

**OUTLINE APPLICATION, WITH ALL MATTERS
RESERVED EXCEPT FOR ACCESS FROM TIDCOMBE
LANE AND ITS ASSOCIATED WORKS, FOR THE
CONVERSION OF TIDCOMBE HALL AND
OUTBUILDINGS AND THE ERECTION OF DWELLINGS
TO PROVIDE UP TO 100 DWELLINGS IN TOTAL,
PROVISION OF COMMUNITY GROWING AREAS,
PUBLIC OPEN SPACE, ASSOCIATED
INFRASTRUCTURE AND ANCILLARY WORKS**

LAND AT TIDCOMBE HALL, TIVERTON

PLANNING STATEMENT

December 2023

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PLANNING



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REPORT CONTROL

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1.0 INTRODUCTION

- 1.1 On behalf of Tidcombe Holdings LLP, Grass Roots Planning has been instructed to prepare and submit an outline application, with all matters reserved except for access from Tidcombe Lane and its associated works, for the conversion of Tidcombe Hall and outbuildings and the erection of dwellings to provide up to 100 dwellings in total, provision of community growing areas, public open space, associated infrastructure and ancillary works. The site lies within the administrative boundary of Mid Devon District Council (MDDC).
- 1.2 The site is currently allocated in the Local Plan under policy TIV13 as a reserve site for residential development of up to 100 dwellings. Tidcombe Holdings are the landowners and are promoting this site for residential development. It is considered that the proposals will form a sustainable extension to the existing settlement, contributing to the need for both market and affordable housing.
- 1.3 This statement should be read in conjunction with the following documents submitted with the application;
- Application Form and Certificates;
 - Transport Statement and Travel Plan prepared by AWP;
 - FRA and Preliminary Drainage Strategy prepared by AWP;
 - AIA and Tree Protection Plans prepared by Aspect Tree Consultancy;
 - Historic Environment Assessment prepared by AC Archaeology;
 - LVIA prepared by Tapestry;
 - Ecology Report prepared by EAD;
 - Statement of Community involvement prepared by Grass Roots Planning;
 - Waste Audit Statement prepared by Grass Roots Planning;
 - Sustainability Statement and Climate Checklist prepared by Grass Roots Planning;
 - and
 - Plans prepared by Clifton Emery.
- 1.4 This Planning Statement proceeds as follows;
- Section 2 – Site Description
 - Section 3 – Details of Proposed Development
 - Section 4 – Planning Status and Site History
 - Section 5 – Public Engagement

- Section 6 - Planning Policy
- Section 7 – Issues and Other Material Considerations
- Section 8 – Consideration of the Previous Refusal for the Site
- Section 9 – Planning Balance and Conclusions

2.0 SITE DESCRIPTION

- 2.1 The site is approximately 7.09 ha in size. The site is formed of two distinct sections, the first being Tidcombe Hall, its grounds and outbuildings, and the second the agricultural land to the east which comprises two fields, the northernmost of which lies adjacent to the canal.
- 2.2 The site is bound by the Grand Western Canal to the north and residential properties along Warnicombe Lane to the south. To the east is further agricultural land and a listed building, a further arable field lies adjacent to the southern field parcel, on its western boundary. The parcel of land proposed for development is depicted in Figure 1:



Figure 1. Site Location (see submitted plans for exact boundary)

- 2.3 There are no PROWs that run through the site and the topography slopes down from a high point in the south of the site to north where the lowest points lie adjacent to the Canal. Access

to the site is currently taken from Tidcombe Lane, which currently serves Tidcombe Hall and its grounds.

- 2.4 The planning application boundary includes land solely located within Flood Zone 1 which is at the lowest risk of flooding. The site does not lie within an Area of Outstanding Natural Beauty, Site of Special Scientific Interest or any other ecological or landscape designation. The northern portion of the site, immediately surrounding Tidcombe Hall is designated as the Grand Western Canal Conservation Area (see figure 4). Two listed buildings lie near the site - to the west, Tidcombe Bridge and to the east, Tidcombe Farmhouse – these are shown in Figure 2 below.



Figure 2. Nearby Listed buildings

- 2.5 The centre of Tiverton lies circa 1.75km from the site to the northwest and offers a wide range of everyday facilities which are accessible from the site via a short walk or cycle - this includes banks, a library, a community centre, sports and leisure centre, a post office, multiple food stores and high street businesses. In addition, there are other community facilities including

infant schools and primary schools, a secondary school and a local GP surgery all in the local area.

- 2.6 The site has good accessibility to local bus services with the nearest bus stops within 100m from the western part of the site. The service from which Nos.352 and 353 provide half-hourly services to the Town Centre. Tiverton Parkway Railway Station is located approx. 14km (around 40 minutes cycle or a 20-minute bus journey) from the site. The station is served by the number 373 bus service hourly from the Town Centre and has links to London Paddington, Bristol Temple Meads and Exeter St David's Stations.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 This application seeks outline planning permission with all matters except for access from Tidcombe Lane and its associated works, for the conversion of Tidcombe Hall and outbuildings and the erection of dwellings to provide up to 100 dwellings in total (of which 28% will be affordable), provision of community growing areas, public open space, associated infrastructure and ancillary works. The proposed illustrative masterplan is shown below in Figure 3.



Figure 3. Extract of Proposed Illustrative Master Plan

- 3.2 The proposed development as set out in the illustrative masterplan seeks to provide 100 dwellings, this is formed of the conversion of Tidcombe Hall and its outbuildings to form 9 dwellings, the erection of 8 dwellings within the grounds of Tidcombe Hall and the erection of

83 dwellings in the remainder of the site. Interspersed throughout the site are areas of open space and recreation, swales and drainage basins. To the north adjacent to Tidcombe Hall community growing areas are proposed and a LEAP is proposed centrally to provide good access to this from both parcels of development. The development also provides areas for potential orchard planting adjacent to Tidcombe Farmhouse and a landscaped parkland adjacent to the canal.

- 3.3 The development has been designed to accommodate existing site features such as hedgerows and trees, to protect the biodiversity interests of the site. The protection of the hedgerow led to a conclusion that the agricultural part of the site should be dealt with in two parts with the housing located in the southern field and the majority of the proposed public open space provided in the north, beyond the retained hedgerow. Swales have been proposed to boost biodiversity as part of the proposed drainage strategy network and these run along the eastern boundary of the site connecting to the basins to the north, creating an attractive landscaped edge to the development that adds further richness to the biodiversity value of the site.
- 3.4 Existing trees and the majority of hedgerows are to be retained to respect its natural boundary as well as provide a buffer for the development. Additional planting within the site is introduced, both within development parcels and the POS areas, and all streets have been designed with sufficient margins to allow them to be tree-lined in accordance with paragraph 131 of the NPPF.

4.0 PLANNING STATUS AND SITE HISTORY

- 4.1 The current development plan for the area consists of the Mid Devon District Local Plan (2013 to 2033). In the connected policy maps the site lies just outside the defined settlement boundary of Tiverton and forms part of the TIV13 Contingency Site, as an extract from Mid Devon Council's adopted policy maps shows below in Figure 4.

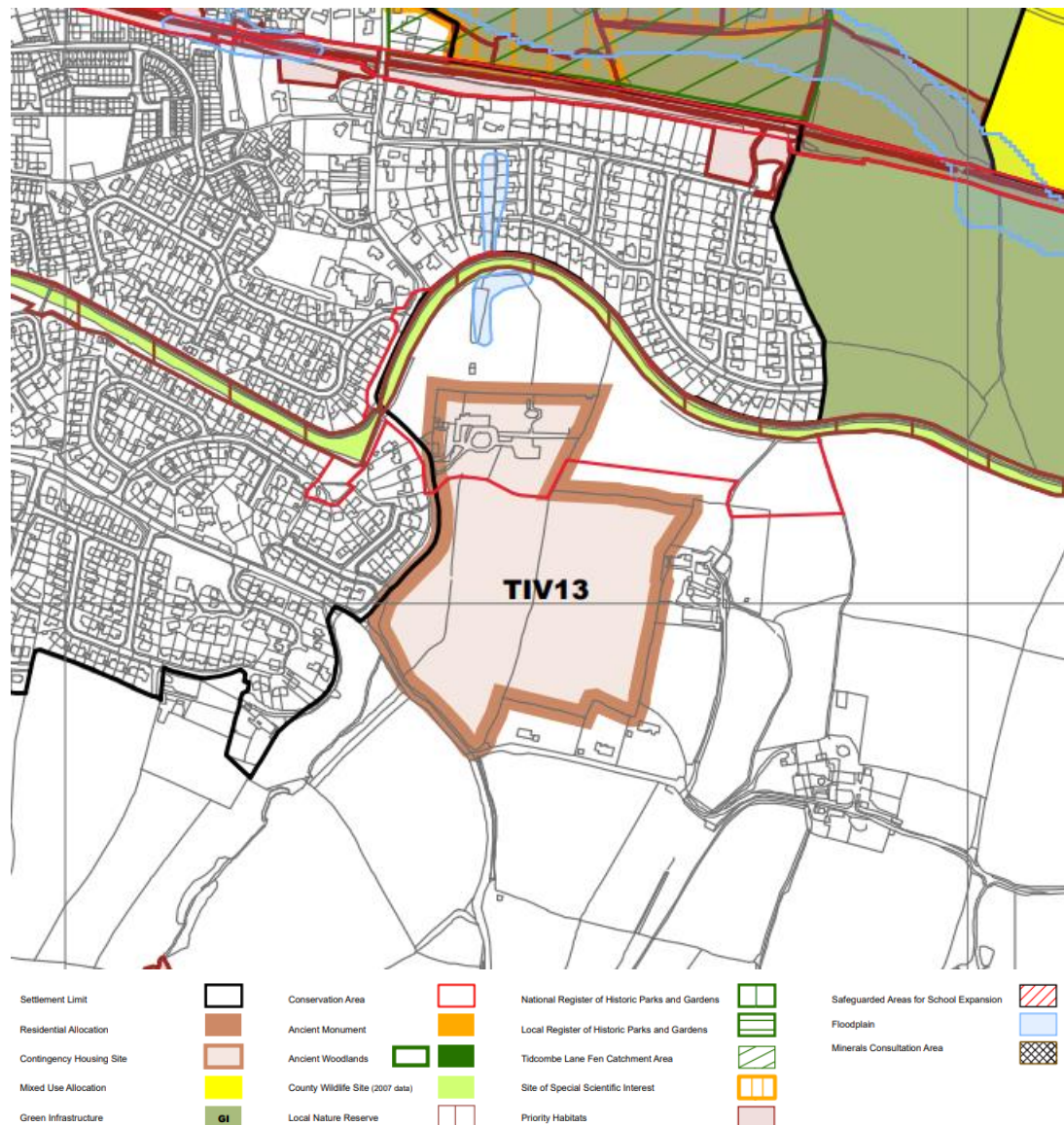


Figure 4. Extract of Planning Policy Maps from Mid Devon Local Plan (2013 to 2033)

- 4.2 The contingency site allocation is proposed to be realised in accordance with Policy S4 at the point where either the council cannot demonstrate a five-year housing land supply or where completions fall below the expected completions total by over two years' worth of the annual target.

- 4.3 The site was assessed as part of the Local Plan process in terms of its suitability to accommodate development. The Sustainability Appraisal Update January 2017 looked at the options to either delete the allocation or increase the number of dwellings. It was concluded that the deletion of the allocation would result in “a less sustainable and flexible plan in terms of meeting housing needs.”
- 4.4 With regards to the proposed increased number of dwellings for the allocation, this was dismissed as a result of the increase impacts to three of the sustainability objectives assessed, those being;
- a) Protection of the natural environment (Habitats and biodiversity; flora and fauna; protected species; landscape; geodiversity);
 - b) Protection and promotion of a quality-built environment (Heritage assets, including listed buildings, conservation areas, scheduled ancient monuments, registered parks and gardens, locally listed assets, archaeology; design and quality of development); and
 - i) Delivering the necessary infrastructure (Roads and transportation; schools; health services; community facilities; green infrastructure; telecommunications).
- 4.5 As shown in the Table below, the impacts of the increased allocation on the remaining sustainability objectives remain the same and a degree of impact was considered to be acceptable in relation to the protection of the natural environment and the protection and promotion of a quality-environment. The impacts upon objectives A, B and I are covered in the Material Consideration section of this report and demonstrate that having regard to the planning balance, these impacts are limited and outweighed by the positives of the development.

	Preferred	Alternative
Sustainability Objective	Proposed Submission Policy	8.4ha 200 dwellings
A	-1	-2
B	-1/?	-2/?
C	0/?	0/?
D	-3	-3
E	+1	+1
F	+2	+2
G	+3	+3
H	0	0
I	0	-2

Table 1. Summary Matrix – TIV13 Tidcombe Hall (Sustainability Appraisal Update January 2017)

- 4.6 Furthermore, the Inspector’s advice to the Council suggested bringing forward the contingency sites such as the TIV13 allocation. This was assessed within the Mid Devon Local Plan Review: Proposed Main Modifications Sustainability Appraisal Addendum (October 2019). The reason for not bringing forward the site was as follows;

“The Council’s HLS update June 2019 can demonstrate that a five-year supply of deliverable sites will be maintained over the initial five years and subsequent periods with the proposed draft Main Modifications, without the need to bring forward the TIV13 Tidcombe Hall contingency site.”

- 4.7 It is however important to note that the Council chose to bring forward other contingency sites such as CU21 Colebrook, Cullompton and CU7–12 Cullompton East despite the latter not contributing to the initial 5-year housing land supply. The impacts of bringing the contingency sites forward equal being:

“The likely effects of this site on the SA objectives are not affected by the option of bringing forward its delivery and removing its contingency status. However, bringing forward the delivery of the site would mean that the effects previously identified would occur earlier in the Plan period and the removal of the contingency status would mean that the effects would be more certain to occur.”

- 4.8 Furthermore, the Inspector’s advice also noted the potential to increase existing allocations to accommodate more dwellings and increase densities to allow for more dwellings on allocated sites. Both options were dismissed by the Council.
- 4.9 As set out in Section 2, the site is not subject to any specific policy designations (Area of Outstanding Natural Beauty, Site of Special Scientific Interest or any other ecological or landscape designation). The northern portion of the site, immediately surrounding Tidcombe Hall, is designated as the Grand Western Canal Conservation Area as shown in Figure 4.
- 4.10 The site lies entirely within Flood Zone 1 and only a small portion of land adjacent to the canal is subject to surface water flooding.

Planning History

- 4.11 The site was subject to one previous planning application in July of 2020 (Ref. 20/011074) for an *outline application for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, a cafe, an open-sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved.*
- 4.12 The application was for a much larger development that extended further into agricultural land to the east of the current application boundary. Development was proposed outside of the TIV13 allocation boundary and surrounded the Tidcombe Farmhouse complex, Figure 5 below shows the extent of the proposed masterplan that formed part of this previous application.



Figure 5. Proposed master plan for previously refused application ref 20/01174.

4.13 The application was refused in June 2021 for the following reasons;

- 1) The application site is located outside the settlement boundary of Tiverton and within the countryside. Policy S14 of the Mid Devon Local Plan 2013-2033 requires development outside settlement limits to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The scale and nature of the proposed residential development would not be permitted in accordance with criteria a of policy S14. The site partly falls within the area of land identified as a contingency site by policy TIV13. The Council considers it is able to demonstrate a five-year housing land supply. The delivery of housing across the district is considered to be in excess of the action levels identified by policy S4 such that the release of the contingency site and the additional site area outside the allocation for the proposed residential development is considered to conflict with the adopted development plan strategy. It is not considered that there are any material considerations that could be offered sufficient weight to overcome the adopted local plan position, the proposal is considered to conflict with policies S1, S4, S10, S14 and TIV13 of the Mid Devon Local Plan 2013- 2033.*
- 2) In the opinion of the Local Planning Authority, the proposed development would result in harm to the character, appearance, setting and significance of the following designated heritage assets; the Grand Western Canal Conservation Area, Knightshayes Registered Park and Gardens, Tidcombe Farm and Tidcombe Bridge. The proposal would also result in harm to the setting of Tidcombe Hall, a non-designated heritage asset. The less than substantial harm that has been identified is not considered to be outweighed by public benefits of the scheme. On this basis it is considered that the proposal conflicts with the statutory duty to have special regard to preserving or enhancing conservation areas and to the desirability of preserving listed buildings and their settings. The proposal does not accord with policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 in respect of heritage assets or government advice in the National Planning Policy Framework.*
- 3) In the opinion of the local planning authority the proposed development, including the provision of the proposed access, is likely to result in harm to the character and appearance of the area. The proposed development would appear as a visually intrusive feature within the rural area and would fail to preserve or enhance the*

character and appearance of the countryside. In particular it is considered that the proposed access to the site would be harmful to the character and appearance of the street scene of this part of Tidcombe Lane. The level of harm would be further amplified by potential adverse impacts to the root protection area of the category A Lucombe Oak tree, for which insufficient information has been provided to demonstrate that the works would not cause damage and disturbance to its root system which would be detrimental to its longevity. On this basis it is considered that the proposal would fail to preserve the character and appearance of the countryside or to preserve Mid Devon's cultural and historic environment contrary to the requirements of policies S1, S9 and S14 of the Mid Devon Local Plan 2013- 2033.

- 4) The provision of 179 dwellings on the site would result in requirements for 30% affordable housing, 5% self build dwellings, a financial contribution to education infrastructure, health care services and a financial contribution to off site public open space (where not provided on site). There is no section 106 agreement to secure the provision of these matters and therefore the development is considered to be contrary to policies S3, S5, S8 and TIV15 of the Mid Devon Local Plan 2013- 2033 and the National Planning Policy Framework.*

- 4.14 The first reason for refusal relates to the development being within the countryside and policy S4 and TIV13 not being engaged as a result of the LPA being able to demonstrate a 5-year housing land supply. As discussed in the sections that follow, we consider that the LPA cannot demonstrate a 5YHLS, thus engaging policy S4 and TIV13. Additionally, the proposed development has been reduced in its scope to include land within the TIV13 allocation only, by excluding land further to the east.
- 4.15 Reasons 2 and 3 relate to the impact of the development on heritage assets, the wider landscape and trees. These reasons are partly addressed by way of the reduced scheme and are further analysed within Section 7 of this report.
- 4.16 Lastly, reason 4 is as a result of the lack of S106 agreement for affordable housing, self-build plots and their delivery and contributions towards infrastructure. This reason can be addressed through the signing of a S106 agreement and thus is not discussed in further detail.

5.0 PUBLIC ENGAGEMENT

- 5.1 Full details of the public consultation undertaken can be found in the separate Statement of Community Involvement (SCI) document.
- 5.2 As part of the development of the proposals presented, community consultation was undertaken in the form of an online website, of which paper copies could be posted upon request, and opportunities for comments to be made via a questionnaire, email or telephone.
- 5.3 The website can be found here: <https://tidcombehall.co.uk>
- 5.4 A letter drop with details of the consultation period and ways of contacting the agents was also conducted within a pre-determined consultation area. The extent of the letter drop can be found within the Statement of Community Involvement.
- 5.5 The public consultation website included details of the site in its current context, identified constraints and opportunities that it presents, a proposals page which outlined details of the scheme and how they had emerged, key considerations such as the provision of housing, access, heritage, landscape and drainage, and it provided the opportunity to comment on the proposals, as explained above, via the questionnaire.
- 5.6 The Town Council for Tiverton and Ward Councillors for Mid Devon Council were all contacted directly via email, informing them of the public consultation and letting them know how they could engage.
- 5.7 The questionnaire that formed part of the public consultation generated 24 responses, with around 35% of people supporting the provision of housing at this location. The majority of responses claimed that no housing should be provided however some respondents stated that affordable housing should be provided. 88% of respondents did not support the provision of a jetty onto the canal and it was strongly agreed amongst the majority of respondents that the proposals should be looking to address infrastructure constraints. The majority of responses received either objected to the development or stated they object for the same reasons as the previous application, however, did not provide further details.

6.0 PLANNING POLICY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be in accordance with the development plan unless other material considerations indicate otherwise.
- 6.2 In this case, the relevant development plan is the Mid Devon District Local Plan (2013 to 2033), which was adopted in July 2020.
- 6.3 The ‘other material considerations’ referred to in the Act would include the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), Planning Policy Statements, Planning Circulars, and Supplementary Planning Documents (SPDs) and Supplementary Planning Guidance (SPGs) (emerging and adopted).

Mid Devon Local Plan

- 6.4 The Mid Devon Local Plan (‘Local Plan’) was adopted in 2020 and seeks to cover the plan period up to the year 2033.
- 6.5 Relevant policies to the application’s assessment are as follows:
- **Policy S1 - Sustainable development priorities.** Sets out the strategic priorities that development will need to achieve in order to deliver the Local Plan Vision such as;
 - Development focus at Tiverton, Cullompton and Crediton as Md Devon’s most sustainable settlements;
 - Ensuring the vitality of town centres and communities through a hierarchy of centres, defined town centre shopping areas, a diverse retail offer at Tiverton, Crediton and Cullompton;
 - Supporting a prosperous rural economy through the conversion of suitable existing buildings and well-designed new buildings in suitable locations;
 - Promoting sustainable transport by delivering appropriate infrastructure, reducing the need to travel by car, integrating public transport and other forms of sustainable travel such as walking and cycling;
 - Meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources;

- Conserving and enhancing the natural environment by protecting and enhancing valued landscapes;
 - Minimising impacts on biodiversity and geodiversity by recognising the wider benefits of ecosystems, delivering natural environment objectives, providing a net gain in biodiversity ; and
 - Conserving and enhancing the historic environment through the identification and protection of designated and non-designated heritage assets and assessing the impact of new development on the historic character of Mid Devon’s landscapes and townscapes.
- **Policy S2- Amount and distribution of development.** Sets out the minimum dwellings required for the local plan period and that development will be concentrated at Tiverton, Cullompton and Crediton.
 - **Policy S3- Meeting housing needs.** Sets out the minimum dwellings required for the local plan period and the yearly figure. Additionally sets out affordable housing requirements for non-allocated sites and also self-build requirements on site of more than 20 units.
 - **Policy S4 - Ensuring housing delivery.** If cumulative completions since 2013 fall below the expected completions total by over two years’ worth of the annual target (as expressed in the defined action level for that year), or a five-year supply of deliverable sites cannot be demonstrated, the Council will work proactively to bring forward allocations or outstanding planning consents. If this is insufficient to deliver the necessary level of housing, an identified contingency site will be permitted to boost housing supply.
 - **Policy S5 - Public open space.** Sets out the quantum of open space requirements within the district, along with whether this is to be provided on-site or off-site.
 - **Policy S8 – Infrastructure.** Sets out that the location, scale and form of development will be guided by the need for community facilities and any existing infrastructure deficiencies.
 - **Policy S9 – Environment.** Development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets and minimise the impact of development on climate change through:
 - a) High-quality sustainable design;
 - b) The efficient use and conservation of natural resources;

- c) The provision of measures to reduce the risk of flooding to life and property;
 - d) Renewable energy development in locations where there is an acceptable local impact;
 - e) The preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape;
 - f) The protection and enhancement of designated sites of international, national and local biodiversity and geodiversity importance; and
 - g) The preservation and enhancement of Mid Devon's cultural and historic environment
- **Policy S10 – Tiverton.** Tiverton will continue to develop in a balanced way as a medium-sized market town serving a rural hinterland in the central part of Mid Devon and to the north. The strategy will maintain its status as the largest urban area in Mid Devon and increase the self-sufficiency of the town and its area by improving access to housing, employment and services for its population and that of the surrounding rural areas.
- **Policy S14 – Countryside.** Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.
- **Policy TIV13 – Tidcombe Hall Contingency Site.** A site of 8.4 hectares at Tidcombe Hall is identified as a contingency site for residential development to be released in accordance with Policy S4, subject to the following:
 - 100 dwellings with 28% affordable housing;
 - Vehicular access point onto Canal Hill and improvements to Tidcombe Lane north wards from the site;
 - Walking and cycling enhancements and connection to surrounding public rights of way and green infrastructure networks;
 - Design and landscaping which protects the setting of the Grand Western Canal, Tidcombe Hall and Conservation Areas; and
 - Archaeological investigations and appropriate mitigation measures.
- **Policy TIV15 - Tiverton Infrastructure.** Sets out the infrastructure requirements for Tiverton and that strategic Local Plan sites will be required to pay for specific items of infrastructure that are necessary to make the development acceptable.

- **Policy DM1 -High-quality design.** Sets out design principle requirements of new developments, that being:
 - Clear understanding of the characteristics of the site, its wider context and the surrounding area;
 - Efficient and effective use of the site having regard to criterion (a);
 - Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
 - creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;
 - Visually attractive places that are well integrated with surrounding buildings, streets, and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses taking account of;
 - Architecture
 - Siting, layout, scale and massing
 - Orientation and fenestration
 - Materials, landscaping and green infrastructure
 - Appropriate drainage including sustainable drainage systems (SUDS);
 - Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
 - Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building; and
 - On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.
- **Policy DM3 - Transport and air quality.** Development must ensure safe access to the transport network. Development proposals that would give rise to significant levels of vehicular movement must be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment.
- **Policy DM4 – Pollution.** Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.
- **Policy DM5 – Parking.** Sets out the vehicle parking and cycle requirements for new development. For C3 use these equate to 1.7 vehicular spaces per dwelling and 2

cycle spaces per 1 or 2 bed dwellings and 4 cycle spaces for each dwelling with 3 or more beds.

- **Policy DM25 - Development affecting heritage assets.** Policy DM25 states that heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:
 - Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;
 - Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;
 - Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;
 - Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and
 - Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).
- **Policy DM26 - Green infrastructure in major development.** Major development proposals must demonstrate that green infrastructure will be incorporated within the site as follows;
 - Biodiversity mitigation, resulting in a net gain in biodiversity;
 - Flood and water resource management;
 - Green corridors and public rights of way to link the site to the wider GI network, provide walking and cycling opportunities and avoid habitat fragmentation; and
 - New green infrastructure such as the creation of native woodland where possible.

- **Policy DM28 - Other protected sites.** Where development proposals would lead to an individual or cumulative adverse impact on Sites of Special Scientific Interest, ancient woodland, ancient trees, Regionally Important Geological Sites, County Wildlife Sites, Local Nature Reserves or priority habitats defined under the UK and Devon Biodiversity Action Plans, the Council will balance the overall benefits of the proposal against the impact. Sufficient information must be provided for the Council to assess the significance of the impact against the importance of the protected site and the species which depend upon it.

Tiverton Neighbourhood Plan (TNP)

- 6.6 The TNP was adopted in December 2022 and sets out the Town Council's vision for the area. It did not add to the allocations for housing that had already been made in the Local Plan, it simply reiterates these.
- 6.7 The TNP had to be compliant with the Mid Devon Local Plan to be found sound and therefore cannot delete policies or allocations made in that plan. Paragraph 4.6 of the TNP refers to the reserve site at Tidcombe Hall and how this will only be permitted if MDDC cannot demonstrate a 5-year housing land supply.
- 6.8 Therefore, the TNP does not render policy TIV13 inapplicable to an assessment of planning applications that fall within the scope of this policy.
- 6.9 Separate to planning policies for the delivery of housing the following policies of the TNP are also of some relevance to the current application:
- **Policy T4 – Character of Development.** Sets out character areas for Tiverton and that development should conserve and where practical enhance the character area in which it is located. Where development sites abut open countryside, development on the rural boundary edge should mitigate any detrimental visual impacts on the countryside
 - **Policy T5 – Design of Development.** Development proposals should incorporate a high-quality of design, which responds and integrates well with its surroundings, meets the changing needs of local residents and minimises the impact on the natural and historic environment
 - **Policy T6 – Energy Efficiency and Design.** Proposals which incorporate design and environmental performance measures and standards to reduce energy consumption

and climate effects will be supported. Development proposals which achieve above the standards as set out below will be strongly supported

- **Policy T7 – Minimising the Risk of Flooding.** Development proposals should be supported by a drainage scheme maintenance plan which demonstrates a schedule of activities, access points, outfalls and any biodiversity considerations. Where it is practicable to do so, SuDS provision should demonstrate how its design will enhance wildlife and biodiversity as well as minimise the impacts of flooding.
- **Policy T8 – Local Buildings and Structures of Merit and Heritage Assets at Risk.** Sets out that development affecting the character or setting of identified local heritage assets should set out its significance in sufficient detail to allow the potential impacts to be adequately assessed, be sympathetic to the building or structure concerned and, where appropriate, propose its creative reuse and adaptation, ensure that recording and interpretation is undertaken to document and understand the asset's archaeological, architectural, artistic or historic significance.
- **Policy T9 – Network of Green and Blue Infrastructure.** Proposals should include biodiversity net gain, which as a minimum meets national policy requirements. In particular proposals that seek to improve the connectivity between wildlife areas and green spaces, and where they accord with Policy S9 of the Mid Devon Local Plan, will be supported.
- **Policy T11 – Locally Significant Views.** Development proposals are required to ensure that they do not have a significantly detrimental impact on:
 - the 15 locally significant views listed in Figure 7.5 and shown on the Policies Map; and
 - The views set out in The Setting of Knightshayes Park and Garden: A Historic Landscape Assessment.
- **Policy T16 – Encouraging Safe and Sustainable Movement.** . To ensure that residents can access public transport facilities, schools, leisure and other important facilities, all new developments should ensure safe pedestrian and cycle access to link up with existing footways and cycleways that, in turn, directly serve the existing foot and cycle path network shown on the Policies Map

National Planning Policy Framework 2023 (NPPF)

- 6.10 The NPPF sets out the Government's planning policies for England. Central to this guidance is the presumption in favour of sustainable development, which comprises social, economic and environmental roles.
- 6.11 Key paragraphs relevant to the application's assessment are as follows:

- **Paragraph 11** states that decisions should apply a presumption in favour of sustainable development. For decision-taking, this means ‘approving development proposals that accord with an up-to-date development plan without delay’, or ‘where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.’
- **Footnote 7** defines the areas or assets of particular importance or in need of protection - including SSSIs, Green Belt, Local Green Space, AONB, a National Park, Heritage Coast, irreplaceable habitats, designated heritage assets, or areas at risk of flooding or coastal change.
- **Footnote 8** states that a plan may be considered out-of-date if the authority is unable to demonstrate a five-year housing land supply, or where the Housing Delivery Test indicates that the delivery of housing is substantially below the housing requirement.
- **Paragraph 14** states that for applications involving housing where the presumption (para11d) applies the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
 - a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three-year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
 - d) the local planning authority’s housing delivery was at least 45% of that required¹⁰ over the previous three years.
- **Paragraph 33** requires policies in local plans and spatial development strategies to be reviewed to assess whether they need updating at least once every five years, and should then to be updated as necessary
- **Paragraph 40** states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage
- **Paragraph 60** notes that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

- **Paragraph 75** highlights that LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement, including the addition of an appropriate buffer.
- **Paragraph 105** states that the planning system should actively manage patterns of growth and significant development should be focused on locations that are, or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- **Paragraph 119** requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses.
- **Paragraph 124** confirms that planning decisions should support development that makes efficient use of land.
- **Paragraph 125** states that where there is an existing, or anticipated, shortage of land for meeting identified needs, *"... it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site"*.
- **Paragraph 130** requires that planning policies and decisions ensure that developments are, inter alia, sympathetic to local character, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- **Paragraph 131** requires developments to ensure that streets and tree-lined.
- **Paragraph 169** requires major developments to incorporate sustainable drainage systems..
- **Paragraph 174** asks decisions to recognise the intrinsic character and beauty of the countryside and provide net gains for biodiversity.
- **Paragraph 180** states that development should take opportunities to improve biodiversity and integrate it as part of the design.
- **Paragraph 202** requires LPAs to balance any 'less than substantial harm' on heritage assets against the public benefits of the proposal.

Decision Making Framework

- 6.8 Having regard to the Section 70(2) of the Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004, that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. This is repeated within the NPPF, at paragraph 47.

- 6.9 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development, which means “approving development proposals that accord with an up-to-date development plan without delay”.
- 6.10 Policy TV13 obviously forms part of the Development Plan and allows this site to come forward if the delivery of housing is failing or a five-year land supply cannot be demonstrated.
- 6.11 As evidenced in the supporting report by Intelligent Land, a large portion of the supply is not considered to be deliverable and build-out rates for consented sites are calculated to be higher than local evidence would suggest. As a result, it is calculated that the LPA’s housing land supply falls below the required 5-year supply.
- 6.12 In the absence of a five-year housing land supply policy TIV13 obviously applies positively in respect to then decision making framework for the area and the site specifically.
- 6.13 Separate to that paragraph 11 of the NPPF advises that, where there are no relevant development plan policies, or the policies which are most important are out-of-date (i.e. where a five-year HLS cannot be demonstrated), planning permission should be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits”*.
- 6.14 As such, and in line with National legislation, policies within the Local Plan specifically relating to housing delivery, must be considered out-of-date and be given less weight within decision-taking. Therefore, the council cannot refuse applications simply because they fall outside of the rural settlement boundary, notwithstanding the application of policy TIV13 in any event.

7.0 THE MAIN ISSUES

7.1 Considering the planning context within Mid Devon, the public consultation and technical work undertaken, the main issues relating to the assessment of this application including the following in our opinion:

1. Whether the principle of the proposed development is acceptable in regard to;
 - a. The Sustainability of the Site
 - b. Policy Compliance
 - c. Housing Need
2. Landscape impacts of the proposals;
3. Design impact of the scheme;
4. Heritage impacts of the proposals;
5. Highways and Parking;
6. Flood Risk and Drainage;
7. Ecology and Biodiversity Net Gain;
8. Whether there would be any unacceptable impacts on trees; and
9. Other Material Considerations.

7.2 We will now go on to discuss the benefits and issues associated with the scheme.

Issue 1: The Principle of the Proposed Development

Sustainable Development

7.3 Policy TIV1 sets out that *“as the largest of Mid Devon’s Towns, Tiverton is a sustainable location for development to meet the housing and employment needs of a growing population”*. Development, both committed and proposed, within Tiverton accounts for 30% of the housing requirements identified within the Local Plan. Policy S1 states that in order to support the creation of sustainable communities, development should be focused at Tiverton, Cullompton and Crediton as Mid Devon’s most sustainable settlements. This is reiterated in Policy S2 which states that *“development will be concentrated at Tiverton, Cullompton and Crediton, to a scale and mix appropriate to their individual infrastructures, economies, characters and constraints.”* Local Plan Policy is therefore clear that land at Tiverton is considered to be highly sustainable in terms of the spatial strategy for the area and hence it has been allocated a significant portion of the districts housing requirement.

7.4 The supporting text to Policy S2 states that available and suitable land for development in Tiverton has become increasingly scarce as the town has grown. This is expanded on under

Policy S10 stating that Tiverton's growth is constrained by the town's topography, flood plains and the position of the A361.

- 7.5 As set out Tiverton is identified as one of the most sustainable locations within Mid Devon and maintains one of the largest range of shops, services, employment opportunities and other facilities. It has excellent access to community facilities, shops and services, healthcare services and public transport. A wide range of everyday facilities are located within Tiverton town centre, including banks, a GP surgery, pharmacies, dentists, secondary schools, a post office and a hospital. The following table details the walking distances from the site to local services.

Facility	Approximate Walking Distance (m/mins)									
	0-400m	0-5 mins	400-800m	5-10 mins	800-1200m	10-15 mins	1200-1600m	15-20 mins	1600-2000m	20-25 mins
Top of Tidcombe Lane Bus Stops	✓									
Tidcombe Primary School	✓									
Hay Public Park and Garden			✓							
Blackmore Road Play Area			✓							
Wilcombe Primary School					✓					
Premier (Wilcombe Stores) Convenience Shop					✓					
Sunningmead Community Centre					✓					
Premier Horsdon Garage Convenience Shop							✓			
Tiverton Town Centre									✓	
Lidl Supermarket									✓	
Tesco Superstore Tiverton									✓	

Table 2. Walking Accessibility to Local Services

- 7.6 In addition, the closest bus stop, 'Top of Tidcombe Lane', is located approximately 70m south of the site access. The 352 and 353 services provide connectivity to destinations across the whole town which run a combined half-hourly service from the bus stop. The service operates in both the morning and evening peak hours, making it a viable option for commuting. By catching the first service, Tiverton Bus station can be reached by 08.05. Tiverton Bus Station provides access to a greater number of services that serve destinations further afield, including Taunton, Barnstaple and Exeter as well as Tiverton Parkway Railway Station.
- 7.7 Tiverton Parkway Railway Station is located circa 9.5km away from the site and can be reached via a 30-minute cycle or 25-minute bus journey. The Station provides connections to London Paddington, running hourly throughout the week, Exeter St David's running every half hour and also to Plymouth and Bristol Temple Meads. The services to Plymouth and Bristol Temple Meads run 2 per hour but are reduced at the weekend.
- 7.8 The site is well situated on the edge of Tiverton and would represent a logical extension to the residential extent of the town. Given its allocation as a contingency site, the development of this land would contribute positively to the efficient use of land that is in such an accessible location.
- 7.9 As a result of wide range of key facilities lying within the maximum 2km distance referred to in the Manual for Streets Guidance, by which car trips are likely to be replaced by walking or cycling, and further facilities reachable by public transport, the site lies in a highly sustainable location for a mixed residential development.
- 7.10 The site would have been assessed in terms of its accessibility as part of the MDDC Local Plan and in being selected as a contingency site both the Council and the Inspector must have concluded that it represented a sustainable option for development in these terms.
- 7.11 In conclusion it is clear that the development would meet favourably with the adopted spatial strategy and comply with policies S1 and S2, whilst also offering residents of the site easy access to everyday facilities via a range of sustainable travel modes.

Policy Compliance

- 7.12 As set out above policies S1 and S2 make Tiverton a focus for growth in the plan period and the development proposal fully comply with these, by providing housing to meet Tiverton's growth targets.
- 7.13 Local Plan Policy S4 states that *"if cumulative completions since 2013 fall below the expected completions total by over two years' worth of the annual target (as expressed in the*

defined action level for that year), or a five-year supply of deliverable sites cannot be demonstrated, the Council will work proactively to bring forward allocations or outstanding planning consents. If this is insufficient to deliver the necessary level of housing, an identified contingency site will be permitted to boost housing supply.”

- 7.14 While up-to-date completions data from 2023 is not available from MDDC, the 2022 data suggests 3,160 completions had occurred over the first 9 years of the plan period. Based on the annual requirement of 393 dwellings per year this shows that the council have fallen behind on housing delivery by approximately one years' worth of supply. Therefore, while the trajectory is slipping towards the two-year deficit that triggers a different application of policy S4, this is yet to be reached.
- 7.15 However, the second element of the application of policy S4 relates to land supply. The submitted review of the Council's 5-year housing land supply, produced by Intelligent Land, identifies that a five-year housing land supply cannot be robustly evidenced in MDDC.
- 7.16 As a result of the lack of 5-year housing Policy S4 directs that contingency sites can be released to boost supply. TIV13 is the contingency site for Tiverton, which as established above is a sustainable location. TIV13 states that a site of 8.4ha is identified as a contingency site subject to the following criteria:
- a. 100 dwellings with 28% affordable housing;
 - b. Vehicular access point onto Canal Hill and improvements to Tidcombe Lane northwards from the site;
 - c. Walking and cycling enhancements and connection to surrounding public rights of way and green infrastructure networks;
 - d. Design and landscaping which protects the setting of the Grand Western Canal, Tidcombe Hall and Conservation Areas; and
 - e. Archaeological investigations and appropriate mitigation measures.
- 7.17 The total number of dwellings proposed as part of this application is up to 100, of which 28 would be affordable in accordance with Policy TIV13. The 100 dwellings are proposed on a portion of the TIV13 allocation with the western field under separate ownership. The supporting text to TIV13 states that the site can accommodate more than 100 dwellings however a lower density would help protect the setting of the canal and Tidcombe Hall. It is however pertinent to note that the previous contingency allocation of the site within the Allocations and Infrastructure Development Plan (AIDPD) proposed 200 dwellings on a smaller site of 5ha.
- 7.18 As demonstrated in the proceeding sections the increased densities to the eastern field are not considered to unduly impact upon the setting of the canal or Tidcombe Hall. Furthermore

principle CP.2 of the Planning Policy Statement: Climate Emergency tasks developments to achieve a significant uplift in densities of dwellings in town centres and other locations which are well served by public transport. As set out in the previous section the site is well served by public transport and the increase to densities would accord with the Council's Climate Emergency as well as Paragraph 130 of the NPPF.

- 7.19 Furthermore, and in line with NPPF paragraph 123 which states that where there is an existing, or anticipated, shortage of land for meeting identified needs, "... it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site", a site with predominantly large detached family homes with large gardens would be inappropriate and the emerging illustrative layout provides a variety of unit types to make the best use of an accessible site.
- 7.20 Local Plan Policy S2 sets a requirement of at least (i.e., a minimum) of 7,860 new homes to be provided over the plan period (2013-2033). Equating to 393 dwellings per year. As set out, as of 1st April 2018 for the rural areas, there were 571 completions and a further 796 commitments totalling 1340 new dwellings. This represents a 71% uplift on the local plan requirements of 786 for these rural areas. Whilst not maximum figures, the above demonstrates that higher than expected delivery has occurred within the rural area of Mid Devon where limited development was proposed through the local plan due to its sustainability. Accordingly the application represents an opportunity to refocus on Tiverton and deliver housing here, which is considered the most sustainable settlement in the district, which would accord with the overall aims and objectives of the Local Plan.
- 7.21 Furthermore, the adopted Policy requirements within the Local Plan relating to Affordable Housing, set out in Policy S3, explains that "*it is recognised that the level of supply is unlikely to meet the anticipated need as not all allocations will come forward or others may be developed with a lower housing number than specified in the policy*". The policy requirement for affordable housing has been set to ensure that schemes within the district are viable and can deliver other important elements of infrastructure. The affordable housing requirement for the district will therefore not be met through the local plan and its allocations. As such the provision of affordable housing should be afforded substantial weight in the determination of the application.
- 7.22 The respective requirements of TIV13 Policy are addressed in the sections that follow and demonstrate how the development accords with both the Local Plan and NPPF. In light of the above, we strongly believe the proposals put forward make the most effective use of allocated land, by most importantly providing much needed homes in an accessible location.

Consequently, the proposal is considered to comply with and Policies S1, S2, S4 and TIV13 of the Local Plan and should be considered acceptable in principle.

Housing Need

- 7.23 Local Plan Policy S2 sets a requirement of at least (i.e., a minimum) of 7,860 new homes to be provided over the plan period (2013-2033). Equating to 393 dwellings per year.
- 7.24 Paragraph 74 of the NPPF requires local authorities to identify and annually update a supply of deliverable sites to provide a minimum of five years' worth of housing against their housing requirement. Where an authority cannot do this, policies relating to housing supply cannot be considered "up-to-date" in the context of paragraph 11.
- 7.25 As set out above a separate report by Intelligent Land outlines that MDDC cannot demonstrate a deliverable 5 year housing land supply. Therefore, the policies of the Local Plan that prevent housing development from coming forward must be considered out-of-date and given reduced weight in decision-making.
- 7.26 The "titled balance" is therefore engaged and, in accordance with the NPPF, any future planning application should be approved unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits. In this particular instance, Policy S4 is engaged and the Council should look to release contingency sites to boost housing supply.
- 7.27 The Exeter Housing Market Area Strategic Housing Market Assessment (SHMA) 2014/15 identified that there is a need for an average of 124 new affordable dwellings per year in MDDC. The SHMA identifies that the need for affordable housing is larger than the number of homes likely to come forward, noting the following;
- "Noting that the total affordable need is much higher than the number of homes likely to be delivered by market led development, the authorities of the HMA will need to give consideration to the scope and potential to increase total housing delivery, above objectively assessed needs, as a means to promote additional affordable housing delivery."*
- 7.28 In a recent appeal decision (ref. APP/Y1138/W/22/3313401) evidence was presented to the fact that only an average 63 affordable dwellings were provided per annum from 2013 to 2022, almost half the identified need. Furthermore, affordable dwellings lost to sales, demolition or sales to sitting tenants, amount to an average of 22 per annum over the plan period resulting in a net delivery of 41 per annum, substantially below the identified need of 124 per annum. The clear evidence of affordable housing need was not challenged by Mid Devon Council and the provision of affordable housing was given great weight in the determination of the appeal.

- 7.29 It is clear that the proposed development would increase the choice of housing and make a contribution to reducing the shortfall of housing supply in Mid Devon, as well as meeting the housing needs of local people, in a location that offers an abundance of everyday facilities within walking distance. The principle of residential development should therefore on balance be considered acceptable in this location.

Issue 2: Landscape Impact

- 7.30 A landscape and Visual Impact Assessment (LVIA), prepared by Tapestry, has been submitted in support of the application. The LVIA set out that given the topography and tree planting found in the area the site is relatively discreet and visually contained within the wider landscape and that site can be developed in a way that preserves the views in and out of Tiverton.
- 7.31 The site is located to the edge of Tiverton, close to existing development, and is mostly located in the landscape character type 3E (lowland plains) with a portion of the southern part of the site within landscape character 3A (upper farmed and wooded valley slopes). These have similar characteristics, with the key difference being the elevation of the land, and the steepness of the land which is mostly less noticeable in the lowland plains area which is the highest part of the site, sloping down towards the canal.
- 7.32 A total of 30 viewpoints were initially identified and visited on-site. Of these, 13 were assessed as having no visibility of the site and no further assessment was required. The remaining 17 viewpoints were assessed, recorded and detailed within the LVIA. Some of the viewpoints do not have visibility of the site, but due to the sensitivity of the viewpoint location, they have nonetheless been included in the assessment for completeness.
- 7.33 A range of landscape effects have been identified ranging from negligible to major adverse, however the only major adverse effect relates to the change to the site's landscape character which will be changed from agricultural land to urban development and is typical of such developments and unavoidable when developing an allocated site.
- 7.34 The following summarises the residual magnitude of the development's landscape impacts:
- The predicted residual magnitude of landscape impacts of the development is localised in scale and restricted to the site, and its immediate environs, mainly due to the topography of the surrounding area and the presence of local vegetation.
 - Low level landscape impacts arising during the development would be minor.
 - The localised nature of the landscape impacts mean that the proposed development would result in low adverse impacts on the wider landscape at a regional level.

- Topographic alterations would likely be localised and would not impact on the landscape quality of the area and would largely blend within the existing landform.
- It is therefore concluded that the overall magnitude of the landscape impacts would be low.

7.35 In terms of visual effects, the site is relatively well contained by the surrounding landform, and its location in the valley floor means that it is surrounded and screened by a large amount of vegetation - a characteristic feature of the local landscape - and this can be seen in many of the viewpoints that have been assessed.

7.36 There are three moderate adverse visual impacts identified in Year 0 - Views 15, 16, and 18. These are all local viewpoints with direct views of the site. In all cases, it is considered that the mitigation planting that is proposed in the illustrative plans demonstrates that the residual visual impacts can be reduced to Minor/Neutral in Year 15.

7.37 Obviously, the development of the allocation site would change the landscape character and appearance of the set and this was tested as part of the SA process connected to the allocation of the site in then Local Plan. The conclusion was that the landscape impacts of developing the site were acceptable and a different conclusion after the allocation of the site would be unsustainable.

7.38 Overall, the LVIA demonstrates that the proposed development will have very limited landscape and visual impacts. Whilst in outline form it also demonstrates through the illustrative masterplan how the development can be accommodated on site. In conclusion the proposal is considered to accord with Policies S1 and S9 of the Mid Devon Local Plan 2020 in respect of the landscape impacts.

Issue 3: Design

7.39 Design is an integral aspect of sustainability according to the NPPF and this is reflected in a number of policies within Mid Devon's Local Plan, including Policies S9, TIV13 and DM1.

7.40 The development proposals portray a high-quality development, which will sit comfortably within its landscape setting as it will be extensively screened with tree planting and existing hedgerow. The development will comprise a mix of homes, which are varied in size but limited to 2 storeys. These include the conversion of Tidcombe Hall and its outbuildings to form 9 dwellings, the erection of 8 dwellings within the grounds of Tidcombe Hall and the erection of 83 dwellings to the southeast of Tidcombe Hall.

- 7.41 The local area has been analysed in great detail for inspiration with respect to the materials that were to be utilised in the scheme. Such materials found included red brick, render and some stone and these are all utilised in the proposed buildings, as the Design Statement outlines.
- 7.42 Whilst indicative, the proposed layout shows how the development could comfortably fit within the site, including the open space and drainage. Plot layouts have been designed to offer natural surveillance of the open space and pathways which permeate the site.
- 7.43 The conversion of Tidcombe Hall is achieved through the demolition of the more modern elements located at the western end of the building. Tidcombe Hall is proposed to form three townhouses with gardens to the rear and the outbuildings to the west are to be converted into further dwellings. The existing circular driveway, which was considered an important feature, is proposed to be retained and enhanced offering an attractive formal landscaping to the frontage of Tidcombe Hall.
- 7.44 The walled garden to the east sees the erection of 8 dwellings which are designed with a farmstead typology. These will be complemented by enhanced boundary treatments and accessible from the primary site access road. Between this area and Tidcombe Hall community-growing areas are proposed. The remainder of the space to the frontage of Tidcombe Hall is retained and proposed landscaping and open space.
- 7.45 The access road from Tidcombe Lane meanders to the south past the parkland area to connect to the eastern portion of the development. This is laid out such that as many of the dwellings would face south, enabling passive heating from the sun and the use of PV cells. A landscaped buffer, containing a pedestrian pathway and swales, form a separation between the site and Tidcombe Farmhouse to the east.
- 7.46 The landscaped parkland to the north contains multifunctional drainage basins, extensive landscaping and circular pathways encouraging walking within the development and within the surrounding areas. Bat mitigation is proposed in the north of the parkland and this is proposed to be inaccessible to the public, shielded by landscaping.
- 7.47 The homes themselves will be built to go beyond the requirements of building regulations with south-facing homes provided with photovoltaic panels to the roof. Air source heat pumps will be utilised to provide a sustainable method of heating the homes and each house will be provided with an EV charging point to encourage the use of electric vehicles. More details can be found in the accompanying Sustainability Statement.

- 7.48 In conclusion, the proposals make efficient use of the land whilst maintaining a high-quality designed scheme both of which the Local Plan and NPPF support. It helps to provide active frontage through the care home facing the employment space and sitting adjacent to the consented food store, and the proximity of residential houses in addition to this, creates a level of natural surveillance and in turn, deterring criminal and anti-social behaviour. The scheme is therefore compliant with Policies SD1 and DE1.

Issue 4: Heritage and Archaeology.

- 7.49 A Historic Environment Assessment has been submitted in support of the application, prepared by AC Archaeology which sets out an appraisal of all heritage assets within the vicinity of the site and those further afield. The northern portion of the site sits within the Grand Western Canal Conservation Area and there are nine Grade II Listed buildings within a 1km radius of the site. None of the designated assets are within the site itself, although the site is located adjacent to the Grade II Listed Tidcombe Farmhouse to the west and further east of the proposed entrance of the site is Tidcombe Bridge (Grade II Listed). Knightshayes is Grade I and its' listed park and garden is Grade II*, they are located circa 2.5km to the northwest of the site. The impacts on each asset are considered in more detail below;

Tidcombe Hall

- 7.50 Tidcombe Hall is a non-designated heritage asset of local interest. Whilst details of the proposed conversion have not been provided at this stage, the supporting DAS gives details on how it could be converted into family housing in a sympathetic manner. The property was previously found to be convertible and that in principle a scheme could be developed to enable a conversion without harm to its significance as a non-designated heritage asset.
- 7.51 In the past few years, the site has been subject to extensive levels of vandalism and antisocial behaviour, even when security measures have been put in place by the applicant. It is therefore in a deteriorating condition and securing its conversion and reuse as part of the proposed development is a significant benefit of the scheme.
- 7.52 The gardens and some of the surrounding agricultural land form part of the setting of Tidcombe Hall, specifically land where Tidcombe Hall can be experienced, and its significance (its architectural and historical illustrative values) can be appreciated.
- 7.53 The scheme will change parts of the setting of Tidcombe Hall, aspects that contribute towards its significance through the proposed community allotment and courtyard development, the outbuildings to the west of Tidcombe Hall and the access road to the south of Tidcombe Hall. This will introduce new patterns of movement into the landscape

immediately to the south of Tidcombe Hall and will change the general character of this area with the addition of street lighting, signage and traffic. However, this change is considered to result in a negligible to minor negative change to the significance of Tidcombe Hall.

Grand Western Canal Conservation Area

- 7.54 Residential development within the proposed site would change part of the setting of the Grand Western Canal Conservation Area by reducing some of the surrounding agricultural land which forms part of the historical landscape context of this asset, but will not impact upon any of the aspects of setting that contribute towards the significance of the Conservation Area (such as its topographical location and position on the route between Tiverton and Lowdells), or upon any of the key views in which the evidential (architectural and technological) values of the asset can be appreciated and experienced, namely views along the canal and associated towpath, the numerous road bridges that cross the canal, and views of the canal from nearby properties. Likewise, the evidential (architectural and technological) and historical values that provide a greater contribution towards its overall significance would remain unchanged. It is therefore concluded that the proposed development will cause no change to the significance of the Grand Western Canal Conservation Area.

Knightshayes Court Grade II* Registered Park and Garden

- 7.55 The proposed development site is located to the southeast of Knightshayes Court Grade II* Registered Park and Garden and is likely to be visible within 3 of the 16 views that contribute towards its setting. These comprise:
- An historic designed view out from the Church Path;
 - An historic designed view out from the house; and
 - An historic view in from Warnicombe Plantation.
- 7.56 A full assessment of these view is set out in the supporting Historic Environmental Assessment. To summarise, the scheme is likely to be visible at distance within three of the key views from the Grade II* Registered Park and Garden at Knightshayes Court, but this would represent a small change to an area of agricultural land within these long-distance views. Warnicombe Plantation (and the agricultural land immediately to the south which is situated on a steep northfacing slope), would remain a dominant feature on the horizon. The scheme therefore has the potential to change a small area of land that falls within the setting of the Registered Park and Garden at Knightshayes Court, but no change to significance is predicted.

Tidcombe Farmhouse

- 7.57 The setting of Tidcombe Farmhouse contributes to its significance, although it makes a smaller contribution to its overall significance than the evidential/architectural and historical Values as set out in the accompanying Heritage Assessment. The proposed development site will change the setting of Tidcombe Farmhouse by reducing of the extent of the surrounding agricultural landscape which forms part of the historical setting of the building, although the land to the south and east will remain in agricultural use.
- 7.58 The illustrative masterplan indicates that the land to the northwest of Little Tidcombe is proposed for attenuation features and wetland meadow/green infrastructure and therefore the design and layout of the scheme will help to minimise the changes to the landscape immediately surrounding and allow views towards Tidcombe Farmhouse to be retained from the land to the north – in particular from the vicinity of the Canal. Overall, residential development within the proposed site has the potential to result in a negligible negative change to the significance of the Grade II Listed Tidcombe Farmhouse as a result of a change to one aspect of setting that makes a small contribution towards the significance of the building,

Tidcombe Bridge

- 7.59 Tidcombe Bridge is located to the northwest of the site, from which the proposed access would be visible in views up the hill towards Tidcombe Hall. Figures 6 and 7 below show the existing and an artist sketch of the proposed access when view from the bridge. However, the significance of the bridge is derived from its fabric and its function. Given the distances and orientation of the proposed access in relation to the bridge, it is considered that any level of harm would be negligible.



Figure 6. Existing view from Tidcombe Bridge



Figure 7. Artist's impression of proposed access.

Conclusions

7.60 An appraisal of heritage assets has been carried out using the methodology outlined in The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning: 3 (Second Edition) and with reference to the layout shown within the illustrative masterplan. It is

considered that development within the proposed site has the potential to result in a negligible negative change to the significance of the Grade II Listed Tidcombe Farmhouse as a result of a change to one aspect of setting that contributes towards the significance of this asset. A potential negligible to minor negative change is also predicted to the significance of Tidcombe Hall as a result of the proposed changes to its setting. The scheme may be visible within the wider landscape setting of the Grand Western Canal Conservation Area and the Grade II* Registered Park and Garden at Knightshayes Court but no change is predicted to their significance. As some harm has been identified to designated and non-designated heritage assets as outlined in the assessment above. In the context of the NPPF and policy DM25, the harm that has been identified is considered to be at the lower end of less than substantial.

- 7.61 The NPPF requires that the harm be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use and restoring the currently derelict Tidcombe Hall. This is considered further in the planning balance section below.

Archaeology

- 7.62 A geophysical survey and subsequent archaeological trench evaluation have been undertaken within the proposed development site and an area to its east. These investigations revealed some evidence for the below-ground remains of former field boundaries, as well as a small area of archaeological interest within Plot 3, where Romano-British pottery and a piece of worked flint were recovered from the fill of a ditch of unknown function. This feature indicates Romano-British activity in the area and is likely to be of low-medium significance based on its evidential value. It may also indicate that further below-ground archaeological remains of interest may be present nearby, including a nearby ditch on a similar alignment which produced no finds during the evaluation and is currently of unknown significance. These features are likely to be directly physically impacted by groundworks associated with the proposed development. As with the previously refused application it is expected that a condition for a program of archaeological works could be secured via condition to accord with local and national guidelines and that situation hasn't changed since that point.

Issue 5: Highways and Parking

- 7.63 A Transport Assessment prepared by AWP supports the application and this explains in detail how the proposed development meets favourably with adopted national and local transport policy. However, we briefly cover this issue here for completeness.

- 7.64 The statement follows that of the previously refused application to which there were no objections from the Local Highways Authority, thus the methodology of the Transport Assessment follows the same approach that was previously agreed with the LHA.
- 7.65 The assessment reviews the estimated vehicular trip generation of the proposed development which equates to 50 two-way movements in the AM peak hours and 52 in the PM peak hours. On average this results in an estimated less than one additional trip onto the local road network every minute in both the morning and evening peaks and represents a 44% reduction from the previous application which received no objections from the LHA.
- 7.66 Furthermore, as the majority of key facilities fall within 2km walking distance of the site, it is reasonable to assume that future residents and visitors of the site will undertake many day-to-day journeys on foot in replace of the private vehicle, given the high level of services and facilities located close by.
- 7.67 The Top of Tidcombe Lane bus stop, located 70m to the south of the site entrance provides bi-hourly service across the town. From the town the Tiverton Bus Stop connects to additional locations such as Taunton, Exeter and Tiverton Parkway Railway Station. The station, which is a 15m bus ride away, has connections to London, Bristol, Plymouth and Exeter.
- 7.68 Access to the site is similar to that proposed under the previous application and will come from a new simple priority junction on Tidcombe Lane approximately 5m north of the existing access for Tidcombe Hall. The existing access will be replaced with a 2m wide footway providing pedestrian access into the site. A footway will be provided on the eastern side of Tidcombe Lane, connecting the pedestrian access to the vehicular access to the north. The footway on Tidcombe Lane will continue for approximately 15m to the south, where a new uncontrolled crossing is proposed to connect with the existing footway on the western side of Tidcombe Lane.
- 7.69 The access achieves visibility splays required for the speed of the road (2.4m x 43m) and the reduced width of the carriageway, from the proposed pedestrian footways, would still allow for two lorries to pass each other at 5.5m wide. Whilst the policy requirement is for access to be taken from Canal Hill, the allocation has no frontage onto Canal Hill. As such in accordance with the pre-app undertaken for the previous application, access is taken from Tidcombe Lane.
- 7.70 The proposed improvements to Tidcombe Lane remain the same as the previous application (Planning ref. 20/01174/MOUT), which received a highways 'no objection' from DCC. A Traffic Regulation Order (TRO) is proposed to be implemented over the Tidcombe Canal Bridge between Marina Way and the proposed site access. The TRO would prohibit all

vehicles from travelling along this portion of the road, except for buses, emergency vehicles and refuse collection vehicles. The extent of the TRO proposed is shown on plan 0759-PHL-201 within Appendix A of the Transport Assessment. The TRO is proposed to be secured via a contribution set out in a S106 agreement.

- 7.71 In regards to the exact location and layout of parking, this would be subject to a reserve matters application. However, the layout has been designed to allow the flexibility to meet the Council's Parking Standards for New Development, for both vehicular and cycle parking.
- 7.72 In light of the above, the proposals comply with Policies S1, TIV13, DM3 and DM3 of the Mid Devon Local Plan 2020 and with paragraphs 110, 111 and 112 of the NPPF.

Issue 6: Flood Risk and Drainage

- 7.73 The planning application boundary includes land solely located within Flood Zone 1 which is at the lowest risk of flooding. However, given the site is over a hectare in size a Flood Risk Assessment, prepared by AWP, has been submitted in support of the application. The FRA was produced in consultation with Mid Devon District Council, Devon County Council's Flood Risk and Drainage Team, South West Water as well as the Grand Western Canal Trust manager.
- 7.74 The FRA outlines that whilst in Flood Zone 1 a small portion of the site, located to the northern boundary, is at low risk of surface water flooding. These areas are localised where rural run-off will pool on-site and alongside the canal. This risk, however, is mitigation for through the provision of surface water management.
- 7.75 Ruddlesden Geotechnical Ltd in October 2018 completed a Ground Investigation and Contamination Report and included soakaway testing in accordance with BRE Digest 365. The output of the testing confirms that infiltration does not present a viable method of surface water disposal for this site. Instead, an attenuated discharge should be considered.
- 7.76 The existing site is formed of two catchment areas, one located in the northwest of the site comprising Tidcombe Hall and its grounds and the second comprising the southern extent of the development. The proposed drainage strategy has been designed to account for this with runoff generated by the re-development of Tidcombe Hall and associated outbuildings to be conveyed to a new detention basin. Connectivity varies for different parts of this area but is achieved through a mix of pipes, swales and a new raingarden.

- 7.77 Runoff generated by the remainder of the development will drain through adopted sewers to a conveyance swale situated along the eastern site boundary. The swale will use online check-dams and a raingarden for the treatment and mobilisation of surface runoff and to promote sedimentation.
- 7.78 The water for both areas will be collected via attenuation basins before being discharged to the existing ditch located adjacent to the Grand Western Canal.
- 7.79 The on-site attenuation for this proposed development has been sized to offer flood protection for the development and its downstream catchment throughout its lifetime, with the upper end allowance of 45% being utilised to present a worst-case scenario.
- 7.80 The strategy meets national and local requirements for the management of surface water runoff and more detailed designs can be secured as part of a condition. As a result of the sustainable drainage methods proposed on-site, the proposal complies with Policies S9 and S10 of the Local Plan.

Issue 7: Ecology, and Biodiversity Net Gain

- 7.81 Ecological and Biodiversity protection, enhancement and mitigation formed a key consideration within the proposals and an Ecological Impact Assessment and Biodiversity Net Gain Calculations have been submitted in support of the application along with an Arboricultural Impact Assessment. The report identifies no significant constraints on the site that cannot be appropriately mitigated for with pre-commencement checks or adhering to specific methods of work.
- 7.82 The proposed development incorporates an integrated landscape and ecological design, including the creation of new wildlife habitats within the Site and includes the following features;
- Existing boundary hedgerows and woodland to be retained and buffered from new development as far as possible, maintaining functional 'habitat corridors' around the north-eastern, eastern, southern and western Site boundaries suitable for a range of protected/notable species including bats, birds, badgers and hazel dormouse;
 - Creation of a minimum 10m wide 'dark corridor' (<0.5lux) over the new access road to allow continued ecological permeability of the Site for bats;

- New habitat creation to include species-rich native hedgerows with trees, wildflower grassland, native scrub, broadleaved woodland and orchard planting, as well as SuDS ponds with associated wetland planting;
- Enhancement of the existing broadleaved woodland;
- A new bespoke bat roost building within the Public Open Space adjacent to the canal providing roosting habitat for a range of bat species, including lesser horseshoe, common pipistrelle, soprano pipistrelle and long-eared bats;
- Provision of bat tubes / boxes and bird boxes within the fabric of new buildings and on retained trees;
- Hedgehog passes within residential garden fences;
- Creation of a minimum of three reptile hibernacula within the Public Open Space; and
- Provision of insect/ bee bricks within new dwellings and walls, located in proximity to suitable pollinator habitat.

7.83 The site is a greenfield site and predominantly features grazed grassland, with trees and hedgerows along the boundaries of the site. The development will have an overall net gain in biodiversity terms as it seeks to provide extensive areas of green public open space, as well as substantial tree planting.

7.84 The Biodiversity Net Gain Report highlights that the development as proposed would result in the net gain of 1.49 biodiversity units which amounts to a 4.73% gain. This is achieved through the retention and enhancement of the condition of existing habitats in addition to the creation of new biodiverse areas. Major developments submitted prior to January 2024 are not required to deliver a 10% BNG.

7.85 In conclusion the proposed development will provide a positive improvement to biodiversity on site resulting in an net-gain of 4.73% above the current condition. The development accords with Policy S9 of the Mid Devon Local Plan 2020 and with Paragraph 174 of the NPPF.

Issue 8: Trees

7.86 Whilst the proposed layout is indicative, the impact of the development on trees has been an important consideration throughout the development of the proposals with input throughout from Aspect Tree Consultancy (ATC). Their Arboricultural Impact Assessment and Tree Removal and Protection Plans accompany the application.

- 7.87 As set out in the AIA the overall Arboricultural impacts of the proposed development are low. The residential buildings have been relocated following design advice from ATC to ensure that their footprints have sufficient clearance from key retained trees and hedgerows – future growth has been considered for key landscape features and sufficient space is provided for the planting and establishment of new landscape trees. The use of roads and paths between trees has been utilised where possible which provides good separation between retained features and built structures.
- 7.88 The proposal includes a landscaping led master plan that includes high level of open space with extensive planting. This will lead to a significant long-term improvement to the site with a substantial increase in its tree cover. A suitably conditioned planning condition relating to tree planting will provide a positive impact over the long-term.
- 7.89 The proposal includes a new access point in the NW corner and the realignment of the road into the site. The proposed access will entail the loss of several trees around the entrance point leading to a moderate but localised impact.
- 7.90 The road will cross the root protection area of two high quality trees leading to some root loss. These are trees 165 and 171 (a Lucombe Oad and Lime respectively) as identified in the submitted Arboricultural Report and Plan. With regard to tree 165, it is established that if disturbance occurs to one side of an RPA up to 30% can be lost with no demonstrable damage to the tree. This is because the tree has ample rooting volume to the south, extending beyond the RPA allowing a large volume of retained soil allowing existing tree roots to continue to function. This tree is in a good physiological condition and is in a good position to tolerate the disturbance if mitigatory measures are implemented. These measures include protective fencing and improvements to the growing conditions of the trees, including the removal of existing hard surfacing and aerating of soils within the existing RPZ. These measures can be secured through a detailed Arboricultural method statement.
- 7.91 If the existing driveway was utilised for the site access it would have required widening and this would have entailed the loss of all the significant trees adjacent to the drive. In addition, the road along the original alignment would also have entailed the loss of roots of the retained trees within close proximity of it, including tree 165. Whilst there are works proposed within the RPA of two retained trees this is a substantially lower impact than alternative locations.

- 7.92 Four individual trees and four tree groups are proposed for removal along with five groups of hedgerow. However the illustrative masterplan allows for the provision of 50 ‘small’ and 20 ‘medium’ ‘individual trees’ to be planted within the POS along with 138m of proposed ‘Species-rich native hedgerow’ to mitigate for any tree and hedgerow loss.
- 7.93 As such the site has been designed so that significant arboricultural impacts have been avoided. The proposal and accompanying tree removal and retention plan shows how the development can be controlled throughout the construction phase. The development allows for the retention of key trees in a sustainable manner and as such accords with policies S1, S9 and DM26 of the Mid Devon Local Plan.

Issue 9: Other Material Considerations

Amenity

Neighbouring Occupiers

- 7.94 Whilst the application is in outline, amenity of nearby properties has been considered in the proposal. Given the degree of separation between the existing and proposed dwellings it is unlikely that there would be any unacceptable amenity impacts. The masterplan demonstrates how this could be achieved and details would be provided to ensure this at reserved matters stage.
- 7.95 Based on the masterplan submitted the development would accord with Policy DM1 of the Local Plan and with paragraph 130 of the NPPF.

Future Occupiers

- 7.96 Whilst the layout and design of the proposal is a reserved matter the indicative layout shows how the development could be designed. The indicative layout has been designed as such to prevent any unacceptable overlooking, overshadowing or overbearing impacts between proposed dwellings.
- 7.97 As such, we consider the proposal will offer a good level of amenity to future occupiers of the development in accordance with Policy DM1 of the Local Plan.

Air Quality

- 7.98 An Air quality assessment is submitted in support of the application, prepared by Karius Ltd. The report sets out that the development would result in an overall negligible impact on NO₂, PM₁₀ and PM_{2.5} concentrations as a result of traffic generated by the development on receptors within Tiverton. It also concludes that the development would not introduce new receptors into a location of poor air quality. The mitigation proposed comprises of EV charging points along with air source heat pumps which will be detailed at reserve matters stage.
- 7.99 Consequently, the proposed development is considered to be in accordance with Policy DM3 of the Mid Devon Local Plan 2020.

8.0 CONSIDERATION OF THE PREVIOUS REASONS FOR REFUSAL

- 8.1 We consider it useful to briefly assess the reasons for refusal (RFR) applied to the previous application for the site, in the context of the conclusions reached in respect of the main issues in the preceding section.

Reason 1

- 8.2 Primarily this RFR is addressed if the council cannot demonstrate a five-year housing land supply, or its rate of delivery falls below a certain threshold. While the rate of delivery is yet to fall below the two-year threshold, the policy defines it is on a downwards trajectory towards that point, however we consider that a deliverable five-year land supply is not available in any event.
- 8.3 Policy 14 is cited in this RFR but that is only relevant if the reserve site is not needed to boost housing supply and delivery.
- 8.4 In light of this five-year land supply conclusion, policy S4 triggers the need to release contingency site TIV13. In this context there would be no conflict with the policies of the development plan in principle, and RFR 1 is addressed.

Reason 2

- 8.5 This RFR related to the heritage impacts of what was a significantly larger scheme. The revised scheme has been substantially reduced in scale to match the extent of the allocation that relates to this land and it no longer surrounds Tidcombe Farmhouse to the east and south.
- 8.6 The works around Tidcombe Hall have also been sensitively altered to downgrade the extent of the highway works proposed to access the site, and as the heritage report and imagery provided demonstrates, the visible change when viewed from the conservation area and listed bridge is minimal and sensitively handled.
- 8.7 Furthermore, Tidcombe Hall whilst not listed forms an important element of the conservation area in this location and its continuing dereliction detracts from this asset. The development, by providing a viable long-term use of the site will improve this situation. This is a significant public benefit of the scheme.

- 8.8 As the heritage assessment submitted with the application demonstrates, the revised and much reduced scheme results in less than substantial harm to heritage assets at the lower end of the spectrum.
- 8.9 Paragraph 202 of the NPPF sets out that such minor harm must be balanced against the public benefits of a scheme and in this case the delivery of much needed housing and reinstatement of the Hall itself represents substantial benefits that clearly outweigh the minor harms identified.
- 8.10 Notwithstanding this, any assessment of this issue needs to be considered in the context of the site's allocation, which was found to be sound by the Inspector who examined the Local Plan and the related SA assessment that considered heritage impacts. The development of the site would have some impact on heritage assets in whatever form they take and was still considered to be found acceptable and sound in plan making terms. It would be perverse to deviate from such a conclusion given the primacy of the plan making system.
- 8.11 Accordingly, we consider that the substantially amended proposals address the previously applied RFR2.

Reason 3

- 8.12 This reason relates to the landscape effects of the development and was broken down into a number of elements.
- 8.13 The first element referred to the visual intrusion into the rural area. As the scheme has been significantly reduced in size, and development is now restricted to the area defined by allocation TIV13, we consider that the revision successfully addresses this issue. This is primarily because the allocation has already been assessed as part of the Local Plan and the council and Inspector came to the conclusion that it, and by inference the extent of the allocation, was sound in terms of landscape impacts.
- 8.14 The second element of the RFR cites harm connected with the character and appearance of the streetscene of this part of Tidcombe Lane. As discussed, the access proposals for the site have been altered to reduce the amount of engineering works associated with it and the existing gateway access is to be retained and enhanced as a multimodal link. Figures 8 and 9 below show the development when viewed from Tidcombe Lane, views from Tidcombe Bridge are shown in Figures 6 and 7. These views clearly show how the change is minimal. The conversion and wider works to Tidcombe House itself, which would be the main change to the street scheme would also have a positive effect on the streetscene when compared to the site in its current condition.



Figure 8. View from Tidcombe Lane



Figure 9. Artist's impression of proposed access arrangements

- 8.15 In light of this evidence, and in the context of the allocation having already considered that some degree of visual change to then site is acceptable, the previously raised concerns are addressed and don't stand up to detailed scrutiny.
- 8.16 The RFR refers to impacts on the Category A Lucombe Oak and insufficient information being provided in respect to how damage to its root system would be avoided. The proposals have now been amended to reduce the impact on this tree and the submitted tree survey details the mitigation measure that will ensure that it is protected from damage during construction and its longevity assured. Furthermore, the proposals introduce extensive new tree planting across the site which will both mitigate the impact of the development but also greatly enhance tree cover across it. As a result of these changes and information provided, we consider that this element of the RFR is also robustly addressed.

Reason 4

- 8.17 Finally, RFR 4 related to the lack of a section 106 agreement to assure the delivery of affordable housing and other infrastructure as part of the proposals. A S106 will be prepared during the processing of the application and the suggested heads of terms are provided for agreement with the Council to start this process. On the signing of the S106 this RFR will be addressed.
- 8.18 In conclusion it is clear that extensive changes to the scheme have been undertaken, with its scale and extent dramatically reduced. The development is now more sensitive to its context and constraints and the development is located within the extent of the allocation TIV13 – which has previously been considered to be acceptable by both the Council and the Planning Inspector who confirmed that the Local Plan was sound with this site included within it. As a result we consider that the previously applied RFR have been positively addressed.

9.0 PLANNING BALANCE AND CONCLUSIONS

- 9.1 The planning balance has been considered in a number of stages: firstly do the proposals comply with the development plan; secondly, do material considerations indicate that permission should be granted in any event and finally, what does the effect of a lack of a five-year housing land supply have on the planning balance.

Assessment against Development Plan Policies

- 9.2 Having regard to the Section 70(2) of the Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004, that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. This is repeated within the NPPF, at paragraph 47.
- 9.3 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development, which means *“approving development proposals that accord with an up-to-date development plan without delay”*.
- 9.4 A S106 legal agreement will be produced which provides contributions towards off-site infrastructure including education, health, playing pitches, travel plan measures – as well as securing the delivery of the site access and connected highway improvements. The agreement also secures the onsite delivery, and management of, affordable housing, play facilities and public open space. When this agreement is executed, it will secure all of the mitigation measures required and accordingly no conflict with policies S3, S5, S8, TIV15, and DM3 will result from the development proposals.
- 9.5 In light of the above, this leaves the consideration of policies S1, S2, S4, S9, S10, S14, TIV13, DM1, DM4, DM5, DM25, DM26 and DM28.
- 9.6 As set out in Section 3, the relevant policies which relate to housing are out-of-date by virtue of a deficit in housing land supply, given the application of paragraph 11 d (ii). Specifically, this relates to Policy S14 which restricts development outside of settlement boundaries, even in this case where the land is subject to a reserve allocation.
- 9.7 Notwithstanding the above, it is clear that the proposals will deliver housing at Tiverton which is one of the three principal settlements in the Mid Devon area, and would meet favourably with policies S1, S2 and S10 which makes it clear that Tiverton, Cullompton and Crediton are Mid Devon’s most sustainable settlements and development here would accord with the

spatial strategy for the area. Therefore, even if full weight were attributed to this policy the appeal proposals fully comply with these policies.

- 9.8 As mentioned above, Policy S4 allows the release of a contingency site to aid with housing delivery should the LPA fail to demonstrate a 5-year housing land supply. This has been demonstrated through the supporting report from Intelligent Land. As such, policy S4 allows the release of a contingency site such as the TIV13 allocation subject to this application. Accordingly, we consider there no conflict with Policy S4 and it directs the Council to release land defined within TIV13.

Material Considerations and the Planning Balance

- 9.9 As set out above we consider the application is on balance in accordance with the development plan policies, however, it is also the case that even if the application was considered not to accord with policy it should be assessed against the “unless material considerations indicate otherwise” stand of the legislation and NPPF.
- 9.10 As NPPF paragraph 212 confirms, *“the policies in this Framework are material considerations which should be taken into account in dealing with applications”*. In accordance with paragraph 11(d)(ii), the assessment of material considerations should analyse the benefits of the development against the potential adverse effects. It should also be carried out in compliance with the presumption of sustainable development set out in the Framework and the need for the planning system to fulfil roles to support the three dimensions of such development, namely: social, economic and environmental roles.
- 9.11 This balancing exercise needs to attribute weight to each benefit and adverse effect and the extent of this needs to be made by the decision-maker, based on the evidence relating to each consideration. The benefits of the development are set out within this statement and in summary include:
- The provision of housing to meet the council’s identified housing requirements as set out in the Development Plan and assist in addressing the deficit in five-year housing land supply;
 - Specifically, the benefits of affordable housing delivery in an area where it is acutely needed and where the local plan fails to meet its full unconstrained need;
 - Delivering housing in a location that is highly sustainable in terms of accessibility and where the adopted spatial strategy seeks to direct new development;
 - Providing public open space that is in excess of policy requirements;
 - The restoration of Tidcombe Hall, its gardens and outbuildings, securing its long-term retention and maintenance;
 - The creation of jobs during the construction of the housing; and

- The financial contributions that can be delivered as part of an agreed S106 package.

9.12 One of the fundamental objectives of the NPPF is to boost the supply of housing as part of the presumption in favour of sustainable development. Delivering sufficient housing is confirmed as an important element to achieving sustainable development because it fulfils the social role by providing people with an affordable place to live, the economic role by providing jobs in construction and homes in an accessible location to employment, and the environmental role by providing housing in a location where the reliance on the private motor car can be minimised and public transport and walking/cycling maximised. The latter is clearly achieved by locating development in the most sustainable Town in the district.

9.13 To assist in the assessment of the planning balance we weigh the various benefits identified; this is based on our assessment of the various issues as either very substantial, substantial, moderate or minor. We have also colour-coded them according to these weightings to aid assessment in much the same way that many planning authorities' tabulate issues as part of a sustainability assessment. The results of this weighting exercise are set out in Table 1 below.

Benefit	Sustainability Role	Weight	Comments
Providing affordable housing to meet identified needs	Social/Economic	Very Substantial	Very substantial weight given the unmet need that has been evidenced by the Local Plan
Delivery of housing land to meet the housing requirement for Mid Devon to assist in addressing the five-year housing land supply deficit	Social/Economic	Substantial	Assessed as substantial in light of lack of 5-year housing land supply .
Providing jobs in construction	Economic	Moderate	This benefit is self-explanatory as the construction industry plays an important role in the economy.
Restoration of Tidcombe Hall	Social/Environmental	Moderate	This will bring benefits in terms of reinstating a historic feature of the site while also securing its long-term retention which will improve both its appearance and that of the Conservation Area.
Financial contributions	Social/Environment	Minor	S106 Contributions toward education, sustainability measures,

Benefit	Sustainability Role	Weight	Comments
	ental/Economic		community/leisure/sports facilities, will bring benefits which will reach beyond the development alone.
Delivering Housing In a highly accessible location/ principle town which is main focus for growth	Social / Environmental	Minor	A range of key services and facilities lie within easy walking and cycling access of the site. This combined with good existing public transport provision means that sustainable means of transport can be maximized. Tiverton is a key focus for growth for a reason, it offers a wide array of not only facilities and services but job opportunities as well. Therefore, developing sites here, rather in more rural locations which is what has happened because of the land supply deficit in recent years, is a preferable strategy with environmental benefits when compared to these other settlements.

Table 1. Summary of the benefits of the proposed development

9.14 As set out in the assessment of the development, there are some very minor impacts on heritage as a result to the change in the setting of Tidcombe Farmhouse and Tidcombe Hall. These have been assessed at the lower end of “less than substantial”. Additionally, with the mitigation proposed we would strongly contend that there are no adverse landscape impacts. Both impacts were considered in allocating the site and found to be acceptable. However, if the Council are minded to disagree and apportion some degree of harm in respect of the development’s landscape impact we have considered this theoretical approach to allow subjective analysis of that outcome.

9.15 In simple terms, taking the analogy of a pair of weighing scales, if the benefits identified are on one side and the Council’s alleged landscape concerns, it is almost inconceivable as to how these could significantly and demonstrably outweigh the considerable benefits the proposals would deliver. Table 4 illustrates this; although in our view such adverse impacts would be completely unfounded for the reasons set out. However, to model a conservative assessment we have shown moderate effects relating to landscape impacts and also included minor negative impact associated with the heritage impacts.

Benefit	Weight		Weight	Adverse Effect
Providing affordable housing to meet identified needs	Very Substantial	Tipping Point	Moderate	Negative Landscape Effects
Addressing 5yr HLS and Housing Needs	Substantial		Moderate	Impact on setting of Conservation Area, Tidcombe Hall and Tidcombe Farmhouse
Providing jobs in construction	Moderate			
Delivering Housing In a highly accessible location/ principal town which is main focus for growth	Minor			
Financial Contributions	Minor			
Restoration of Tidcombe Hall	Minor			

9.16 From the table above, it is difficult to see how the adverse effects could outweigh the benefits even in a scenario where the previous conclusions drawn in the SA process connected to the Local plan are ignored. NPPF Paragraph 11(d)(ii) is clear that even where there are adverse impacts, those adverse impacts would need to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, any adverse impacts would therefore need to be given an extremely high degree of weight in order to outweigh the benefits of the proposal in the context of the decision-making framework.

Conclusion

9.17 It is our professional opinion that, as set out earlier in this section, the proposals comply with the policies of the Development Plan even if the various policies that apply to the consideration of the application are not given reduced weight, as they are in the context of the tilted balance being applied.

9.18 The policy test in such a context relates to whether the adverse effects (which in this case focus on potential minor landscape impacts and minor heritage impacts) can be so severe as to meet the relatively high bar of representing a significant and demonstrably negative impact that outweighs the benefits of the scheme. Our analysis concludes that even if negative weight were to be attributed to the heritage and landscape impacts of the development, contrary to the conclusions of previous SA process and the submitted LVIA and Heritage Assessment, they could not conceivably outweigh the range of benefits that the proposals will deliver – Tables 1 and 2 of this statement clearly demonstrate this.

- 9.19 We have set out that the proposals represent sustainable development by fulfilling the three roles the planning system must fulfil and that no potential adverse effects outweigh the presumption in favour that both the Framework and the development plan when taken as a whole.
- 9.20 For these reasons we commend the application to the council for approval.



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