

# PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

**Parish:** Brixton **Ward:** Wembury and Brixton

**Application No:** 1825/16/OPA

**Agent/Applicant:**

Mr Louis Dulling  
1st Floor  
3 Silverdown Office Park  
Fair Oak Close  
Clyst Honiton,  
Exeter  
EX5 2UX

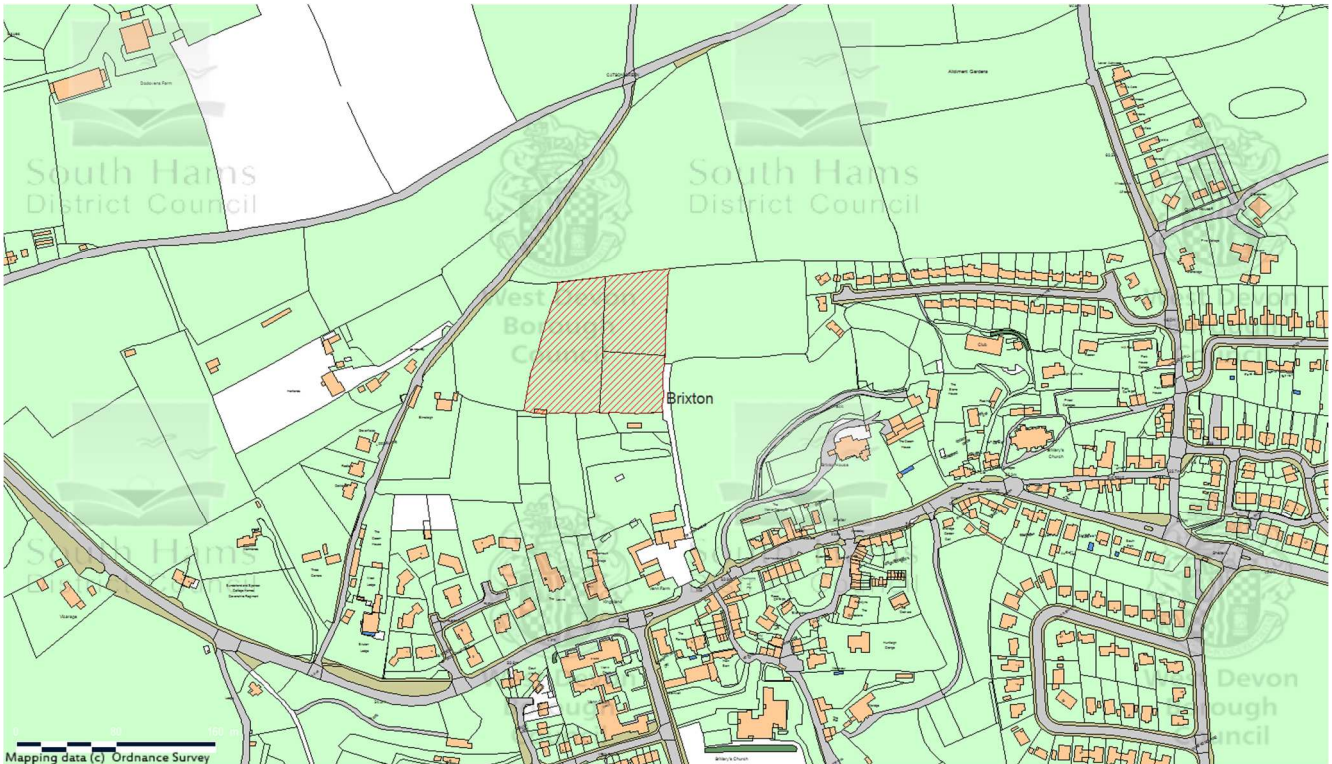
**Applicant:**

ADPAD  
C/O Agent

**Site Address:** Land At Sx 550 522, North Of Canes Orchard, Brixton, Devon

**Development:** Outline application (with some matters reserved) for the erection of circa 29 dwellings and means of access

**Reason item is being put before Committee:** The land owner is a Member of South Hams District Council



**Recommendation:** That delegated authority be given to the Community of Practice Lead to grant Conditional Approval subject to a Section 106 Agreement to secure the following:

- 30% provision of on-site affordable housing, approx. 40% of these being affordable rent and 60% shared ownership.
- Contributions to Yealm Estuaries area of Plymouth Sound and Estuaries SAC in accordance with the following table:

Dwelling size	Contribution per dwelling
1 bedroom	£17.16
1 bedroom flat	£23.99
2 bedroom house	£31.60
3 bedrooms	£33.93
4 bedroom house	£36.76
5 bedroom house	£40.38

- Playing pitch and recreation facility contributions of £595 per occupier towards improvement at Horsham Playing Fields and/or the football pitch at Frankfort Park and/or access improvements to these facilities.
- Securing public access (free of charge) in perpetuity to Public Open Space within the proposed development.
- Securing management and maintenance of Public Open Space in perpetuity (in accordance with a Landscape and Ecology Management Plan).
- Education – contribution for Secondary school infrastructure of £79,348 (based on 29 dwellings).
- School transport - £14, 297 (based on 29 dwellings)
- The provision of a sustainable urban drainage scheme including management and maintenance responsibility and arrangements

**Conditions** (listed in full at end of report)

- Time (commencement and submission of reserved matters)
- Details of reserved matters of landscaping, appearance, layout and scale to be submitted and agreed and implemented.
- Accords with plans
- CEMP
- Highway infrastructure details to be agreed with LPA and to be provided in accordance with the approved details.
- Phasing of delivery of highway infrastructure to be agreed
- Universal condition for development in land affected by contamination
- Verification report
- Unsuspected contamination
- Details of a permanent surface water drainage management plan to be agreed with the LPA, details to accord with Flood Risk Assessment dated 25/10/2016.
- Details for adoption and maintenance of sites entire surface water drainage system to be agreed with LPA.
- Details of construction phase drainage scheme to be agreed with LPA

- Tree and hedgerow protection to be agreed and implemented
- Prior to commencement submission of a Landscape and Ecological Management Plan (to detail habitat creation, management and maintenance and protected species mitigation, compensation and enhancement measures, covering construction and post-construction phases)
- External lighting to be agreed with LPA
- Provision of barn owl nesting spaces within the development in accordance with details to be agreed
- Details of play area within the public open space to be provided within Reserved Matters applications.
- Renewable energy/energy efficiency (details pre-commencement)
- Removal of PD rights
- Car parking/garaging to be retained for parking of vehicles
- Retention of trees/hedges
- Development in accordance with ecology report
- Hours of construction

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

Given the location of this unallocated site outside the development boundary it is considered that, taking into account paragraph 49 of the NPPF, the initial issue to be considered is whether South Hams District Council can demonstrate a five year housing land supply. If a five year housing land supply cannot be demonstrated, relevant planning policies for the supply of housing should not be considered up-to-date and the key issue is whether the proposal represents sustainable development and if it is, whether there are significant and demonstrable adverse impacts that would outweigh its benefits.

Given the issues that have been raised in connection with the application, the potential adverse impacts on the following matters are considered to be the key issues:

Flood Risk  
 Highways/Traffic  
 Landscape  
 Local character  
 Ecology  
 Neighbouring Amenity.

### **Financial Implications (Potential New Homes Bonus for major applications):**

It is estimated that this development has the potential to attract New Homes Bonus of **£34,423** per annum. The Government is implementing reforms to the New Homes Bonus scheme and the length of NHB payments will be reduced from 6 years to 5 years in 2017/18 and 4 years from 2018-19 onwards. Members are advised that this is provided on an information basis only and is not a material planning consideration in the determination of this application.

### **Site Description:**

The application site is a 0.94 ha parcel of agricultural land, part of which has recently been used as construction compound in association with the adjoining land. It is located immediately

north of Phase 1 of the residential development at Canes Orchard, formally known as Venn farm, Brixton. The site adjoins the Phase 2a development site to the east where development has very recently commenced for 17 dwellings. The site includes the area of land approved as employment land under Phase 1.

The site is bounded by hedgerows interspersed with trees on the north, east and west boundaries. To the south are the houses of Phase 1 of Canes Orchard which is now completed and the houses are occupied. The site has a gentle slope running downwards, north to south.

Access will be gained from within the Phase 1 development which itself is accessed directly off the A379 in the centre of Brixton.

The site has no statutory designations but it is within approx. 150m of the South Devon Area of Outstanding Natural Beauty (AONB), which is south of the application site, the boundary being the A379.

The site lies within Flood Zone 1, this being the area of lowest flood risk.

The site is within easy walking distance (less than 400m) of the village facilities which include a primary school, day nursery, general store, church, restaurant, public house and hot food take away. Bus stops serving Plymouth, Modbury, Kingsbridge, Yealmpton, Newton Ferrers and Noss Mayo are within a 210m walk from the site.

The site lies outside of the development boundary and was not included in the RA12 site allocation which included the land now developed at Phase 1 and the land which has planning permission for Phase 2b and part of the Phase 2a site. This site allocation sought a mixed use development of 50 dwellings, 0.1ha of employment land and open space.

### **The Proposal:**

The application seeks outline planning permission for circa 29 dwellings and means of access; an indicative layout has been submitted but is not for detailed consideration.

It is proposed that 9 units (2 and 3 bed) will be offered as affordable dwellings, 5 will be intermediate sale and 4 would be social rented. This represents 30% affordable housing (when submitted the application indicated that the amount of affordable housing would be policy compliant which in this case would be 50%, a viability assessment was later submitted suggesting that only 22% was viable, following a review of the viability assessment the offer was increased to 30%).

Access into the site will be from the south east corner of the site, using the access originally intended for the employment land, this links into the north east corner of the Phase 1 development and will use the road through Phase 1 to access the A379 to the south.

The majority of existing hedgerows will be retained, the only opening being to the northeast to allow connection to the public open space within Phase 2a.

The application is supported by a number of documents available to view on the website which include the following:

- Planning application form

- Site location plan
- Planning Supporting Statement by Hunter Page Planning
- Design and Access Statement and indicative layout prepared by Turley Design
- Transport Assessment prepared by Cole Easdon
- Flood Risk Assessment/Drainage Statement prepared by Cole Easdon
- Ecological Assessment prepared by EAD Ecology
- Arboricultural Statement prepared by Aspect Tree Consultancy
- Landscape and Visual Impact Assessment prepared by The Richards Partnership
- Cultural Heritage Statement prepared by CgMS
- Statement of Community Involvement prepared by Syvret Media
- Agricultural Land Classification report prepared by Asken Land and Soil Ltd

### **Consultations:**

- County Highways Authority – No objection subject to conditions
- Environmental Health Section – No objection subject to conditions
- South West Water – no objection
- Environment Agency – would like to be re-consulted if the proposed method for disposal of foul drainage is to a non-mains system.
- DCC Flood and Coastal Risk management – drainage – no objection subject to conditions.
- DCC Waste – No objection
- DCC Archaeology – no comments to make
- Police ALO – detailed comments provided; concerns raised about the siting of the POS in the illustrative layout due to lack of natural surveillance and potential for anti-social behaviour.
- SHDC Trees – No objection subject to conditions
- SHDC Ecology – No objection subject to conditions and a 106 to secure the following:
  - Financial contributions to Yealm Estuaries area of Plymouth Sound and Estuaries SAC
- SHDC – Open space, sport and recreation – no objection subject to securing the following:

- Playing pitch and recreation facility contributions of £595 per occupier towards improvement at Horsham Playing Fields and/or the football pitch at Frankfort Park and/or access improvements to these facilities. Securing management in perpetuity of public open space including any play area and SUDs in accordance with LEMP
- Securing public access to the public open space in perpetuity
- Affordable Housing – *The applicant has entered in to discussions with the council regarding the viability of the affordable housing that can be provided on this site. The applicant originally offered 22% which was not policy compliant with the 55% which was originally requested. Plymouth City Council carried out the viability assessment on behalf of the council. The negotiations have resulted in on-site provision of 30% affordable housing, which equates to 9 units of accommodation. The breakdown of the tenure proposed is 4 rented properties and 5 intermediate properties. This is an outline application but the affordable properties could include the fixed sqm, tenure and bedroom numbers within the section 106.*
- SHDC Landscape - No objection in principle subject to conditions:

*- whilst recognising that there would be adverse effects associated with the proposed development in relation to visual amenity and the setting of the AONB, I would not raise an in principle objection to this outline application, as these impacts a) are not significantly different to the effects already accepted by the council at the adjacent site, and b) could be further mitigated with minor design adjustments. It is however critical that the scale and density of the development is not increased beyond that set out in the indicative material; such changes would notably worsen the effects associated with the proposals.*

- Natural England - Detailed comments provided including the following: The site is within 1.5km of the Plymouth Sound and Estuaries Special Site of Conservation (SAC). The consultation documents do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by the LPA. Natural England consider the proposal is not necessary for the management of the European site. It is recommended that the following information be considered to help undertake a Habitat Regulations Assessment:

Contributions can be made to provide funding and support for mitigation of the impacts of development on the Tamar and Yealm Estuaries.

We advise consultation with the AONB Unit and note the application is not supported by a Landscape and Visual Impact Assessment in accordance with best practice.

- DCC Education: No objection but seeks the following contributions based on 29 dwellings:

Secondary school infrastructure - £79,348 (based on £18,241 per pupil)

School transport - £14, 297 (based on £3.01 per day x 5 pupils x 190 academic days x 5 years)

- Barn Owl Trust – Recommends that a permanent accessible nesting space for Barn Owls be provided within one or more of the developed buildings, best located to the north of the development
- Town/Parish Council -

In considering this outline application Brixton Parish Council conducted a site visit with the applicant's agent on 13<sup>th</sup> August 2016 to land North of Venn Farm described as (Phase 3 of the Venn Farm development) and held a Parish Council meeting to discuss the outline planning application on the 15<sup>th</sup> August 2016 attended by 28 members of the public.

**Brixton Parish Council objects to this outline planning application for the following reasons (all of which have equal importance)**

- **The size of the site**

In the original proposal produced in 2011 for development at Venn Farm part of this site 0.1 (0.247 acres) hectares was allocated for employment land. This outline application for Phase 3 of land north of Venn Farm includes the change of use from employment land to land for residential development and has increased the size of the original area to 0.93 hectares (2.3 acres) an increase in land size for housing development of 2 acres.

**This increase exceeds the original RA12 (Rural Allocation) boundary and allocation defined by South Hams District Council and exceeds the boundaries of the developers Master Plan for Brixton agreed in 2012. The report by the applicant's agent describes this RA policy as out of date however it has not been replaced by any other policy by South Hams District Council.**

- **Impact on Village Identity**

**Serious concerns are expressed by the whole community about the impact of further housing development in and around Brixton village.**

- a) **Numbers of houses**

The planning statement reports that there are 810 dwellings in Brixton village. This is incorrect and misleading as there are 810 houses in Brixton Parish with approximately 500 houses in Brixton village. The remainder include a major settlement at Carroll Island, the smaller hamlets of Spriddlestone, Combe, Brixton Torr and Chittleburn and other isolated houses and farms.

**This proposal for 29 dwellings amounts to a 30% increase in housing on the Venn Farm site.** The original number of houses agreed for the Venn Farm development was 50, 27 were built in Phase 1. The number increased to 61 when the planning application for Phase 2a (17 houses), and the outline planning application for phase 2b (17 houses) were approved in 2015. Phase 3 (29) brings the total to 90 new houses which equates to urban development in the middle of a country village. No other development in the village over the years has concentrated so many houses in one particular area.

b) Incremental increase in numbers

The original developer's master plan for Venn Farm site (2011) was for 50 houses this increased to 61 when planning applications for Phase 2a & 2b were approved. **The allocation for new housing in Brixton has therefore been met and indeed exceeded. Assurance is needed that if outline planning permission is granted that the figure of 29 will not be exceeded to increase the density in any later planning application and/or the number increased as evidence 'for economic reasons'.**

**Maintaining an agreed density is vital to ensure adequate space for public realm, infrastructure and parking to avoid the problems experienced in Kitley Place in Yealmpton.**

(Work on Phase 2a has to date has not started although planning permission has been granted)

c) Urban Sprawl on Plymouth fringe

**This site is less than one mile from the edge of the Sherford New Town development and there is significant community concern about the danger of urban sprawl into rural Devon.**

d) Loss of village and community identity

The village of Brixton is centred around the Church, shop, pub and Post Office with local businesses and school providing required services to local people. The village has a strong sense of identity based on its history and community and how it has incorporated change incrementally over the years. This sense of gradual development reflecting the needs of the community over time has given the village integrity, stability and a sense of place.

**There is a serious concern in the community that medium density housing of a ubiquitous mass develops a model which will erode the character of a rural village. The indicative layout reflects urban rather than rural development.**

e) Viewed from the AONB 27 additional houses will increase the extended skyline already created by Phase 1 of Canes Orchard from the AONB.

- Infrastructure Issues

- a) Drainage and surface water runoff. **The risk of problems identified by Brixton Parish Council and residents relating to drains and surface water run off on this sloping site were ignored by planners and builders in the application for Phase 1, 2a & 2b and subsequently have been dealt with inadequately. Resulting flooding and problems with both surface water run off and blocked domestic drains are already being experienced by residents of Phase 1, in Bramley Close and Orchard Way. This is before the loading is**



**increased by Phases 2a and 2b - still to be built.** (Temporary fixes of earth trenches by the developer are unsustainable).

**Phase 3 will further lead to the encroachment of water onto to the Phase 1 site and increase the risk of further local flooding. Based on this information serious concerns remain for residents and the Parish Council about the continuing risk of flooding from drains and surface water on and from this site.**

Despite drainage and run off being raised as serious concerns by residents and Brixton Parish Council for the planning applications for Phase 1, Phase 2a and 2b. There is no evidence currently that adequate measures have been taken in Phases 2a & 2b which will impact not only on Canes Orchard properties but also on properties with septic tanks, which are lower and adjacent to 2A in Cherry Tree Drive, as advised by residents and the Parish Council repeatedly to South Hams District Council Planners.

**Existing infiltration solutions for Phase 1 for a 1 in 100 year's event plus 30% for climate change have already failed in Phase 1 in the past 12 months.**

- b) Sewage – No evidence has been provided to ensure that the current sewage system can cope with the increased capacity created by a further 61 houses (34 houses in Phase 2a & 2b have yet to be built). Residents report their experiences of blocked drains and toilets over flowing in their Phase 1 houses since moving in last year.  
**Brixton Parish Council requests that formal survey, evaluation and report is commissioned from SWWA to clarify that the current sewage plant at Mudbank has sufficient capacity for this increase in number of houses in Brixton and also protect the River Yealm from pollution.**
- c) Roads – There are road safety issues for residents of Phase 1 of Canes Orchard due to the cul-de-sac road layout which is restrictive in that the narrowness of the road and pavements forces people to walk in the road when cars are parked. Vehicles larger than a Tesco's delivery van have difficulty in manoeuvring and turning in the current configuration of roads and pavements. Given the tightness of the bend as well as narrowness of the road - there is no adequate turning area for delivery vans or indeed any vehicle. **The families living in Canes Orchard have significant concerns about traffic movement, poor parking arrangements and inadequate turning head. These safety concerns will be exacerbated by the further increase in traffic from Phase 2a, 2b and if Phase 3 is approved. Assurance is needed that all emergency vehicles can safely access the site.**
- d) School – **there is no evidence that the viability of the local school is dependant on the provision of further houses in Brixton as Phase 2A and 2B have yet to be built.** The school is currently close to capacity with no spaces remaining for children in the early years.

- **Traffic Flow Information needs to be updated and accurate**

- a) **Traffic Assessment Report** - The Transport Assessment Report provided to evidence traffic flow through the village is out of date. The survey took place in June 2011 and in the intervening 5 years ago new housing has been built in Brixton (27), Yealmpton (50), Ermington and Modbury resulting in increase in traffic along the A379. An up to date report on weekly traffic flow over a defined period through Brixton village is required.
- b) **Traffic Generation** – in the Transport Assessment Report the traffic generation and flows are underestimated. In total with Phase 3 there will be a least of 96 houses (90 new houses, 4 barns, Venn Farm House and The Wheelwrights) accessing and exiting from this site. Up to date information needs to be available to provide a clear impact of the traffic flow from 96 dwellings onto the A379.

**Brixton Parish Council requests that an up to date report on traffic flow through Brixton village and traffic generation from Canes Orchard is presented as evidence to the Development Management Committee.**

- **Construction Management Plan - Conditions and Compliance**

- a) **Working hours** The conditions provided in the recommendation from Devon County Council Planning, Transportation and Environment Department have been considered. Paragraph (d) defines the hours for delivery and construction traffic, it is not acceptable in that vehicular movements should take place on Saturday mornings. The site will be accessed by Orchard Way which is a residential area populated by families with children. **This traffic risk and disturbance on Saturdays is not acceptable.**
- b) Paragraph 1 states '**The proposed route of all construction traffic exceeding 7.5 tonnes**'. **There is no information in the papers about the location of this route. The use of the lanes to the north of the site to access the site is totally unacceptable.** The evidence from Phase 1 is that the hedges and drainage ditches damaged by heavy lorries accessing the site from the north have been irreparable and flooding still occurs at Catson Green at the top of Lodge Lane.
- c) **Compliance** As a community our experience from the Construction Management Plan for Phase 1 was that in some critical areas it was not complied with causing great inconvenience and danger to local people; for example the persistent mud on the A379 and the lack of proper wheel washing facilities from the construction site. **As access to the proposed site is through a residential area all the agreed conditions including no Saturday working must be fully met.**

- **Housing Provision**

- a) Provision of Affordable homes. Indicative numbers of affordable homes would have been helpful at this stage and a guarantee that the developer would be providing a minimum of 50% allocation of affordable housing for this site with a particular emphasis on homes for local young people and families. **As previous numbers for affordable housing were not met in earlier phases of this development Brixton Parish Council expects that any further development of housing at Canes Orchard should have a significant affordable proportion in excess of 50% to be consistent with the needs of the village and compensate for the reduction in affordable housing from the original plans approved for Phases 1, 2a and 2b.**

**The recent Housing Needs Survey for Brixton (April 2016) identified a need for minimum of 11 affordable homes these could be easily and sustainably accommodated if this development was approved.** (See Appendix A Executive Summary Brixton Parish Council Housing Needs Survey April 2016)

- b) Illustrative numbers on outline application **An undertaking is required that the illustrative figures of numbers and types of housing must not be changed/increased as part of any eventual application is also required from the applicant if the outline application is approved as stated previously.**
- c) Design and Quality **The design of any future houses must ensure that sufficient garage/parking and turning space for the numbers of cars and vehicular movements likely to be generated from this site is properly accommodated. The site planning, infrastructure and layout must ensure that there is sufficient open space plus formal play spaces.** The houses should be built to a high standard to avoid the types of poor workmanship and inferior quality of materials which have led to complaints by residents from the construction of Phase 1.

**The current Phase 1 design does not demonstrate an understanding of the character of Brixton village, with its suburban design and poor detailing of the public realm. It neither responds to the historic context or sustainable context in exploiting the natural topography/south facing aspect. If any further development is approved for this site needs these contextual matters must be taken into account.**

**The All Party Parliamentary Group for Excellence in the Built Environment (July 2016) states that ‘we need to ensure that consumers are buying homes that are fit for purpose, are of enduring quality, perform to the requisite levels of maintenance cost and energy efficiency and give peace of mind, pride and enjoyment to those who occupy them’.**

- d) Energy Efficiency **Any new development should be very thermally efficient and incorporate renewable energy sources.**
- e) Visitor Parking Adequate **visitor parking must be included across the site** for Phase 3 as current parking arrangements in Phase 1 have already proved to be inadequate and pose a safety risk to residents.

**On all the above grounds Brixton Parish Council objects to this outline application**

### **Representations:**

4 letters in support of the application have been received raising issues that include the following:

- Affordable homes allow local families to remain in the village
- Provision of housing for young people is required.
- Will not affect the appearance of the village
- Impressed by quality and appearance of existing development
- Want to move to Brixton to be near family
- In keeping with village
- Development here will protect AONB from development
- Site will be an asset to village

16 letters objecting to the development have been received for reasons that include the following:

- Loss of privacy
- Change in levels will result in overbearing impact on neighbours
- Inadequate drainage – site has experience problems of flooding and drainage back-up
- Advised when bought property that there would be no further development.
- Will increase loadings on local sewage works which do not meet legal standards and will increase pollution to the Yealm. Number of spills from the Brixton sewage treatment works should be reduced before any new development is allowed; pollution will impact on the Yealm Oyster industry.
- Seeks to build on land allocated in Section 106 for employment use, this diminishes value of 106 agreements.
- Sites should be developed where the land owners will facilitate high levels of affordable housing.
- Brixton has had a lot of new development – sets a dangerous precedent
- FRA is inaccurate stating that there is no history of flooding and infiltration rates are good – site is built on bed rock with poor infiltration – flooding has regularly occurred on site such that a land drain had to be installed to the rear of Bramley Close/Orchard Road
- Flooding will occur
- Estimate of new school pupils is too low
- Estimated traffic flow is too low
- Will cause problems of congestion in the local highway network
- Site is already congested as cars park on the road
- Outside of the development boundary and greenfield

- No need for more housing in the village – Sherford is close
- Adverse impact on character of the village – introducing suburban sprawl
- Will result in a cumulative increase of housing by 10% (or 20%) in village
- Only one access to serve 90 homes – will cause congestion
- Together with Phase 2a and 2b this will result in a further 5 years of construction disturbance to residents
- Phase 3 will tower above Phase 1 – will impact on skyline
- Not been demonstrated that there will be no heritage impacts on nearby church and LB's
- Roads are not wide enough for more traffic
- Pavements are inadequate and parked cars force pedestrians into the road – raises road safety issues
- Visibility at exit roundabout is inadequate for traffic speeds
- Attenuation tanks pose flood risk to properties below
- Loss of habitat for owls
- Phase 1 build quality is poor
- Outside of neighbourhood plan process

### **Relevant Planning History**

07/2023/12/DEVBR – Development brief for proposed mixed use development comprising 27 dwellings and 0.1 ha of employment land – Approved

07/2022/12/F. Mixed use development comprising 27 dwelling and 0.1ha of employment land with associated access, car parking, landscaping and open space. – Conditional Approval.

07/1196/15/F – Residential development comprising 17 dwellings with associated access, car parking, landscaping, open space and associated works. – Conditional Approval

07/1197/15/O - Outline application (with some matters reserved) for residential development of up to 17 dwellings, with associated means of access and provision of landscape buffer to south (Phase b) – Conditional Approval

**The applications above have granted planning permission for a total of 61 dwellings**

### **ANALYSIS**

#### **Principle of Development/Sustainability:**

This is an Outline planning application for the development of the site for circa 29 dwellings. Although an indicative plan has been provided, which demonstrates how the site could be developed it is illustrative only and does not form part of any subsequent permission that may be granted. The only matter of detail to be considered is access. The key issue in the determination of the application is therefore whether the development of the site is acceptable in principle.

The application site is not allocated for development in the South Hams Local Development Framework and is located outside of but in close proximity to the development boundary.

The site adjoins recent extensions to the village to the south (Phase 1 Canes Orchard, completed) and to the east (Phase 2a Canes orchard, under construction).

Within the emerging Joint Local Plan Brixton is identified as a Sustainable Village where site allocations are expected to emerge from the Neighbourhood Plan process. The indicative levels of new housing in Brixton is 10 and whilst it is not explicit in the JLP it is understood this a minimum number not a maximum

'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 development plan comprises:

- 2006 Core Strategy
- 2007 Sherford New Community Area Action Plan (AAP)
- 2008 Affordable Housing Development Plan Document (DPD)
- 2010 Development Policies Development Plan Document (DPD)
- 2011 Site Allocations Development Plan Document (DPD) for:
  - Dartmouth
  - Ivybridge
  - Kingsbridge
  - Totnes
  - Rural Areas
- Saved policies from 1996 Local Plan
- Devon Waste Plan
- Devon Minerals 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, with the pre-submission version formally approved by South Hams District Council, West Devon Borough Council and Plymouth City Council for a six-week period for representations, pursuant to Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations. It is also considered to be consistent with the policies of the Framework, as well as based on up to date evidence. However, until the Regulation 19 stage has concluded, and the scale and nature of representations known, it is considered that the JLP's policies will generally have

limited weight within the planning decision. The precise weight will need to be determined on a case by case basis, having regard to all of the material considerations.

Other material considerations include the policies of the Framework itself and guidance in National Planning Practice Guidance (NPPG).’

As mentioned above Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts. The determination must be made in accordance with the plan unless material considerations indicate otherwise. In the case of residential development paragraph 49 of the National Planning Policy Framework (NPPF) states that ‘*Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*’ The first key question therefore is whether the Council can demonstrate a five-year housing supply.

An appeal relating to a site in Kingsbridge in 2014 (ref APP/K1128/A/13/2210602) considered this issue in detail and the Inspector concluded that “...*the Council has failed to demonstrate a 5 year supply of deliverable housing sites.*” As a consequence of this lack of a 5 year supply the relevant policies for the supply of housing should not be considered up to date. The emerging JLP cannot yet be relied upon to demonstrate a 5 year housing land supply

In light of this it is accepted that, at present, the Council cannot demonstrate a five-year housing supply. As such, the current position is that an assessment as to whether the proposed development is sustainable has to be undertaken. If it is, the presumption in favour set out in paragraph 14 of the NPPF will apply and planning permission should be granted where the development plan is absent, silent or relevant policies, as in this case, are out-of-date unless ‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.’ However, if it was concluded that the proposal would not result in sustainable development, the presumption in favour would not apply.

The main issue, therefore, in respect of whether the development is acceptable in principle, in the absence of a five year supply of deliverable housing land in the District, is whether the proposal represents sustainable development and if it is, whether there are significant and demonstrable adverse impacts that would outweigh its benefits.

### **Sustainable Development**

Local Development Framework (LDF) Core Strategy Policy CS1 - Location of Development sets out where development is acceptable in principle subject to detailed material planning considerations. Brixton is included as one of the districts’ villages and is therefore covered by policy CS1, being a village with an appropriate level of infrastructure and service provision to accommodate some degree of additional development. Brixton is therefore a sustainable location for additional development to take place.

Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental – whilst Paragraph 12 sets out twelve core planning principles that should underpin planning decisions. These two paragraphs set the context in which to consider sustainability. The three dimensions stated in Paragraph 7 are considered below:

## **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants which would be likely to be spent in the local area with some increase in the demand for local goods and services.

The development will result in the loss of approx. 0.94 hectares of agricultural land which in itself will not lead to a significant adverse economic impact.

The site includes an area of 0.1ha of land allocated as employment land in Phase 1, which would be lost as a consequence of this application. Phase 1 of Canes Orchard fell within the RA12 site allocation which seeks mixed use development to include about 50 dwellings and 0.1ha of employment land. The RA12 site allocation included land now part of Phase 1, 2a (in part) and 2b; RA12 does not include the application site, however half of the application site was included within the site area of the Development Brief approved in 2012, including that part which has outline planning permission for employment.

Phase 1 was granted planning permission subject to a Section 106 agreement which includes clauses relating to the employment land. The key provisions of the agreement with regard to the employment land are as follows:

- To provide services to within the boundary of the employment land prior to the occupation of any dwelling
- Within one month of the agreement to agree a marketing strategy with the LPA
- To use reasonable endeavours to market the employment land for 24 months
- After 24 months to use reasonable endeavours to obtain permission for an alternative use of the employment land
- To pay a contribution of £120,000 to the Council on the grant of planning permission for an alternative use or the use of the land for an alternative use granted by other means, after which the land will cease to be bound by the 106 (this sum to be used towards the enhancement and/or provision of employment generating projects, developments and/or facilities within the district of South Hams)

The applicant has submitted a statement from agents Stratton Creber which indicate that the site was marketed for 24 months but without sale. They state that interest was deterred by the location adjacent to residential development and the narrow vehicular route through the residential development to access the employment site. It was felt there would be conflict in terms of vehicular movements, noise and working environment.

The proposed development of the application site for housing will result in the loss of this employment land, however as it has been demonstrated that it is not a suitable location for employment use there will be no actual loss of economic activity. The grant of planning permission for housing will trigger the requirement to make the financial contribution of £120,000 towards employment enhancement elsewhere in the District.



There is no evidence therefore that the development would result in any significant adverse economic impact. Economic benefit will be derived from the construction process, from spending of future residents and by triggering the payment of Section 106 contributions in favour of employment creation. In respect of this element of sustainable development the balance is considered to be in favour of the development.

## **The Social Role**

### **Provision of housing including affordable housing.**

The principle social benefit of the proposed development would be the provision of additional housing, including 30% of the homes being affordable. These affordable homes will be approx. 40% social rented and 60% shared ownership which are the most accessible forms of affordable housing.

Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance. In the District wide Strategic Housing Market Needs Assessment (SHMNA) undertaken in 2013, the identified need for affordable housing across the District was 242 affordable homes needed every year. A recent housing needs survey in Brixton has identified the need for 11 affordable homes; this scheme will deliver 9 homes (based on a total of 29 dwellings).

The applicant has submitted a viability appraisal with the offer of 30% affordable housing. This offer was increased from an offer of 22% (which was a reduction of the original submission of 50%). The Affordable Housing team have scrutinised this appraisal and are in agreement that the level of affordable housing is now appropriate for this site. Brixton is a sustainable location benefiting from a shop, school and transport links and as such can support the delivery of more affordable housing.

In respect of the social aspect of sustainability a number of objections have been raised including the pressure on local services with the primary school being oversubscribed, added congestion on highways that are already dangerous and impacts on existing residents who live adjacent to the site.

### **Impact on existing Infrastructure**

Consideration has been given to these concerns. Devon County Council have confirmed that the local primary school has capacity but the nearest secondary school does not; as such financial contributions have been requested to provide additional secondary school infrastructure to mitigate the additional demand. DCC do not object to the proposal. Contributions towards secondary school transport are also requested.

The issue of congestion is considered elsewhere in the report and it is concluded that the development will not result in any significant impact upon the traffic levels in the area.

The site is within a short walk of the A379 where there are bus routes to a number of centres including Plymouth, Modbury and Kingsbridge. There are pedestrian links from the site to the local services in Brixton.

### **Impact upon Neighbours**

The layout plan submitted with the application is for illustrative purposes only. The application does not formally include details of the siting and design of the proposed dwellings and the relationship between the proposed dwellings and those that exist around the boundary of the site. However it is considered that there is sufficient area to accommodate the development with a layout that will not have any significant adverse impact on the residential amenity of the neighbouring dwellings. An assessment of the relationship of the proposed dwellings with existing properties will be undertaken at the Reserved Matters stage when the detailed plans have been submitted.

### Social Dimension Balance

Substantial weight that must be given to the provision of additional market and affordable housing. The site is well related to the settlement of Brixton with good access into the village centre and its facilities to ensure social integration. The social benefits of the proposed development outweigh any dis-benefits and weigh in favour of the development.

### The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape including the AONB; ecology and bio-diversity; heritage assets and surface and foul water drainage.

### Landscape Impact

The application has been carefully considered and evaluated by Officers within the Natural Environment and Recreation Team who have assessed the scheme as follows:

#### **Landscape Character and Visual Amenity**

*The site falls within the Plymouth and Modbury Farmland Landscape Character Area, and at a local level, the Lowland plains (3E) Landscape Character Type. The landscape character of the area is defined by a gently rolling farmed landscape with a strong hedgerow pattern surrounding varying sized fields. Relevant management objectives for this area seek to:*

- *Protect the area's settlement pattern and distinctive stone-built traditional buildings, ensuring that any new development is sympathetic in terms of scale, form, style and materials.*
- *Plan to ensure that any future urban development is well sited and designed, incorporating screen planting (if appropriate) and suitable green infrastructure links.*
- *Plan to improve the quality of the urban edges of settlements, roads and industrial developments to reduce their visibility from the surrounding countryside.*

*The close association with existing and permitted new development in this area would minimise localised impacts upon landscape character. Although the immediate area of the site would dramatically change as a result of the development, the perception of Brixton as a medium-sized settlement within its gently rolling farmland landscape would not undergo a significant impact, conserving the landscape character of the area in line with adopted Policy DP2 and CS9(3). Wider impacts upon the character of the area would also be limited, principally due to the existing permitted development at Phase 2 of the Venn Lane site which lies at an equivalent position in relation to the village core, and is of a similar scale and appearance. Earlier development in Brixton also lies at the same elevation further to the east. This established pattern of built form on the intermediate ridge to the north of Brixton in this area would not be affected by the proposed development.*

*Impacts on local views are also limited, with existing development, topography and vegetation providing local screening, as demonstrated in the submitted Design and Access (D&A) Statement. However, wider views are available, which are not noted in the D&A Statement. These are notably from elevated ground to the south around Newton Ferrers and Wembury which sit within the South Devon AONB. In views from these locations, the proposed development would increase the visible presence of built form extending onto the ridge above the village, though the trees and vegetation lying to the immediate south west of the site would offer some screening and visual containment of the development. The extension of built form across this elevated ridgeline would increase the visual prominence of Brixton in wider views. This runs against the management objectives outlined above which seek to reduce the visibility of settlements and improve the quality of the settlement edge, and runs contrary to Policy DP2(d) which seeks to avoid unsympathetic intrusion into views. These impacts could be improved both by pulling the built form away from the most elevated northern edge, and by strengthening the boundary vegetation to the site, notably to the north, south and west, which would work with existing vegetation to break up the massing of built form in wider views. At present neither of these measures are shown on the indicative plans.*

### **AONB**

*There is limited information accompanying the application associated with impacts on the South Devon AONB, despite its close proximity to the south. As noted above, the principle effects on the designated landscape would be the changes to wider views of the site area around Newton Ferrers and Wembury. The cumulative expansion of built form across the ridge above Brixton would increase its visual prominence, and its impact upon the setting of the designation.*

*In line with Planning Practice Guidance Paragraph: 004 Reference ID: 8-004-20140306, regard should be given to the South Devon AONB Management Plan and its Annex 3 AONB Planning Guidance. In line with NPPF paragraph 115, great weight should be given to conserving landscape and scenic beauty in AONBs, and the effects identified above should therefore weigh heavily in the planning balance.*

*The impacts described above would conflict with South Devon AONB Management Plan policies:*

- Lan/P5 “The character of the skylines and open views into, within and out of the South Devon AONB will be protected....”; and
- Lan/P7 “The deeply rural character of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character.”

*Annex 3 to the Management Plan contains draft Planning Guidance. In relation to development in the setting of the AONB, it states:*

*“A development in the setting of the AONB that conserves and enhances the South Devon AONB will avoid prominent locations for development that would have significant impacts on important views out from or into the AONB.”*

*As noted above, whilst there would be impacts on views from the designation and consequently its setting, these are not considered to be significant for the purposes of the above test.*

### **Conclusions**

*The application is in outline with all matters (bar access) reserved. Whilst only indicative, the material submitted with the application does show a reasonable layout, accommodating existing trees and hedgerows, and a number of proposed new trees which would help to break up the massing of built form in this elevated position. In addition, the anticipated density and indicative building heights are also considered to be reasonable for this location.*

*The policy conflicts mentioned above are mitigated to a degree by the extant permission in the same position above Brixton immediately to the east; the impacts associated with the proposed development would be very similar to those which have previously been accepted by this Council in this location. There are no fundamental issues with the anticipated number, layout or scale of the proposals that would result in a visually incongruous or unduly prominent pattern of development, though as noted above, improvements through the slight reconfiguration of built form and the strengthening of boundary vegetation would be sought at reserved matters stage, if approved.*

*On this basis, whilst recognising that there would be adverse effects associated with the proposed development in relation to visual amenity and the setting of the AONB, I would not raise an in principle objection to this outline application, as these impacts a) are not significantly different to the effects already accepted by the council at the adjacent site, and b) could be further mitigated with minor design adjustments. It is however critical that the scale and density of the development is not increased beyond that set out in the indicative material; such changes would notably worsen the effects associated with the proposals.*

It is also considered that the development will not result in any visual coalescence with Plymouth, a concern raised by some residents. The development will read clearly as an extension to Brixton and is not of such a scale that the village character will be undermined.

### Biodiversity

Natural England have provided detailed comments available on the website but which include the following:

*The development site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is approximately 1.5 km from the Plymouth Sound and Estuaries Special Area of Conservation (SAC) which is a European site.*

*The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.*

The Council's Ecology Specialist has commented as follows:

*The submitted application (and PEA therein) fails to take account of the likely impact of the proposed development on the Plymouth Sound and Estuaries SAC. This precedent and reasoning is clearly set out in the neighbouring phases of development. I recall that the ecology surveys for the neighbouring sites identified this requirement (unlike this submitted PEA). I would also draw attention to Natural England having identified this within their comment.*

*The site is located some 1km to the Yealm component of the Plymouth Sound and Estuaries SAC. The South Hams Core Strategy HRA identified the potential for this site to cause effects on the SAC with respect to additional recreational pressures, and accordingly concluded that mitigation measures should be secured if this site was developed to ensure there were no adverse effects on the SAC, namely:*

- *Partnership funding and support for the Tamar Estuaries Consultative Forum and Yealm Estuary Management Group or appropriate funding and support for the management structures undertaking the management scheme work in relation to the SAC.*
- *Secure funding to support recreation linked projects/actions identified in the Tamar Estuaries Management Plan, Yealm Estuary Environmental Management Plan, any revisions or updates of these plans and/or other relevant management plans.*

*Accordingly, it is recommended that S106 contributions per dwelling are sought from the proposed development in accordance with the following table:*

<i>Dwelling size</i>	<i>Contribution per dwelling</i>
<i>1 bedroom</i>	<i>£17.16</i>
<i>1 bedroom flat</i>	<i>£23.99</i>
<i>2 bedroom house</i>	<i>£31.60</i>
<i>3 bedrooms</i>	<i>£33.93</i>
<i>4 bedroom house</i>	<i>£36.76</i>
<i>5 bedroom house</i>	<i>£40.38</i>

*It is considered that subject to securing this contribution will mitigate recreational pressures associated with new residents from this proposed development, and accordingly will ensure the proposed development is not likely to have a significant impact on the European designated site.*

It is concluded that subject to the contributions as set out above the concerns of Natural England will have been met and the impacts on biodiversity adequately mitigated.

### Heritage

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

A Heritage Statement is submitted in support of this application which considers the impact on a number of listed buildings in the area including Brixton Lodge, Elbridge House, The

Wickett, Brixton House, Priests Cottage and the Church of St Mary. The buildings closest to the site are Brixton House, Brixton Lodge and the Church of St Mary.

Brixton House is located to the south east of the Phase 2b development area which lies between the development site and the listed building. The proposed development will have no greater impact on the setting of the listed building than the permitted scheme.

Brixton Lodge is set a considerable distance from the site with a buffer of existing dwellings and open fields between it and the application site. There will be no adverse impact on the setting of this Listed Building.

The setting of St Mary's Church, a Grade I listed building is also an important consideration, however there is very limited inter-visibility between the application site and the church; any impact is likely to arise from the Phase 2a and 2b developments where it was considered that subject to matters of detail, design and landscaping the impact would be acceptable, any harm being outweighed by the public benefits arising from the development.

### **Drainage/Flood Risk**

Significant local concern has been raised about the potential flood risk/drainage issues associated with this development. There is concern about flooding and capacity of the sewage system to take more outfall. It has been highlighted that houses in Phase 1 have suffered from sewage backups into their homes and surface water flooding has been experienced.

South West Water raise no objection to the proposed development. They have stated that any blockages/problems that may have occurred are likely to be as a result of the way the drains have been installed rather than an indication of lack of capacity.

Devon County Council as Lead Flood Authority, who have been made aware of the alleged surface water flooding problems have reviewed the drainage information submitted in support of this application and raise no objections.

On this basis it is considered that the site can be adequately and appropriately drained.

### **Environmental dimension balance**

The environmental role in considering where the development is sustainable is not clear-cut. The benefits identified are either marginal or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. Moreover, those benefits have to be set against the loss of an area of open countryside, leading to a change in the local environment and landscape. That impact has been carefully considered and, it is offset by the location of the appeal site outside the AONB, and the lack of evidenced harm to the environment. Whilst the appeal site is within a pleasant piece of countryside the site itself is neither so special nor the impact of the development so substantial, that its loss to development would represent significant material harm to the identified areas of potential concern.

## **Sustainable development conclusion**

In terms of the economic and social dimensions of sustainable development, it is considered that there are benefits from the proposed development and that where adverse impacts in these respects can be identified, there is no evidence to suggest that they represent a scale of significant and demonstrable impact as would outweigh those identified benefits. Furthermore, given the NPPF's priority and the acknowledged housing supply position in the District, the additional dwellings to be provided must carry very substantial weight in determination of the application.

It is concluded that the site is sufficiently sustainable to pass the first part of the test set by Paragraph 14 of the Framework. It is clearly sustainable in economic and social terms. The location of the appeal site is sustainable and the adverse impacts identified including the landscape to be lost are not so significant as to undermine the proposed development's sustainable credentials. It is also concluded that whilst the impact on the ecological and biodiversity worth of the site is on balance probably neutral, the impacts, given mitigation measures, are not so significant as to outweigh the benefits identified.

Overall, therefore, on balance, it is considered that the proposed development is sufficiently sustainable to pass the first part of the test as set out in the NPPF.

## **Other matters**

### **Traffic Conditions/Highway Issues**

The only key issue not considered above in detail as part of the consideration of whether the development is sustainable is the effect on traffic conditions. Concerns have been raised about the narrow approach road through Phase 1 which gets congested through on street parking and regarding capacity of nearby junctions to cope with additional traffic volumes.

The Highway Authority have reviewed the scheme and have commented as follows:

*It can be seen the proposals will add a minor amount of traffic to the existing development access road and in the peak hours add 6 two way trips in the morning peak hour and 4 trips in the evening peak hour. This is after considering the already approved B1 use class removal. The applicant has used robust traffic assumptions including an increase of 25% traffic flows on the A379 to demonstrate the proposals will not generate any capacity issues.*

*The Highway Authority notes the potential disruption to existing residents and is seeking conditions to deal with that.*

*A Section 38 Legal Agreement will be necessary.*

Officers note the concerns of residents regarding parking problems within Phase 1 of the development. At reserved matters stage it will be important to ensure that a better parking solution is achieved such that these problems are not replicated.

This application was deferred from consideration by this Committee because of a last minute holding objection submitted verbally by the Highway Authority on the day of the Committee in February. The Highway Officer had made a site visit that morning and had observed that the access road approved and constructed as part of Phase 1 of the Canes Orchard development has not been built in accordance with the approved plans. This road is relied

upon to provide access to Phases 2a and 2b (already consented for 34 dwellings) and for Phase 3, the subject of this application.

The Highway Authority objected at this stage as they were not confident that the road as built would provide adequate and safe access for vehicles and pedestrians.

The approved plans showed a 4.8m carriageway with 1.2m service margins (footpaths) and 0.5m protection strips (buffers between the highway and private land where no footpath is provided).

The Highway Authority have now reviewed the situation on site in more detail. As built the carriage way is 4.8m wide but the service strips are 950mm wide and the protection strips 300mm in places. The Highway Authority have commented as follows:

*The road is however considered a shared use road where speeds are restricted to below 20mph generally due to the physical alignment of the road and its narrow width in general and therefore the Highway Authority accepts the as built situation as a shared use road. It would not wish to object, but is mindful of parking issues that have been reported to the District and Neighbourhood Officers. Phase 3 could go ahead in principle but noting the complaints received the Highway Authority would prefer to see a 2m service margin, 4.8m carriageway and 0.5m protection strip. Also generally off-site parking should be sufficient and convenient so it is used i.e. garages should not account for half of the parking and parking spaces should be side by side and not tandem.*

*I am also mindful there is a north/south pedestrian link through Phase 1 which avoids the use of the main site road. This offers a choice for pedestrians if they are not comfortable with using the shared use arrangement.*

It is concluded that the highway impact of the proposed development will be acceptable subject to the conditions recommended by the Highway Authority to protect residential amenity during construction.

### **Leisure and Recreation:**

The application has the potential to include the provision of open space and play areas on the site, which will be secured with a Section 106 agreement. In addition offsite contributions for Sport and other outdoor facilities are to be provided. The level of provision is acceptable to cater for the demand from the development.

### **The Planning Balance and Conclusion**

The application seeks outline planning permission, i.e. to establish the principle of whether the development of the site for circa 29 dwellings, is acceptable. The only detailed matter to be considered is the access to the site.

Whilst the indicative plan simply demonstrates how housing, landscaping, open space and footpaths could be accommodated upon the land, the details of the layout, scale and appearance of buildings will be subject to a separate Reserved Matters application to be considered on its merits.

The proposed development would conflict with Development Plan policy and would result in residential development outside the development boundary. It is considered that, in the



absence of the Council being able to demonstrate a five year housing supply, the policies within the Development Plan with regards to housing have to be seen as out of date. Emerging JLP policies have little weight.

In such circumstances the NPPF sets out that the issue to consider is whether the proposal represents sustainable development and if it does there is a presumption in favour of the scheme.

For the reasons as set out in the report, it is considered that the proposal does satisfy the three dimensions of sustainable development. Given the view taken that the development is sustainable the question to be considered is whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the NPPF as a whole.

No overriding technical objections have been raised and the impacts of the development have been assessed. There are no adverse impacts that would outweigh the benefits of the scheme.

With regard to the objections raised in the letters of representation, the main areas of concern have been addressed above.

Therefore, in conclusion, the application is recommended for approval, subject to conditions and a Section106 agreement.

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

## **Planning Policy**

*NPPF*

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

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

CS11 Climate Change

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

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

DP15 Development in the Countryside

## **Emerging Joint Local Plan**

SPT1 Delivering Sustainable Development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT9 Strategic principles for transport planning and strategy

SPT11 Strategic approach to the natural environment

TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV 30 Empowering local residents to create strong and sustainable communities  
DEV2 Air, water, soil, noise and land  
DEV4 Playing Pitches  
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  
DEV24 Landscape Character  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV31 Specific provisions relating to transport  
DEV32 Meeting the community infrastructure needs of new homes  
DEV34 Delivering low carbon development  
DEV37 Managing flood risk and water quality impacts

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

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

### **Proposed conditions:**

1. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site.

The development shall be carried out in accordance with the approved details.

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

2. An application for the approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

4. The details hereby approved shall in all respects accord strictly with drawings numbers SK1B 'Site Location Plan'.

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

5. PRE-COMMENCEMENT - No development shall take place until such time as details showing how the existing trees and hedges that will be affected by the development will be protected throughout the course of the development, how works to the trees and hedges will be undertaken and an Arboricultural Method Statement have been submitted to and approved in writing by the Local Planning Authority. The details shall include a hedge/tree protection plan, in accordance with BS:5837:2010, which shall include the precise location and design details for the erection of protective barriers and any other physical protection measures and a method statement in relation to construction operations in accordance with paragraph 7.2 of the British Standard. Development of each phase shall be carried out in accordance with the approved hedge protection plan.

Reason: In the interests of visual and residential amenity.

6. PRE-COMMENCEMENT - Prior to the commencement of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based upon an up to date ecological survey of the site and buildings and will include mitigation measures as set out in the existing ecological survey which shall be integrated with the detailed landscape scheme to be submitted as part of the reserved matters. The LEMP shall include details of habitat creation, management and maintenance and protected species mitigation, compensation and enhancement measures, covering construction and post-construction phases.

Reason: In the interests of ecological interest.

7. Prior to occupation of the first dwelling, a detailed outdoor lighting scheme shall be submitted to and approved in writing by the local planning authority. Such a scheme shall specify the method of lighting (including details of the type of lights, orientation/angle of the luminaries, the spacing and height of lighting columns/fixings), the extent/levels of illumination over the site and on adjacent land through the submission of a isolux contour plan and measures to be taken to contain light within the curtilage of the site. The scheme shall be implemented in accordance with approved details and shall thereafter be maintained as such.

Reason: In the interests of visual amenity; to protect existing and future residential amenity; and in the interests of biodiversity.

8. Universal condition for development on land affected by contamination: Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A preliminary risk assessment/desk study identifying:
  - All previous uses
  - Potential contaminants associated with those uses
  - A conceptual model of the site indicating sources, pathways and receptors

- Potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
  3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these agreed elements require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

*Reason: Further investigations are required to determine the level of contamination that may be present on site as recommended by the Phase I contamination assessment. The condition covers the full range of measures that may be needed depending on the level of risk at the site. If the LPA is satisfied with the information submitted with the application they can decide to delete any of elements 1 to 4 no longer required. The LPA may still decide to use the whole condition as this would allow them to declare the information no longer satisfactory and require more or better quality information if any problems are encountered in future.*

9. Verification report: Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

Reason: Without this condition, the proposed development on the site may pose an unacceptable risk to the environment. This is listed as a separate condition as it gives the LPA the option to choose a later control point: i.e. prior to occupation, rather than commencement of the development for the main phase of the remedial works.

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

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

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

11. Prior to the commencement of the development a phasing plan setting out the timing of the construction and completion of the roads and footpaths to serve the approved development will be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate and safe access for both vehicles and pedestrians is provided to properties before occupation.

12. All parking areas and garages shall be laid out and provided prior to the occupation of the dwelling to which they relate and shall be retained for the parking of private motor vehicles only in perpetuity.

Reason: In the interests of the safety and convenience of users of the highway.

13. Prior to construction of any of the dwellings above slab level (or alternatively in accordance with a previously agreed timetable for the submission of the details set out below), details of how at least 10% of the energy supply of the development shall be secured from a decentralised renewable or low-carbon energy supply, including an implementation programme, and/or details of how the energy supply of the development shall be reduced through the use of energy efficiency measures secured through a 'fabric first' approach (this should meet at least a 10% reduction and shall include an implementation programme) shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in operation thereafter.

Reason: To ensure that the dwellings are built in a way to minimise energy consumption and harmful emissions

14. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

- (a) Part 1, Class A (extensions and alterations);
- (b) Part 1, Class C (roof addition or alteration);
- (c) Part 2, Class A (means of enclosure); and
- (d) Part 2, Class B (means of access)

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development within the locality; to safeguard residential amenity; and to safeguard parking and circulation areas.

15. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;

- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

16. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

17. No part of the development hereby permitted shall be commenced until a detailed permanent surface water drainage management plan is submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Flood Authority. This detailed permanent surface water drainage management plan will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment (Report Ref 1005w0002, Rev B, dated 12/10/16) and Drawing No 1046-500-P" – Proposed Drainage Strategy (dated 24/10/16).

Reason: To ensure that surface water from the development is managed in accordance with the principles of sustainable drainage systems.

18. No part of the development hereby permitted shall be commenced until details of the adoption and maintenance arrangements for the entire site's permanent surface water drainage management system has been submitted to, and approved in writing by, the Local

Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

19. No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained.

Reason: To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

20. Prior to the commencement of development full details of the layout, landscaping and of any equipment to be provided within the proposed Public Open Spaces shall be submitted to and approved in writing by the Local Planning Authority. The Public Open Space shall be laid out in accordance with the approved details and made available for use by the public prior to the occupation of the second to last dwelling within the development and shall be retained as such in perpetuity.

Reason. To ensure the provision of good quality and functional public open space in the interest of amenity.

21. Prior to the continuation of development of any dwelling hereby approved above slab level details of permanent accessible nesting space for Barn Owls in at least one of the dwellings to which this permission applies shall be submitted to and approved in writing by the Local Planning Authority. The permanent accessible nesting space shall be provided in accordance with the approved details prior to the occupation of the dwelling(s) to which it relates and shall be retained as such in perpetuity.

Reason: In the interest of wildlife conservation.

22. Except for any trees or hedge(banks) identified for removal on the approved drawings no retained tree and hedge(banks) shall be felled, uprooted, removed, destroyed or worked, unless as approved in writing with the Local Planning Authority. If any retained tree or any retained hedge (bank) is felled, uprooted, removed, destroyed or dies, another tree shall be planted at the same place and the hedge(bank) be reinstated and that tree and hedge(bank) be of such size, species and density, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

Reason: In order to protect trees and hedge(banks) of public amenity and ecological value

23. The development hereby permitted shall be carried out, and thereafter maintained and managed, in accordance with Appendix 4 "Preliminary Conservation Action Statement" of the approved Preliminary Ecological Appraisal dated April 2016 prepared by Blackdown Environmental. These details shall be incorporated in full within the Landscape and Biodiversity Plan.

Reason: To ensure conservation and enhancement of habitats associated with protected species in accordance with European and national requirements and guidance.

24. No construction, demolition or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday and Bank/Public Holiday. Such works shall only take place between the hours of 8.00am and 6.00pm Mondays to Fridays inc., and 9.00am and 2.00pm on Saturdays, unless otherwise previously approved in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or be operational on the application site outside of these permitted hours.

Reason: To safeguard the residential amenities of the locality.