

PLANNING APPLICATION REPORT

Case Officer: Matt Jones

Parish: Hatherleigh **Ward:** Hatherleigh

Application No: 1635/18/OPA

Agent/Applicant:

Mr I Little
Exbourne Planning Services
Fenlea
Exbourne
Okehampton
EX20 3QS

Applicant:

Mr Paul Flowers
Biddicombe
31 Park Road
Devon
EX20 3JS

Site Address: Biddicombe, Park Road, Hatherleigh, Devon, EX20 3JS

Development: Outline application (with all matters reserved) for erection of 2no. dwellings

Reason taken to Development Management Committee:

Cllr McInnes and Councillor Kimble have requested that this be determined by West Devon Development Management Committee due to third party concerns with regard to the visual impact within the street scene



Recommendation: Delegate to CoP Lead Development Management, in conjunction with Chairman to conditionally grant planning permission, subject to a Section 106 legal obligation

Conditions

Time (reserved matters)
Submission of reserved matters
Accords with plans
Materials samples prior to installation
No dwelling to be occupied until highway, footway and associated infrastructure has been laid out
Pre commencement – detailed design of surface and foul water management system to be agreed
Removal of PD rights
Unsuspected contamination
Landscape and Ecology Management Plan to be agreed
Accord with recommendations of ecological report
Construction Environment Management Plan prior to commencement

Planning Obligations

- 5k towards exploration of the extension of the 30mph speed limit

Key issues for consideration:

The main issues are the principle of development, access, parking and highways safety, any impact upon neighbouring properties, ecology, visual impact, the impact upon the nearby Conservation Area and drainage

Site Description:

The application site is the southern section of an agricultural field immediately adjacent to the settlement of Hatherleigh. It slopes downwards from north to south where it is separated from the below highway by a significant hedgebank along its south border. Immediately to the west is the property no.31 Park Road and its curtilage. To the south, on the other side of the road, are a pair of semi-detached two storey properties set into the hillside. To the east is the bungalow dwelling 'Daisies' and its curtilage, and to the north is the remaining part of the field. The site is served by an existing vehicular field access at its bottom west corner.

There is a strong line of residential properties on the north side of Park Road, which has slowly developed eastward from the historic core of the town. Although there are properties on the south side of Park Road it is noticeably less developed.

The site is within designated countryside but the Hatherleigh Settlement Boundary is to the south and the west of the site, which also forms the boundary of the Hatherleigh Conservation Area. The site is not considered to be within the setting of any individually listed buildings.

The Proposal:

Outline consent with all matters reserved is sought for the erection of two dwellings. The scheme has been formally readvertised within its lifetime due to the submission of an ecological survey and associated updated vehicular access plans and indicative site levels.

The indicative plans show two dwellings sat in general conformance to the existing building line, both accessed from the modified field access each with specific on site parking and turning areas.

Consultations:

- County Highways Authority

No objection subject to condition and S106 obligation

Original response:

'The application is submitted in outline with all matters reserved. The plans showing the internal layout and visibility are therefore illustrative only. This being the case, the highway authority are satisfied that suitable visibility splays can be provided over land within the applicant's control, in spite of the fact that the splays (2.4 metres by 43 metres in both directions) have been not been drawn entirely correctly on one of the plans. The provision of suitable visibility splays to the east will have an effect on the hedgerow on the site boundary.

It is also recommended that the 30 m.p.h. could usefully be extended out of the village as a result of this additional residential development and it is therefore recommended that the applicant make a contribution to investigate alteration and for its imposition, if approved.'

Additional response relating to new plans showing indicative visibility splay:

'The sight line should strictly be taken to the same side of the road, but I accept that in this particular circumstance I would be prepared to accept it to the centre line. That being the case, the sight line you have shown is acceptable from a highway safety point of view and I have copied this to Matt for his information too'

- WDBC Drainage

No objection – standing advice

- WDBC Biodiversity

No objection – *'2 new dwellings would require removal of a short section of hedgerow (<5m). Accordingly an ecology report has been submitted with the application (Penpont Ecology, July 2018).*

The hedgerow borders a semi-improved grassland field on the eastern edge of Hatherleigh. The hedgerow is species-rich and qualifies as BAP habitat. It is likely that this length of hedgerow is used by a variety of bat species as part of a larger foraging and commuting network of habitat.

The removal of such a length of hedgerow would not have a significant effect protected species, subject to adherence to the mitigation measures detailed within the report. Given the quality of the hedgerow, material should be reused, and new species-rich hedgerow should also be planted on site at a ratio 2m for every 1m lost – I note a new hedgerow is proposed along the northern boundary. Details of this will be required, however subject to detail it would be reasonable to expect the proposal to lead to a net gain in biodiversity (as required by policy).

I would also expect at Reserved Matters any new dwellings to take account of a general principle of avoiding light spillage upon boundary hedgerows.

I note a record from a member of the public has been submitted showing bat records from a survey they have undertaken with a bat detector. Whilst there are no specific details as to the location the survey was undertaken (and the survey cannot be relied upon in the way a properly conducted survey can be undertaken in accordance with professional guidance), nonetheless the species assemblage is fairly typical for what might be expected along some of Devon hedgerows. It does not have any effect on the conclusions drawn in the ecology report.

Recommended conditions:

- *Adherence to measures in Section 7 of the Hedgerow Assessment (Penpont Ecology, July 2018).*
- *Details of proposed species-rich hedgerow on the northern boundary.'*

- Hatherleigh Town Council

Support – *'The Town Council support the application but would make the following comments:-*

- a) we would like to see a condition should the matter be approved as follows " with regard to the removal of a stretch of an historic hedge, there should be an archaeological watching brief in place.*
- b) can you please confirm to the council that the term "infill" is relevant to this application*
- c) should the application be approved, will adequate access to the field behind the application site be left? Please confirm to the council.'*

Representations:

32 letters of representation have been received at the time of writing this report, 18 letters objecting to the proposal and 14 letters in support. Concerns raised within the letters of objection are summarised as follows:

- Will remove the field and have a harmful visual impact
- The field is so steep that development will be intrusive and require significant engineering
- The proposed access is not safe
- The scheme is not an 'in fill'
- Bungalows will not meet a need for elderly people as the site is so steep
- May lead to obtrusive street lighting
- Will result in the loss of green open space
- Modern housing here is not compatible with the historic housing along Park Road
- Will lead to access and maintenance issues
- Development of the field will be harmful to ecology
- Removal of the hedgerow will be harmful to ecology
- The submitted ecological survey and report is inaccurate
- Will harm neighbour amenity through light reflection
- There is a watercourse which may be damaged
- There is no need for additional housing in Hatherleigh
- There is no need when considered against other major residential development elsewhere
- Will lead to loss of private views
- There doesn't appear to be access retained to the remaining area of field
- Conflicts with the Council's Development Boundary policies
- Will set a precedent for development on greenfield land
- The TPO application on neighbouring land should not have been approved
- A Yew Tree was felled on adjacent land without the necessary consent
- Will be harmful to the Conservation Area
- The construction phase could harm and remove additional hedgerow
- Could lead to offsite drainage issues

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

- Reads as an infill within the streetscene
- Design is acceptable and well considered
- Will not harm neighbour amenity
- Will not have a harmful visual impact
- Meets a housing need

- There is a need for bungalows within the village
- Other developments elsewhere wont provide bungalows
- Accords with the emerging Neighbourhood Plan
- The field is not suitable for harvesting and grazing will be retained
- Is a sustainable location with regard to access to services

Relevant Planning History

None identified

Analysis

Principle of Development/Sustainability:

The application site is outside of the Hatherleigh Settlement Boundary leading the scheme to be in conflict with the Council's policies SP5 and H31 in this regard. However, these policies predate both the publication of the original Framework and its latest iteration, and this is combined with the current failure of the Council to demonstrate a policy compliant five year land supply of residential sites.

As such, the weight to be attributed to this policy conflict is diminished. Instead of relying upon these policies in principle, the Council must undertake a site specific appraisal of the merits of the scheme against the presumption in favour of sustainable development enshrined within the Framework, and must only refuse consent if the adverse impacts of the development 'significantly and demonstrably' outweigh the benefits.

Hatherleigh is allocated within the Development Plan as a local centre, and a sustainable location for further growth. This status is repeated within the emerging Joint Local Plan. With regard to access to services, the application site is adjacent to the town boundary and is considered by officers to be within sensible walking distance to the various services within the town. Although the area around the site is devoid of footpaths, this is a common characteristic along Park Road shared by the many properties there.

Overall, officers are satisfied that this is a sustainable location with regard to access to services and sustainable transport options.

Design/Landscape:

The most important views of the site are from the highway immediately around the site and to the south west from the elevated position of the Jubilee Footpath. When viewed from the footpath the application site presents as an attractive undeveloped space on the periphery of the settlement.

The proposed development will link between the two existing dwellings on either side, and the verdant and open appearance of the remaining northern section of the field will be retained. Looking from the footpath to the neighbour to the east, Daisies, and considering its landscaping and low profile, officers would envisage that a similarly low profile set of dwellings would be necessary here, to ensure that the buildings can sit successfully within the streetscene.

Overall, officers consider the loss of the greenfield land to constitute limited environmental harm, mitigated in part by the retention of the undeveloped northern section of the field, and through the potential for the dwellings to assimilate into the built environment by maintaining the linear growth pattern of the settlement along Park Road.

Another positive feature of the existing site when entering or leaving the town is the roadside hedgerow, which is an attractive and imposing feature. It provides a good contrast to the heavily engineered visibility splay immediately to the south, which is incongruous in comparison. Subsequently officers have identified that the majority of the roadside boundary should be retained within the scheme.

The applicant engaged in discussion with the highways authority and has arrived at a revised, indicative access plan which identifies that 5m of the hedgerow has to be removed to provide a site access which is safe in highways terms. Officers are satisfied that this proportionately minimal removal of hedgerow will maintain its integrity and its contribution to the street scene as an attractive and enclosing feature.

The term 'infill' is not legally defined. In this case the property is surrounded on three sides by residential development and reads as a gap in the linear development of the streetscene. It is logically an infill development.

However, regardless of any semantical debate about the relevance of the legally undefined term 'infill' one must make an assessment of the visual impact of the proposal against the relevant local and national planning policy.

Highways/Access:

The original highways response, noting that all matters are reserved, identified that a safe vehicular access could be achieved across the site frontage. However, officers note that achieving a viable and safe vehicular access could itself lead to the destruction of the hedgerow or its significant modification in a way which would be unacceptable in terms of character and the streetscene.

The applicant has therefore engaged directly with the highways authority leading to the submission of a revised access proposal. The highways officer maintains no objection to the scheme and has stated in his latest response that *'The sight line should strictly be taken to the same side of the road, but I accept that in this particular circumstance I would be prepared to accept it to the centre line. That being the case, the sight line you have shown is acceptable from a highway safety point of view and I have copied this to Matt for his information too'*

Officers therefore conclude that the applicant has identified that a safe access can be provided which also retains the character and integrity of the hedgerow as a positive feature.

Neighbour Amenity:

The existing hedging between the site and the neighbours to the east and west, with the ability to augment planting within the landscape scheme, will ensure that the neighbour relationships between these sites will be acceptable.

With regard to the properties to the south, their outlook is currently towards an undeveloped field, and this would change in the event that the site becomes developed. However, the properties would be at a sufficient distance well in excess of 30m, which will ensure no unacceptable overlooking. The proposed properties are due north, leading to no direct loss of sunlight. Although the third parties have raised concern regarding light reflection from windows or glare from panels. These potential impacts are typical within suburban locations such as this and are not in themselves considered to constitute material harm which would justify the refusal of a planning application.

Overall, the scheme is not considered to render an unacceptable impact upon the amenity of neighbouring properties.

Conservation Area

Hatherleigh is a sensitive settlement from a heritage perspective, and this is reflected by the size of its Conservation Area, which extends from the historic centre of the town along Park Road and ends adjacent to the application site. When one leaves the centre of Hatherleigh and travels along Park Road one can perceive the gradual growth and progression of the settlement, as broadly the age and architecture of the buildings becomes increasingly modern. Daisies and the semidetached properties to the south are modern properties in contrast to the historic environment further west, and themselves are part of the gradual progression of the settlement.

Within this context, modern properties within the application site will read as a continuation of the historic growth and logical progression of the settlement eastwards along Park Road. For this reason, officers consider that the scheme will preserve the setting, character and appearance of the Hatherleigh Conservation Area.

Ecology/Biodiversity

The partial alteration and removal of hedgebank necessitated the submission of an ecological report. This has now been submitted and has been carefully considered by the Council's ecologist, who agrees with its findings and is not objecting, subject to appropriate planning conditions. The Council's ecologist has identified that there will be a net habitat increase as a result of the development. He has stated that:

"2 new dwellings would require removal of a short section of hedgerow (<5m). Accordingly an ecology report has been submitted with the application (Penpont Ecology, July 2018).

The hedgerow borders a semi-improved grassland field on the eastern edge of Hatherleigh. The hedgerow is species-rich and qualifies as BAP habitat. It is likely that this length of hedgerow is used by a variety of bat species as part of a larger foraging and commuting network of habitat.

The removal of such a length of hedgerow would not have a significant effect protected species, subject to adherence to the mitigation measures detailed within the report. Given the quality of the hedgerow, material should be reused, and new species-rich hedgerow should also be planted on site at a ratio 2m for every 1m lost – I note a new hedgerow is proposed along the northern boundary. Details of this will be required, however subject to detail it would be reasonable to expect the proposal to lead to a net gain in biodiversity (as required by policy).

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Other Matters:

Although officers note public support for specifically bungalows within the site and the level and accessible accommodation they can generally provide, officers also note other comments made in objection which question the accessibility of bungalows here due to the steep relief of the land. Although it is the opinion of officers that bungalows would be necessary to achieve a policy compliant development in aesthetic terms, the specific social benefit of bungalows has only been given limited weight in this assessment; the provision of two dwellings in a Borough with an evidenced undersupply is in itself a social benefit.

Officers are satisfied that foul and surface water drainage specifications can be secured by way of planning condition.

Officers acknowledge comments made by third parties regarding the security of the hedgerow during any construction phase with vehicles potentially accessing the site, and are recommending a CEMP condition to resolve this potential issue.

The application to carry out works to the yew tree on adjacent land was assessed on its own merits entirely separate to development considerations within this site. Officers are satisfied that works have been carried out with the requisite consent in place.

With regard to a precedent being set, each case is assessed on its own merits. Officers note comments made regarding the lack of access to the remaining field but are satisfied that vehicular access can be secured at the reserved matters stage. Any works to a watercourse would require the consent of Devon County Council. The loss of private views is not a material planning consideration. Likewise, any need for maintenance or access of hedgerows is a civil matter between the parties.

Hatherleigh has a community plan, but this has not currently been transferred into an emerging Neighbourhood Plan for the area.

Conclusion

The existing site, when viewed from the Jubilee Footpath, provides a positive contribution to the area as an undeveloped space. Its residential development constitutes minor environmental harm which is limited by the retention of its northern section and the assimilation of the proposed dwellings into the prevailing linear pattern of development across Park Road. The strong field boundary at the highway is largely retained. Officers therefore consider the development to present limited environmental harm in this regard.

However, there is a net increase in habitat as a result of the development which is a limited environmental benefit. The provision of two dwellings in a sustainable location and within the context of no five year supply is a social benefit which provides moderate weight. The additional housing will provide a limited economic benefit through the increased use of services within the town.

Overall, and pursuant to the presumption in favour of sustainable development, the limited adverse impacts of the development do not significantly or demonstrably outweigh its benefits. The scheme is therefore sustainable development and it is recommended for approval subject to appropriate planning conditions and a S106 agreement.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 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
SP8 – Inclusive Communities
SP9 – Meeting Housing Needs
SP17 – Landscape Character
SP18 – The Heritage and Historical Character of West Devon
SP19 – Biodiversity
SP20 – Promoting High Quality Design

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

BE13 – Landscaping and Boundary Treatment

H31 – Residential Development in the Countryside

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

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area

DEV9 Accessible housing

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV22 Development affecting the historic environment

DEV24 Landscape character

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV30 Trees, woodlands and hedgerows

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. In the case of any matter reserved by this permission, application for approval of any reserved matter shall be made not later than the expiration of three years beginning with the date of the grant of outline planning permission. The development to which this permission relates shall be begun not later than whichever is the later of the following dates:

- (i) the expiration of three years from the date of the grant of outline planning permission; or
- (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

2. The development hereby permitted shall be carried out in accordance with detailed drawings which shall previously have been submitted to and approved in writing by the Local Planning Authority. These detailed drawings shall show the following:

- (a) the design and external appearance of the proposed buildings;
- (b) their siting;
- (c) existing and proposed site levels together with proposed slab levels and retaining walls;
- (d) the materials for their construction
- (e) the arrangements for the disposal of foul and surface water;
- (f) the areas for parking and turning of vehicles in accordance with the Devon County Council's parking standards;
- (h) all other works including walls, retaining walls, fences, means of enclosure and screening.
- (j) the design, layout, levels, gradients, materials, drainage, lighting and method of construction of all new external areas

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 approved plans

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. Prior to installation, samples of the materials to be used in the construction of the external surfaces, including roofs, shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To enable the Local Planning Authority to consider the details of the materials.

5. No part of the development hereby approved shall be brought into its intended use until the improved access, parking facilities, visibility splays, turning area, parking spaces and garages / hardstanding, access drive 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

6. Prior to the commencement of development, details of a scheme for the provision of surface water management shall have first been submitted to and agreed in writing by the Local Planning Authority. The development shall take place strictly in accordance with these details and maintained in perpetuity thereafter unless the Local Planning Authority gives written permission to any variation.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement, improvement or other alteration to the dwellings or provision of buildings, structures or enclosures within its curtilage, that fall within the terms of Schedule 2, Part 1, Classes A, B, C, D, & E of that Order.

Reason: To provide the LPA control over development which may prejudice the design quality of the development

8. 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 investigation and risk assessment and, where necessary, a 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.

9. No development shall take place until there has been submitted to and approved by the Local Planning Authority a Landscape Ecological Mitigation and Enhancement Strategy incorporating recommendations of the PEA. It shall include indications of all existing trees and hedgerows on the site and details of any to be retained, together with measures for their protection in the course of development, details of the location and finish of all new areas of hardstanding, details of new terracing and the form and finish of retaining walls, a lighting plan showing avoidance of illumination of boundaries and details, including the species, height, location and density of the new hedgerow to be installed along the north boundary.

All planting, seeding, turfing or hardsurfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: To ensure the provision of an appropriate landscaping scheme in the interests of the visual amenities of the locality and to assimilate the development into its surroundings.

10. Notwithstanding the details set out on the submitted drawings, the development hereby permitted shall be carried out in accordance with the comments and recommendation set out in the Bat Survey dated from .Penpoint Ecology including Section 7 of the Hedgerow Assessment.

Reason: In the interest of biodiversity

11. No development shall start until a Method of Construction Statement, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) programme of works (including measures for traffic management) has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.

Reason: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents