

**Appeal against Mid Devon District Council's refusal of an outline planning application 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**

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

**Planning Application Ref: 24/00045/MOUT**

**Planning Proof of Evidence by Mr Matthew Kendrick  
(MRTPI) (BSc)**

**April 2025**

**grassroots**  
PLANNING

# grassroots PLANNING

Bristol North Baths  
Gloucester Road  
Bristol  
BS7 8BN

t: 0117 930 0413 w: [grassroots-planning.co.uk](http://grassroots-planning.co.uk)

## REPORT CONTROL

Project:	Tidcombe Hall, Tiverton
Report Type:	Planning Evidence
Client:	Tidcombe Holdings LLP
Our Reference:	772/A5/MJK
Date:	22.04.25
Version:	V5

## COPYRIGHT

This document must not be copied or reproduced in whole or in part without the written consent of  
Grass Roots Planning Ltd

## 1.0 INTRODUCTION

### Qualifications and Experience

- 1.1 My name is Matthew James Kendrick. I hold a BA (Hons) degree in Business Economics from the University of Leicester and a MSc in Planning Practice & Research from the University of Wales, Cardiff.
- 1.2 I am a member of the Royal Town Planning Institute and have over 20 years' experience, most recently for Grass Roots Planning Ltd, which I set up in 2010. Prior to that, I worked as a planning consultant for Barton Willmore as a full-time employee for four years, and for two years as a Development Control Officer in the Brecon Beacons National Park Authority.
- 1.3 I have advised on a range of projects throughout the UK, and specifically in the south-west where the issues of landscape impact, heritage matters and five-year housing land supply was considered. The most relevant and recent of which include:
- Land at Mudford Road, Yeovil
  - Selwood Garden Community, Frome (SoS Call-in)
  - Land at Badminton Road, Old Sodbury
- 1.4 I have visited the appeal site many times and am very familiar with the surrounding area, Mid Devon in general, the site's planning history and that of nearby sites, and the wider planning context.
- 1.5 I am instructed by Tidcombe Holdings LLP to pursue an appeal against the refusal of an outline planning application (Ref: 24/00045/MOUT), with all matters reserved bar the main point of access, 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”*
- 1.6 I can confirm that this evidence, which I have prepared and provided in support of appeal APP/Y1138/W/24/3358001 and relates to land at Tidcombe Hall, Tiverton, is true and has been given in accordance with the guidelines of the Royal Town Planning Institute. I can also confirm that the opinions expressed are my true professional opinion on the various matters discussed.

## **Main Issues**

- 1.7 I agree with the Inspector's updated note from the CMC that outlines that, due to the likely narrowing of issues (as set out in the agreed Statements of Common Ground (SOCG)), the Inquiry will focus on the following five issues, with point 4 likely to be addressed via the finalising of an appropriate S106 agreement:
1. Whether the proposed development would be in a suitable location having regard to the development plan for Tiverton;
  2. The effect of the proposed development on the character and appearance of the surrounding area;
  3. The effect of the proposed development on the significance and setting of the Grand Western Canal Conservation Area, the Grade II listed buildings known as Tidcombe Farm and Tidcombe Bridge, and the non-designated heritage asset known as Tidcombe Hall;
  4. Whether the proposed development would make adequate provision for affordable housing and other infrastructure requirements; and
  5. The overall planning balance, having regard to any relevant material considerations including any proposed benefits.

## **Scope and Structure of this Evidence**

- 1.8 My evidence seeks to cover these main issues and is structured as follows:
- Section 2: Site Description, Development Proposals and Planning History
  - Section 3: Application of Planning Policy
  - Section 4: The Principle of Development/Need for Housing
  - Section 5: Economic, Environmental And Social Benefits
  - Section 6: Potential Adverse Effects
  - Section 7: The Planning Balance
  - Section 8: Summary and Conclusions
- 1.9 Additional landscape evidence has been prepared by Mrs Wendy Lancaster of Tyler Grange. Heritage Evidence has also been prepared by Dr Edward Oakley. This evidence should be read alongside my evidence.

## 2.0 SITE DESCRIPTION, CONTEXT, DEVELOPMENT PROPOSALS & PLANNING HISTORY

### Site Description and Context

- 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 Grand Western Canal.
- 2.2 The site is bound by the to the north by the canal 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, to the 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 a National Landscape, Site of Special Scientific Interest or any other ecological or landscape designation. The northern portion of the site, immediately surrounding Tidcombe Hall (a non-designated heritage asset) is designated as the Grand Western Canal Conservation Area. 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 hourly bus service from the Town Centre and has links to London Paddington, Bristol Temple Meads and Exeter St David's Stations.

### **Development Proposals**

- 2.7 The appeal proposals seek outline planning permission, with all matters reserved bar the detail of the main access point, for the following as the description of development defines:

*“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”*

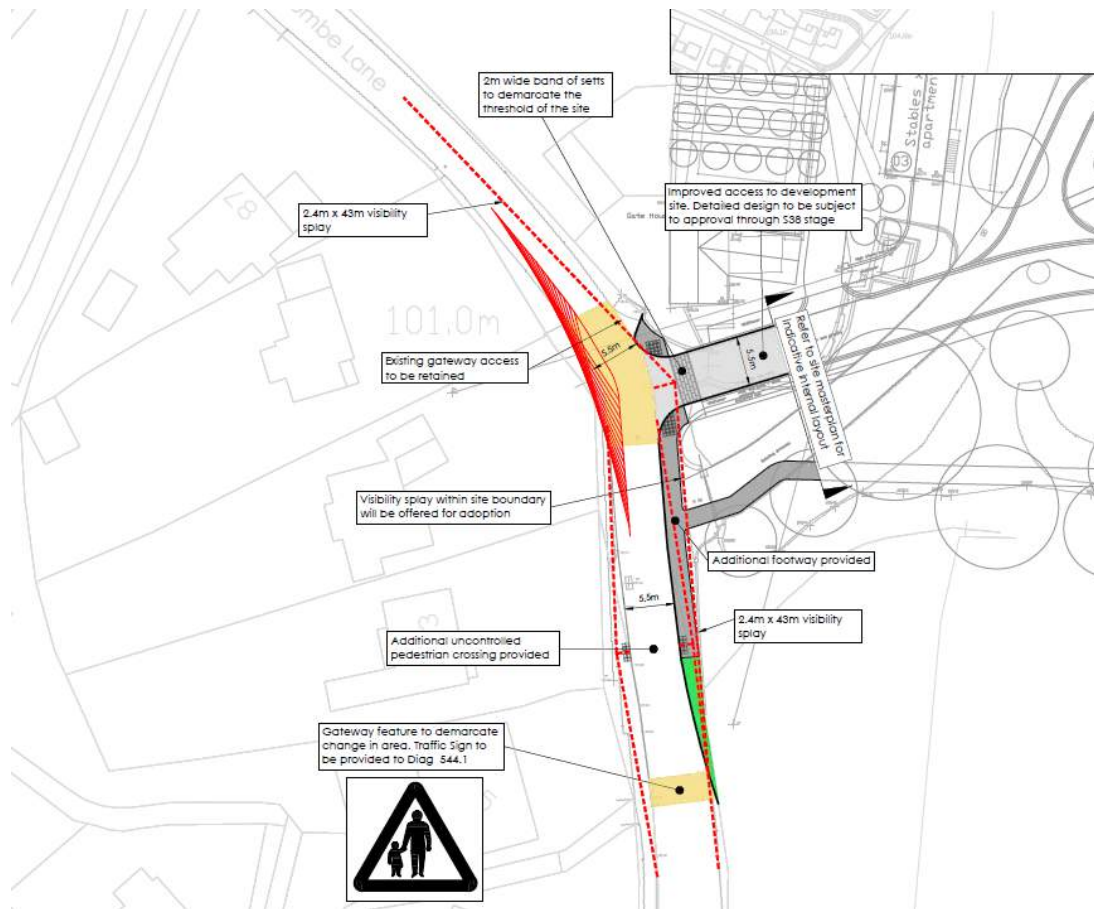
- 2.8 While the application is in outline form, an illustrative masterplan has been submitted to demonstrate how the site could be sensitively developed while taking into account its constraints and opportunities to provide up to 100 dwellings with some of these provided via the conversion of Tidcombe Hall itself. The most up to date version of this plan is 230301 L 02 02 J and for ease of reference an extract is shown in Figure 3 below:



**Figure 3. Extract of Master Plan**

- 2.9 A new vehicular access is to be provided. This will be created to the north of the existing narrow access gate that provides access to the Hall currently. The current access will be retained and enhanced to provide a separate cycle/footway into the site and a short section of new footway provided to tie into a crossing point that will link to an existing footway on the western side of Tidcombe Lane. The access works are shown on plan 0759.PHL\_102.Rev B that is also contained in the Transport Assessment, and extract of which is also provided below.





**Figure 4. Extract of Proposed Access Plan**

- 2.10 Over half of the site is proposed as green infrastructure (3.75ha), on the net developable area 100 dwellings are proposed which results in a net density of circa 30 dwellings per hectare. Of the 100 total dwellings proposed, 9 will be provided from the conversion of Tidcombe Hall, a further 8 are to be accommodated in its walled garden area and then a further 83 dwellings on the remainder of the site. 30% of the 100 dwellings are proposed to be affordable (up to 30) with 75% of these being provided for Social Rent and the remaining 25% as intermediate products (i.e. shared ownership, low-cost purchase or first homes).
- 2.11 The Green Infrastructure component of the proposed development will provide a landscaped parkland with interconnecting footways, new orchard and other tree planting located adjacent to the Grand Western Canal, and open up existing areas of woodland to public access south of Tidcombe Hall itself. The former gardens around Tidcombe Hall will be provided as public open space in a more formal style to respect its former status.
- 2.12 The GI area also accommodates a series of water attenuation features (detention basins) which are proposed to appropriately manage surface water and these have been given sufficient space to allow them to be sensitively designed to appear as more natural, rather

than heavily engineered, features. Because infiltration to ground is not possible, the function of these basins is to retain surface water within the site during times of high rainfall and then release it at controlled rates.

2.13 For the avoidance of doubt the plans that are for consideration in this appeal and potential reference in any positive decision are:

- Site Location Plan (Ref: 230301 L 01 01)
- Access Plan (Ref: 0759.PHL\_102.Rev B)

### Planning History

2.14 The site has previous planning history as described in the submitted statement of common ground.

2.15 In terms of its status in the Development Plan it forms part of allocation TIV13 which covers the majority of the site and is shown in the extract of the Local Plan Policy Maps presented in Figure 5 below – the Grand Weston Canal is shown in Green and the connected conservation area's boundary is shown as a redline.

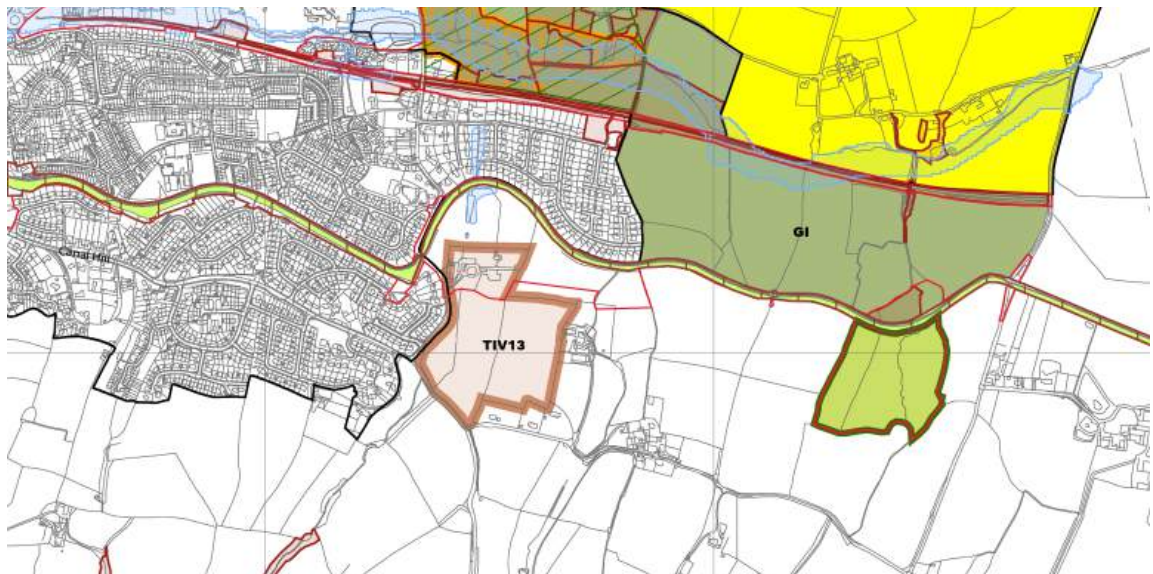


Figure 5. Extract of Mid Devon Local Plan's Policy Map

### 3.0 APPLICATION OF PLANNING POLICY

- 3.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that planning applications must be determined in accordance with the development plan, unless other material considerations indicate otherwise.
- 3.2 Mid Devon District Council's (MDDC) Development Plan currently consists of the following:
- Mid Devon Local Plan Review 2011 – 2033, adopted July 2020
  - Devon Waste Plan 2011-2031, adopted December 2014
  - Devon Minerals Plan 2011-2033, adopted February 2017
- 3.3 The Waste and Minerals Plans have no significant relevance to the appeal.
- 3.4 The LPA's reasons for refusal (RFR) refer to the following policies of the MDDC Local Plan:
- Policy S1 - Sustainable development priorities
  - 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 DM25 - Development affecting heritage assets
- 3.5 I also consider that Policy S2 has some relevance to the appeal proposals albeit it was not referenced by the Council.
- 3.6 Also, of some relevance but not referred to by the Council in the decision notice, is the Tiverton Neighbourhood Plan (2022) which also forms part of the development plan for the area. The relevant policies within this document include:

- 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

3.7 As set out within our Statement of Case, and as agreed in the Statement of Common Ground, upon the signing of a s106 Agreement, RFR 4 will have been addressed and therefore compliance with Policies S3, S5, S8 and TIV15 achieved.

### **The Decision-Making Framework**

3.8 Section 38(6) of the Planning and Compulsory Purchase Act provides that decisions on applications must be made in accordance with the development plan unless material considerations indicate otherwise.

3.9 In applying this duty Paragraph 11 of the Framework is a very important material consideration, stating the following:

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date(8), granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed(7); or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination(9).*

3.10 This paragraph does not alter the statutory test set out in s38(6) of the Planning and Compulsory Purchase Act 2004, but it does mean that, where this test is engaged (as it is here) as a matter of policy, permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. In carrying out this balancing exercise, regard must be had both to policies in the Framework and relevant development plan policies. As regards the latter it is necessary, firstly, to identify which policies (if any) are out of date and, secondly, make a planning judgment as to the weight that should be accorded to 'out of date' policies.



- 3.11 In respect to this appeal, conflict with policies S1, S4, S10, S14 and TIV13 of the Mid Devon Local Plan Review 2011 – 2033, are cited in the Council’s reason for refusal 1. Policies S1, S9, DM1 and DM25 are cited in reason for refusal 2 and Policies S1, S9 and S14 are cited in reason for refusal 3.
- 3.12 Some of these policies are clearly complied with (policies S1, S4 and S10). Policy S2 (not cited in the RFR) is also complied with. This position is explained later in this evidence and also summarised in the agreed SoCG.
- 3.13 However, notwithstanding this, I consider that policies S10 and S14 are out of date, as is an element of Policy S4. This is because, as the Council agrees, it cannot demonstrate a five-year housing land supply, it needs to deliver a Housing Action Plan in response to its most recent HDT result, and the Housing Requirement set out in the Plan is inconsistent with the NPPF (specifically the minimum need figure generated by application of the new Standard Method). In such a context paragraph 11 d) of the Framework sets out that the tilted balance applies. I consider that Policies S4 and TIV13 are generally up to date as they are engaged when the Council cannot demonstrate a five-year housing land supply, however the element of S4 that *‘requires the Council will work proactively to bring forward allocations or outstanding planning consents’* is out of date in my view because it potentially holds back the delivery of site TIV13 which is not the intention of national planning policy in the context of a 5yr HLS deficit.
- 3.14 Although I consider Policies S1, S9, DM1 and DM25 to be up to date, if their operation has the effect of restricting the delivery of housing that would justify reducing the weight attached to them when taking planning decisions.

#### **Paragraph 11 (d)i.**

- 3.15 Paragraph 11 (d) i. of the NPPF provides that the tilted balance is not engaged where *‘the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed’*.
- 3.16 Footnote 7 to this paragraph provides a closed list of the policies referenced within para.11(d)(i). Other than policies related to designated heritage assets, none of the policies listed are engaged by the appeal proposals. As regards heritage assets, Dr Ed Oakley on behalf of the Appellant sets out that the proposals will cause less than substantial harm to the setting of one listed building and similar level of harm to the Conservation Area. It is my opinion that this small level of harm is clearly outweighed by the public benefits of these

proposals (as per para.215 of the NPPF), and as such cannot reasonably be said to provide a strong reason to disapply the tilted balance.

### **Conclusion In Respect of The Decision-Making Framework**

- 3.17 As set out above, it is my opinion that the most important policies relating to the determination of the appeal are Policies S1, S3, S4, S9, S10, TIV13, DM1 and DM25 of the Mid Devon Local Plan 2013 – 2033. However, when applying the tilted balance in this case the weight to be attached to many of these policies must be reduced.
- 3.18 As I will go on to explain in greater detail, additional housing land and sites beyond the settlement boundaries established in the Mid Devon Local Plan 2013 – 2033 are required to meet the housing needs and Tiverton is one of three areas which are a focus for growth in the district. The council admits it cannot currently demonstrate a 5-year housing land supply, and thus the tilted balance is currently engaged. The position on 5-year housing land supply is set to worsen in July 2025 when the standard methodology is used to calculate housing need. The application of policies relating to heritage do not constitute a strong reason to disapply the tilted balance in my view – the low level of heritage harm is amply outweighed by the public benefits of this proposal.
- 3.19 The main points of disagreement relate to the principle of development, heritage and landscape impacts and connected compliance with policies S1, S3, S4, S9, S10, S14, TIV13, DM1 and DM25. This evidence focuses primarily on these policies, but I also refer to the other policies mentioned above for completeness.

## 4.0 THE PRINCIPLE OF DEVELOPMENT/NEED FOR HOUSING

### Spatial Strategy/Principle

- 4.1 The first point to consider in respect of this issue is whether the proposals to develop the appeal site for housing are acceptable in principle. In considering such a question it is important to assess the spatial strategy that the Development Plan sets out.
- 4.2 Policies S1 and S2 of the MDDC Local Plan makes it clear that the focus of development in the MDDC area will be the settlements of Tiverton, Cullompton and Crediton because these are the areas ‘*most sustainable settlements*’. Accordingly, as a general location for growth a site located at Tiverton must be considered to be in compliance with the overarching spatial strategy that the Local Plan establishes.
- 4.3 Policy S2 sets out the quantum of development that is expected to be delivered in MDDC with a minimum of 7,860 dwellings to be delivered between 2013 and 2033. Of this total, a minimum of 2,358 dwellings are expected to be delivered in Tiverton (30% of the Total). This highlights the importance of Tiverton as one of three market towns within the district and a main focus for growth as part of the Spatial Strategy.
- 4.4 The Local Plan housing requirement included a 17% uplift to the housing need figure to allow for flexibility and to ensure a rolling 5-year housing land supply (see para 2.7 of the Local Plan CD1.1). The Local Plan sought to in-build further robustness by not relying on any contribution from windfall sites, and by allocating a contingency site to address any shortfall in housing supply.
- 4.5 Paragraph 2.11 of the Local Plan states that there is one contingency site (TIV13), and that *“the release of the contingency site will be the Council’s preference if the supply of housing is insufficient, but proposals on other sites will also be considered on their merits according to the presumption in favour of sustainable development set out in national policy.”*
- 4.6 Policy S4 outlines trigger points for housing delivery and, if delivery falls below stated levels or the council cannot demonstrate a 5-year housing land supply, the policy provides that 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.”*
- 4.7 The council now accept it cannot demonstrate a 5-year housing land supply (it claims a supply of 4.79 years), and as such Policy S4 is engaged. As set out in paragraphs 4.66 to 4.69

the extent of the shortfall is set to drastically increase in July when the Local Plan becomes 5 years old, and the standard methodology is used to calculate Local Housing Needs (LHNs).

- 4.8 The point has been reached where bringing forward plan allocations will not be sufficient to meet the increased housing need as said allocations, and their respective quantum of development, were predicated on the much lower LHN that is due to change significantly in July. As such it is inconceivable that the council will be able to demonstrate a 5-year housing land supply without granting planning permission on sites not currently allocated in the Local Plan.
- 4.9 In this scenario, the Local Plan expressly provides that the release of the contingency site should be preferred over of the release of other unallocated sites (see paragraph 2.11 of the Local Plan). That is an obvious conclusion because to do otherwise would render nugatory the purpose of examining and allocating the TIV13 site as part of the Local Plan. As such, site TIV13 should be released for development as the first action to address the shortfall in housing supply – looking at other unallocated sites that have not been tested as part of the preparation of the Local Plan would undermine the plan making system in much the same way as if the Council were to prefer speculative development to development proposed on sites allocated in the plan.
- 4.10 Turning to Policy S14, this deals with development outside defined settlement boundaries. Given the sites status as a contingency allocation, it would not have been reasonable to extend the settlement boundary to include it given that planning policies dictate that development within the settlement boundary is acceptable in principle. Changing the boundary to include the contingency site would have allowed it to come forward as soon as the plan was adopted, regardless of whether the triggers set out in Policy S4 were activated. Therefore, when the plan is read as a whole, the correct interpretation of Policy S14 is that it does not apply to the contingency allocation once the triggers in Policy S4 are in fact activated. To take a contrary view would be inappropriate as S14 would operate so as to block the delivery of the contingency allocation in circumstances where Policy S4 dictates that it must be released. This is clearly not how the Plan was meant to operate.
- 4.11 Policy TIV13 identifies land that includes the majority of the appeal site as a contingency allocation for residential development. Its suitability for such development was approved by an Inspector at plan examination; indeed, the Inspector recommended that the site should form an immediate allocation. It follows that having regard to all the evidence, the Inspector concluded that the site was in-principle an appropriate location for housing growth in Tiverton.



- 4.12 Therefore, even if Policy S14 is given full weight, the proposal does not conflict with this policy. In the circumstances that now exist, the adopted spatial strategy for the area clearly supports development at Tiverton, and clearly supports development of the appeal site to meet housing needs in preference to development of any other site. The reasoning and rationale for this were considered as part of the Examination of the MDDC Local Plan, and release of TV13 to meet housing needs in the circumstances that now exist was ratified as sound.
- 4.13 Accordingly, it is clear that developing the appeal site is acceptable in terms of principle and accords with the Local Plan's Spatial Strategy as set out in policies S1, S2, S4 and S10. S14 is either not engaged, or if it is engaged, there is no conflict with it because it was clearly designed to give way once the triggers set out in S4 were activated.

### **Accessibility**

- 4.14 It is agreed between the parties that the site lies in a sustainable location in accessibility terms.
- 4.15 The submitted Transport Assessment (Table 4.2 of CD5.13) identifies the wide range of shops, services, schools, employment opportunities and other facilities that lie within easy walking and cycling distance of the site – in fact Tiverton Town Centre lies within an acceptable walking distance of the site.
- 4.16 Furthermore, paragraph 4.11 of the Transport Assessment (CD5.13) sets out that the closest bus stop to the site is just 70m south of the site access and this provides access to two bus services (nos. 352 and 353) which provides a half hourly service when combined.
- 4.17 Tiverton Parkway railway station is also a short drive from the site and can be reached via available bus services, providing alternative public transport services for longer journeys.
- 4.18 The appeal proposals will create a new footway to link into the existing infrastructure of the area via a new road crossing and a TRO is proposed to reduce the speed of Tidcombe Lane to further enhance its attractiveness for pedestrians and cyclists. Furthermore, the S106 includes the requirement for a Travel Plan that aims to maximise and monitor the use of non-car travel.
- 4.19 The appeal 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.

- 4.20 In conclusion, the site's location means that future residents will have a wide variety of transport options, thereby reducing the reliance on the private car and providing a real choice of transport modes in accordance with paragraph 105 of the Framework and no conflict with policy S1 (e), S8, S10 and DM3 of the Local Plan is identified.

### The Need for Housing

- 4.21 Most people are aware of the well documented housing crisis that is currently affecting the UK. To address this, the Labour Government set a target to deliver 300,000 dwellings per year over the course of the current parliament (Source: Labour Manifesto - 2024), and this was also the target of the previous government as set out in the 2019 Conservative Manifesto. However, as Table 2 shows nationally we are some way off achieving this target and there is a clear need to deliver more housing at the national level.

Monitoring Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Total Housing Completions	169,280	177,950	192,240	203,910	210,870	181,640	205,220	210,760	188,900

Table 1. Housing Completions in the UK Per Year (Source: <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/housebuildingukpermanentdwellingssstartedandcompletedbylocalauthority>)

- 4.22 The national housing target has increased since the Barker Review (2004) identified a target of 250,000 homes per annum and is a response to a failure to meet even this lower target. The changes made to the Framework in 2018 were a further response aimed at addressing this under-delivery and introduced a Standard Method (SM) for calculating the minimum housing need that an area must plan for.
- 4.23 While useful in providing an easy-to-understand measure of a standard housing need that areas should be planning for, even this measure and the related Framework changes that have occurred over the years has failed to deliver the 300,000-dwelling target. It is estimated that if the previous SM requirements were to be met in full, across the UK, it would deliver circa 288,000 homes per annum – a deficit of 12,000 when compared to the adopted 300,000 pa target. Hence why it must be seen as very much a bare minimum level of housing need for an area.
- 4.24 Given this deficiency the Government made changes to the Standard Method that have increased housing requirements in most of the UK as explained earlier – these were issued in December 2024. These changes plan for in excess of 300,000 homes per year to ensure there

is flexibility to take into account non-implementation, losses and other factors that mean the full balance of permissions do not come forward.

- 4.25 The Standard Method now increases MDDCs housing requirement from the Local Plan's requirement of 393 per year to 572 per year. This equates to an uplift of 46% over the housing need that the current plan accommodates.
- 4.26 Turning to specific delivery in MDDC specifically, and the question as to whether the housing that the appeal site would deliver is required, we must examine the council's housing monitoring figures. Because MDDC has not produced up-to-date monitoring reports data was obtained via FOI and is included as CD8.2. The completions that have been achieved in MDDC are summarised in Table 2.

Monitoring Year	Net Housing Completions (excluding holiday use permissions)	Shortfall/Surplus Against Local Plan Requirement of 393
2013-14	320	-73
2014-15	316	-77
2015-16	288	-105
2016-17	304	-89
2017-18	502	+109
2018-19	432	+39
2019-20	425	+32
2020-21	335	-58
2021-22	238	-155
2022-23	249	-144
2023-24	499	+106
<b>Total</b>	<b>3,908</b>	<b>-415</b>

**Table 2. Summary of Housing Completions in MDDC (Source Data provided by MDDC as set out in CD8.2)**

- 4.27 As can be seen from the above Table, against the Local Plan requirement there has been a deficit of 415 homes which equates to 1.06 years supply. Despite this being a considerable deficit, policy S4 does not require action to be taken unless delivery has fallen behind the cumulative requirement to equate to a two year's deficit, or a 5-year housing land supply cannot be demonstrated.
- 4.28 More locally, in respect of the housing requirements for Tiverton, Policy S2 and S10 set the quantum of development expected to be delivered, identifying that over the period of 2013-2033, 2,358 dwellings are required to meet the Town's needs. Table 5 of the Local Plan (see

page 16 of CD1.1) identifies existing commitments (which stood at 1,275) and completions (478) as of July 2020, thus a total of 605 dwellings would be required to be delivered on new sites by 2033 to meet policies S2 and S10 minimum requirements for Tiverton.

- 4.29 Table 6 of the Local Plan sets out the forecasted delivery across the plan period, which is replicated below in Table 3, along with the recorded completions for Tiverton, in order to provide a calculation of the projected shortfall against the Plan's target.

Monitoring Year	Local Plan Forecast Completions	Actual completions	Cumulative shortfall
2013-14	93	93	0
2014-15	70	70	0
2015-16	98	99	1
2016-17	89	89	1
2017-18	128	129	2
2018-19	107	84	-21
2019-20	149	94	-76
2020-21	152	96	-132
2021-22	180	69	-243
2022-23	178	68	-353
2023-24	183	99	<b>-437</b>

Table 3. Comparison between completions and forecast completions for Tiverton (taken from the Local Plan and CD8.2)

- 4.30 When comparing recorded completions to those forecast in the Local Plan there has been a shortfall of 437 dwellings from the start of the plan period to date. It is interesting to compare this deficit with that identified for the whole district (see table 2) which suggests that the source of the wider failures for MDDC over recent years are because of at the failure to deliver sufficient development at Tiverton – because both deficits are broadly similar.
- 4.31 Looking forward, to meet the 2,358 homes stipulated by policy by the end of the plan period (2033), an additional 1,368 completions would be needed across the further 9-year period (Total target of 2,358 minus the 990 completions that have occurred over the 2013-24 period), which equates to an average of 152 per annum. Given average completions in Tiverton across the plan period to-date total 89 per annum it is highly unlikely that, even with additional delivery from Tiverton Eastern Extension, these targets will be met. Thus, there is a clear need for need for additional housing in Tiverton, particularly given that housing targets for MDDC will increase by 46% in July 2025 as set out in paragraphs 4.66 to 4.69.



- 4.32 The HDT, discussed elsewhere, is a national tool that is similar in its effect to Policy S4 although it focuses on more recent trends, looking at the last 3 years supply rather than S4 which considers the whole plan period. I consider the last 3 years delivery that the HDT examines more important than the trends across the whole plan period because it will more accurately reflect issues with housing supply and the commercial market for housing at the immediate time, rather than over a much longer period where circumstances will be completely different to the present day.
- 4.33 Therefore, while it is acknowledged that the HDT was implemented prior to the adoption of the Local Plan in 2020, I consider there is a case that the HDT is a more appropriate review mechanism than that set out in Policy S4. In my view, one of the mechanisms in the Local Plan that triggers a review, and potential release of contingency site TIV13, is inconsistent with the Framework, and preference should instead be given to the HDT. The ability to run a deficit of two years' worth of housing is inconsistent with paragraph 78 of the Framework. Regardless of whether the Inspector agrees with my analysis on this point, the fact is that it is now common ground that the Council cannot demonstrate a 5yr HLS. Accordingly, Policy S4 is triggered in any event.

**Is it conceivable that TIV13 should not be released by Policy S4?**

- 4.34 Although the Council accepts that policy S4 is triggered, it continues to argue that there is no justification to release contingency site TIV13. In my view such a stance does not stand up to scrutiny.
- 4.35 Policy S4 refers to the Council looking to 'work proactively to bring forward allocations or outstanding planning consents' before turning to release site TIV13 to boost housing land supply.
- 4.36 By way of preface, I consider that element of the policy has to be given reduced weight because it is out of date by virtue of being inconsistent with national policies aimed at addressing land supply deficits, and boost housing land supply generally, given that it is now acknowledged that the Council must be seeking ways to meet a much higher LH, that the local plan (including policy S4) was not designed to tackle.
- 4.37 However, even if I am wrong on this point, the evidence shows that bringing forward allocations and permissions will not be sufficient to provide a 5yr HLS.

- 4.38 Given, as I identify above, insufficient housing has been delivered in Tiverton specifically, even based on the now out of date LHN, and a deficit of at least 437 homes exists, it makes sense for an assessment of this issue to focus specifically on the Tiverton.
- 4.39 The Council, in recently conceding it can no longer demonstrate a 5yr HLS, has prepared a schedule of their deliverable supply as of March 2025 (CD8.7). This has set out in detail the housing trajectory for the current relevant 5yr HLS period which we would not expect to change in advance of the Inquiry scheduled to start in May. Based on this assessment they conclude that they can demonstrate a 4.79yr supply (a deficit of 105 dwellings).
- 4.40 These factors, combined with the fact that housing delivery requirements are about to change significantly in July 2025, the failure to evidence a 5-year housing land supply, and the failure to meet the HDT requirements (discussed in more detail later) mean that simple tweaks to the system, such as increasing densities or trying to move forward stalled sites, will be insufficient to address the considerable deficit. The obvious solution is to accept the principle of developing the sole contingency site allocated in the Local Plan.
- 4.41 The delivery of new housing to meet the pressing deficiencies in housing land supply set out above is considered to be a positive benefit of the appeal proposals, to which I afford substantial weight.

### **The Need for Affordable Housing**

- 4.42 The Exeter Housing Market Area Strategic Housing Market Assessment (SHMA) 2014/15 (CD8.8), which applies to MDDC, 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, identifying 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.”*

- 4.43 According to data received from Devon Home Choice (CD8.9), there are currently 1,052 people on the Home Choice Register for Mid Devon in need of an affordable home. Of these, 524 are specifically seeking an affordable home in Tiverton.
- 4.44 Data obtained from Mid Devon (CD8.10) reveals that affordable housing completions equate to a gross affordable housing stock increase of 692 dwellings over the 2013-2024 period.

This equates to an average of 63 per annum. At this rate it would take over 16 years to house the current number of households on the Home Choice register for Mid Devon (1,052) assuming that demand does not continue to grow, and the register remains static, which is an unrealistic assumption because other households will fall into housing need over the remaining plan period.

4.45 However, when losses to sales, demolition or sales to sitting tenants are taken into account (which amount to an average loss of 18 units per annum (taken from Local Authority Housing Statistics open data – CD8.11) over the plan period so far, the delivery in net terms amounts to just 39 affordable units per annum. This represents under delivery of 85 affordable units per year against the SHMAs requirements – a deficit of 850 across the Plan period from 2013 so far.

4.46 This is a particular issue when the affordability of housing in MDDC is taken into account. When reviewing the affordability ratio, which is the ratio between median earnings and median house prices, as Figure 6 shows, the affordability ratio for Mid Devon has remained above the national average for England and Wales and has increased year on year, peaking in 2022 at 10.96.

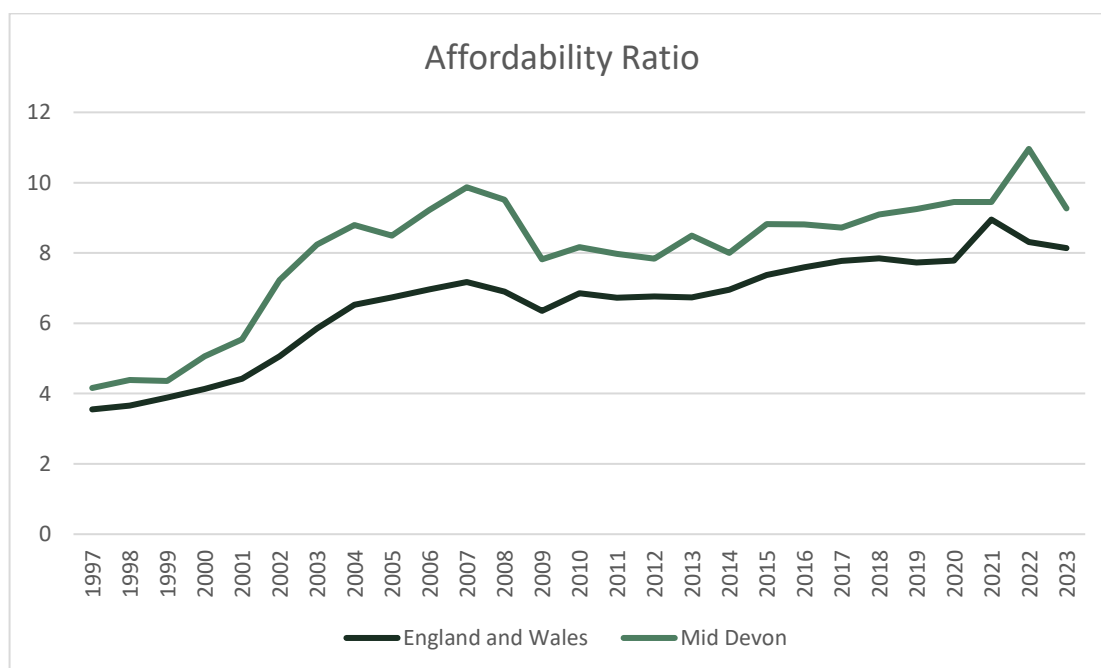


Figure 6. Affordability ratio compared with England and Wales (source: ONS)

4.47 Homelessness in Mid Devon is also a significant problem. The Homelessness Reduction Bill sets out that local Authorities are under different obligations to address the issue and have to assess the potential needs under a range of categories. The two most acute relate to ‘relief’ and ‘prevention’.

- 4.48 In simple terms ‘relief’ relates to households that are currently homeless and ‘prevention’ is linked to those in imminent danger of losing their current accommodation or at risk of becoming homeless for other reasons. Data obtained from the Ministry of Housing, Communities and Local Government (CD8.12) revealed that for 2023-2024 there were 368 people owed a prevention or relief duty in MDDC.
- 4.49 This data underlines the seriousness of the issue and scale of the problem in Mid Devon. Key to addressing the problem is a sufficient supply of affordable housing and accordingly there is a clear and pressing need for additional affordable housing in the Mid Devon Area, but also specifically in Tiverton where almost half of those on the Home Choice Register have a local connection, or preference to live there.
- 4.50 The appeal proposals will deliver 30% of the dwellings as affordable homes, in excess of that required under Policy TIV13 equating to up to 30 new homes that can be accessed by the households that are on the Home Choice Register, and those in immediate danger of homelessness. These units will be much valued by the households who will come to occupy them, often transforming lives who have to-date experienced an unsettled housing picture which has knock on effects for employment and education prospects as well as adverse impacts on mental health.
- 4.51 Therefore, I conclude there is a specific, and acute, need for affordable housing in Mid Devon and specifically Tiverton, and the appeal proposals will make a significant contribution towards addressing this significant issue. This is a significant positive benefit of the proposals, of very substantial weight.

### **The Housing Delivery Test (HDT)**

- 4.52 The aim of this test is to ensure that the progress of housing delivery against agreed targets is carefully monitored so that action can be taken where delivery is not keeping pace with Development Plan requirements.
- 4.53 On the 12<sup>th</sup> December the results of the last HDT measurement were published. These were based on 2023 monitoring data and identified that in respect of Mid Devon only 85% of the housing target had been met.
- 4.54 Paragraph 79 a) of the Framework requires that where delivery falls below 95% the authority is required to produce an ‘Action Plan’. This must be published within 6 months of the delivery test being published i.e. by the 12<sup>th</sup> May 2025.



4.55 The NPPG outlines what the Action Plan should consider and how it should be prepared. Specifically, it states (see Paragraph: 043 Reference ID: 68-051-20190722) that the following measures to boost delivery should be considered:

1. Revisiting the Strategic Housing Land Availability Assessment (SHLAA) / Housing and Economic Land Availability Assessment (HELAA) to identify sites potentially suitable and available for housing development that could increase delivery rates, including public sector land and brownfield land;
2. Working with developers on the phasing of sites, including whether sites can be subdivided;
3. Offering more pre-application discussions to ensure issues are addressed early;
4. Considering the use of Planning Performance Agreements;
5. Carrying out a new Call for Sites, as part of plan revision, to help identify deliverable sites;
6. Revising site allocation policies in the development plan, where they may act as a barrier to delivery, setting out new policies aimed at increasing delivery, or accelerating production of an emerging plan incorporating such policies;
7. Reviewing the impact of any existing Article 4 directions for change of use from non-residential uses to residential use;
8. Engaging regularly with key stakeholders to obtain up-to-date information on build out of current sites, identify any barriers, and discuss how these can be addressed;
9. Establishing whether certain applications can be prioritised, conditions simplified or their discharge phased on approved sites, and standardised conditions reviewed;
10. Ensuring evidence on a particular site is informed by an understanding of viability;
11. Considering compulsory purchase powers to unlock suitable housing sites;
12. Using Brownfield Registers to grant permission in principle to previously developed land; and
13. Encouraging the development of small and medium-sized sites.

4.56 Given that a range of these measures include looking at completely new, unallocated, sites the obvious conclusion would be that any Action Plan that MDDC prepares should be looking to release the appeal site given its status as a contingency site that was specifically included in the Local Plan to deal with this sort of eventuality – i.e. to positively address the under delivery of housing. Doing so would also prioritise a medium sized site in accordance with point 13.

- 4.57 It should also be noted that where an authority's delivery falls below 85%, it must, in addition to the action plan, apply a 20% buffer to its 5 yr housing land requirement. At 85% MDDC has only narrowly avoided this rule applying in their authority area by the smallest margin.
- 4.58 While the Council promised to provide their draft Action Plan (AP) 'at the earliest opportunity' in their Statement of Case I have had to obtain this myself by monitoring the Council's committee agenda items. The draft AP (CD8.13) sets out 18 different actions that it proposes to boost supply to address the HDT failure. Many of these action points are strategic and long term in nature and will have little effect in the short term, in particular the period over which 5yr HLS is calculated. Of the 18 Actions, the following are of relevance:
- Action 4 – seeks to encourage applications for small sites that lie outside of Local Plan boundaries;
  - Action 10 – prepare a Housing and Economic Land Availability Assessment to help identify land for housing.
  - Action 11 – launch a new call for sites to identify additional land outside of the Local Plan allocations.
  - Action 12 – examine the Brownfield Sites register for potential sites. Although the report acknowledges there are few given the rural nature of the District (see paragraph 4.20 of CD8.13). It is also noteworthy that the appeal site is part brownfield.
- 4.59 These Actions points look to identify land that has not had any formal assessment in the Local Plan, neither would they be subject to planning permission otherwise they would already be accounted for in the supply. Therefore, an obvious conclusion is that the contingency site should be released before as yet unallocated, and untested, land is released. The Action Plan does not question that position but instead sets out at paragraphs 4.9-4.13 that the Council no longer consider that the TIV13 allocation is deliverable.
- 4.60 In conclusion, the recent failure of the Council to pass the HDT is a further clear reason to release the appeal site for development, particularly given its status as a contingency site for that very purpose.

### **Housing Land Supply**

- 4.61 As set out in the SoCG, it is agreed that the council are currently unable to demonstrate a 5-year housing land supply, with the Mid Devon Five Year Housing Land Supply Position Statement (March 2025)(CD8.7) identifying a 4.79 year supply.

- 4.62 Given that the 5-year HLS deficit triggers Policy S4 the Appellant has accepted that it would not be a proportionate use of inquiry time to examine the council's housing supply in great detail. Notwithstanding this, I would like to point out that there is a range of issues with some of the supply identified, the most obvious of which is that many of the sites in the claimed supply do not meet the Framework's definition of 'deliverable' as they do not have full planning permission. However, I consider this to be fairly academic in circumstances where the current deficit will worsen significantly in the coming months in any event.
- 4.63 This is because the Local Plan, which contains the strategic policies for Mid Devon, was adopted in July 2020. Thus, in July 2025 the strategic policies will be more than five years old, so MDDC is required to identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need, as set out in Paragraph 78.
- 4.64 Paragraph 78 also states that the supply of specific deliverable sites should, in addition, include a buffer of 5% in the case of MDDC to ensure choice and competition in the market for land.
- 4.65 Furthermore, Paragraph 62 states that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the new standard method in national planning practice guidance.
- 4.66 Alongside the new NPPF, in December 2024 the Government published a schedule of the local housing need for all local authorities in England, based on the new standard method. This demonstrates that the local housing need for MDDC will increase drastically (by approximately 46%) from 393 dwellings per annum based on the current local plan to 572 dwellings under the revised standard method.
- 4.67 When applying the increased local housing need over 5 years, and adding the 5% buffer as required by Paragraph 78 of the new NPPF, this results in an annual housing requirement of 601 dwellings. Comparing this against the claimed deliverable supply of 2,392 homes, this results in a significantly decreased 5YHLS position for Mid Devon of **3.98 years**. This calculation is outlined in Table 4 below.

A	Standard Method	572 dwellings
B	Over 5 years (A*5)	2,860 dwellings
C	+ 5% Buffer (B*1.05)	3,003 dwellings
D	Annual Requirement (C/5)	601 dwellings
E	Deliverable Supply	2,392 dwellings
F	5YHLS Position (E/D)	<b>3.98 years</b>

**Table 4. Housing Land Supply Calculated through the Standard Method.**

- 4.68 Given the current lack of a 5YHLS which is set to worsen in July, sites are required urgently to boost supply now, not only to get ahead of the inevitable significant lack of supply to address the drastically increased local housing need for Mid Devon, but also to meet the clear direction of Government, to substantially increase housing growth and delivery, and boost the supply of housing.
- 4.69 It is noteworthy that the scale of the deficit in July 2025 will be over 600 dwellings, and additional sites will need to be found to meet this deficit. This illustrates that the scale of the housing need is such that accelerating the delivery on existing commitments, increasing densities or other small tweaks will be insufficient to meet the challenge. In this context, releasing the contingency site TIV13 is the obvious first 'port of call'.

### **The Preparation of the Local Plan**

- 4.70 While the Council have argued that the circumstances relating to housing supply and delivery do not specifically trigger the application of policy S4 and release of TIV13, in my opinion its allocation and the process behind that is of relevance when considering the principle of development and also how the alleged harms relating to its development must be viewed.
- 4.71 As I explain in more detail under the sections relating to alleged landscape and heritage harms, a detailed evidence base was prepared to produce the Local Plan, and site selection was underpinned by this evidence. The selected sites were then subject to examination by an independent planning inspector. This meant that site TIV13 was considered to meet favourably with the adopted plan strategy and was an appropriate location for development without giving rise to unacceptable impacts.
- 4.72 The fact the site was identified as a contingency site undermines any suggestion that its development is inappropriate and would give rise to unacceptable adverse impacts – the Inspector concluded its development was so clearly suitable and the housing needs were such that it should in fact be allocated rather than treated as a contingency. As set out in the post hearing briefing note (CD1.3) the Inspector was concerned about delivery, given the timeframe for the implementation of the Town Centre Relief Road at Cullompton. The Inspector requested MDDC review the projected housing delivery rates for the first 5 years of the local plan and for years 5 through 10 recommending that if a 5-year housing land supply would be difficult to achieve through these periods then the council should consider main modifications (MMs) to the plan to address any shortfalls. The suggested MMs were:

1. *“Bringing forward other allocated sites that are currently restricted in terms of timing with no good reason, the Policy SP2 site for example; and/or*
2. *Bringing forward the contingency sites; and/or*
3. *Extending existing allocations to accommodate more dwellings (the Policy W11 site for example) or increasing densities to allow for more dwellings on allocated sites that are less constrained; and/or*
4. *Allocating a new, large site not constrained by the link road (or motorway junctions) that can come on stream quickly and bolster supply in the early years of the Plan while infrastructure is provided elsewhere.”*

4.73 The suggestion to bring forward the allocation was assessed within the Mid Devon Local Plan Review: Proposed Main Modifications Sustainability Appraisal Addendum (October 2019) (CD8.14). The council resisted this change because they believed that a 5-year supply of sites would be deliverable through the plan period without TIV13 as a formal allocation.

4.74 That assumption has proven to be incorrect by the recent acceptance that a 5 yr HLS can no longer be evidenced, and it is pertinent that the Council chose to convert other contingency sites such as CU21 Colebrook, Cullompton and CU7–12 Cullompton East into full allocations despite the latter not contributing to the initial 5-year housing land supply.

4.75 The Mid Devon Local Plan Review: Proposed Main Modifications Sustainability Appraisal Addendum (October 2019) set out that the impacts of bringing the contingency sites forward do not affect the sustainability appraisal objectives, 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”*. This conclusion was drawn for all contingency sites but led to inconsistent outcomes – i.e. the Cullompton contingencies were made full allocations, whereas TIV13 was not, with no meaningful justification as to why.

4.76 Furthermore, the Sustainability Appraisal Update 2017 (see page 60 of CD8.5) considered the reasonable alternative of deleting the TIV13 allocation but concluded:

*‘This comment suggests the deletion of Tidcombe Hall contingency site. This would lead to the loss of the contingency site and a less sustainable and flexible plan in terms of meeting housing needs. The purpose of the contingency sites is explained in policy S4.’*

4.77 In conclusion, I consider that the extensive work that underpinned the Local Plan, which assessed the appeal site specifically and led to its subsequent adoption in the Local Plan, is a strong material consideration that supports the proposition that the principle of developing

the site is acceptable in the context of a HLS and delivery deficit – the site would not otherwise have been included in the Local Plan.

### Conclusion

- 4.78 Paragraph 3.4 of the adopted Local Plan states: *‘Nine sites are allocated for housing in Tiverton, excluding one contingency site at Tidcombe Hall that will be permitted to come forward if the Council’s housing supply proves insufficient, as set out in Policy S4’* (our emphasis).
- 4.79 The Parties agree that currently the Council cannot demonstrate a 5yr HLS and therefore it is my opinion that the appeal site needs to be released for housing now, to address this issue in accordance with policies S4 and TIV13. This is a fairly obvious conclusion, but the Council continue to resist the principle of development of this site.
- 4.80 Further, it is a fact that the current land supply position will worsen within the coming months when the plan becomes 5 years old and housing need is calculated using the standard methodology as the basis for the areas LHN. As set out in paragraphs 3.11-12 of the SOCG the council’s own programme for producing a Local Plan means that no new sites will be coming forward to address this deficiency for the foreseeable future.
- 4.81 In light of the current lack of a 5-year housing land supply and the looming reality of it deteriorating even further in July, it is not logical to delay the release of the contingency site TIV13 because the site is needed now to boost housing supply and delivery.
- 4.82 Furthermore, the recent HDT results published in December 2024 now make it clear that the Council must prepare an action plan to address delivery of just 86% of its required housing target in the last monitoring period. An action plan should clearly look to release a contingency site that is allocated in the Local Plan as a first measure.
- 4.83 Policy S4 sets out that site TIV13 should be released for development unless the Council can bring forward allocations and outstanding planning consents. Notwithstanding my stance that this element of the policy is out of date it is clear to me that the Council cannot credibly say that they can address the deficit in land supply via existing allocations and permissions when the deficit in land supply that they must grapple with amounts to at least 600 dwellings.
- 4.84 Firstly, the council’s own land supply position issued just last month reviewed existing site allocations and connected delivery trajectories (see paragraph 4.7 of the draft Action Plan CD8.13). Given this recent assessment it is not credible that there will be a sudden change



in circumstances in a matter of weeks to mean that an additional 600 dwellings can be claimed to be deliverable for inclusion in the Council's 5yr HLS.

4.85 Secondly, the recent HDT failure has required that the Council prepare an Action Plan to set out how they intend to boost supply. Of the 18 listed actions none of these tangibly show how specific sites for 600 dwellings will be delivered. Therefore, this does not support any position that the first strand of policy S4 can be used to avoid the release of the TIV13 site in principle. In fact the Action Plan does not advance such an argument, but instead says it is no longer deliverable (I will explore their reasoning for this later).

4.86 Finally, the LHN on which the Local Plan was based, and which Policy S4 was formulated to address, will change very significantly in July 2025. This is a matter of great importance because this change will affect the majority of the next 5yr HLS period. Policy S4 states that the first step will be to explore whether existing allocations and permissions can address the housing shortfall, but the difficulty with this is that these existing allocations and permission were granted to address a lower LHN. It is obvious these will not be sufficient to meet the significantly increased LHN. My conclusion in this respect seems to be acknowledged by the Council themselves at paragraph 2.11 of the draft Action Plan (CD8.13), where it states the following in reference to the impending uplift in LHN:

*This change could not have been anticipated at the time the local plan and its associated evidence base was prepared and therefore it is highly unlikely that the current local plan (and the flexibility measures / interventions contained within the plan) could respond to this uplift in full.*

4.87 In conclusion, the evidence clearly points to a conclusion that policy S4 of the development plan directs that site TIV13 should be released for development and the principle of development of the appeal site should be accepted. The adopted Spatial Strategy set out in the development plan also supports development in this location. Furthermore, the housing delivery and affordable housing need data clearly establishes that the quantum of homes proposed is required to meet identified needs now – including a specific deficit in Tiverton, and the Council's recent acceptance that they cannot demonstrate a 5yr HLS result clearly sets out that the contingency site should be released to address the deficiencies – the HDT failure further compounds this.

## 5.0 ECONOMIC, ENVIRONMENTAL AND SOCIAL BENEFITS

### Delivery of Housing

- 5.1 As I have set out in the previous section there is a pressing need for housing in the area, with affordable housing need being particularly acute. The appeal proposals will deliver 70 open market and 30 affordable units to meet this needed, a not inconsiderable contribution to the problem.
- 5.2 It is agreed by the parties that there is also a five-year housing land supply deficit in the MDDC area.
- 5.3 The appeal site can make a meaningful contribution to not only providing a land supply but also delivering units on the ground in a timely manner. On the latter point the site does not require extensive infrastructure to allow it to deliver housing, with the required access works and fairly simple drainage infrastructure being items that can be delivered quickly. This means it can progress quickly, unlike the larger strategic sites found elsewhere in both the Town and wider area, which require far more extensive infrastructure works to allow completions to come forward.
- 5.4 Given the pressing need for both open market and affordable housing I have identified, I attach substantial weight to the benefits associated with the delivery of open market housing, and very substantial weight to the benefits of affordable housing on the site. It is my professional opinion that these considerations should weigh heavily in favour of allowing the appeal.

### Heritage Benefits

- 5.5 Tidcombe Hall is a non-designated heritage asset of local interest and both the main building, outbuildings and its grounds fall within the Grand Western Canal Conservation Area. The building has had a range of uses over its lifetime including a private residence and care home/hospice but now is in a considerable state of disrepair as the submitted Heritage evidence identifies. The building's condition meant that it was unfit for habitation when the appellant purchased it in 2018 and their intention has always been to renovate this building alongside the development of the wider allocated site.
- 5.6 The building has also been a magnet for antisocial behaviour with repeated break-ins leading to the building becoming even more derelict and unusable. This led to the appellant having to secure the site with fencing, provide CCTV and employ a security company to maintain presence on the site. This has led to the sight becoming an eyesore.

- 5.7 The appeal proposals will renovate Tidcombe Hall and its outbuildings and bring them back into residential use. As part of the wider public open space works proposed for the site its surrounding garden areas will also be landscaped, walls repaired and trees and shrubs planted to provide attractive and usable public open space.
- 5.8 The project architects/urban designers have prepared a 'Statement of Intent' document to outline what the works to Tidcombe Hall, the outbuildings and gardens will consist of and include. This document is proposed at Appendix A and can be subject to a condition requiring the future detailed application for this element of the scheme adhere to the measures put forward, if certainty about the final works is required.
- 5.9 All of these works will have a considerable positive impact on the appearance of Tidcombe Hall and its related features and by inference greatly enhance the appearance of the Conservation Area within which this form's part.
- 5.10 By bringing the Hall back into residential use and greatly improving its appearance the appeal proposals will be delivering heritage benefits. It is my opinion, and that of Dr Edward Oakley who has advised us on heritage matters, that this represents a moderate benefit.

### **Economic Benefits**

- 5.11 During the construction phase, jobs will be created both directly on the development itself and in the supporting supply chain. A number of recent studies have sought to quantify the number of direct jobs created by house-building activity across the UK. The House Builder's Federation estimated in 2005 that for each dwelling built, 1.2 full time jobs were created. However, as well as direct jobs (i.e. those employed on-site), jobs are also created indirectly, through for example, the construction industry's large supply chain. In addition to this, there is induced employment (i.e. jobs supported by the spending of wages/disposable income of construction and supply chain workers, in the local area in shops, cafes, pubs etc). More recent research undertaken by Lichfields (CD8.15) indicates that the scale of employment supported by housebuilding is more likely to be equivalent to between 2.4 and 3.1 jobs created per dwelling. Based on this research therefore it is anticipated that the appeal scheme has the potential to generate between 240 and 310 jobs during construction of the housing proposed on this site.
- 5.12 As Lichfields' research notes, house building also generates tax revenues by house builders and their supply chains. At a national level, this includes Stamp Duty Land Tax, which is usually charged on all purchases of property and land. Likewise, corporation tax is levied on

housebuilders' profits and tax is paid through National Insurance and PAYE contributions. At a local level, revenue streams include Council Tax and Business Rates, and the New Homes Bonus scheme.

- 5.13 New housing will bring new residents to the area, who will spend money on goods and services in the local area. This includes “moving in” costs and “one-off” costs associated with furnishing a property, as well as further spending through their occupation of the property. This all goes towards supporting shops and services in the local area and helps support the jobs associated with these businesses.
- 5.14 I consider that these economic benefits should be given moderate weight in terms of job creation, and minor weight in terms of wider economic benefits.

### **Biodiversity Net Gain**

- 5.15 The Government's Biodiversity Net Gain requirements did not become mandatory 12<sup>th</sup> February 2024. As this application pre-dates the statutory requirement to deliver 10% biodiversity net gain, any gain that the site does deliver is, in its entirety, a benefit of the scheme.
- 5.16 The Appellant has taken a positive stance to this issue when formulating the proposals now put forward as part of this appeal and sought to achieve biodiversity net gain well in advance of this requirement becoming mandatory.
- 5.17 The development proposals put forward secure a large amount of green infrastructure as shown on the submitted illustrative master plan (Ref: 230301 L 02 02 J) and these areas will be delivered as biodiverse habitat and managed as such in perpetuity. This requirement would be secured via the S106 agreement and related conditions.
- 5.18 The submitted biodiversity net gain calculation (Tabel 4.12 of CD5.10) confirms that the proposed development allows the flexibility to deliver a biodiversity net gain of 4.73% in terms of habitats and a 10.24% gain in terms of hedgerows.
- 5.19 These gains can be delivered because of the large amount of strategic greenspace proposed (which equates to over 50% of the site) and the fact that the majority of the land is used for arable use and its ecological value is limited as a result.
- 5.20 It is my opinion that delivering BNG prior to this being mandatory represents a positive material consideration in favour of the appeal proposals. This position is clearly supported by

a recent judgement made by Justice Eyre (CD7.1) where it was clearly established that applications submitted before January 2024 are not subject to BNG requirements and providing such improvements in advance of the legislative requirement is a positive material consideration in favour of a proposal. That judgement (see paragraphs 60-61 of CD7.1) suggests that it is open to a decision-maker to attach weight to this matter that exceeds 'moderate'.

- 5.21 Accordingly, the proposals meet favourably with parts of policies S1, S9 and DM1 of the adopted Local Plan that relate to ecology matters and the delivery of the net gains set out above, which are in excess of that required by planning policy even after the Environment Act 2021 requirements come into force in February 2024, represent a benefit of moderate weight in favour of the proposals in my view.

### Conclusions

- 5.22 In summary, I consider that the development will deliver the following significant and tangible benefits:
- Delivery of housing land to meet the council's identified housing requirements, remedy the failure to pass the Housing Delivery Test and assist in addressing the five-year housing land supply deficit;
  - It will ensure that the first 'port of call' of any action plan to remedy the HDT failure is put in train at the earliest possible time;
  - The social benefit of providing an appropriate mix of open market and affordable housing to meet identified needs in a location strongly supported by the Development Plan's Spatial Strategy, being accessible to everyday facilities and services as well as employment opportunities;
  - Providing housing in a location where the use of public transport, walking and cycling are realistic travel options for future residents, while also strengthening pedestrian linkages through the provision of new pedestrian and cyclist crossing points;
  - The creation of between 240 and 310 jobs during the construction of the housing;
  - The heritage benefits associated with the restoration of Tidcombe Hall and its associated grounds which is a non-designated heritage asset, the improvement of which will enhance the appearance of the Conservation area of which it forms part; and
  - The creation of biodiversity net gain that exceeds the policy requirements that apply to the proposals.

## 6.0 POTENTIAL ADVERSE EFFECTS

### Landscape Impact

- 6.1 The landscape impact is clearly a key issue relating to an assessment of the planning balance and whether significant and demonstrable adverse effects outweigh the benefits of the scheme that are outlined in the preceding section of this evidence.
- 6.2 The technical aspects of this issue are assessed in detail as part of the evidence of Ms Wendy Lancaster of Tyler Grange. Ms Lancaster did not prepare the original Landscape and Visual Impact Assessment that supported the application. This was undertaken by Tapestry and Ms Lancaster was appointed by the Appellant once it became clear that some of the council's concerns about the site focused on Landscape Impacts and judgements relating to the LVIA assessment undertaken.
- 6.3 Ms Lancaster's role was to audit the findings of the Tapestry LVIA in the context of the Council's objection comments and provide a second opinion on the matter. She did this and there was no significant deviance in opinion as to the impacts of the development. Subsequent to this Ms Lancaster was instructed to prepare evidence for this appeal due to her extensive Inquiry experience.
- 6.4 When considering this issue in planning policy terms, consideration should be given to the obvious fact that, given the large increase in the housing requirement for the area that results from the new Standard Method, additional greenfield land is required to be released to meet these requirements not in the coming years, but in the coming months. Furthermore, as I have set out earlier the issue also needs to take into account the appeals site's allocation in the Local Plan as a contingency and the fact that the recent failure to demonstrate a 5yr HLS and HDT failure strongly points to the need to release the site now.
- 6.5 When preparing the Local Plan, the landscape impacts of developing the appeal site were considered and the change of the site from agricultural land to a development site accommodating housing were taken into account when formulating the submission version of the plan. This was then examined by the planning Inspectorate and later ratified in the adopted version of the plan.
- 6.6 The above observations are obvious, because it is inconceivable that the landscape impacts of developing the site were not considered by the Council when selecting it as a contingency site, or that the Inspector did not have regard to them when recommending that the site be



in fact converted into an immediate allocation. At risk of labouring this point, I refer to CD8.4 which states:

- Sustainability Objective A clearly includes an assessment of landscape impacts (see page 28);
- The assessment undertaken concluded landscape harm and therefore afforded -1 score against objective A, recognising that landscape harms would result from the allocation of the site; and
- Paragraph 4.61 states: 'Tidcombe Hall is reasonably well contained in the landscape but has a potential localised impact on landscape character, the setting of Tidcombe Hall and the Grand Western Canal.'

6.7 Therefore, it is clear that the landscape impacts of the development of the TIV13 site were considered at this stage and considered to be acceptable – hence the adopted Local Plan allocating TIV13 – and it is striking that the evidence base made it clear that any impacts were localised and the site was visually reasonably well contained.

6.8 However, having read the officer report (CD5.24) I note that the council place significant reliance on the fact that a very small part of the appeal site lies outside of the Local Plan allocation, as shown outlined in yellow below:



Figure 7. Part of the site that lies outside of TIV13

- 6.9 The council has used this to state that the application site '*partly falls within the area of land allocated as a contingency site by policy TIV13*'. However, it is clearly more accurate to say that the vast majority of the site falls within the allocation. Furthermore, the part of the site that lies outside has been sensitively designed to accommodate public open space and drainage with just a small part of this land being required to accommodate the access road – which can be sensitively lit in accordance with a lighting strategy that can be secured via condition.
- 6.10 The council raise concerns that this part of the appeal site's development will be harmful in landscape terms because it falls outside of the TIV13 allocation, within the Conservation area and '*would result in a fundamental change in land use and character*'. While I defer to Dr Oakley and Ms Lancaster on the degree of harm, it is in my opinion an exaggeration to describe a change from agriculture to POS as 'fundamental' in terms of use and character. Furthermore, as explained in paragraphs 6.57-6.61 detailed investigations that informed the preparation of the appeal proposals revealed that surface water on the site could not be

disposed of via infiltration and accordingly an attenuation led drainage strategy was required, such a strategy requires an outfall via which restricted flow rates can be disposed. The only available and suitable outflow consists of a culvert that runs under the canal and travel to the north. Given that attenuation basins need to be located at the lowest possible level adjacent to the outfall this means that the only feasible way of draining surface water from the site involves the land identified in Figure 7 above and therefore the minor change in character is unavoidable.

- 6.11 In terms of the consideration of the appeal proposals specific visual and landscape effects I obviously defer to Ms Lancaster as the expert on such matters. However, having read her evidence I agree with her findings that the site is well visually contained which means that wider effects are negligible. In terms of effects on close range viewpoints and the character of the site itself and nearby area, the impacts are greater for obvious reasons and I agree with her conclusions which identifies the following effects after mitigation:

<b>Importance (significance) of Effect</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Minor/Negligible or Negligible</b>
Landscape Effects	None	Character of the Site;		Character of LCA3E and the valley landscape; The character of the GWC
Visual Effects	None	None	Visitors to the GWC towpath; Users of Tidcombe Lane / Newte's Hill; Users of Warnicombe Lane.	Users of the Church Path at Knightshayes; Users of the PRoW north of Warnicombe Plantation; Users of the PRoW between Craze Lowman and Chevithorne; Users of the unnamed road north of Chevithorne

- 6.12 Given the magnitude of these effects, and limited extent of them, based on my experience of other schemes where landscape effects have formed part of the planning balance I afford these impacts minor weight against the development. However, such effects need to be considered in the context of the Local Plans assessment of them, which obviously accepted that some landscape harms would occur as a result of the development.
- 6.13 In conclusion, the Development Plan and specifically the allocation of TIV13, made allowance for landscape impacts arising from the development of the appeal site but still found these to be acceptable which led to the allocation of the site as a contingency site. The only part of the site that was not considered, which lies outside of TIV13, is proposed to be used for public open space, drainage features and a small stretch of road, the lighting of which can be restricted/sensitively designed. The landscape impacts of such a change are in my view minor given that open views across this land can be maintained and attractive landscape planting provided. This is a conclusion supported by Ms Lancaster.
- 6.14 Accordingly, I do not consider that there is significant conflict with the development plan's policies in respect of landscape impacts.

### Heritage Impacts

- 6.15 Heritage matters are considered in detail as part of the evidence of Dr Edward Oakley, Associate at the Environmental Dimension Partnership (EDP). Like Tyler Grange, EDP did not prepare the original heritage work that supported the planning application but were appointed to provide a 2<sup>nd</sup> opinion on the Council's case in respect of heritage impacts and given their experience of doing so, give evidence to the Inquiry.
- 6.16 While we defer to Dr Oakley on the major of the technical aspects of the assessment of heritage impacts, I do have a few observations from a planning policy perspective and given my experience of the site, its planning status and history.
- 6.17 The Council has raised concerns about the proposed access works and removal of trees and how this will change the appearance and character of Tidcombe lane and hence the conservation area. However, as set out in paragraphs 6.57 to 6.74, the trees along the current access for Tidcombe Hall were causing the partial collapse to the wall and rubble to fall onto the highway. This partial collapse and degradation of the access is considered to further detract from the character and appearance of the conservation area. The trees causing this problem were proposed for removal along with others that were diseased and this is accepted by the council in the Officer's Report (CD5.24) which sets out *"the loss of these trees is lessened by improving visibility of the larger, more significant trees in the grounds"*.

- 6.18 Further, as I explained in respect of landscape impacts, heritage impacts were also considered when preparing the Local Plan and allocating the appeal site.
- 6.19 CD8.4 paragraph 4.61 made it clear that the development of the site '*would require improvements to Tidcombe Lane*' and there was potential for localised impacts on the '*setting of Tidcombe Hall and the Grand Western Canal*'.
- 6.20 The Sustainability Appraisal therefore attributed a score of -1/? to Sustainability Objective B '*Protection and promotion of a quality built environment*', which almost solely relates to the impact of a development on heritage assets.
- 6.21 These impacts are now apparent in the appeal proposals, with changes to the site frontage to Tidcombe Lane being proposed to create the site access – as the plans and application details show in my view these have been very sensitively handled as the image below articulates:



**Figure 8. Proposed Works to the Tidcombe Lane Access**

- 6.22 It is my opinion that the proposed access works have been very sensitively designed to ensure that the impacts on the land and connected conservation area are minimised. In fact the current condition of the site and its interface with the surrounding land is very poor and the works will have a beneficial appearance on the Conservation Area in this regard in my opinion.
- 6.23 Notwithstanding my stance, even if the Council's case were to be accepted and the access proposals were considered to have a negative impact, they are necessary to facilitate the conversion and development of Tidcombe Hall itself. The technical reasoning for this is set

out in paragraph 6.54 of this evidence relating to Highways matters, but in short summary the existing access would not be suitable to accommodate even modest development of the Hall itself without adverse impacts on trees and an alternative access would need to travel through the belt of trees to the south which would also not be acceptable in terms of impacts on mature trees of a higher quality.

- 6.24 As set out above the wider proposals were also assessed as having a negative impact on heritage assets (hence the -1/? weighting against objective B) in the SA that supported the Local Plan, albeit there was some uncertainty given the inclusion of ‘?’ which I can only assume was related to final design having some bearing on the quantum of impact, however a negative impact was accounted for.
- 6.25 In terms of the design, while the outline nature of the scheme means that the submitted master plan is illustrative only it shows one way in which the site could be developed successfully and was informed by heritage advice that proposed mitigation in the form of a landscape buffer between Tidcombe Farmhouse and proposed housing and keeping the northeastern field parcel free of development to retain intervisibility between the Canal and the farmhouse.
- 6.26 Dr Oakley identifies that the proposed development will result in less than substantial harm, at the lowest end of the spectrum of such harms, to both Tidcombe Farmhouse and the Grand Western Canal Conservation area. No harm to the non-designated asset, Tidcombe Hall, is identified and Dr Oakley also identifies that its reinstatement and renovation will actually result in heritage benefits as I identify elsewhere.
- 6.27 As the Heritage Statement of common ground sets out (S1.2), the Council’s view on harms are similar, although they consider that the harm to Tidcombe Farmhouse is on the middle of the spectrum, rather than the lowest.
- 6.28 I have already considered the issue relating to the potential landscape harms that are related to the development of small part of the site that falls outside of allocation TIV13. Due to the necessity of providing drainage infrastructure in the location proposed and the fact that this part of the site will remain open landscaped green infrastructure land. In terms of heritage impacts I find it hard to conclude any significant material impacts on the Canal Conservation Area or Tidcombe Farmhouse arising from providing POS in this part of the site. Such impacts are clearly less than substantial at the very lowest end of the spectrum – a view that is supported by the evidence of Dr Oakley.



- 6.29 Furthermore, the proposed restoration of Tidcombe Hall itself, which is a non-designated heritage asset, is actually a significant benefit of the scheme as I explained in the preceding section. The Statement of Intent (see appendix A) that outlines the works to Tidcombe Hall and the gardens, details how this can be done in a sympathetic manner removing the later additions to the house. This document can be subject to a condition to ensure the realisation of these benefits along with the timing of the restoration to coincide with the development of the wider site.
- 6.30 Once completed the halls grounds, including the large garden walls and buttresses that contribute towards the setting of the conservation area, would be managed as part of the wider public open space that will be delivered as part of the appeal proposals. Funds would be gathered in the normal way to pay for ongoing maintenance (via a management company) which will ensure the condition of the hall and its grounds in perpetuity. I consider that this is another benefit of the proposal because without development both the hall itself and its grounds will fall further into disrepair.
- 6.31 As both sides accept a degree of less than substantial Heritage harm will occur, we must turn to the application of the policies of the Framework. Firstly, the Council's case is that the degree of heritage harm means that paragraph 11 d) ii) disengages the tilted balance due to the harms being so great that they provide a '*strong reason for refusing the development proposed*'. I completely disagree with this stance, even based on the council's assessment of harms, which are less than substantial and in the middle of the spectrum of harm, that does not consist of a degree of impact that would result in a conclusion that the tilted balance does not apply – such a conclusion would set a worrying precedent across the UK given that most major developments have a degree of heritage harm associated with them and applying policy in this way would greatly hinder the delivery of the housing that is acutely needed to meet worsening affordability issues the government's national targets.
- 6.32 Secondly, paragraph 215 requires that the less than substantial harm needs to be balanced against the public benefits of the appeal proposals. I have outlined the wide-ranging benefits of the scheme in section 5, which include heritage benefits, and consider that they clearly outweigh the less than substantial harms and accordingly there is no conflict with this national policy test.
- 6.33 While on the subject of the Framework it should also be noted that Policies S1 and S9 include a requirement to 'preserve and enhance' the historic environment which is inconsistent with the Framework, which has no such requirement.

- 6.34 In conclusion, the Council's concerns regarding heritage impacts are very generalised and run contrary to the fact that these very issues would have been considered when preparing the Local Plan, at which stage negative impacts were identified but when balanced against the need to find and allocate sites for development were not considered to be so significant as to warrant the site being deleted from the Local Plan.

### **Loss of Agricultural Land**

- 6.35 The National Planning Policy Framework (para 187 footnote 65) states that where a significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality.
- 6.36 Reason for Refusal 3 refers to the loss of the best and most versatile agricultural land on the site being a consideration in the wider impact on landscape character. This reference is puzzling given that it is irrelevant to the consideration of landscape impacts, it is also a new issue that is raised compared to the previous refusal reasons given for the previous larger scheme.
- 6.37 However, what is even more troubling is that the reference to the loss of BMV as a significant issue completely contradicts the site's allocation in the Local Plan.
- 6.38 The site's agricultural land quality was assessed in February 2019 and a report (see CD8.6) was submitted in support of the previous application (Ref: 20/01174) that related to part of the appeal site, albeit a larger scheme. This report showed that the appeal site consisted of a range of grade 2, 3a, 3b and 5 quality land. It also contains previous MAFF mapping (see page 8 of CD8.6) that suggests the residual part of the allocation to the west contains higher quality land.
- 6.39 This report was not submitted in support of the application now subject to this appeal because agricultural land quality had not been raised as a concern as part of the previous application. However, it shows that in the context of allocation TIV13 the appeal proposals relate to the parts of the allocated land that are of lower agricultural quality.
- 6.40 Furthermore, the proposals address paragraph 187, Footnote 65's requirements by protecting the highest quality land from irreversible development (i.e. the part that is Grade 2 adjacent to the Canal) by locating open space as shown on the illustrative master plan, in this higher quality zone.

- 6.41 Natural England were consulted at the application stage and set out that as the site is below 20ha it falls outside of their scope for consultation on BMV (see CD2.12). As such they made no detailed comments on agricultural land quality, but have suggested conditions in relation to soil resources, including the provision of soil resource information. They are generally concerned with the loss of sites of greater than 20ha, and where schemes do not exceed this land area, they raise no objection given the scale of the loss of relatively small. Natural England raised no objection.
- 6.42 Given that the site is allocated for development, and it is unreasonable to expect that the 100 dwellings the policy refers to are delivered on the sub-grade 3b land alone, some loss of BMV is to be expected and the Local Plan process has taken that into account in arriving at the allocation TIV13. The Sustainability Appraisal that supported the Local Plan process sets out that one of the primary sustainability objectives that were tested included '*D) Safeguarding and minimising resource use*' which included the consideration of 'impact on best and most versatile agricultural land' (see page 1 of CD8.5). Specifically, in respect of TIV13, a -3 weight was applied to it in respect of SA Objective D (see page 45 of CD8.4), clearly reflecting the negative impacts of this issue and that fact that it was taken into account when recommending that the site be allocated in any event.
- 6.43 Therefore, while we consider that some negative impact is associate with the loss of agricultural land, the significance of this negative impact is limited and unavoidable given the allocated nature of the site.

### **Other Potential Impacts / Response to Third Party Comments**

- 6.44 While the Council have alleged landscape, heritage and agricultural land quality harms alone, I have also considered the other potential issues that could give rise to potential adverse effects if they are not properly mitigated. Some of these issues have been raised as matters for concern by third parties and it is therefore appropriate to address them all in turn.

### **Layout/Design**

- 6.45 The illustrative masterplan details one way in which the site could come forward, with the final layout, appearance, landscaping and scale to be reserved. The council's case is that even if TIV13 is released, the proposed development is the wrong scheme because it would prejudice a sustainable development across the whole TIV13 site.
- 6.46 A constraints and opportunities plan for the whole TIV13 site, prepared by Clifton Emery, is set out in Appendix B. This shows the constraints of the western portion for the allocation

including the steep rising land to the south and west of this portion of the allocation, along with the existing stream running north south. The steeper land to the south is more exposed in wider views of the site, particularly to the north in viewpoints 2 and 12 from Knightshayes Estate and Knightshayes Church Path respectively.

- 6.47 Historic England were consulted on the application who highlighted that the western portion of the allocation was more visible from Knightshayes Estate stating that as long as *“development will not be in the field immediately south of Tidcombe Hall ... then it is debatable how much of the housing would actually be visible”*. Thus, in relation to Knightshayes Court and its park and gardens (Grade I and II\* respectively) the appeal site is less sensitive than the western field, which Historic England thought would be more visible from Knightshayes.
- 6.48 As the constraints and opportunities plan identifies there is a legal covenant on the land immediately south of Tidcombe Hall, the northern portion of the western field, restricting development in this area. This covenant was applied to the land by previous owners of the House due to this part of the TIV13 site being considered to be important to retain views of the hall from the south.
- 6.49 This covenant prevents the development of that part of the TIV13 site and the landowner of that parcel has not been willing to enter into any agreement that would have allowed this land to form part of the proposals put forward.
- 6.50 Therefore, the land is not available and the appeal must concern itself with whether the deliverable proposals that are put forward now are acceptable or not, not consider the merits of a currently intangible alternative scheme for the wider site which involves land that is current unavailable for development.
- 6.51 In conclusion, the constraints on this western portion of land are such that the overall quantum of housing that could be provided here is minimal and in line with paragraph 130 of the Framework, the development proposed makes optimal use of the eastern field whilst not prejudicing the delivery of the western field if it were to come forward at a later date to further boost land supply – which would be a positive benefit in any event. The appeal proposals therefore make efficient use of the land whilst respecting heritage and wider landscape constraints.

## Highways Impacts

- 6.52 The planning application was supported by a detailed Transport Assessment and this was scrutinised by the Highways Authority over the course of the planning application. The Highways Authority raised no objections to the development proposed, outlining the benefits of the proposed TRO;

*“Should the Tidcombe Bridge TRO be approved, pedestrians particularly school children to Tidcombe primary school will be walking on a very lightly trafficked section of highway, that in accordance with Manual for Streets 1 and 2 can be regarded as a shared space.”*

- 6.53 The HA requested contributions towards a travel plan for the site, bus service improvements and towards the A361 junction scheme and recommended conditions should planning permission be granted. These are all included in the draft S106.
- 6.54 No technical highways objections were received regarding the proposed access of the site, which moves the vehicular access slightly further north than the existing access gate. The existing access is proposed to remain for pedestrian/cycle access to the site. The moving of the access was primarily due to the potential arboricultural impacts arising from the works required to provide the necessary upgrading and improvement of the existing driveway to meet the local standards for highway adoption. Specifically, the road was moved to avoid impacting on the roots of tree 171, which is further explained in paragraphs 6.67 to 6.74 below.
- 6.55 Accordingly, the appeal proposals meet positively with adopted policies that relate to highways impacts and it is agreed with the Council that no adverse impacts in relation to highways and accessibility will arise from the development of this site.

## Drainage

- 6.56 The application was accompanied by a Flood Risk Assessment and Drainage Strategy that has been considered by the Council and the Lead Local Flood Authority. The site lies within Flood Zone 1 which is an area of the lowest flood risk and there is no concern in respect to the site being at significant risk of fluvial or surface water flooding.
- 6.57 Site conditions were assessed, with infiltration not being feasible, therefore surface water management was designed to utilise an attenuated discharge to surface water. This splits the site into two catchment areas; Catchment A for Tidcombe Hall and its outbuildings and

Catchment B, the remainder of the site. These areas are directed to a detention basin (pond 1) located close to the outfall for surface water, the culvert below the Grand Western Canal. This then emerges as an ordinary watercourse to the east of Rippon Close and Westcott Road further to the north of the appeal site.

- 6.58 Natural England raised no objection as long as the future SUDs scheme for the site would maintain the existing hydrological regime of the Tidcombe Lane SSSI to ensure the water quality that drains into it. This is set out in the FRA, with the proposed surface water drainage strategy including swales, a raingarden, a detention basin with sediment forebay and a new attenuation pond. It is suggested a condition for full details of the drainage proposes at reserved matters stage, along with details designed to maintain the existing hydrological regime of the Tidcombe Lane SSSI would ensure surface water is managed appropriately on site.
- 6.59 The LLFA has also considered the proposals and whilst comments were originally made regarding the choice to discharge into one watercourse, general phasing of the development and greenfield run off rates, after a discussion with the Appellant's drainage consultants, they raised no objections subject to a condition requiring the submission of a detailed drainage scheme prior to or as part of the reserve matters application.
- 6.60 Accordingly, the appeal proposals meet positively with adopted policies that relate to flood risk and drainage impacts and it is agreed with the Council that no adverse impacts in relation to flood risk and drainage will arise from the development of this site.

### Ecology

- 6.61 The application was supported by a range of ecology surveys as set out in the Ecological Impact Assessment including bat roost and activity surveys, badger surveys, reptile surveys and dormouse surveys. Both MDDC and Natural England (CD 2.12) raised no objections to the survey effort and scope of work undertaken.
- 6.62 The proposed development incorporates a range of mitigation measures to protect various species, including:
- 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.

6.63 Other measures are set out in the ecological work submitted with the application and a condition will direct future designers to incorporate these into future reserved matters applications.

6.64 As explained the development will deliver Biodiversity Net Gain in excess of policy requirements given it was submitted before BNG became mandatory, with a net gain of 4.73% for habitat units and 10.24% for hedgerow units predicted.

6.65 I conclude that the appeal proposals will not result in any adverse impacts on ecology and biodiversity of the site and surrounding area, and in fact deliver tangible gain in this regard. As a result, they meet favourably with Local Plan Policies.

#### Arboriculture

6.66 Concerns were raised as part of the previous proposals for the site (ref: 20/01174) relating to the impact on existing trees that lie in close proximity to the site access. Reason for Refusal 3 specifically stated:

*'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'.*

- 6.67 As such the current proposals sought to address the previous reason for refusal and designed the access to minimise the impact on existing trees. This involved moving the access further north than it currently is located given that the formation of an adoptable access, including the resurfacing of the road, would have a harmful impact on the retained trees and their roots if the access were to be retained in its current location, specifically Tree 165 as set out in the arboricultural impact assessment.
- 6.68 Comments were received from the MDDC Tree Officer in relation to the original proposals (CD2.4a) raising concerns regarding impacts on two trees; Tree 165, a Lucombe Oak. and Tree 171, a Lime.
- 6.69 A site meeting was held with the Arboricultural Officer to discuss their concerns, where it was explained that given the existing wall at the access, roots from Tree 165 would unlikely be impacted from the development. It was also agreed that investigatory work would be undertaken to identify the root spread of tree 171 with the proposals then amended in response to what this investigation identified.
- 6.70 At the meeting it was agreed that a number of the trees around the main access to the site should be removed due to disease (3 Limes) and damaged caused to the retaining access wall (3 Beech). A conservation area notice for their removal was then submitted and approved under application reference 24/00732/CAT.
- 6.71 Regarding the proposed access, trial pits were dug to ascertain the extent of roots spread for Tree 171 which informed amendments to the proposed access road, moving it further north in this location to avoid any unacceptable impacts on Tree 171.
- 6.72 Given the revised arboricultural work (CD5.21b, CD5.22a, CD5.22b, CD5.22c) along with the revised illustrative masterplan (CD5.20b) the Arboricultural Officer confirmed that their original concerns were addressed in full.
- 6.73 Accordingly, I conclude that the appeal proposals will not result in any adverse impacts on trees within the of the site and surrounding area, and as a result, they meet favourably with Local Plan Policies.

#### Air Quality

- 6.74 An Air Quality Assessment was submitted, prepared by Karius Ltd. The report sets out that the development would result in an overall negligible impact on NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> 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. Mitigation is proposed in the form of EV charging points to encourage electric car use, along with the use of air source heat pumps, rather than gas boilers with full details to be provided at the reserve matters stage.

- 6.75 Furthermore, the air quality model predicts a decline in NO<sub>2</sub> concentrations at receptors along Tidcombe Lane due to the closing of Tidcombe Canal Bridge to vehicles and is deemed to be a slight beneficial impact.

### **Conclusions**

- 6.76 I conclude that the only conceivable adverse effects that could apply to the appeal proposals include a minor impact on the landscape, moderate heritage impacts and minor impacts relating to the unavoidable loss of a small section of BMV agricultural land.

## 7.0 THE PLANNING BALANCE

- 7.1 I have consider the planning balance in a series of stages: firstly, do the appeal proposals comply with the development plan; if not, 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, and failure to meet the HDT, have on the planning balance.

### Assessment against Development Plan Policies

- 7.2 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.
- 7.3 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”*.
- 7.4 A S106 legal agreement is also being prepared by the parties which provides contributions towards off-site infrastructure including education, health, playing pitches and open space and highways, travel plan and TRO measures. 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 to address RFR 4 and accordingly no conflict with policies S5, S8 and TIV15 of the Local Plan will be evidenced.
- 7.5 In light of this, and as set out in the Statement of Common Ground, this leaves the consideration of policies S1, S2, S3, S4, S9, S10, S14, TIV13, DM1 and DM25.
- 7.6 Taking Policy S1 first, the appeal proposals will deliver housing at Tiverton which is the largest settlement in the MDDC area and, along with Cullompton and Crediton one of the ‘most sustainable settlements’ on which development should be focused. As such, the proposals comply with this policy as it clearly supports then spatial strategy it sets out.
- 7.7 Policy S2 sets out the minimum development requirements expected in the MDDC area of which a significant amount is directed to Tiverton and it is made clear that this will be where development will be ‘*concentrated*’. The appeal proposals will assist in meeting these targets and therefore complies with this policy.

- 7.8 Policy S3 sets out how housing needs in MDDC will be met, again reiterating the minimum targets set out in S2 which the appeal proposals will help meet but also expanding to make it clear that proposals must provide an appropriate mix of housing types, meet affordable housing requirements and deliver a percentage of self-build units. The S106 will secure both of these forms of housing in addition to open market housing, and therefore policy S3 will be fully complied with.
- 7.9 I have explained in detail as part of sections 4.6-4.13 why there is no conflict with policy S4, and in fact this supports the principle of the site's development.
- 7.10 The evidence of Ms Lancaster and Dr Oakley sets out how no material conflict with policy S9 will occur on landscape and heritage matters, and the compliance with this policy has to be viewed in the context of the site's allocation under TIV13. I have set out the position regarding the loss of agricultural land and in the context of the allocation no material conflict with criteria b) of this policy is credible. No conflict with this policy on other grounds has been identified.
- 7.11 Policy S10 again reiterates the importance of Tiverton as a focus for growth and the appeal proposals clearly support the policy's housing delivery targets and affordable requirements. The policy also sets out a range of aims that the council apply in guiding development in the town, some of these criteria are irrelevant, but the following are not, and I consider the appeal proposals against them:
- Criteria B) – As set out in the S106 a £90,000 contribution (£30,000 per annum for three years) is agreed for bus provision to fill the present gaps in service and allow for 4 additional bus services through the day, Monday to Friday.
  - Criteria C) - the green setting of the town will not be materially changed and any minor change will have been considered when allocating TIV13 – the policy specifically refers to Knightshayes Park and the evidence of Ms Lancaster has assessed the views to and from this feature and found there to be no significant adverse impacts on it, this conclusion is supported by the consultation responses of Historic England who consider that the site is well visually contained in views taken from the Park and raise no objection on the impacts arising from the development.
  - Criteria D) – no objection is raised to the appeal proposals on ecology grounds, which has considered the impact on designated features such as the Tidcombe Fen.
  - Criteria E) – as set out earlier, the renovation and conversion of Tidcombe Hall and its grounds will result in an improvement to the appearance of the Conservation Area of which it forms part, the site will also allow additional public access to the Conservation area and allow appreciation of it. These measures will have some

positive impact in terms of allowing visitors to the town better access to an improved Conservation Area in this part of the Town, which may make it more attractive in tourism terms.

- Criteria F) – No objections to the site have been raised in flood risk terms and as the runoff from the site is to be released at levels below greenfield rates there will be some positive benefits to reduce flood risk off-site. Therefore, there will be some minor positive impact in terms of achieving this aim of the policy.

7.12 In light of these conclusions, I do not consider that there is any conflict with policy S10, in fact the appeal proposals are supported by it because it will help realise its aims.

7.13 Policy S14 relates to development that lies outside of the settlements defined by policies S10-13 and sets a range of development that would be considered to be acceptable in such a location – i.e. affordable housing to meet local needs, farm diversification commercial uses, agricultural and equestrian development etc. While none of these policies refer to the trigger for consideration of a site being ‘within the countryside’ as being outside of the settlement boundaries, or connected allocations the consideration of that issue is a moot point in my view given the clear need to release the contingency site in light of the 5 year housing land supply shortfall, HDT failure and fact that it is common ground that in a few months there will be a further significant shortfall in the demonstrable 5 yr HLS. Therefore, given that Policy S4 is engaged, and the contingency site needs to be released now, and the Local Plan will have not required policy S14 to be met in this circumstance, there is no conflict with this policy.

7.14 Policy TIV13 obviously relates to the appeal site, with the exception of the small portion proposed for an access link, public open space and drainage features. It sets out it will be released in accordance with S4, and I have set out the circumstances that provide a clear and compelling reasoning as to why its release now is appropriate.

7.15 Policy TIV13 has a set of criteria that any development of the site should meet. I assess each in turn as follows:

- a) The appeal proposals include 100 dwellings of which over 28% are proposed to be affordable – therefore full compliance with this policy is achieved;
- b) Vehicular access to the site cannot be physically provided off Canal Hill because this road does not directly abut the TIV13 allocation as shown in Figure 9 below. We consider this was an error in the policy text and what was meant is that access will be taken off Tidcombe Lane but directed via Canal Hill, this is achieved in the access strategy with access onto Tidcombe Lane proposed and a TRO to restrict traffic travelling north (so it will need to utilise Canal Hill) proposed to be conditioned.

Therefore, there is no meaningful conflict with the requirements of this element of the policy.



Figure 9. Location of Canal Hill relative to the site (Source: Google Maps)

- c) The development proposes to improve footpaths in the area as previously described and the proposed closure of Tidcombe Lane beyond the bridge to the north will make that route to the Bridleway that runs along then Canal much more attractive to use by pedestrians and cyclists.
- d) As explained in section 6 of my evidence the proposed layout has been sensitively formulated to minimise the impacts on the landscape and nearby heritage assets including the two named in policy TIV13. This has included setting density levels appropriately to reflect the character of then area and allowing for larger areas of green infrastructure that equates to over 50% of the site while also locating specific buffer planting zones to screen and filter views.
- e) Archaeological mitigation measures have been agreed with the County ecologist, to be secured by condition.

7.16 In light of these considerations I consider that the appeal proposals meet favourably with policy TIV13 and there is no material conflict with it.

7.17 Policies DM1 and DM25 are referenced in the context of the reason for refusal which relates to the heritage impacts of the development. DM1 is a wide-ranging design policy that promotes high quality design and has a range of aspects, as it is referenced in respect of heritage impacts the primary part of this policy relevant to this appeal is criteria C which



requires that new development must demonstrate how it makes a '*Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets*'.

- 7.18 I have explained that the proposed development will deliver the sensitive conversion of Tidcombe Hall and its gardens which will be a significant benefit in heritage terms. I have also outlined how the layout and access works have been sensitively designed to minimise the impacts on nearby heritage assets, and I defer to the evidence of Dr Oakley on the exact degree of impacts that will arise. Both the appellant and the Council agree that the level of harm to heritage assets is less than substantial and therefore needs to be balanced against the public benefits of the scheme (in accordance with paragraph 215 of the Framework), it is the appellants case that the harms are on the lower end of the spectrum of less than substantial.
- 7.19 As the development of the TIV13 site was always accepted as having some heritage impacts (see CD8.3 from the Local Plan evidence base) we consider these have been minimised to the lowest possible level and hence compliance with policy DM1 is achieved.
- 7.20 Policy DM25 relates exclusively to heritage impacts. Given its direct relevance to his sphere of expertise Dr Oakley's evidence considered how the proposed development complies with this policy in detail and I defer to his opinion on the matter. In brief summary, he considered that the appeal proposals positively respond to the policy in the following ways:
- a) As set out earlier this part of the policy is out of date and the evidence of Dr Oakley sets out that the proposals do not materially conflict with this policy
  - b) The enhancement element of this policy is also out of date but nonetheless the evidence base that supported the application carefully considered the heritage assets and informed the proposals. Including the sensitive reinstatement of Tidcombe Hall, and the layout of the development and its associate landscaping to mitigate its impacts, including the provision of buffer planting to Tidcombe Farmhouse and screen planting from views from the Conservation area. The reinstatement of Tidcombe Hall and its gardens will be a significant enhancement of that asset and the Conservation Area within which it sits
  - c) It is common ground that the proposed development would not result in the total loss or substantial harm to a heritage asset – therefore this criterion is not relevant to the appeal proposals
  - d) Less than substantial harm has been identified, at the lower end of the spectrum, but the public benefits of the scheme clearly outweigh these minor harms and that conclusion is supported by the fact that such harms were reported in the SEA that

supported the Plan but the site was still allocated in the full knowledge of those harms.

- e) This has been done in both the original Historic Environment Assessment submitted with the application and Dr Oakley's evidence.

7.21 While I agree with Dr Oakley's assessment of how the policy has been successfully addressed it has to be noted that some less than substantial harm, at the lower end of the scale, will occur as a result of the proposals.

7.22 It must also be noted that heritage harms were identified when the site was considered for allocation in the Local Plan as I have identified, however the site was still allocated acknowledging there would be some harm in this regard. That is the correct approach because paragraph 215 allows for such harms to be balanced against the public benefits of the scheme. The Council's conclusion when allocating the site must have been that the public benefit of delivering sufficient housing supply in a sustainable location outweighed the heritage harms.

7.23 In terms of the planning balance, I apply a moderate weight to the identified heritage harm given the Framework's requirement that '*great weight should be given to the asset's conservation*' (paragraph 212), even though it is at the lowest end of the spectrum of harm.

7.24 However, as explained earlier there are also heritage benefits associated with the improvements to both Tidcombe Hall itself and the connected improvements to the character and appearance of the Conservation of which it forms part. Paragraph 215 of the Framework acknowledges that securing the 'optimum viable use' of such assets is acknowledged as being a benefit that can outweigh less than substantial heritage harms to that asset specifically.

7.25 I consider that while there are some adverse impacts associated with heritage harm these would be unavoidable in any scheme to develop the TIV13 site and these were considered to be acceptable when the site was allocated. In this context I conclude that general compliance with policies DM1 and DM25 is achieved.

### **Conclusion on Development Plan Compliance**

7.26 To conclude, in respect of the assessment of whether the appeal proposals conflict with the development plan, it is apparent that across a broad spectrum of policies that have been cited in the Council's reasons for refusal, the proposals clearly comply and should have been granted permission to boost housing land supply.

- 7.27 There is clearly no conflict with the Plan's policies in respect of its spatial strategy and across a range of policies the appeal scheme will actually help, not hinder, the realisation of the Plans strategic objectives.
- 7.28 This conclusion has been even further reinforced by the confirmation in December that the HDT has been failed in MDDC, and the agreement between both parties that the council cannot demonstrate a 5-year housing land supply, thus engaging Policy S4. Such a conclusion is reinforced by the additional common ground reached in respect of the forthcoming 5yr HLS, which identified that in July extent of the shortfall will drastically worsen, and there is no reasonable prospect of this being remedied without the release of the TIV13 site and by granting planning permission on other sites in MDDC that have no planning allocation or positive status at all.
- 7.29 Separate to the more strategic policies the Council still maintain conflict with detailed policies in respect of landscape and heritage impacts – namely policies S1, S9, DM1 and DM25.
- 7.30 I have concluded elsewhere, and identified in the evidence of Ms Lancaster, the landscape impacts of the proposals have been carefully considered and the extent of development shown in the illustrative master plan, combined with the landscaping mitigation that will be secured via condition, mean that no significant adverse impacts will result from the appeal proposals. Therefore, it is my opinion that there is also no material conflict with policies S1 and S9 in respect of landscape impacts.
- 7.31 The same can be said of heritage impacts, which like the impact on the landscape have been considered previously when the site was allocated. I agree with Dr Oakley in concluding that the less than substantial harms are at the lowest end of the spectrum of impact and consider that the public benefits of the scheme, which include securing the reinstatement and long-term condition of Tidcombe Hall, clearly outweigh them. Accordingly, I do not consider that any material breach of policies DM1 and DM25 can be substantiated in heritage terms.
- 7.32 It is therefore clear to me that the appeal proposals meet favourably with the Development Plan, and in fact are strongly supported by it in terms of its spatial planning strategy.

### **Material Considerations and the Planning Balance**

- 7.33 While I contend that there is no significant conflict with the development plan policies, it is also the case that even if conflict were to be found, the appeal proposals should be assessed

against the “*unless other material considerations indicate otherwise*” strand of the legislation and NPPF.

- 7.34 As NPPF paragraph 231 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.
- 7.35 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. I have come to my own balanced view in this regard to make my own assessment.
- 7.36 I have set out the benefits of the appeal proposal in detail as part of Section 5 of this evidence, but in summary these include:
- The provision of housing to meet the council’s identified housing requirements as set out in the Development Plan, remedy the failure to pass the HDT and boost the HLS in the MDDC area which is common ground will become an acute shortage in July 2025 with no realistic short-term remedy that does not involve the need to release the contingency site along with other unallocated sites;
  - The very significant benefit of delivering affordable housing in an area that is failing to meet its annual needs and where a substantial number of households languish on the council’s affordable housing register awaiting suitable housing;
  - Delivering housing in a location that is highly sustainable in terms of accessibility and where the adopted spatial strategy seeks to direct a significant proportion of new development;
  - The heritage benefits related to the renovation of Tidcombe Hall and its outbuildings and gardens and the related improvement to the character and appearance of the Conservation Area and non-listed asset itself;
  - The creation of between 240 and 310 jobs during the construction of the housing and other positive economic effects related to tax revenue, new homes bonus and moving on costs that the spent in the area;
  - Delivering biodiversity net gain that is delivered in advance of the legislative requirement to do so;

- Reduction in NO2 concentrations at receptors on Tidcombe Lane due to closure of canal bridge; and
- The financial contributions that are to be delivered as part of the agreed S106 package.

7.37 One of the fundamental objectives of the NPPF is to boost the supply of housing. Delivering sufficient housing is confirmed as an important element to achieving sustainable development because it fulfils the social role in providing people with an affordable place to live, the economic role by providing jobs in construction and homes in 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.

7.38 To assist in the assessment of the planning balance I have weighted the various benefits identified; this is based on my assessment of the various issues as either very substantial, substantial, moderate or minor. I have also colour coded them according to these weightings to aide 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 5 below.

Benefit	Sustainability Role	Weight	Comments
Providing affordable housing to meet identified needs	Social/ Economic	Very Substantial	Very substantial weight given the significant unmet need that has been evidenced and large number of households on the housing register and high levels of homelessness.
Delivery of housing land to meet the minimum housing requirements set out in the adopted Local Plan	Social/ Economic	Substantial	Assessed as substantial in light of current deficits that have been identified against required delivery rates (including the failure to pass the HDT and failure to demonstrate a 5YHLS), Tiverton being a focus for housing growth and hence a location that clearly meets the adopted spatial strategy and focus of demand, and because the release of an allocated contingency site is clearly needed to address this under delivery and assist in addressing the five-year housing land supply deficit that both parties agree will significantly worsen in July 2025.
Heritage Benefits	Environmental	Moderate	Tidcombe Hall and its connected outbuildings are currently in a significant state of disrepair and the appeal proposal will sensitively reinstate the buildings into residential use and greatly improve their appearance and that of its

Benefit	Sustainability Role	Weight	Comments
			wider grounds. This will be a significant enhancement to the non-designated heritage asset and the appearance of the Conservation area of which it forms part. Furthermore, the closure of Tidcombe Lane to through-traffic will be a further benefit as explained in the evidence of Dr Oakley.
Creating Biodiversity Net Gain	Environmental	Moderate	Currently BNG is not a policy requirement, however the appeal proposals sought to deliver BNG in advance of it becoming a mandatory policy requirement in February 2024. The submitted calculations are underpinned by the Green Infrastructure areas, which will create a net gain in excess of what is required by policy (currently estimated to be 4.73%). Therefore, this is a moderate benefit of the proposals because it will deliver biodiversity benefits that are not required in policy terms to mitigate the impacts of the development and/or achieve compliance with adopted planning policy.
Providing jobs in construction	Economic	Moderate	This benefit is self-explanatory as the construction industry plays an important role in the economy.
Delivering Housing In a highly accessible location/ principal town which is one of the three main focus points 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 one of the key focuses for growth in MDDC for a reason, it offers a wide array of not only facilities and services but job opportunities as well. Therefore, there are environmental benefits associated with developing a site that has already been identified as suitable in the form of a contingency site in the main town and is preferable to developing other sites in other lower order settlements, which will undoubtedly be required to address the looming housing land supply deficit and HDT failure.
NO2 Reductions	Social/Environmental	Minor	The closure of Tidcombe Bridge to traffic will result in a decline in NO2 concentrations at receptors along Tidcombe Lane vehicles
Wider economic benefits	Economic	Minor	Resultant additional spending on goods and services in the local area from the increased number of residents.

Benefit	Sustainability Role	Weight	Comments
Financial contributions	Social/ Environmental /Economic	Minor	Contributions toward education, health, sustainability measures (including travel plan and bus service improvements) and leisure/sports facilities, will bring benefits which will reach beyond the development alone.

**Table 5. Summary of the benefits of the appeal scheme**

- 7.39 I would strongly contend that there are no significant adverse impacts that would outweigh the substantial benefits of the proposed development. However, I have considered the potential harms to allow subjective analysis of that outcome.
- 7.40 In simple terms, taking the analogy of a pair of weighing scales, if the benefits I have identified are on one side and the Council's alleged adverse impacts on the other, it is almost inconceivable as to how these could significantly and demonstrably outweigh the considerable benefits the appeal proposals would deliver. This conclusion is supported by the fact that they would have also been considered and balanced when coming to a view that the site should be allocated as part of the adopted Local Plan; there were no significant harms that warranted the site's allocation being removed from the plan, and that conclusion remains valid today – it would set a concerning precedent if previously allocated sites were considered to be unacceptable on the basis of political or public pressure, because that would undermine the statutory primacy of the development plan.
- 7.41 Table 6 illustrates how the scheme's benefits weigh against the alleged adverse impacts. To model a conservative assessment I have shown minor adverse effects relating to landscape impacts (given that the impacts do not relate to protected or valued landscape and the Local Plan evidence as clearly identified that the site is visually contained and any impacts were localised) and also include a moderate heritage impact for the reasons previously set out, which is a conservatively high weighting given that the harm is less than substantial at the lowest end of the spectrum of harm, and in fact it is my professional opinion that then harm is more reasonably categorised as minor – a conclusion that would correspond with the conclusions reached in the Local Plan Sustainability Appraisal (CD8.4) Finally, a minor negative impact associated with the loss of Best and Most Versatile Agricultural Land is identified, although in the context of the site's allocation and fact that the scheme avoids precluding the future use of the highest value part of the site this issue should not have a bearing on the appeal.



Benefit	Weight		Weight	Adverse Effect
Providing Affordable Housing To Meet Identified Needs	Very Substantial	<b>Tipping Point</b>	Moderate	Heritage Impacts on Tidcombe Farmhouse and Canal Conservation Area
Addressing General Housing Needs	Substantial		Minor	Landscape Impacts
Tidcombe Hall Heritage Gains	Moderate		Minor	Loss of BMV Agricultural Land
Creating Biodiversity Net Gain	Moderate			
Providing jobs in construction	Moderate			
Delivering Housing in a Highly Accessible Location/ Principal Town Which is a Main Focus for Growth	Minor			
NO2 Reductions	Minor			
Wider Economic Benefits	Minor			
Financial Contributions	Minor			

Table 6. Illustration of the balancing exercise

- 7.42 From the table above, it is difficult to see how the adverse effects could outweigh the benefits even if a ‘normal’ planning balance were to be applied. But in this case, considering that Paragraph 11(d)(ii) of the Framework 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. While the council allege the Heritage harms disengage the tilted balance it is my professional option that not any and all harms disengage the tilted balance. The harms have to amount to a ‘clear reason’ why the Frameworks policies would justify refusal – in this case I do not consider the less than substantial heritage harms to constitute such a clear reason and disagree with the Council’s stance on this point.
- 7.43 It is clear to me when assessing the proposals, and the summary of benefits and adverse effects set out in Table 6, that the potential adverse effects clearly do not significantly and demonstrably outweigh the benefits and even if conflict with the development plan is identified (and I do not consider there to be any conflict). The benefits represent material considerations that warrant that permission be granted in any event, particularly given the material consideration of the failure to demonstrate a 5-year housing land supply, meet the HDT and requirement to produce an action plan to remedy this situation.

## Conclusion

- 7.44 It is my view the proposals comply with the policies of the Development Plan even if the various policies that apply to the consideration of the appeal are not given reduced weight, as they are in the context of the tilted balance being applied.
- 7.45 In any event the conflict with policy alleged by the Council is very narrow once it is accepted that many of the policies cited are clearly positively addressed, focusing on small elements of Policies S1, S9, DM1 and DM25. Both my evidence and that of the appellant's wider team make it clear that the appeal proposals have been sensitively designed to comply favourably with these policies.
- 7.46 I have also set out that the appeal proposals represent sustainable development by fulfilling the three roles the planning system must fulfil, I have shown that no potential adverse effects outweigh the presumption in favour that both the Framework and the development plan set out.
- 7.47 For these reasons I conclude that the appeal proposals should be allowed.

## 8.0 SUMMARY AND CONCLUSIONS

- 8.1 In conclusion, my evidence demonstrates that the appeal proposals offer a sustainable and appropriate location for development that situates development fully in accordance with the adopted Development Plan's Spatial Strategy, as set out in Policies S1 and S2 and will help meet the areas minimum housing needs that are set out in policy S3.
- 8.2 There is also no material conflict with policy S4 and TIV13 in terms of the need to release the contingency allocation because both the lack of 5year HLS and HDT failure clearly identify that an action plan needs to be prepared to remedy under delivery in the area, and given that these policies were formulated to address such an outcome it would be nonsensical for the action plan not to release a site that has been tested as suitable, and specifically allocated, for such a purpose.
- 8.3 However, given that the planning system must look to the future, it is common ground that in July 2025 (just a matter of months away) the council will face a further significant shortfall in housing land supply and officers are already considering the release of unallocated sites to address this deficit. In this context it would again not be rational to block the release of a site specifically allocated to address deficits in housing land supply.
- 8.4 Allowing the appeal proposals will greatly assist the council in remedying the deficits in delivery and land supply in a location that is strongly supported by the development plan in spatial terms, and considered to be a sustainable location for growth.
- 8.5 In compliance with paragraph 11d) ii) of the Framework, the appeal proposals should only be refused if the adverse impacts associated with them significantly and demonstrably outweigh the benefits, in my opinion, there is no conceivable way this could occur in this case. I do not agree that the tilted balance is disengaged due to heritage impacts for the reasons set out.
- 8.6 In either event I have clearly set out that material considerations strongly support the granting of permission.
- 8.7 There are substantial benefits to the scheme and I have assessed the potential adverse effects and do not consider that any can be identified that would outweigh the substantial benefits identified.
- 8.8 Therefore, I conclude that the development proposed is inherently sustainable and there are no adverse impacts which would outweigh the benefits of granting planning permission when

assessed against the policies in the Framework when taken as a whole, the development plan and whilst taking into account all other material considerations.

- 8.9 On this basis, I respectfully request that the appeal is allowed, and planning permission granted.

## **Appendix A – Statement of Intent**



---

# Land at Tidcombe Hall, Tiverton

## Statement of Intent

In support of an outline planning application for residential development

April 2025  
230301 R 02 B



CliftonEmerydesign





A. Tidcombe Hall - Existing house and grounds



B. Tidcombe Hall - Monks Wall Eastern elevation



C. Tidcombe Hall - Front elevation



D. Tidcombe Hall - Courtyard and outbuildings



E. Tidcombe Hall - Rear elevation



F. Tidcombe Hall - Courtyard and outbuildings





G. Tidcombe Hall - Rear elevation



H. Tidcombe Hall - Courtyard and outbuildings



I. Tidcombe Hall - Courtyard and outbuildings

## Statement of Intent - Tidcombe Hall

### 1.1 Introduction

1.1.1 This Statement of Intent has been prepared by Clifton Emery design in support of the Outline Planning Application for up to 100 dwellings along with the conversion of Tidcombe Hall. The statement provides further design commentary and guidance for a future Reserved Matters Application, setting out the key design intent for the sensitive restoration of Tidcombe Hall and its immediate grounds.

1.1.2 Description of development:  
An Outline Planning Application for new residential development along with associated infrastructure. The statement demonstrates how a scheme of up to 100 open market and affordable dwellings could work on the site - details relating to layout, appearance, scale and landscaping will be determined at the reserved matters stage following an approval of outline permission.

1.1.3 Tidcombe Hall and the immediate area around the house forms part of the TIV13 Contingency site is allocated in the Local Plan Review, Mid Devon.

### 1.2 Background

1.2.1 Tidcombe Hall was built in the early 19th Century in the Regency architectural style. A former Rectory, the house has had extensive alterations within the late 20th Century, particularly when it had a commercial use as a care home.

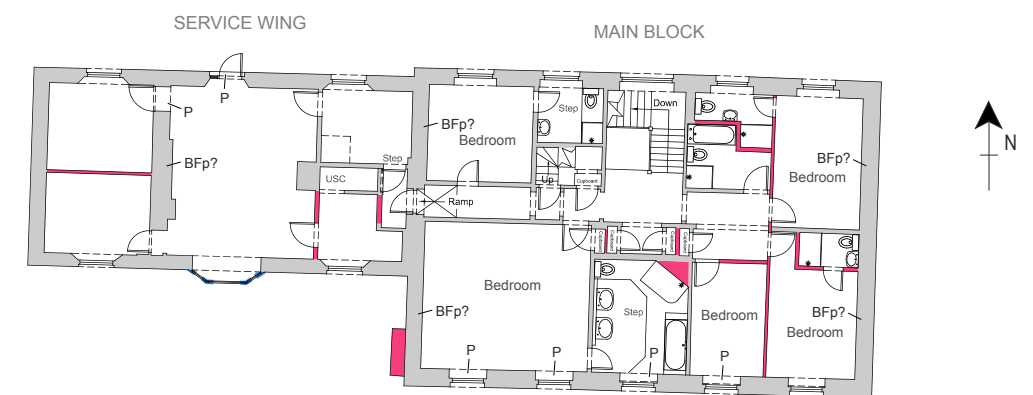
1.2.2 More recently, the property has undergone partial conversion into residential use, although elements of its former use are still evident internally and externally.

1.2.3 The main house consists of a white painted stucco facade which has generous, symmetrical proportions with a central entrance which originally would have been framed by a columned portico. The house is covered by a shallow hipped slate roof with tall chimney stacks, although only two now remain on the western gable.

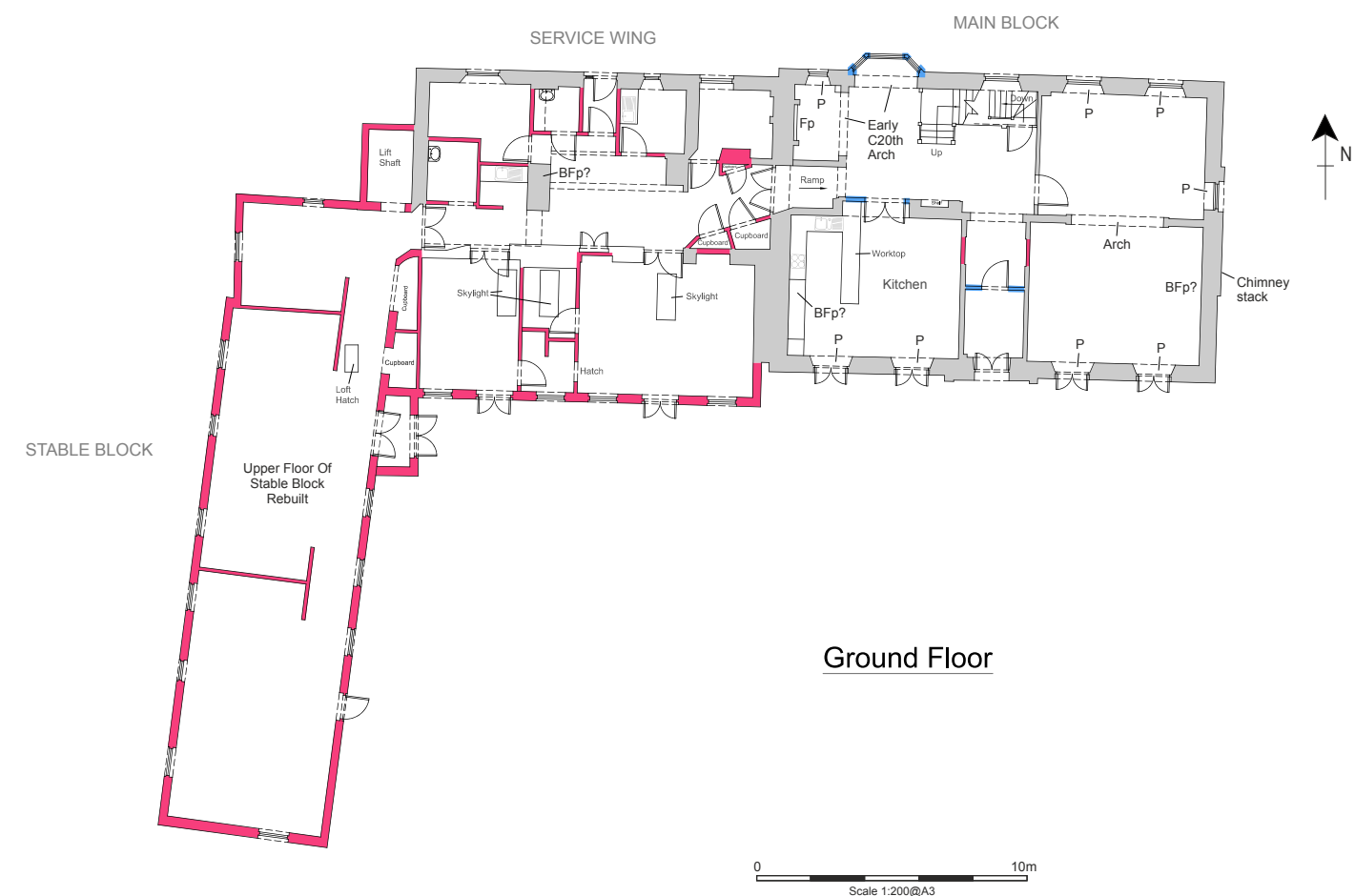
1.2.4 Directly connected to the west of the main house is a two storey service wing has presumably been added at some later point during the 19th Century. This element of the house has received the majority of the 20th Century additions which mainly consist of a single storey addition to the southern elevation, a rear fire escape stair to the north elevation and a lift and plant room building which connects the service wing to the former stable block.



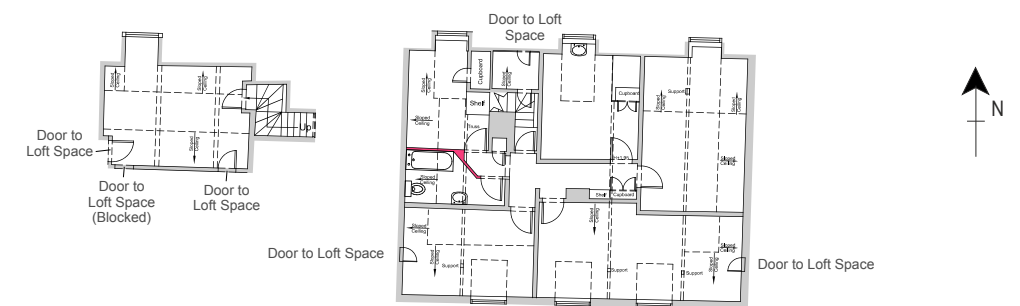
Lower Ground Floor



First Floor



Ground Floor



Second Floor

Key to all phases

- |  |  |
|--|--|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #cccccc; border: 1px solid black;"></span> C. 1800                        | BFp?= Possible blocked fireplace           |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #00ff00; border: 1px solid black;"></span> Mid C19th                      | Fp = Fireplace                             |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #0000ff; border: 1px solid black;"></span> Early C20th - mainly 1915-1925 | P = Historic panelling and window shutters |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #ff0000; border: 1px solid black;"></span> 1953 onwards                   |  |

Above: Existing floor plans and alterations  
(Extract from Statement of Significance - AC Archaeology)

Statement of Intent - Tidcombe Hall

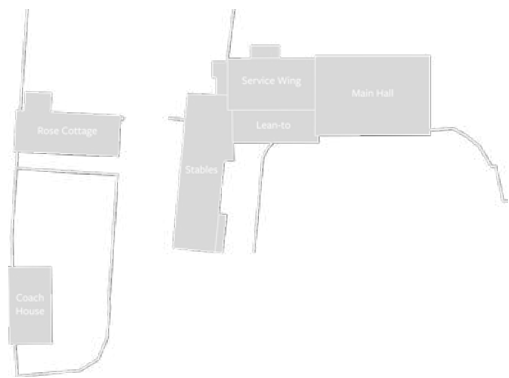
1.2.5 The floor plans opposite (an extract from the Statement of Significance) illustrate how Tidcombe Hall has been adapted over time.

1.2.6 In particular, the late 20th Century additions diminish the architectural quality of Tidcombe Hall, which would benefit from their removal.

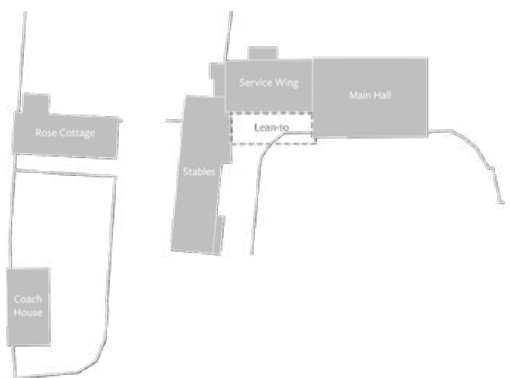
These elements include:

- The lift and plant room building on the west elevation;
- The external metal fire escape staircase and fire escape doors to the northern elevation;
- The single storey extension to the southern elevation of the service wing;
- External ramps and institutional steel railings along the principal facade; and
- Consolidation or removal of external waste pipes to the northern and eastern façades.

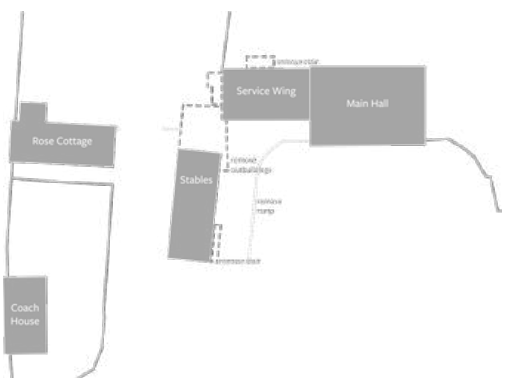
1.2.7 The diagrams below illustrate how the proposed illustrative scheme has been developed.



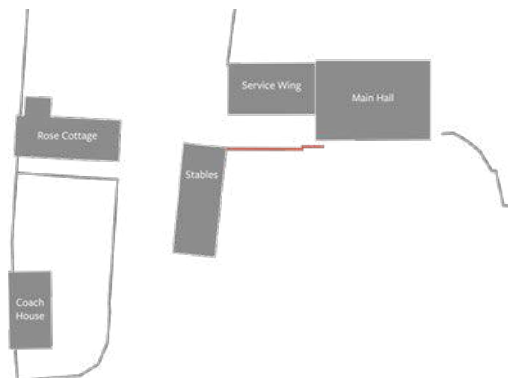
1. Existing Tidcombe Hall built form



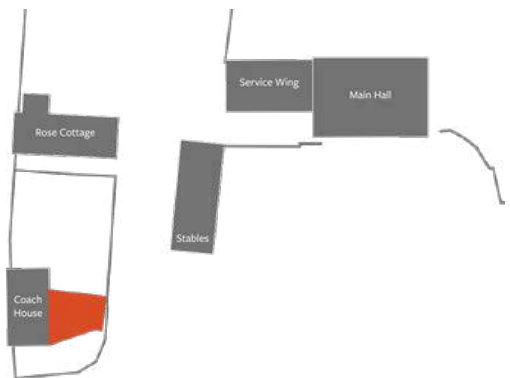
2. Removal of the Lean-to



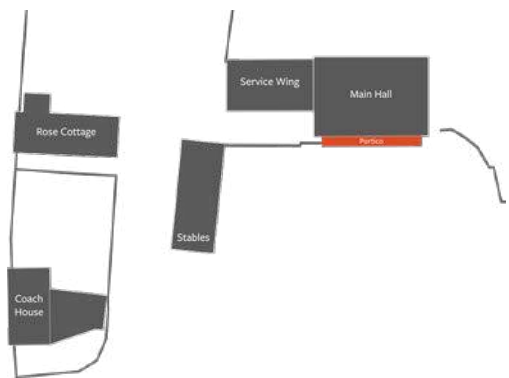
3. Removal of outbuildings, ramps & stair cases



4. Removal of existing terrace



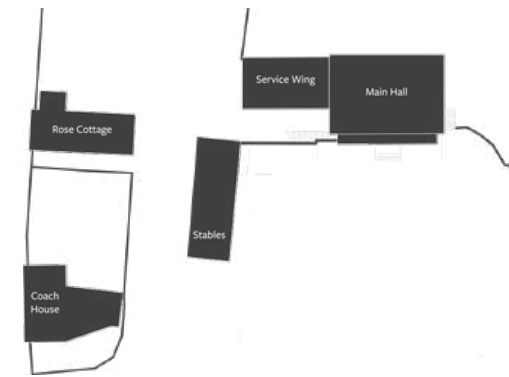
5. Extension to existing coach house



6. Addition of a portico to the front of Tidcombe hall



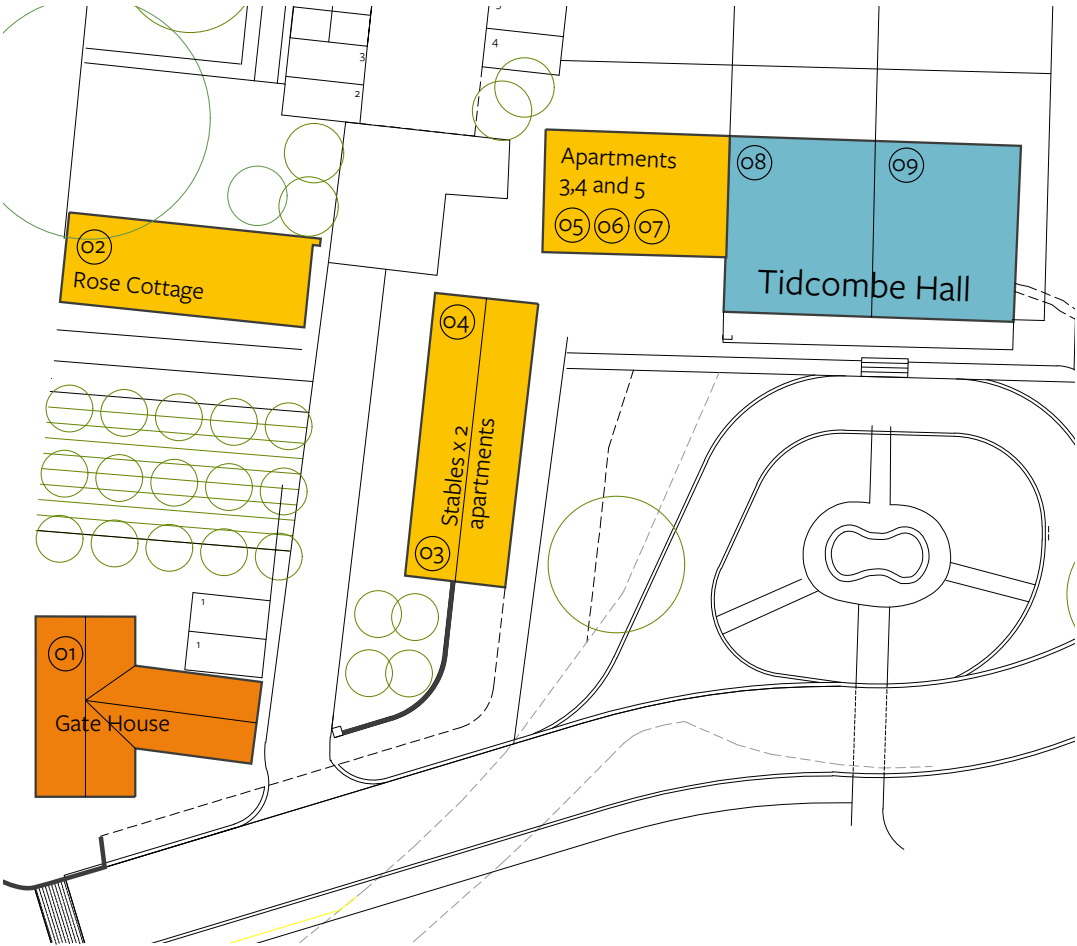
Tidcombe Hall - Historic photograph (Circa 1950's)



7. Final Tidcombe Hall and associated buildings strategy plan



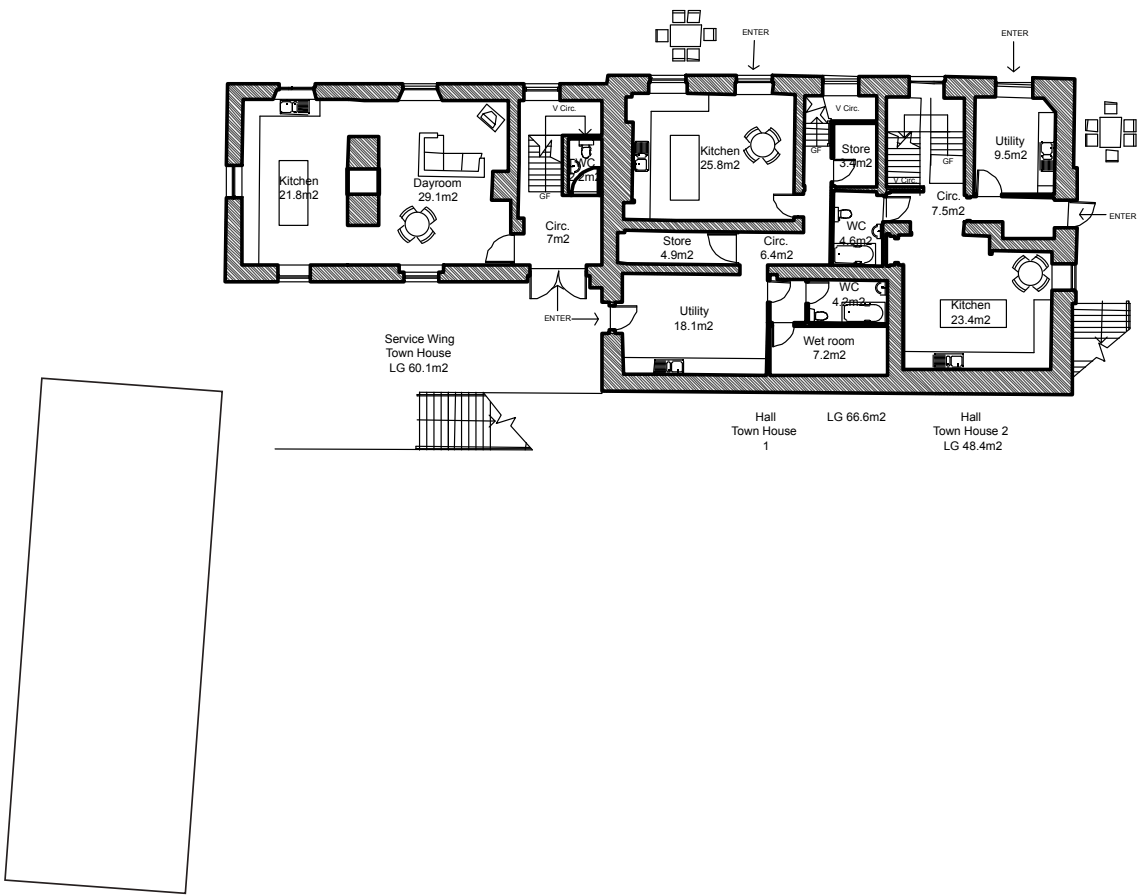
Statement of Intent - Tidcombe Hall



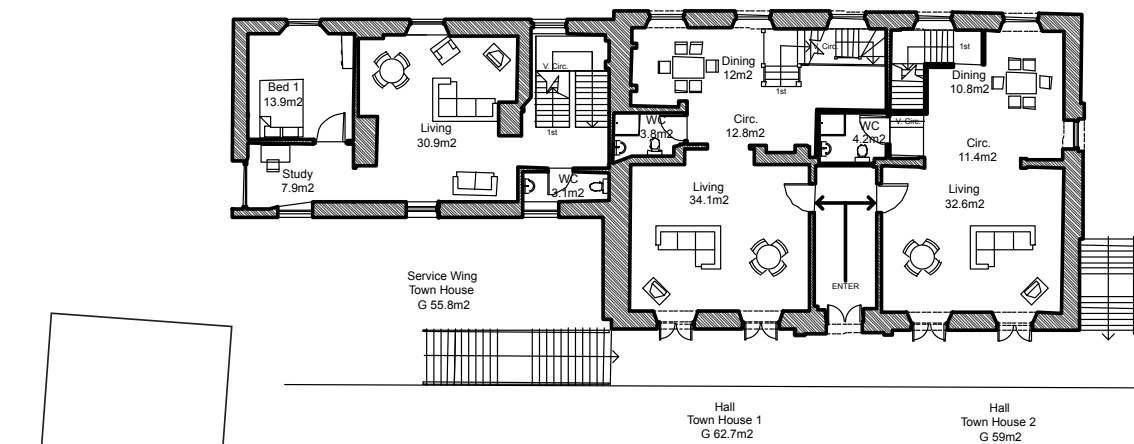
Illustrative accommodation schedule for Tidcombe Hall and outbuildings

Tidcombe Hall conversion

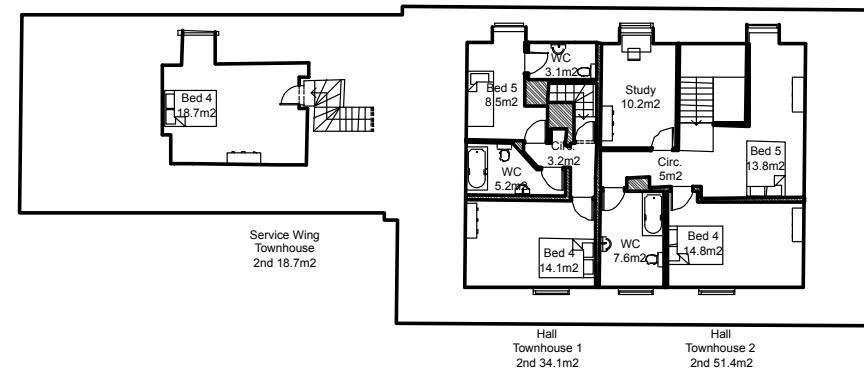
Bed No.	Type	No
2 bed	Apt	3
2 bed	Rose Cott	1
2 bed	Stable	2
3 bed	Coach H	1
4 bed	Town house	2
Total		9



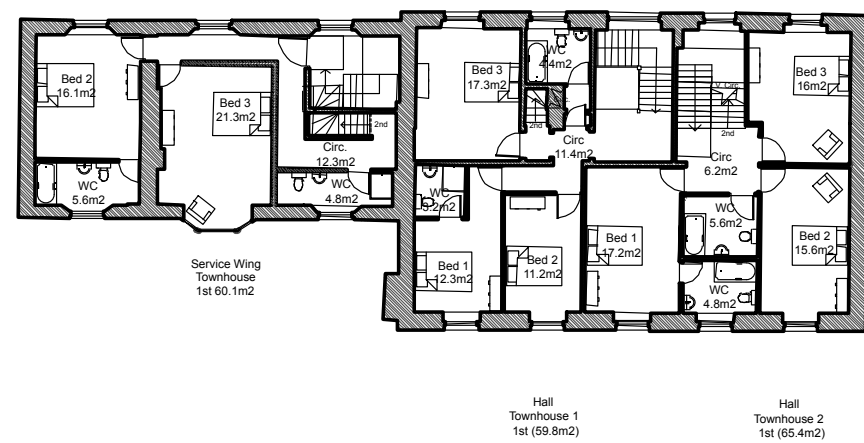
Proposed lower ground floor



Proposed ground floor



Proposed second floor



Proposed first floor

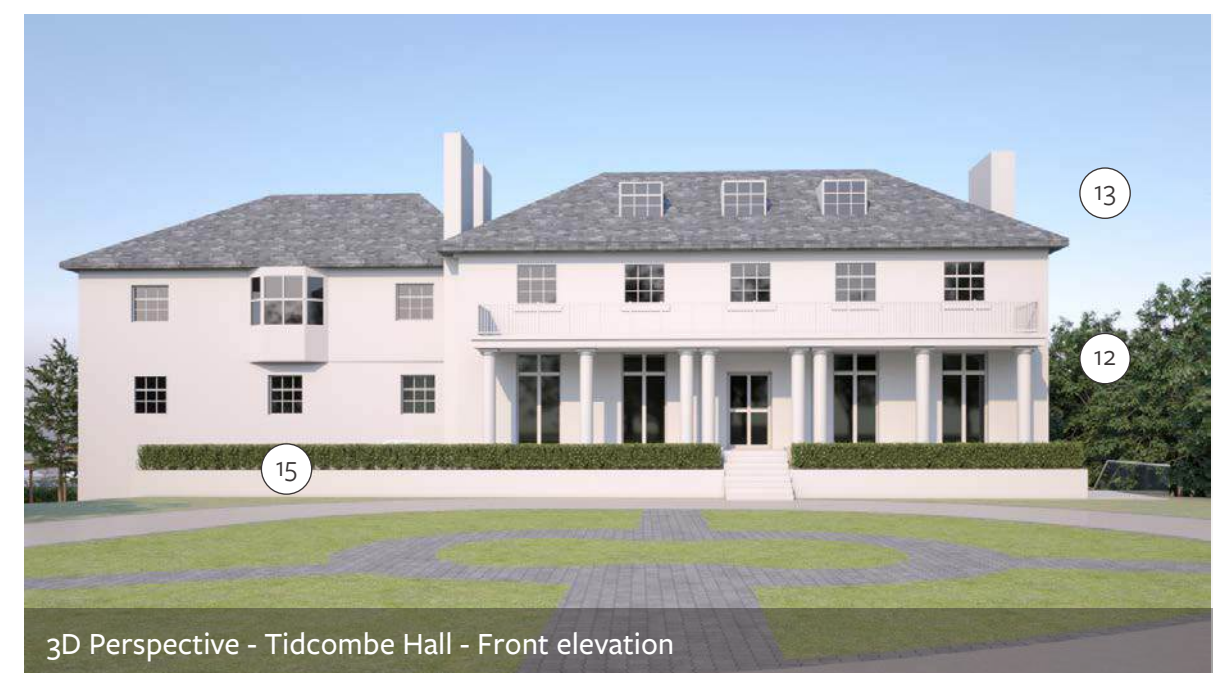




- Application boundary
- ① Restored entrance landscape and enhancement to the setting of Tidcombe Hall Tidcombe Lane
- ② Existing trees retained and managed
- ③ Courtyard tree planting and growing area
- ④ Existing driveway - cycle/ pedestrian access
- ⑤ Community orchard/growing areas
- ⑥ Landscape break and buffer to Tidcombe Hall
- ⑦ Existing landscape entrance retained and enhanced
- ⑧ Parkland entrance landscape including biodiversity enhancements, new tree planting and wetland meadows
- ⑨ Wildlife corridors retained (dark/ low lux)
- ⑩ Existing trees and hedgerows retained and enhanced
- ⑪ Public open space - Parkland landscape and enhanced Grand Western Canal corridor, made up of a mix of wildflower planting, native hedgerow planting and native scrub species (including marginal planting in areas for SUDs)
- ⑫ Landscape buffer planting enhancing wildlife corridors
- ⑬ Opportunities for orchard tree planting
- ⑭ Proposed bat roost building
- ⑮ 10m wide dark crossing point over access road to allow for bat movement - Low lux levels, to be specified by ecologist.









# Statement of Intent - Tidcombe Hall

## 1.4 Description of proposal

1.4.1 The Design Principles Plan and accompanying design information illustrate the areas where the Design Principles apply and should be read in conjunction with the Illustrative Masterplan (230301 Lo2 02 J Illustrative Masterplan Dec 2023) and intended to be used as a design intent for future reserved matters planning applications.

### Layout and landscape

- 1

**Principle 1**  
Location for proposed vehicle, pedestrian and cycle access from Tidcombe Lane.
- 2

**Principle 2**  
Locations where existing trees and hedgerows should be retained and enhanced.
- 3

**Principle 3**  
Existing gateway and drive retained for pedestrian cycle access.
- 4

**Principle 4**  
Sensitive access road design including restored entrance and arrival space (ref historic photo pg. 4).
- 5

**Principle 5**  
Retained/ reinstated existing cobbled floor where possible.
- 6

**Principle 6**  
Retention of Monks Way as a pedestrian route - including enhanced and managed hedgerows.
- 7

**Principle 7**  
Rear garden boundary treatments facing the public realm should be brick or stone with a planting strip in front to enable climbing plants.
- 8

**Principle 8**  
Rear garden boundary treatments facing internal car park areas should be brick, stone or timber panel fencing with a planting strip in front to enable climbing plants.
- 9

**Principle 9**  
Building scale should be up to 2 storeys.

- 10

**Principle 10**  
Community facilities to the east of Tidcombe Hall to serve the local area and the new residents through the introduction of community food growing and orchard tree planting - maintain a green route and wildlife corridor.
- 11

**Principle 11**  
Proposed boundary hedgerow - Aligned with the existing wall to screen the proposed car parking. E.g. Proposed hedgerow in Cherry Laurel (Prunus laurocerasus ‘Rotundifolia’) or similar. Suggested planting as 10L 120/150cm and then maintain at 1.8m height. Planting would be 1-2plants/ 1m. Plant in advance of works commencing to ensure they are at height before occupation, if required.

### Architectural principles - Tidcombe Hall

- 12

**Principle 12**  
Reinstate entrance portico as per the 1950s aerial photograph.
- 13

**Principle 13**  
Reinstate missing chimney stacks to eastern gable to reinstate the properties symmetry.
- 14

**Principle 14**  
Removal of the lift and plant building to provide a clear separation between the Hall and former stable block.
- 15

**Principle 15**  
Removal of the single storey addition to the front facade of the service wing. This will reinstate the main house facade as the prominent elevation.
- 16

**Principle 16**  
Removal of the external fire escape stair. Removal of the fire escape doors with matching proportioned windows reinstated.
- 17

**Principle 17**  
Consolidation and reduction of external waste pipework to northern and eastern façades. Consideration to service runs in conversion of Tidcombe Hall into residential units.
- 18

**Principle 18**  
Removal of remaining care home paraphernalia such as concrete ramps and steel railings.

---

CliftonEmerydesign  
Bristol • Exeter • London • Plymouth

[www.cliftonemerydesign.co.uk](http://www.cliftonemerydesign.co.uk)  
[mail@cliftonemerydesign.co.uk](mailto:mail@cliftonemerydesign.co.uk)

## **Appendix B – Constraints and Opportunities Plan**





- Application boundary
- L1 Tidcombe Farm House Grade II Listing
- L2 Tidcombe Bridge Grade II Listing
- ▶ Potential access to the site
- Contingency site allocation TIV13
- Existing buildings
- Potential area of development
- Potential area of attenuation
- Conservation area
- Local Nature Reserve & County Wildlife Site (Grand Western Canal)
- Flood zone
- Grand Western Canal
- Existing Hedgerow
- A Existing tree - with associated RPA
- A Existing Cat A tree
- Existing Cat C trees and hedgerow (to be removed)
- Overhead cables
- 1:16 Average gradient
- Existing stream and 2m offset





## **Appendix C – Gateway Artist Impression Coloured**

# Tidcombe Hall, Tiverton

## Artist Impression





# grassroots PLANNING

Grass Roots Planning Ltd  
Suites 9 & 10  
Bristol North Baths  
Gloucester Road  
Bristol  
BS7 8BN

t: 0117 930 0413 [grassroots-planning.co.uk](http://grassroots-planning.co.uk)