

# West Devon Development Management and Licensing Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>								
<b>Date:</b>	<b>Tuesday, 17th October, 2017</b>								
<b>Time:</b>	<b>10.00 am</b>								
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>								
<b>Full Members:</b>	<p><b>Chairman</b> Cllr Sanders</p> <p><b>Vice Chairman</b> Cllr Roberts</p> <p><i>Members:</i></p> <table> <tr> <td>Cllr Baldwin</td><td>Cllr Moyse</td></tr> <tr> <td>Cllr Cann OBE</td><td>Cllr Parker</td></tr> <tr> <td>Cllr Hockridge</td><td>Cllr Pearce</td></tr> <tr> <td>Cllr Mott</td><td>Cllr Yelland</td></tr> </table>	Cllr Baldwin	Cllr Moyse	Cllr Cann OBE	Cllr Parker	Cllr Hockridge	Cllr Pearce	Cllr Mott	Cllr Yelland
Cllr Baldwin	Cllr Moyse								
Cllr Cann OBE	Cllr Parker								
Cllr Hockridge	Cllr Pearce								
Cllr Mott	Cllr Yelland								
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.								
<b>Committee administrator:</b>	Kathy Trant Specialist - Democratic Services 01803 861185								

**1. Apologies for Absence**

**2. Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

*[If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting]*

**3. Items Requiring Urgent Attention**

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

**4. Confirmation of Minutes**

**1 - 4**

Meeting held on 19 September 2017

**5. Planning Performance Indicators**

**5 - 12**

**6. Planning Applications**

To see Letters of Representation and further supplementary information relating to any of the planning applications on the agenda, please select the following link and enter the relevant Reference number: <http://westdevon.gov.uk/searchlanding>

**(a) 2789/17/VAR**

**13 - 20**

Variation of condition 4 (approved plans) of planning consent APP/Q1153/W/15/3131710 (00233/2015) for 23no. dwellings with associated access road, parking and external works

Land Adjacent To Brook Farm, Brook Lane, Tavistock

**(b) 4161/16/OPA \*\*\* ITEM HAS BEEN DEFERRED\*\*\*\***

**21 - 30**

Outline planning application with all matters reserved for construction of 4 dwellings

Land at SX516892, opposite Springfield Park, Bridestowe

**7. Planning Appeals Update**

**31 - 32**



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# Agenda Item 4

At a Meeting of the **DEVELOPMENT MANAGEMENT & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **19<sup>th</sup>** day of **SEPTEMBER 2017** at **10.00am**

**Present:** Cllr P R Sanders – Chairman  
Cllr A Roberts – Vice-Chairman

Cllr W G Cann OBE	Cllr C Mott
Cllr D E Moyse	Cllr G Parker
Cllr T G Pearce	Cllr J Yelland

**Substitutes:** Cllr B Lamb for Cllr R E Baldwin  
Cllr A F Leech for Cllr L J G Hockridge

Senior Specialist Development Management (AHS)  
Planning Specialist (TJ)  
Planning Specialist (TF)  
Solicitor (SN)  
Senior Specialist Democratic Services (DW)

**In attendance:** Cllrs L Samuel and L Watts

## **\*DM&L 19 APOLOGIES FOR ABSENCE**

Apologies were received from Cllr R E Baldwin for whom Cllr B Lamb acted as substitute and Cllr L J G Hockridge for whom Cllr A F Leech acted as substitute.

## **\*DM&L 20 DECLARATION OF INTEREST**

Members were invited to declare any interests in the items of business to be considered and the following were made:

Cllr T G Pearce declared a personal interest in all applications, by virtue of being a Member of the Devon Building Control Partnership. He remained in the meeting and took part in the debate and vote on each item.

## **\*DM&L 21 CONFIRMATION OF MINUTES**

The Minutes of the Development Management and Licensing Committee Meeting held on 22 August 2017 were confirmed and signed by the Chairman as a correct record, subject to inclusion of the following amendments:-

1. That Cllrs L J G Hockridge and G Parker be included in the list of those Committee Members present at this meeting;
2. That Cllrs D E Moyse and J Yelland be removed from the list of those Committee Members present at this meeting;
3. That Cllr L J G Hockridge declared a Disclosable Pecuniary Interest in application numbers 1433/17/VAR and 2456/16/FUL by virtue of his business benefitting from visitors to the application site and proceeded to leave the meeting room during consideration of these planning applications; and

4. That Cllr Mott be removed from the list of those speakers who had been invited to address the meeting during application numbers 1433/17/VAR and 2456/16/FUL.

**\*DM&L 22 PLANNING PERFORMANCE INDICATORS**

The Senior Specialist Development Management presented the latest set of Performance Indicators and outlined the key information for Members consideration.

In discussion, reference was made to:-

- an acknowledgement that the use of time extensions was playing a fundamental role in ensuring that major planning applications were being determined in time;
- a recruitment and selection exercise was underway to appoint an additional Enforcement Specialist Officer;
- the trend whereby planning income had decreased in comparison to last year, whereas the number of planning applications had increased. It was noted that, whilst this trend illustrated that fewer major planning applications were being received by the Council, there had been a considerable increase in minor applications validated;
- a request (in future reports) for the figures used on some of the indicators to be adjusted to remove reference to a quarter (and a half) of an application/case; and
- the ongoing review of the Performance Measures Task and Finish Group. In highlighting the relevance to the Committee of the Development Management aspects of the review, it was agreed that Cllr Roberts would support Cllr Cheadle in progressing this matter.

**\*DM&L 23 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Development Management Specialists and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED:**

**(a) Application No: 1987/17/FUL      Ward: Exbourne**

**Site Address: Hayfield House, Hayfield Road, Exbourne EX20 3RS**

Erection of a two-storey 3 bedroomed house, a separate single garage and parking for 2 vehicles

**RECOMMENDATION:**      Conditional Approval

Following a detailed officer presentation, it became evident during the subsequent Member questions that there was an apparent discrepancy over the site plans.

Following a short adjournment, the Chairman advised that, in the absence of any revised site plans, it would be wholly inappropriate for the Committee to determine the application at this meeting. It was therefore agreed that this application should be deferred for consideration at a future meeting.

For completeness, the Chairman gave each of the registered speakers the option to either address the Committee at this meeting or to wait until the application was re-presented. In response, each registered speaker confirmed that they would take their opportunity at the future meeting when the application was re-considered.

**COMMITTEE DECISION:** Deferral

**\*DM&L 24 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals including enforcement appeals.

In so doing, reference was made to:-

- (a) the appeal decision at Land South Of North Road, Lifton. In highlighting that the applicant had been awarded partial costs, the Chairman and officers stressed the difficulty of being able to substantiate a refusal reason on highways grounds for those applications when County Highways had raised no objections. As a consequence, the Committee was asked to continually bear this point in mind during its future deliberations.

In relation to the role of County Highways, some Members expressed their frustrations at the lack of highways related objections that were coming forward. In reply, officers acknowledged these concerns but also advised that the National Planning Policy Framework had made it even harder for highways colleagues to raise legitimate objections. In making their recommendations, it was noted that the almost sole focus for Highways Officers to be able to raise an objection had to be concerned with whether or not an application would have a 'severe impact' on the highway.

In conclusion, the Committee Chairman gave a commitment to invite a Senior County Highways Officer to undertake a presentation and respond to Member questions at a future briefing session;

- (b) Conservation Areas. In lamenting some recent appeal decisions, a Member was of the view that the integrity of Conservation Areas in the West Devon area was being destroyed.

(The Meeting terminated at 11.30am)

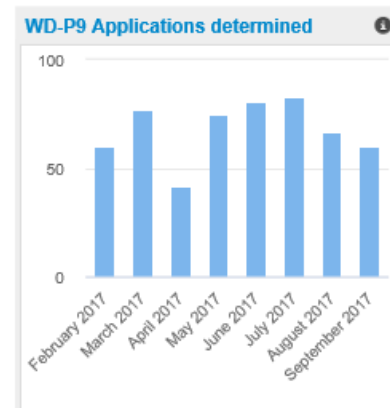
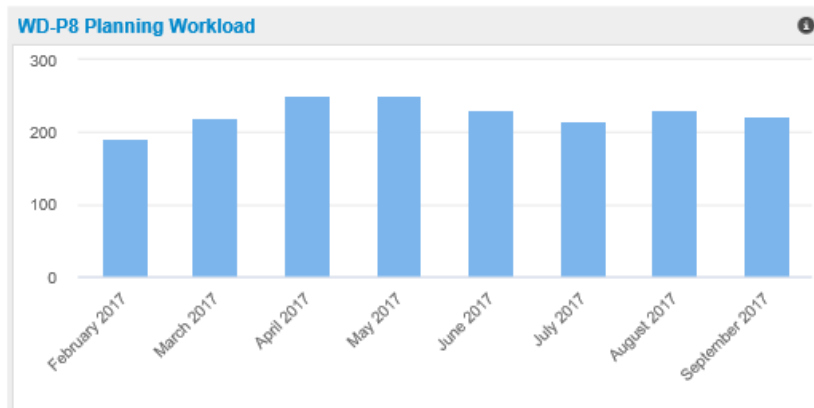
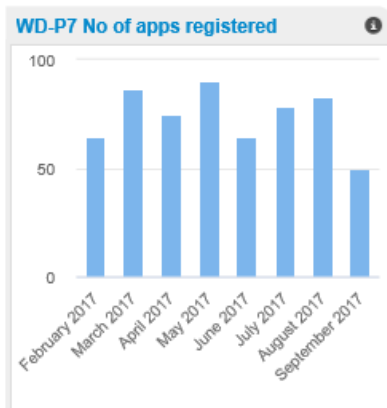
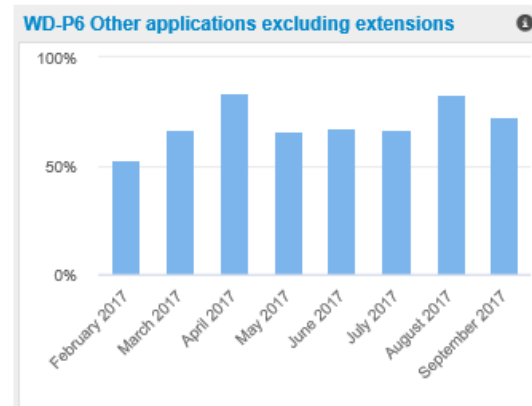
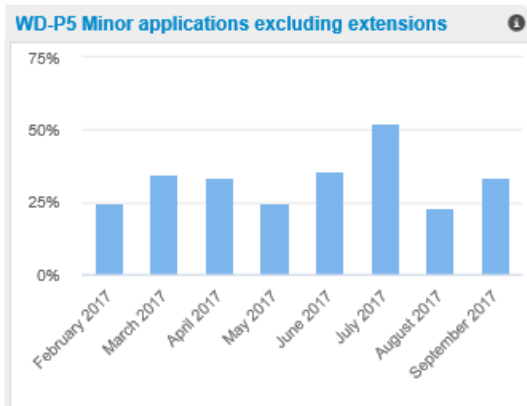
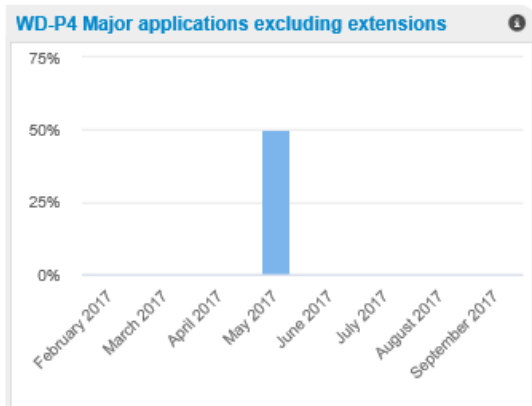
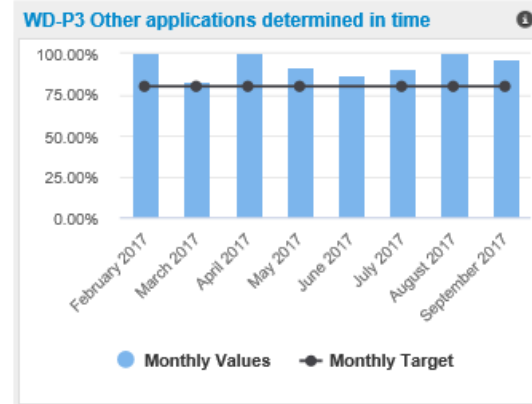
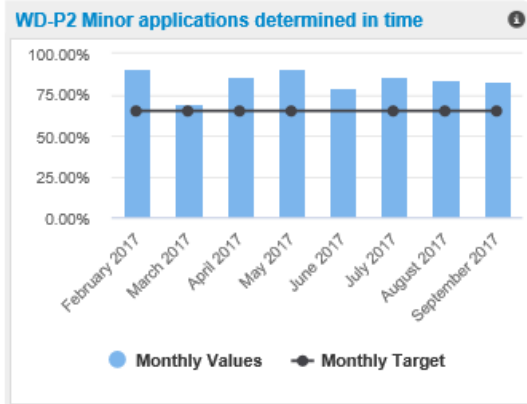
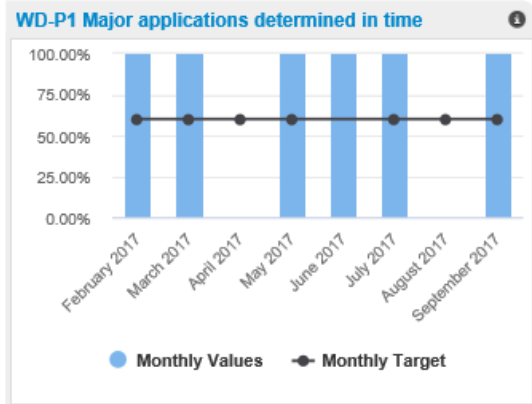
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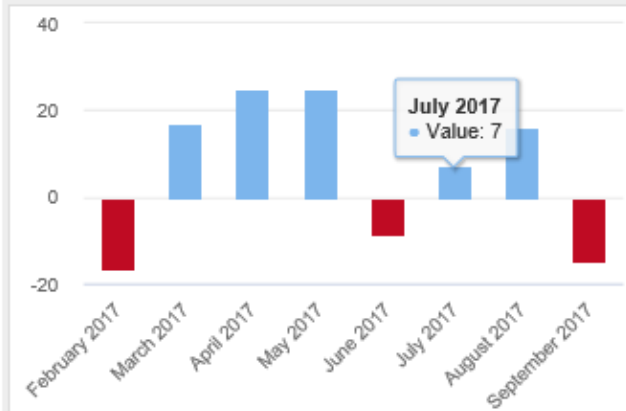
**Chairman**

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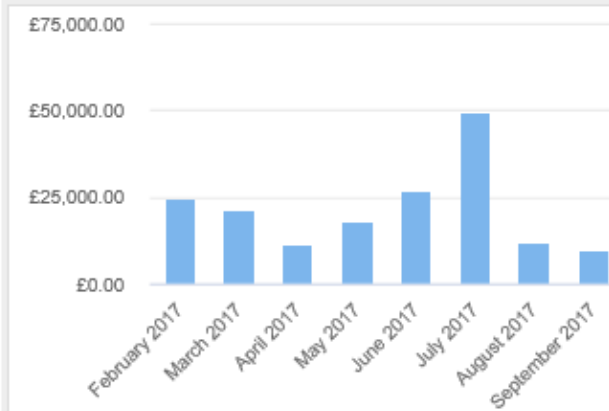




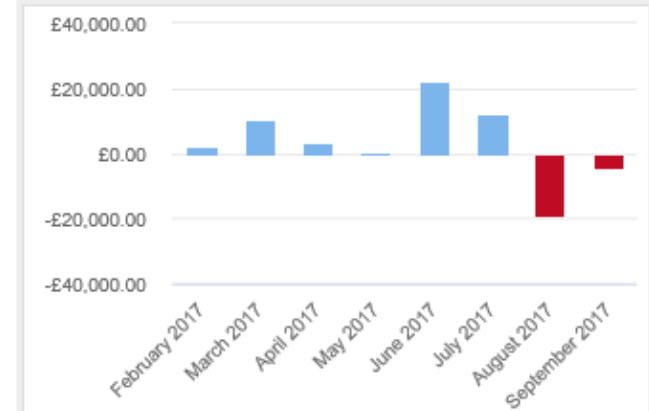
WD-P10 Apps registered compared to last year



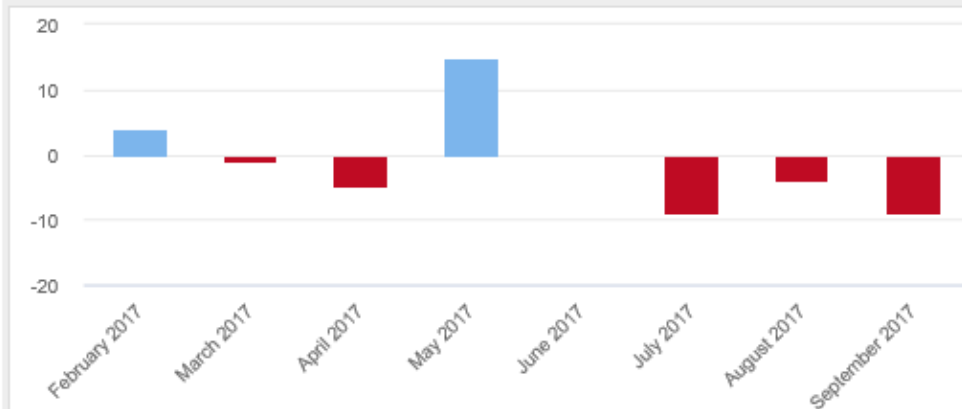
WD-P11 Fee Income from Planning Apps



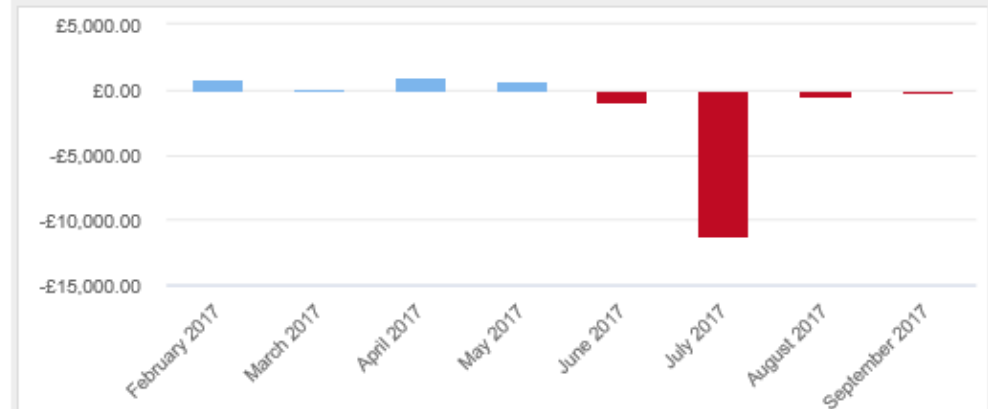
WD-P12 Fee Income from Apps vs prev year



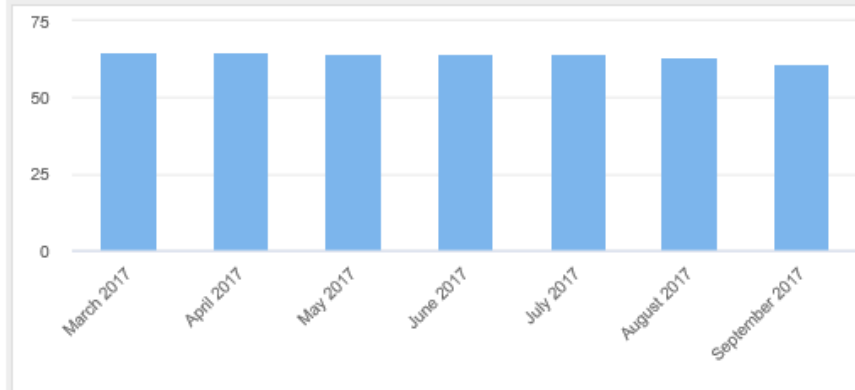
WD-P13 Pre-Apps Received compared to last year



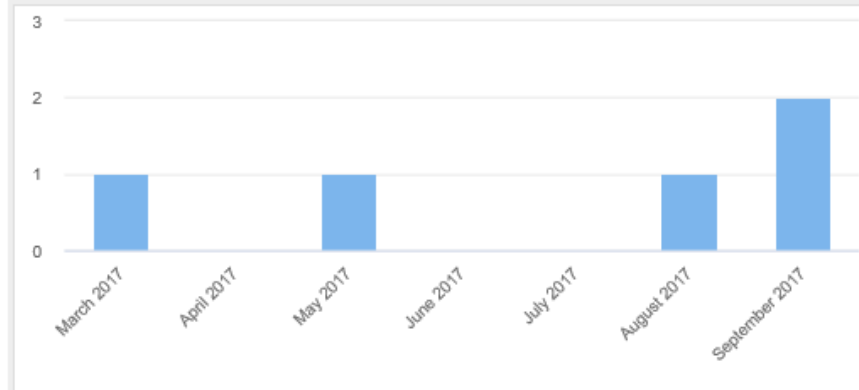
WD-P14 Fee Income from Pre-Apps compared to last year



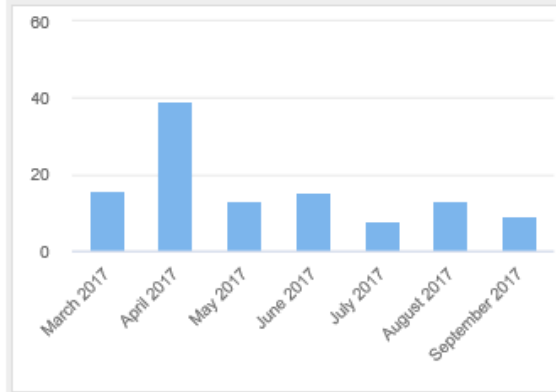
WD-E1 Enforcement Cases Outstanding Backlog



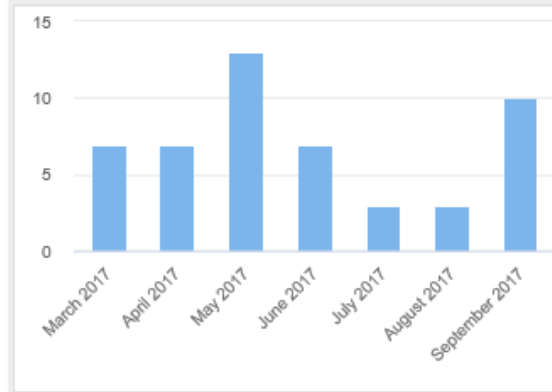
WD-E2 Enforcement Cases Closed Backlog



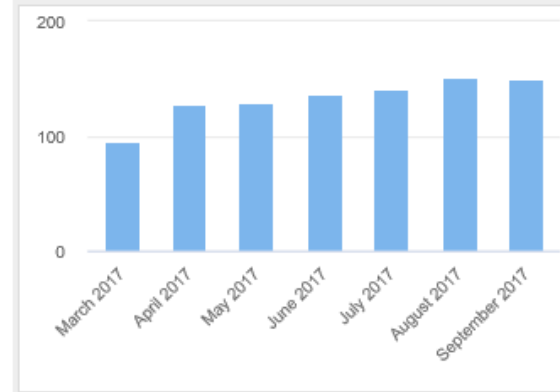
WD-E3 Enf Cases Received (since March 2016)



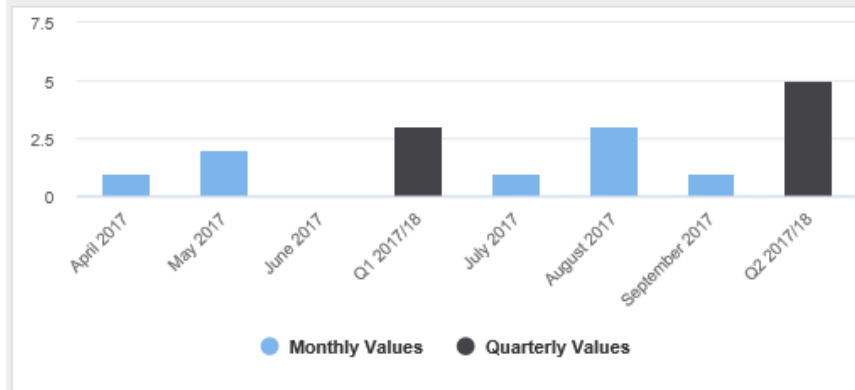
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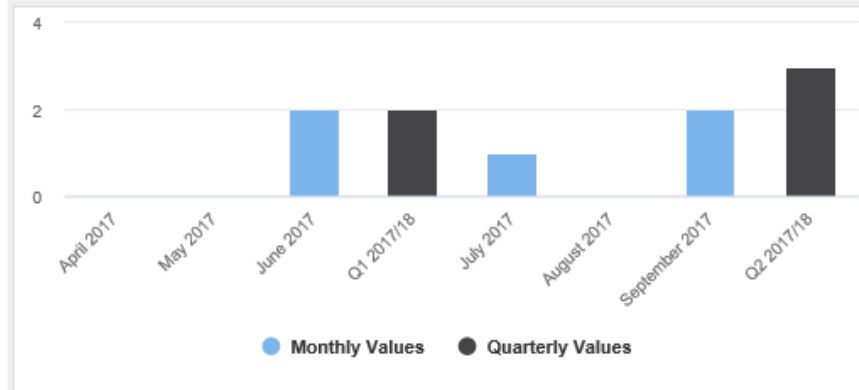
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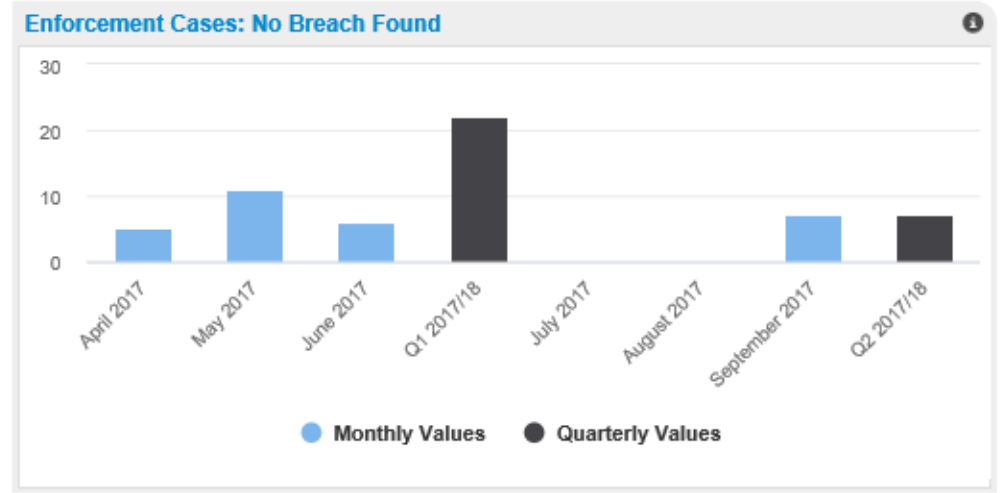
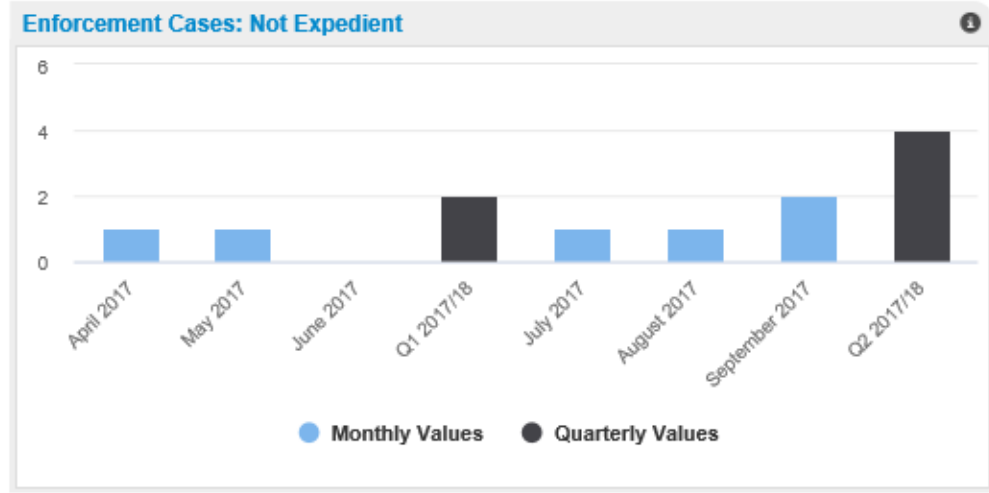


Enforcement Cases: Retrospective planning application



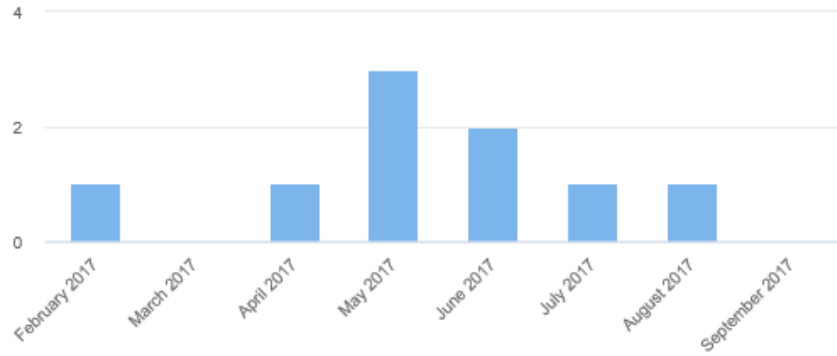
WD-PEC 20 Enforcement Cases: Remedial Action





WD-W2PEC 30 Appeal Decisions (Officer Delegated)

1



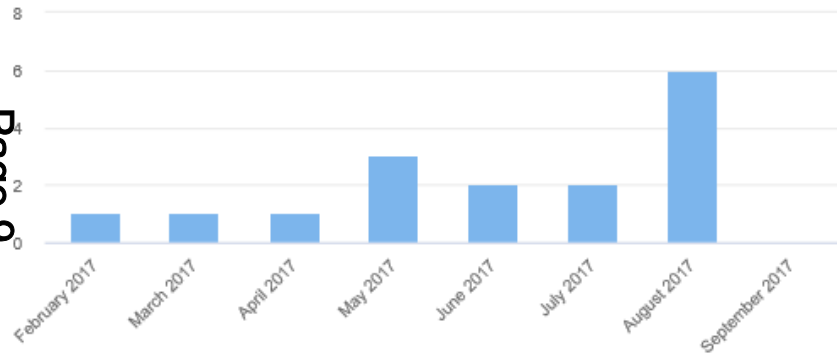
WD-W2PEC 31 Appeal Decisions (Committee)

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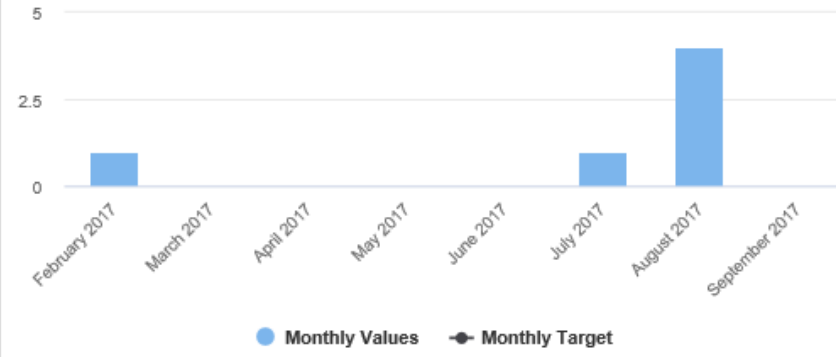
WD-W2PEC 28 Appeal Decisions

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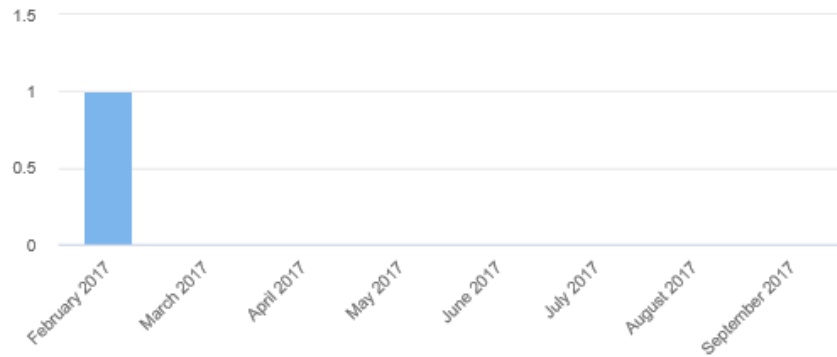
WD-BV204a Total planning appeals allowed

1



WD-W2PEC A Appeals allowed - officer decision

1



WD-W2PEC 29 Member decision against officer decision

1





### Enforcement Cases: Enforcement action



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## PLANNING APPLICATION REPORT

**Case Officer:** Matt Jones

**Parish:** Tavistock **Ward:** Tavistock South West

**Application No:** 2789/17/VAR

**Agent/Applicant:**

Rogers & Jones Architects  
17 Gordon Terrace  
Mutley  
Plymouth  
PL4 6EP

**Applicant:**

Westward Housing Group Ltd  
Template House  
Newton Abbot  
Devon  
TQ12 4PH

**Site Address:** Land Adjacent To Brook Farm, Brook Lane, Tavistock, Devon

**Development:** Variation of condition 4 (approved plans) of planning consent APP/Q1153/W/15/3131710 (00233/2015) for 23no. dwellings with associated access road, parking and external works

### Reason item is being put before Committee

Cllr Parker has requested that the application be determined by Planning and Licensing Committee *'for the reason that it proposes a fundamental amendment to the Secretary of State's decision without advancing any good planning justification for such a change.'*



**Recommendation:** That delegated authority be given to the CoP Lead in consultation with the Chairman of the Committee to approve the application subject to the conditions listed below and the prior satisfactory completion of a Section 106 Agreement Deed of Variation

However, in the event that the Section 106 legal agreement remains unsigned six months after this resolution, that the application is reviewed by the COP Lead, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the CoP Lead to refuse the application in the absence of an agreed S106 Agreement

### **Conditions**

Details of Reserved Matters prior to commencement  
Time limit for submission of Reserved Matters  
Time limit for commencement of development  
Accord with Plans  
CEMP prior to commencement  
Contamination assessment prior to commencement

### **Key issues for consideration:**

The main issues are the requested changes to the accord with plans condition and the implications for the development.

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### **Site Description:**

The application site abuts the southern edge of Tavistock's Settlement Boundary. About ½km up Brook Lane to the north are three large supermarkets as well as various employment units in local industrial estates. There is a bus stop within Morrison's car park and a bus stop just north of the roundabout providing access to other bus routes, which is no more than 750m away from the site. The site is within easy and generally safe walking distance of more than one primary school and the secondary school and a National Cycle Route crosses Brook Lane and the River Tavy near Morrisons.

In 2016 the Planning Inspectorate upheld an appeal for Outline Consent for *'23 No dwelling units comprising 8 affordable/local needs units and 15 No open market units with associated access road, parking and external works.'* The site is now to be allocated for the residential development of 23 unit within the emerging Joint Local Plan.

### **The Proposal:**

This application seeks the amendment of the Accord with Plans condition, condition 4. The existing condition 4 reads as follows:

*'The development hereby permitted shall be carried out in accordance with the following approved drawings: 1319 [PL-]01D & 1319 [PL-]02.'*

The covering letter states that this submission is motivated by a requirement for the layout plan and site section, approved at outline, to be removed from the condition as they restrict the applicant and lead them unable to fully address reserved matters at the reserved matters stage. In effect, although layout is a reserved matter, at this time any change to the approved layout within the reserved matters submission would be in breach of that condition.

Officers also note that the Inspector did also not approve a Site Location Plan within the Accord with Plans condition, and this is an opportunity to ensure that that is included in any varied approval.

## **Consultations:**

- County Highways Authority

No objection

- Tavistock Town Council

Neutral view – ‘*do not feel competent to revoke an Inspector’s Condition*’

## **Representations:**

16 letters of objection have been received at the time of writing this report, Concerns raised are summarised as follows:

- The Inspector found it necessary to condition the submitted plans
- It is not in the interests of good planning for the condition to be reworded
- The conditions should remain as set by the Inspector
- Less housing would be more appropriate for the site
- There are drainage issues associated with the site and development
- Highways infrastructure is unsuitable to accommodate the development

A number of the representations refer to an email sent by Cllr Parker to the case officer, and, in the interests of transparency, this email has been disclosed to the Council website.

## **Relevant Planning History**

00233/2015 - Outline planning application for the development of 23 dwellings comprising of 15 open market and 8 affordable/local needs units with associated access road, parking and external works – Refused by Planning and Licensing Committee against officer recommendation, appeal upheld by the Planning Inspectorate

## **Analysis**

This scheme was fully assessed by the Planning Inspectorate in relation to the upheld appeal, and officers maintain the position adopted by the Inspectorate with regard to matters of planning policy and all other material planning considerations. This Section 73 application has been submitted not to challenge planning judgment, but to resolve procedural matters regarding the drafting of the Accord with Plans condition.

Regardless of the fact that the condition was set by a Planning Inspector representing the Secretary of State, the Local Planning Authority is duty bound to assess this application pursuant to Section 73 of the Town and Country Planning Act, and therefore to critically examine the appropriateness of the Inspector’s conditions. Paragraph 206 of the National Planning Policy Framework states “Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.”

The policy requirement above is referred to in this guidance as the 6 tests

The existing condition 4 reads as follows:

*'The development hereby permitted shall be carried out in accordance with the following approved drawings: 1319 [PL-]01D & 1319 [PL-]02.'*

The drawings referred to are a layout plan and a site section. Officers regard this to be an unorthodox condition for two reasons. Firstly, the condition approves a detailed layout plan although layout is a reserved matter. Secondly, the condition omits to approve a Site Location Plan, meaning that the site is arguably, as yet, legally undefined.

Approving the layout plan technically leads any future applicant unable to amend the layout in any material way despite layout being a matter due for approval at the Reserved Matters stage.

It is the opinion of officers that the information submitted was enough to allow the Inspector to conclude, in principle, that the scheme was acceptable, but, that it was not essential for the layout plan to have been formally referenced within the accord with plans condition. Had the layout plan not been included, the Local Planning Authority would have retained absolute control over any layout subsequently submitted, with the knowledge that it had been demonstrated, in principle, that 23 units could fit on the site in a policy compliant manner. If issues are raised regarding a different layout at Reserved Matters, the Council would be in a legitimate position, if so minded, to seek reversion to the layout plan as submitted at Outline stage.

That it was included within the condition was therefore not necessary in planning terms and was unreasonable as it now prevents amendment to reserved matters of the scheme at the Reserved Matters stage. The layout plan demonstrates that a scheme can work, in principle, regardless of whether or not it is within the accord with plans condition, and it doesn't need to be there; the Local Planning Authority retains control over the layout regardless.

The condition therefore fails the tests of necessity and reasonableness and should be amended to remove reference to the layout plan.

Similarly the submitted section indicates that the dwellings are to be two storey, and, when concluding that that scale of development was acceptable within the site, the Inspector did not need to include the site section within the accord with plans condition. For the same reasons as above, reference of the site section is also recommended to be removed from the planning condition. It is noted that the Inspector appears to have considered the section as indicative of the general scale of the development, stating that it *'is sufficient to indicate that these dwellings will be two storeys in height and shows the relative heights of these particular houses in relation to surrounding dwellings. However, further details will be required of the heights of all the other new dwellings at reserved matters stage as well.'*

The second issue is the omission of a Site Location Plan from the decision, which is most unorthodox. This application also offers the Council the opportunity for the site to be defined by a Site Location Plan.

Officers therefore recommend that the condition is amended to read:

- 4) 'The development hereby permitted shall be carried out in accordance with the Site Location Plan

All other conditions are retained but references to the previously approved plans are removed. The Council maintains control over the detailed assessment of the scheme including matters of access, appearance, landscaping, layout, and scale and the relationship between the proposed dwellings and the neighbouring properties surrounding the site.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004

## **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

### **West Devon Borough Council Core Strategy 2011**

SP1 – Sustainable Development  
SP5 – Spatial Strategy  
SP6 – Density of Housing Development  
SP7 – Strategic Distribution of Housing  
SP8 – Inclusive Communities  
SP9 – Meeting Housing Needs  
SP13 – Community Services and Facilities  
SP14 – Accessibility Planning  
SP17 – Landscape Character  
SP18 – The Heritage and Historical Character of West Devon  
SP19 – Biodiversity  
SP20 – Promoting High Quality Design  
SP21 – Flooding  
SP23 – Tavistock  
SP24 – Sustainable Rural Communities

### **West Devon Borough Council Local Plan Review 2005 (as amended 2011)**

NE10 – Protection of the Countryside and Other Open Spaces  
BE13 – Landscaping and Boundary Treatment  
H31 – Residential Development in the Countryside  
T1 – Walking and Cycling  
T2 – Pedestrian and Cyclist Safety  
T8 – Car Parking  
T9 – The Highway Network  
PS2 – Sustainable Urban Drainage Systems  
PS3 – Sewage Disposal

### **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
SPT3 Provision for new homes  
TTV24 Other sites allocations in Tavistock  
DEV20 Place shaping and the quality of the built environment  
DEV22 Development affecting the historic environment  
DEV23 Cornwall and West Devon Mining Landscape World Heritage Site  
DEV24 Landscape character  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV29 Green and play spaces  
DEV30 Trees, woodlands and hedgerows  
DEV37 Managing flood risk and Water Quality Impacts

**Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

**Planning Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale of the new dwellings (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals and to protect the appearance and character of the area.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from 14 September 2015

Reason: To comply with Section 92 of the Town and Country Planning Act, 1990 (as amended).

- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act, 1990 (as amended).

- 4) The development hereby permitted shall be carried out in accordance with the Site Location Plan

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) programme of works (including measures for traffic management)
- v) wheel washing facilities
- vi) measures to control the emission of dust and dirt during construction
- vii) a scheme for recycling/disposing of waste resulting from construction works

Reason: To mitigate, so far as reasonable, the impact of the construction phase on highways infrastructure, neighbour amenity, and the local environment

- 6) Prior to commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority, to include the following elements:

- 1) A preliminary risk assessment/desk study identifying all previous uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme based on (1) above to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 7) Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a long term monitoring and maintenance plan for monitoring of pollution linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.
- 8) Prior to the commencement of each phase, details of how fibre optic broadband connections to at least “superfast” (greater than 24MgBps) shall be facilitated to ensure that all Internet Service providers (ISPs) are able to deliver their services to all premises within the development shall have been provided to and approved in writing by the Local Planning Authority. Such infrastructure as identified within these approved details shall be provided in phase with the development.
- 9) At least 10% of energy used in the development shall be generated from decentralised and renewable or low carbon sources.

Reason: The condition covers the full range of measures that may be needed depending on the level of risk at the site. If the LPA is satisfied with the information submitted with the application they can decide to delete any of elements 1 to 2 no longer required. The LPA may still decide to use the whole condition as this would allow them to declare the information no longer satisfactory and require more or better quality information if any problems are encountered in future.

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## PLANNING APPLICATION REPORT

**Case Officer:** Matt Jones

**Parish:** Bridestowe **Ward:** Bridestowe

**Application No:** 4161/16/OPA

**Agent/Applicant:**

Edward Persse  
49 Bannawell Street  
Tavistock  
Devon  
PL19 0DP

**Applicant:**

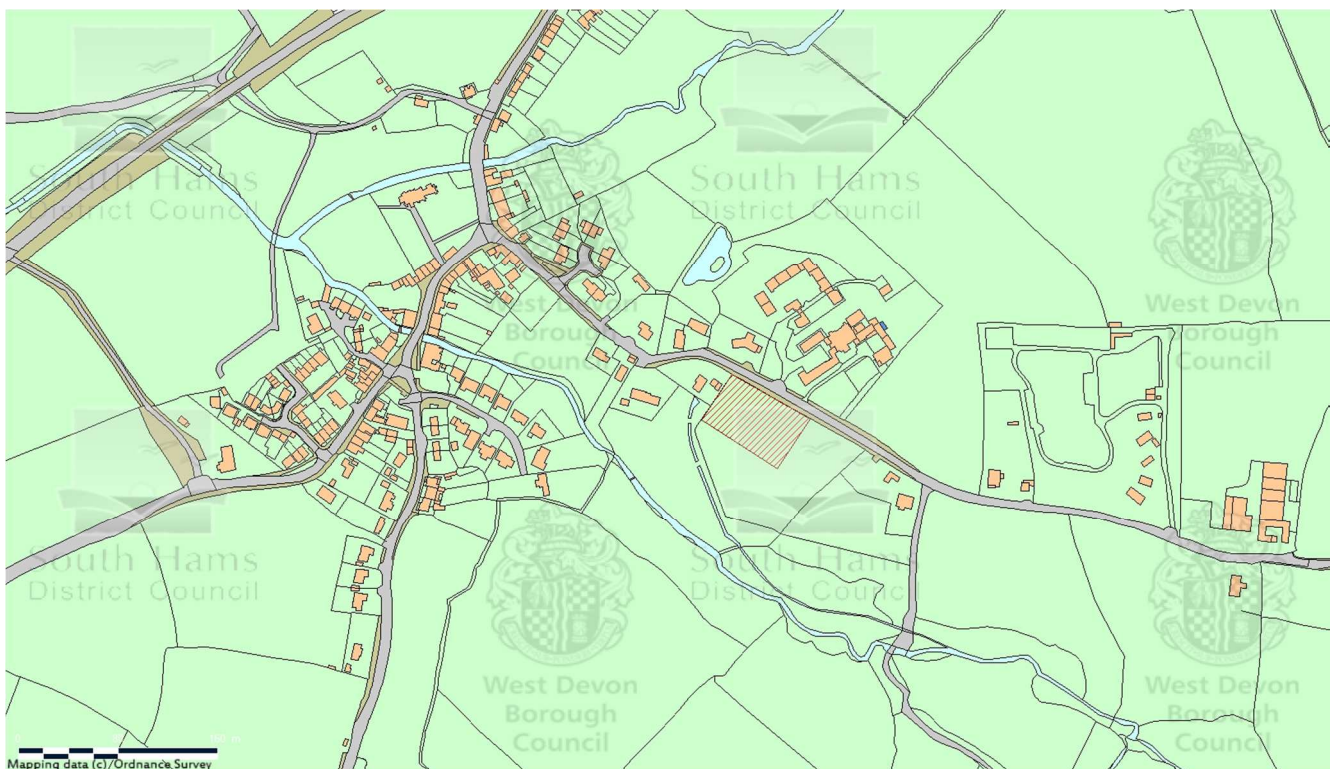
Messrs T Warren & S Drayner  
C/O The Agent

**Site Address:** Land at SX 516 892, Opposite Springfield Park, Bridestowe

**Development:** READVERTISEMENT (Indicative Plans and Drainage Information Received) Outline planning application with all matters reserved for construction of 4 dwellings

### Reason item is being put before Committee

Cllr Mott has requested that the application come before Planning and Licensing Committee due to the issues raised regarding drainage, neighbour impact, highways, and the appropriateness of the site for residential development in the context of the emerging Joint Local Plan and Bridestowe Neighbourhood Plan.



## **Recommendation**

That delegated authority be given to the CoP Lead in consultation with the Chairman of the Committee to approve the application subject to the conditions listed below and the prior satisfactory completion of a Section 106 Agreement

However, in the event that the Section 106 legal agreement remains unsigned six months after this resolution, that the application is reviewed by the CoP Lead, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the CoP Lead to refuse the application in the absence of an agreed S106 Agreement

## **Conditions**

1. Standard time limit for outline permission
2. Reserved matters details
3. Adherence to plans
4. Percolation testing/results and subsequent SuDS detail prior to commencement
5. Foul disposal details prior to commencement
6. Landscape and Ecological Management Plan prior to commencement
7. Unsuspected contamination
8. Completion of highways infrastructure works prior to first use

## **Section 106 Obligations**

- £ 29,625 in education contributions

## **Key issues for consideration:**

The main issues are the principle of development with regard to the Development Plan, emerging Joint Local Plan and emerging Bridestowe Neighbourhood Plan, the visual impact of the proposal and the impact upon local character and heritage, drainage, land contamination access and parking, neighbour impact and ecology

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## **Site Description:**

The application site is part of a field adjacent to the settlement of Bridestowe. The highway runs along the site's northern boundary, from where it is accessed via an existing vehicular entrance. To the north of the highway is the complex of buildings at Springfield Park and Springfield Nursing Home.

The residential curtilage of the detached dwelling 'Lyndhurst' is to the west, with the remaining parts of the agricultural field to the south and east of the application site. Beyond the field to the east is a detached dwelling. The boundary with Lyndhurst is also the Settlement Boundary. The site is on sloping ground with levels generally dropping towards the north west corner of the site.

The site is within designated countryside, adjacent to the Bridestowe Settlement Boundary, and is otherwise free of specific planning constraints. The village Conservation Area, with its listed buildings, is located approximately 200m to the west, accessed via Rectory Road.

## **The Proposal:**

This is an Outline application with all matters reserved for the construction of 4 dwellings. Although all matters are reserved, indicative plans and drainage information was submitted, as requested by officers, to allow for an informed decision to be made. The scheme was formally readvertised on the basis of the details provided.

## Consultations:

- County Highways Authority

No objection subject to condition:

*'There are no objections to the proposed development from a highway safety point of view as it will be possible to provide the development with suitable access(es) to the highway'*

- DCC Education

No objection subject to planning obligation as follows:

*'The primary school within a 1.5 mile radius of this development is Bridestowe Primary School. There is no forecasted surplus capacity at Bridestowe Primary School to mitigate the impact of this development, so we are requesting a contribution towards primary school infrastructure. A development of four family dwellings is expected to generate one primary aged pupil and we are therefore requesting £13,652.00.*

*The designated secondary school is Okehampton College which has no forecasted surplus capacity. A development of 4 family dwellings is expected to generate 0.6 secondary aged pupils and so we are requesting £13,153.00 (being the extension rate of £21,921.00 x 0.6).*

*Because of the distance from the development to the designated secondary school, Okehampton College, a request for a contribution towards secondary school transport is made. The current cost of transporting pupils from Bridestowe to Okehampton College is £2.97 per student per day. So, we are requesting £2,820.00 being £2.97 x 190 days in the academic year x 5 years at secondary school.'*

- WDBC Drainage

No objection subject to conditions (foul and surface water):

*'Based on the information provided we would support the current proposal. Sufficient information has been provided to demonstrate a workable scheme, the final design will need to be agreed with the LPA. Therefore if permission is granted please include the following conditions to finalise the drainage design.'*

- Bridestowe Parish Council

Initial objection (*'The application was not supported on the grounds that there was insufficient information supplied to be able to make an informed decision'*) resolved to support following receipt of additional information.

*'The PC supports this application. However, there is considerable public concern over traffic volume and the dangerous nature of bends on the road. Drainage is also an issue. There is concern that there are no drains in the road.'*

## Representations:

Approximately 22 letters of representation have been received at the time of writing this report, 20 objecting and 2 in support. Concerns raised within the submitted letters of objection are summarised as follows:

- Doesn't accord with the Development Plan
- There are highways infrastructure issues with the development
- There is a lack of footpaths to serve the development

- Will lead to an unsafe highways environment
- Will lead to overlooking and additional noise nuisance
- There are previous refusals on the site
- There is a pylon within close proximity to the site
- There are errors within the submission
- There are drainage implications arising from the development
- The site contributes to the setting of the village and provides views to Dartmoor
- Will harm the character of the Conservation Area
- Will not provide affordable housing for local people
- Will place additional pressure on services
- There has been no pre-application enquiry on the site
- The scheme is not an infill and is in conflict with the emerging Neighbourhood Plan
- There are preferential sites elsewhere within the village
- Will prejudice agricultural use of remaining field
- The ecology work is out of date

Comments made in support of the scheme are summarised as follows:

- This scheme is an infill and is in accordance with the emerging Neighbourhood Plan
- Will not add to traffic issues / congestion
- This is growth at a sensible, sustainable pace
- This is the right size of development for the village

## **Relevant Planning History**

None identified

## **Analysis**

### Principle of Development/Sustainability:

The site is outside of but adjacent to the Bridestowe Settlement Boundary, leading to conflict with the Council's housing policy H31.

The emerging policy TTV31 does provide a more flexible approach to housing within peripheral sites where the scheme meets an identified local need and provides a sustainable solution. The analysis below concludes that the site is sustainable, and the housing mix should provide an opportunity for this site to meet a local need when assessed at Reserved Matters stage. The Joint Local Plan has indicated that Bridestowe can accommodate a figure of approximately 30 dwellings within the next plan period. Regardless of mix, housing here will provide a social contribution to village vitality through supporting existing facilities.

Overall, when acknowledging the vintage of the Council's current housing policies, the proportionate scale of the residential development in relation to Bridestowe as identified within the emerging Joint Local Plan, the potential it has to enhance village vitality, the otherwise sustainable character of the site and the more flexible approach realised by emerging policy TTV31, officers support the principle of this scale of residential development within this location.

### Landscape and Character

The application site relates very well to existing development within the village. The site and the surrounding land is relatively set down within the valley with limited public receptors in the surrounding area, leading to the rural fringe character being broadly conserved.

The scheme will revise and extend an existing access but the proposed access to the site is within an area already characterised by residential development, with vehicular accesses readily apparent within the streetscene.

A number of third parties have correctly identified the visual contribution that the site has when viewed from the centre of the village, as it forms the rural backdrop to the settlement. Although the site is generally well screened from public view, the field is seen prominently from the road junction within the village Conservation Area and from the churchyard. From these areas the field provides a positive contribution to the village as it helps to define its countryside and historic setting, with the hills of Dartmoor above and beyond. However, this view has already, to a certain extent, been compromised by the erection of the two storey dwelling Lyndhurst, and the application site is and appears directly behind this dwelling when viewed from the majority of these distant areas.

Although photographic evidence submits that the dwellings will be harmful when viewed from the village centre, in the opinion of officers, even from these positions it is Lyndhurst which continues to dominate the application site, and the northern section of the field is lost within its influence.

It is therefore considered that the erection of four dwellings immediately behind Lyndhurst will not change the existing situation, and the southern, more visually prominent, section of the field will continue to compliment the village setting. Officers are therefore satisfied that the development will preserve the character and appearance of the Conservation Area and will not prejudice the setting of any individually listed heritage assets.

Overall, the applicant has submitted an appropriate level of information to allow the Council to conclude that the site can be developed, in principle, in a manner which is not harmful to village character and heritage nor the surrounding rural area.

#### Neighbour Amenity:

The only dwelling which is within close enough proximity to be unduly affected by this development is Lyndhurst to the west. As this dwelling has its rear aspect towards the field, and sits on lower land within close proximity, there is real potential that residential development of this site could materially affect neighbour amenity to the extent that refusal could be sustained.

However, the indicative plans have demonstrated that a scheme can be developed which adequately protects the amenity of Lyndhurst. The plans and elevations show the nearest dwelling set away from the boundary, showing only its blank flank wall towards Lyndhurst. This arrangement will prevent all but the most oblique overlooking from the proposed dwellings towards the neighbouring property.

With regard to external areas, officers are mindful that one can already stand in the field and look towards Lyndhurst, although it is acknowledged that such opportunities are limited in reality. In any case, additional planting and landscaping can be provided to ensure that views are reduced and filtered, and overall, officers are satisfied that a scheme can be developed which adequately reduces the impact upon the amenity of the dwelling Lyndhurst to an acceptable level.

#### Highways/Access:

Although access is a reserved matter, the Local Planning Authority, and the Highway Authority as a consultee, need to be certain that a safe access can be provided. Although specific details of the proposed access are not provided, this is a long stretch of road with good visibility, and visibility is further enhanced by the existing verge which sets the site back from the highway. As such, officers are satisfied that a safe access can be provided which will not be harmful to the existing fringe character of the streetscene and the highways officer is offering no objection.

The sudden bend in Rectory Road, to the west of the site, has been visited by officers. Rectory Road is an existing shared space bereft of footpaths commonly frequented by pedestrians and vehicles. No

evidential argument has been supplied which provides a sufficient conclusion that the limited additional vehicular trips associated with this small development will itself have a tangible or material impact on the number of road users to the extent that Rectory Road will become an unsafe environment above and beyond the existing situation. In addition, the highways authority has indicated that there has been no record of any incidents or accidents in this area.

As such, officers are satisfied that the scheme will not impair highways safety.

### Drainage

Drainage has been consistently raised by third parties as a specific area of concern. At site visit, officers observed that the dwelling Lyndhurst is cut into the land below the site and there appears to be a lack of a properly engineered retaining wall separating the two sites. This, combined with the topography of the field and the photographic evidence submitted to the Council, does suggest to officers that there may well be drainage issues related to the currently undeveloped site.

This is not an impediment to development *per se*, but officers have requested full range details to ensure that an acceptable drainage strategy can be established at outline stage. This work was undertaken and has resulted in a degree of discussion and revision with the Council's drainage officers. Following this discussion the Council's drainage experts are now not objecting to the scheme and can conclude that surface water runoff resulting from this development can be attenuated and soaked away within the site.

In addition, drainage officers are satisfied that foul can be dealt with and soaked away within land within the applicant's control. Drainage conditions relating to both foul and surface water are included to ensure delivery of an appropriate drainage strategy.

### The Neighbourhood Plan

Officers acknowledge the content of the emerging Neighbourhood Plan and the asserted conflicts and compliance that the scheme has, and the references the Plan makes to footpaths and congestion.

Although these comments and policies are attributed weight within the planning balance, the emergent state of the Neighbourhood Plan dictates that it can only be attributed limited weight in this assessment, and the Neighbourhood Plan in its current form does not materially alter the planning recommendation within this officer report.

The Government's Planning Practice Guidance recommends that *'Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period.'*

### Other matters

The ecological work undertaken indicates that the development could proceed without harming any protected species and ecological enhancements can be secured through an appropriate planning condition. The ecologist has confirmed that the assessment of site constraints is applicable to the scheme as submitted and as formally readvertised.

Officers are satisfied that a condition regarding the potential discovery of unsuspected contamination adequately resolves any potential contamination issues at the site and there has been no objection raised by the Environmental Health Section.

Any necessary works to any electrical equipment will require resolution regardless of the outcome of this planning application.

Officers are not aware of any previous, relevant site history within the land. The scheme demonstrates that agricultural access to the remaining field can be retained.

### Planning Balance

It is noted that there is conflict with policy H31 due to the site's location outside of, but adjacent to, the Bridestowe Settlement Boundary. However, when acknowledging also the age of the Council's housing policies, the proportionate scale of the residential development in relation to Bridestowe, the potential it has to enhance village vitality, the otherwise sustainable character of the site and the more flexible approach realised by emerging policy TTV31, officers support the principle of this scale of residential development within this location.

Although this scheme is in outline with all matters reserved, the scheme is accompanied by indicative plans and a drainage strategy which allows officers to conclude, in principle, that a development of this scale can be accommodated within the site in a policy compliant way. This application is therefore recommended for approval subject to appropriate conditions. .

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

#### **West Devon Borough Council Core Strategy 2011**

SP1 – Sustainable Development  
SP5 – Spatial Strategy  
SP17 – Landscape Character  
SP18 – The Heritage and Historical Character of West Devon  
SP19 – Biodiversity  
SP20 – Promoting High Quality Design  
SP21 – Flooding  
SP24 – Sustainable Rural Communities

#### **West Devon Borough Council Local Plan Review 2005 (as amended 2011)**

NE10 – Protection of the Countryside and Other Open Spaces  
BE1 – Conservation Areas  
BE3 – Listed Buildings  
BE13 – Landscaping and Boundary Treatment  
H25 – Mixed Use Development in Town Centres  
H26 – Open Space Provision in New Residential Developments  
H28 – Settlements with Defined Limits  
H29 – Smaller Settlements  
H31 – Residential Development in the Countryside  
T2 – Pedestrian and Cyclist Safety  
T9 – The Highway Network  
PS2 – Sustainable Urban Drainage Systems  
PS3 – Sewage Disposal

## **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

## **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
SPT3 Provision for new homes  
TTV31 Development in the Countryside  
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area  
DEV18 Protecting local shops and services  
DEV20 Place shaping and the quality of the built environment  
DEV21 Conserving the historic environment  
DEV22 Development affecting the historic environment  
DEV24 Landscape character  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV30 Trees, woodlands and hedgerows  
DEV37 Managing flood risk and Water Quality Impacts

## **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

## **Planning Conditions**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision notice. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act, 1990 (as amended).

- 2) Details of the access, appearance, landscaping, layout, and scale of the new dwellings (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the



local planning authority before any development begins and the development shall be carried out as approved.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals and to protect the appearance and character of the area.

- 3) The development hereby permitted shall be carried out in accordance with the Site Location Plan

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

- 4) Notwithstanding the submitted details, the development hereby permitted shall not be commenced until:

- Percolation testing in accordance with DG 365 will be required to support the use of soakaways. The report should include the trial logs and calculate the infiltration rate.
- SuDS to be designed for a 1:100 year event plus 40% for climate change.

If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed with the Local Planning Authority

The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development

- 5) Notwithstanding the submitted details, no development shall be commenced until details of the works for the disposal of sewage have been submitted to and approved in writing by the Local Planning Authority, and the dwellings shall not be occupied until the approved works have been completed to the satisfaction of the Local Planning Authority. Details to include a completed FDA1 form and justification for private foul system.

If the proposed development results in any changes/replacement to the existing system or the creation of a new system, scale plans of the new foul drainage arrangements will also need to be provided. This will include a location plan, cross sections/elevations, specification and its capacity to hold additional load.

The treatment plant must meet the current British standard i.e. BS EN 12566 for small sewage treatment plants in order to discharge to a water course. According to EA Binding Rules, new discharges are not allowed to a ditch or a surface water course that does not contain flowing water throughout the whole year. The applicant will need to confirm that it contains flowing water throughout the whole year and whether it requires EA's permit to discharge to a watercourse. A shared maintenance and management plan will be required.

Reason: In the interests of the prevention of pollution and to accord with Development Plan Policy C24 (Protecting Water Resources).

- 6) No works or development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include:

- (i) All existing boundary hedgerows, trees and tree belts;

- (ii) Submission of a lighting strategy for during and post construction (to show avoidance of light spill onto boundary and internal hedgerows, to be informed by bat survey results);
- (iii) Details of inbuilt provision for birds and bats;
- (iv) A concept statement explaining how the proposed landscape treatment, both hard and soft, conserves and enhances the landscape character of the area;
- (v) Arrangements for stripping, storage and re-use of topsoil;
- (vi) Materials, heights and details of fencing and other boundary treatments;
- (vii) The location, number, species, density, form and size of proposed tree, hedge and shrub planting;
- (viii) The method of planting, establishment and protection of tree, hedge and shrub planting;
- (ix) A timetable for the implementation of all hard and soft landscape treatment.

All elements of the LEMP shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. All work shall be completed in accordance with the timetable agreed.

Reason: In the interests of ecological and visual amenity

- 7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an [amended] investigation and risk assessment and, where necessary, a[n amended] remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

- 8) No other part of the development hereby approved shall be brought into its intended use until the access(es), parking facilities, visibility splays, turning area, parking spaces and garage/hardstanding, access drives and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

Reason: To ensure that adequate facilities are available for the traffic attracted to the site

## Agenda Item 7

APPLICATION NUMBER :	<b>0147/17/OPA</b>	APP/Q1153/W/17/3177360
APPELLANT NAME:	Mr M Scoot	
PROPOSAL :	Outline application with some matters reserved for development of up to 22no. dwellings (including 40% affordable housing), access, parking, landscaping / open space and associated infrastructure	
LOCATION :	Development site at SX 501 676 Abbey Meadows, Crapstone, PL20 7FG	
APPEAL STATUS :	Appeal Lodged	
APPEAL START DATE:	12-July-2017	
TYPE OF APPEAL	<b>Public inquiry</b>	
DATE OF APPEAL HEARING OR INQUIRY:	09-January-2018	
LOCATION OF HEARING/INQ:	Kilworthy Park, Tavistock	
APPEAL DECISION:		
APPEAL DECISION DATE:		

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