

**APPEAL ON BEHALF OF TIDCOMBE HOLDINGS LLP
AGAINST THE REFUSAL OF APPLICATION REFERENCE
24/00045/MOUT BY MID DEVON DISTRICT COUNCIL
FOR:**

***Outline for the erection of up to 100 dwellings to include
the conversion of Tidcombe Hall and outbuildings,
provision of community growing area, public open
space, associated infrastructure, ancillary works and
access with all other matters reserved***

**Tidcombe Hall, Tidcombe Lane, Tiverton, Devon,
EX16 4EJ**

LPA Ref: 24/00045/MOUT

Appeal Ref: APP/Y1138/W/24/3358001

Statement of Common Ground (SoCG)

March 2025

1.0 INTRODUCTION

1.1 This Statement of Common Ground (SoCG) has been prepared jointly by the Appellant and the Local Planning Authority, Mid Devon District Council (MDDC), in order to assist the Inspector with the identification of principal matters for consideration, and the main areas of agreement and disagreement between the two parties. The parties have also prepared a separate Statements of Common Ground on Landscape and Visual Impact and Heritage Matters.

1.2 The SoCG sets out all matters that are agreed between the two parties and summarises the areas of disagreement that remain. It covers the following points set out in the Planning Inspectorate's guidance as follows:

1. Appeal reference;
2. Site address;
3. Agreed description of development;
4. List of plans that informed the Council's decision;
5. List of any new plans not previously seen or consulted on by the local planning authority, including a brief explanation of any revisions or amendments with reference to the 'Wheatcroft Principles';
6. Relevant planning history;
7. List of the most important Development Plan policies for determining the application, focusing in particular on those recited in the reasons for refusal;
8. Other relevant planning policy / guidance / material considerations and weight to be afforded;
9. Areas where the parties are working together and there is a prospect of resolving a related reason for refusal;
10. A table setting out areas of agreement and disagreement in relation to each remaining reason for refusal on a topic-by-topic basis;
11. List of possible conditions (as an Appendix) and the reasons for them, including any that are not agreed;
12. A statement of compliance with statutory and policy requirements for the conditions and Section 106 Agreement (as an Appendix);
13. Draft heads of terms of any Section 106 Agreement (as an Appendix); and
14. Core Documents list appended to the statement (as an Appendix).

1.3 In accordance with the above, the following Appendices have been provided:

- Appendix 1 – List of draft Conditions

- Appendix 1(i) – Statement of Compliance
- Appendix 2 – Draft Heads of Terms / Section 106 Agreement
- Appendix 3 – Draft Core Documents List

2.0 BACKGROUND TO THE APPEAL

- 2.1 This section of the SoCG addresses Points 1-6 of the Planning Inspectorate's guidance on SoCGs.

Appeal Reference, Site Address & Description of Development

- 2.2 The reference for this appeal is APP/Y1138/W/24/335800.
- 2.3 This SoCG relates to an appeal against the refusal of planning application reference 24/00045/MOUT, which sought outline planning permission for:

'Outline for the erection of up to 100 dwellings to include the conversion of Tidcombe Hall and outbuildings, provision of community growing area, public open space, associated infrastructure, ancillary works and access with all other matters reserved'

- 2.4 The planning application was made valid on the 8th January 2024 and refused outline planning permission by Planning Committee with the decision notice being issued on 8th August 2024 stating the following reasons for refusal:

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 proposal also conflicts with the remaining criteria 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 Grand*

Western Canal Conservation Area and Tidcombe Farm (grade II listed). 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 scale and siting of the development is considered to be inappropriate in this landscape setting and would result in the loss of best and most versatile agricultural land. 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 100 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 off-site public open space (where not provided on site). There is no legal 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.*

- 2.5 The site lies to the east of Tidcombe Lane and on the eastern edge of Tiverton. The address for the application is 'Tidcombe Hall, Tidcombe Lane, Tiverton, Devon, EX16 4EJ.'

List of Plans and Documents

- 2.6 The list of plans and documents that formed the planning application, and that informed the Council's decision include the following:

Initial submission validated 8th January 2024

- Air Quality Assessment prepared by Kairus Ltd;
- Application Form and Certificates;
- Arboricultural Impact Assessment, Tree Survey and Tree Protection Plans prepared by Aspect Tree Consultancy;
- Design and Access Statement prepared by Clifton Emery;

- Ecological Impact Assessment and Wildlife Trigger List prepared by EAD;
- Flood Risk Assessment and Preliminary Drainage Strategy prepared by AWP;
- Historic Environment Assessment prepared by AC Archaeology;
- Housing Land Supply Assessment prepared by Intelligent Land;
- Landscape and Visual Impact Assessment prepared by Tapestry;
- Planning Statement prepared by Grass Roots Planning;
- Plans prepared by Clifton Emery;
 - Site Location Plan, reference 230301 L 01 01
 - Illustrative Layout, reference 230301 L 02 02 H
- Statement of Community involvement prepared by Grass Roots Planning;
- Sustainability Statement and Climate Checklist prepared by Grass Roots Planning;
- Transport Statement and Travel Plan prepared by AWP;
- Access Plan (Ref: PHL-102.Rev B); and
- Waste Audit Statement prepared by Grass Roots Planning.

Received 19th June 2024

- Landscape and Visual Impact Assessment Appendix A – LVIA Methodology

Received 15th July 2024

- Arboricultural Impact Assessment prepared by Aspect Tree Consultancy, reference 05141 AIA 4.7.2024;
- Tree Protection Plans prepared by Aspect Tree Consultancy;
 - 05141. TRRP Rev C. 4.7.2024 (Sheets 1 – 3);
- Viewpoint 12 (with red line plan) prepared by Tapestry Studio reference 047_10_SK-240311;
- Illustrative Layout prepared by Clifton Emery, reference 230301 L 02 02 J; and
- Agents Response to Consultee Comments prepared by Grass Roots Planning.

Relevant Planning History

- 2.7 The site has been subject to one previous planning application submitted in July of 2020 (Ref. 20/01174) 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.*
- 2.8 This application was subject to pre-application discussions and covered a larger area than the current Appeal Site. Development was proposed further east surrounding Tidcombe Farmhouse, outside of the TIV13 contingency site on land that was not included within the area of the latter Local Plan Policy. The masterplan for that previous application is shown below in Figure 1.



Figure 1. Proposed illustrative master plan for previously refused application ref 20/01174.

2.9 Application 20/01174 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 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.*

3.0 PLANNING POLICY

- 3.1 This section of the SoCG addresses Points 7-8 of the Planning Inspectorate's guidance.
- 3.2 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan, unless other material considerations indicate otherwise.
- 3.3 In this case, the Development Plan that applies to these appeal proposals consists of the following:
- Mid Devon Local Plan 2013– 2033, adopted July 2020
 - The Tiverton Neighbourhood Plan, made December 2022

Mid Devon Local Plan 2013 - 2033 (2020)

- 3.4 The parties agree that the following policies are relevant to this appeal:
- Policy S1 - Sustainable development priorities
 - Policy S2 – Amount and distribution of development
 - Policy S3 - Meeting housing needs
 - Policy S4 - Ensuring housing delivery
 - Policy S5 - Public open space
 - Policy S8 - Infrastructure
 - Policy S9 - Environment
 - Policy S10 - Tiverton
 - Policy S14 – Countryside
 - Policy TIV13 - Tidcombe Hall (contingency)
 - Policy TIV15 - Tiverton Infrastructure
 - Policy DM1 - High quality design
 - Policy DM3 - Transport and air quality
 - Policy DM25 - Development affecting heritage assets

Tiverton Neighbourhood Plan (2022)

- 3.5 The Tiverton Neighbourhood Plan was adopted on 14 December 2022 and forms part of the Development Plan. The parties agree that the following policies are relevant to this appeal although they were not cited in the Reasons for Refusal:

- Policy T1: Location And Scale Of Development
- Policy T2: Meeting Local Housing Needs
- Policy T4: Character Of Development
- Policy T5: Design Of Development
- Policy T11: Locally Significant Views

Planning (Listed Buildings and Conservation Areas) Act 1990

- 3.6 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty for development that affects the setting of listed buildings.
- 3.7 S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty for development that affects conservation areas.
- 3.8 The ‘character and appearance’ of a conservation area receives statutory protection via s72(1) of the 1990 Act; however this does not extend to the setting of a conservation area, which is instead a matter addressed in relevant planning policies.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 3.9 National planning policy is provided in the National Planning Policy Framework (NPPF). The most recent version was updated in December 2024 and sets out the Government’s planning policies for England. Both parties agree the following provisions of the NPPF are relevant to this appeal:

- At the heart of the NPPF is a presumption in favour of sustainable development.
- Paragraph 2
- Paragraph 8
- Paragraph 11
- Paragraph 12
- Paragraph 13
- Paragraph 14
- Paragraph 33
- Paragraph 61
- Paragraph 78
- Paragraph 79
- Paragraph 110

- Paragraph 115
- Paragraph 124.
- Paragraph 187
- Paragraph 215
- Paragraph 216
- Paragraph 219
- Paragraph 220
- Paragraph 231
- Paragraph 232

Written Ministerial Statement (July 2024)

- 3.10 The Written Ministerial Statement ‘Building the homes we need’ (WMS) published on the 30th July 2024 is an expression of Government policy, and is capable of being a material consideration.

The Emerging Local Plan

- 3.11 MDDC has committed to preparing a new Local Plan in accordance with paragraph 34 of the Framework.
- 3.12 An updated Local Development Scheme is due to be considered by the Council’s Cabinet on 4 March 2025. This sets out the following timetable (subject to approval):

Stage	Date
Give notice of start of plan-making (4 months’ notice)	August 2025 – November 2025
Gateway check (advisory) with the Planning Inspectorate	December 2025
Public consultation (mandatory 8 weeks) on draft vision and spatial options	March to April 2026
Gateway check (advisory) with the Planning Inspectorate	December 2026
Public consultation (mandatory 6 weeks) on draft plan	February to March 2027
Gateway check (stop / go) with the Planning Inspectorate	November 2027
Examination	December 2027 to May 2028
Adoption	June 2028

Table 1. LDS Timetable for the production of the MDC new Local Plan (July 2023)

4.0 AREAS WHERE THE PARTIES ARE WORKING TOGETHER

- 4.1 This part of the SoCG addresses Point 9 of the Planning Inspectorate's guidance.
- 4.2 The application was refused for four reasons as listed above, Reason for Refusal (RFR) 4. reads:
4. *The provision of 100 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 off-site public open space (where not provided on site). There is no legal 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.*
- 4.3 It is anticipated that a final Section 106 Agreement, agreed by both parties, will be submitted to the Planning Inspectorate before the close of the enquiry to satisfactorily address RFR 4.
- 4.4 In the next section, the parties succinctly define the areas of agreement and disagreement relating to the appeal proposals, to aid the Inspector in defining and limiting the main issues that the appeal must consider.

5.0 AREAS OF AGREEMENT/DISAGREEMENT

AREAS OF AGREEMENT		AREAS OF DISAGREEMENT	
THE PRINCIPLE OF DEVELOPMENT			
Development Plan Policies			
<ul style="list-style-type: none">Both parties agree that the policies of most relevant to the principle of development are policies S1, S2, S3, S4, S10, S14 and TIV13 of the Local Plan and T1 and T2 of the Neighbourhood Plan.It is agreed that policies S1 and S2 of the Local Plan read together define Tiverton as one of three main locations for growth (housing and other development), as one of Mid Devon’s most sustainable settlementsIt is agreed that Policy S2 sets a minimum of 7,860 dwellings to be provided in the local Plan Period and concentrates development at Tiverton, Cullompton and Crediton at a rate of 393 per annum, with the largest proportion of residential development at Cullompton.It is agreed that Policy S4 sets out that if a 5-year housing land supply cannot be demonstrated the Council will work proactively to bring forward allocations to outstanding planning consents. If this is insufficient to deliver the necessary level of housing, the identified contingency site will be permitted to boost housing supply.It is agreed there is one contingency site in the Local Plan (TIV13 - 8.4 hectares - 100 houses), the boundaries of the contingency site and the Appeal Site do not exactly coincide however.It is agreed that part of the TIV13 site (i.e. that part outside the Appeal Site) is not currently available due to ownership and legal constraints.		<ul style="list-style-type: none">Whether TIV13 contingency site, or that part of it within the Appeal Site, should be released for development now to accommodate the appeal proposal or any scheme that complies with the policy.In the context of housing land supply and the failure to pass the HDT, the parties disagree over whether the release of TIV 13 for housing should depend on whether existing allocations and planning permissions for housing can be brought forward to rectify a shortfall in supply.Even if there was agreement that the contingency site should be released for development in accordance with policies S4 and TIV13, there is disagreement over whether the appeal proposal complies with TIV13 (a)-(e)The weight to be accorded to Polices S2, S3, S4, S10 and S14, and T1 and T2 of the Neighbourhood Plan, is not agreed.There is disagreement over whether or not the Appeal Proposal is in conflict with Policy S14.	
Housing Land Supply, Housing Delivery Test and Tilted Balance			
<ul style="list-style-type: none">It is agreed that there is a shortfall of homes when delivery is assessed against the Development Plan’s requirements over the course of the Local Plan period so far.It is agreed that the Council is currently unable to demonstrate a five-year supply of housing. It is also agreed that in July 2025 the local plan will become five years old and the new standard method will form the basis of future housing land supply calculations. This will result in a change from 393 dwellings per annum to 572. The parties agree that this will have the effect of significantly increasing the level of shortfall.It is agreed that the Local Plan does not presently provide enough affordable homes to meet MDDC’s identified need.It is also agreed that there has been a significant shortfall of affordable homes delivered over the plan period.It is agreed that the Appeal Site would make a contribution to the supply of affordable housing.It is agreed that the council’s housing delivery test result is 85%¹ and this results in the requirement to produce an Action Plan that sets out how this under-delivery will be addressed.		<ul style="list-style-type: none">It is not agreed that the ‘tilted balance’ is engaged in this case because of the alleged impact of the proposed development on heritage assets (see NPPF Paragraph 11d), Footnote 7). The Council consider that the heritage impacts disengage the tilted balance, while the appellant considers that they do not.	

¹ There is a minor discrepancy between the figures published for 2022-23 in the Housing Delivery Test 2023 measurement (which records 253 completions) and the related live tables on housing supply (which records 249 completions) –The Council confirms that 249 is the correct figure for 2022-23 and has therefore recalculated the HDT results on this basis – giving a figure of 85% rather than the currently published 86% result. The Council will write to MHCLG to request this is updated.

<ul style="list-style-type: none"> It is agreed that the HDT Action Plan should consider how housing supply will be boosted to a level that meets the requirements of the new Standard Method figures. It is agreed that to meet these figures currently unallocated sites will need to be allocated in the emerging review of the Local Plan and/or released for development through the development management process in a considered way that does not prejudice or pre-empt the plan-led basis of the planning system or cause unacceptable harm to other interests of acknowledged importance. It is agreed that prematurity does not and cannot form a valid reason for refusal in all the circumstances of this case. 	
ACCESSIBILITY/SUSTAINABLE LOCATION	
<ul style="list-style-type: none"> It is agreed that the site's location offers future residents a range of options to travel via sustainable means, which will be enhanced through the Travel Plan and obligations/contributions to be secured through the Section 106 Agreement. It is agreed that the site would offer residents suitable access to everyday facilities and services such as shops, primary schools, nurseries and leisure facilities, and is, therefore, well placed for housing growth. Given the site's location relative to bus stops and everyday facilities, the measures proposed in the Transport Assessment and the detailed access drawing for the site, and the obligations/contributions to be secured through the Section 106 Agreement, it is agreed that there is no related policy conflict in this regard. 	
HERITAGE	
<ul style="list-style-type: none"> Please see separate statement of Heritage Matters 	<ul style="list-style-type: none"> Please see separate statement of Heritage Matters
LOCAL CHARACTER AND LANDSCAPE	
<ul style="list-style-type: none"> See separate Statement on Landscape Matters 	<ul style="list-style-type: none"> See separate Statement on Landscape Matters
AGRICULTURAL LAND	
<ul style="list-style-type: none"> It is agreed that there would be loss of agricultural land if TIV13 contingency site were to be developed. Such loss of agricultural land would have been taken into consideration when the TIV13 contingency site was identified for inclusion in the adopted Local Plan. 	<ul style="list-style-type: none"> It is not agreed whether the loss of agricultural land represents a significant adverse effect in the context of the site's allocation.
LACK OF A SECTION 106 AGREEMENT	
<ul style="list-style-type: none"> It is agreed that subject to the provision and completion of a Section 106 Agreement securing the obligations and contributions relating to affordable housing; self-build dwellings; health; education; informal open space and associated maintenance; Play and associated maintenance; and, biodiversity net gain (see Appendix 2), Reason for Refusal 4 would be satisfactorily addressed. 	
OTHER MATERIAL CONSIDERATIONS	

- The parties agree that the proposal is acceptable and complies with policy requirements in respect of other material considerations including Flood Risk and Drainage; trees; highways, transport safety and access; biodiversity and ecology; archaeology and impact on residential amenity.

6.0 CONCLUSION

- 6.1 It is agreed that Reason for Refusal 4 of application ref.24/00045/MOUT would be withdrawn, subject to the provision and completion of a Section 106 Agreement securing the planning obligations and contributions set out in Appendix 2.
- 6.2 The consideration of this appeal would, therefore, relate to Reasons for Refusal 1, 2 and 3 as set out in Section 2.0 above.
- 6.3 The main areas of agreement and disagreement have been set out in the table above. These are for the Inspector to consider when determining the appeal, and are focussed on the principle of development, the heritage impacts, loss of agricultural land and local character and landscape visual impacts.
- 6.4 Appendix 1 sets out the list of conditions, which is agreed between both parties (The Appellant and MDDC), in the event that the appeal is allowed. Appendix 2 sets out the Heads of Terms, which would be secured via a Section 106 Agreement, should the Inspector allow the appeal – these are agreed by the Appellant and MDDC.

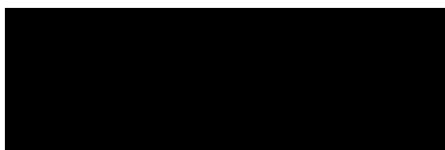
Signed on behalf of the Appellant:



Matthew Kendrick

Director (Grass Roots Planning)

Signed on behalf of the Council:



John Hammond Development Management Manager, MDDC.

Appendix 1 – List of Draft Conditions

1. Approved plans

The development hereby permitted shall be carried out in accordance with the approved plans listed below:

- Site Location Plan, reference 230301 L 01 01; and
- Access Plan (Ref: PHL-102.Rev B).

REASON: For the avoidance of doubt and in the interests of proper planning.

2. Reserved Matters

Before development begins, detailed drawings to an appropriate scale for the layout, scale and appearance of the buildings including materials, and the hard and soft landscaping details (the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To enable full and proposed consideration of the proposed development.

3. Timings

Application(s) for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

4. Timings

The first and subsequent phases of development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last Reserved Matters which have been approved, whichever is the later.

REASON: In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

5. Reserved matters information

The details required by condition 2 shall include the following additional information: details of conversion, external materials, boundary treatments, existing and proposed ground levels, finished floor levels and sections through the site indicating the relationship of the development with its surroundings.

REASON: To ensure that adequate information is available for proper consideration of the detailed proposals in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013 -2033.

6. Archaeological works

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority

REASON: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 218 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development

7. Post investigation assessment

The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

REASON: To comply with Paragraph 218 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

8. Tree protection

Prior to commencement of development, a scheme for protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s)(TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the LPA. The submitted details shall include:

- i. Location and installation of services/ utilities/ drainage.
- ii. Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- iii. Details of construction within the RPA or that may impact on the retained trees.
- iv. A full specification for the installation of boundary treatment works.
- v. A full specification for the construction of, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- vi. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- vii. Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- viii. Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- ix. Arboricultural supervision and inspection by a suitably qualified tree specialist
- x. Reporting of inspection and supervision

The development shall only be carried out in accordance with the approved details.

REASON: To ensure that appropriate provision is made to protect trees on the site in the interests of the character and appearance of the site in accordance with policies S1, S14 and DM1 of the Mid Devon Local Plan 2013- 2033.

9. SUDS- monitoring and maintenance

No development shall take place until a long-term monitoring and maintenance plan in respect of the SuDS, both during and post construction (water quality and management regime), including a timetable of monitoring, is submitted to and approved in writing by the Local Planning Authority. This should also include details of the options for contingency action should the monitoring indicate inadequate quality of water leaving the SuDS system and entering the Tidcombe Lane Fen SSSI. Any necessary contingency measures shall be carried out in accordance with the details in the approved plan. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development, as submitted, will not impact upon the features of special interest for which Tidcombe Lane Fen SSSI is notified.

10. Pollution prevention

Prior to commencement of development, details of best practice measures for pollution prevention and control shall be submitted to and approved in writing by the Local Planning Authority. The approved measures must be implemented during construction to ensure there is no risk of contamination or increase in nutrient or sediment load of surface water runoff into ditches and water courses.

REASON: To ensure that the development, as submitted, will not impact upon the features of special interest for which Tidcombe Lane Fen SSSI is notified.

11. Waste management plan

Prior to commencement of development, an updated site waste management plan shall be submitted to, and approved in writing by, the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The following points shall be addressed in the statement:

- i. The amount of construction, demolition and excavation waste in tonnes, set out by the type of material.
- ii. Identify targets for the re-use, recycling and recovery for each waste type from during construction, demolition and excavation, and corrective measures if failure to meet targets occurs.
- iii. The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
- iv. Identify the main types of waste generated when development is occupied.
- v. The details of the waste disposal methods likely to be used; including the name and location of the waste disposal site.

The development shall be carried out in accordance with the approved statement.

Reason: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. This information is required pre-commencement to ensure that all waste material is dealt with in a sustainable way from the outset of the development including any groundworks, demolition, construction and operation.

12. Detailed drainage design

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

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

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

REASON: To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

13. Off site highway works

No development shall take place on site until the off-site highway works including the Traffic Regulation Order for the Prohibition of all vehicles except Busses, Emergency Vehicles, Cyclists and Pedestrians across the Canal Bridge to have been submitted and approved by the Local planning Authority and then constructed implemented and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with the Nation Planning Policy Framework.

14. Construction Management Plan

Prior to commencement of the development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures employed to prevent the egress of

mud, water and other detritus onto the public and any non-adopted highways. The following details shall also be included in respect of highway safety:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

The development shall be carried out in accordance with the approved details and shall be adhered to at all times.

REASON; In the interests of public health, highway safety and to protect the designated sites in accordance with policies S9, DM1, DM3, DM4 and DM28 of the Mid Devon Local Plan 2013-2033. This pre-commencement condition is required to ensure that the Construction and Environmental Management Plan is agreed prior to any construction works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution, to minimise the risk of pollution to Tidcombe Lane Fen Site of Special Scientific Interest and the Grand Western Canal Country Park, and to ensure that adequate facilities are available for construction and other traffic attracted to the site.

15. Highway drainage

In accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

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

16. Highway infrastructure

The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure appropriate access and highway infrastructure are provided, In the interests of highway safety.

17. Low emissions strategy

No development hereby approved shall begin until a Low Emissions Strategy of the operational development has been submitted to and approved in writing by the Local Planning Authority. Details of secure cycle/ scooter storage and a Travel Plan will form part of the overall Low Emissions Strategy. The development shall be implemented in accordance with the approved details.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposed in accordance with Policy DM3 of the Mid Devon Local Plan 2013- 2033.

18. Ecology measures

The development hereby permitted shall be carried out strictly in accordance with the recommendations detailed in the Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology), covering avoidance of harm to bats and Hazel dormice, mitigation, compensation and ecological enhancement. The proposed ecological mitigation and enhancement measures identified within sections 4.1.14, 4.1.15, 4.1.19, 4.1.20, 4.1.21, 4.1.22, 4.1.23, 4.2.11, 4.2.12, 4.2.13, 4.1.24, 4.2.15 and 4.2.16 of paragraph 4 (Avoidance, mitigation, compensation and enhancement), and Table 5.1 (Summary of ecological assessment) of the report, and informed by measures required under licence from Natural England (other than any measures for the avoidance, mitigation, compensation and enhancement that will be provided within a Construction and Ecological Management Plan and a Landscape Ecological Management Plan) shall be carried out prior to the development hereby approved first being brought into use and shall thereafter be retained and maintained in perpetuity. Within two weeks following implementation of the report's

recommendations, a written record prepared by the consultant ecologist shall be submitted to the Local Planning Authority to include records of compliance monitoring, supervised habitat removal, and photographs of the installed ecological mitigation, compensation and enhancement measures.

REASON: To ensure the protection endangered species on the site during and after construction, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033.

19. Lighting strategy

Prior to commencement of the development hereby approved, a Lighting Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The strategy shall minimise impacts from lighting associated with pre-construction, construction and operational activities and shall include, but not be limited to, design, siting, illumination-type and hours of use of any external lighting, including security lighting. The lighting strategy shall be designed to take account of biodiversity, residential amenity and light pollution in accordance with the recommendations detailed within the EAD Ecology Ecological Impact Assessment report dated November 2023 (report reference 2301129_p893_EclA_Final01) and demonstrate how the current best practice (BCT/ILP, 2023) guidance has been implemented. No external lighting shall be installed except in accordance with the approved details.

REASON: To ensure the protection of endangered species on the site prior, during and after construction, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007, and to protect future and adjoining occupiers from excessive light pollution in accordance with Policies S1, S9, DM1, DM4 and DM28 of the Mid Devon Local Plan 2013-2033. A pre-commencement condition is required to ensure that details are planned and considered at an early stage in the interests of amenity and to protect, preserve and enhance the protected wildlife habitats and designated sites from light pollution.

20. Hibernation survey results-

Prior to the commencement of the development hereby approved, the bat Hibernation Surveys results shall be submitted to, and approved in writing, by the Local Planning Authority. In the event the Hibernation Surveys' findings confirm the presence of a lesser horseshoe bat hibernation roost within the underground parking area, a detailed replacement underground lesser horseshoe bat hibernation roosts area strategy, in conjunction with amended Ecological Impact Assessment report, shall be included in the bats Hibernation Survey report required by this condition in accordance with the recommendations for the mitigation, compensation and enhancement for bats set out in section 4.1.21 of paragraph 4 (Avoidance, mitigation, compensation and enhancement) of the Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology) and Devon County

Ecologist comments dated 1st March 2024. The development shall be carried out strictly in accordance with the approved details and shall thereafter be retained and maintained in perpetuity.

REASON: To ensure the protection of endangered species on the site prior, during and after construction, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033. A pre-commencement condition is required to ensure that details are planned and considered at an early stage in the interests of amenity and to protect, preserve and enhance the protected species habitats.

21. No vegetation clearance- nesting birds

No vegetation clearance on site shall take place during the bird nesting season (01 March to 31 August, inclusive) unless written confirmation from a suitably qualified ecologist has been obtained that the clearance of the site would not disturb nesting birds in accordance with the recommendations detailed within section 4.1.11 of paragraph 4 (Avoidance, mitigation, compensation and enhancement) of the Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology). A record of any works required to clear the site during the bird nesting season shall be kept and made available upon the Local Planning Authority's request.

REASON: To ensure the protection of birds on the site during construction phase in accordance with the Wildlife and Countryside Act 1981 and the Countryside and Rights of way Act 2001 and Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033.

22. Badger survey update

No more than one month prior to the commencement of the development hereby permitted, including any clearance works on site, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation and compensation measures, shall be submitted to and approved in writing by the Local Planning Authority. Badgers surveys shall be undertaken in accordance with the recommendations set out within section 4.1.16 of part 4 (Avoidance, mitigation, compensation and enhancement) of the Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology) and Devon County Ecologist comments dated 1st March 2024. The development shall be carried out in accordance with the approved mitigation and compensation measures.

REASON: A pre-commencement condition is required to ensure that early consideration is given to the protection of badger species in accordance with Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033.

23. Contaminated land

Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the Local planning Authority for approval. No work shall proceed on site until either the Local Planning Authority grants written consent for the development to commence or the requirements of condition 24 below are met.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM4 of the Mid Devon Local Plan 2013- 2033.

24. Contaminated land- remediation statement

Where actual or probably significant pollutant linkages are found following the investigation and risk assessment required by condition 23 above, a remediation statement together with a timescale for completion of the required works shall be submitted for approval in writing to the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM4 of the Mid Devon Local Plan 2013- 2033.

25. Contaminated land- verification report

Following completion of any works required by condition 24, a remediation validation report shall be submitted to the Local Planning Authority for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM4 of the Mid Devon Local Plan 2013- 2033.

26. Landscape and Ecological Management Plan (LEMP)

Prior to the commencement of development hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall be based on the submitted Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology). It shall include, but not be limited to, the location and design of biodiversity features, including the newly planted and enhanced hedgerow planting, maintaining functional 'habitat corridors', the creation of 'dark corridors' over the new access road, the creation of the wildflower meadow, native scrub, broadleaved woodland and orchard planting, and wetland and other features to be shown clearly on the submitted plans, the enhancement of the existing broadleaved woodland, and enhancement measures for bats, reptiles, insects/bees and hedgehogs, including permeable fencing with gaps measuring 13cm x 13cm to allow for continued use of the site by hedgehogs. The content of the LEMP shall also include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a minimum 10-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives in line with the submitted Ecological Impact Assessment report.

The approved plan for the long-term management of retained and created habitats will be implemented in accordance with the approved details.

REASON – A pre-commencement condition is required to ensure that the development provides ecological mitigation, enhancement and management measures in accordance with a prior evaluation of features to be managed in accordance with Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033.

27. Construction Ecological Management Plan (CECoMP)

Prior to the commencement of the development hereby approved (including ground works), a Construction and Ecological Management Plan (CECoMP) shall be submitted to, and approved in writing, by the Local Planning Authority. The CECoMP shall be based on the submitted Ecological Impact Assessment report dated November 2023 (and prepared by EAD Ecology). The CECoMP shall include, but not be limited to, detailed measures for the protection of habitat and species during the pre-construction and construction phases. The content of the CECoMP shall also include the following:

- a) Risk assessment of potentially damaging construction activities, to include an invasive species management plan to prevent the spread of non-native plant species during the works. This is to include a pre-construction check a minimum of 6 weeks prior to commencement of works.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication, including reporting compliance of actions to the Local Planning Authority.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.
- h) Use of protective fences, exclusion barriers and warning signs to ensure the protection of priority and other habitats on site.
- i) Mitigation, compensation and enhancement measures for insect/bees, reptiles and amphibians, including a Reptile Mitigation Strategy (the strategy shall include, but not be limited to, details of the proposed translocation of reptiles and amphibians from the site to a reptile receptor site and the location of reptile receptors), birds, Hazel dormice, badger, bats, and Hedgehog.

The approved CECoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

REASON – A pre-commencement condition is required to ensure that the development has no adverse effect on protected and notable species, the designated sites and provides ecological mitigation and enhancement measures further to a pre-construction risk evaluation of potentially damaging construction activities and the agreement of appropriate management measures, where necessary, in accordance with Policies S1, S9, DM1 and DM28 of the Mid Devon Local Plan 2013-2033.

Appendix 1 (i) – Statement of Compliance with Statutory and Policy Requirements

1.1 It is considered that the list of draft conditions complies with the various statutory and planning requirements, including the following:

- Sections 70, 72, 73, 73A and Schedule 5 of the Town and Country Planning Act 1990;
- Town and Country Planning (Pre-Commencement Conditions) Regulations 2018;
- Paragraph 55 of the National Planning Policy Framework; and
- Relevant planning practice guidance.

Appendix 2 – Draft Section 106 Agreement

To Follow

Appendix 3 – Core Documents List

To follow