

PLANNING APPLICATION REPORT

Case Officer: Jeremy Guise

Parish: Dartington **Ward:** Dartington & Staverton

Application No: 14/0142/15/F

Agent/Applicant:

Heighway Field Associates
Bradinch Court
Castle Street
Exeter
EX4 3PL

Applicant:

South Devon Rural Housing Association Ltd
Mr S Prime
South Devon House
Babbage Road
Totnes
TQ9 5JA

This application is being reported to Planning Committee for reconsideration as the previous Committee decision was quashed at Judicial Review on 25th July 2016 (Case No. CO/305/2016).

The Court could not be confident that the decision of the Committee would have been the same had the error in the report not been made. The previous decision should be disregarded as it is not relevant and the application should be considered afresh.

This report rectifies the error identified in the Judicial Review.

Site Address: Brimhay Bungalows, Development Site At Sx 7863 6192 Forder Lane, Dartington, Devon, TQ9 6HT

Development: Redevelopment of existing Brimhay Bungalows to provide 32 new dwellings and associated highway. (12no. 1 bed apartments, 12no. market houses and 8 flats)

Reason item is being put before Committee: The application was originally brought to committee by the Ward Member, in view of substantial local opposition, has requested that the application is considered by Committee.



Recommendation: Grant conditional planning permission subject to the prior satisfactory completion of a Section 106 Agreement to secure the following:

1. Provision of 10 standard parking spaces for staff and visitors to Humpty Dumpty Nursery; and
2. Continuing use of the PROW that runs between Brimhay Nursery and Forder Lane;
3. Affordable Housing occupancy;
4. Phasing of Affordable Housing and Market Housing; and
5. Management of buffer between eastern hedgerow buffer and fenceline in accordance with specification detailed within the Landscape and Ecological Management Plan (LEMP).
6. Management and maintenance in accordance with the Ecological Management Plan in perpetuity.
7. Retention of the ownership of the boundary features by the landowner in perpetuity
8. The total sum of £44,752.50 towards off-site OSSR facilities within Dartington should be sought and secured within the s106
9. Management and maintenance of areas of onsite public open space in accordance with the Ecological Management Plan in perpetuity.
10. Securing public access to areas of onsite public open space in perpetuity.

Conditions (list not in full)

1. Standard time limit for commencement;
2. Accord with Plans, Drawings and FRA;
3. GPDO Exclusion;
4. Unsuspected Contamination;
5. On-site highway works in accordance with plans / drawings;
6. Construction Management Plan to be submitted and approved prior to commencement;
7. Construction Method Plan to be submitted and approved prior to commencement;
8. Phasing Plan to be submitted and approved prior to commencement;
9. Surface water drainage layout and details to be submitted prior to commencement and the approved details completed and operational prior to occupation;
10. Adherence to the Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Methodology Statements;
11. Submission, prior to commencement, of a Lighting Strategy;
12. Renewable energy / energy efficiency details to be submitted and approved prior to commencement;
13. Adherence to measures within section 7 of the Preliminary Ecological Appraisal (Green Ecology, Oct 2016).
14. Adherence to Dormice Mitigation Strategy (section 5) of Dormouse Nut Survey Report (Green Ecology, October 2016).
15. Adherence to measures within section 5 of the Bat Activity Survey Report (Green Ecology, October 2016).
16. Adherence to measures within the Ecological Management Plan (Green Ecology, November 2015).

Key issues for consideration

The site lies within the village of Dartington and is largely previously developed land. The key issue is, therefore, whether there are significant and demonstrable adverse impacts that would outweigh the benefits of development.

Consideration of the documents submitted with the application and the responses received from consultees and third parties has identified that potential impacts have been addressed adequately with respect to the following matters.

- biodiversity
- flood risk
- air quality
- contaminated land
- traffic / highways
- landscape

- Open Space

Site Description:

The site lies in the Parish of Dartington, sitting between Cott Lane to the east, Webbers Way Industrial Estate to the north-west and west and a residential estate to the south.

Forder Lane lies immediately to the north and north-west and currently provides access to Forder Lane House, which sits immediately outside the application boundary to the south-east and is a two storey community building. Gidley's Meadow, an estate road, lies to the south and also provides access to the locality. The eastern boundary is formed by a woodland running along a stream. Humpty Dumpty Nursery and associated grounds, which are used for children's play, abuts the woodland to in the south / south-east.

18 one-bedroom dwellings, collectively known as Brimhay Bungalows, currently occupy the central part of the site. The western edge of the application area comprises landscaped open land that is associated with the bungalows. The eastern part of the site comprises landscaped open land that is also associated with the bungalows; and, beyond a post and rail fence, a semi-natural woodland that slopes with increasing steepness down to a stream, which forms the eastern boundary of the application area.

The site contains several individual trees with the northern boundary (Forder Lane) largely comprising a screen of hedgerow and mature trees, although there are some gaps around the pedestrian access. There are several small ornamental trees located within the site. The eastern part of the site is a wooded area with many mature trees and with bushes and scrub at low level.

The bungalows roughly form a quadrant with gaps at each corner and are surrounded by grassed lawns on all sides. The central area is private gardens linked by paths and with a permissive footpath (Proposed PROW) running through to join Gidley's Meadow with Forder Lane. Private gardens can fall within the definition of open space. A row of small gardens is located on the southern side of the southern row of bungalows fronting the highway and Forder Land House.

The site is open to the south with a short tarmac access road opening into Gidley's Meadow, which is the estate road to the south providing access for vehicles, cyclists and pedestrians.

The southern and central part of the site is generally level although the northern area slopes gently down to the north east in the vicinity of an electricity sub-station and Coltwood House, a residential property, that sit outside the application area.

Forder Lane House lies immediately to the south west and outside the application area. This property will not be altered, other than benefiting from additional parking, as discussed later in this Report.

Forder Cottage, a Grade II Listed Building, lies to the north of Forder Lane and beyond a substantial screen of mature trees. Lescaze Offices, a former Devon Longhouse and Grade II Listed Building, lies north west of Forder Lane.

The site is not affected by any designations.

The Proposal:

The application seeks the demolition of 18 bungalows and redevelopment of the site with 32 residential units. The mix of properties is 12 Affordable Housing (AH) units (one bedroom flats), which would be 100% rented, and for which a local connection will be required for occupancy; 8 one, two and three bedroom flats, which would have shared occupancy independent living for people with learning disabilities, which would be 'supported housing'; and 12 open market houses.

The development would replace existing bungalows that do not meet the Decent Homes Standard and need to be replaced. The properties are owned by South Devon Rural Housing Association (SDRHA), which is a Registered Provider of Affordable Housing that is regulated by the Homes and Communities Agency. Occupation is restricted to older people in housing need, but as residents have

moved out they have not been replaced due to the poor quality of provision. Residents have no support services.

The development would entail the loss of 18 AH units, the availability of which cannot currently be guaranteed in the long term, and their replacement with 12 AH units and 8 supported housing units with a level of assisted living (the 'ROC' building). The Torbay Development Agency has undertaken a review of viability and concludes that the applicant would receive no more than an acceptable level of profit.

The layout and design is led by the objective of maximising the number of AH units and funding the supported housing. With a density of 42 dwellings per hectare, the proposed development is at the higher end of what is typical, but the size, spacing and massing of the buildings meets appropriate standards.

The properties are arranged facing inwards around an access road that would be a cul de sac, although a permissive footpath would be retained (or a S.257 diversion order applied for if a PROW order on this path is confirmed by DCC) to allow pedestrians and cyclists to access Forder Lane to the north. Front gardens would be used for parking with new planting and hedges to provide landscaping.

Rear gardens would back onto existing hedgerows in the west and north and to the woodland in the east. Whilst the former would be enhanced with additional planting, the majority of the woodland / scrub area would be cleared to create the gardens. A close board timber fence would be erected at the rear of these gardens to protect the retained woodland and provide a screen to limit light spill. The ROC building would be situated adjacent to Forder Lane House on the opposite side of the access road from Forder Lane, although through access from the Forder Lane car park would not be possible for general traffic. The ROC building is three storeys. Following discussion with Council Officers the design has been altered such that the eaves are not at a significantly greater height than those of Forder Lane House.

The site is well contained with limited views in or out. The aesthetic feel of being within the site would, however, change from a low density to a high density development and open space and habitat would be lost. When approaching from Forder Lane via Forder Lane House, the change would be limited; looking from a position just in front of the fence to the Humpty Dumpty Nursery (outside the application boundary), the change would be noticeable in that views to trees on the boundary and outside the site, and which give a semi rural feel, would become limited. In terms of design, whilst it is recognised that the Dartington legacy is important to the local community there are no formally recognised character areas at the site and its locality. With surrounding development ranging from industrial units and a housing estate to individual properties in landscaped gardens (bungalows and more substantial properties), there is no over-riding architectural style.

Additional parking would be provided to serve Forder Lane House and a separate application (reference 14/1135/45/F) has been submitted to create ten additional parking spaces at Humpty Dumpty Nursery. The latter is tied to this application through a s106 Agreement, the signing of which would be required ahead of the commencement of development.

The application is accompanied by the following documents:

- layout plan, with access details;
- cross sections, elevations, and floor plans;
- drainage plan;
- topographical plan;
- landscape plan;
- draft Heads of Terms for the Section 106 Agreement;
- Design and Access Statement;
- Flood Risk Assessment;
- Preliminary Ecological Assessment, including bat survey;

- Tree Survey, Tree Constraints Plan and Tree Protection Plan; and
- Phase 1 Contamination Assessment / Ground investigation
- Preliminary Ecological Assessment and bat and bird building inspection; dormouse Nut Survey, Bat activity survey, all dated October 2016 prepared by Green Ecology
- Open space, sport and recreation statement prepared by Bell Cornwell October 2016

The Draft Heads of Terms accompanying the application sets out provision for parking, retention of a permissive footpath, tenure of the AH units and phasing of the AH units and market units and Open Space, Sport and Recreation contribution.

Consultations:

- **County Highways Authority** The initial response from the Highways Authority was an objection on the basis that insufficient parking was proposed and there was inadequate information with respect to drainage in terms of a legal easement. The applicant submitted revised proposals that would deliver sufficient parking and the Highway Authority has removed its objection subject to a satisfactory legal agreement to secure appropriate drainage. The Highway Authority requests three conditions that are set out at the beginning of this Report and cover layout and surface treatment, and an accompanying Construction Method Statement; phasing of development; and the agreement of a Construction Management Plan prior to development.
- **The County Archaeology Officer (Historic Environment Team)** does not consider that the proposed development is likely to have a significant impact on any known heritage assets.
- **The County Strategic Planning Children's Services** raises no objection and no financial payment is sought.
- **Devon County Council – Public Rights of Way Officer** - An application has been submitted to Devon County Council to consider the addition of a public right of way from Gidley's Meadow and the highway maintained at public expense adjacent to the day nursery to Forder Lane via Brimhay Bungalows. The application was supported by local User Evidence in support of a public footpath.

A report discussing the application and all evidence relating to it, was submitted to the County Council's Public Rights of Way Committee meeting on the 24th November 2016. The committee members resolved that a modification Order be made in relation to adding a public footpath along the line A - C - B as shown on the plan HCW/PROW/16/24. (can be seen at DCC in Exeter) The landowners have been advised they will need to apply to the Planning Authority to make a Public Path Diversion Order under the Sc 257 Town and Country Planning Act 1990 to accommodate the public right of way within the housing development.

- **Devon and Somerset Fire and Rescue**
Fire and Rescue advises that the proposal will need to comply with the access provisions for emergency vehicles within the Building Regulations.
- **SHDC – Assets & Place Making Specialist** – Although quite lengthy and detailed the entirety of this response has been included. It includes 'recommendations' from the consultee in respect of each particular topic area.

This response is based upon an examination of the planning file and submitted plans.

	Comments ✓	No objection	Objection	Conditions	Section 106
Biodiversity	✓	✓		✓	✓
OSSR	✓	✓			✓
PROW	✓	✓		✓	
Asset of Community Value	✓				

Biodiversity

Updated ecology reports have been submitted in support of the current planning application, namely:

- Preliminary Ecological Appraisal & Bat and Bird Building Inspection, Final Report Oct 2016
- Bat Activity Survey, Final Report Oct 2016
- Dormouse Nut Survey, Final Report Oct 2016

The Survey reports draw the following conclusions and considerations of impacts:

- No statutory or non-statutory designated sites are present within the site, however the site is just within a South Hams SAC Sustenance Zone for Greater Horseshoe Bats (NB – this Sustenance Zone is due to be redrawn in 2017, with the effect that the site will fall almost 3km outside of the Sustenance Zone).
- Mixed semi-natural woodland will be removed (c.893m²) and is of moderate to high ecological value in a local context (lowland mixed deciduous woodland is listed as a Habitat of Principal Importance under the NERC Act).
- Introduced shrub and amenity grassland of low ecological value.
- The buildings due for removal have negligible bat roost potential, with no evidence of bat use found within the buildings.
- The majority of bat activity recorded was commuting and foraging along the species-rich hedgerow on the western boundary of the site (with most activity on Forder Lane itself outside of the site). The western edge of the mixed semi-natural woodland was also of some importance with light sensitive species recorded in very low numbers. Semi-mature oak and ash within the woodland will be retained.
- Artificial light levels at the site were considered to decrease the suitability of habitat for bats. There is potential to reduce levels of light at the site within through the proposed development.
- Loss of the woodland is not considered likely to cause any significant impact on the conservation status of any local bat population.
- A nut search (Jan 2015) recorded a hazelnut gnawed by a dormouse within the semi-natural woodland, confirming the presence of dormice at the site. The Dormouse Report notes that *the 'structure and plant species diversity of the mixed semi-natural woodland on site provide, albeit limited, shelter and foraging opportunities for dormice... In particular the hazel component adjacent to the stream of the mixed semi-natural woodland on site is therefore considered to provide high quality, but extremely limited dormouse habitat... it is concluded that dormice do use the hazel component within the woodland, albeit on a very occasional basis and probably at extremely low population densities... With the quantity of habitat being removed being small and the dormouse population having been proven to be at a very low density a method statement approach can be followed to ensure that there is no impact to dormice when removing the vegetation in question. An EPS licence is no longer deemed suitable as there is no perceived impact to dormice.'*

To avoid and mitigate potential and actual impacts, the following has been proposed:

- Vegetation removal to be undertaken outside of bird nesting season, or a suitably qualified ecologist to confirm absence of nesting birds before removal of vegetation.
- The defunct species-rich hedgerow on the western boundary will be retained
- The mature hazel strip alongside the stream on the eastern edge of the site.

- Roof features with potential (albeit highly unlikely) for use by bats in the bungalows will be carefully dismantled by hand. Timing of these dismantling works should commence outside of the bats active period during the spring or autumn. A bat box should be available on a nearby mature tree prior to these works commencing. In the unlikely event that a bat was found, works would cease, and a licensed bat worker will move any bat found to the bat box and oversee the remainder of the dismantling of features.
- A Mitigation Strategy for dormice has been included within the Dormouse report. This sets out a method statement approach under supervision of a suitably qualified ecologist which is intended to minimise the potential for impact to dormice (to a negligible level) and avoid committing an offence as defined by the Habitats Regulations. This involves a *'two stage process with the first phase being the coppicing of the vegetation over the winter period and the second stage being the stump and root ball removal in the spring.'*
- Prior to coppicing, the area would be searched by hand by an ecologist. In the unlikely event of a dormouse being found, works would be stopped and a dormouse licence applied for. Vegetation would be coppiced to ground level, and sufficient arising would be left until May to provide cover for any undiscovered hibernating dormice to move away from the area when emerged from hibernation. In May, arising's would be removed by an ecologist, whom would conduct a hand search for dormice. If a dormice is found, works would stop and a licence be sought, if not then the ecologist would supervise removal of the remaining coppiced stumps. Works would be completed by the end of May to ensure no breeding dormice are impacted.

To compensate for impacts, the following has been proposed:

- As part of approx. 650m² of new native species hedgerow, a 4m wide (and ultimately 3m high) wide buffer strip of native hedgerow will be planted adjacent (to the west of) the hazel fringe alongside the eastern boundary stream. This will be protected by a close board fence from the eastern boundary of the proposed dwellings.
- The ownership of the boundary hedgerows shall be retained by the landowner, and the management and maintenance of hedgerow feature will be secured in perpetuity via the s106 agreement (in accordance with the Ecological Management Plan, Green Ecology, November 2015). The hedgerows will be managed to develop a bushy structure to provide optimal dormouse habitat and minimise potential cat predation impacts.
- The species rich defunct hedgerow will be gapped up and extended along the bare bank across the northern boundary of the site to create a continuous vegetated corridor along this boundary linking to the retained eastern boundary vegetated corridor. This will assist with protecting Forder Lane from light spill, and enhance the value as a bat foraging/commuting corridor for light averse species. Standard trees will be allowed to grow at intervals within this new hedgerow.

To enhance the wildlife value, the following has been proposed:

- Inclusion of inbuilt bat and bird boxes within new buildings on site, and on mature trees.
- New grass areas will be sown with flowering lawn mix with plug and bulb planting adjacent to hedgerows.
- Management of retained (e.g. stream) and new habitats in a manner to increased wildlife value – these have been set out in the Ecological Management Plan (Green Ecology, November 2015) and adherence will be secured via the s106.

Points to note:

Loss of semi-natural woodland

- Lowland mixed deciduous woodland is a Habitat of Principle Importance on section 41 of the NERC Act. Section 40 of the NERC Act requires LPAs to have regard to the conservation of biodiversity when carrying out their functions (one of which is development management). 'Biodiversity' with respect to the NERC Act can be considered to refer to the Habitats (and

Species) on section 41 of the NERC Act. Accordingly, loss of the area of semi-natural woodland could be considered contrary to the requirements of the NERC Act, and equally para 118 of the NPPF, SHDC DPD DP5 and Core Strategy CS10 (with respect to conserving and enhancing biodiversity). The loss of this habitat is compensated for to some degree by new planting of species-rich hedgerows which will be managed for the benefit of wildlife, however there is clearly a significant net loss of semi-natural woodland.

Dormice

- The approach taken to addressing the dormice on site has changed since this application was initially determined. At that time, the approach taken by the ecologist was to recommend seeking a European Protected Species Licence (EPSL) because there was potential to trigger a Habitats Regulations offence – namely relating to deliberately injuring/killing a dormice, or disturbing a dormice. However, within this current planning application and Dormouse Nut Survey Report, the ecologist considers that subject to following a non-licence Method Statement that it can be ensured that there is no impact to dormice when removing the vegetation – the key reasons being:
 - o Hibernating dormice, if present will be protected by using hand tools to coppice vegetation to 0.5m above ground level. After hibernation any dormice would be able to safely disperse to surrounding habitats which remain unaffected. A pre-works check by an ecologist before removing vegetation will ensure no dormice are present avoiding risk of killing/injury.
 - o Any hibernating dormice would also not be disturbed, as the lower sections of habitat will remain undisturbed. Removal of the lower section would not take place until any dormice had awoken and dispersed.
 - o With respect to damage/destroying the resting place of dormice – it is acknowledged that a small amount of suitable sheltering and foraging habitat will be removed, however when any dormice awake from hibernation the lower section of remaining habitat in addition to arisings that have been left on top will provide a safe corridor for the dormice to disperse into their wider range.
 - o Critically, this ensure Continued Ecological Functionality, enabling dormice to move safely from and through the site within their nature range. In the medium to long term, the quality of the western boundary habitat on site for dormice could reasonably be expected to be improved.
- It is noted that the ecologists consider the site to offer limited sheltering and foraging habitat, with any high quality habitat being within the hazel component of the woodland adjacent to the stream (which is to be retained). Given the limited habitat on site, the ecologists concluded that whilst dormice do use the hazel component within the woodland, it is *'on a very occasional basis and probably at extremely low population densities.'* It is therefore considered reasonable to conclude that the habitat which would be lost (in terms of impact on dormice) would be considered a small amount of habitat (referring to Gov.uk advice on Hazel or common dormice: surveys and mitigation for development projects, formerly more commonly referred to as Natural England Standing Advice). This is clearly open to some interpretation, however clearly the ecologists have established dormice presence (i.e. they are not arguing that dormice are absent), and have set out clear mitigation to reduce the potential for impact (or to trigger Habitats Regulation offence/s) to a negligible level. It is noted that despite repeated requests from the ecologist, Natural England have not been willing to give a formal position as to the acceptability of the proposed non-license approach, or indeed whether a EPSL is required.
- The LPA has a statutory duty (under reg 9 (3) of the Habitats Regulations 2010) to have regard to the requirements of the Habitats Directive. In this respect, this means considering whether an offence will be committed against a European Protected Species (in this case dormice). If an offence is considered likely, then the LPA needs to consider whether the 3

derogations are met, and whether Natural England are subsequently likely to grant a EPSL enabling any development to proceed lawfully (i.e. commit the offence under a EPSL).

- As previously the ecologist had recommended seeking a EPS Licence, the 3 derogation tests were considered the first time this planning application was determined. The LPAs consideration of the tests were discussed at length during the Judicial Review (the LPA approach to the derogation tests having been one of the grounds for the Judicial Review). The LPA approach was upheld by the Judicial Review and that ground was dismissed.
- Given that it is now considered that a Habitats Regulations offence is not likely to be committed, the tests have not been set out again at length within this consultation response (although it is possible to refer to the previous DM Committee Officer Report, and indeed the JR judgement for detail). However, for the reassurance of Members and completeness, it might be considered that there is essentially no change to either consideration of the Imperative Reason of Overriding Public Interest (1st test) or Favourable Conservation Status (3rd test) test. It might be considered that with an alternative planning application (from Dartington Parish Council) also currently validated and due for determination that the situation has changed and that there could be a Satisfactory Alternative. In this respect the following points may be of relevance from the Judicial Review Approved Judgement (from para's 53 and 54):
 - - o *'...for something to be a "satisfactory alternative" for these purposes, it must be "a real option, not merely a theoretical one.'*
 - o *'... Ms Graham Paul submitted that there was a satisfactory alternative in this case, namely the community-led project...However, that officer said that it would be a "fundamental problem" for the scheme if the housing trust as landowner would not make the land available for it. In fact, the housing authority had taken the view that, despite the enthusiasm of the community promoters and the comments of the planning officer, the plan was not financially viable as it was not self-funding. The extent of the financial viability of the counter-proposal may be controversial, but the DMC was entitled to give considerable weight to the view of the land owner, and the extent to which that reflected on the question whether the proposal was a realistic one.'*
 - o *'..the report identified the right test; the proposed development was designed to ensure the provision of appropriate quality social housing; and, at the time the DMC considered the planning application, there was simply no realistic alternative with the public interest benefits which the proposed development offered. Certainly, in my view, the DMC did not err in considering that Natural England might conclude that there was no satisfactory alternative.'*
- For absolute confidence therefore in the position of the LPA (again noting that it is considered that a Habitats Regulations offence will not be committed, and therefore consideration of the 3 derogation tests is not required with respect to the LPA fulfilling its obligations under the Habitats Regulations to have regard to the Habitats Directive) the DM Case Officer may therefore wish to consider:
 - o Whether the alternative (Dartington Parish Council application) would meet the objectives of the SDRHA proposal;
 - o Whether the party that controls the land (SDRHA) would want to implement the alternative (Dartington Parish Council application); and
 - o Whether the alternative (Dartington Parish Council) proposal is financially viable.

The specialist recommends: No objection subject to conditions and s106 clauses

POLICY:

Habitats Directive 1992

The Conservation of Habitats and Species Regulations 2010

National Planning Policy Framework 2012 – para 118

CONDITIONS:

- Adherence to measures within section 7 of the Preliminary Ecological Appraisal (Green Ecology, Oct 2016).
- Adherence to Dormice Mitigation Strategy (section 5) of Dormouse Nut Survey Report (Green Ecology, October 2016).
- Adherence to measures within section 5 of the Bat Activity Survey Report (Green Ecology, October 2016).
- Adherence to measures within the Ecological Management Plan (Green Ecology, November 2015).

S106 CLAUSES:

- Management and maintenance in accordance with the Ecological Management Plan in perpetuity.
- Retention of the ownership of the boundary features by the landowner in perpetuity.

Open Space, Sport and Recreation (OSSR)

In summary the Judicial Review Approved Judgement found that the DM Committee Members were not properly informed of the breach of the Development Plan Policy DP8 which the loss of open space involved. Policy DP8 in full states:

DP8: Open Space, Sport and Recreation

- 1. All open space, sport and recreation areas will be protected. Any loss of these uses will only be permitted where there will be no harm to the character and openness of the surrounding area; and:
 - a. there is a proven excess of such provision and the proposed loss will not result in a shortfall in the plan period; or*
 - b. the community will gain greater benefit from the provision of suitable alternative open space, sport or recreation areas nearby.**
- 2. Where open space is lost, any replacement provision will take account of the needs of the area and current standards of open space, sport and/or recreational provision but should be equivalent to, or an improvement upon, the existing resource, in terms of size, usefulness, attractiveness, quality and accessibility.*
- 3. Public open space, sport and recreation facilities will be provided where new development consists of 2 or more dwellings, or 1,000m² or more of retail, commercial or service development. Where possible, facilities should be provided on-site, as an integral part of the development scheme. However, where on-site provision is not appropriate, off-site provision, or a financial contribution towards it, will be sought with a financial contribution commensurate with supply of facilities to serve the development.*
- 4. Developers will provide for the on-going management of their open space, sport and recreation areas.*

The related policy in the NPPF (para 74) in full states:

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

To address the requirements of policy the applicants have submitted an *Open Space, Sport and Recreation Statement* (Bell Cornwell, October 2016). A response to this Statement has also been received from the Chair of the Don't Bury Dartington under Concrete group.

When considering references to 'open space' within policy DP8 and NPPF Para 74, it is accepted that despite being privately owned, parts of the open space within the Brimhay Bungalow site could be considered within the definition 'open space.' The Judicial Review Approved Judgment notes this within para 12 as follows:

- *'Turning to the policies that are relevant to this ground, reflecting section 336 of the 1990 Act (which defines "open space" to include "any land... used for the purposes of public recreation"), Annex 2 to the NPPF defines "open land" as "all open space of public value", i.e. to include privately owned open space if it is of public value.'*

For completeness, the proposed development will be considered against each of the points under policy DP8 (policy text is italicised and in bold for clarity with officer consideration in plain text):

1. All open space, sport and recreation areas will be protected.

It is accepted that there is a loss of open space area. This is best reflected by use of the figures given within the Preliminary Ecological Appraisal (Green Ecology, October 2016):

	Existing (m2)	Proposed (m2)	Percentage loss
Semi-natural woodland	958	65	93%
Amenity grassland	3,775	2,378 (NB – much)	37%

Any loss of these uses will only be permitted where there will be no harm to the character and openness of the surrounding area;

It is accepted that the proposal would lead to an increase in units with associated impact on character and openness of the site given that there would be less open space and a higher density of dwellings.

and:

- a. there is a proven excess of such provision and the proposed loss will not result in a shortfall in the plan period;***

There are various areas of 'informal open space' within Dartington as identified in early draft of the Dartington Open Space Strategy (6th Dec 2015) some of which are accessed via permitted paths including:

- North Woods
- Riverside walk
- Deer Park Walk
- Hunters Moon Greens
- Orchard Park
- Foxhole Woods
- Yarner Beacon
- Peek Plantation/Redlake Field

A number of these sites are beyond 300m straight line distance from the site (most/all within 500m straight line distance). The key site within 300m is the 'Brimhay Valley' owned by South Hams District Council (c.0.3ha) immediately to the east of the Brimhay Bungalow site (this site itself now listed as an Asset of Community Value).

There is also a playing pitch site (with public access) at the Dorothy Elmhirst Recreation Field, which as well as accommodating football clubs, also provides informal 'kickabout' space for the community.

Whilst Dartington is well served with PROW and permissive paths, it would be unreasonable to assert that there is an excess of provision of public/informal open space within Dartington. The Brimhay Bungalow site itself does have easy access to the neighbouring SHDC owned Brimhay Valley, however this site does have its limitations in terms of facilitating informal recreation. At present SHDC does not have a quantity standard in terms of informal open space within its OSSR SPD (2006), and accordingly it is not possible to undertake an assessment of local provision against this standard. The accessibility standard included within the SHDC OSSR SPD aspires to '*every home being within 300m of an accessible natural green space of at least two hectares*' (this figure being based on aspirational standards recommended by Natural England). It could be considered that the Dorothy Elmhirst Recreation Field meets this requirement, both in terms of size and distance from the Brimhay Bungalow site. Clearly however, there are some restrictions with respect to the types of acceptable 'informal recreation' at the Recreation Field given that it also performs a formal playing pitch function.

In conclusion, it is considered that there is a variety of provision of open space types within Dartington. It is not considered that there is an excess, but neither is it considered that there is a shortfall. A point made by the Chair of the Don't Bury Dartington under Concrete in her Report is also salient – for elderly/disabled residents – having an open space within the Brimhay Bungalow site itself is important, given that they may not be able to access those open spaces offsite. In this respect there will continue to be an area of open space (flowering amenity lawn and plug/bulb planting) within the proposed development (albeit smaller) on the western area of the site.

b. the community will gain greater benefit from the provision of suitable alternative open space, sport or recreation areas nearby.

It is not proposed to provide alternative areas, although off-site commuted sums will be sought via a s106 contribution and this is considered under point 3 of this policy below. This commuted sum will be used to deliver improvements to nearby open space areas (e.g. Gidley's Meadow play area, SHDC owned Brimhay Valley, and playing pitch/recreation projects elsewhere in Dartington as directed by the forthcoming Dartington Open Space Strategy).

2. Where open space is lost, any replacement provision will take account of the needs of the area and current standards of open space, sport and/or recreational provision but should be equivalent to, or an improvement upon, the existing resource, in terms of size, usefulness, attractiveness, quality and accessibility.

The proposed development will lead to a loss of semi-natural woodland and amenity grassland. In turn, the proposal includes the planting of new species-rich hedgerow, and areas of flowering amenity lawn and plug/bulb planting.

If the proposed development was considered as an application on undeveloped land, then the level of public open space being provided would reasonably be considered under-provision (noting that SHDC do not currently have a quantity standard defined within the OSSR SPD – quantity instead determined by 'site based negotiation'). It would be reasonable to consider that the proposed amenity space would offer more aesthetic and wildlife value given that it will have a higher flowering species diversity than the existing amenity grassland. However, equally it would be reasonable to consider that the proposed space is not a central space as at present, instead being more peripheral to the site.

In conclusion the proposed replacement on site provision of informal open space is not considered equivalent or an improvement upon the existing in terms of size, usefulness or accessibility, but that it is reasonable to consider that it could be an improvement in terms of attractiveness and quality.

3. Public open space, sport and recreation facilities will be provided where new development consists of 2 or more dwellings, or 1,000m² or more of retail, commercial or service

development. Where possible, facilities should be provided on-site, as an integral part of the development scheme. However, where on-site provision is not appropriate, off-site provision, or a financial contribution towards it, will be sought with a financial contribution commensurate with supply of facilities to serve the development.

As established above, there is some provision of open space on site (albeit a significant reduction from the existing amount), and there is no proposed provision of sport or recreation facilities on site.

Within the previous determination of this planning application, a commuted sum was neither suggested nor sought.

The DM Committee Report noted '*Open Space, Sport and Recreation contributions do not accrue due to the number of dwellings falling below the threshold.*'

This statement was inaccurate, however it is also noted that the then Natural Environment and Recreation Team did not provide advice to the Case Officer on OSSR contributions.

(Contrary to the previous officer report t)he proposed development does in fact trigger a requirement for an off-site commuted sum (to be secured in the s106) towards OSSR facilities in accordance with policy DP8 and the SHDC OSSR SPD (2006) as contributions can be sought for new development consisting of 2 or more dwellings.

To calculate a commuted sum towards the provision of facilities the number of existing and proposed residents are taken into account, and also the mix of residential housing. In this respect, Table 2 of the SHDC OSSR SPD is relevant, namely that play area contributions are not taken from sheltered housing, and that there is no distinction drawn between market housing and social rented housing. Tables 3 and 6 of the SPD are used as the basis of the calculation.

- Currently there are 18 x 1 bed units on site and applying Table 3 of the SPD, 27 residents.
- The proposal is for 32 units, and applying Table 3 of the SPD, 80.5 residents.
- This gives an additional 53.5 persons that trigger the commuted sum for OSSR contributions (of 53.5 additional residents, 19.5 are within sheltered housing and can be discounted from the calculation with respect to play areas).

The total sum of £44,752.50 should be sought and secured within the s106 (subject to any viability assessment).

This sum should be used to mitigate the pressure of new residents on those OSSR facilities which they will use within Dartington. Of note are:

- Gidley Meadows play area –within the Play Audit undertake in 2016 to support the Joint Local Plan evidence base, the site was scored as a '*2 – Weaknesses, needs improvement*' with the comments:
 - o *Site tired– could take new Multi activity unit to replace existing and new toddler equipment would increase value*
 - o *New fencing and safety surfacing would benefit the space*

This site is the nearest play area (immediately adjacent to the site and will certainly be used by new residents.

- The SHDC owned Brimhay Valley – the closest natural greenspace which may benefit from seating and other interpretation.
- There is currently a Dartington Open Space Strategy nearing completion (as part of the Dartington Neighbourhood Plan). This Strategy is prioritising local projects, using the existing evidence base (e.g. South Hams Playing Pitch Strategy, 2015) and targeted consultation with local clubs and the community. This includes such projects as improvements to the Neighbourhood Equipped Area for Play at Meadowbrook, a new Multi-Use Games Area to

accommodate a variety of sports at Meadowbrook, drainage improvements to the Dorothy Elmhirst Recreation Field, and artificial wickets and nets for cricket at the Foxhole ground.

Investment in these facilities is required to ensure they can meet the needs of current and new residents. Investment will assist with making the facilities fit for purpose and sustainable, mitigating the impact of new residents generated by the proposed development, and accordingly making the proposal acceptable in planning terms (meeting the tests in the CIL Regs).

4. Developers will provide for the on-going management of their open space, sport and recreation areas.

When previously considering this application and s106 agreement, the applicant submitted an *Ecological Management Plan* (Green Ecology, November 2015). This Plan details the on-going maintenance arrangements for maintaining and increasing wildlife value of retained and new habitats. Adherence to these measures in perpetuity was included within the previously drafted s106 agreement, and it should be noted that this included boundary hedgerow features.

The same requirement would be secured within any forthcoming s106 agreement.

The specialist recommendation is: No objection subject to s106 clauses, however the breach of SHDC DPD Policy DP8 and para 74 of the NPPF is highlighted

POLICY:

NPPF 2012 – para 74
SHDC DPD Policy DP8

CONDITIONS: None

S106 CLAUSES:

- The total sum of £44,752.50 towards off-site OSSR facilities within Dartington should be sought and secured within the s106 (subject to any viability assessment).
- Management and maintenance of areas of onsite public open space in accordance with the Ecological Management Plan in perpetuity.
- Securing public access to areas of onsite public open space in perpetuity.

Public Rights Of Way

Since validation of this planning application, Devon County Council has agreed to make a Definitive Map Modification Order (DMMO) which would create a PROW along the line of the permissive path across the Brimhay Bungalow site.

The application was considered by DCC at their PROW Committee on 24th November where it was agreed to make the DMMO. DCC gave notice of the DMMO on 16th March, with a six week consultation closing on 5th May. If no objections are received DCC will confirm the order as made and the path will be recorded on the Definitive Map. If objections are received and not withdrawn the order would have to be submitted to the Secretary of State for determination.

The publishing of the DMMO (or indeed the subsequent addition of the route as a PROW) does not have an effect on the ability of the SHDC DM Committee to determine the planning application.

The proposed redevelopment of the Brimhay Bungalow site would require the diversion of the PROW to be able to proceed (the current proposed layout would result in built development over the route of the PROW). Prior to the agreement to make a DMMO, the landowner was proposing to create a new pedestrian route across the site to the west of the current route.

If the current route is recorded on the Definitive Map as a PROW, then the landowner would need to apply to SHDC (under a separate process from the planning application process) to divert the PROW

under a Section 257 Order (s257 of the Town and Country Planning Act, 1990). The development would not be able to commence without the s257 Order being confirmed. A s257 can be applied for if diverting a PROW is necessary to enable a development to proceed. The s257 diversion order application has its own consultation, criteria and decision making processes.

The specialist recommendation in respect of this issue is: No objection subject to condition

POLICY:

Section 257 of the Town and Country Planning Act (1990)

CONDITION:

The development should not commence until the LPA has evidence that a Section 257 Public Right of Way Diversion Order has been confirmed.

Asset of Community Value

It should also be noted that there were 2 nominations for Assets of Community Value from 'Don't Bury Dartington under Concrete' which fell within the boundary of the current planning application. These nominations were for:

- Brimhay Green (the central green area onto which the Bungalows face) – nomination based on use of the space for relaxation and amenity by residents of the site, and wider community.
- Brimhay Valley (the area of semi-natural woodland and amenity greenspace above) – nomination based on the valleys benefit as a wildlife corridor).

The decision was taken in January 2017 not to list either of these nominations as Assets of Community Value.

When determining planning applications, *'it is open to the LPA to decide whether listing as an asset of community value is a material consideration'* (Community Right to Bid: Non-statutory advice note for local authorities, DCLG October 2012). The fact that an asset is listed therefore may or may not be a significant factor in the balance when the LPA determines an application.

While Assets of Community Value are not expressly mentioned, the NPPF (para 70) does advise that planning decision should *'guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.'*

There is no right of appeal for the community following the decision not to list. The nominating organisation can challenge the council's decision by Judicial Review or complaint if they wish to.

- If the landowner confirmed a desire to sell the land, an initial 6 week interim moratorium would apply and community groups would have the opportunity to express an interest in bidding for purchase of the Asset of Community Value. If it does so, a 6 month moratorium comes into play. The Moratorium gives the group the opportunity to compile a bid to acquire the Asset of Community Value.
- The owner is under no obligation to utilise the Asset of Community Value in a particular way during the period of ownership. The owner can also reject the community group's bid if desired. Once the Moratorium has elapsed, the owner can sell to whoever they chose.
- That when determining this planning application it will be *'open to the LPA to decide whether listing as an asset of community value is a material consideration,'* and the listing therefore may or may not be considered a significant factor in the balance when Members consider the application.
- **South Devon AONB** makes no comment.
- **Environmental Health Section** The Environmental Health Section has no objection with respect to air quality and requests a standard condition with respect to contaminated land.

The Council's Affordable Housing Team strongly supports the proposed development as it provides much needed Affordable Housing (AH) in the Parish of Dartington. The Council has over 950 households on its housing register, Devon Home Choice and a key target in the Council's Home Strategy is to increase the supply of AH for local people.

'The existing bungalows at Brimhay are in a poor state of repair. Redevelopment would meet the Decent Homes Standard, which would include ensuring homes for the existing residents that are more affordable to heat and maintain. In the absence of grant funding the redevelopment is only viable through cross subsidy with market housing. 100% of the sales revenue from the sale of market housing would be used to fund the AH.

The scheme also meets the objective of the provision of accommodation for people with learning disabilities.'

- **Devon and Cornwall Police Liaison Officer** - The Liaison Officer advises that the development should seek to achieve the objectives of Secured by Design.
- **South West Water (SWW)** SWW has no objection subject to implementation in accordance with the FRA.
- **Environment Agency** The Environment Agency has no objection subject to Permitted Development Rights being removed from Plots 10, 11 and 12 as this would prevent development within 3m of the planting zone adjacent to the stream, which falls within Flood Zone 3 and a condition requiring unsuspected contamination to be dealt with accordingly, if found. The Environment Agency also recommends that provision is made to attenuate on site any occurrence of excess surface water.
- **Natural England (NE)** NE has made no comment with respect to the detail of the application. Standing Advice is given in respect of protected species.
- **Dartington Parish Council - Dartington Parish Council (DPC)** DPC raises an objection that is detailed in a letter dated 11th March 2015 and, in so far as it relates to 'planning' matters, is summarised:
 - no input from the SHDC's Design Panel;
 - undermines the Neighbourhood Planning process;
 - poor public consultation;
 - reduced AH provision from 18 to 12;
 - lack of parking and vehicular access issues and consequent impact on Gidley's Meadow;
 - loss of amenity, in particular interrupts the important off-road pedestrian route to Dartington Primary School;
 - inappropriate design given character and proximity of a Listed Building;
 - flood risk;
 - biodiversity;
 - energy efficiency;
 - undermines social cohesion;
 - more than 200 objections;
 - there is an alternative community led proposal; and
 - economic viability to be scrutinised
- **HDC -The Drainage Engineer** raises no objection, but requests conditions.

Representations

Letters of Objection

At the time of writing this Report some 50 letters / emails of objection and 202 signed / addressed copies of a pre-printed card have been received. These are available on the website. The objections can be summarised as follows and are substantially covered in the comments submitted by

Dartington Parish Council dated 11th March 2015:

- local flooding, including risk to Forder Cottage (Grade II Listed);
- need certainty that damage will be repaired should this occur to highway during construction;
- increased traffic (congestion, environment and safety);
- access arrangement and parking (safety)
- light pollution (adverse impact on neighbours, bats and owls);
- footpath link to shops;
- insufficient parking for residents and carers;
- scale of development and height of buildings inappropriate;
- reduction in AH units from 18 to 12;
- no lifts in the three storey building
- inappropriately large number of vulnerable people at one location;
- isolation of vulnerable residents;
- over development;
- loss of trees and green areas;
- missed opportunity to meet higher standards of design;
- tie in with Neighbourhood Plan;
- not viable and would not raise sufficient funds for the ROC building;
- loss of nursery play area;
- inappropriate design;
- inadequate consultation; and
- unclear / unmet objectives

Letters of Support

One letter of support for the development has been received. The letter emphasises that the use of brownfield land avoids development in the countryside; that it will provide work for the construction industry; that it will deliver housing more suited to contemporary needs, whereas renovation could not achieve this; and that it would deliver low cost housing in the absence of public funding.

Re-consultation following the Judicial Review

Further letters of representation and multiple batches of postcard style petitions (some with comments) have been received. These letters of representation reiterate the grounds of objection listed above). Many also state a preference for the proposals submitted in the Parish Council application (ref.0612/16/OAP)

Relevant Planning History

None.

An application has been submitted (ref. 0612/16/OAP) by Dartington Parish Council for an alternative development proposal for the site:-

This application is currently undetermined. Consultations and negotiations on this proposal are ongoing. There is no inherent planning reason why two valid planning permissions can't co-exist on the same piece of land. An approval of this application would not preclude the Local Planning Authority from approving the alternate proposal, should it be considered to be acceptable.

ANALYSIS

Principle of Development/Sustainability:

This is a Full Planning Application for the demolition of 18 AH units and redevelopment of the site for 32 dwellings, including 12. AH units and 8. Social Rented properties with assisted living. The plans submitted with the application illustrate the main access point, which is Gidley's Meadow.

The principle of development at the site is not in question since the proposal is for redevelopment for the same use. 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.

The Local Development Framework Core Strategy Policy CS1 (Location of Development) indicates that the site, which lies within the village of Dartington, is an appropriate location for development subject to detailed planning considerations such as access to the site; the scale, bulk and design of the proposal; and the effect on the neighbouring properties.

The proposal is contrary to policy DP8, open space, sport and recreation, as it will result in loss of open space resulting in harm to the openness of the surrounding area in a location where there does not exist a proven excess, and a greater benefit, in terms of provision, cannot be demonstrated. There is also some conflict with Policy CS10 Nature Conservation. Policy CS10 envisages biodiversity maintained and, where appropriate, conserved and/ or enhanced through development. However, in the planning balance, it is considered that the wider social and economic benefits of securing the residential redevelopment of the site, which a significant element of social housing outweigh these concerns and that in a location in which adequate open space already exists the acceptance of a contribution towards improvements in open space provision in the area is acceptable mitigation.

Sustainable Development

Paragraph 7 of the NPPF 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 the economic role, the social role and the environmental role. A consideration of these elements in the context of the Development Plan is set out below.

The Economic Dimension

Housing development is recognised as an important driver of economic growth. Economic benefits would accrue 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, services and facilities. No adverse impacts have been identified with respect to the economic role.

The Affordable Housing Team has scrutinized the viability assessment provided by the applicant and is in agreement that the level of AH and enabling market units is appropriate for the site and proposed development.

Economic Dimension Balance

Given the positive economic impact and that there is no evidence that the development would result in any significant adverse economic impact, with respect this element of sustainable development the balance is considered to be in favour of the development.

The Social Dimension

The Council's Affordable Housing Team strongly supports the proposed development as it provides much needed Affordable Housing (AH) in the Parish of Dartington. The Council has over 950 households on its housing register, Devon Home Choice and a key target in the Council's Home Strategy is to increase the supply of AH for local people.

The existing bungalows at Brimhay are in a poor state of repair. Redevelopment would meet the Decent Homes Standard, which would include ensuring homes for the existing residents that are more affordable to heat and maintain. In the absence of grant funding the redevelopment is only viable through cross subsidy with market housing. The principle of cross subsidy is established in paragraph 54 of the NPPF. 100% of the sales revenue from the sale of market housing would be used to fund the AH.

The scheme also meets the objectives of the Council's Homes Strategy, which seeks to enhance housing options and choice. The AH units will be available to local people and market houses would be constructed to fund the whole development. In addition, social rented units for up to 15 people would be available within an assisted living facility. Given the NPPF priority (at paragraph 47) to boost significantly the supply of housing this provision carries significant weight in the balance.

In respect of the social aspect of sustainability a number of objections and concerns have been raised. Dartington Parish Council and third parties have, amongst other matters listed above, expressed concern with respect to increased vehicular movements leading to additional congestion on highways and insufficient parking leading to a risk to pedestrian safety; flood risk; and a loss of footpath link to shops. These impacts are considered later in this Report. Objectors have also pointed to adverse impacts with respect to social cohesion and that the proposals should tie in with the Neighbourhood Plan.

The Council is aware that the local community is actively working towards a Neighbourhood Plan. In the absence of such a plan having been adopted, however, there are no criteria against which to judge the proposed development and the Development Plan takes primacy. It is understood that a Neighbourhood Plan is likely to be issued for consultation in November 2015.

Concern has also been expressed with respect to the inappropriately large number of vulnerable people at one location, and that this location is isolated from services and that there would be an adverse impact on the Humpty Dumpty Nursery. The degree to which these are planning matters is limited. However, in the interests of being comprehensive in dealing with social concerns, it is reported that the Council is not aware that the Humpty Dumpty Nursery would experience any adverse impact to its operation. Conversely to this view the Council has requested and the applicant has agreed to provide additional parking to the benefit of the facility.

With respect to services for vulnerable people it is considered that the applicant has clearly articulated that the objective is to maximise the re-provision of AH units and to provide an assisted living facility for people with learning disabilities. Considering the condition of the existing dwellings it is the view of Officers that the development would result in enhanced provision for vulnerable people in a location with good access to services.

Loss of Open Space

Objectors consider that the loss of green space and habitat is detrimental to the community and that as the proposal is contrary to policy DP8, it should be recommended for refusal. The gardens and landscaped areas are privately owned and would be replaced by, albeit in some instances smaller, similar provision. Objectors have stated that the central garden area has been used by the public throughout the time the development has existed as has the PROW footpath through the development. However, there is no public right to access and use of the open space.

The proposal is contrary to policy DP8, open space, sport and recreation as it will result in loss of open space causing harm to the openness and character of the surrounding area of the area in a location where there does not exist a proven excess, and a greater benefit, in terms of provision, cannot be demonstrated. However, in the planning balance, it is considered that the wider social and economic benefits of securing the residential redevelopment of the site, which a significant element of social housing outweigh these concerns and that in a location in which adequate open space already exists the acceptance of a contribution towards improvements in open space provision in the area is acceptable mitigation.

Public Right Of Way (PROW)

The proposal would involve the diversion of the designated PROW that runs through the site. This would require a PROW Diversion Order under S. 257 of the Town and Country Planning Act 1990 - a separate consideration from this application.

The proposed development can accommodate the diversion of the PROW through the estate into Forder Lane. In design terms, the proposed route is 'legible', obvious to users, passes through 'public' parts of the proposed development and offers opportunity for passive surveillance.

It is not considered necessary to append a condition requiring the diversion to be in place prior to the commencement of development. Such a condition would duplicate the S.257 consideration and, in any case, only affects part of the site. In the unlikely event that the existing route cannot be diverted, a further application to reconfigure the layout on this part of the site would be required. There is scope to accommodate the proposed PROW route, if necessary, albeit at the expense of some of the design advantages listed.

Impact on existing Infrastructure, facilities and services

Consideration has been given to the impact of development on infrastructure and services.

With respect to education Devon County Council has confirmed that there is capacity within the Secondary and Primary Schools to cater for this development without any additional funding being required from the developer; and that these schools are within safe walking distance (Dartington Primary is 650m away, King Edward VI Community College is 1.9km away).

The site is within walking distance of a good variety of services and facilities, including a bus route. Whilst many of the residents may have limited access / desire to use a car, it is recognised that the application includes 12 market houses and that carers and visitors would also add to traffic movements. The issue of congestion is considered later in this Report and it is concluded that the development will not result in any significant adverse impact in this respect. The application also includes alterations to highway junctions and sufficient parking provision such that highway safety would be improved.

Surface Water Drainage / Flood Risk

The Environment Agency and Council Drainage Engineers are satisfied that the development can be satisfactorily accommodated on the site without having any adverse impact from surface water drainage subject to conditions ensuring the provision of a fully designed scheme.

Objectors have expressed concern with respect to the potential to increase flood risk at the Grade II Listed Forder Cottage. Given the above and in the absence of any evidence to the contrary, it is not considered likely that this on any other property would be subject to increased risk.

Air Quality There are no concerns with respect to air quality, other than possible emissions associated with construction. A standard condition requiring a Construction Management Plan is proposed.

Environmental dimension balance

No significantly adverse impacts have been identified.

Concern has been raised by consultees and objectors with respect to the treatment of the northern boundary and the loss of part of the woodland. It is considered that the potential adverse impacts can be addressed to a satisfactory extent through the avoidance, mitigation and compensation measures that are proposed as part of the development and as set out in the Landscape Plan and Tree Protection Plan. The impact would remain, however, moderately adverse.

Other environmental impacts have been described above and none are considered to be adverse.

Sustainable development conclusion

In terms of the economic and social dimensions of sustainable development, it is considered that there are substantial 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, the additional dwellings to be provided must carry substantial weight in determination of the application.

Social Dimension Balance

The re-provision of AH units together with a supported living facility is considered to be substantially beneficial. There is, however, a theoretical loss of 6 AH units. This loss is significantly diminished since none of the existing properties meet appropriate current living standards and their renovation is

not viable. A reasonable alternative for the landowner would be to increase the number of open market units and decrease the AH and assisted living units.

Objectors have raised a number of amenity issues including parking, highway access, flood risk and light pollution. The documents submitted with the application demonstrate that all these matters can be addressed appropriately and no consultee raises any objection in these respects.

The balance of the social dimension of sustainable development is, therefore, that the proposed development represents a substantial benefit and that there is a lack of harm from the other identified areas of concern. It is considered that the balance is positive in favour of the development.

The Environmental Dimension

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 biodiversity and surface water drainage.

Landscape Impact

The application is supported by a Landscape Management Plan and associated Tree Protection Plan and Arboricultural Methodology Statement will be necessary prior to the start of the development. The detail of which trees would be lost and how additional planting would be provided at the periphery and landscape planting provided within the development are set out in these plans.

Whilst concern has been expressed by objectors with respect to the loss of part of the woodland area to the east, the concern is a matter of ecological impact rather than landscape. The landscape proposals are acceptable and would be secured through legal clauses and conditions.

Biodiversity

Updated ecology reports (2016) have been submitted in support of the application. These find that the site is of low ecological value in general, although some features are of greater conservation importance.

Nevertheless, the loss of the area of semi-natural woodland is considered contrary to the requirements of the NERC Act, and equally para 118 of the NPPF, SHDC DPD DP5 and Core Strategy CS10 (with respect to conserving and enhancing biodiversity). The loss of this habitat is compensated for to some degree by new planting of species-rich hedgerows which will be managed for the benefit of wildlife, however there is clearly a significant net loss of semi-natural woodland. The defunct species rich hedge (northern boundary) is a local and national Biodiversity Action Plan priority habitat that would benefit from the proposed improvement. The mature oak trees within this hedge are also of local value and would be retained.

The mixed semi-natural woodland is of value providing habitat for dormice amongst other wildlife. The proposed development requires the partial clearance of this area to provide gardens for the houses on the eastern side. A close board wooden fence would be erected at the rear of the gardens to establish a buffer between the fence, new and existing hazel planting. Taking into account planting, the buffer, and securing ongoing positive management for dormice (and other wildlife) through a condition for a LEMP and S106 clause, it is considered that the adverse impact on wildlife using this habitat would be a significant net loss. The loss of the semi-natural woodland could be considered contrary to the requirements of the NERC Act, and equally para 118 of the NPPF, SHDC DPD DP5 and core strategy CS10 (with respect of conserving and enhancing the biodiversity)

The council agrees with the applicant's ecologist that the removal of some semi-natural woodland aspect of the proposal will not generate a requirement for a European Protected Species Licence for dormice. However, for completeness the LPA has considered the proposal against the '3 derogation tests' (with respect to requirements under the Habitats Regulations). As has been detailed earlier within this report, it is considered that there is an Imperative Reason of Overriding Public Interest (namely the replacement of existing bungalows that do not meet the Decent Homes Standard with new affordable and supported housing units), there is no Satisfactory Alternative (improving existing units would be not deliver the same benefits is unviable, and is contrary to the landowner's wishes),

and the ecologist has indicated that taking into account mitigation and compensation, that the Favourable Conservation Status of the dormice can be maintained.

Accordingly, the 3 derogation tests are considered met, and it is reasonable to consider that the proposal will be successful in obtaining a EPS Licence from Natural England, if it is subsequently considered necessary.

Although the site lies just within the South Hams Special Area of Conservation (SAC) sustenance zone for greater horseshoe bats (GHS), it should be noted that this sustenance zone refers to a hibernation roost. The proposed development site is at the edge of the hibernation roost sustenance zone (some 4km distant from the roost). Any foraging activity over the winter months associated with the roosts would be expected to be confined to within 1km of the roost. Accordingly, there is no potential for likely significant effect from this proposed development on the South Hams SAC (as defined within the Habitats Regulations).

The Bat Activity Survey (Green Ecology November 2014) reports that the majority of activity comprises bats commuting and foraging along the mature species-rich hedgerow that forms the western boundary of the Site and the eastern edge of the woodland to the east of the site. Passes by light averse bat species were recorded, however were in low numbers. Key measures to avoid / mitigate for potential impact are incorporated into the proposed development and including retention of the mature trees on the northern boundary (three of which are the subject of Tree Preservation Orders – TPOs); to enhance the hedgerow through new planting; to erect close board fencing; to direct lighting from the properties on the west side of the development, particularly the ROC building; and to undertake monitoring of bat activity. The submission of a Lighting Strategy prior to the commencement of development is proposed as a condition, and adherence to measures within the Bat Activity Survey Report will be conditioned.

In addition impact avoidance would be necessary during the construction phase and it is proposed to control this through imposing a condition requiring the submission of a Construction Management Plan.

Design/Landscape:

It is recognised that the bungalows and the locality have an interesting character that clearly, judging by the strength of public opinion, make a contribution to the area; and it is recognised that the Dartington legacy is important to the local community. This legacy has been described by some objectors as being led by community / social interest. It is considered that the overall objective of the proposal is certainly in keeping with this principle since it seeks to maximise the delivery of AH and to provide supported living to people with learning disabilities. Objectors consider, however, that in not retaining the character of the existing development in terms of its layout, massing and design, the proposed development is unnecessarily detrimental to the Dartington legacy. Representatives of the Community have prepared alternative plans that would provide the same number of units with a design and layout that they consider to be more in keeping with the existing character and would include the retention of open space and the entire area of woodland. This proposal has been presented to the parties that control the land and are not considered by those parties to be a viable alternative.

With respect to the application that is the subject of this Report, it is noted that there are no formally recognised character areas at the site and its locality. With surrounding development ranging from industrial units and a housing estate to individual properties in landscaped gardens (bungalows and more substantial properties), there is no over-riding architectural style.

Objectors have questioned why the proposed layout and design has not been reviewed by the SHDC Design Panel. Committee will be aware that the Panel is available for innovative design that does not adhere to existing design principles, but that it is not standard practice to take all applications to the Design Panel and there is no obligation to do so.

Heritage, character and visual impact - Forder Cottage, a Grade II Listed Building, lies to the north of Forder Lane and beyond a substantial screen of mature trees. There is no inter-visibility between the

setting of this property and the application site. When accessing the proposed development from the north, the driver (vehicular access only to Forder Lane House) / pedestrian / cyclist would pass along a narrow, single carriageway, lane with substantial hedgerows and mature trees on either side. Initially passing Forder Cottage, which is on the right, glimpsed views may be available of that property in the winter. Travelling further along the lane, the application site lies on the left. During the construction phase, which would include creating a dedicated permissive way and some clearance of vegetation, there may be a limited sequential impact in respect to the aesthetic experience within the vicinity of Forder Cottage. The proposals include, however, landscape planting at this point such that the impact in the medium to long term would be negligible with respect to the setting of Forder Cottage.

Neighbour Amenity:

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.

Objectors have identified light pollution as a particular concern. In this respect it is noted that the current use of the site generates light throughout the day and night; and that the design of buildings, notably the ROC building has taken reasonable measures to limit additional light pollution. This matter is picked up again with respect to ecology later in this Report.

Highways/Access:

The Highways Authority has provided a comprehensive response to the application and concludes that the proposed development is acceptable subject to conditions and works to be carried out in accordance with plans that have been submitted.

Following an initial objection and in the light of concerns raised by numerous third parties, additional parking is to be provided prior to construction to increase spaces available for Humpty Dumpty Nursery and Forder Lane House.

Third parties have expressed concern with respect to the potential for construction traffic to damage the highway. This is a matter that will be addressed through the requirement for a Construction Management Plan.

Pedestrian and cycle access points are illustrated on the submitted (revised) plans. The principle and design of the routes are accepted by the Highway Authority.

Other Matters:

Public Opinion - Considerable local opposition exists to the proposed development, with some 200 objections received. The Planning Authority will always consider the views of local residents when determining an application although the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons that can be supported by substantial evidence.

The concerns raised have not been set aside lightly and the Council is mindful of the content of the Localism Act 2011. The objections raised in respect of this application have been carefully and objectively taken into account in forming a recommendation to Committee.

Consultation - Objectors have expressed disappointment at the perceived lack of engagement with the community. In this respect the statutory requirement prior to issuing a planning decision is to allow three weeks consultation for consultees and third parties alike. This requirement has been met. The Council encourages extensive and meaningful engagement with the public, but cannot require this. The applicant has attended at least one public meeting and this is considered to be acceptable.

Land ownership - Third parties have questioned whether the applicant has control of the land. The Council has no evidence to suggest that this is not the case.

Third parties have questioned whether covenants affect the land that would prevent the development in the form proposed. The Council has no evidence to suggest that this is the case, which would, in any event, be a civil and not a planning matter.

DEV29 Green and play spaces

The Planning Balance and Conclusion

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.

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

The application seeks to demolish 18 bungalows that are AH units reaching the end of their viable lifetime; and to replace them with 12 AH, 12 market houses and 8 flats (to accommodate up to 15 people) within a supported housing facility.

For the reasons as set out in this Report it is considered that the proposal satisfies 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.

It is considered that of the objections raised by third parties, and as detailed above, the applicant has demonstrated and consultees have confirmed that the proposed development is acceptable. Concern has been expressed by third parties with respect to the changed character of the area and it is considered that this view has some merit. In addition a moderate adverse impact is likely with respect to ecology, although this impact can be in part mitigated through conditions and legal agreement provisions.

In the balance of sustainability and in the absence of a viable alternative of development that would ensure the re-provision and enhancement of AH and social services, the substantial social and economic benefits are such that it is appropriate to recommend approval of the planning application, unless other matters indicate otherwise.

This application has been considered in accordance with Sections 16,17, and 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy

National Planning Policy Framework

Paragraphs 6 -10; 11; 12; 14; 17; 28; 34; 36; 38; 47; 49; 50 112; 115; 118; 120 & 124

South Hams LDF Core Strategy

CS1 Location of Development

CS2 Housing Provision

CS6 Affordable Housing

CS7 Design

CS8 Affordable Housing

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
DP8 Open Space, Sport and Recreation
DP9 Local Facilities
DP11 Housing Mix and Tenure
DP15 Development in the Countryside
Affordable Housing DPD
AH1 Affordable Housing Provision
AH3 Provision on unallocated sites
AH4 Mix and tenure of affordable housing
Open Space, Sport and Recreation SPD
South Devon AONB Management Plan
Conservation of Habitats and Species Regulations 2010

Provisions of Joint Local Plan

Since the application was previously considered, a draft Joint Local Plan (JLP), South Hams District Council (together with West Devon Borough Council and Plymouth City Council), has been approved by all of the Councils. Known as Regulation 19 stage, this is the last public consultation stage in the process, before the plan is submitted to the Planning Inspectorate for examination. Its primary purpose is to test the soundness and legal compliance of the provisions.

As the local plan progresses through the stages towards adoption it acquires increasing weight, in proportion to: the stage it has reached in the process, the extent to which it differs from the existing adopted policies, aligns with national policy and is contentious. At this relatively early stage in the process it has limited weight.

The JLP recognises Dartington as one of the smaller towns and villages. Paragraphs 5.1.20 and 5.122 relate to residential development in Dartington and are cross referenced to policy TTV 29, which envisages Brimhay Bungalows redevelopment providing an additional 12 dwellings, subject to provisions a-d. They state:-

5.120 Dartington is a settlement that has an extensive range of services and amenities. It is also well connected to other centres, especially the nearby town of Totnes, which extends the range of facilities that can be accessed within a short distance. This relationship is reciprocal, as many people from around the Totnes area use the services and facilities at Dartington. The village has good pedestrian and bus links to Totnes and the National Cycle Network also connects the two settlements. The primary school has a wide catchment area and the shops at Dartington attract people from the local area and from further afield.

5.122 As set out in policy TTV29, 262 new homes and 17,300 sqm of employment floorspace are proposed within Dartington and this is considered to be an appropriate scale of growth which respects its historic character and relationship with Totnes to support the future sustainability of the settlement Brimhay Bungalows, Dartington Housing 12 homes

- a. Demolition of existing housing and remediation of land.*
- b. Measures to avoid and mitigate biodiversity impact, including protection of woodland and minimising lighting.*
- c. Re-provision of community housing.*
- d. Retention of Public Right of Way.*

Of particular note is policy DEV7 which includes provisions for a mix of housing types including 1(iii) for older people who wish to retain a sense of self sufficiency and 2(ii) that all residential development of 11 dwellings or more will provide 30% affordable housing on site.

Emerging Joint Local Plan

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

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

TTV29 Site allocations in the Smaller Towns and Key Villages

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV3 Sport and recreation

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

DEV9 Accessible housing

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV24 Landscape character

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV29 Green and play spaces (including Strategic Green Spaces, Local Green Spaces and undesignated green spaces)

DEV30 Trees, woodlands and hedgerows

Proposed Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure that the proposed development is carried out in a timely manner and in accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby approved shall in all respects accord strictly with drawings and reports:

Location plan 1416 OS dated November 2014

Site layout plan 1416 100 B

Site areas 1416 105 A

Road layout T6592/01 P3

Parking plan 1416 102 A

Affordable Housing plan 1416 106 A

Landscape plan 1413 01 A

Site layout with root protection zones 1416 101 Revision B

Hedgerow management plan 1416103 A Dated this 9 December 2015 Site survey HFA414_LS
Revision 3 (Sheet 1 and Sheet 2)

Elevations and floor plans house type A1 / A2 1416 113 B;

Elevations and floor plans house type A1 / A2 1416 114 B;

Elevations and floor plans house type B1 1416 111 A;

Elevations and floor plans house type B2 1416 112 A;

Elevations and floor plans house type D1 1416 110 B;

SDR apartments floor plans 1416 115 A;

SDR apartments elevations 1416 116 B;

ROC building floor plans 1416 117 A;

ROC building elevations 1416 118 A;

Ground floor block plans 1416 119 B;

First floor block plans 1416 120 B;

Second floor / roof block plans 1416 121 B;

Street elevations 1416 122 B;

Sections 1416 123 B; and

Layout, design and materials specified in the Revised Design and Access Statement dated 30th March 2015

Reason: to ensure that the proposed development is carried out in accordance with the approved drawings.

3. Notwithstanding the provisions of Schedule 2, Part 1, Classes A to F and the provisions of Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development) Order no buildings, structures and erections or fences shall be erected, extended, other than those hereby permitted, without the further grant of planning permission.

Reason: in the interests of biodiversity, visual amenity and preventing an increase in flood risk.

4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

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

5. 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 highway standards are met and that adequate information is available for the proper consideration of the detailed proposals.

6. A Construction Management / Method Plan to be submitted to and approved by the Local Planning Authority prior to the commencement of development. The Plan will include:

- a. the timetable for all work;
- b. daily hours of construction and road closure;
- c. the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- d. 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;
- e. 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;
- f. hours during which no construction traffic will be present at the site;
- g. the means of enclosure of the site during construction works;
- h. details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
- i. details of wheel washing facilities and obligations;
- j. the proposed route of all construction traffic exceeding 7.5 tonnes;
- k. details of the amount and location of construction worker parking;
- l. photographic evidence of the condition of Gidleys Meadow and Mill Road prior to commencement of any work; and
- m. measures to control emissions to the air.

The Plan will state, and the developer will adhere to, hours for delivery and construction traffic to and from the site as restricted to between 08:00am and 18:00 Mondays to Fridays (inclusive); 09.00am to 13.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank / Public Holidays unless agreed by the Local Planning Authority in advance.

In accordance with the recommendations in the Desk Study Survey, dated November 2014, the Plan will include appropriate measures to deal with asbestos containing materials, if present, during the demolition of existing structures. Dated this 9 December 2015 The Plan will include measures to protect biodiversity and trees as set out in the Tree Survey and Tree Constraints Plan dated 18.03.2013 (three documents) and including Tree Constraints Plan 03492 dated 26.03.2013 (reference 2 of 3); Tree Protection Plan 03492 TPP dated 01.12.14; the Arboricultural Supporting Statement dated 30th March 2015; measures in the Extended Phase 1 Habitat Survey; measures in the Preliminary Ecological Appraisal and bat and bird building inspection dated 8th April 2015, and measures in the Bat Activity Report dated 5th June 2015.

Reason: in the interests of health and safety, control of pollution, biodiversity and to protect residential amenity.

7. A phasing plan to be submitted to and approved by the Local Planning Authority prior to the commencement of development. This will include the provision that no more than six of the open market dwellings shall be occupied until all of the affordable rented homes are ready for occupation.

Reason: to ensure the delivery of Affordable Housing.

8. Surface water drainage layout and details to be submitted to and approved by the Local Planning Authority prior to the commencement of development, and the approved details completed and operational prior to occupation. Plans to be in accordance with the Drainage Strategy, reference T6593 SK03 Rev P, and the Flood Risk Assessment and Drainage Plan dated January 2015.

Reason: in the interest of highway safety, public health, amenity and not increasing flood risk.

9. Adherence to the Tree Survey and Tree Constraints Plan dated 18.03.2013 (three documents) including Tree Constraints Plan 03492 dated 26.03.2013 (reference 2 of 3), Tree Protection Plan 03492 TPP dated 01.12.14, and the Arboricultural Supporting Statement dated 30th March 2015.

Reason: in the interest of biodiversity, landscape and amenity.

10. A Lighting Strategy to be submitted to and approved by the Local Planning Authority prior to the commencement of development.

Reason: in the interest of biodiversity.

11. Details of renewable energy / energy efficiency measures to be submitted to and approved by the Local Planning Authority prior to the commencement of development.

Reason: in the interest of sustainability.

12. Adherence to measures within the Ecological Management Plan (Green Ecology, November 2015).

Reason: in the interest of biodiversity.

13. Adherence to measures within section 7 of the Preliminary Ecological Appraisal (Green Ecology, Oct 2016).

Reason: in the interest of high quality design, residential amenity and biodiversity.

14 .Adherence to the Dormice Mitigation Strategy (Section 5) of the Dormouse Nut Survey Report (Green Ecology October 2015).

Reason: In the interests of biodiversity.

15. Adherence to measures within the Extended Phase 1 Habitat Survey, Preliminary Ecological Appraisal and bat and bird building inspection dated October 2016, and Bat Activity Report dated 5th October 2016.

Reason: in the interest of biodiversity.

INFORMATIVES

1. This permission is to be read in conjunction with the Section 106 Obligation between South Hams District Council and South Devon Rural Housing Association dated XXXX 2017;
2. Certain wildlife habitats and species are subject to statutory protection under the Wildlife and Countryside Act 1981 (as amended) and/or the Habitats Regulations 1994. It is a criminal offence to breach the provisions of these legal constraints and if your development impacts upon such sites or species you are advised to take advice from a competent ecologist who has experience in the habitats/species involved and, as necessary, any relevant licenses from Natural England; and Hedges and trees can be occupied by species subject to legal protection, for example, nesting birds or roosting bats. It is a criminal offence to wilfully or recklessly disturb these species at certain times.
3. You are strongly advised to seek competent ecological advice, and as necessary any relevant licenses, prior to undertaking work to hedges or trees. Further details of species protected under the Wildlife and Countryside Act 1981 and the Habitats Regulation 1994 can be obtained from Natural England.