

PLANNING APPLICATION REPORT

Case Officer: Wendy Ormsby **Parish:** Malborough **Ward:** Salcombe and Thurlestone

Application No: 0549/17/OPA

Agent/Applicant:

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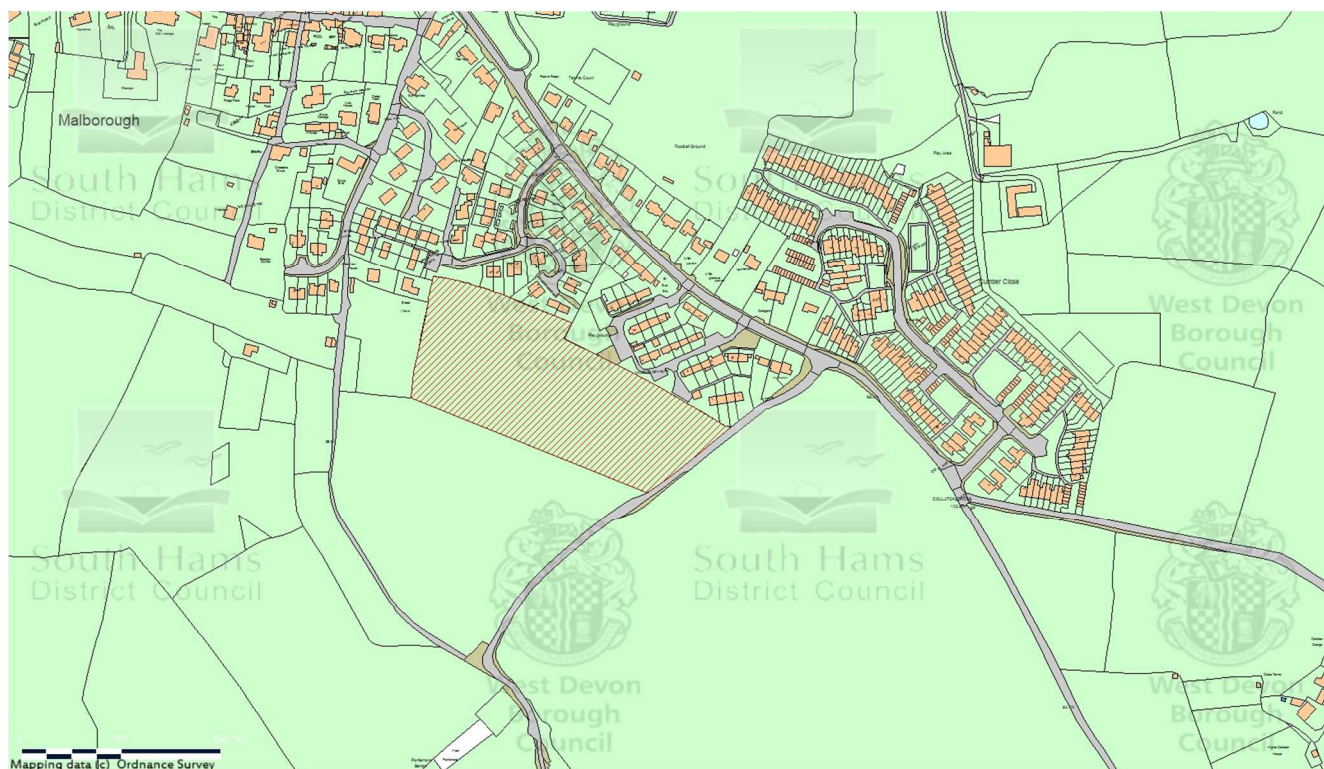
Applicant:

Maze Consulting
C/O Agent

Site Address: Development site at SX 710 394, Adjacent To Malborough Park, Malborough

Development: Outline application with some matters reserved for erection of circa 50no. dwellings and means of access (all other matters reserved)

Reason item is being put before Committee: This is major development in the AONB and so is a decision that should not be taken lightly. This scheme has come forward through full public engagement and neighbourhood plan process; as such it is appropriate that it is determined in a public forum.



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

However, in the event that the Section 106 legal Agreement remains unsigned six months after this resolution, that the application is reviewed by the COP Lead Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the CoP to refuse to application in the absence of an agreed S106 Agreement.

The Section 106 should secure the following:

- 30% on-site affordable housing or 16 dwellings whichever is the greater; of which the mix will be either 50/50 affordable rent to shared ownership or
 - 5 social rent
 - 5 affordable rent
 - 6 intermediate (i.e., market discount at 75%)

To be allocated in accordance with local allocations policy giving Band A-E preference to Parish applicants.

- £164,407 towards secondary school infrastructure
- £23,332 towards secondary school transport
- £12,500 towards early years education
- £380 per resident towards improvements to the adjacent existing play area.
- £595 per resident towards improvements to Malborough Playing Fields.
- Access to and ongoing management and maintenance of Public Open Space and SUDs in perpetuity.
- Implementation of LEMP in perpetuity
- £5000 for speed limit TRO
- £300 per dwelling for travel plan vouchers

Conditions

- Std time outline time conditions
- Submission of reserved matters
- Accords with plans
- Materials to be agreed
- Boundary treatments to be agreed
- CEMP
- Roads to be constructed in accordance with details to be agreed
- Development in accordance with phasing programme to be agreed
- Off-site highway works to be completed prior to occupation of any dwellings
- No other development to commence until access road and footway on the public highway has been provided to base course level and site compound and car park constructed.
- Visibility splays to be provided
- Unsuspected contamination
- No development until a programme of archaeological work in accordance with a written scheme of investigation has been submitted and agreed. Development to take place in accordance with the agreed details.
- No development until a programme of percolation tests has been carried out and approved.

- No development until detailed design of proposed permanent surface water drainage management system is submitted and approved in writing.
- No development until detailed design of construction phase drainage scheme is submitted and agreed
- No development until details of adoption and maintenance arrangements for permanent surface water drainage scheme has been submitted and approved
- Pre-commencement – LEMP
- Pre-commencement - tree/hedgerow protection during construction
- Retention of all hedgerows except where their removal is permitted though this or subsequent planning consents
- Garages and parking areas to be provided in accordance with approved details prior to occupation and retained in perpetuity.
- Removal of PD – roof extensions, means of enclosure, hardstandings
- Lighting strategy to be submitted and agreed
- No external lighting in public areas other than that agreed in lighting strategy
- Arboricultural Impact assessment including details of hedgerow works to facilitate new access to be submitted and agreed
- Development in accordance with EclA

Recommended Non-Standard Informatives:

1. This scheme has been supported because it has been demonstrated through the illustrative plans that an appropriate density of development and provision of green space can be achieved on the site. The Council wish to see a similar quantum of green space to that shown on the illustrative plans included in any Reserved Matters application.

2. Any reserved matter(s) application should provide a mix of housing tenures, types and sizes to help support the creation of a mixed, balanced and inclusive community, which also considers local need.

Key issues for consideration:

- Does the scheme represent sustainable development?
- The development proposes major development in the AONB, it is therefore relevant to consider the landscape impacts of the development and to consider the development against the tests set out in paragraph 116 of the NPPF, specifically the need for the development, the impact upon the local economy, the cost and scope for developing elsewhere and the detrimental effect on the environment and the landscape and the extent to which that could be mitigated.
- Other key issues are highway impacts, flood risk and impact on the amenity of existing neighbours.

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

It is estimated that this development has the potential to attract New Homes Bonus of approximately £59,350 per annum.

The Government is implementing reforms to the New Homes Bonus scheme and the length of NHB payments will be reduced from 6 years to 5 years in 2017/18 and 4 years from 2018-19 onwards.

Members are advised that this is provided on an information basis only and is not a material planning consideration in the determination of this application.

Site Description:

The site of 2.17 hectares is part of a larger agricultural field located on the southern edge of the village of Malborough. The field is currently in arable use.

The northern boundary adjoins residential properties. There is no boundary demarcation on the southern site boundary as currently it is part of a larger field. To the south east the site adjoins a rural road running from Collaton Road to Portlemore Barton. It is proposed to take access into the site from this road

There is an existing public right of way access to the south and west which follows the perimeter of the larger field area to the south. This PRoW connects the existing lane to Shute Park and from there links into the village.

The site is on a south facing slope rising towards the settlement to the north. It is exposed in the landscape and offers wide views of the surrounding countryside

The centre of the village lies to north and walking distances from the site to facilities are as follows (approximate):

- Football Ground: 300m
- Play Area – adjacent
- Village Hall: 335m
- Co-op shop (garage): 440m
- Primary school: 550m
- Post office: 620m

The adjoining residential development to the north is relatively modern, it is mainly two story terraced or semi-detached houses of styles typical of the late 1960's/1970's.

The site lies within the South Devon Area of Outstanding Natural Beauty, the Heritage Coast and Undeveloped Coast.

The Proposal:

This application seeks outline planning permission for circa 50 dwellings. All matters are reserved except for access. Two illustrative layouts have been provided to indicate how 50 dwellings could be provided on the site. The layouts show a relatively low density development of approx. 23 dwellings per hectare including 0.4ha of informal public open space.

Both layouts include a central area of open space which would link into the existing playground adjacent and an area of open space is proposed south of the main site access, although this is principally a drainage attenuation area.

It is proposed that housing in the southern area of the site would be lower (1 or 1.5 stories) to minimise landscape impact. A new Devon Hedgebank is shown on the southern boundary.

House size/bedroom numbers would not be agreed at this stage for the open market dwellings; the illustrative proposals show a mix of 1 or 2 bed apartments and 2, 3 and 4 bed houses/bungalows.

Vehicular access is proposed from the rural lane running along the south east boundary. The first illustrative layout also indicates pedestrian access from the north-west corner of the site into Portlemore Close and from the centre of the site into Sparrow Park via an existing access from the existing play park, or directly into Malborough Park onto Collaton Road.

The second illustrative layout does not include the proposed access into Portlemore Close and shows the access road running further to the north within the site.

Drainage details have been submitted to demonstrate that a SUDs complaint surface water drainage management scheme is possible on the site. This has included two attenuation based options on land outside of the site on land within the applicant's control, on farmland south of the access lane.

Consultations:

- County Highways Authority No objection subject to conditions and S106 to provide:
 - £5000 for speed limit TRO
 - £300 per dwelling for travel plan vouchers
- Environmental Health Section: No objection subject to conditions
- DCC Archaeology: No objections subject to pre-commencement conditions
- DCC Flood Risk: No in-principle objection subject to conditions
- AONB Unit: No comments received
- SHDC landscape: Objection
- Affordable Housing: Support
- SWW: No objection
- SHDC Ecology: No objection: The EclA is thorough and reflects the potential to mitigate impacts on protected species and deliver meaningful enhancements. The proposal is in keeping with national and local policy. The s106 should secure access to and ongoing management and maintenance of Public Open Space in perpetuity. A LEMP will be required prior to commencement.
- Open Space Sport and Recreation: The adjacent play area is SHDC owned, and scored 1 out of 5 in terms of quality on a recent play audit undertaken to support the JLP – accordingly this is a site noted as needing investment to meet the needs of existing and

future residents. This facility is the play and recreation site that would be used extensively by the residents of the 50 proposed dwellings and an offsite sum of £380 per resident using the OSSR SPD resident per dwelling table towards this play area would be necessary to mitigate the impact of these new resident.

The Playing Pitch Strategy notes that the Malborough Playing Fields are very well used, but require improvements, and if has been flagged up in the annual review that improvements are required to drainage, as the current condition is preventing winter use. I suggest a commuted sum of £595 per resident is sought towards 'improvements to Malborough Playing Fields' is sought, in accordance with tables in SHDC OSSR SPD (to be calculated when dwelling size/mix is know

- DCC Education: No objection subject to financial contributions as follows:
 - £164,407 towards secondary school infrastructure
 - £23,332 towards secondary school transport
 - £12,500 towards early years education
- Natural England: No objection subject to appropriate mitigation being secured which should include:

Green Infrastructure should take up a significant part of the site given its prominent and edge of village location. This should be provided through a Landscape and Ecological Management Plan (LEMP).

In order to ensure that the hedgerow on the southern boundary is successful in its aim of mitigating the visual impact of the development and increasing the site's biodiversity interest, it should be in the public realm and not part of private gardens. This is not clear from the LVIA or the other plans submitted.

They advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures

- Police AOL: Consideration of impact of new pedestrian links to be considered in terms of perception of crime; measures to be put in place to prevent parking on the open space; open space should be overlooked and not positioned to the side of dwellings (plot 2)
- Town/Parish Council:

Malborough Parish Council Response to Planning Application 0549/17/OPA. (first response and relating to Illustrative layout 1)

Outline application with some matters reserved for erection of circa 50 no dwellings and means of access (all other matters reserved).

This application is only regarding the outline permission for the site and the access to it, but in considering this the Parish Council must take into account the finished development to assess it properly.

The development has to fit with the village and the detail supplied by the applicant with this application needs to be taken into account. The application also needs to be appraised taking into account the Emerging Neighbourhood Plan for Malborough which has been through the REG 14 consultation and has the aim of 50% affordable housing in developments.

Malborough Parish Council is very concerned about this application being only for access and outline. The agents for the Owners have been in discussions with the Neighbourhood Plan Group, the parish council and SHDC and the plans were adapted as a result. The details furnished with the application are those that were put to the Village through the consultation for the emerging Neighbourhood Plan and which the applicant took part in. The Parish Council needs to be sure that what is proposed in the detail is what is actually built and not a different layout and increased numbers of dwellings.

Malborough Parish Council concerns:

- The outline application for development on the site is in line with the draft Neighbourhood Plan except for the % of affordable homes. The sites put forward to the Council went to public consultation and this site was favoured by more people than the other sites. But to truly represent the Parish, the Council needs to be confident that the completed development will be as set out in the details which accompany this application.
- These have been the subject of discussions with the representatives of the landowners and were available to the parishioners as set out in the Statement of Community Involvement attached to this application.
- The Council agrees with the design recommendations as set out in the Design and Access statement with this application.
- The phrase 'circa 50 houses' concerns the Council. There is no requirement for more than 50 houses in the Emerging Neighbourhood Plan, the affordable houses proposed would satisfy the Village demand as established by the latest Housing Need Survey.
- The number of houses proposed is directly related to the number of affordable houses required in the village as a result of the latest Housing Survey. Therefore the proposed affordable house numbers should be for the residents of Malborough and their dependants. If open to anyone on the SHDC list, it calls into question using the information as a justification of the size of the development. The Parish Council would like to see the Affordable portion be one third, houses for Social rent, one third affordable rent and one third low priced in perpetuity. This would be in line with the Joint Local Plan and cater for the aspirations of villagers. The emerging Neighbourhood Plan has set out a local allocation Policy.

Local Allocation Policy:

- All new affordable housing stock will be ring-fenced for local need only - where that need falls within the identified A-E eligibility criteria.
- The SHDC Local Allocation Policy⁴ should be used to help inform and assess need but those with a local connection to Malborough, irrespective of the need band, are required to be homed before the houses are offered up to a wider catchment ie: LOCAL applicants

falling within Band E will be prioritised above those with a higher identified need from outside the local area **and**,

- If properties remain vacant after ALL local need is met (i.e. Band E inclusive) the catchment can then be rolled/cascaded out from Malborough i.e. prioritising those that live in villages/hamlets closest to the Parish of Malborough before opening up the new stock to a wider catchment.
- *Policy note: SHDC Housing Officers have confirmed that this proviso (policy 3) can, and will, be included in any subsequent Section 106 agreement.)*
 - The layout with the green space as set out fits well with the edge of settlement site. Extra houses would upset this and be unacceptable
 - The position of the access road is acceptable except for the visibility splay on the eastern side of the road junction. At present the traffic from Cumber Close and beyond cause difficulty at this junction, both the speed of traffic and the poor visibility. The planned junction
 - needs to improve this by increasing the splay on the east side, preferably by pulling the hedge back. The land is in the same ownership as the proposed site.
 - Devon County Council in their response mention the need for at least a 43mtrs splay as against the existing 35 mtrs. Also DCC is quoted in the Transport Statement dated 1/2/17 referring to a possible 50 mtrs splay. The Parish council would agree that the splay should be 50 mtrs. This is in response to reports from residents using the junction and taking into account the well documented speed of the traffic. The pavement down the western side of the access road is welcome.
 - The assumption that the Holsworthy development sited in the details as a mirror image of this development gives us cause for concern. We consider that the number of people commuting from the village together with tourist traffic makes this village different and the traffic flow will be greater.
 - There is a need for yellow lines to be on the western side of the junction of the access road with Collaton Road. Cars which park there now make it difficult for the few cars that use the lane to exit safely
 - The Parish Council agrees with the view of DCC that a covert speed survey should be carried out to get a true picture of traffic speeds on Collaton Road. The speed of traffic on Collaton Road needs to be controlled to be able to accommodate the extra traffic safely.
 - Along Collaton Road a series of parking restrictions on either side of the road to slow the traffic flow are needed without compromising the visibility. The junction at Townsend Cross would also be put under increased pressure. A mini roundabout here would help the traffic flow and provide traffic calming around the corner and for the nearby Zebra crossing.

- The road through the development is considered to be too straight and once the access is agreed some sort of calming will be needed to make sure that the road is safe for pedestrians in line with the applicant's Transport Statement.
- There is dedicated parking for the dwellings. The Parish Council questions where visitors will park and where residents with trade vehicles will also park. Parking within the village is already a problem.
- Have the developers obtained permission from SHDC in the case of access to Malborough Park and the Guinness Trust for Sparrow Park for the very necessary pedestrian access? The third potential entrance to the bottom of Jubilee Road is through an area of private parking for the residents of Portlemore Close as highlighted by submissions to this application.
- These accesses need to be surfaced to allow prams and disabled buggies to use it. The Malborough Park play area needs to be fenced and not just part of the general green area.
- A path from the south west corner of the site to Portlemore lane and onwards to Shute would improve the connectivity to the village still further.
- The neighbouring properties are very keen that the existing boundary hedges are maintained and enhanced for the benefit both of themselves and the new houses.
- The neighbour to the immediate west of the site has a borehole in his property close to the boundary and is concerned about the effect of excavations in the site on his supply.
- Concern has been expressed by residents of Malborough Park about parking and the effect the development could have on it. The residents there have dedicated parking spaces not on the highway for which they pay SHDC a small rent for and are included on their deeds.
- They already have problems with people from outside the estate using the spaces. Can SHDC help with this and ensure the new development does not cause further problems.
- Malborough Parish Council could approve this application if these concerns above are addressed and the proposed layout is maintained. Also the % of affordable housing is at the least achieved and preferably increased towards the 50% aim.
- The Council will ask for an informative to be put on the decision for these two matters layout and affordable housing.

Malborough Parish Comments on revised plans (illustrative layout No 2):

- The number of affordable properties has reduced from 16 to 15, please provide an explanation as to why?
- Have the footpath links been approved?
- Adequate parking is essential. A minimum of two parking spaces per property plus suitable visitor parking and allowances made for commercial vehicles is required.

- A garage does not constitute a parking space and should not be considered as one.
- The negotiations to date have been both positive and welcome. We look forward to viewing the final plans, in the meantime, subject to acceptable clarification of the above points, Malborough Parish Council approve in principle.

Representations:

Approximately 16 letters of objection to this proposal have been submitted which include the following concerns:

- Impact on Portlemore Close needs to be considered, the proposed pedestrian access will cross the private car parking spaces of Portlemore Close. There is no public right of way across this private land. There is no footway here and this could cause safety issues.
- Visitors may choose to parking in the spaces in Portlemore Close
- Existing open space should not be incorporated into the site
- Two storey houses could tower over adjacent properties
- Exceeds identified housing needs in village which is only for 46 further dwellings
- Local plan identifies a need for only 28 new homes.
- Will require increased yellow lines on Collaton Road, speed limit should be reduced to 20mph
- Affordable homes will not be affordable in reality.
- Should build out Alston Gate Phase 2 first
- Traffic congestion and adverse impact on highway/pedestrian safety
- Village infrastructure and services do not have capacity for more houses
- Adverse landscape impact
- Revised layout shows a dwelling that is closer to Broad Views House, Portlemore Close and which could cause subsidence and be overbearing and cause overlooking.
- Visibility restricted by a high hedge
- Scheme should provide smaller, cheaper units
- Housing need should be met through a series of smaller sites not one large site.
- Planning Statement is not comprehensive and omits important information
- 50 houses have already been approved in Malborough since 2010, so a further 50 cannot be judged to be 'exceptional'
- Contrary to LDF policy and JLP policy
- Contrary to NPPF, in particular para 114, 115 and 116
- Contrary to AONB Management Plan
- No exceptional circumstances demonstrated to justify proposal
- Fails to conserve and enhance AONB, Heritage Coast and Undeveloped Coast

ANALYSIS

Principle of Development/Sustainability:

The application proposes major development of circa 50 dwellings on a site in the countryside, adjacent to but outside of the Malborough settlement/development boundary and within the AONB. The site is not allocated in the South Hams LDF or the emerging JLP but is the preferred housing site allocation in the emerging Malborough Neighbourhood Plan.

The starting point for consideration is the development plan and the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions made should be in accordance with the development plan unless material considerations indicate otherwise.

The proposed development would need to be in conformity with South Hams District Council (SHDC) Core Strategy (December 2006), SHDC Development Policies (July 2010) to be acceptable in principle, these documents form part of the Local Development Framework (LDF).

The Plymouth and South West Devon Joint Local Plan (JLP) is the emerging development plan which when adopted will replace the current LDF. The JLP is at an advanced stage having been submitted for examination and as such carries weight; the extent to which there are unresolved objections to relevant policies will influence how much weight individual JLP policies can be given.

The Malborough Neighbourhood Plan will form part of the development plan when it is adopted. It is at Regulation 14 stage at present so carries some, but limited weight.

Paragraph 216 of the National Planning Policy Framework (NPPF) states that:

From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

Policy CS1 of the LDF identifies settlements in which the principle of development is acceptable and this includes Malborough. The site however lies outside of the settlement boundary, in the countryside. Policy CS1 states that outside of identified settlements development will be strictly controlled and only permitted where it can be delivered sustainably and in response to a demonstrable local need.

Policy DP15 of the LDF addresses development in the countryside and states that within the countryside, development will be permitted where it requires a countryside location and:

- a. supports the essential needs of agriculture or forestry interests; or
- b. meets the essential, small scale, and exceptional local development needs of a settlement which cannot be met within development boundaries.

Policy TTV31 of the emerging JLP addresses development in the countryside and states, inter alia, the following:

Housing and employment development adjoining or very near to an existing settlement will only be supported where it meets the essential, small scale local development needs of the community and provides a sustainable solution.

Within the JLP housing sites have not been allocated for villages, this has been left for Neighbourhood Plans to identify and bring forward. Policy TTV30 of the JLP identifies Malborough as a village able to accommodate around 10 dwellings. This is not considered to be a maximum figure. The Malborough Neighbourhood Plan (MNP) has identified the application site, known as Portlemore Downs, as the preferred site for housing development; the plan identifies a need for 16 affordable housing to meet current needs and a minimum of 46 new houses (market and affordable). These figures are extracted from the 2015 housing needs survey and population growth projections. The plan expects the Portlemore Downs site to provide the needed 16 affordable units imminently with work commencing before December 2017.

Paragraph 49 of the National Planning Policy framework (NPPF) states that:

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

This authority has a demonstrable 5 year housing land supply of deliverable housing sites, the evidence base for this forms part of the emerging JLP. This evidence has yet to be tested however and as such only limited weight can be attributed to it at present.

The presumption in favour of sustainable development is a relevant consideration for this application and this is set out in full at Para 14 of the NPPF which states, inter alia, that:

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

Addressing the first bullet point it is relevant therefore to consider whether the proposals accord with the development plan. To comply with policies CS1 and TTV31 there should be an essential, local need for the development.

The MNP has identified a local need for a minimum of 46 new homes including 16 affordable homes.

The Council's adopted policies regarding location of housing development are however out of date as they are based on housing supply up to 2016 only. Advice in para 14 states that

where the development plan is out of date, if the development is sustainable, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or if specific policies in the NPPF indicate development should be restricted.

It is relevant therefore to consider the following:

- i. if the development is sustainable;
- ii. are there any adverse impacts and if so whether they would significantly and demonstrably outweigh any benefits; and
- iii. do specific policies in the NPPF indicate development should be restricted

Sustainable Development

Location

Policy CS1 of the LDF sets out where development is acceptable in principle subject to detailed material planning considerations. Malborough is included as one of the districts' villages and is therefore covered by policy CS1, being a village with an appropriate level of infrastructure and service provision to accommodate some degree of additional development.

Policy TTV30 of the emerging JLP also identifies Malborough as being a sustainable village.

Policy TTV1 identifies development appropriate for sustainable villages as being that which will meet locally identified needs and which will sustain limited services and amenities; settlement boundaries are identified to focus development accordingly.

Policy TTV2 states that the LPA will support development of housing in a location where it will enhance or maintain the vitality of rural communities.

Policy SPT2 states that the LPA will apply principles of sustainable linked neighbourhoods and sustainable rural communities to guide how development and growth takes place in the Plan Area, this includes development being well served by public transport, walking and cycling opportunities

It is clear that Malborough, as a village, is sustainable however this does not necessarily mean it is sustainable for all types and amounts of development. In addition any sustainable development would need to be able to properly access the village facilities to benefit from them. In this case the application site will have direct linkages into the village; all local facilities, including the shop, pubs, school and village hall and playing fields are within a reasonable walking distance of the site.

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

The Economic Role

Housing development is recognised as an important driver of economic growth and there

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

Paragraph 7 of the NPPF however does qualify this benefit; stating that LPA's should ensure that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.

In this instance, this plan-led development is considered appropriate in terms of siting, scale and timing so as to provide a positive economic benefit to the village without putting undue pressure on local services and infrastructure.

The development will result in the loss of 2.17 ha of Grade 3 arable land. Having regard to the size of the land area it is unlikely that the loss of this agricultural land will have a significant adverse impact on the economy of Malborough.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing, including 30% (or a minimum of 16 units) of the homes being affordable. These affordable homes will be either 50/50 affordable rented/ and shared ownership or 5 social rent / 5 affordable rent / 6 intermediate (market discount at 75%)

The layout shows a wide range of housing size and includes some dormer bungalows, this varied housing mix will make a positive contribution to the local housing stock

Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance. The applicant has submitted a viability statement with the offer of 30% affordable housing. The Affordable Housing team have reviewed this statement and are in agreement that the level of affordable housing is appropriate for this site. Malborough is a sustainable location benefiting from a range of services and as such can support the delivery of more affordable housing.

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

Impact on existing Infrastructure

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

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

in the area. The proposed new vehicular access is acceptable to the Highway Authority and meets current highway standards.

The site is within walking distance of the village centre where there is access to a range of local facilities and to bus services.

Impact upon Neighbours

This is an outline application with access only to be agreed at this stage. Two illustrative layouts have been provided that show how 50 dwellings could be accommodated on the site. The layouts have been prepared in consultation with the Parish Council who are broadly supportive of the layouts. Nevertheless the layouts are purely illustrative.

The principle concern raised by neighbours relates to the pedestrian link from the north west corner of the site to Portlemore Close, shown in the Option 1 illustrative layout. Concern is raised that the access would open into private parking spaces and a private parking area, this could cause conflict and highway safety issues and could encourage parking by residents or visitors in these private parking areas.

The Option 2 layout omits this link. Whilst this link is desirable to increase permeability of the site it is not essential as another link through the play area is possible.

Concern has been raised by occupants of 2 adjoining dwellings about the scheme having an overbearing impact, causing overlooking and loss of light. The submitted plans are illustrative only; it is considered that an appropriate scheme could be achievable on site for the quantum of development proposed that would have an acceptable relationship with existing adjoining dwellings.

It would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development

The Environmental role

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

Landscape/AONB:

The site is in a very sensitive landscape location within the AONB, Heritage Coast and Undeveloped Coast. This applicant has been considered by the Council's Landscape Specialist who has provided detailed comments as follows:

In considering this application and assessing potential impacts of the development proposal against nationally protected landscapes, in addition to the Development Plan, the following legislation, policies and guidance have been considered:

- *Section 85 of the Countryside and Rights of Way (CRoW) Act;*
- *Section 11 of the NPPF in particular paragraphs; 109 and 114-116;*

- The National Planning Practice Guidance (NPPG) particularly Section 8-001 to 8-006 on Landscape; and
- The South Devon AONB Management Plan and its Annexes.

In respect of the principle policy tests in the NPPF, this application is considered to constitute “major development” in the context of paragraph 116, due to the scale and extent of the proposals in the context of the village of Malborough, and the significant visual built addition that the proposals would make to the village within the AONB landscape.

In line with paragraph 116, you will therefore need to consider whether there are any exceptional circumstances that weigh against the presumption of refusal contained within this paragraph, and whether the proposal is in the public interest.

Landscape Character and Visual Impact

The site lies within Landscape Character Type 5A: Inland Elevated Undulating Land. The principle characteristics of this area relate to its elevated and exposed character, with expansive views across valleys and between ridgetops. It is generally unsettled, with Malborough forming a notable and iconic village on a ridgeline, which is visible over considerable distances.

The submitted LVIA includes a fair representation of landscape and visual impacts resulting from the proposed development. The visual presence of the new development will be principally experienced from the south and south west, with open views of the whole site being available from the facing valley side, and the ridgeline to the south of Malborough. Close and significant effects will also be apparent from the existing residential properties immediately north of the site and users of the public roads at Malborough Park and the lane to the east of the site. Although seen in the context of existing development at Malborough, this extent of visibility, and the scale of the site is significant in the context of the AONB.

The mitigation measures set out in the LVIA include height parameters, density of built form, green infrastructure, locations of open space and new structural landscaping. Whilst these measures would help reduce the landscape and visual impacts of the proposals, I’m conscious that given the outline nature of these proposals, these measures are not secured through this application. It should therefore be noted that the impacts could be more significant and adverse than those predicted in the LVIA, with inappropriate heights, densities, massing, materials, and landscaping resulting in a visually prominent development in a very exposed and sensitive location.

If approved, I would suggest that the number and heights of the proposed dwellings are elements that should be restricted by condition to ensure that future reserved matters applications aren’t principally at odds with the illustrative masterplan.

Protected Landscape

As noted above, there is the potential for adverse effects on views within the AONB, and adverse effects on the local landscape character of the designation. The South Devon AONB Team have made more detailed comments on these likely effects and their consistency with the AONB Management Plan policies and objectives. I would agree with these comments, and note that in line with NPPG paragraph 8-004-20140306 the AONB Management Plan is a material consideration.

Arboricultural Impact

The development indicated could be achieved at this site without impacting on any significant trees or hedgerows and I would therefore raise no objection on arboricultural grounds, subject to securing appropriate protection for the existing vegetation during construction. The southern boundary forms critical green infrastructure and mitigation, and should therefore be kept in the public realm rather than being in rear gardens, to secure its retention and management in perpetuity.

The proposed access would impact significantly on a stretch of roadside hedgerow. It is not clear in the application if this is to be moved, or removed and reinstated. Full details of this element, including a method statement for hedgerow works should be secured by condition if the application were to be approved.

Policy and Recommendation

The potential for adverse effects upon the AONB landscape, Undeveloped Coast and local visual amenity would conflict with policy tests CS9 and DP2. In particular, CS9 (2) & (3) which seek to protect the character of the undeveloped parts of the coast; and conserve and enhance the quality, character, diversity and local distinctiveness of the natural environment and landscape character. DP2 contains similar tests, along with a requirement to avoid "...unsympathetic intrusion in the wider landscape, such as detrimental impact on the character of skylines or views from public vantage points." The visual expansion of development on the prominent ridgeline at Malborough would not "conserve and enhance" the landscape as required by these policies.

Although these impacts could be moderated to an extent with good design and appropriate mitigation, combined with this being "major development" within the AONB in NPPF (116) terms, I would still raise an objection on landscape grounds.

Notwithstanding the policy conflicts above, I note that the Neighbourhood Plan process for Malborough considers a number of sites around the village for development, and identifies this as the preferred site. I would agree with the conclusions in the draft Neighbourhood Plan that this is the preferred direction for growth in the village when considering landscape impacts. This consideration of alternatives, and the delivery of affordable housing meeting an identified need could be considered to count towards the "exceptional circumstances" tests of NPPF para. 116 in the planning balance. However, proposing a greater number of dwellings and a lower percentage of affordable housing than is anticipated in the draft Neighbourhood Plan weakens the exceptional nature of the proposals in this regard.

Suggested Conditions

If you were minded to recommend approval of the application, I would request that hard and soft landscape conditions are attached, to include protection for the site boundaries during construction, and full details of the hedgerow works to the site access. In addition, controls on the number of dwellings coming forward with any future Reserved Matters applications, and the heights of these dwellings in line with Illustrative Masterplan would be welcome conditions in order to secure some basic design mitigation.

Policy DP2 of the LDF states that:

Development proposals will need to demonstrate how they conserve and / or enhance the South Hams landscape character, including coastal areas, estuaries, river valleys, undulating uplands and other landscapes, by:

- a. reflecting the needs and issues set out in identified landscape character areas;

- b. ensuring its location, siting, layout, scale and design conserves and/or enhances what is special and locally distinctive about the landscape character (including its historic, biodiversity and cultural character);
- c. retaining, integrating and enhancing distinctive features such as trees, ancient woodlands, field boundaries, walls, hedgerows, watercourses and river valleys;
- d. avoiding unsympathetic intrusion in the wider landscape, such as detrimental impact on the character of skylines or views from public vantage points and light pollution; and
- e. respecting the unspoilt nature and tranquillity of the area.

Policy CS9 of the LDF states that in designated AONB's their conservation and enhancement will be given great weight and development will not be permitted which would damage their natural beauty, character and special qualities or prejudice achievement of their designated purpose.

Policy DEV24 of the JLP also seeks to conserve and enhance landscape, townscape and seascape character and scenic and visual quality, avoiding significant and adverse landscape or visual impacts.

Policy DEV25 of the JLP states that development which would have a detrimental effect on the undeveloped and unspoilt character, appearance or tranquillity of the Undeveloped Coast, estuaries, and the Heritage Coast will not be permitted except under exceptional circumstances.

Policy DEV27 of the JLP states that the LPAs will protect the AONBs, including their setting, from potentially damaging or inappropriate development and this includes refusing permission for major developments in or detrimentally affecting the setting of the protected landscapes, except in exceptional circumstances and where it can be demonstrated that they are in the public interest.

Para 115 of the NPPF states that:

Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

Paragraph 116 of the NPPF states that:

Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

The development of 50 dwellings adjacent to Malborough constitutes major development in the AONB. The Council's landscape specialist has concluded that the proposed development fails to conserve or enhance the landscape and as such the proposal is contrary to adopted and emerging development plan policy. This weighs heavily against the development in the planning balance having regard to the great weight which is to be given to conserving the scenic value of the AONB.

Paragraph 116 requires that major development in the AONB should be refused except in exceptional circumstances and when it can be demonstrated they are in the public interest. Consideration of such applications should be assessed against three tests as follows:

- (i) *The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.*

Malborough Parish, through a recent Housing Needs Survey and as part of the evidence base for their Neighbourhood Plan have identified a local need for a minimum of 46 new dwellings, of which a minimum of 16 affordable homes are required. This need has been identified to provide for existing housing demand and planned growth of the village over the plan period. The MNP identifies a vision for the village which includes that it will continue to be a vibrant, growing and prosperous community with a balanced demographic of residents.

There is an identified need for 16 affordable homes now in the village. The MNP has a target of achieving 50% affordable homes on sites over 5 dwellings, but it does recognise that viability may reduce this. The prospect of delivering 16 affordable in isolation, i.e., without enabling development from market housing is unrealistic in this context. To provide the 16 affordable homes as 50% of a mixed market/affordable scheme would result in a need for 32 homes.

In this case a viability statement has shown that the scheme is not viable with 50% provision; with a 30% provision of affordable housing however the scheme should deliver a reasonable but not excessive developer profit, making a viable and deliverable scheme. To achieve 16 dwellings as 30% of a larger scheme equates to approximately 50 dwellings (just over).

As such there is an identified need for the proposed 50 dwellings to serve Malborough.

The proposed development will have a positive impact on the local economy as set out earlier in this report. If the application is refused Malborough is unlikely to be able to achieve sustainable population growth which could adversely impact on the economic viability of local services over time. Limiting the supply of houses below demand can drive up houses prices, this can result in either local residents having to move out of the area or limiting available spending on local services as household budgets have to divert more money into housing costs.

- (ii) *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way;*

Malborough is wholly within the AONB and the AONB boundary surrounds the village for miles. Malborough has identified a housing need in the village and has set out in the MNP its vision that the village will continue to be a vibrant, growing and prosperous community with a balanced demographic of residents.

Additional housing to serve the community of Malborough cannot be located outside of the AONB, the only alternative is to accept that no significant development shall take place at Malborough. The cost of this would be to prevent the village from sustainable growth and to limit housing supply, this can drive up house prices making them less accessible for local residents.

Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

The Ecological Impact Assessment submitted as part of this application sets out appropriate mitigation measures and meaningful bio-diversity enhancements.

Recreational opportunities will be enhanced through funding for improvements to the adjacent play area and the local playing field. The green space within the development which will adjoin the play area will be publically accessible providing additional recreation land within the village.

It has been highlighted by the Council's landscape specialist that the proposed development will not conserve the scenic beauty of this part of the AONB. It is acknowledged that mitigation measures such as landscaping, provision of green spaces and storey heights of buildings could mitigate some of this impact but the landscape officer expresses concern that this is an outline application and therefore there uncertainty about what may come forward.

The LPA will retain full control over what is approved at reserved matters stage and if approved it will be imperative that the broad principles shown in the illustrative drawings which show green space, a strong landscaped southern boundary and single storey dwellings on the southern edge of the site are carried forward into any reserved matters.

Whilst it is acknowledged that there will be some harm to the scenic beauty of the AONB the extent of this impact can be mitigated through good design and landscaping.

Paragraph 116 requires not only that an application is considered against the three tests set out above but also that the circumstances of the development are 'exceptional'.

In this case there is an identified need for 48 homes in Malborough, of which 16 should be affordable. The MNP wishes to see the 16 affordable units delivered by work commencing on site at the end of 2017. To be viable the 16 affordable units can only be delivered as part of a larger housing development of circa 50 dwellings. The delivery of 50 homes in Malborough, according to the current evidence base, should provide all the village's housing need for the plan period in a single plan-led development.

The site has been selected through local consultation and is considered to be the best site with the least landscape impact; the site is proposed in the emerging Neighbourhood Plan and has the support of the Parish Council.

These circumstances are considered to be exceptional.

It is concluded that this major development in the AONB demonstrates exceptional circumstances that are in the public interest and so satisfies the requirements of para 116 of the NPPF.

Ecology and Bio-diversity

The application is supported by an Ecological Impact Assessment which sets out mitigation and enhancement measures. This has been reviewed by the Council's ecology specialist who raises no objection subject to the provision of a Landscape and Environmental Management Plan and on-going management and maintenance of the Public Open Space.

Drainage

Drainage schemes have been submitted in support of this application which have been assessed by the Lead Local Flood Authority. They are satisfied that it will be possible to achieve a SUDs compliant surface water management scheme on the site and raise no objections subject to conditions.

South West Water raise no objections.

It is considered that the site can be adequately drained with the quantum of development proposed.

Heritage

The site is outside of the Malborough Conservation Area and buffer zone and will have no significant impact on its setting.

There is a listed building to the south of the site at Portlemore however the proposed development will not have any significant impact on it or its setting.

The development is set below the ridge line of the village and will not impact significantly on the setting of the listed church.

The impact on heritage assets is considered to be acceptable

Environmental dimension balance

The environmental benefits identified are either marginal or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. Moreover, those 'benefits' have to be set against the loss of an area of open countryside, leading to a change in the local environment and landscape and loss of agricultural land.

More important however is the adverse impact on the scenic beauty of the AONB, Heritage Coast and Undeveloped Coast that has been identified. This can be mitigated to some extent through good design and landscaping but nevertheless harm will arise. Adopted and emerging planning policy and the NPPF require that great weight should be given to conserving the scenic beauty of the AONB

It is concluded that the environmental impacts of the development weigh against the proposal in the planning balance.

Other Matters

Highways/Access:

The Highway Authority initially raised some concerns and queries regarding the highway impacts of the development but is now satisfied.

The Highway Authority has now had further speed survey information and accepts 43m visibility to be provided at the junction with Collaton Road. A condition is proposed to deal with this.

The Highway Authority comments on the Transport Statement (TS) as follows –

The Highway Authority accepts the principle of the Transport Statement in general and the assumption using evidence that the proposed development would likely add around a total of 30 - 40 vehicle trips to the AM peak flow and 30 - 40 two way vehicle trips to the PM peak flow.

Notwithstanding the above needed typing corrections the principle of 50 houses in this location is considered acceptable noting the correct junction assumptions in the Transport Statement. The Highway Authority would have preferred to see some junction counts and PICARDY capacity analysis undertaken especially at the A381/Collaton Road junction to show the Ratio of Flow to Capacity results, but this has not been provided. On the agreed basis the site will only generate around 30 - 40 trips in each of the two busiest hours of day. The Highway Authority would not wish to object on lack of information grounds here noting the NPPF recommends applications should not be refused on transport capacity grounds unless the impact is severe on the road network. Current Highway Authority surveys show in the busiest hours of the day around 70 vehicles use the junction of Collaton Road/A381 so adding 40 additional movements would equate to a total number of 110, which is around 1 vehicle every 45 seconds on average. In this case the impact is not considered severe.

The Highway Authority also comments that:

The private road intended for upgrade and Section 38 adoption currently has no 30mph speed limit and therefore in order to introduce a speed limit a S106 contribution may be necessary.

None of the side road junctions on Collaton Road have informal pedestrian drop crossings with tactile paving (0 - 6mm in height). A drawing has now been provided showing the developer will undertake these improvements under the remit of a Section 278 legal agreement.

A give way line and visibility splay is required across the changed priority private road junction. It is recommended this is added to the drawings submitted at this stage. This again can be dealt with at S38/278 stage.

S106 requirements:

£5000.00 for speed limit Traffic Regulation Order adjustments. To be paid prior to commencement of development.

£300.00 per dwelling for Travel Plan Vouchers to be provided by the developer on occupation of each dwelling. To be included in a welcome and travel pack and distributed by the developer.

The highway and access impacts of the development are considered to be acceptable.

Primary residence

The MNP includes a policy requiring all new housing to be subject to conditions restricting occupation to people for whom their primary residence will be the new dwelling. This is proposed to prevent new homes from being bought as holiday homes and as a result failing to provide homes for local people. This policy is not reflected in the JLP and it is arguable as to whether or not it complies with the NPPF. Other Council's, notably St Ives, have adopted such a policy.

The MNP is still an emerging document and weight can be accorded to its policies depending on their conformity with adopted local and national policy and the extent of objections. At present it is considered that little weight can be given to this policy and it would be inappropriate to apply a condition of this nature until the policy is much more advanced.

Planning Balance

Whist this authority can demonstrate a robust 5 year housing land supply based on the evidence base of the emerging JLP, its adopted policies for the supply of housing are out of date as the adopted development plan makes provision only up to 2016. As such it is relevant to consider this application in the context of paragraph 14 of the NPPF.

Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development subject to two criteria, the first being that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole:

Benefits of the development:

- Provision of 50 new dwellings within Malborough
- Provision of 16 new affordable homes within Malborough
- Economic benefit to the local economy during construction
- Economic benefit to the local economy through added spending and use of facilities by new residents.
- Maintaining the vitality and viability of the village through sustainable growth
- Plan-led development to serve an identified need for housing in the locally preferred location with the least harmful landscape impact
- Provision of additional public open space within the village

Significant adverse impacts of the development:

- Adverse impact on the scenic beauty of the AONB, Heritage Coast and Undeveloped Coast

The second criteria is that planning permission should be granted unless specific policies in the NPPF indicate development should be restricted. Footnote 9 of this paragraph gives examples of policies which can restrict development and this includes AONB policies, set out in paras 115 and 116 of the NPPF.

Paragraph 116 is a restrictive policy which indicates that planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. As has been

set out earlier in this report however it is considered that the proposed development is exceptional and is in the public interest.

It is considered that, on balance, the benefits of the proposed development outweigh the harm and the proposed scheme represents sustainable development. It is recommended that conditional planning permission be granted.

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

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

CS11 Climate Change

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

DP15 Development in the Countryside

Emerging Joint Local Plan

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

TTV30 Empowering local residents to create strong and sustainable communities

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV3 Sport and recreation

DEV4 Playing pitches

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

DEV22 Development affecting the historic environment

DEV24 Landscape character

DEV25 Undeveloped coast

DEV27 Nationally protected landscapes

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

DEV31 Specific provisions relating to transport

DEV32 Meeting the community infrastructure needs of new homes

DEV33 Waste management

DEV34 Delivering low carbon development

DEV35 Renewable and low carbon energy (including heat)

DEV37 Managing flood risk and Water Quality Impacts

South Devon AONB Management Plan

Planning for the South Devon AONB: Planning Guidance Version 1 (South Devon AONB Partnership)

Malborough Neighbourhood Plan 2016

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

Proposed Conditions In Full:

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

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

Reason: To comply with Section 92 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

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

3. The development hereby approved shall in all respects accord with drawing numbers 150503 L 01 01 rev B and 4120-003 rev C.

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

4. Prior to their installation details / samples of facing materials, roofing materials and all surfacing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved.

Reason: In the interests of visual amenity

5. Details of the proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority prior to their installation and shall be implemented prior to first occupation/use. Thereafter the boundary detail shall be retained and maintained.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

6. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

7. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment & Drainage Strategy (Report Ref. V01; dated January 2017) as well as the Proposed Drainage Layout (Drawing No. 4120/0001; Rev. C; dated 24th May 2017), Proposed Drainage Layout Option 2 (Drawing No. 4120/002, Rev. A, 19th May 2017) and the relevant MicroDrainage calculations (Ref. PCLT 4120 Malborough Crate Soakaway 1; dated January 2017) and (PCLT Malborough Attenuation 1; dated 12th May 2017).

Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

8. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

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

9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

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

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

10. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees and hedgerows as shown on the plans, including their root systems, or other planting to be retained as part of the landscaping scheme, by adopting the following:

(i) All trees and hedgerows to be preserved should be marked on site and protected during any operations on site by a fence in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development (ii) No fires shall be lit within the spread of the branches of the trees (iii) No materials or equipment shall be stored within the spread of the branches of the trees. (iv) any damage to the trees shall be treated with an appropriate preservative. (v) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated, except in accordance with details shown on the approved plans.

Reason: To protect the existing trees and hedgerows in order to enhance the amenities of the site and locality.

11. The recommendations, mitigation and enhancement measures of the Ecological Impact Assessment by ead ecology, dated January 2017, shall be fully implemented prior to the commencement of the use hereby approved and adhered to at all times. In the event that it is not possible to do so all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the local planning authority.

Reason: To safeguard the interests of protected species

12. Notwithstanding the details provided, there shall be no external lighting of public areas including highways unless otherwise agreed in writing by the Local Planning Authority through the submission and agreement with the LPA of a lighting strategy

Reason: To protect the countryside from intrusive development and in the interests of ecology

13. No part of the development hereby permitted shall be occupied unless and until the vehicular and pedestrian accesses, internal roads, visibility splays and footpaths as approved have been laid out, surfaced and in all other respects completed to the satisfaction of the local planning authority. Once completed, the visibility splays shall be retained and maintained free of all obstruction over 1m high at all times.

Reason: To provide adequate visibility from and of emerging vehicles and in the interest of highway safety.

14. Prior to the commencement of development hereby permitted, a construction environmental management plan (CEMP) shall be submitted, detailing measures to mitigate or reduce the impact of the construction activities. This plan shall detail hours of operation and hours of deliveries, methods of controlling noise from construction activities, a dust impact assessment and mitigation assessment, location of contractors compound, location of

the storage of materials, wheel washing facilities, details of delivery routes for construction traffic, provision of car parking for contractors, details of a temporary direction signing scheme, photographic evidence of the condition of adjacent public highway prior to commencement of any work. Once approved all construction activities shall be carried out in accordance with this management plan.

Reason: In the interests of the safety and amenities of neighbouring occupiers and the safety of highway users.

15. 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.

16. The dwellings hereby approved shall not be occupied until the parking, servicing, garaging areas relating to them in accordance with drawings that shall have been previously submitted to and approved by the Local Planning Authority have been properly consolidated, surfaced, laid out and constructed. The parking, servicing and garaging areas shall be kept permanently available for the parking and manoeuvring of motor vehicles in connection with the development hereby permitted.

Reason: In the interests of the visual amenities of the area and the safety of road users.

17. Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Classes A and B including gates, fences, walls or other means of enclosure and means of access shall be erected or constructed between the buildings and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality.

18. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes B, C and F of the Order, including the construction of dormers, roof alterations and provision of hardstandings, shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area, to ensure adequate space about the buildings hereby approved, to prevent the increased risk of flooding elsewhere and in the interests of amenity.

19. The following details shall be submitted at the same time as the layout under the reserved matters:

(i) An Arboricultural Impact Assessment and Method Statement detailing the location, species and spread of all trees, shrubs, hedges, hard landscaping, boundary treatments existing on the site, distinguishing those proposed to be removed and those to be retained;

(ii) a landscaping scheme showing ground moulding, screen banks, hedgebanks, trees, shrubs, and hedges, including proposals for protection and maintenance of the landscaping.

(iii) Details of the hedgerow works required to facilitate the new vehicular access

The scheme submitted shall be fully implemented:

(a) in the planting season following the substantial completion of the development

(b) in tandem with each phase of the development as set out under condition above, and must be implemented not later than the planting season following the completion the development and the plants shall be protected, maintained and replaced as necessary to the reasonable satisfaction of the Local Planning Authority for a minimum period of five years following the date of the completion of the planting.

Reason: To protect and enhance the visual amenities of the site and locality.

20. All tree and hedgerows identified by condition 19 as to be retained shall not be felled or removed without prior written agreement from the Local Planning Authority.

Reason: In the interests of visual amenity and wildlife conservation

21. The following details shall be submitted at the same time as the layout under the reserved matters:

(i) A landscape and ecology mitigation and management plan

Reason: To protect and enhance the visual amenities and biodiversity of the site and locality.

22. The proposed road, footways, footpaths, verges, junction, sewers, drains, retaining walls, service routes, surface water outfall, roof maintenance/vehicle overhang margins, embankments, and street furniture shall be constructed and laid out in accordance with details to be approved by the LPA in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and methods of construction shall be submitted to the LPA.

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

23. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

Reason: To ensure the proper development of the site.

24. All off site highway works shall be complete prior to occupation of the first dwelling.

Reason - In the interests of highway safety.

25. No part of the development hereby approved shall be commenced until:

The access road has been laid out, kerbed, drained, lit, constructed up to base course level, the ironwork has been set to base course level, the visibility splays required by this permission laid out, the footway on the public highway required by this permission has been constructed up to base course level and a site compound and car park with turning have been constructed to the written satisfaction of the Local Planning Authority.

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

26. Visibility splays shall be provided, laid out and maintained for that purpose at the private road leading to the site and the junction of Collaton Road where the visibility splays provide inter visibility between any points on the X and Y axes at a height of 0.6 metres above the adjoining carriageway level and the distance back from the nearer edge of the major road carriageway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the major road carriageway (identified as Y) shall be a minimum of 43 metres in a easterly direction.

Reason: To provide adequate visibility from and of emerging vehicles.

27. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason: To ensure, in accordance with guidance in paragraph 3.69 for South Hams Development Policy DP6 and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

Proposed Informatives in full:

1. This scheme has been supported because it has been demonstrated through the illustrative plans that an appropriate density of development and provision of green space can be achieved on the site. The Council wish to see a similar quantum of green space to that shown on the illustrative plans included in any Reserved Matters application.
2. Any reserved matter(s) application should provide a mix of housing tenures, types and sizes to help support the creation of a mixed, balanced and inclusive community, which also considers local need.

3. This authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with Article 35(2) of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) in determining this application, the Local Planning Authority has endeavoured to work proactively and positively with the applicant, in line with National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed.
4. The responsibility for ensuring compliance with the terms of the approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details can render the development unauthorised and vulnerable to enforcement action.
5. If your decision requires the discharge of conditions then you must submit an application for each request to discharge these conditions. The current fee chargeable by the Local Planning Authority is £97 per request. Application forms are available on the Council's website.
6. This permission is to be read in conjunction with the Section 106 Obligation dated xxxxxxx between South Hams District Council and xxxxxxx