

PLANNING APPLICATION REPORT

Case Officer: Graham Smith
Thurlestone

Parish: West Alvington **Ward:** Salcombe and

Application No: 3503/21/ARM

Agent/Applicant:

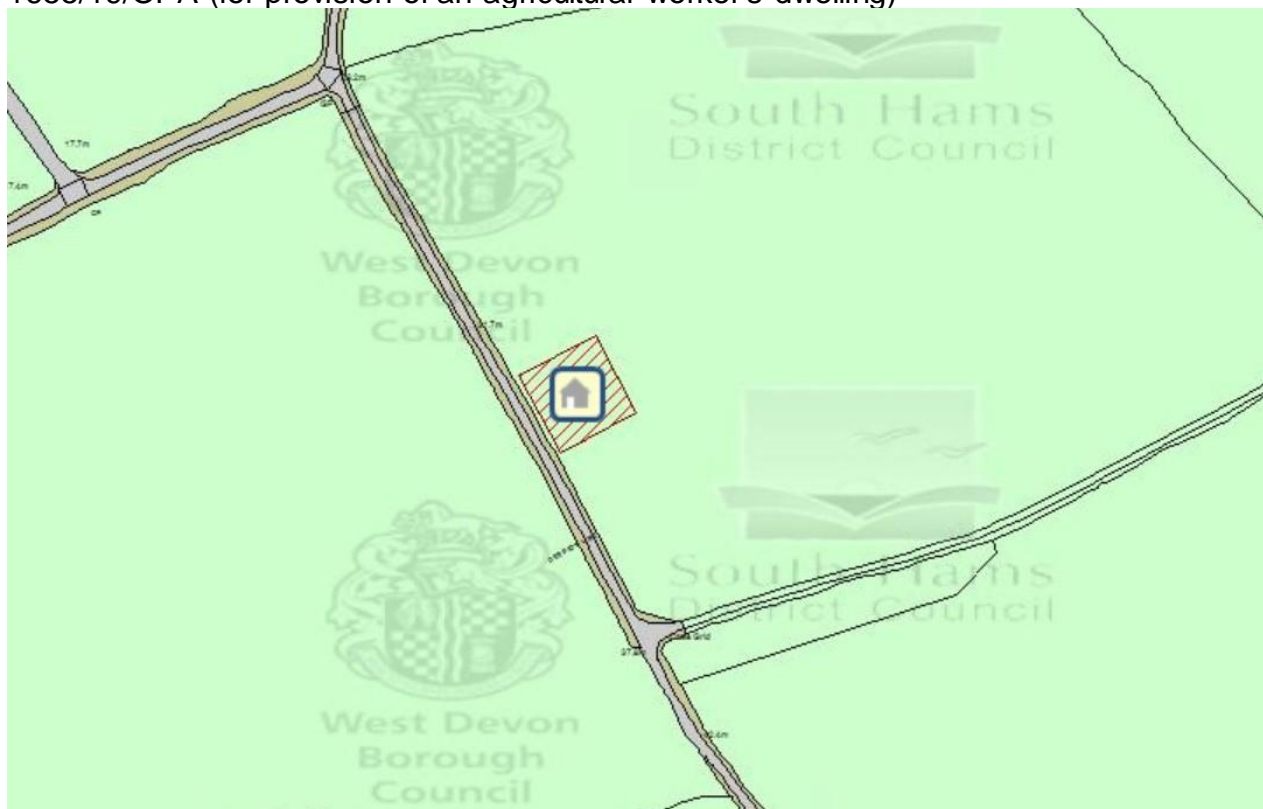
Andrew Lethbridge Associates
102 Fore Street
Kingsbridge
TQ7 1AW

Applicant:

Mr & Mrs Horton
C/O Agent

Site Address: Gerston Gate Barn, Gerston Lane, West Alvington

Development: Application for approval of reserved matters following outline approval 1655/19/OPA (for provision of an agricultural worker's dwelling)



Reason item is being put before Committee – called in by Cllr Mark Long for the following reason:

I would want this application to go before the Development Management Committee for consideration and review given the question on the size of an Agricultural/Rural workers dwelling development and the views on landscape and visual impact, also related policy questions.

Recommendation: Refuse for the following reasons:

1. The size and scale of the dwelling would be excessive given its purpose to provide accommodation for a rural worker in perpetuity. It is not considered that such a large dwellinghouse is commensurate with the needs of the business, nor is it considered that the average rural worker would be in a financial position to afford such property. On this basis the development does not serve an essential need and is therefore contrary to SPT1, SPT2 and TTV26 of the JLP
2. The development would result in an incongruous addition at a prominent and protected part of the landscape and would fail to conserve or enhance the character and setting of this countryside location thereby failing to comply with adopted policies DEV20, DEV23, DEV24 and DEV25 of the JLP and paragraphs 130 (c) and 176 of NPPF.

Key issues for consideration:

Principle/Sustainability, Design/Landscape, Residential Amenity, Access/Parking Drainage, Ecology, Carbon Reduction

Site Description:

Square shaped area of agricultural land of some 0.1ha with topography sloping downwards gently from access on Gerston Lane. The site, which benefits from outline approval for a dwellinghouse, is approximately 1km south west of Kingsbidge and is part of a larger land holding with established livestock/agricultural business. The site has some established agricultural buildings (linked to the applicant's enterprise) to the northwest and is surrounded by open fields on all other sides.

The site has uninterrupted views of Kingsbridge Estuary and is in an elevated position and within the Undeveloped Coast, the South Devon AONB and SSI Impact Risk Zone.

The Proposal:

Permission is sought for the detailed design of a four bedroom dwellinghouse approved (in outline) under permission reference 1655/19/OPA. The proposal would be two storey with an H-shaped footprint and double garage. The dwelling would have four bedrooms on the upper floor and kitchen, dining and living area with snug and utility room and farm office on the ground floor. The double garage would be located in the front garden area. The gross internal floor area would be 285 m² of which residential space is 253 m².

Consultations:

- County Highways Authority

No objections

- Landscaping

The landscaping scheme submitted is broadly acceptable however suggestions are made to improve it and more details are sought in respect to hard and soft landscaping and external lighting to consider further how this will be implemented, maintained and managed.

- Town/Parish Council

Supportive of the development subject to the property having the requisite agricultural tie in perpetuity restricting occupancy to farm worker.

- Agricultural Consultant

The dwelling is considered to be too large to meet the functional needs of the farm business, taking into account that this will have an agricultural occupancy condition so the property must be affordable for farm workers to purchase. It has also not been demonstrated that the business can afford to build the dwelling while leaving the business viable. Further details are requested with regards to why the applicant considers the size to be commensurate to the functional need and farm accounts over the past 3 years are requested along with build cost estimates in order to consider the impact further.

The consultant refers to some recent appeal decisions which he considers to be of relevance in the assessment of this case:

- i. APP/L3245/W/21/3276073 – appeal allowed to permit dwellinghouse for agricultural worker of some 208 sqm gross internal floorspace (178 sqm gross residential space)
- ii. APP/H3320/W/18/321540 – appeal dismissed as it was not sufficiently demonstrated in financial terms that the business could afford to sustain the construction of a dwelling and remain a viable operation.
- iii. APP/G6935/A/21/3272925 (Wales) – appeal allowed following detailed consideration of business projections, factoring in construction costs. The reporter concluded that sufficient justification had been submitted to prove financial viability.

Representations:

Representations from Residents

12 online comments were received in support of the application, from local residents, the applicant and visitors to the farm with comments summarised as follows:

- The need for the house has already been established as acceptable
- The proposal is well considered and proportionate
- The proposals shows sensitivity to the local environment (eg. Low level lighting)
- The size and scale is described as commensurate to the business needs, modest, inoffensive and the introduction of landscaping will reduce the visual impact and the proposal described as invisible to the nearest neighbours and not large when considered in the surrounding context.
- The ground floor area is essential to the day to day operation of the business eg. Additional space is essential to wash oneself and also the needs of the family will require additional space as children grow.

Relevant Planning History

1655/19/OPA - Outline planning permission granted for the erection of a dwellinghouse.

1730/22/ARM - It should be noted that during the course of this application the concerns over the size of the property and lack of financial information were brought to the attention of the

applicant and that they subsequently submitted an application for a reduced scheme which has recently been approved under delegated powers.

ANALYSIS

Principle of Development/Sustainability:

The outline planning permission for this site established in principle the acceptability of a residential dwelling for an agricultural worker on this site. The consideration in this current application therefore is if the details of the development accord with the adopted spatial strategy of the JLP, The Neighbourhood Plan and the NPPF.

Policy SPT1 of the JLP delivers sustainable development by incorporating principles of sustainable economy, sustainable society and sustainable environment. The principles are expanded through Policy SPT2 which introduces the concept of Sustainable Rural Communities which seeks to provide communities with good access to adequate services and a good balance of housing types and tenures to meet housing needs and promoting resilience to future change with equal access to housing and services.

The approach to sustainable development in the JLP is explained further in Policy TTV1 for the Thriving Towns and Villages parts of the plan area which prioritises growth through a hierarchy of sustainable settlements. Under this policy development in the countryside will only be permitted if it can be demonstrated to support the principles of sustainable development and sustainable communities. Policy TTV2 then goes on to indicate specific objectives of rural sustainability, of which, the delivery of affordable homes that enable rural communities to remain vibrant is one.

With respect to the hierarchy in TTV1 the site is not within a main town, smaller town or key village or a sustainable village and would therefore fall into the last category of smaller villages, hamlets. In such areas proposals need to demonstrate support for the principles of sustainable development and sustainable communities (Policy SPT 1 and 2) as provided for in Policy TTV26 and TTV27. The proposal has not been put forward as an affordable housing exception site therefore TTV27 is not engaged.

Policy TTV26 provides criteria for assessing development in the countryside. The Local Planning Authority is applying the Bramshill Ruling City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government & Ors (2021) EWCA Civ 320 when considering whether a proposal site should be described as 'isolated' in planning terms. In terms of isolation, in applying the Bramshill ruling, the LPA will consider "...the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is or is not 'isolated' in this sense is a matter of fact and planning judgement for the decision-maker in the particular circumstances of the case in hand."

The application site is considered to be in a remote location in the open countryside. The proximity of the site to the nearest settlement, or any other neighbours (notwithstanding the adjacent agricultural buildings which are part of the wider site) is such that the proposal is considered to constitute an isolated development.

As such the LPA are considering the proposal against policies SPT1, SPT2, TTV1, TTV2, TTV26.

The criteria of TTV26 is the appropriate starting point to assess the impact further which is as follows:

The LPAs will protect the special characteristics and role of the countryside. The following provisions will apply to the consideration of development proposals:

1. *Isolated development in the countryside will be avoided and only permitted in exceptional circumstances, such as where it would:*
 - i. *Meet an essential need for a rural worker to live permanently at or near their place of work in the countryside and maintain that role for the development in perpetuity; or*
 - ii. *Secure the long term future and viable use of a significant heritage asset; or*
 - iii. *Secure the re-use of redundant or disused buildings and brownfield sites for an appropriate use; or*
 - iv. *Secure a development of truly outstanding or innovative sustainability and design, which helps to raise standards of design more generally in the rural area, significantly enhances its immediate setting, and is sensitive to the defining characteristics of the local area; or*
 - v. *Protect or enhance the character of historic assets and their settings.*

2. *Development proposals should, where appropriate:*
 - i. *Protect and improve rights of way*
 - ii. *Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.*
 - iii. *Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.*
 - iv. *Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.*
 - v. *Avoid the use of Best and Most Versatile Agricultural Land.*
 - vi. *Help enhance the immediate setting of the site and include a management plan and exit strategy that demonstrates how long term degradation of the landscape and natural environment will be avoided*

With regard to TTV26 (1) officers are content that there is an established functional requirement for an agricultural worker to be present at this site. The dwelling however, is considered to be of a size and scale that is excessively large in relation to the nature of the operations on site. Whilst there is no size threshold specified in local or national policy previous this LPA consider proposals up to 175m² of residential accommodation to be the normal size for a functional agricultural worker dwelling and have discouraged proposals that exceed this unless there is a convincing business justification for a larger unit. This proposal has a domestic floor area of 253m² which exceeds that significantly. The applicant has submitted enough information to satisfy the agricultural consultant that the build costs would not undermine the viability of the operations. Accounts for a 2 year period demonstrate no concerns over the financial merits of the business and there is nothing to suggest that the business could not absorb the build costs and still remain financially viable. However it is unclear what essential need exists for a dwelling of the size proposed other than the personal preference of the applicant. As a property of the size and scale proposed is unlikely to be affordable for the average agricultural worker, the development is not considered to realistically secure the use as a rural workers unit in perpetuity.

The larger proposal will undoubtedly entail benefits for the applicant, their living conditions and the facilities available to farm workers however those benefits do not amount to an essential need. The submission of the alternative application shows that whilst a reduced design, with smaller scale and massing and cheaper build costs is a less desirable option for the applicant, it nevertheless fulfils the essential need.

The applicant has stated that insufficient weight has been given to the fact that, as the future resident of the property (the son of the business owner), this property will eventually become the principle dwelling in this substantial farming business. However local and national planning policy give no reference to the size differential between a principle residence and that of a regular worker. The essential needs in this instance is for a worker to be present on site to care for animals at all times rather than serving as an administrative base or extended accommodation for the future needs of a family.

Officers consider the appeal decisions cited by the agricultural consultant, which carefully consider proposals for larger agricultural workers properties based on an identified functional need to be of relevance. It is noted that the old PPS7 Annex A is still used today as guidance by inspectors which states:

“Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long terms, should not be permitted. It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of the dwelling that is appropriate to a particular holding.”

The applicant has highlighted another development in the area which has recently been approved and which they consider to be comparable to this proposal (reference: 2078/20/FUL). That application granted permission for an agricultural worker’s unit with gross internal floor area of 223m². It is agreed that development is similar in size and scale to that proposed and is therefore larger than normal. However, permission was granted at that site in the 1980s for a larger dwelling than recently approved and the most recent application sought to reduce the approved floorspace simplifying the design and incorporating more natural materials. On balance that was considered to be acceptable.

The applicant has also drawn the attention of officers to another development that they consider to have set a precedent for large rural worker’s dwellings in this area. Application 3387/18/ARM was approved despite an objection by the agricultural consultant on size. That application was not in a protected landscape and was adjudged by officers to integrate in the landscape in a satisfactory way. Accordingly permission was granted at that site.

It is not considered that either of the above applications have set an undesirable precedent. Each application must be assessed on its own individual merits. In principle the LPA would not be resistant to a larger design at this site if the applicant could demonstrate that there was a functional need for the increased residential floorspace (linked to the business rather than personal preferences of the applicant) and provided that the design was able to conserve or enhance the landscape. The visual impact is considered further later but has not been found to be of a sufficient quality for the area. They have been unable to demonstrate a functional need for a larger dwelling (linked to the onsite operations) and in the circumstances it is not considered that there is an essential need for a dwelling of the size proposed and the proposal

failed to demonstrate that it would remain as a rural workers unit in perpetuity. On this basis the proposal is contrary to Policy TTV26 and also fails to accord with the principles of rural sustainability contained in Policies SPT1, SPT2, TTV1 and TTV2.

Design/Landscape:

Policy DEV20 requires developments to achieve high standards of design that contribute to townscape and landscape by protecting and improving the quality of the built environment. Policy DEV23 seeks to conserve and enhance the landscape and scenic and visual quality of development, avoiding significant and adverse landscape or visual impacts. Proposals should be located and designed to respect scenic quality and maintain an area's distinctive sense of place and reinforce local distinctiveness. DEV23 also requires a high architectural and landscape design quality appropriate to its landscape context.

The site is within the AONB and undeveloped coast and is within a prominent location being visible from long distance views across the Kingsbridge Estuary. The highest degree of protection is afforded to the unique and protected landscapes of the South Devon AONB and the undeveloped coast through Policies DEV24 and DEV 25. These Policies require the LPA to safeguard against potentially damaging or inappropriate development either within the protected landscape or its settings and to ensure that development protects, maintains and enhances the unique landscape and special qualities of the area.

These aims are in line with NPPF paragraph 130 (c) which requires development to be sympathetic to the landscape setting and paragraph 176 which gives great weight to conserving and enhancing landscape and scenic beauty in AONB.

Whilst only moderate weight must be given to the Neighbourhood Plan it should be noted that appendix A4 contains locally important views and viewpoints KV7 and KV9 are both taken from Gerston Lane and the development will impinge on the panoramic views from this area. This underlines the importance of ensuring that the size and scale is appropriate and that the design is of a sufficient quality that respects the character of the area.

The site is at an elevated location in the landscape and the development will inevitably be visible from a variety of locations, notably from Gerston Lane which is a key local viewpoint. Whilst the applicant has tried to incorporate natural materials to try and soften the impact and landscaping to try and screen it, landscaping will only screen the development to an extent. What is proposed, with extensive glazing and upper floor balconies is considered to be more appropriate in an urban setting than at this rural context at such an important part of the protected landscape. It is considered that a dwelling with these attributes will not result in a locally distinctive design or one that would protect or enhance the rural character. Instead the development would introduce an incongruous addition on the landscape to the detriment of locally important views and the character and setting of the AONB.

The proposal fails to conserve or enhance the landscape and does not therefore accord with Policies DEV20, DEV23, DEV24 and DEV25.

It should be noted that the recently approved revised proposal submitted in the other application for this site (reference 1730/22/ARM) featured a reduced size, scale and massing with simplified the design, omitting balconies and minimizing glazing. That development has been found to represent an acceptable fall back from this current proposal.

Neighbour Amenity:

Policy DEV1 of the JLP requires consideration of the impact on the nearest neighbours particularly in terms of overshadowing and any potential loss of privacy. There are no dwellings in the immediate vicinity that would be affected in this regard and the development is not therefore considered to result in an adverse loss of amenity for the nearest neighbours and does not conflict with DEV1.

Highways/Access:

Policy DEV29 of the JLP requires consideration of the impact of developments on the wider transport network, and requires safe traffic movements and vehicular access to and from the site.

No concerns are raised in respect of highway safety and access/egress to and from the site. The Highway Authority (DCC) have responded to the consultation process and have raised no objections to the proposal, referring to standing advice. When having regard to this document and the existing site context; there are no concerns with respect of Highway safety. The proposal will not result in a significant increase in traffic when compared to the existing situation (agricultural vehicle uses) and therefore impacts on the wider transport network are considered negligible. The proposal is in accordance with DEV29.

Drainage

Policy DEV35 (Managing Flood Risk and Water Quality Impacts) of the JLP and UG14 of the UNDP requires sustainable water management measures to be incorporated and states that development will not be permitted without confirmation that sewage / wastewater treatment facilities can accommodate or will be improved to accommodate the new development.

The site is not identified as being in an area vulnerable to flooding, including tidal or pluvial.

Surface water is proposed to be dealt with via soakaways and foul water via a package treatment plant. This was considered to be acceptable in the original outline officer's report and conditions were imposed on the outline application to require full details of the drainage schemes to be submitted to the LPA for approval.

In having regard to the above, the proposal is considered by officers to comply with national policy and Adopted Local Plan Policy DEV35.

Ecology

Paragraph 174 of the NPPF articulates that planning policies and decisions should contribute to and enhance the natural and local environment. Paragraph 180 is explicit that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity. Policy DEV26 of the JLP relates to protecting and enhancing biodiversity and geological conservation and states that development should support the protection, conservation, enhancement and restoration of biodiversity and geodiversity across the Plan Area.

Although DEV26.5 specifically relates to major development proposals, the SPD states that LPAs will also encourage provision for biodiversity net gain where appropriate for smaller developments.

A Wildlife and Geology Trigger Table has been submitted with the application and shows that an ecology report is not required in this case. Existing landscaping is to be retained and additional planting provided, which will provide biodiversity enhancements for the site. The landscaping forms part of conditions 9, 10 and 11 of the outline planning permission. New bat, bird and bee provisions are also to be provided within the development and can be secured by condition.

Therefore, given the site context and the ecological enhancements outlined above, the application is deemed satisfactory in this instance as it complies with the aims and objectives of Adopted Local Plan Policy DEV26 and Paragraphs 174 and 180 of the NPPF.

Low Carbon Development

Paragraph 8(c), 152 and 157(b) of the NPPF articulates the need for the planning system to support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change and for development to propose solutions for carbon reduction. The JLP also supports the transition to a low carbon future with DEV32 requiring developments to identify opportunities to minimise the use of natural resources and reduce the energy load. A sustainability statement has been submitted and demonstrates a range of measures to be employed that could be secured by condition. As such the proposal does not conflict with DEV32 and the relevant paragraphs of the NPPF.

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

Planning Policy

Relevant policy framework

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. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change. On 13th January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% and the consequences are "None".

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set

out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

[*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV26 Development in the Countryside
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV24 Undeveloped coast and Heritage Coast
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts

Neighbourhood Plan

The application is located within the parish of Kingsbridge, West Alvington and Churchstow. A joint Neighbourhood Plan is currently at Reg 17 with an examiner having been appointed on 22nd March 2022. The Plan is therefore of moderate weight in the decision making process, taking into account any comments received during the consultation and with the knowledge that the Examiner can require changes to the neighbourhood plan. It is not considered that a planning application could be refused solely on a NP policy unless it was underpinned by specific policy support in the NPPF and JLP.

Relevant policies include:

Policy KWAC Env1 Settlement Boundaries and the avoidance of coalescence
Policy KWAC Env3 Impact on the South Devon Area of Outstanding Natural Beauty (AONB), green corridors and green infrastructure.
Policy KWAC Env 5 Prevention of light pollution
Policy KWAC Env 6 Prevention of Flooding and the impact on water quality
Policy KWAC Env7 Carbon Reduction
Policy KWAC Env 8 Encouraging renewable energy
Policy KWAC Env 10 Promotion of tree planting
Policy KWAC BE3 Design Quality

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 8, 130, 152, 157, 174, 176 and 180 and guidance in Planning Practice Guidance (PPG).

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.