, I must also consider the additional trip generation, both in terms of pedestrian and vehicular movements, of the proposed single dwelling and how this will impact on the overall situation.

As a result, along with the attached conditions, I am satisfied that the proposed development offers 'safe and suitable' access, as is the test of the National Planning Policy Framework (NPPF).

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. 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

2. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram 02 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 35 metres in a western direction and 43 metres in the other direction.

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

The Environment Agency:

No response received.

Environmental Protection Officer:

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

Having regard for the application site, the Environmental Protection Team considers there to be no conflicting neighbouring land use and as such, the proposed development accords with Policy DM01. However, due to the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:

Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays

Reason: To protect neighbouring residential amenity

The application contains no detailed information on the historic use and subsequent land quality of the application site. 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 means of foul drainage are not apparent from the information provided. It is assumed the proposed dwelling will be served by the mains sewer however, should a private foul drainage scheme be proposed, detailed information of the scheme including a FDA assessment form and method of foul discharge will be required for review.

Representations:

Number of neighbours consulted:	8	Number of letters of support:	0
Number of representations received:	22	Number of neutral representations:	0
Number of objection letters:	22		

24 representations have been received, (3 from the same person). The issues covered are:-

- *The application is vague on the size of the property, style, height, number of rooms, garages, parking, layout, access;*
- *The area of land is larger than other plots, so could have more than one house on it;*
- *Not going to be an affordable home for people in service industries;*
- *Lack of notice given to the community;*
- *The current Public Right of Way (PROW) has a high footfall, used by local residents (dog walkers), and provides safe, short cut for walkers;*
- *Highway safety concerns - access onto a corner of a busy road / accidents have occurred; local lane not suitable; rat run; narrow, bendy road / the road is not looked after/poor condition; Raleigh Road has no pavement, dangerous for walkers/cyclists, (vulnerable adults are walked along this road); blind bends, poor lighting/overhanging trees/lack of space;*
- *Access and traffic coming out of the site;*
- *Additional traffic and noise/pollution;*
- *Traffic count placed at entrance to public footpath - where vehicles already slowing down / are the speed tests truly independent?*
- *Impact from construction on the Public Right of Way / access to it could be compromised / blocked;*
- *Unsuitable for HGV's / heavy plant machinery for the development;*
- *The wall along the road needs repair; the dry stone walls could suffer damage from construction vehicles;*
- *Drainage / Surface water run off increase will create problems at lower part of the road; (climate change and increased rainfall, increased flood risk);*
- *Environment/Biodiversity - 'overgrown/nil use' is a simplification - site rich in wildlife (bats, badgers, foxes, Tawny/owls, deer, slow worms); (Pine Martins less than a mile away); 'wildlife haven' / diverse for wildlife; has rewilded itself; private and quiet; areas like this should be preserved; this is habitat fragmentation;*
- *Land to the north rich in wildlife;*
- *Large/tall/mature trees provide refuge/cover for wildlife, (Sparrow Hawks, Buzzards, Jays, Barn Owls - which indicates presence of small mammals and invertebrates) / would they be removed? (existing trees important for absorbing water / visual impact / character and appearance / a wildlife corridor / climate change (increased rainfall) (Devon Councils have a responsibility - climate change emergency);*
- *Are they protected by Tree Protection Orders (TPO)?*
- *No need for ecology report as the site is less than 0.1 hectares is disappointing; should be assessed as the size of the allocation;*
- *Impact on Local Green Space / users of the footpath; No community benefit; Important for health and well-being / mental health;*

- Overlooking / lack of privacy for users of the footpath and immediate neighbours;
- Appeals W/1145/A/09/2106479 (2009 appeal) and APP/W/1145/W/15/3136171 (2016);
- NOR 09 1 (a) - allocation for 210 houses. Para 10.390 - Highway access only onto Heywood Rd, and not onto any other roads.

A site notice was posted at the entrance to the Public Right of Way (PROW).

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); NOR09 (Land South-West of Heywood Road Roundabout); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity) and DM08A (Landscape and Seascape Character); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres);

Government Guidance:

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

Planning Considerations

Main planning considerations

1. Principle of development
2. Access, Parking and Highway Safety
3. Design & landscape impact
4. Residential amenity
5. Ecology
6. Trees
7. Flooding and Drainage

1. Principle of development

Section 38 (6) of the Planning and Compulsory Act 2004 states that key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material planning considerations indicate otherwise. For the purpose of the development plan the statutory development plan is comprised of the North Devon & Torridge Local Plan 2011-2031 (NDTLP). The Local Planning Authority is required by law to determine applications in accordance with the Local Plan, unless there are material planning considerations which would indicate otherwise.

In planning terms, the site is located within the development boundary of Northam and therefore is guided by Policy ST06 of the NDTLP. The policy states that development will be supported within the development boundary of the 'Main Centres'. 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.

The application site is within the allocation NOR09 as identified within the Proposals Maps, (Policies Map 2: Bideford) to the North Devon and Torridge Local Plan (2018).

The full policy wording for 'Policy NOR09' states:-

'Policy NOR09: Land South-West of Heywood Road Roundabout

(1) Land to the south-west of Heywood Road roundabout extending to about 10 hectares and as defined on Policies Map 8A is allocated for housing that includes:

(a) approximately 210 dwellings, providing a mix of housing type and size to reflect local need, including those of the area's elderly population through an extra care facility and affordable housing.

(2) The site will be comprehensively developed in accordance with the following site specific development principles:

- (a) a landscape structure that builds on and enhances existing assets, including the retention of the wooded aspects of the site, which provides for an integration of required green infrastructure;
- (b) integrated pedestrian, cycle and public transport networks that provide connections to neighbouring residential areas;
- (c) vehicular access provided from Heywood Road;
- (d) retention of the contained Public Right of Way;
- (e) maintained integrity of the contained and adjacent listed buildings, including regard to the protection of their settings; and
- (f) enhanced on site management of surface water and drainage so as not to increase flood risk on the site and beyond, including as necessary contributions to secure improvements to the Kenwith Flood Risk Defence Scheme.'

The application site within the development boundary and is part of an allocation, thus residential use is supported in principle. It should be noted that due to the land levels and topography, the land is awkwardly linked to the remaining allocation, and appears more as an isolated and small piece of land which is part of a landscaped structure where the footpath runs. The site has existing assets, including the wooded aspects of the site, and the public right of way, which runs alongside, which provides green infrastructure. The site is part of an allocation, but not every bit of land in the allocation is directed to have housing on it. The provision of green infrastructure is as important for creating 'well-designed and beautiful places,' (and this is covered in further detail in '3. Design & landscape impact,' below).

A previous planning application, (planning reference 1/0040/2016/OUTM), (allowed on appeal (appeal ref: APP/W1145/W/15/3136171)), approved the 'erection of up to 200 dwellings.' However, the proposal did not include the application site in the Illustrative Masterplan (Drawing title: Illustrative Masterplan_3218), and this reinforces that this application site is, (as outlined in Policy NOR09), an 'existing asset,' which, (by not developing the site), would allow the 'retention of the wooded aspects of the site,' and 'an integration of required green infrastructure.'

The appeal inspector, (to the land to the north, which is the rest of the allocation), (appeal ref: APP/W1145/W/15/3136171), states, '*However, the illustrative masterplan demonstrates that it would be possible to retain areas of greenspace and woodland. These areas would mitigate any built development and assist in retaining a good proportion of the openness of the site. As such, although the immediate character of the site would be substantially altered the impact on the character of the landscape in the wider area would be minor.*'

This emphasises the importance of retaining existing woodland on the edges of the allocation.

The background text in the NDTLP, when explaining Policy NOR09, states, (Para 10.392), '*The comprehensive drainage scheme should be integrated with the required green infrastructure. The site will deliver a high quality development that achieves the integration of green infrastructure with new development that builds upon the contained environmental assets. The strong boundary features will be retained and developed to maintain the containment of the site.*'

In principle, the proposal for a residential use on this site is supported as it is within the built up area of Northam and is included in an allocation for residential use. However, given the other material considerations, (covered in further detail below), which are a constraint to good development of the site, and when assessed as a whole, (as part of the wider allocated site), the Local Planning Authority cannot support the development of the site, and recognise the existing assets on the site as green infrastructure.

2. Access, Parking and Highway Safety

Paragraph 115 of the NPPF advises that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

Policy DM05 in the NDTLP requires development to have *'safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians,' and 'all development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.'*

Policy DM06 of the NDTLP states that proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

Policy ST10 of the NDTLP is concerned with reducing the need to travel by car.

Access is a reserved matter, which means a later reserved matters application is intended to address it. However, as reflected by the comments that have been submitted on this application, and following the officer site visit, there is considerable concern regarding highway issues, particularly with regards to how vehicles will gain access to the proposed development. A comment from Devon County Council (DCC) as the Highway Authority was requested.

DCC made a formal comment, which was received on 14th November 2023, and a visibility splay was requested from the agent. A plan of the visibility splay was submitted but was incorrect. A further comment was received on 5th April 2024. A lower distance than that required could be met in each direction, but if speed tests were submitted, which evidenced that speeds will be low this would enable a reduced visibility splay. DCC have been consulted on the latest revised plan and the speed/volume figures, as well as the accompanying report by the applicant's Engineer, and accept these as an appropriate evidence base.

The proposed development is in a reasonably sustainable location, in an established settlement which contains a number of key services and facilities to meet day to day needs. These would be within walking distance of the application site. There is also a public bus services, to provide an alternative to the use of the private car.

The representations raise a lot of the same issues that a previous appeal raised. The inspector on an appeal for a 'retirement care village comprising care home, independent living apartments (84 no.)' (planning application ref: 1/1275/2007/OUT, appeal ref: W/1145/A/09/2106479), described Raleigh Hill:- *'Raleigh Hill itself displays characteristics of its origins as a Devon lane, but one that has had quite significant recent residential development, both on the road and on streets leading off it. It is steep with poor alignment, no pavements, other than a short stretch near the junction with Lenwood Road, and it narrows in places such that two cars need considerable care to pass, and for larger vehicles this is exacerbated by low and overhanging vegetation. There is limited street lighting and the overhanging trees contribute to some dark sections. There does not appear to be positive drainage with shallow drainage channels or uncontrolled run-off on or to the side of the road. Speed is restricted to a 30mph limit along most of the road.'*

However, unlike the larger development referred to above, the addition of one dwelling does not raise concern in terms of an increase in traffic. The planning agent has shown that adequate access and visibility can be provided. It also appears, (from the most recent revised 'Proposed Site Plan,' drawing numbered 02 R3), that adequate parking and manoeuvring of vehicles can be provided within the site.

DCC as the Highway Authority are satisfied that the proposed development offers 'safe and suitable' access, as is the test of the National Planning Policy Framework (NPPF), and recommend two conditions if the application were to be approved.

There is likely to be no impact on the PROW itself as long as the measures outlined by the Public Rights of Way officer at Devon County Council is followed. A pre-commencement condition could be added if approved.

The proposed development, therefore, (with conditions), accords with policies ST10, DM04 (h), DM05 and DM06 of the NDTLP, and the NPPF.

3. Design & Landscape Impact

NDTLP Policy DM04 seeks to guide overall scale, density, massing, height, landscape, layout, materials access and appearance of development. The policy requires development to be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood. Policy ST04 states '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 DM04.'

As this application is outline, (with all matters reserved), and layout and design detail is to be provided at a later stage, a full assessment of design, in terms of scale, height, layout, materials cannot be made.

However, good design is more than just the appearance of a proposed dwelling with an access drive and parking. The NPPF, (specifically Part 12: '*Achieving well-designed and beautiful places*'), *attaches great importance to the creation of high quality, beautiful places, and states 'decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.'*

Policy DM08A: 'Landscape and Seascape Character,' of the NDTLP, states, '*(1) Development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible.'*

Under the Joint Landscape Character Assessment for North Devon and Torridge Districts the site comes within Landscape Character Area 7: 'Main Cities and Towns.' There is no landscape character information for this character area, as it relates to the urban fabric of Bideford.

However, the character of Raleigh Hill is that of a Devon lane, although there is residential development on the road and the streets leading off it.

And, as covered in the principle section, the existing wooded areas on the edges of the allocation are recognised as being important for mitigating future built development in the allocation.

The NPPF states, (Paragraph 136), '*Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.'*

The development of this site would involve the removal of the trees along the southern boundary, to create the access with required visibility, and most of the Devon bank would need to be excavated to provide a driveway into/out of the site. The site itself is also sloping to the north, so works to level the site would also be required. The agent has been asked for a section, and details of the excavation, but is not willing to submit the information, stating it is an outline application only.

An 'Arboricultural Constraints Survey,' (27th November 2023), and Tree Constraints Plan, has been submitted which gives detail on the trees. T1-T8 are at the front (southern) boundary of the site, and are listed as 'Mature,' with most being Sycamore, apart from two Ash, which are showing signs of Early Ash die back.

The agent was asked to update the 'Arboricultural Constraints Survey, (which states in its conclusions '4.2 Removal of one or two trees may be required to facilitate an access for the site,') in light of the revised visibility splay, but is not willing to, stating it is an outline application only.

Based upon the submitted information, it is fairly clear that almost all of the site frontage would need to be removed, including well established and visually important trees, to achieve the appropriate visibility requested by DCC Highways.

In the opinion of the Planning Officer, significant harm would be caused by the development of the site, due to the works required to gain access, which would include the removal of trees and banking. In support of this, the allocation requires '*a landscape structure that builds on and enhances existing assets, including the retention of the wooded aspects of the site, which provides for an integration of required green infrastructure,*' and the previous appeal, (appeal ref: APP/W1145/W/15/3136171), confirmed the importance of this area of woodland to aid screening of the development in the allocation. Thus, significant harm to the character and appearance of the area will come from removing the trees and the Devon hedgebank, and the proposed development is contrary to Policies DM04, ST04 and DM08A of the NDTLP.

4. Residential Amenity

Policy DM01 'Amenity Considerations,' of the NDTLP states,

'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 existing or allocated uses.'

The submitted proposed plan is 'indicative' only. Careful consideration will be required as to the height of the building, so as to not to have an overbearing impact, and the location of windows/balconies/glass doors, which may create opportunities for overlooking.

Until detailed plans are submitted, it is unknown whether there are concerns in terms of occupants overlooking, lack of privacy, the development being overbearing etc.

Policy DM02: 'Environmental Protection,' states 'Development will be supported where it does not result in unacceptable impacts,' including smells, fumes, pollution of surface or ground water.

Environmental Protection recommends the imposition of the Authority's full standard contaminated land condition. However, it was evident that there are no uses on the land and/or buildings which give cause for concern in terms of livestock/stables and/or contamination.

The Environmental Protection Team have asked for hours of construction and deliveries to be restricted. If approved, this should be applied due to the proximity to other dwellings.

Information on the design and layout, parking, and the provision of private amenity space, is required for a full assessment of the likely impacts on future occupants. However, this is intended to be submitted in a later reserved matters application.

It should be noted that should the applicants prove that an access could be achieved without the removal of the mature trees on the southern boundary, then the Council would have concerns about residential amenity. In particular, the proposed dwelling would be to the north of the trees, and due to the plot site and shape, it is clear that any future occupants would likely be overshadowed, whilst the trees would likely cause a constant nuisance from falling debris. This would put pressure on the trees to be removed. Thus, should the trees be proven to be possible to retain, the proposal would be contrary to Policy DM01 (b).

5. 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 Policy DM08: 'Biodiversity and Geodiversity,' of the Local Plan, which states, '*(1) Development should conserve, protect and, where possible, enhance*

biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance. All development must ensure that the importance of habitats and designated sites are taken into account and consider opportunities for the creation of a local and district-wide biodiversity network of wildlife corridors which link County Wildlife Sites and other areas of biodiversity importance.'

Policy ST14: 'Enhancing Environmental Assets,' states, 'The quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to: (a) providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital.'

A completed Wildlife Trigger List has been submitted and the proposed development does not trigger the need for a wildlife report/statement as the site is less than 0.1 hectares. However, as mature trees are to be felled, (which may have a bat roost), and removes a line of trees of more than 10 metres (since the revised visibility splay), an ecology report would be required.

The trees and Devon hedge bank would need to be removed to provide access to the site. The trees form part of the interconnecting network that joins the other woodland areas to the east, and are the existing assets, which provide the green infrastructure for the allocation.

The arboricultural report described the trees as 'moderate or low quality', albeit the Council consider they add significant value to the areas character.

Wildlife will use trees as habitat and corridors even if they are poor quality. The NPPF states, '*Planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*'

Policy ST03 'Adapting to Climate Change and Strengthening Resilience, states, '*(i) conserving and enhancing landscapes and networks of habitats, including cross-boundary green infrastructure links, strengthening the resilience of biodiversity to climate change by facilitating migration of wildlife between habitats and improving their connectivity.*'

The impact of this loss has not been properly assessed, and no mitigation proposals have been proposed. In the absence of exceptional circumstances, the proposal would result in an unacceptable risk of harm to local ecology, and is contrary to national policy and guidance.

Due to insufficient information, the proposed development is contrary to Policies DM08 and ST14 of the NDTLP, 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).

6. Trees

The submitted arboricultural report described the trees as 'moderate or low quality.' However, as covered above there are other benefits to retaining the trees:

- 1) Policy NOR09 emphasises that there are existing assets, including the wooded aspects, and it has been agreed previously in appeals that the wooded area helps to screen the allocation from the wider area.
- 2) They are part of the character of this part of Raleigh Hill, which has characteristics like a Devon lane.
- 3) They are enjoyed by users of Raleigh Hill, and the adjacent footpath and trees can help with health and wellbeing.
- 4) There is a benefit of land stability from trees. The NPPF para 108 states, '*Planning policies and decisions should contribute to and enhance the natural and local environment by: preventing new and*

existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.'

5) The trees also help absorb rainfall, which, with climate change is increasing, and can help to reduce flash flooding. Raleigh Hill is also a steep road with little drainage on the road.

6) Even when dead, trees provide cover and habitat and corridors for wildlife, and are used as flyways for bats. These trees are part of a wider network of an adjacent wooded area, and should not be seen in isolation.

The South West Regional officer for the Woodland Trust, has commented in the representations: - *'Devon's councils have a responsibility to the climate emergency and pledge to plant more trees. Existing trees need to be retained in order that these commitments can be met, and the biodiversity crisis halted. Trees wherever possible should be retained, otherwise additional trees are only meeting net-losses of trees rather than increasing the canopy and are not providing the additionality required. The 'Expand' target of the strategy will not be met if we continue to lose trees in this way, when trees are under a barrage of threats, from climate change, development, disease to name a few. From the arboricultural report, it can be deduced that other trees are likely to be lost in the future at this site through Ash Die Back, and so this should not be compounded with the loss of further trees being removed for the development.'*

Even though the trees are stated as being of 'moderate/low quality' in the arboricultural report, they should be retained, as part of the allocation, and for ecology, drainage, land stability, climate change, character, and health and wellbeing.

In removing green space adjacent to the public right of way, the proposal would be contrary to Policy ST03 'Adapting to Climate Change and Strengthening Resilience', which states *'Development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by: (j) protecting and integrating green infrastructure into urban areas, improving access to natural and managed green space.'*

Finally, the loss of the trees would cause significant harm to the areas character and appearance, as discussed in part 3.

7. Flooding and Drainage

Policy ST03 'Adapting to Climate Change and Strengthening Resilience,' states 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 states development should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The site is not within a high flood risk area. However, Environment Agency Flood Zone 3 is shown approximately 45 metres to the north.

The site is within a Critical Drainage Area (CDA). Policy ST03 states, *'Development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by: (b) reducing existing rates of surface water runoff within Critical Drainage Areas.'*

As mentioned above the removal of the trees and bank and excavation of the site could create problems with instability, soil, and water run-off. The proposed development, in a CDA, is unlikely to reduce rates of surface run off, but there is insufficient information to be able to determine this.

The Environment Agency have in the past, on previous applications, required attenuation (storage) to control run off. If approved, details of this should be required by condition.

The planning agent has confirmed that the proposal is to use the mains sewer.

Conclusion

It is considered that the addition of one dwelling in this location would normally be supported in principle as it is within an area allocated for housing and within the development boundary. However, the policy for the allocation makes it clear that existing assets, including wooded areas are valued as green infrastructure and as landscaping on the boundaries. With the adjacent public footpath, which is well used, and the character of the area which is enhanced by the trees, and the benefits to land stability and drainage in retaining the trees, addressing climate change impacts, and being habitat for wildlife, the site is seen as important as green infrastructure, and it is considered that the proposed development will cause significant harm overall. The recommendation is to refuse.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons: -

- 1 The proposed development will involve significant excavation of the site, including the removal of the Devon bank and existing mature trees, which will harm the character and appearance of the surrounding area and erode the landscaping for the wider allocation. The proposal is therefore contrary to Policies ST04, DM04, DM08A and NOR09.
- 2 Insufficient information has been provided to assess the impacts on wildlife and their habitats, and the proposed development is contrary to policies ST14 and DM08 of the North Devon and Torridge Local Plan, 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).
- 3 The proposed development, by removing the green space, including trees, adjacent to a well-used public right of way, which is also part of the allocation, would not protect and integrate green infrastructure into urban areas, or improve access to natural green space, and is therefore contrary to Policy ST03, ST04, DM04 and NOR09 of the north Devon and Torridge Local Plan.
- 4 The application site is within the Bideford Critical Drainage Area (CDA) and there is insufficient information to be able to determine whether surface water run off will not be increased by the development. The proposal is therefore contrary to Policy ST03 of the North Devon and Torridge Local Plan and Para 180 of the NPPF.
- 5 Notwithstanding the other reasons for refusal, should the trees on the southern boundary be proven to be possible to retain, the proposal would be contrary to Policy DM01 (b) of the North Devon and Torridge Local Plan due to overshadowing and conflict with the proposed dwellinghouse (debris, etc).

Plans Schedule

Reference	Received
Location Plan	06.10.2023
Block Plan	06.10.2023
02 R3	13.11.2024