

OFFICER'S REPORT

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| Case Officer: | Bryony Hanlon | | |
| Parish: | Bere Ferrers | Ward: | Bere Ferrers |
| Application No: | 3349/23/FUL | | |
| Applicant: | Mr And Mrs C Cox C/O Agent Luscombe Maye 59 Fore Street Totnes TQ9 5NJ | Agent: | Mrs Amanda Burden Luscombe Maye 59 Fore Street Totnes TQ9 5NJ |
| Site Address: | Five Acres, Woolacombe Road, Bere Alston, PL20 7EA | | |
| Development: | Demolition of two agricultural outbuildings & erection of new dwelling | | |



Recommendation: Refusal

Reasons for refusal:

1. The site is not well connected to the village in terms of pedestrian access, without supporting justification, making it increasingly likely that journeys between the site and the centre of the village would be made by car, thus undermining the transition to a low carbon future, contrary to the provisions of SPT1, SPT2, TTV1, TTV2, TTV26 (2iv), DEV29 (5, 7), DEV32, in the Joint Local Plan, T1 of the Bere Peninsula Neighbourhood Plan and the guidance contained within but not limited to paragraphs, 7, 8, 157 and 159 (a) of the National Planning Policy Framework 2023.
2. The provision of a further three bedroomed dwelling would perpetuate an imbalance in the housing stock relative to the local population, failing to respond to long term population trends, contrary to the provisions of DEV8 of the Joint Local Plan.
3. Insufficient information has been provided to demonstrate that the proposed development complies with the provisions of policy DEV32 of the Plymouth and South West Devon Joint Local Plan 2014-2034 and the Climate Emergency Planning Statement; without such evidence it is not possible to assess such compliance with the said policy.
4. The site falls within the 12.3km Zone of Influence where new residential development will have a recreational impact on the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA). No mitigation has been provided and therefore the proposed development will have an adverse impact on the integrity of the designated European sites contrary to the Conservation of Habitats and Species Regulations 2017, policies DEV26 (2) and DEL1 (3iv) of the Joint Local Plan and paragraph 186 (a) of the National Planning Policy Framework.

Key issues for consideration:

Location, principle of development, housing need, design, scale and massing, drainage, highways, biodiversity, low carbon.

Reason for Call-In: Both Ward Members would like the Committee to consider the application in terms of its scale and siting.

Site Description:

The site is located beyond the built form of Bere Alston, c. 0.13 km south east of the edge of the village. The site is accessed via the public highway (Woolacombe Road), a Class E road leading south east from Bere Alston. Woolacombe Road does not benefit from any street lighting or a public footpath along the route between the village and the application site; much of the route from the village is beyond the 30mph speed limit. The adjoining site hosts a detached bungalow (with two addresses; Five Acres and Meadowcroft) with garden to the west and south, a stable block to the north and a collection of farm buildings to the east. The site has parking and turning to the north of the dwelling, with a circular route for vehicles available around the stable block. The site is bounded by a mature hedge bank to the north and west, with open fields to the east and south. The site is located within the Tamar Valley National Landscape.

The Proposal:

The applicant wishes to demolish two of the existing outbuildings and construct a dwelling in their place. The dwelling is designed in a contemporary style, with clean lines and centres around a dual pitched roof, with the first floor accommodation set into the apex, with a small stone gable on the south elevation. The majority of the dwelling is finished in render, with some natural timber cladding and a natural slate roof. The dwelling has two bedrooms and a bathroom at first floor level, with the main living accommodation on the ground floor, with a further bedroom and dedicated study. The dwelling is provided with two parking spaces, a wraparound garden and a new boundary hedge to the east and south.

Consultations:

- Parish Council Support
The Council support the application. It is sympathetic new dwelling for a local family to live in and will not overlook or clash with neighbouring properties. The elevation will be below the proposed new estate, planned to be build next to this property.
- DCC Highways No highways implications
- WDBC Environmental Health No objection

Representations:

Representations from Residents

Four letters of support have been received and include the following points:

- The applicants require additional space for extended family living.
- The applicants have a local business and would like to be close to their customers.

Relevant Planning History

- 1347/2001/TAV Change of use of annexe into letting accommodation.
- 4168/22/PR4 Full Pre App - Pre Application Enquiry For - Conversion or Creation of 1-2 dwellings on site

ANALYSIS

Principle of Development/Sustainability

The Plymouth and South West Devon Joint Local Plan sets out the framework for consideration of all new development proposals within the Plymouth, West Devon and South Hams Local Planning Authority Areas. Policy SPT1 Delivering Sustainable development requires that proposals uphold the principles of sustainability with respect to their economic, social and environmental components. This is considered in tandem with policy SPT2 Sustainable linked neighbourhoods and sustainable rural communities, which directs growth according to the spatial strategy. These policies are supported by policy TTV1 Prioritising growth through a hierarchy of sustainable settlements, which organises the settlements of the TTV policy area (which covers much of West Devon) into a hierarchy. Growth is directed to the main towns in the first instance, to promote self-containment in order to support new growth and to support existing services and is then directed to the countryside in response to a specific locational need.

The JLP does not define settlement boundaries, but states within paragraph 5.5 that development outside of built up areas will be considered in the context of policy TTV26 (development in the countryside). Owing to its physical separation from the nearest settlement, Officers would regard the site as part of the countryside. Policy TTV2 recognises the specific objectives of rural sustainability and TTV26 sets out the tests for development in the countryside. The first part of the policy covers isolated development and the second part applies to all proposals.

Clause 1 of TTV26 specifies that;

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.*

Clause 2 requires that development; should, where appropriate;

- i. Protect and improve public rights of way and bridleways.*
- 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.*

The JLP SPD (§11.50) states that the Council applies the test of isolation in a manner consistent with the Braintree¹ case and any superseding judgment. The recent Bramshill² judgment affirmed that the essential conclusion in Braintree (at para. 42 of that judgment) was that in determining whether a particular proposal would be “isolated”, the decision-maker must consider ‘whether [the development] would be physically isolated, in the sense of being isolated from a settlement’. What is a “settlement” and whether the development would be “isolated” from it are both matters of planning judgment for the decision-maker on the facts of the particular case.

The junction between Woolacombe Road and The Down (one of the main routes through Bere Alston) is c. 130m from the application site when walking along Woolacombe Road. There is no footway or street lighting along this section of road, which is subject only to the National Speed Limit (60mph). The road is single track along this section, with high hedges along much of its route and is only overlooked by dwellings for a short section closest to the village. The route is likely to be unappealing to most pedestrians, especially those with small children (including those in buggies) or with mobility issues, particularly during dark winter mornings and evenings. While the site is not considered isolated for the purposes of TTV26, the site is not well connected to the village, thus making it increasingly likely that journeys between the site and the village would be made by car.

Whilst not a determinative factor in the current application, it is noted that an application is currently with WDBC awaiting determination under 2435/23/FUL for 31 new dwellings, an associated access road, pedestrian link, landscaping, public open space and drainage on the land between Five Acres and the existing edge of the village. For reference, application 2435/23/FUL contains an internal pedestrian link from the dwellings to the existing development to the north west but it does not include any changes to the public highway to provide a pedestrian footway at the roadside. However, while the site has been allocated for development under policy TTV24 (1) consent has not yet been granted. In a similar vein, the site to the south west is also allocated for development under TTV24 (2) but no application has yet been submitted for the site.

It is acknowledged that the applicant sought Pre-Application Advice from the LPA prior to submission of the application. Unfortunately, the applicant was misdirected to apply the provisions of TTV27 of the JLP to their application. Policy TTV27 provides support for affordable housing subject to the following criteria;

Proposals for residential development on sites adjoining or very near to an existing settlement which would not otherwise be released for this purpose may be permitted provided that it can be demonstrated that:

- 1. It meets a proven need for affordable housing for local people.*
- 2. It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40 per cent of the homes or 40 per cent of the land take excluding infrastructure and services.*
- 3. Management of the scheme will ensure that the dwellings continue to meet the identified need in perpetuity.*
- 4. The proposal meets the requirement of all other relevant policies of the Plan.*

Officers would stress that the proposal is adjacent to an allocated site but that no consent is in place for this site. As such, the current application is not considered to be “adjoining or very near to an existing settlement” for the purposes of TTV27. Furthermore, the proposal

¹ Braintree DC v SSCLG [2018] EWCA Civ 610.

² Bramshill v SSHCLG [2021] EWCA Civ 320.

comprises the construction of one open market dwelling; it is not proposed as “affordable housing” which is defined in the JLP as “Housing, whether for rent, shared ownership or outright purchase, provided at a cost considered affordable in relation to incomes that are average or below average, or in relation to the price of general market housing”. As such, policy TTV27 does not apply.

The second part of policy TTV26 applies as considered below;

i. Protect and improve public rights of way and bridleways.

The proposal does include any changes to public rights of ways or bridleways.

ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.

The application site does not contain any traditional buildings.

iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.

The existing buildings are not related to an active farming enterprise; conversion to residential use would be unlikely to prejudice adjacent land uses.

iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.

The proposal comprises the development of one open market dwelling that is not supported by any specific locational need that requires a countryside location.

v. Avoid the use of Best and Most Versatile Agricultural Land.

The proposal relates to the redevelopment of existing buildings and does not require additional land take. As such the best and most versatile agricultural land is not impacted by the development proposed.

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.

The site is located within the Tamar Valley National Landscape and the applicant has supplied a Landscape and Visual Amenity Statement provided by Greenearth Landscape. Officers consider that the proposal will be visible from parts of the surrounding landscape but is not considered to be unduly visually prominent within the views available. The applicant has proposed a new boundary hedge bank and additional tree planting to visually contain the development. Were the development otherwise acceptable, Officers would have secured this landscaping through condition, in the interest of biodiversity, public amenity and the conservation and enhancement of the local landscape character, in accordance with the provisions of DEV20, DEV23, DEV25, DEV26, E1 and E2. In a similar vein, it would have been necessary to restrict the installation and operation of external lighting, in the interests of nocturnal biodiversity and to limit the impact of light pollution on the dark skies of the Tamar Valley National Landscape, in accordance with the same policies.

It is noted that the application received letters of support during the consultation process, including from the Parish Council, with benefits associated with extended family living and in order for the applicants to be close to their customers. However, the personal circumstances of the applicant are not determinative and are not a material planning consideration, as such the application has been assessed as presented; i.e. an unrestricted open-market dwelling in a countryside location.

While the site is not considered physically isolated for the purposes of TTV26, its siting is not justified with a specific locational need. The site is not well connected to the village in terms of pedestrian access, thus making it increasingly likely that journeys between the site and the village would be made by car, contrary to the provisions of SPT1, SPT2, TTV1, TTV2, TTV26 (2iv), DEV29 (5, 7) and DEV32 of the JLP, policy T1 of the Bere Alston Neighbourhood Plan, as well as the guidance contained within but not limited to paragraphs, 7, 8, 157 and 159 (a) of the National Planning Policy Framework 2023.

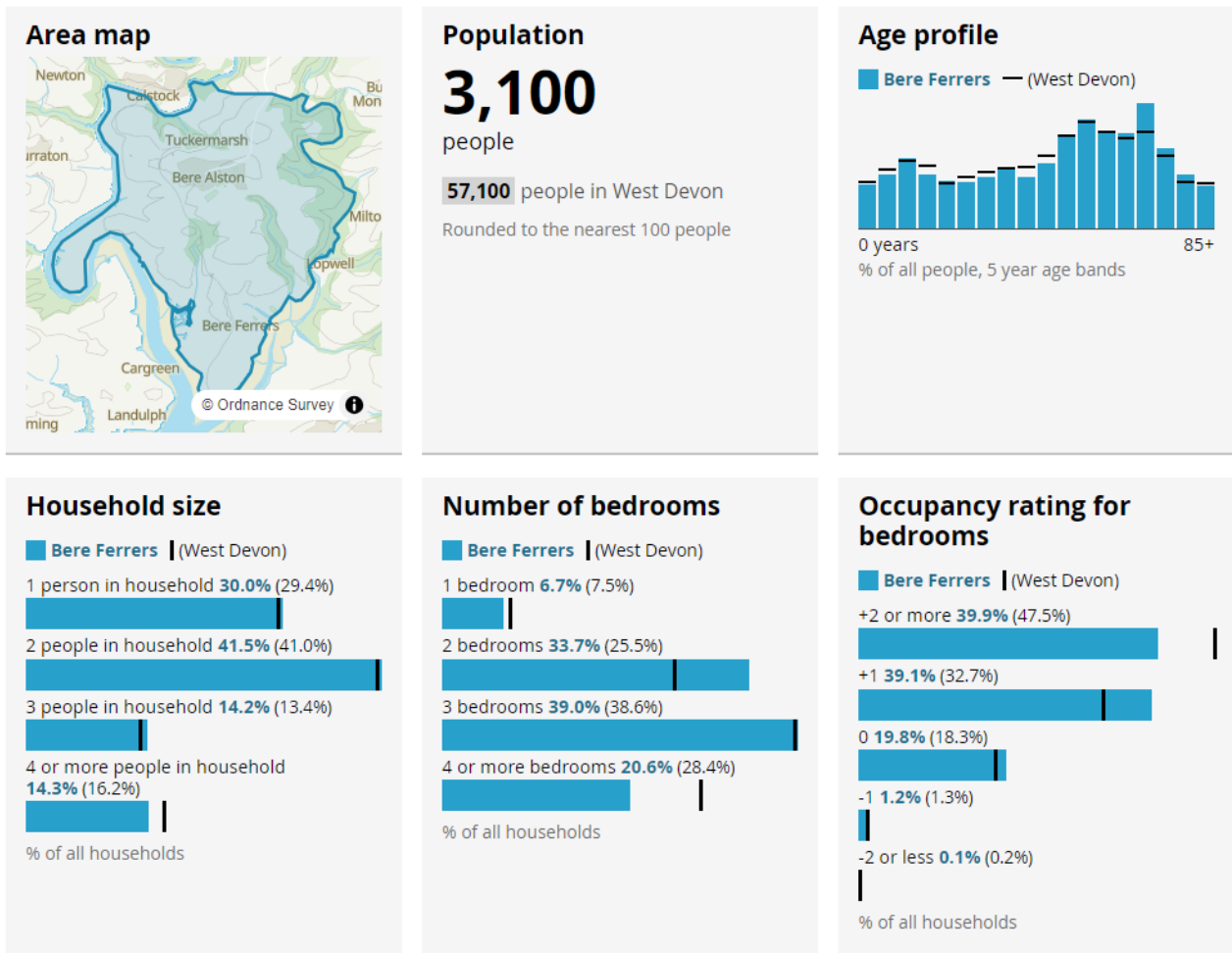
Housing Need and Mix

The proposal has been considered against the provisions of policy DEV8 in the Joint Local Plan, which require that developments provide a mix of housing sizes, types and tenure appropriate to the area. The policy also recognises particular needs associated with redressing an imbalance within the housing stock, households with specific need and for dwellings most suited to younger people, working families and older people who wish to retain a sense of self-sufficiency.

The Strategic Housing Market Needs Assessment that underpins the housing mix policies within the JLP suggests that household change to 2034 will present a need for smaller homes that meet the needs of a broader cross-section of our communities, particularly couples with no children and single person households.

The applicant seeks to create an open market dwelling with three bedrooms (the study may also be used as a bedroom but the SPD allows the provision of a dedicated home office to be excluded from bedroom number calculations). Housing data from the 2021 Census indicate that within the Parish of Bere Ferrers c. 39% of all dwellings have three bedrooms, however, the majority of households in the Parish comprise only one or two people and as a result, under-occupancy of the existing housing is very high.

Bere Ferrers



Source: Office for National Statistics - Census 2021

As such, the provision of a further three bedroomed dwelling would perpetuate an imbalance in the housing stock relative to the local population, failing to respond to long term population trends, contrary to the provisions of DEV8 in the JLP

Design/Landscape

The dwelling provides c. 75 sqm of floor space at ground floor level and c. 34 sqm at first floor. This complies with the Nationally Described Space Standards for a three bed roomed dwelling and a four bed roomed dwelling with capacity for up to six persons. The dwelling is also provided with c. 200 sqm of garden, which complies with the standards set out in paragraph 4.138 of the SPD.

The dwelling has been designed in a contemporary style with clean lines but uses traditional materials, including natural stone, natural slate and timber. The first floor living accommodation has been set into the apex of the roof in order to reduce the ridge height; fenestration is limited, with much of the southern plane of the roof used to site solar panels. The dwelling is considered to accord with the provisions of DEV20, DEV23 and DEV25. Were the development otherwise acceptable, it would have been necessary to secure the details of the materials through condition, in the interests of visual amenity and accord with the provisions of the Climate Emergency Planning Statement and Policy DEV32.

Neighbour Amenity

The site is c. 22m north east of the neighbour at Meadowcroft and c. 70m north west of the neighbour to the south east at Fourways. The site is c. 10m east of the existing stable block. Were the development otherwise acceptable it would have been necessary to require that the first floor windows in the west elevation of the dwelling were obscure glazed and fixed shut to safeguard the privacy of the neighbouring occupants at Meadowcroft, noting that this bedroom (bedroom 2) benefits from rooflights on the north elevation for additional light, outlook and ventilation. On this basis, the proposal is considered to accord with the provisions of DEV1(1).

Highways/Access

The proposal will utilise the existing access to the public highway and provides two off-road parking spaces for the dwelling. The Devon County Council Highways Engineer has advised that there are no impacts in terms of highways safety associated with the proposal. Notwithstanding the issues associated with the unsustainable location, the proposal is unlikely to give rise to significant increased risk to highways safety and accords with the provisions of DEV29.

Low Carbon

Policy DEV32 and the recently adopted Climate Emergency Planning Statement (CEPS) both accelerate the transition to a low carbon society by requiring development to identify opportunities to minimise energy consumption, maximising energy efficiency but also delivering on site carbon or renewable energy systems. In particular M1 (onsite renewable energy generation) requires developments to achieve regulated carbon emissions levels of 20 per cent less than that required to comply with Building Regulations Part L.

The requisite Climate Emergency Compliance Form has been submitted which sets out the measures proposed in order to comply with the provisions of DEV32; these include an air source heat pump and solar panels which are welcomed. However, full SAP calculations for the new dwelling have not been provided; the carbon implications of demolishing the existing buildings have not been considered and insufficient information is available to demonstrate full compliance with DEV32 of the JLP. As the proposal was otherwise unacceptable, it was considered unreasonable to put the applicant to further expense in producing this information.

Biodiversity

The applicant has provided a Preliminary Ecological Appraisal to confirm that there are no ecological constraints to development on the site. The Appraisal contains a number of recommendations in order to safeguard the interests of protected species, which would be appropriate to secure through condition, were the development considered otherwise acceptable. On this basis, the proposal is considered to accord with the provisions of DEV26 of the JLP and E2 of the Bere Peninsula Neighbourhood Plan.

Surface Water Drainage

The applicant has proposed the use of a soakaway to dispose of surface water from the proposed scheme; were the development otherwise acceptable it would have been considered appropriate to secure these details by condition to ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development. On this basis, the proposal is considered to accord with the provisions of DEV35.

Foul Drainage

The applicant has proposed to dispose of foul drainage via a new package treatment plant. The WDBC Environmental Health Officer has reviewed the scheme and the details submitted are acceptable in principle, to be secured by condition were the development as a whole otherwise acceptable, to ensure a satisfactory and sustainable foul water drainage system is provided, retained and maintained to serve the development. On this basis, the proposal is considered to accord with the provisions of DEV35.

Tamar European Marine Site

The site falls within the Zone of Influence for new residents have a recreational impact on the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA). This Zone of Influence has recently been updated as part of the evidence base gathering and Duty to Cooperate relating to the Joint Local Plan.

The Habitats Regulations Assessment of the JLP concluded that the recreational impacts on designated sites arising from planned residential development, either alone or in combination with other plans or projects need to be addressed. To enable the planned development to proceed, the Conservation of Habitats and Species Regulations 2017 requires that appropriate mitigation measures are in place to ensure that the proposed development will not result in an adverse impact on the integrity of the designated European sites. Recreational mitigation will be delivered through the Recreation Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site which requires all residential development within a 12.3km zone of influence to contribute towards the costs of the plan. Without mitigation new residential and tourist development, in combination with other development, could have a significant effect. The rate for a 3 bedroom house is £467.91 which can be agreed via Unilateral Undertaking or as part of a s106.

As the proposal is considered to be unacceptable on principle this obligation has not been sought but the lack of mitigation having been provided forms an additional refusal reason. To address this, a Unilateral Undertaking or S106 legal agreement would be required to secure the mitigation contribution to mitigate for the recreational impacts of the proposed development on the Tamar European Marine Site.

Conclusion

The site is not well connected to the village in terms of pedestrian access, without supporting justification, making it increasingly likely that journeys between the site and the village would be made by car, thus undermining the transition to a low carbon future. In addition, the provision of a further three bedroomed dwelling in an area with an oversupply of this type of dwelling, in combination with high levels of under occupancy in the existing stock, would exacerbate the imbalance in the existing housing stock. The application has not been supported by sufficient information to demonstrate compliance with policy DEV32 or been accompanied by mitigation for recreational impacts on the Tamar European Marine Site, although were the development otherwise acceptable, this could have been addressed through the submission of additional information. As such, the application is recommended for refusal.

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 26 March 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 14 January 2022 the Department for Levelling Up, Housing and Communities published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None".

The 2021 HDT result remains the latest test result that is applicable for applying policy consequences as the Government has not published the 2022 HDT as it considers the test to be an unfair test upon LPA's and in need of review. The 2021 HDT result for the 3 JLP authorities is above 95% therefore there continues to be no policy consequences and a 5% buffer only is required for the purposes of the 2023 5YHLS.

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 5.39 years at end of March 2023 (the 2023 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2023 (published 19 December 2023).

[*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 21 March 2019 and West Devon Borough Council on 26 March 2019.

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

SPT9 Strategic principles for transport planning and strategy

SPT10 Balanced transport strategy for growth and healthy and sustainable communities

SPT11 Strategic approach to the Historic environment

SPT12 Strategic approach to the natural environment

SPT13 Strategic infrastructure measures to deliver the spatial strategy

SPT14 European Protected Sites – mitigation of recreational impacts from development

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
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV9 Meeting local housing need in the Plan Area
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV30 Meeting the community infrastructure needs of new homes
DEV31 Waste management
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Neighbourhood Plan

Following a successful referendum, the Bere Peninsula Neighbourhood plan was made at Hub Committee on 17 October 2018.

The relevant policies are noted below;

Policy E1: Protecting the Local Environment
Policy E2: Supporting Biodiversity
Policy E3: Progressing towards a Low Carbon Environment
Policy H4. Unallocated Development
Policy T1. Sustainable Transport

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance within the Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

Tamar Valley Area of Outstanding Natural Beauty Management Plan (2019-2024)
Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)
Plymouth and South West Devon Climate Emergency Planning Statement (2022)

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.