

# PLANNING APPLICATION REPORT

**Case Officer:** Chris Gosling

**Parish:** Kingsbridge

**Application No:** 28/1560/15/O

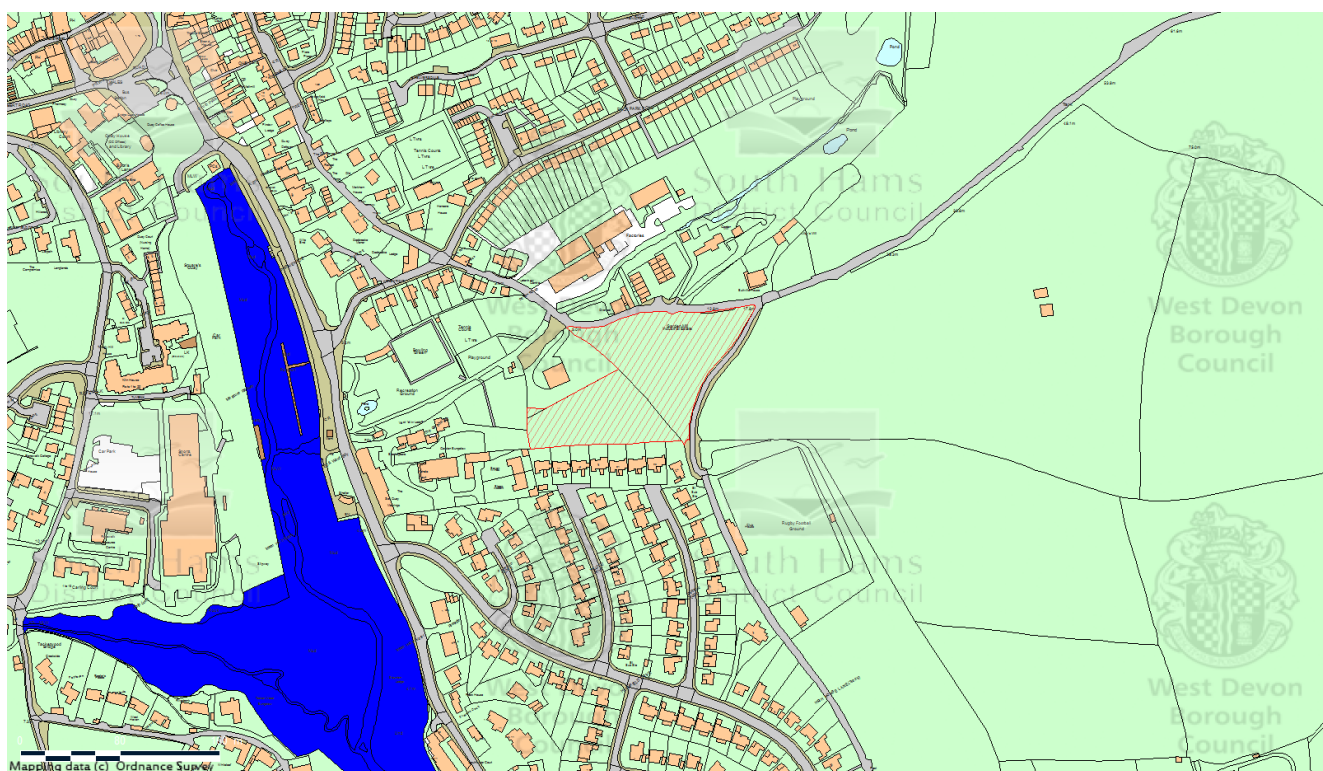
**Agent/Applicant:**

h2land  
Barley House  
Cedar Drive  
Snitterfield  
Stratford Upon Avon  
Warwickshire  
CV37 0LJ

**Site Address:** Part of allocated Site K4, Garden Mill, Derby Road, Kingsbridge

**Development:** Outline application (with landscaping reserved) for erection of 32 no. dwellings and vehicular access.

**Reason item is being put before Committee:** Ward Councillors refer this application to the Committee due to concerns over the amount of affordable housing that the development would generate



**Recommendation:**

Conditional Approval – subject to the prior satisfactory completion of a Section 106 Agreement dealing with the following matters.

1. Affordable Housing provision.
2. Education Financial contribution.
3. Landscape and Ecology Management Plan.

**Conditions**

1. Outline – submission of reserved matters
2. Outline – reserved matters time limit 3 and 2 years
3. Outline – reserved matters to be submitted in 3 years
4. Accord with Plans/Exclude Illustrative Drawings
5. Parking/Turning Details (Residential)
6. Provision of Accesses and Visibility Splays
7. Details of Highway Infrastructure
8. No windows to be inserted in the side elevation of the northernmost terraced dwelling.
9. Details of External Lighting – including low level lighting
10. Construction Management Plan to be submitted
11. Precise landscaping details required with Reserved Matters
12. Implementation of Surface Water Drainage Details and Management and Mitigation during Construction
13. Submission of Landscape Maintenance and Management Plan
14. Submission and implementation of Arboricultural Method Statement (including a scheme of protection for existing trees)
15. Submission and Implementation of Landscape and Ecology Management Plan
16. Unsuspected Contamination
17. GPDO Exclusion
18. Prohibited activities regarding trees
19. Tree protection barriers to be erected and maintained throughout the works
20. Materials samples – timber, slate and stone
21. Detailed permanent surface water drainage management plan to be submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority

**INFORMATIVES**

1. Nesting birds legal reminder

2. Lighting Scheme.

With reference to the requirements of condition 9, prior to installation of any lighting on site the applicant/developer shall have demonstrated to the Local Planning Authority that the proposed lighting scheme shall comply with the lighting levels described in the Institute of Lighting professionals guidance: guidance notes for the reduction of obtrusive light, and be compliant with Environmental Zone 3.

3. With regard to the proposed changes to the Public Right of Way 18 that crosses the site, the County informs that the applicant will need to apply for a diversion order under s257 of the Town and Country Planning Act 1990, as amended by s257 of the Growth and Infrastructure Act 2013.
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## **Note**

This application has also been advertised as affecting the setting of a Listed Building, affect a public footpath and as a Major development proposal.

## **Consultations**

NB Full re-consultation was carried out following receipt of an amended layout indicating that the hedgebank along Derby Road, bordering the site would be retained, with the nearest dwellings to be located further into the site as a result. The following replies were received on the amended proposal:

- **County Highways Authority**

The Highway Authority notes the application is in outline form for 32 dwellings with access and appearance being Reserved Matters and therefore not being dealt with at this stage. The Highway Authority notes that the amended scheme has removed the unsafe footway and traffic calming from Derby Road, confirming that this does not form part of the application. There will be shared use of the bridge and its approach with anticipated low vehicle speeds along this stretch. On balance the Highways Authority does not wish to object on this matter. The application potentially seeks an adopted highway and to that end has provided an indicative internal site layout. The revised layout is considered acceptable, with potential for an adequate visibility splay at the junction, of 2.4 metres by 25 metres in each direction.

With regard to the proposed changes to Public Right of Way 18 in Kingsbridge, that crosses the site, the County informs that the applicant will need to apply for a diversion order under s257 of the Town and Country Planning Act 1990, as amended by s257 of the Growth and Infrastructure Act 2013.

- **Highways England**

No objection

- **Devon County Flood Risk Management Team**

Further to the information provided in respect to alternative attenuation design presented in *Supplementary Information – Drainage Strategy* (Revision dated 3rd February 2016) and Drawing No. 215-101-A, *Site Layout Surface Water Attenuation and Foul Details* (dated 27th January 2016), this addresses our concerns within our letter FRM/092/2015 dated the 21st of August 2015 therefore we have no objection to the proposed development. Request that a condition is appended to ensure that surface water drainage is dealt with satisfactorily.

- **Drainage Engineer**

Accord with the County comments and recommends the same condition as suggested by the County to control drainage issues.

- **Strategic Planning**

Support: With particular regard to the mix of housing, generally satisfied with the mix of sizes they are proposing, although the proliferation of detached dwellings is quite a way from what we have indicated would be acceptable (59% instead of approx. 39%). What could balance this, is that they are providing less 4-beds than we have indicated (25% instead of 30%) and are marginally overproviding on the 2 and 3 bed component of the

scheme. It is accepted that the topography of the site presents limitations on creating the perfect mix of dwellings to meet local need.

- **Environment Agency**

Did not comment on the re-consultation, but originally commented as follows: The majority of the site lies in Flood Zone 1 (lowest risk) but part of the lower area lies within Zone 3, with a high probability of flooding. The NPPF requires a Flood Risk Assessment to be provided in these circumstances and access and egress need to be part of consideration whether the site is safe from flooding. Routes in and out of the site should be practical and safe.

- **Environmental Health Section**

Satisfied that the development is acceptable from an Environmental Health point of view. Suggest the unsuspected contamination condition and the requirement for a construction management plan be attached to any permission.

- **SHDC Natural Environment and Recreation**

No objection with regard to landscape character & visual impact, protected landscapes (AONB), trees & hedges, ecology, open space & play, sports provision and public rights of way, subject to a Section 106 contribution of £380 per resident towards improvements to open space and play equipment at the Recreation Ground.

- **Council Ecologist**

All concerns raised in my August 2015 comment have now been satisfactorily addressed.

- **Council Landscape Officer**

With regard to the impact on the AONB landscape, it is acknowledged that the site is allocated for development. The character of the landscape will be broadly conserved under this proposal. The steep slope leaves the site relatively well contained visually and limits views in. From other directions the site will be read in conjunction with the town. The loss of trees can be mitigated for through further planting. Subject to appropriate conditions, no objection is raised.

- **Council Conservation Officer**

Less than substantial harm to the nearby Listed Building. I would ask that a belt of screen planting / copse be provided in the NE corner of the site closest to Buttville House and that this ensure all season screening. This will allow some minimisation of harm and protection of the immediate setting to the listed building. It may also overcome some of the amenity and overlooking issues which have been raised.

- **SHDC Environment Services**

No objections received.

- **Affordable Housing**

A viability case has been made as an integral part of this application. This has been assessed independently and has resulted in the proposal being able to offer no more than 4 units of affordable housing.

- **Devon County Council Education**

No reply to the re-consultation, but originally a financial contribution of £87,556.80 for use towards additional secondary school facilities was recommended. The number of dwellings proposed has not changed since then.

- **Historic England**

Did not respond to the re-consultation. Originally commented that there was no need for them to be consulted.

- **Devon and Cornwall Police**

Initial comments still apply, as follows:

The scheme is indicative and in coming to a finalised proposal, care should be taken to ensure that it meets full compliance with Secured by Design. The public footpath across the site lacks surveillance and is close to some side and rear boundary plots. This should be lit and as open to view as possible.

- **Natural England**

No response to re-consultation but originally replied stating no objection. Satisfied there is not likely to be an adverse effect on the Salcombe to Kingsbridge SSSI or estuaries. No assessment made of protected species. Suggests improvements to Green Infrastructure would be appropriate.

- **Kingsbridge Town Council**

Recommend approval with the following conditions:

Low level lighting to be installed on the pedestrian footpath through the recreation ground from Derby Road to Embankment Road and

The hedge bordering Derby Road to be retained

On seeing the revised Section 106 Heads of Terms, the Town Council have responded that they intent to call an extraordinary meeting to consider the changes and Members will be updated verbally at Planning Committee.

- **South Hams Society**

Did not reply to the re-consultation, but originally responded that the site is difficult due to Derby Road being narrow and the steep gradient of the hillside. Information is insufficient to show the feasibility of gradients on the hillside. It will be difficult to contain surface water run-off. In the absence of such detail, the applicants should be offered the opportunity to withdraw or have the application refused.

### **Responses from the public**

Letters of representation from 8 objectors were received, most of them in response to the original proposal. There were further replies as a result of re-consultation on the amended scheme, with the hedgerow retained. The letters cited the following concerns:

#### **Footpath –**

Lack of information on Public Right of Way details – how many steps and what will be the gradient?

The footpath would be changed from a country path to tarmac crossing the access road – its rural aspect should be retained

### **Ecology and Trees –**

The ecology report states that the requirement for a survey of Cirl Buntings would lead to the developers degrading the potential habitat on site to ensure that the results of such a survey would be negative

Ecology report is misleading

The road would have an impact on tree root protection zones

### **AONB –**

Major development in the AONB should be refused in accordance with the NPPF.

Loss of green space between the town centre and Waterside Park

The car parking would be outside the allocation, in the open countryside and AONB

### **Flood Risk and drainage –**

Severe flooding problems would be exacerbated by development of this site

Residents would be cut off in floods

No containment for run-off from site affecting the recreation ground and road

The sequential test is required to be carried out as the site is within a high flood risk area

### **Built form –**

Inappropriate density of development

Three storey houses inappropriate

Nearby residents would have a view of a housing site – aesthetic objection

### **Residential Amenity –**

Impact on privacy in back gardens and rooms

Noise, air and light pollution from traffic

Light pollution 24 hours a day from streetlights

The proposed balconies would give a view into and over Buttville House

Headlights on the internal road would be intrusive to occupants of Buttville House

### **Parking –**

Existing parking problems on Rack Park Road

### **Traffic and highway safety –**

Too much parking on local roads, especially during the construction period

Impact on pedestrian safety, particularly for children accessing the scout hut and recreation ground

Site entrance badly located

Up to 200 vehicles an hour use the road at peak times, in connection with rugby club

If Derby Road were to have street lighting, it would improve safety

Inadequate access to serve the development

Width of bends on internal layout too narrow for traffic

The application fails to improve the surrounding road network for all highway users

Roads not designed for the heavy traffic the development would generate such as dustcarts and fire engines

### **Affordable Housing –**

No affordable housing offered with this scheme

## **Plans –**

Lack of detail

Unclear intentions over the site's southern boundary

## **Impact on nearby Listed Building –**

The LB was designed to have an outlook over the surrounding open countryside

Views from the footpath of the LB would be lost, which is an important aspect of its setting

Overbearing impact on the LB due to the elevated position of the site, the scale and mass of the development

The Heritage Statement is inaccurate with regard to levels

## **Other matters –**

Lack of a designated access to inspect health of trees on site

Risk of increased home insurance due to the admitted (low) risk of landslides from site

Who has the liability for the effect of groundworks on the stability of land off site

The proposal would breach Human Rights, 1: the peaceful enjoyment of possessions and enjoyment of property; and 8: the right to a private and family life

## **The Proposal**

The application seeks outline planning permission for the erection of 32 dwellings, a new vehicular access and drainage. Details are included with the submission for all matters other than landscaping which is the only reserved matter and will require the submission of a subsequent Reserved Matters application, should this application be approved.

The development site lies to the east of Derby Road, which is a no through road that leads to Kingsbridge Rugby Club, east of the town centre. The site comprises a single field between Derby Road and the housing development consisting of bungalows, the rear gardens of which back onto the site.

There is employment land on the other side of Derby Road, forming a small industrial estate. There is also a veterinary surgeon's premises in this area.

The layout submitted with the application shows residential buildings enclosed by the hedgerow alongside Derby Road, the existing field boundary, which is shown as being retained on the amended plans. The residential development within the site would be linked to Derby Road via a footpath as well as the vehicular access. The road to serve the dwellings is proposed to wind up through the steep hillside of the site, which is the only way that it can be designed in order to reach each dwelling, given the gradient.

The site has a road frontage divided from the site by the hedgebank, which due to the relative gradients, leaves the lane at a significantly lower level than the site. There is a difference of approximately 30 metres between the highest level of the site and the lowest and a difference of 23 metres between the floor levels of the dwellings, as read from cross section C-C which runs from the top to the bottom of the site (Derby Road itself).

The application has been accompanied by the following:-

- Indicative layout drawing;
- Draft Heads of Terms, updated to take account of the independent viability report;
- Ecological Appraisal;
- Arboricultural report;

- Design and Access Statement;
- Transport Assessment;
- Archaeology report;
- Ground Conditions Report;
- Flood Risk Assessment and Drainage Strategy

The S106 Agreement sets out the following:-

- An on-site affordable housing contribution of 4 dwellings, adjusted after the viability of the scheme had been examined, being split 75% affordable rented and 25% intermediate/shared ownership. This has been subject to independent viability assessment.
- Long-term management and maintenance of hedges, trees, public open space and play areas;
- Measures to secure public access to all footpaths in perpetuity;
- Access requirements;
- Education contributions in a claw-back arrangement if land values allow a greater profit than originally allowed for;

It should be borne in mind that the site is very steep and therefore there will be abnormal costs involved in its development. Difficulties include a limit on the number of dwellings that can be built on the site and still being able to be accessed by a road that has to avoid too great a gradient; cut and fill levelling of the site and drainage attenuation measures derived from the topography. This will have a significant bearing on the capability of the site to provide what would normally be expected from a 'greenfield' site and will form a significant factor in the analysis below.

### **Site and Surroundings**

The site lies close to the northeastern edge of Kingsbridge, accessed from Derby Road off the main road towards Torcross. The land is within the South Devon Area of Outstanding Natural Beauty (AONB) and The Salcombe to Kingsbridge Estuary Site of Special Scientific Interest (SSSI) lies approximately 150 metres to the west of the site.

The site is situated on a steep hillside, a grassed field. The proposal site extends to approximately 1.6 hectares as declared on the application form and is part of the K4 allocation in the Local Development Framework Kingsbridge Site Allocations Development Plan Document. This allocation comprises a mixed use of residential and employment land, the latter would extend the Garden Mill industrial estate. This application is for residential use on part of this allocation, effectively leaving the employment land and the balance of the intended housing to the valley behind the industrial estate. The entirety of this site lies within the land allocated as proposal K4.

The land within the site slopes down steeply from east to west and the field is enclosed by hedgebanks /trees. These boundaries are a tree screen to the lane to the north, which is matched by a similar screen on the other side of the lane that leads to Kingsbridge Rugby Club; a hedgebank along the site's western boundary, which is now proposed to be retained; a less substantial hedgerow dividing the site from the housing at the top of the hill, at the end of the back gardens of which back onto the site. There is a steep, unmade public footpath that crosses the site, running up/downhill that would need to be diverted for the site to accommodate the proposed development. Next to this is a hedgerow that divides the two



fields of the site on a north-south axis. This footpath links the housing at the top of the hill with the town and more immediately the park at the bottom of the slope.

The residential development to the east of the site comprises bungalows, the rear gardens of which are marked by a hedgerow, on the site's side agricultural but on the other side largely featuring garden shrubs.

Beyond the northwestern corner of the site, across the lane, stands Buttville House, a detached property that is Grade II Listed.

Further away, in the valley, is a park that runs from the estuary up to Derby Road, but is separated from the scout site by a stream at the valley floor. The scout hut is single storey, with grassed terraced grounds, which abut the site.

All vehicular access to this site would have to cross a small bridge over this stream. The road leads up to Buttville House and the Rugby Club at present, serving no other properties beyond the bridge apart from part of the industrial estate. The stream itself feeds into the estuary about 100 metres south of the bridge. The site lies within Flood Zone 1 as defined on the Environment Agency Flood Zone map. It is noted that the site access and Derby Road fall within Flood Zone 3, however the site was allocated under K4 with full knowledge of the flood risk to Derby Road.

### **Planning History**

Following the allocation of the site within the LDF Kingsbridge Site Allocations DPD, a masterplanning exercise has been undertaken. This did not reach completion.

### **Planning Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Details of policies appear at the end of this report, of particular relevance however, are:

### **Adopted LDF Core Strategy – December 2006**

CS1 – Location of Development – confirms that development is acceptable in principle within settlements and lists many settlements and includes Kingsbridge identified as an Area centre.

CS2 – Housing Provision – To provide on sites to be proposed in the LDF 6000 new dwellings by 2016 including 200 dwellings to be allocated in the Area Centre of Kingsbridge. In accordance with than current government guidance, development should be advanced at the highest density compatible with the site, which will generally be up to 75 dwellings per hectare in built up areas.

CS6 – Affordable Housing – new residential development should provide affordable housing consistent with the overall strategic target of 50% from all sources and having appropriate regard to the identified local need; nature and scale of the location and the development proposed; characteristics of the site; and economics provision.

CS9 - Landscape and Historic Environment – The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced. In this instance, the historic component to this assessment concerns the setting of the Listed Building, Buttville House.

### **South Hams LDF Development Policies DPD – July 2010**

DP1: High Quality Design: All development will display high quality design which, in particular, respects and responds to the South Hams character in terms of its settlement and landscape.

DP2: Landscape Character: Development proposals will need to demonstrate how they conserve and/or enhance the South Hams landscape character, including coastal areas, estuaries, river valleys, undulating uplands and other landscapes.

DP3: Residential Amenity: Development will be permitted provided it does not have an unacceptable impact on the living conditions of occupiers of nearby properties. Unacceptable impacts will be judged against the level of amenity generally accepted within the locality and could result from loss of privacy and overlooking; overbearing and dominant impact; loss of daylight or sunlight; noise or disturbance; odours or fumes.

DP11: Housing Mix and Tenure: Residential developments will be permitted where they provide an appropriate mix of dwelling types, tenures and sizes, which should reflect the identified local need in South Hams demonstrated by the latest Housing Market Needs Assessment and other local evidence.

### **Adopted DPD: Affordable Housing – September 2008**

AH1 -- Affordable Housing Provision – all new housing schemes for two or more dwellings will be expected to contribute towards meeting the affordable housing needs of the District. The capacity of the site and the viability of the development, including the availability of any housing grant or other subsidy, will be assessed for the contribution each scheme should make. On-site provision will be expected for sites with the capacity for 6 dwellings or more. Planning permission will be subject to a planning condition or planning obligation to ensure that the affordable housing is provided and retained for eligible households.

AH2 – Allocated Sites - in order to address the scale of need, allocated sites are required to deliver as much affordable housing as is viable. In Area and Local Centres the target is 55%.

AH4 – Mix, Size, Type and Tenure – in its size and type, affordable housing shall reflect identified local needs to contribute towards attaining a balanced housing market. The strategic target for tenure split is 50% social rented and 50% intermediate affordable housing across the district (excluding the Sherford new community). The site specific split in each case will be determined with regard to local circumstances.

### **Kingsbridge Site Allocations DPD – February 2011**

Proposal K4: Garden Mill, Kingsbridge: Mixed use development proposed for beyond 2016 to include:-

About 50 dwellings;

Maintenance of about the existing number of jobs in the area

Cycle and footpath provision including enhanced access to the town centre; and

Provision of offices and workshops

Development of this area should accord with a Masterplan previously approved by the Council.

### **Adopted SPD: Planning Obligations – December 2008**

In view of the very high levels of need in South Hams, it is anticipated that affordable housing will normally be the first priority element of local community infrastructure. Unless it can be demonstrated that local circumstances require otherwise, the Council will normally allocate second priority to the provision of open space, sport, recreation, education and accessibility.

### **The National Planning Policy Framework**

*The presumption in favour of sustainable development.*

Para. 14. At the heart of the NPPF is a presumption in favour of sustainable development. Unless material considerations indicate otherwise, for decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole, or specific policies in the NPPF indicate development should be restricted, e.g. those policies relating to sites in AONB's.

*Conserving and enhancing the natural environment.*

Para. 112. LPA's should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of a higher quality.

Para. 132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through development within its setting. Substantial harm to designated heritage assets of the highest significance, including grade II\* listed buildings, should be wholly exceptional.

## **Analysis**

### **Planning Policy Context**

This application relates largely to land allocated by Proposal K4 "Garden Mill" in the Kingsbridge Site Allocations Development Plan Document (KSA DPD) for development beyond 2016. The allocation covers the application site as well as further land containing Garden Mill Industrial Estate, Buttville House and a stretch of farmland extending further than the dead end of Rack Park Road behind the industrial estate. The principle of development on this site and the remainder of the K4 allocation is therefore established and its progression is supported as it can make an important contribution towards the district's housing land supply. The remainder of the site will accordingly be expected to deliver a mixture of housing and employment as envisaged in the mixed use of the overall allocation.

The application site therefore includes one parcel of the land allocated in Proposal K4.

A masterplan relating to the application site was prepared in response to the then applicable "Masterplans and Development Briefs SPD, as part of an extensive community engagement process. However, the Masterplans and Development Briefs SPD was revoked following the Executive meeting of the Council on 18<sup>th</sup> July 2013.

The SA DPDs provide for flexibility on the precise site boundary definition in such cases.

It was also confirmed that the allocation of sites within the AONB means that there is insufficient scope for meeting development needs outside of the AONB. The proposal represents development of part of the allocation and not all of it, but this factor is determined by current land ownership. The small encroachment beyond the boundary of the allocated site is dictated by the requirement to get this site to deliver much needed housing.

An assessment of the application against the requirements of Proposal K4 is set out below:

- K4 proposes 50 dwellings on this site as well as the remainder of the allocation.
- This proposal for part of the K4 allocation includes no employment provision.
- Landscaping of the development is one of the matters reserved for consideration at the detailed application stage.
- The proposal would involve the required improvement to footpath links between housing development to the east of the site and the town centre

The application site is allocated for development. The National Planning Policy Framework (NPPF) advises that housing applications should be considered in the context of the presumption in favour of sustainable development. This is emphasised in the Ministerial Foreword to the NPPF which says that development that is sustainable should go ahead without delay and that this should be the basis for every decision. The NPPF retains the status of the Development Plan as the starting point for decision-making and the location of the site within the South Devon AONB is clearly a significant factor. However, given that this site is allocated for development in the Development Plan and taking into account the range of planning policy issues, it is considered that the proposed application is acceptable in principle from a policy point of view.

### **Sustainable Development**

The allocation within the KSA DPD of the majority of the application site for mixed use development demonstrates that this land has already been considered to be a sustainable location for development. The site is close to the town centre of Kingsbridge and the services and facilities contained therein. Indicative plans show the provision of cycle and footpath links.

### **Landscape Character and Visual Impact**

The application site constitutes the allocation site K4, which is within the South Devon AONB. It is a sensitive site requiring detailed scrutiny and careful attention to impacts on landscape character and the potential for adverse visual impact.

The K4 field has already been allocated and analysed through the DPD process as being acceptable, inter alia in general landscape terms. In this revised proposal the built development is more tightly contained within the site's boundaries due to the retention of the Derby Road hedgebank. The retained boundary hedging will help to contain the development, and relate to previous boundaries seen on historic maps.

### **Protected Landscapes**

The site is within the South Devon AONB and as such has the highest level of protection-equivalent to that within a National Park. The policy context is clear – and now twofold:-

1. The existing Core Strategy CS 9. This establishes the need to conserve and enhance within a context of social and economic benefit. The identified adverse impacts would be short term as they can be mitigated for through replacement planting and thickening of

existing planting. These are limited in extent and degree and a planning balance needs to be struck weighing these impacts in relation to social and economic benefit.

2. As potentially a “major” application the proposal will also need careful analysis in relation to NPPF paragraph 116, -

Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Careful analysis in relation to paragraph 115 in any event.

It should be noted that the conformity assessment between the adopted South Hams DPD and the NPPF didn't raise any unconformity in general terms and, given that the allocated K4 site lies within the AONB, it would be reasonable to conclude that it was either not considered to be “major development” for the purposes of the NPPF (a later consideration given that the NPPF was not published until 2012), or that the economic and social justification outweighed the site's location within the AONB. Additionally, bearing in mind the provisions of paragraph 115, that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty, harm was not identified.

The site is located within Devon Character Area (DCA) 49 – Salcombe to Kingsbridge Estuary; LCT 3A LDU868. Whilst the site clearly sits within the fringes of Kingsbridge with residential properties to the south and north, the landscape to the east is rural and forms an important setting to the town; the site lies within the South Devon AONB. The area is strongly characterised by the estuary, and flanked by pronounced, steep sided rounded hills with a clear visual and topographic association with the inland tidal waters.

The site rises steeply up the north facing valley slope. Its existing character is rough grassland and scrub, with a strong vegetated boundary. Of particular note is the rural character of the lane which extends around the site up to adjacent dwellings and local rugby club; this is a ‘no through road’. The site is also crossed by a steeply rising public footpath which links into adjacent paths beyond the urban boundary.

In consideration of the allocation, acknowledged proposed use and location on the immediate boundary of residential properties, the overall landscape character will be broadly conserved. As a result of the steep sloping topography, which makes delivery of the housing more challenging, the site is well contained visually, and will not significantly impact on the rural landscape to the east and south east. Views to and from the north are seen within the context of Kingsbridge. Discussions over retaining elements of the existing vegetation have resulted in what is considered to be a reasonable layout which retains the

character of the lower part of the site. The loss of trees along the upper, southern-east boundary will have an impact although this can be mitigated to an extent with replacement planting.

Due consideration has been given to the submitted management details and officers are satisfied the proposals does not adversely conflict with objectives.

Consideration shall subsequently be given to landscape planting, boundary treatments, impact on the public footpath, street and domestic lighting under Reserved Matters. No objection is raised to this outline proposal.

### **Trees and Hedges**

An Arboricultural Report (Harper Tree Consulting; dated 2014.05.02) has been carried out and submitted in support of the application. This report notes the majority of trees are categorised as Grade C (noting inclusion of groups) and the overall conclusion that the net arboricultural impact will be negligible. However, this report refers to the original plans and impacts. The schematic drawings have subsequently been revised which may result in additional tree retention or removal. Given this is an outline application final numbers will be considered under Reserved Matters. This has been considered by officers in the context of the site and report.

Overall the proposal is acceptable in terms of the proposed layout and whilst it is acknowledged that trees will be removed, there are opportunities for replanting which can be secured by the condition recommended above. Although consideration has been given to Arboricultural Method Statements and protection in the report, the recommendation is to seek details under Reserved Matters.

### **Ecology**

In relation to on-site ecology and protected species the application is supported by an Extended Phase 1 Habitat Survey, accompanied by a Supplementary Ecological Assessment from January 2016. This covers bats, Cirl Buntings, dormice and reptiles. No data search was undertaken originally with the local (Devon) Biodiversity Records Centre. Data search has now been completed with the DBRC and submitted alongside amended plans. Relevant findings have now been referenced within the SEA and this point has been addressed satisfactorily.

Para 3.5 of the original report acknowledges that tall hedgerow boundaries are likely to be used by bats for foraging and/or commuting. No further detailed bat activity survey has been undertaken to establish the type and level of bat use of such features. The SEA (3.2) now advises that there are no discernible opportunities for bat roosting and limited foraging/commuting potential over the field. 2.4 makes reference to *'boundaries (A-D) that currently present high quality bat foraging habitat (i.e. are likely to be used to a significant extent by bats for foraging/commuting).'* The SEA suggest that such *'use can reasonably be assumed and it is thus not necessary to demonstrate it through survey. Rather, sufficient mitigation should be incorporated into any scheme to ensure that any such use of the site by bats can continue both during the short and long term.'* The amended layout no longer involves removal of boundary hedgerow feature G4 – it is now proposed to retain and strengthen this boundary. One other boundary is still proposed to be removed, however the SEA notes that this boundary will be enhanced in the long term (replacing poor quality sycamore trees with a native hedgerow), and that the tall hedgerow on the far side of the lane (off site) will be retained throughout, maintaining its foraging potential. The

proposed mitigation includes a 'bat-sensitive' lighting scheme minimising/avoiding lighting boundaries, retention of hedgerows and new native hedgerow planting.

There was originally no mention of Cirl Buntings within the ecology survey, or assessment for the suitability of the site for the species. The site is relatively close to a record of breeding activity for Cirl Buntings however this is not discussed. The SEA now argues that the site, whilst offering some suitable Cirl bunting nesting habitat in hedgerow A/G4, has limited other appeal to the species (namely scrub or rough grassland). The SEA also argues that further afield (i.e. at least 250m from the site) surrounding fields are cattle-grazed improved pasture with well managed hedgerows which also have limited appeal to the species. The argument is considered to be reasonable – despite the site being within 2km of a recorded breeding habitat, the on-site and surrounding habitat has limited appeal to the species and is considered to be highly unlikely to support a breeding/foraging habitat.

A letter of representation has raised an objection regarding the ecologist's view that further surveys of cirl buntings should not be required as this would lead to the developers degrading the habitat to such an extent that it would no longer be a viable habitat, in order to ensure that the survey results would prove negative. This is considered to be a highly unusual stance to take. However, it is not directly at issue due to there being other habitats in the vicinity that would be suitable for cirl buntings, regardless of whether further surveys are carried out or not.

Suitability of the site for use by reptiles (albeit that this may be a recent occurrence due to site management practice) is acknowledged, however no further detailed reptile survey has been undertaken. Given the level of anticipated/proposed vegetation removal, this approach is considered contrary to Natural England Standing Advice for reptiles and general good practice. The site was however subjected to a full reptile survey during Sept/Oct 2015 with no reptiles being recorded. This point is now considered to have been addressed. Precautionary working methods will need to be incorporated into the LEMP given the variance in height of vegetation throughout the year.

Regarding the suitability of the hedgerows for use by dormice, this has been acknowledged however no detailed dormouse survey has been undertaken. This is based on an evidence search from the NBN which doesn't list local records of dormice and a perceived isolation of the site from significant suitable habitat. However as noted above, the ecology survey did not originally include a records search with the local Biodiversity Records Centre and was therefore not based on sound evidence. Given the proposed level of removal of hedgerow (i.e. entirety of G1 and G4) and potential suitability for dormice, the lack of detailed survey was considered to be contrary to Natural England Standing Advice for dormice and general good practice. The closest records of dormice held by the NBN are 4-5km away. A DBRC has now been completed which did not reveal any records of hazel dormice within at least 1km of the site. With no local records as evidenced by the DBRC search, and now with the retention of hedgerow A/G4 this point has been satisfactorily addressed.

Para 4.2 noted that native hedgerow is a BAP priority habitat (and NERC s.41 Habitat of Principle Importance) and accordingly warrants protection, retention and enhancement. This did not read across to the proposed site layouts which proposed the removal of entire boundary hedgerow features (G4 and G1). Removal of these significant areas of NERC s.41 Habitat of Principle Importance with no indication of proposed replanting, (although this is an outline application, given the level of loss of priority habitat, an indication of how

this would be compensated would be expected), this aspect was considered contrary to policy. Amendments to the plans since August 2015 indicate that G4 will be retained, and also indicate new hedgerow planting and reinforcement planting. Retention of planting in addition to new planting (maintenance of which will be secured via a LEMP) means that this point has been satisfactorily addressed.

As such, subject to conditions requiring a Landscape and Biodiversity Management and Maintenance Plan and a Lighting Strategy, an informative relating to timing of works to avoid nesting season and section 106 clauses securing the future management and maintenance of measures secured through the Landscape and Biodiversity Management and Maintenance Plan, the biodiversity of the site and surroundings would be conserved and enhanced and the proposed development would accord with the relevant LDF policies and national guidance.

### **Highway Matters**

The Highway Authority notes that the application is an outline application but with access being dealt with for consideration at this outline stage.

The Highway Authority, in response to the amended scheme, which indicates visibility splays, confirms that subject to a condition requiring a construction management plan, the Highway authority raises no objections.

With regard to parking provision, the amended layout shows that for each proposed dwelling there would be two off street (driveway) parking spaces. The housing proposed ranges from seven two bedroom units to eight four bedroom units, with the balance being three beds. The four bedroom dwellings are shown as have garages, providing an additional 8 parking spaces on the site for the larger dwellings. The four proposed affordable terraced dwellings would not have internal garages, as this would prevent them being taken on by the Registered Provider. All other terraced dwellings would have the option of an internal garage, along with five of the eleven 'eco-homes'. The outdoor parking provision for the site is therefore 64 spaces, with an option of internal garages for a further 22 dwellings. Even if the garages are not used for the garaging of vehicles, it is considered that an adequate level of parking is provided by this proposed layout.

### **Drainage**

The County Drainage Engineer has commented on the application and raises no objection. Appropriate conditions are recommended above to address drainage concerns.

The Council's Drainage Engineer has also commented on the application. No objections are made in principle to the scheme. However, various issues will need to be considered and addressed at Reserved Matters stage and these are subject to recommended conditions.

It is acknowledged that flooding has occurred around the head of the estuary in the centre of Kingsbridge in recent times and local residents' have concerns about the impact that the development site could have on flooding have been noted. Nevertheless, given that the application is seeking outline planning permission to establish the principle of development, and mindful of the resultant lack of objections from the Council's and County Drainage Engineers, the application is considered acceptable with regards to drainage, subject to the appropriate conditions.



## **Design**

The layout shows the proposed housing in small clusters, addressing the road which snakes through the site to avoid creating too harsh a gradient. At the end of the cul-de-sac, orientated towards the valley are eight detached houses, close to the top of the hill, facing the access road and a turning area. The longest stretch of road in the scheme then heads from southeast to northwest across the site. Uphill of this road are, in order, a three storey terrace of 7 houses; a group of five detached eco-houses featuring green roofs and another three storey terrace of 6 houses. The road then heads for the site access on a level gradient and between the two parts of the road, five further detached eco-houses are shown. The housing mix is shown on the layout as 13 two bedroom houses, 11 three beds and 8 four bedroom dwellings. This mix is broadly compatible with policy DP11

The proposed dwellings are shown as render and slate, except the eco-houses, which feature natural stone (samples of which are required by condition above) and timber cladding, under a sedum roof. The terraces, featuring narrow houses, would have a strong vertical emphasis. The detached houses at the top of the hill would have a more square emphasis, with wide plan forms and mostly square windows. The eco houses follow a similar pattern.

Roof spaces are mostly utilised to provide additional accommodation. The layout and detailing is considered to have had regard for the local vernacular and as a result is considered to respect local distinctiveness and largely fit in with the town.

With regard to access and usability of the site itself, the changes are as follows: The footpath that crosses the site would be better surfaced and realigned to allow for a less steep profile than at present, improving its function; access to the dwellings is largely step free and given the gradient of the access road, movement between houses on the site is considered to be relatively easy for cyclists and pedestrians. Parking will be in front of the dwellings or in garages at ground floor level of the principle elevations. For the terraced dwellings, the parking situation precludes front gardens and the rear gardens, while small, at least have a general southerly aspect and are of a useable size. It is noted that one two bedroomed dwelling has no rear garden. This will be stipulated in the Section 106 not to be one of the affordable dwellings. Accordingly, this end-terrace dwelling would represent an opportunity for a buyer on the open market who specifically does not want a garden.

There appears to be a potentially awkward relationship between the end two bedroom terraced house (type D1) and the 'eco house' to the rear of it (type B1). While from the layout, these two dwellings would appear to be close to each other, in terms of the residential amenity for future occupiers there would be no concerns. The rear elevation of the eco house is shown as blank and the only windows in the rear of the terraced house light non-habitable rooms – a bathroom and staircase. In terms of the design of the scheme, the principle elevations face the roads that serve them and the rear to rear relationship is not considered to represent a cramped appearance.

## **Affordable Housing**

### **Housing Need**

The Strategic Housing Market and Needs Assessment (SHMNA) indicates a need for approximately 336 new affordable homes across the district each year.

### **The Affordable Housing Proposal**

The level of affordable housing proposed amounts to 12.5%. This would equate to 4 terraced units as the proposal stands. In terms of tenure, the units will be provided as 70% rented and

30 % intermediate housing which is typically provided as shared ownership or through other models which are affordable relative to local incomes and local house prices. In this instance with four dwellings proposed to be provided, the split would be 3 rented (75%) and 1 shared ownership (25%). The affordable units will be provided as homes at the following sizes: two bedroom terraced dwellings.

Consideration of the affordable housing package has taken account of the balance of planning obligations being provided by the applicant and the abnormal costs of developing this steeply sloping site.

Officers consider that the affordable housing offer, while being realistic in terms of the viability of the development, would not make a significant contribution towards meeting the clear and identified need for affordable housing in the locality. Neither would it provide a mix of accommodation which responds directly to local need, because at such a low proportion of affordable housing the provision would not be able to provide enough types of dwellings to achieve this aim. However, the main consideration in this regard is that a lesser number of dwellings would result in fewer affordable units, if any at all. A greater number, with a different mix of dwelling sizes and types may be able to provide more. In either case, however, the viability of being able to develop this allocated site means that the desired number of affordable homes could not be delivered. Given the site constraints at the boundaries and beyond and the land take of the access road that necessarily has to reach each dwelling, it is considered that the only way that the site could deliver more affordable housing would be building flats instead of houses. While this would increase the density of development, it would provide a different character of development and potentially take up a greater proportion of the site's available area with parking. In this situation, the viability problems for developing the site would remain very similar and it is considered that the additional housing provided would have a limited impact on the proportion of affordable housing that could viably be made available. While far from optimal, therefore, the decision needs to be taken on the basis of the independently verified viability of providing this number of affordable dwellings, as a proportion of the viable development of the site as proposed. The offer, under these circumstances, is considered to be acceptable.

### **Historic Environment**

As required by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether or not to grant planning permission, special regard needs to be given to the desirability of preserving the setting of any listed building affected by the development.

In addition, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

*"..with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

This statutory obligation is further reinforced through Section 12 of the NPPF including paragraphs; 128, 129, 132, 133, & 134.

The Heritage Statement makes clear that there is little or no impact on Windsor Lodge or other heritage assets and this is accepted. The primary consideration is, therefore, the potential for harm to the setting of Buttville House. With this in mind, the Council's Conservation Officer assessed this proposal on site, looking at the interconnected views

between the application site and Buttville House and any more distant views of the designated heritage asset which may be of merit.

It is clear that this elegant early 19<sup>th</sup> century house was designed to have its primary aspect in a westerly direction towards the estuary. That is not to say that there are no views to the south or south west, but these do not form part of the designed orientation to such an extent. While the Conservation Officer has not been into the property, it is safe assumption that the first floor rooms in particular will have views of the proposed development. The setting as experienced by the owners will be harmed to some degree. Successive 20<sup>th</sup> century developments have diminished the quality of outlook from Buttville House to the extent that owners have created what is now quite mature screen planting. This has effectively screened the property in most distant views – the main ones are on the other side of the estuary in the vicinity of the leisure centre and car park. These views are of little significance and are essentially considered to be limited to roof and chimneys.

It is not accepted, as asserted in Heritage Statement, that impact is ‘negligible almost to the point of zero impact given.....topography, retained natural woodland screening and specific design measures....’. The likely effect on setting is considered to be that there will be some harm, but that this is in the ‘less than substantial’ category in NPPF terms. Having accepted that there is likely to be some harm, the question of mitigation comes into the assessment. The overgrown hedgerow specimens are not considered to represent ‘natural woodland screening’ as claimed. The corner of the development site closest to Buttville House would benefit considerably from supplementary planting, including suitable winter screening such as Holm oaks etc. It must be acknowledged that the listed building is in its optimum viable use, but for that to be sustained the quality of its immediate environment, amenity and protection from overlooking or light pollution are all considerations.

It is apparent, from the allocation of the land under K4, that the principle of the development in proximity to this Listed Building has been accepted by the Council and, as such, it is only to be considered whether any specific impacts from the layout and design of the proposed residential development would be so significantly harmful to warrant refusal of the application. The amendments to the scheme result in preserving the existing hedgerow that separates the site from Derby Road at its western extent, as well as the Listed Building. This degree of separation is considered an improvement to the originally submitted scheme and necessarily reduces the impact of the proposal on the heritage asset. This is also considered to help to assimilate the development into its wider semi-rural surroundings within the AONB.

Therefore, although there would be a change to the setting of the Listed Building, which currently faces the site as an undeveloped field, the retention of the green buffer would retain something close to the relationship between the heritage asset and the site. This is considered to be acceptable. The impacts on its setting are not considered significant enough to warrant refusal of the application as they would conserve the setting of the Listed Building, especially as the site is already allocated for development.

### **Impact on Residential Amenity of Existing Properties**

The site faces the industrial development of Garden Mill Industrial Estate, across Derby Road, as previously noted, a narrow lane. The nearest residential property, at the Derby Road side of the site is Buttville House, a Listed Building. In regard to the impact of the proposal on this property’s residential amenity, it is recognised that the retention of the Derby Road hedgebank ensures more screening of Buttville House than was the case with the original application. The revised layout shows a very marginal change to the position of the terrace nearest the Listed Building, moving this row further away. The objection letter

submitted on behalf of the occupiers of Buttville House acknowledges that there is a 34 metre distance between the nearest built form in the northwestern corner of the site and the Listed dwelling. The end elevation of the terrace is shown as blank and a condition recommended above would prevent the later insertion of windows in this elevation. At a distance from the end of the terrace of 24 metres to the edge of the site, with Buttville House set back across Derby Road, it is considered that there would be no resulting overbearing impact on the Listed Building's residential amenity and no loss of privacy, subject to compliance with the relevant condition. This assessment also makes allowance for the proposed dwelling standing on higher land than the Listed Building, the time of year and the fact that a balcony forms part of the design of the proposed dwellings.

At the Eastern edge of the site, the closest residential properties would be those bungalows at the end of three culs-de-sac that extend up to the site's boundary: Barton Close, Hillside Drive and Fairfield Close. This boundary of the site is marked by a mature hedgerow which provides good separation. The proposed dwellings would meet the existing in a back garden to back garden relationship with a minimum wall to wall distance of 16 metres between the proposed and the existing. Given the low relative height of the bungalows, the slope of the hill with the bungalows on higher land and the proposed development stopping short of the boundary, it is considered that the proposal would not result in loss of privacy or loss of daylight for either the bungalows or future occupiers of the residential development. This is even taking into account that the nearest dwellings on this side of the site would be three storeys tall.

The impact of the proposal on the amenity enjoyed by occupiers of surrounding and adjoining properties is not considered harmful. While it is accepted that development of the site will impact on surrounding properties by way of view, this is not an overriding material reason to refuse the application.

Therefore, the impacts on neighbours from the development are considered acceptable. Other concerns expressed by neighbours regarding traffic, landscape/AONB impact, drainage and affordable housing are addressed within the relevant sections of this report.

### **Open Space, Sport Recreation**

The indicative plan does not show how a type of layout for play and parks could be achieved. Policy DP8 requires the provision of either on site or off site support for two or more dwellings. The context for this is further explored in the Council's Public Space Strategy, SPD on Open Space Sport and Recreation and the Infrastructure Delivery Plan contained within the Kingsbridge Site Allocation Development Plan Documentation itself.

There is a basis for seeking a financial contribution towards the increase or improvement of sports facilities in the Recreation Ground, Kingsbridge. The draft Section 106 includes a clause that uses a formula in accordance with the SPD on Open Space Sport and Recreation. This requires the precise financial contribution to be calculated, based on the final number of houses being provided, the anticipated occupier rates and the level of financial contribution for outdoor sport. Although the contribution sought is £380 per resident, it is considered that in this case, since the viability of the proposal has been tested, this contribution cannot be justified to the extent that affordable housing and education can. As a result, with recreational facilities in place and equipped to a reasonable extent at present, this contribution is not being pursued, in favour of securing the maximum number of affordable dwellings.

## **Public Rights of Way**

The site impacts on a Public Footpath (No. 18, Kingsbridge). Footpath No. 18 runs east-west, linking the previous residential development at the top of the hill with the town centre, via Derby Road and/or Waterside Park. There would appear to be a need for a minor diversion under the T&CP Act and this has been recognised by the applicant. It is noted that there has been no objection raised by Devon County Council in regard to this aspect of the proposal.

## **Education**

Devon County Council Education has provided a consultation response requesting £87,556.80 towards secondary school places. A sum towards this is included in the S106 Agreement, but in view of the intention to achieve the highest number of units of affordable housing, only a claw-back provision will contribute towards education.

## **Planning Contributions**

As set out in the paragraphs above, the planning contributions do not meet policy requirements, in terms of open space and recreation, education and the level of affordable housing. The offer has been considered by the Affordable Housing Team which considers that the offer represents the most that the site is able to yield while remaining viable. For the reasons given above, an open space contribution is not being sought and the requested education contribution would only be met in part or entirely through a claw-back clause in the Section 106 Agreement, in case the site generates additional profit above what was anticipated in the independent assessment.

## **Conclusion**

The application seeks outline planning permission, with the only detailed matter to be considered after the determination of this application being landscaping. The application site lies within the Land Allocation K4 and given the status of the site, the main consideration of this application is whether this scheme accords with policy in specific terms.

It is considered that the proposed development would deliver an acceptable level of housing at the site without unacceptable impact on the character and appearance of the AONB.

Whilst the layout demonstrates how housing, open space, play provision and cycle and footpaths would be accommodated upon the land, it includes green buffers to surrounding housing. The details of the landscaping will be subject to a separate Reserved Matters application to be considered on its merits, but at this stage, with the layout determined, approval would ensure that such buffers are established as part of the subsequent Reserved Matters scheme. This aids the development to assimilate itself into the semi-rural surroundings within the AONB.

No overriding technical objections have been raised to the application.

With regard to the objections raised in the letters of representation, the main areas of concern relate to possible highway and pedestrian danger, harm to the landscape/AONB, harm to residential amenity, lack of justification for the enlargement of the allocated site, flooding danger from surface water run-off, impact on the nearby Listed Building, lack of detail on the plans and that there is no affordable housing provision. The majority of these issues have been addressed above.

The application is recommended for approval, subject to conditions and a S106 Agreement.

*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**

### ***National Planning Policy Framework***

In particular paragraphs 1, 7, 8, 9, 11, 14, 17, 18, 19, 47, 49, 55, 112, 115, 116, 118, 128, 129, 132, 133, 134, 196 and 197

### ***South Hams LDF Core Strategy***

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

### ***Development Policies DPD***

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

DP11 Housing mix and Tenure

### ***Kingsbridge Site Allocations DPD – February 2011***

Proposal K4: Garden Mill, Kingsbridge

### ***South Hams Local Plan (please delete as necessary)***

SHDC 1 Development Boundaries

Planning Obligations SPD, adopted December 2008

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

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