

**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**

**Statement of Case (SoC)**

**December 2024**

**grassroots**  
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## REPORT CONTROL

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## 1.0 INTRODUCTION

- 1.1 On behalf of our client, Tidcombe Holding LLP, Grass Roots Planning has been instructed to prepare and submit an appeal against the refusal of application ref: 24/00045/MOUT by the Local Planning Authority (LPA), Mid Devon District Council (MDDC), for outline planning permission 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 ('the appeal proposals'). This application was made valid on the 8<sup>th</sup> of January 2024 and refused on 8<sup>th</sup> August 2024, details of which can be found on the decision notice.
- 1.2 A schedule of the plans confirming the documents submitted as part of the original application, those amended during the determination process, and which are now subject to this appeal, are provided in a separate document entitled "772 A3 List of Plans and Documents".
- 1.3 The appellant is seeking that the appeal is dealt with by way of a Public Inquiry, given the issues that have been raised by MDDC, the level of public interest, the scale of the scheme and the need for cross examination of key evidence, particularly in respect to MDDC's housing land supply, landscape and heritage matters. This document sets out the case for the development to be granted permission and will be supplemented by future proofs of evidence that will be presented at the Inquiry, to demonstrate that the appeal should be allowed.
- 1.4 We hope to agree a Statement of Common Ground (SOCG) with the LPA in due course, and a draft has been submitted with this appeal. We will endeavour to agree this formally well in advance of an Inquiry and it will set out a full description of the site, the planning policy context and the issues which are agreed between the parties which will not be subject to any substantive debate as part of the Inquiry.
- 1.5 This statement of case is structured as follows:
  - Section 2.0: Background to the Appeal
  - Section 3.0: The Case for the Appellant
  - Section 4.0: Conclusions

## 2.0 BACKGROUND TO THE APPEAL

- 2.1 The site has been subject to one previous planning application submitted 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.*
- 2.2 This application was subject to extensive 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 allocation on land that was not included within the contingency allocation. 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.**

2.3 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.*

2.4 Following this, the scale of the proposal was substantially reduced to confine the application to land within the TIV13 allocation only, with land to the east removed. Updated technical work was carried out in support of the appeal proposals for which an application was submitted to MDDC on 8<sup>th</sup> January 2024.

2.5 The appellant worked positively with the LPA to address any technical issues that have been outlined in consultee responses that were received as part of the application process. Notably these included providing further detail in respect of the drainage proposals for the site, producing a type 1 visualisation from the Knightshayes Viewpoint discussed in the LVIA and an amendment to the access arrangements to avoid impacts on retained trees.

2.6 The application was reported to the Planning Committee on July 31<sup>st</sup> with a recommendation that planning permission be refused, members then refused the application for the following reasons with a decision issued 8<sup>th</sup> August 2024;

- 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*

- 2.7 Based on the given reasons it is apparent that the key issues that the appeal, and our current statement of case, must consider relate to principle of development in the context of the 5-year housing land supply and Housing Delivery Test (HDT) results, the implications of historic housing delivery and currently identified housing needs, whether the development would result in unacceptable impacts on heritage assets and/or landscape harm and whether the required planning obligations can be secured.

- 2.8 Upon the signing of a legal agreement, it is anticipated that RFR 4 will have been addressed.
- 2.9 Additionally, the LPA has not raised significant concerns in respect of the following matters, and these are also set out in the draft Statement of Common Ground (SOCG), and we hope that MDDC will confirm agreement to this in due course:
- Trees;
  - Residential Amenity;
  - Ecology;
  - Highways Impacts, Access and Parking;
  - Archaeology;
  - Flood Risk and Drainage; and
  - Green infrastructure and public open space.
- 2.10 Notwithstanding the above, for completeness the appellant's evidence will briefly outline and consider the non-disputed matters against the development plan policies and other material considerations (including any issues raised by third parties). It is envisaged that these matters can be dealt with by written submissions, or if any particular issues emerge during the process, via roundtable discussion.
- 2.11 If the LPA or third parties raise issues with regards to any matters not currently considered to be in dispute, then the appellant's evidence will need to be reviewed accordingly. The appellants reserve the right to present evidence on any such matters should they arise at the Inquiry.
- 2.12 Overall, the primary focus of this case will relate to the principle of development, the heritage and landscape impacts and the required planning obligations. These key issues will be discussed throughout this statement of case, and forthcoming proofs of evidence.
- 2.13 We anticipate that these issues will need to be addressed through cross-examination as they are complex matters that need to be fully examined and tested.

### **Expert Witnesses**

- 2.14 At this stage, it is anticipated that evidence will be limited to the following:
- Planning and Sustainability Evidence: Grass Roots Planning
  - Housing Land Supply Evidence: Grass Roots Planning and/or Intelligent Land
  - Landscape: Tyler Grange Associates
  - Heritage: EDP
  - S106 Matters: Grass Roots Planning/Thring's
- 2.15 However, other expert witnesses will be called if necessary.



## 3.0 THE CASE FOR THE APPELLANT

3.1 Having reviewed the decision notice for this application, we consider that the five key issues underpinning the Council's reason for refusal are as follows:

- a) Whether the principle of development is acceptable having regard to Policy S4, TIV13 and other material considerations;
- b) What heritage impacts arise from the development and whether they are outweighed by the public benefits;
- c) Whether the proposals would preserve the character and appearance of the area and whether the siting and scale of the development would be inappropriate in this location;
- d) Whether there would be an unacceptable loss of the Best and Most Versatile Agricultural Land; and
- e) Whether the appropriate planning obligations can be secured.

### Principle of Development

3.2 It is envisaged that the LPA will agree as part of the SoCG that the starting point for the consideration of planning applications is the adopted Development Plan for the area, in this instance the Mid Devon Local Plan 2013- 2033. It should also be agreed that the revised National Planning Policy Framework (the Framework) is a significant material consideration.

3.3 The Appellant's evidence will demonstrate that Local Plan Policy dictates that a contingency site should be released if housing completions fall below a two-year target or if a five-year housing land supply (HLS) cannot be demonstrated by MDDC. Our evidence will also demonstrate that there is only one contingency site allocated in the Local Plan, the site subject to this appeal.

3.4 The Appellant's evidence will demonstrate that at the time of the adoption of the Local Plan the examining Inspector recommended that the TIV13 contingency allocation be brought forward as a full allocation to aid in housing delivery and that density across all allocations be increased. The evidence will also demonstrate that these suggestions were not taken forward by the council and since the adoption of the Local Plan MDDC have failed to meet their adopted housing requirements and a shortfall in delivery has occurred.

- 3.5 The evidence will show that MDDC's housing requirement has increased as a result of the recently published revised Framework (published on the 12<sup>th</sup> December 2024) and the connected amendments to the Standard Method (SM). The changes to the Housing Requirement will become relevant for the purposes of calculating the HLS in July 2025, the date at which the Local Plan is required to be reviewed.
- 3.6 In this context evidence will be provided to show that it is inevitable that additional housing sites will be required in the next few years and that even based on the Council's own housing supply figures, they will shortly be unable to demonstrate a five-year housing land supply. In this context it is imperative that an identified contingency site should be released to boost housing supply in the area.
- 3.7 We will also show that unless additional sites come forward the delivery shortfall will continue to worsen over the remainder of the plan period as a consequence of the council's unwillingness to take a proactive approach to meeting its full housing needs.
- 3.8 Irrespective of this changed policy context the Appellant will provide evidence that demonstrates that MDDC cannot demonstrate a 5-year HLS at the current time and that as a result LP policy S4 dictates a contingency site, namely TIV13 the appeal site, should be released to address this issue.
- 3.9 The Appellant will also provide evidence on housing delivery in Mid Devon, demonstrating that the most recent HDT results require that an action plan is required to be implemented. The evidence will set out that a logical step to improving delivery is to release a contingency site, namely the appeal site and any action plan would logically look to that at the first 'port of call'.
- 3.10 The evidence will then go on to outline the need for both open market and affordable housing in this area and demonstrate the social, environmental and economic benefits of the appeal proposals. It will also demonstrate that there are no adverse impacts that would outweigh the benefits, when assessed against the policies in the NPPF taken as a whole and there is no significant conflict with the adopted Development Plan for the area.
- 3.11 We will also highlight that the proposals represent a sustainable development, and the significant benefits of the scheme outweigh any harms identified in any event.
- 3.12 Where appropriate, reference will be made to other recent decisions and appeals where these matters have been considered in detail.

## Heritage Impacts

- 3.13 The appellant's evidence will provide an updated assessment of the impact of the development on the identified heritage assets, namely the Grand Western Canal Conservation Area, Tidcombe Farmhouse and Tidcombe Hall itself which is included within the boundary of the contingency allocation.
- 3.14 In relation to Tidcombe Farmhouse, the evidence will review and examine the significance of the building setting out that its listing primary relates to the special architectural interest of the building. The evidence will set out that whilst the surrounding farmland forms part of the setting of this asset it only makes a limited contribution to its significance. The evidence will set out that whilst there may be harm to the significance of the listed building, this is less than substantial, at the lower end of the spectrum of harm.
- 3.15 In relation to the Grand Western Canal Conservation Area (CA), the evidence will review and examine its significance and the site's contribution to this. The evidence will set out that MDDC have recently examined the CA through the conservation area appraisal and management plan (CAAMP) and concluded that the CA should be reduced in size, proposing to remove a portion of the site from it. The evidence will examine the harm arising from the development in relation to the CA. The evidence will set out that whilst there may be harm to the significance of the Conservation Area, this is less than substantial, at the lower end of the spectrum of harm.
- 3.16 The evidence will review and examine any potential benefits to the Grand Western Canal Conservation Area (CA) and Grade II listed Tidcombe Bridge from the closure of Tidcombe Lane to traffic. This could deliver direct enhancements to both the Grade II listed bridge through reduction in risk of bridge strikes and the Conservation Area. Any heritage benefits that flow from this proposal should be set against any harm identified as per Paragraph 208 of the Framework.
- 3.17 In respect of Tidcombe Hall, the Appellant's evidence will set out that there are heritage benefits arising from the restoration and reuse of the Hall given it has suffered from extensive vandalism and degradation over recent years and a viable reuse of the building is essential to avoid further degradation. The evidence will demonstrate that overall, there is a heritage benefit arising from the development in relation to Tidcombe Hall and the Conservation Area by securing its long-term use.
- 3.18 The evidence will also set out that impacts to the nearby heritage assets would have been considered as part of the site assessment and allocation of the site as part of policy TIV13,

which includes the potential effects on the Conservation Area, Tidcombe Farmhouse, Tidcombe Hall and its grounds.

- 3.19 The Appellant's evidence will, in accordance with Policy DM25 and paragraph 208 of the Framework, weigh any harm arising against the public benefits of the development. This will be done within a planning balance section of the evidence.

### **Character and Appearance**

- 3.20 The Appellant's evidence will demonstrate that the development of the site would not be inappropriate in the landscape setting in which it sits, having regard to the allocation and wider views attainable. It will demonstrate that from wider views the area proposed to be developed is less prominent than the western field that is also included in the allocation, and thus less impactful on said viewpoints.
- 3.21 The evidence will include an updated LVIA to take into account the matters raised by MDDC in their report to committee and assess its visibility in the wider area. The harms identified by the Council will be considered in relation to the mitigation proposed and the fact the site is allocated for development, and accordingly these impacts must have been considered and found acceptable at allocation stage when the Development Plan was examined and subsequently adopted.
- 3.22 The evidence will set out that the access design and location proposed would not be harmful to the visual amenity and character of the street scene when viewed from Tidcombe Lane. The report will demonstrate the access will be seen in the context of existing access points to the highway and therefore would not appear out of context.

### **Best and Most Versatile (BMV) Agricultural Land**

- 3.23 We will demonstrate that the loss of BMV land was considered when the Local Plan assessed the allocation of the site, and the development of the site to meet the allocation's expectations would result in the loss of BMV. That is unavoidable but something that would have been considered as part of the plan making process.
- 3.24 It will also be highlighted that this was not previously raised as an issue in respect of the previous application made for the site and the scale of loss of BMV is not considered to be so significant to represent anything other than a minor impact, and negligible in the context of the site's allocation.

- 3.25 Finally, in respect of similar applications we will highlight that relevant consultees such as Natural England have set out that they consider the loss of this scale of BMV to not represent a significant issue, generally highlighting that site's greater than 20ha are of greater strategic concern.

### **Planning Obligations and Contributions**

- 3.26 The Appellant will be submitting a S106 agreement as part of the appeal process in order to secure the required contributions and obligations, namely the provision of affordable housing, contributions to education, health care, highways improvements and off-site public open space (where not provided on site). As such this will demonstrate full compliance with policies S3, S5, S8 and TIV15 of the Mid Devon Local Plan 2013- 2033. It is expected that upon the signing of a S106 agreement this reason for refusal will be addressed and this will be set out in the SoCG.

### **The Benefits of the Development**

- 3.27 We will set out that even if the Appellant's case in respect of the principle of development is not agreed, the appeal proposals deliver a wide range of benefits, and the alleged adverse impacts must be balanced against these, because they represent material considerations that justify the grant of planning permission even if it is ultimately concluded that there is some conflict with the development plan. We will set these out in full as part of our planning evidence. Alternatively, if the Appellant's case is accepted as regards engagement of the 'tilted balance', it will be shown that the adverse impacts do not significantly and demonstrably outweigh the benefits of the appeal proposals
- 3.28 We will outline in detail the following benefits in our planning evidence.

### **Housing Delivery**

- 3.29 The main benefit that the development will bring will be its contribution towards the MDDC's objectively assessed open market and affordable housing targets, as set out in Policy S2 of the Local Plan and the revised housing need as calculated through the standard methodology.
- 3.30 We will demonstrate that MDDC's HLS and delivery shortfall is a significant issue that needs to be addressed. We will show that the Council has struggled to deliver sufficient housing over a prolonged period. The evidence will set out that this issue has compounded over time and will likely be worsened as a result of the increased housing requirements as set out in the revised Framework.

- 3.31 We will identify that in relation to affordable housing in particular, there is an acute need in the area that the site will contribute towards addressing.

### **Accessibility**

- 3.32 We will demonstrate that the site is highly accessible to key local services and facilities and will deliver housing in an appropriate location in terms of the Development Plan's Spatial Strategy. Furthermore, we will set out that the transport assessment includes the closure of Tidcombe Bridge via a TRO that will create a betterment by removing additional traffic along Tidcombe Lane.

### **Economic Benefits**

- 3.33 We will also highlight that the development will bring economic benefits in the form of providing jobs in construction and the related supply chain. We will also identify that the provision of new residents in Tiverton will support the existing shops and services that exist within it, securing their longer-term viability.

### **Heritage Benefits**

- 3.34 As set out earlier, we will demonstrate that the condition of Tidcombe Hall has deteriorated significantly due to the council's failure to grant planning consent for the allocation. We will set out how the plans will secure it's refurbishment, reuse and long term future of Tidcombe Hall which is a significant benefit.
- 3.35 We will also elaborate on how the TRO proposed for Tidcombe Lane will be beneficial for the appreciation, condition and long-term future of the listed bridge, as well as the wider Canal Conservation Area.

### **Other Matters**

- 3.36 We are not aware of any other issues or concerns that would justify a reason for refusal; however, if necessary, address any specific concerns raised. For completeness, our evidence will briefly cover the following issues and demonstrate that no adverse impacts will arise in connection with the development:

- Trees
- Residential Amenity
- Ecology
- Highways and Parking
- Air Quality



- Flood Risk and Drainage

### **Planning Balance**

- 3.1 The acceptability of the appeal proposal will be considered by conducting a planning balance, weighing up the various social, economic and environmental benefits against any potential adverse effects of the proposed development. The results of a 'normal' planning balance will be presented in our formal planning evidence setting out that the benefits of the development outweigh the minor adverse effects that are alleged by the Council, additionally the results of the 'tilted balance' will also be presented.

## **4.0 CONCLUSIONS AND PLANNING BALANCE**

- 4.1 This Statement of Case sets out the case for the Appellant in respect of the refusal of an application for outline planning permission 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.
- 4.2 The appellant will demonstrate that when read as a whole the Appeal Proposals comply with the policies of the Development Plan and any potential conflict with policies of the Development Plan are minor in nature and the significant benefits of the scheme outweigh any potential adverse effects in any event.
- 4.3 The appellant's case will demonstrate that the appeal proposals represent highly sustainable development in a location strongly supported by planning policy in respect of spatial strategy. As such the proposals should have been allowed by the LPA, and we submit that planning permission should therefore be granted on appeal.
- 4.4 If any new issues arise or further information arises in respect to either the LPA or third parties' positions, the appellant reserves the right to address those matters within their evidence.



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