

DARTMOOR NATIONAL PARK AUTHORITY
DEVELOPMENT MANAGEMENT COMMITTEE

5 November 2021

Applications to be Determined by the Committee

Report of the Head of Development Management

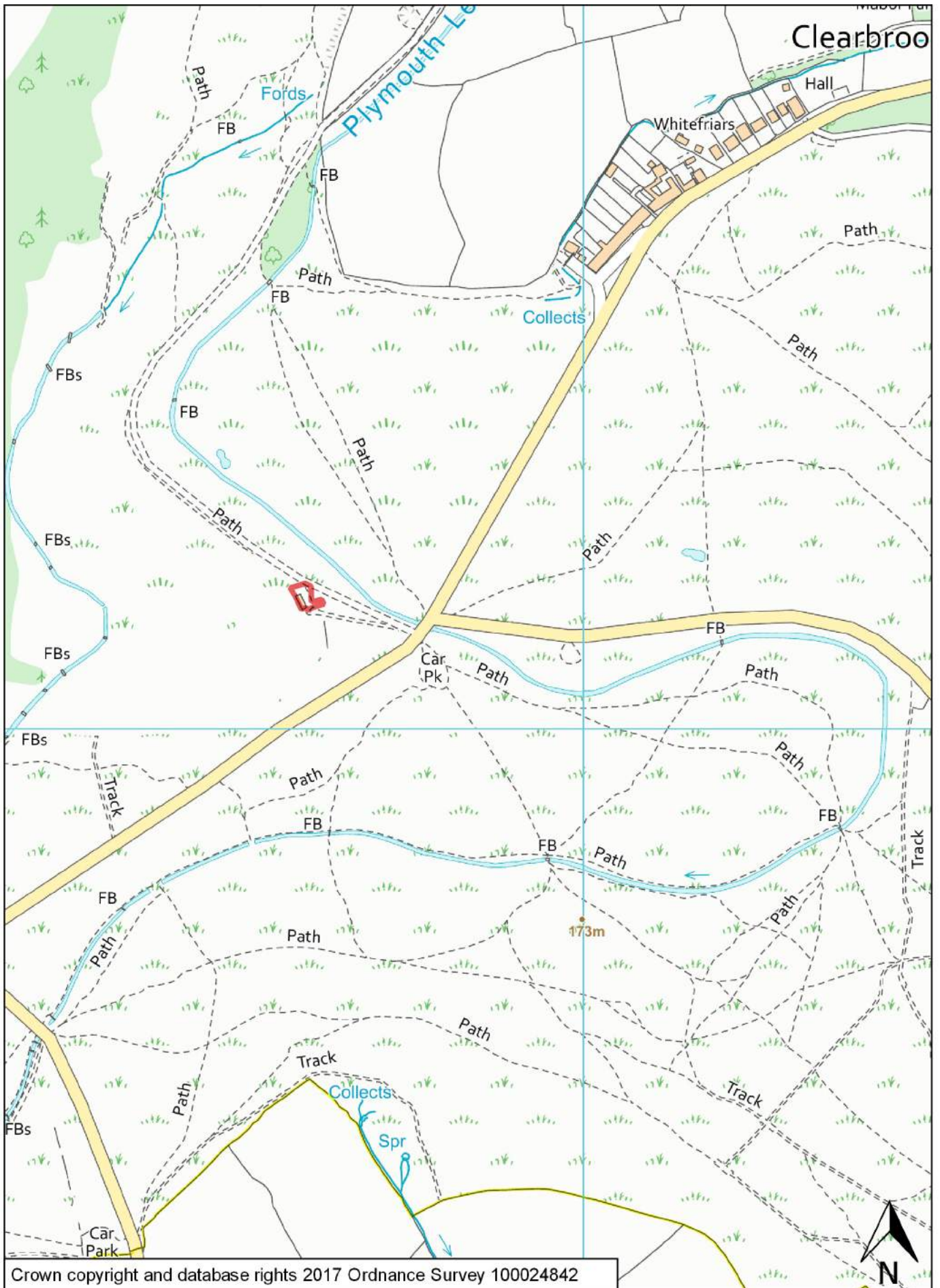
INDEX

<u>Item No.</u>	<u>Description</u>	<u>Pg. No.</u>
1.	0050/21 Conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses Tyrwhitt's Wharf, Yelverton	11
2.	00519/21 Works to facilitate conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses Tyrwhitt's Wharf, Yelverton	22
3.	0147/19 Erection of 17 dwellings (12 affordable and 5 open market) and associated infrastructure Land at Palstone Lane, South Brent	30
4.	0486/21 Partial conversion of existing building to create a one Bedroom local persons dwelling and associated works Barn at SX 7564 8011, Manaton	98

0050/21 - Tyrwhitt's Wharf, Yelverton



Scale 1:5,000



Crown copyright and database rights 2017 Ordnance Survey 100024842

Application No: **0050/21** District/Borough: **West Devon Borough**
 Application Type: **Full Planning Permission** Parish: **Buckland Monachorum**
 Grid Ref: **SX517651** Officer: **Phil Twamley**
 Proposal: **Conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses**
 Location: **Tyrwhitt's Wharf, Yelverton**
 Applicant: **Mr S Whitehead**
 Recommendation: **That permission be GRANTED**

Condition(s)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with approved Site Location Plan 2013/01 received 2 January 2021, amended drawings Proposed Site Plan 2013-02 Rev. E, Proposed NE Elevation & Cross Section 2013-08 Rev. E, Proposed SE, SW & NW Elevations 2013-09 Rev.E received 15 October 2021, Proposed Floor Plan 2013-07 Rev. B, Proposed NE Elevation & Cross Sections When Closed 2013-10 Rev. B, Timber Shutter Detail 2013-11 and Cross Section Through Chimney 2013-12 received 27 May 2021.
3. The premises shall only be used as a cycle hub for bicycle rental and bicycle related activity centre and for no other purpose including any other use specified in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any Order revoking and re-enacting that Order.
4. No works shall take place during the bird nesting season (1 March to 31 August, inclusive if nesting birds are found to present in the building).
5. Notwithstanding the details submitted, no work shall commence on the development hereby permitted until full details of the proposed roof structure, including a qualified structural engineer's report, scaled technical drawings, the location and details of the rainwater harvesting system (including above ground storage within the building), and integrated solar PV cabling and routing have been submitted to and approved by the Local Planning Authority in writing.
6. Notwithstanding the details submitted, the detail and location of any proposed extract vent shall be submitted to and approved in writing by the Local Planning Authority prior to installation.
7. The roof of the development hereby approved shall be covered in natural slate and, in part to south-west elevation only, slate effect solar PV tiles, sample(s) and final layout of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any roofing work. At all times thereafter the roof shall be maintained as approved by the Authority.
8. All natural slate to the roof of the building shall be fixed by nailing only.
9. Notwithstanding the details submitted, full details of the external landscape works which shall include levels, details of all seating, cycle racks, hard surfacing including substructure, surfacing and materials, shall be submitted to and approved by the Local Planning Authority in writing. The external landscaping shall thereafter be retained as approved by the Local Planning Authority.
10. Details of any proposed replacement stonework, lintols, and repointing of the masonry shall be submitted to and approved by the Local Planning Authority in writing. If large areas of repointing are necessary, a sample panel shall be prepared for inspection by the Local Planning Authority.
11. Notwithstanding the drawings hereby approved, full details of all proposed joinery shall be

submitted to and approved in writing by the Local Planning Authority prior to its installation. Such details shall include section and elevation drawings at an appropriate scale of all new windows, shutters, and doors including surrounding masonry and lintols. Thereafter, only joinery of the approved design shall be used in the development.

12. No work shall commence on the development hereby permitted until a written scheme providing for an appropriately qualified archaeologist to carry out a full archaeological watching brief during all stages of the development has been submitted to and approved in writing by the Local Planning Authority. The watching brief shall include all associated ground works, both internal and external, the laying of services and landscaping. The scheme, which shall be written and implemented at the applicant's expense, shall provide for the observation, recording and recovery of artefacts and post-excavation analysis. A full report detailing the findings shall be submitted to and approved in writing by the Local Planning Authority before the substantial completion of the development.
13. No external storage shall take place in connection with the use hereby approved.
14. Notwithstanding the details submitted, scaled drawings of the proposed signage shall be submitted to and approved in writing by the Local Planning Authority prior to display. No external flags, banners, hanging signs, menu boards, A frame signs, planters, advertising umbrellas or other signage to that approved shall be displayed at any time. The signage shall thereafter be retained as approved by the Local Planning Authority.
15. Prior to installation of the package treatment plant, water table and percolation tests shall be carried out. A qualified assessment of the suitability of the proposed package treatment plant, with regard to and including the water table and percolation test results, and detail on the proposed discharge to ground, shall be submitted to the Local Planning Authority for approval in consultation with the Environment Agency. Prior to the use of the building as approved, the agreed package treatment plant shall be installed, and thereafter maintained in perpetuity. Upon becoming redundant, the package treatment plant and any redundant pipework shall be removed, and the land shall be reinstated to its former state.
16. No external lighting shall be installed or used in association with the development hereby approved.

1 Introduction

- 1.1 The Grade II Listed barn is located 400m due south-west of the nearest house in Clearbrook, Yelverton and is located on Section 3 Moorland of Conservation Importance and on common land.
- 1.2 The application seeks permission to convert the barn to create a venue providing cycle hire, bike workshops, a café and area for courses.

2 Planning History

0749/06	Construction of a cycle/walkway (renewal and amendments to existing permissions)	Full Planning Permission	Grant Conditionally	20 December 2006
0765/99	Construction of cycle/walkway	Full Planning Permission	Grant Conditionally	08 May 2000

3 Consultations

- 3.1 **Environment Agency:** Flood zone 1 - standing advice applies
- 3.2 **County EEC Directorate:** The site has no direct motorised vehicular access from the highway or off-street car parking within the control of the applicant, so any servicing or parking would have to use the existing off-street car park facilities in the area or park on-carriageway.

- 3.2.1 The appropriate number of parking spaces proposed to serve new development is a matter for the planning authority to determine, but the highway authority need to be satisfied that any parking associated with or generated by a development will not prejudice highway safety, which has been assessed in this instance.
- 3.2.2 From representations received to the application and from observations on site (dating back several years), it is evident there are occasions when there are significant numbers of vehicles parked in the area generally; it is a popular location, particularly at certain times of the year.
- 3.2.3 On balance, however, the highway authority would be prepared to accept that the facility would predominantly cater for people already in the area rather than attract specific additional vehicle movements and, for that reason, there are no sustainable objections to the proposals from a highway safety point of view.
- 3.2.4 There are some references in the supporting documentation to the provision of brown 'tourist' signage on the highway from as far afield as the A38 (in the Description of Business document). The provision of signage would need to be the subject of separate consents from the appropriate highway authority (Highways England in the case of the A38, Devon County Council for all County roads) and any planning consent granted must not be construed as consent for additional on-highway signage.
- 3.3 **West Devon Borough Council:** Does not wish to comment
- 3.4 **DNP - Ecology & Wildlife:** An Ecological Impact Assessment report (JL Ecology, January 2021 (Updated March 2021)) has been submitted.
- 3.4.1 The building on which the works are proposed was deemed unsuitable in supporting roosting bats.
- 3.4.2 Breeding jackdaws had previously utilised the building.
- 3.4.3 There are records within 500m of the site for other protected and priority species, such as Nightjar and Dartford Warbler. The bramble, gorse and hawthorn scrub, situated c.10m to the north-west of the site, provides suitable nesting bird habitat for the species listed above this will be retained as part of the proposals.
- 3.4.4 Access to the proposed cycle hub will be from the north-east, directly off the existing cycle route 27, which is currently and ecological poor short-grazed pasture field. The majority of activities associated with the hub will be internal, with the exception of three external benches allowing visitors an outside coffee if weather permits (daylight hours only with no external lighting proposed).
- 3.4.5 The building is situated directly adjacent to the 9th tee of Yelverton Golf Course with the existing cycle route 27 directly to the east and Clearbrook Leat carpark directly to the south, human presence is already high and it is predicted that 80% of trade will comprise of existing visitors already utilising the surrounding area. In the context of the proposals and current use of the surrounding landscape the direct and indirect impacts of the proposed cycle hub is deemed negligible on protected and priority species.
- 3.4.6 Proposed condition: No works shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.
- 3.4.7 Furthermore, please provide the applicant with the following informative: Bats and their roosts

(resting/breeding places) are protected by law. In the event that a bat is discovered then works should cease and the advice of Natural England and/or a suitably qualified ecologist should be obtained. Works should not resume until their advice has been followed.

- 3.5 DNP - Building Conservation Officer:** Tyrwhitt's Wharf was listed Grade II on 23 August 2021; for its historic and architectural interest and group value with associated structures. A listed building consent application (0519/21) has now been submitted for the proposed works to the building. The impact of the works and the balance/weighting of the proposal against the public benefit has been altered by the building becoming designated, the fabric character and appearance of the building and its setting become more significant.
- 3.5.1 The extent of listing has been applied to the building alone, this means that any associated structures are not curtilage listed but may be heritage assets in their own right. The setting of the building is extensive, the landscape in which it is located being mostly open. The whole of the area shown on the site location plan, but not limited to this area, is within the setting of the listed building.
- 3.5.2 The Tramway which is associated with the Wharf also dates to the 19th century and is intervisible with the building. The Roman road is located close to the site.
- 3.5.3 The revised proposal (dated 15 October 2021) has a much less damaging impact on the building and the potential archaeology of the area. The building is in need of significant repair and in order to maintain the building once repaired a new use for the building is needed, there are a number of suitable new uses for the building, subject to amendment, the proposed use could be one of these acceptable uses.
- 3.5.4 The structural engineer's report recommends replacement of the roof timbers and the covering. The slate has been covered with a cementitious material. It is unlikely that any of the slates could be reused, new slates will be needed. Details of the new slates should be conditioned.
- 3.5.5 The revised structural engineering solution (drawing 2013/08E) retains the existing structures and providing additional structural support as necessary. Details of new roof structure including fixings to the historic structure and the eaves detail can be conditioned.
- 3.5.6 The details of the stitching and replacement lintols will need to be conditioned. The evidence that there has been infilling to the gable ends should not be reduced by careless masonry repairs or repointing. Details of the repointing of the masonry will be required, but these could be conditioned.
- 3.5.7 The proposed floor screed is only required for more intensive uses and is the only specific recommendation made in the structural report, which relates to the proposed use of the building. This would increase the protection to any below floor archaeology. I have no objection to this part of the proposal in principle.
- 3.5.8 The greatest impacts of the proposal, beyond the demolition of the roof, remain the servicing for the building. However, there are likely to be options to resolve these negative impacts. Details of the wood burner, flue and flue liner should be conditioned.
- 3.5.9 Proposals which result in the extension or alteration of the chimney, or loss of the historic fabric would not be acceptable.
- 3.5.10 Solar PV panels, which imitate slates, are acceptable in principle, this is complicit with the holistic approach to sustainability of the proposal which has now been adopted. Details of these slates and the accompanying equipment, with or without batteries, should be conditioned.

- 3.5.11 The water supply and drainage for the property have been amended to show rainwater storage tanks between the heritage asset and the Route 27 Cycle Track. The soakaway has been relocated to avoid crossing the area of track shown on the site plan minimising the above ground impact, the potential impact on below ground features and finds will remain.
- 3.5.12 Extract vents for the WC and/or kitchen should be directed through the new roof covering, with a flush vent to avoid alteration to the existing stonework. The detail submitted is not acceptable.
- 3.5.13 Details of the rainwater goods and the collection and harvesting systems should be conditioned.
- 3.5.14 With regard to the proposed windows, details at scale 1:20 elevation and 1:5 sections, to include the surrounding masonry/lintols should be conditioned.
- 3.5.15 Where the cycle racks and bench seating are to be fixed to the building/floor then details will need to be conditioned. If they are not fixed then details are not required.
- 3.5.16 Details of the partition wall and door to the WC, including fixings of the walls, should be conditioned.
- 3.5.17 The impact of development all external proposals (with the exception of the waste pipe to the WC) are now located between the building and the cycle track (more or less), minimising the harm caused by the proposals on the setting of the listed building, landscape and potential archaeology.
- 3.5.18 Details of the surface treatment could be confirmed via a condition, including details of the gravel material and colour.
- 3.5.19 Permanent benches should be located adjacent to the building, to minimise the impact on the setting of the designated heritage asset and on the landscape., and not extend beyond the northern end of the building.
- 3.5.20 No external flags, banners, hanging signs, menu boards, A frame signs, planters, advertising umbrellas or other signage should be allowed at this site. Details of the signage to the doors should be conditioned.
- 3.5.21 The significance of the building has been recognised at a national level with its rarity highlighted. Great weight needs to be given to the asset's conservation. Partial demolition is no longer proposed, the proposal is for alteration and addition. The clear and convincing justification for the proposal as set out is now possible, minimising the harm caused.
- 3.5.22 The public benefit of the proposal in relation to the building is that it would be repaired. However, as part of this alteration to the building and its setting will have a negative impact on the building, it is now considered that with the retention of the roof frame and the addition of a new roof over that the harm caused weighs in balance with a new use for the building, subject to the details being executed well via condition.
- 3.6 **DNP - Archaeology:** Tyrwhitt's Wharf is located within a rich multi-period archaeological landscape containing many features which include the Plymouth and Dartmoor Tramway which dates to the early 19th century and is associated with the building. Additional features in the vicinity of the site of the proposed development include a relict field system, possibly of medieval date and the line of a possible Roman road (HER No: MDV127259) which has been recently identified from LiDAR survey data. The potential for the presence of buried heritage assets which have no surface expression, including features associated with the use of Tyrwhitt's Wharf and that of the Plymouth and Dartmoor Tramway, is thus elevated.

3.6.1 Given the sensitivity of the proposed development site, an archaeological watching brief (standard condition X03) is recommended on all groundworks, including the levelling of ground in the vicinity the building and the installation of services both inside and outside such as the septic tank, soakaway and associated pipework.

3.7 **Commoner's Council:** Consulted - no comment received.

4 **Parish/Town Council Comments**

4.1 Buckland Monachorum Parish Council OBJECTS to the proposal with the following Comments:

- generally supportive of the idea but considered the development to be in the wrong location.
- there are already issues with parking and that the proposal could be exasperated by the development.
- it was a repetition of services that are already provided in the locality.
- concern was raised about the path being a shared space for both pedestrians and cyclists. With an increase in cyclists this could prove detrimental to the use and enjoyment of the path by pedestrians.
- the overall effect of an increased footfall to the area being damaging for the local environment and that Dartmoor National Park should be afforded suitable protection for the benefit of all.

5 **Representations**

72 letters of objection 66 in support 5 general comments

5.1 There have been 143 letters received of which 72 letters objected raising concerns on lack of parking, noise and disturbance, ecology, impact on existing businesses, loss of historic character, impact on the moor landscape, litter, and it being in the wrong location.

5.2 66 letters (excluding 5 submitted with the application) were received expressing support for the proposal. Supported on the basis that it will provide cycling facilities for the less able, promote access to the moor, retain and preserve a historic building, provide repair and café facilities on the cycle route.

5.3 There were also 5 general comment letters received which raised issues that could be addressed in the application such as parking, impact on ecology and landscape harm.

6 **Observations**

6.1 THE SITE AND BARN

6.1.1 The building is a granite horse shed of 1823, built for the Plymouth and Dartmoor Tramway by Sir Thomas Tyrwhitt MP. It is now a Grade II listed building (August 2021). It is located 400m due south-west of the nearest house in Clearbrook, Yelverton and is located on Section 3 Moorland of Conservation Importance and on common land. It is located close to the 9th tee of the Yelverton golf course which lies on the south western flank of the barn, and the National Cycle Route 27 which lies 15m to the north west of the barn. There is also a car park for approx. 33 cars located approx. 110 m to the east of the site on the other side of the road which leads to Clearbrook.

6.1.2 The application site consists of a single storey barn that has an internal floor area of approximately 57m². Access is via a grassed track from the road to the east of the barn. The

ground up to the cycle track is open grassland and there are some bushes on the golf club side. The 2 sections of the 9th tee are on raised earth platforms to the rear (southwest) of the barn.

- 6.1.3 The building is currently unused. Whereas its walls appear reasonably sound, its roof is structurally in very poor condition. The central trusses are sagging and exerting horizontal pressures on the walls, the slates have been covered with a cementitious waterproofing compound and are leaking in places. The large openings on the ends have been infilled with matching rubble stone, most likely shortly after the tramway closed. The building also has 2 windows that have been infilled with blockwork which suggest that it was done quite recently. There is a large opening on the side of the building with large doors which are close to collapse.
- 6.1.4 Although the original sleeper blocks from the tramway are still in existence in many locations along its former route, there is no indication of them around the building.

6.2 THE PROPOSAL

- 6.2.1 The application proposes the primary use of the building as a cycle hub/bike rental and bike related activity centre which will be wholly contained inside the building. The centre will provide cycling facilities and services for the community and particularly for the less able individuals who may have difficulty riding a bike thus providing them with similar access to the cycle track as more able individuals.
- 6.2.2 As defined in the Town and Country Planning (Use Classes) Order 1987” (as amended), the application is for change the use of the barn to Class E(c)(iii) for the provision of services principally to visiting members of the public, and paragraph (iii) is the class which is most appropriate as it relates to “any other services which it is appropriate to provide in a commercial, business or service locality”.
- 6.2.3 The principal use of the barn would be a not for profit, CIC (Community Interest Company) providing cycling facilities and services as a community interest operation providing cycle hire (to include specialist bikes suitable for less able people – adapted E-bikes etc), bike workshops and courses for individuals, school groups and community groups. It is also proposed to have a small internal café being ancillary to the primary enterprise of providing accessibility to cycling for all individuals. The application includes letters of support from Sustrans, British Cycling, Active Devon, Horrabridge Primary School and the Sports and Recreation officer at Plymouth City Council.
- 6.2.4 The new use will also result in the following changes to the existing building. It will have new, plain outward opening casement windows in the existing window openings. These will be hardwood with a matt clear protective oil finish. These windows will have shutters which will leave the barn looking much as it did originally.
- 6.2.5 The main entrance will have hardwood glazed doors with side panels. These glazed doors and side panels will be covered when closed with heavy timber doors on the outside that would resemble the existing doors. It is proposed that the name boards for the centre would be on the inside face of the external main entrance doors, visible when the doors are folded back but concealed when the doors are shut. When the hub is closed these shutters and doors will also provide security.
- 6.2.6 It is proposed that the internal wall surfaces will remain as exposed stone and that the space will be open to expose the underside of the roof. The WC cubicle and the counter will be self-supporting pods. This way the visitor will be able to perceive the building much as it would have been.
- 6.2.7 The cafe counter will be operated with LPG gas fired equipment which reduces the amount of

electrical equipment mainly to lights and extraction fans which can be operated off a 12 volt system. It is proposed to install a wood burner to provide background heating during colder months and the flue will be within the existing chimney structure to ensure its impact on the external roof character is minimal. Within the building it is proposed to have a permanent history board telling visitors about Sir Thomas Tyrwhitt and the tramway he created, highlighting the building's role as well as other surviving features nearby.

- 6.2.8 The surrounding area is semi-open moorland, but the presence of the barn, of the road and car park, of the raised golf club tee, of both the Devonport and Plymouth leats as well as the tarmac cycle track influence and alter the visitors' perception of the location.
- 6.2.9 Externally, the existing gravel track will remain unchanged, but the space between the barn and the cycle route would remain in grass but be levelled and gravel reinforced. This would be the principle access to the building. The ground outside is more or less level with the inside of the building and therefore achieving disabled access will not require ground works of any significance. The remaining areas around the building will stay as grass. Three simple sturdy permanent external benches with timber tops on granite bases are proposed, as well as possibly a heavy timber bike rack made from a log or a railway sleeper but no fencing or enclosure is proposed.
- 6.2.10 There is mains water 250m away but the ground disturbance to lay a supply pipe was considered to have an impact on the moorland ground, and therefore the applicants have provided an off-grid arrangement. It is proposed to store rainwater from the roofs in underground tanks, purify it and pump to the building instead. It is also proposed for the building to receive a small septic tank which will be buried underground to the north east of the barn. The surfaces will be carefully reinstated to the previous appearance after the tanks have been installed.
- 6.2.11 All the external elements will be moved indoors when the cafe is closed and the windows and main door opening will be closed with heavy timber shutters.

6.3 POLICY

- 6.3.1 Policy COR2(c) supports development outside of Local Centres and Rural Settlements in principle 'if it would sustain buildings or structures that contribute to the distinctive landscape or special qualities of the Dartmoor National Park, where those assets would otherwise be at risk and where development can be accomplished without adversely affecting the quality of those buildings or structures'.
- 6.3.2 The Authority's Building Conservation Officer provided comprehensive feedback following the listing of the building in August of this year. The applicants have responded to the concerns and provided revised plans. The roof of the building has been redesigned with a supporting steel beam to preserve the existing timber roof structure. Ground works have been revised to minimise potential impact on associated heritage features. Conditions have been included as recommended.
- 6.3.3 This is development that officer's consider would help conserve and sustain the building in accordance with the strategic approach of COR2. The existing building features crudely blocked up openings that will benefit from sympathetic conservation. The proposal maintains the building's original appearance and makes nominal changes to this appearance during opening hours only. Out of hours, with the shutters all closed the appearance is close to unchanged – especially in terms of contribution to and impact on the setting as it exists currently.
- 6.3.4 Policy COR18(e) establishes the policy approach for local employment and business opportunities outside the classified settlements by providing support for appropriate sustainable

tourism and small scale recreation enterprises that are based on the intrinsic qualities of the National Park. In all cases, COR18 requires that full consideration is given to the use of existing buildings, particularly traditional buildings. Appropriate tourism development that encourages healthy lifestyles and sustainable transport should be at the forefront of any proposal. This is a well-suited location for a cycle hub and cafe with community services alongside Route 27. Given the historic significance of the tramway and the route of which the cycle track uses in this area, this building is ideally suited. The daytime activity will include the congregation of people outside the building, but this is not very much more than the bustle of visitors already seeking recreation on the cycle route itself and on the nearby car park. The promotion of cycling increases the public's perception and enjoyment of the moor in a positive way that compensates for any impact the scheme may be perceived to have.

- 6.3.5 The cycling organisations consulted by the applicant feel that the aim to promote cycling and make it more accessible could be carried out very well from this site. It is also considered to be a good example of a redundant traditional barn-like building with historical significance being given a new use and desperately needed maintenance to retain it as part of the built and landscape character of the National Park.
- 6.3.6 Policy DMD9 prioritises the conservation of Dartmoor's cultural heritage in the conversion or re-use of non-residential buildings outside of classified settlements. Any rural building conversion scheme must clearly demonstrate that it will conserve the special character and appearance of the existing building. The policy requires development proposals to demonstrate that the building is traditional within Dartmoor's built heritage, capable of conversion without need for substantial alteration or significant changes in the relationship with existing ground levels, that conversion works will be in-keeping with local building styles and materials and will not adversely impact rural character.
- 6.3.7 Significant historic and architectural elements have been incorporated into the design and the overall setting of the building has been sustained. The applicants have engaged in pre-application discussions with Officers and have also amended the scheme to ensure the historic and architectural elements of the building are retained.
- 6.3.8 The proposed café element has been revised from the pre-app discussions in 2020 following officer advice and is now a much smaller element of the scheme with no external impact in terms of tables and chairs, parasols, canopies, advertising sail flags and external paraphernalia that might ordinarily be associated with a café use and advertisement of the business use. This can also be ensured through the imposition of suitably worded conditions which could then be enforced. It is considered that the café element, subject to these conditions, will not adversely impact on the existing landscape character and the special character, setting and appearance of the heritage asset. Therefore, the external impact of the proposal as presented is considered to be acceptable.
- 6.3.9 DMD43 states that new tourism development and the expansion of existing tourism businesses will be permitted where:
- (i) the proposal will provide opportunities for visitors to increase their awareness, understanding and enjoyment of the special qualities of the National Park in a way that conserves or enhances those special qualities;
 - (ii) the proposal will not generate an increased level of activity, including noise, that would significantly detract from the experience of visitors and the quality of life of local residents;
 - (iii) the development can be satisfactorily accessed from the road network or by other sustainable modes of transport including public transport, walking, cycling or horse riding;

- (iv) it will make use of an existing building. Proposals for new buildings will be expected to demonstrate that the facility cannot be satisfactorily accommodated within an existing building at the location.

6.3.10 The primary use of the building as a cycle hub/bike rental and bike related activity centre are considered to meet the above criteria, subject to the use being wholly contained inside the building as is presented by the proposal. The café can be supported as it is ancillary to the primary enterprise and has little or no external presence.

6.4 HIGHWAYS

6.4.1 The site has no direct access from the highway or off-street car parking. The highway authority accept that the facility would predominantly cater for people already in the area rather than attract specific additional vehicle movements. There are no objections to the proposals from a highway safety point of view.

6.5 ECOLOGY

6.5.1 The building was deemed unsuitable in supporting roosting bats. Breeding jackdaws have previously utilised the building.

6.5.2 The building is situated directly adjacent to the 9th tee of Yelverton Golf Course with the existing cycle route 27 directly to the east and Clearbrook Leat carpark directly to the south, human presence is already high and it is predicted that 80% of trade will comprise of existing visitors already utilising the surrounding area. The direct and indirect impacts of the proposed cycle hub is deemed negligible on protected and priority species.

6.5.3 A condition is included to ensure that no works shall take place during the bird nesting season.

6.6 ARCHAEOLOGY

6.6.1 The Authority's Archaeologist has no objection and has advised that, given the sensitivity of the proposed development site, an archaeological watching brief standard condition is recommended on all groundworks, including the levelling of ground in the vicinity the building and the installation of services both inside and outside such as the septic tank, soakaway and associated pipework.

6.7 COMMITTEE SITE INSPECTION

6.7.1 The planning committee undertook a site visit on Tuesday 13th July 2021. At that meeting the committee members were given a brief presentation by the case officer to highlight the site location, key elements of the proposal and works proposed to facilitate the change of use to cycle hub. Members were shown around the outside of Tyrwhitts Barn and were able to see the building in the context of the surrounding landscape and also the existing car park which will be utilised for the proposed Cycle hub. The applicants had marked out on the ground the locations of the proposed underground rainwater storage tanks, the foul drainage treatment plant and the surface water soakaway drainage. Members were shown the position of the underground tanks and then members asked the applicants' agent a number questions in relation to the technical specifications of these proposed systems.

6.8 CONCLUSION

6.8.1 The proposed works facilitate a viable re-use of an important Grade II Listed heritage asset. The intended use and proposed enhancement works are compatible with the historic importance of the building and relate well to the associated, well-used, cycleway in this location.

Application No: **0519/21** District/Borough: **West Devon Borough**
 Application Type: **Listed Building Consent** Parish: **Buckland Monachorum**
 Grid Ref: **SX517651** Officer: **Phil Twamley**
 Proposal: **Works to facilitate conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses**
 Location: **Tyrwhitt's Wharf, Yelverton**
 Applicant: **Mr S Whitehead**
 Recommendation: **That listed building consent be GRANTED**

Condition(s)

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.
2. The works hereby permitted shall be carried out in accordance with approved Site Location Plan 2013/01 received 2 January 2021, amended drawings Proposed Site Plan 2013-02 Rev. E, Proposed NE Elevation & Cross Section 2013-08 Rev. E, Proposed SE, SW & NW Elevations 2013-09 Rev. E received 15 October 2021, Proposed Floor Plan 2013-07 Rev. B, Proposed NE Elevation & Cross Sections When Closed 2013-10 Rev. B, Timber Shutter Detail 2013-11 and Cross Section Through Chimney 2013-12 received 27 May 2021.
3. No works shall take place during the bird nesting season (1 March to 31 August, inclusive if nesting birds are found to present in the building).
4. Notwithstanding the details submitted, no work shall commence on the development hereby permitted until full details of the proposed roof structure, including a qualified structural engineer's report, scaled technical drawings, the location and details of the rainwater harvesting system (including above ground storage within the building), and integrated solar PV cabling and routing have been submitted to and approved by the Local Planning Authority in writing.
5. Notwithstanding the details submitted, the detail and location of any proposed extract vent shall be submitted to and approved in writing by the Local Planning Authority prior to installation.
6. The roof of the building shall be covered in natural slate and, in part to south-west elevation only, slate effect solar PV tiles, sample(s) and final layout of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any roofing work. At all times thereafter the roof shall be maintained as approved by the Authority.
7. All natural slate to the roof of the building shall be fixed by nailing only.
8. Notwithstanding the details submitted, full details of the external landscape works which shall include levels, details of all seating, cycle racks, hard surfacing including substructure, surfacing and materials, shall be submitted to and approved by the Local Planning Authority in writing. The external landscaping shall thereafter be retained as approved by the Local Planning Authority.
9. Details of any proposed replacement stonework, lintols, and repointing of the masonry shall be submitted to and approved by the Local Planning Authority in writing. If large areas of repointing are necessary, a sample panel shall be prepared for inspection by the Local Planning Authority.
10. Notwithstanding the drawings hereby approved, full details of all proposed joinery shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. Such details shall include section and elevation drawings at an appropriate scale of all new windows, shutters, partitions, fixed counters, and doors including surrounding masonry and lintols. Thereafter, only joinery of the approved design shall be used in the development.
11. No work shall commence on the building until a written scheme providing for an appropriately

qualified archaeologist to carry out a full archaeological watching brief during all stages of the development has been submitted to and approved in writing by the Local Planning Authority. The watching brief shall include all associated ground works, both internal and external, the laying of services and landscaping. The scheme, which shall be written and implemented at the applicant's expense, shall provide for the observation, recording and recovery of artefacts and post-excavation analysis. A full report detailing the findings shall be submitted to and approved in writing by the Local Planning Authority before the substantial completion of the development.

12. No external storage shall take place in connection with the use hereby approved.
13. Notwithstanding the details submitted, scaled drawings of the proposed signage shall be submitted to and approved in writing by the Local Planning Authority prior to display. No external flags, banners, hanging signs, menu boards, A frame signs, planters, advertising umbrellas or other signage to that approved shall be displayed at any time. The signage shall thereafter be retained as approved by the Local Planning Authority.
14. Prior to installation, details of the wood burner, flue and flue liner shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the wood burner, flue and flue liner shall be maintained as approved by the Authority.
15. No external lighting shall be installed or used in association with the works hereby approved.

1 Introduction

- 1.1 The Grade II Listed barn is located 400m due south-west of the nearest house in Clearbrook, Yelverton and is located on Section 3 Moorland of Conservation Importance and on 1.2 common land.
- 1.2 The application seeks consent to carry out works to facilitate the conversion of the barn to create a venue providing cycle hire, bike workshops, internal café and area for courses.

2 Planning History

0749/06	Construction of a cycle/walkway (renewal and amendments to existing permissions)	Full Planning Permission	Grant Conditionally	20 December 2006
0765/99	Construction of cycle/walkway	Full Planning Permission	Grant Conditionally	08 May 2000

3 Consultations

- 3.1 **Environment Agency:** Flood zone 1 - standing advice applies
- 3.2 **County EEC Directorate:** The site has no direct motorised vehicular access from the highway or off-street car parking within the control of the applicant, so any servicing or parking would have to use the existing off-street car park facilities in the area or park on- carriageway.
 - 3.2.1 The appropriate number of parking spaces proposed to serve new development is a matter for the planning authority to determine, but the highway authority need to be satisfied that any parking associated with or generated by a development will not prejudice highway safety, which has been assessed in this instance.
 - 3.2.2 From representations received to the application and from observations on site (dating back several years), it is evident there are occasions when there are significant numbers of vehicles parked in the area generally; it is a popular location, particularly at certain times of the year.

- 3.2.3 On balance, however, the highway authority would be prepared to accept that the facility would predominantly cater for people already in the area rather than attract specific additional vehicle movements and, for that reason, there are no sustainable objections to the proposals from a highway safety point of view.
- 3.2.4 There are some references in the supporting documentation to the provision of brown 'tourist' signage on the highway from as far afield as the A38 (in the Description of Business document). The provision of signage would need to be the subject of separate consents from the appropriate highway authority (Highways England in the case of the A38, Devon County Council for all County roads) and any planning consent granted must not be construed as consent for additional on-highway signage.
- 3.3 **West Devon Borough Council:** Does not wish to comment
- 3.4 **DNP - Ecology & Wildlife:** An Ecological Impact Assessment report (JL Ecology, January 2021 (Updated March 2021)) has been submitted. The building on which the works are proposed was deemed unsuitable in supporting roosting bats. Breeding jackdaws had previously utilised the building. There are records within 500m of the site for other protected and priority species, such as Nightjar and Dartford Warbler. The bramble, gorse and hawthorn scrub, situated c.10m to the north-west of the site, provides suitable nesting bird habitat for the species listed above this will be retained as part of the proposals.
- 3.4.1 Access to the proposed cycle hub will be from the north-east, directly off the existing cycle route 27, which is currently and ecological poor short-grazed pasture field. The majority of activities associated with the hub will be internal, with the exception of three external record of this kept.
- 3.4.2 Furthermore, please provide the applicant with the following informative: Bats and their roosts (resting/breeding places) are protected by law. In the event that a bat is discovered then works should cease and the advice of Natural England and/or a suitably qualified ecologist should be obtained. Works should not resume until their advice has been followed.
- 3.5 **DNP - Building Conservation Officer:** Tyrwhitt's Wharf was listed Grade II on 23 August 2021; for its historic and architectural interest and group value with associated structures. A listed building consent application (0519/21) has now been submitted for the proposed works to the building. The impact of the works and the balance/weighting of the proposal against the public benefit has been altered by the building becoming designated, the fabric character and appearance of the building and its setting become more significant.
- 3.5.1 The extent of listing has been applied to the building alone, this means that any associated structures are not curtilage listed but may be heritage assets in their own right. The setting of the building is extensive, the landscape in which it is located being mostly open. The whole of the area shown on the site location plan, but not limited to this area, is within the setting of the listed building.
- 3.5.2 The Tramway which is associated with the Wharf also dates to the 19th century and is intervisible with the building. The Roman road is located close to the site.
- 3.5.3 The revised proposal (dated 15 October 2021) has a much less damaging impact on the building and the potential archaeology of the area. The building is in need of significant repair and in order to maintain the building once repaired a new use for the building is needed, there are a number of suitable new uses for the building, subject to amendment, the proposed use could be one of these acceptable uses.

- 3.5.4 The structural engineer's report recommends replacement of the roof timbers and the covering. The slate has been covered with a cementitious material. It is unlikely that any of the slates could be reused, new slates will be needed. Details of the new slates should be conditioned.
- 3.5.5 The revised structural engineering solution (drawing 2013/08E) retains the existing structures and providing additional structural support as necessary. Details of new roof structure including fixings to the historic structure and the eaves detail can be conditioned.
- 3.5.6 The details of the stitching and replacement lintols will need to be conditioned. The evidence that there has been infilling to the gable ends should not be reduced by careless masonry repairs or repointing. Details of the repointing of the masonry will be required, but these could be conditioned.
- 3.5.7 The proposed floor screed is only required for more intensive uses and is the only specific recommendation made in the structural report, which relates to the proposed use of the building. This would increase the protection to any below floor archaeology. I have no objection to this part of the proposal in principle.
- 3.5.8 The greatest impacts of the proposal, beyond the demolition of the roof, remain the servicing for the building. However, there are likely to be options to resolve these negative impacts. Details of the wood burner, flue and flue liner should be conditioned.
- 3.5.9 Proposals which result in the extension or alteration of the chimney, or loss of the historic fabric would not be acceptable.
- 3.5.10 Solar PV panels, which imitate slates, are acceptable in principle, this is complicit with the holistic approach to sustainability of the proposal which has now been adopted. Details of these slates and the accompanying equipment, with or without batteries, should be conditioned.
- 3.5.11 The water supply and drainage for the property have been amended to show rainwater storage tanks between the heritage asset and the Route 27 Cycle Track. The soakaway has been relocated to avoid crossing the area of track shown on the site plan minimising the above ground impact, the potential impact on below ground features and finds will remain.
- 3.5.12 Extract vents for the WC and/or kitchen should be directed through the new roof covering, with a flush vent to avoid alteration to the existing stonework. The detail submitted is not acceptable.
- 3.5.13 Details of the rainwater goods and the collection and harvesting systems should be conditioned.
- 3.5.14 With regard to the proposed windows, details at scale 1:20 elevation and 1:5 sections, to include the surrounding masonry/lintols should be conditioned.
- 3.5.15 Where the cycle racks and bench seating are to be fixed to the building/floor then details will need to be conditioned. If they are not fixed then details are not required.
- 3.5.16 Details of the partition wall and door to the WC, including fixings of the walls, should be conditioned.
- 3.5.17 The impact of development all external proposals (with the exception of the waste pipe to the WC) are now located between the building and the cycle track (more or less), minimising the harm caused by the proposals on the setting of the listed building, landscape and potential archaeology.
- 3.5.18 Details of the surface treatment could be confirmed via a condition, including details of the gravel material and colour.

- 3.5.19 Permanent benches should be located adjacent to the building, to minimise the impact on the setting of the designated heritage asset and on the landscape., and not extend beyond the northern end of the building.
- 3.5.20 No external flags, banners, hanging signs, menu boards, A frame signs, planters, advertising umbrellas or other signage should be allowed at this site. Details of the signage to the doors should be conditioned.
- 3.5.21 The significance of the building has been recognised at a national level with its rarity highlighted. Great weight needs to be given to the asset's conservation. Partial demolition is no longer proposed, the proposal is for alteration and addition. The clear and convincing justification for the proposal as set out is now possible, minimising the harm caused.
- 3.5.22 The public benefit of the proposal in relation to the building is that it would be repaired. However, as part of this alteration to the building and its setting will have a negative impact on the building, it is now considered that with the retention of the roof frame and the addition of a new roof over that the harm caused weighs in balance with a new use for the building, subject to the details being executed well via condition.
- 3.6 **DNP - Archaeology:** Tyrwhitt's Wharf is located within a rich multi-period archaeological landscape containing many features which include the Plymouth and Dartmoor Tramway which dates to the early 19th century and is associated with the building. Additional features in the vicinity of the site of the proposed development include a relict field system, possibly of medieval date and the line of a possible Roman road (HER No: MDV127259) which has been recently identified from LiDAR survey data. The potential for the presence of buried heritage assets which have no surface expression, including features associated with the use of Tyrwhitt's Wharf and that of the Plymouth and Dartmoor Tramway, is thus elevated.
- 3.6.1 Given the sensitivity of the proposed development site, an archaeological watching brief (standard condition X03) is recommended on all groundworks, including the levelling of ground in the vicinity the building and the installation of services both inside and outside such as the septic tank, soakaway and associated pipework.
- 3.7 **Commoner's Council** Consulted – no comment received.

4 Parish/Town Council Comments

- 4.1 Buckland Monachorum Parish Council **OBJECTS** to the proposal. The Parish Council originally objected to application 0050/21 and the listed building status reinforces that view.

5 Representations

7 letters of objection, 1 letter of support.

- 5.1 Concerns including impact on heritage asset, impact on character of the area, parking issues locally, impact on local businesses with similar offering, potential changes to historic fabric of the building, concerns over removal of waste / gas bottles.
- 5.2 Support for the proposal including scheme supporting the conservation of the heritage asset and improvement of the local cycling and walking offering.

6 Observations

6.1 THE SITE AND BARN

- 6.1.1 The building is a granite horse shed of 1823, built for the Plymouth and Dartmoor Tramway by Sir Thomas Tyrwhitt MP. It is now a Grade II listed building (August 2021). It is located 400m due south-west of the nearest house in Clearbrook, Yelverton and is located on Section 3 Moorland of Conservation Importance and on common land. It is located close to the 9th tee of the Yelverton golf course which lies on the south western flank of the barn, and the National Cycle Route 27 which lies 15m to the north west of the barn. There is also a car park for approx. 33 cars located approx. 110 m to the east of the site on the other side of the road which leads to Clearbrook.
- 6.1.2 The application site consists of a single storey barn that has an internal floor area of approximately 57m². Access is via a grassed track from the road to the east of the barn. The ground up to the cycle track is open grassland and there are some bushes on the golf club side. The 2 sections of the 9th tee are on raised earth platforms to the rear (southwest) of the barn.
- 6.1.3 The building is currently unused. Whereas its walls appear reasonably sound, its roof is structurally in very poor condition. The central trusses are sagging and exerting horizontal pressures on the walls, the slates have been covered with a cementitious waterproofing compound and are leaking in places. The large openings on the ends have been infilled with matching rubble stone, most likely shortly after the tramway closed. The building also has 2 windows that have been infilled with blockwork which suggest that it was done quite recently. There is a large opening on the side of the building with large doors which are close to collapse.
- 6.1.4 Although the original sleeper blocks from the tramway are still in existence in many locations along its former route, there is no indication of them around the building.

6.2 THE PROPOSAL

- 6.2.1 The application proposes works to facilitate the use of the building as a cycle hub/bike rental and bike related activity centre which will be wholly contained inside the building as set out in the previous report 0050/21. The centre will provide cycling facilities and services for the community and particularly for the less able individuals who may have difficulty riding a bike thus providing them with similar access to the cycle track as more able individuals.
- 6.2.2 The principal use of the barn would be a not for profit, CIC (Community Interest Company) providing cycling facilities and services as a community interest operation providing cycle hire (to include specialist bikes suitable for less able people – adapted E-bikes etc), bike workshops and courses for individuals, school groups and community groups. It is also proposed to have a small internal café being ancillary to the primary enterprise of providing accessibility to cycling for all individuals.
- 6.2.3 The new use will result in the following changes to the existing building. It will have new, plain outward opening casement windows in the existing window openings. These will be hardwood with a matt clear protective oil finish. These windows will have shutters which will leave the barn looking much as it did originally.
- 6.2.4 The main entrance will have hardwood glazed doors with side panels. These glazed doors and side panels will be covered when closed with heavy timber doors on the outside that would resemble the existing doors. It is proposed that the name boards for the centre would be on the inside face of the external main entrance doors, visible when the doors are folded back but concealed when the doors are shut. When the hub is closed these shutters and doors will also provide security.

- 6.2.5 It is proposed that the internal wall surfaces will remain as exposed stone and that the space will be open to expose the underside of the roof. The WC cubicle and the counter will be self-supporting pods. This way the visitor will be able to perceive the building much as it would have been.
- 6.2.6 The cafe counter will be operated with LPG gas fired equipment which reduces the amount of electrical equipment mainly to lights and extraction fans which can be operated off a 12V system. It is proposed to install a wood burner to provide background heating during colder months and the flue will be within the existing chimney structure to ensure its impact on the external roof character is minimal. Within the building it is proposed to have a permanent history board telling visitors about Sir Thomas Tyrwhitt and the tramway he created, highlighting the building's role as well as other surviving features nearby.
- 6.2.7 The surrounding area is semi-open moorland, but the presence of the barn, of the road and car park, of the raised golf club tee, of both the Devonport and Plymouth leats as well as the tarmac cycle track influence and alter the visitors' perception of the location.
- 6.2.8 Externally, the existing gravel track will remain unchanged, but the space between the barn and the cycle route would remain in grass but be levelled and gravel reinforced. This would be the principle access to the building. The ground outside is more or less level with the inside of the building and therefore achieving disabled access will not require ground works of any significance. The remaining areas around the building will stay as grass. Three simple sturdy permanent external benches with timber tops on granite bases are proposed, as well as possibly a heavy timber bike rack made from a log or a railway sleeper but no fencing or enclosure is proposed.
- 6.2.9 There is mains water 250m away but the ground disturbance to lay a supply pipe was considered to have an impact on the moorland ground, and therefore the applicants have provided an off-grid arrangement. It is proposed to store rainwater from the roofs in underground tanks, purify it and pump to the building instead. It is also proposed for the building to receive a small septic tank which will be buried underground to the north east of the barn. The surfaces will be carefully reinstated to the previous appearance after the tanks have been installed.
- 6.2.10 All the external elements will be moved indoors when the cafe is closed and the windows and main door opening will be closed with heavy timber shutters.

6.3 POLICY

- 6.3.1 Policy COR2(c) supports development outside of Local Centres and Rural Settlements in principle 'if it would sustain buildings or structures that contribute to the distinctive landscape or special qualities of the Dartmoor National Park, where those assets would otherwise be at risk and where development can be accomplished without adversely affecting the quality of those buildings or structures'.
- 6.3.2 The Authority's Building Conservation Officer provided comprehensive feedback following the listing of the building in August of this year. The applicants have responded to the objection and provided revised plans to address the key concerns. The roof of the building has been redesigned with a supporting steel beam to preserve the existing timber roof structure. Ground works have been revised to minimise potential impact on associated heritage features. Conditions have been included as recommended. This is development that officers consider would help conserve and sustain the building in accordance with the strategic approach of COR2. The existing building features crudely blocked up openings that will benefit from sympathetic conservation. The proposal maintains the building's original appearance and

makes nominal changes to this appearance during opening hours only. Out of hours, with the shutters all closed the appearance is close to unchanged – especially in terms of contribution to and impact on the setting as it exists currently.

- 6.3.3 Policy COR18(e) establishes the policy approach for local employment and business opportunities outside the classified settlements by providing support for appropriate sustainable tourism and small scale recreation enterprises that are based on the intrinsic qualities of the Dartmoor National Park. In all cases, COR18 requires that full consideration is given to the use of existing buildings, particularly traditional buildings. Given the historic significance of the tramway and the route of which the cycle track uses in this area, this building is ideally suited.
- 6.3.4 Policy DMD9 prioritises the conservation of Dartmoor’s cultural heritage in the conversion or re-use of non-residential buildings outside of classified settlements. Any rural building conversion scheme must clearly demonstrate that it will conserve the special character and appearance of the existing building. The policy requires proposals to demonstrate that the building is traditional within Dartmoor’s built heritage, capable of conversion without need for substantial alteration or significant changes in the relationship with existing ground levels, that conversion works will be in-keeping with local building styles and materials and will not adversely impact rural character.
- 6.3.5 Significant historic and architectural elements have been incorporated into the design and the overall setting of the building has been sustained. The applicants have engaged in pre-application discussions with Officers, have recognised its recent listed status which has resulted in amendments to the scheme to ensure the historic and architectural elements of the building are retained.

6.4 ARCHAEOLOGY

- 6.4.1 The Authority’s Archaeologist has no objection and has advised that, given the sensitivity of the proposed development site, an archaeological watching brief standard condition is recommended on all groundworks, including the levelling of ground in the vicinity the building and the installation of services both inside and outside such as the septic tank, soakaway and associated pipework.

6.5 CONCLUSION

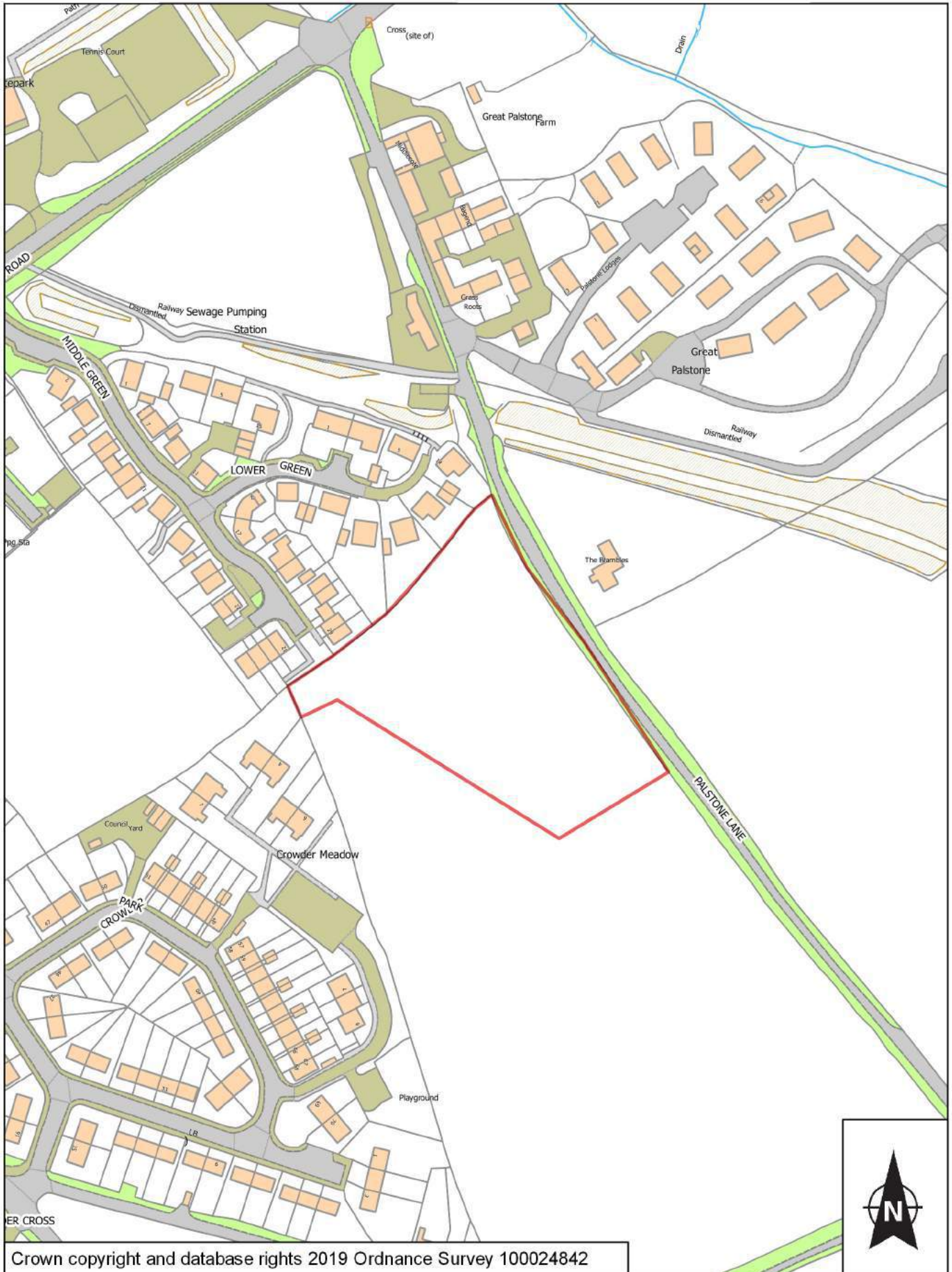
- 6.5.1 The proposed works facilitate a viable re-use of what is now an important Grade II Listed heritage asset. The intended use and proposed enhancement works are compatible with the historic importance of the building. The proposal is considered to be in accordance with planning policy and guidance related to the sympathetic re-use of listed buildings.
-

0147/19 - Land at Palstone Lane



Scale 1:2,000

Compiled by nturner on 18/10/2019



Crown copyright and database rights 2019 Ordnance Survey 100024842

3

Application No: **0147/19** District/Borough: **South Hams**
Application Type: **Full Planning Permission** Parish: **South Brent**
Grid Ref: **SX705598** Officer: **Nicola Turner**
Proposal: **Erection of 17 dwellings (12 affordable and 5 open market) and associated infrastructure**
Location: **Land at Palstone Lane, South Brent**
Applicant: **South Hams District Council & South Brent Community Land Trust**
Recommendation: **That Members note the updates and confirm the resolution to GRANT planning permission, subject to the signed S106 legal agreement and Unilateral Undertaking.**

Condition(s)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved drawings numbered 1711 01, 1711 344, 1711 345, 1711 346 Rev A, 1711 347, 1711 348 Rev A, 1711 349, 1711 350 Rev C, 1711 351 Rev D, 1711 360, 1711 370, 1711 371 Rev A, 1711 372, 1711 373 Rev A, 1711 374, 1711 375 Rev A, 1711 376, 1711 377 Rev A, Highway Long Section Rev P03, Proposed Drainage and Utilities P02, Flood Routing Plan P01, Engineering Layout Rev P02 and Tree Protection Plan DTS.151.1.TPP, Valid 08 April 2019, and 1711 301 Rev J, 1711 302 Rev J and Swept Path Block Plan Valid 03 October 2019.
3. 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. 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. Works shall then be carried out in accordance with the agreed details throughout the construction phase.
4. 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.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the dwellings shall be carried out and no extension, building, enclosure, structure, erection or hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwellings hereby permitted without the prior written authorisation of the Local Planning Authority.
6. No part of the development hereby approved shall be commenced until:
 - i) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 30 metres back from its junction with the public highway
 - ii) The ironwork has been set to base course level and the visibility splays required by

this permission laid out

iii) A site compound and car park have been constructed in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.

7. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out in accordance with the agreed details:

- i) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- ii) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- iii) The cul-de-sac visibility splays have been laid out to their final level;
- iv) Any street lighting for the cul-de-sac and footpaths has been erected and is operational;
- v) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- vi) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- vii) The street nameplates for the cul-de-sac have been provided and erected.

8. Once constructed and provided in accordance with condition 6 and 7 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority

9. No development shall commence until a Construction Method Statement, to include details of:

- i) parking for vehicles of site personnel, operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials;
- iv) programme of works (including measures for traffic management); has been submitted to and approved in writing by the Local Planning Authority.

Only the approved details shall be implemented during the construction period.

No site clearance, preparation or construction work shall take place on site outside of the hours of Monday - Friday 0800 to 1800 and Saturdays 0900 to 1300, nor at any time on Sundays, Bank or Public Holidays. This includes vehicle movements on the site. Deliveries or collections of materials should only be made during these times.

Notwithstanding the details submitted, prior to the commencement of the development hereby permitted, details of the proposed landscaping and planting scheme shall be submitted to the Local Planning Authority for approval. The landscaping and planting shall be carried out in accordance with the approved scheme within twelve months of the commencement of the development, or such longer period as the Local Planning Authority shall specify in writing. The landscaping and planting shall be maintained for a period of five years from the date of the commencement of the development, such maintenance shall include the replacement of any trees or shrubs that die or are removed.

10. A detailed schedule of the materials and finishes to be used on the approved dwellings shall be submitted and approved in writing by the Local Planning Authority prior to the use of such materials. This shall include samples of the roofing, walling, details of render finishes, window/exterior door units, verge/soffit details, positions of meter boxes, boundary fence design, driveway surface materials, roadway surface materials, kerbs and any proposed exterior lighting units.

11. There shall be no street lighting within the development unless otherwise agreed in

writing with the Local Planning Authority.

12. No development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of the maintenance strategy for the open spaces within the development, a maintenance schedule for the public open spaces together with details of the protection and enhancement of the hedgerow on the western boundary of the site.
13. Prior to the commencement of any works, demolition or development on the land, all existing trees, shrubs and hedges to be retained shall be protected by fences or suitable barriers erected beyond their dripline. Such fences or barriers shall be maintained until the completion of the development on the land. Within these protected areas there shall be no storage, deposit, tipping or placing of any materials, soil, spoil or other matter, no parking or movement of vehicles or trailers, no erection or siting of buildings or structures, no excavation or raising of ground levels and no disposal of water or other liquid. Furthermore, no fire(s) shall be lit within 20m of any protected area without the prior written authorisation of the Local Planning Authority.

1 Introduction

- 1.1 This application is a proposal by South Brent Community Land Trust (CLT) (with support from South Hams District Council) for a development of custom build housing on the edge of South Brent. This is a unique development meeting a defined community need for custom self-build affordable housing.
- 1.2 The site is accessed from Palstone Lane and is an open field site enclosed with hedgerows. Surrounding the site to the North is Middle Green and Lower Green and to the west is Crowder Meadow. The 17 houses being proposed are on a site of approximately 0.8ha in area.
- 1.3 The proposed dwellings are to be laid out around a central green area. The road access would be a cul-de-sac and the houses built around this, inward facing, with a play area and public open space with workshop and parking in the central area. The dwellings are all two- storey comprising semi-detached dwellings.
- 1.4 Twelve affordable units are proposed (3 four-bed dwellings, 4 three-bed dwellings and 5 two-bed houses). In addition, 5 open market units are proposed (1 two-bed dwelling, 3 three-bed dwellings and 1 four-bed dwelling).

2 Update

- 2.1 In November 2019 Members resolved to grant planning permission for the development. The original report and minutes from that meeting are appended to this report. That resolution was subject to the conclusion of the necessary legal agreement and unilateral undertaking to control the occupancy of the proposed units. The compilation of the legal agreement and unilateral undertaking has proved to be complex, not least that this is seeking to provide a relatively unique development of custom self-build affordable homes with a necessary element of open market housing to support its delivery. This has led to a significant delay in being able to issue the planning decision. The agreement and undertaking have now been signed allowing us to move towards determination.
- 2.2 Given that it has taken 2 years to conclude these negotiations it is considered prudent to provide an update and seek Members approval before the matter is

concluded. This will allow Members to be aware of the current policy background, the wording of the signed agreements and, specifically, any additional commentary that has been presented in the interim.

2.3 POLICY UPDATE

- 2.3.1 The National Planning Policy Framework has been updated in 2021. Specifically, Paragraph 78. States that ; *'In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.*
- 2.3.2 Paragraph 79 promotes *'sustainable development in rural areas.... housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services'.*
- 2.3.3 Paragraph 176 emphasises that *'Great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas'.*
- 2.3.4 Paragraph 177 states that ; *'When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development⁶⁰ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*
- (a) 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;*
- (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- (c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'*
- 2.3.5 The proposed development continues to accord with these ambitions.
- 2.3.6 The Development Plan, consisting of the Core Strategy and Development Management and Delivery Plan Document (DMD) remain the definitive documents for determination of planning applications at this time. The policies outlined in the appended report remain applicable.
- 2.3.7 The emerging Local Plan has been in examination for 12 months, having progressed through submission, hearings, the Inspectors post-hearings report and the track

changes modification of the local plan (published June 2021). The emerging Plan is now at the final stages prior to adoption, with policies contained within that Plan having weight of some significance in the determination of applications.

2.3.8 In particular, the site is proposed in the housing allocations for South Brent. The site is now contained within the proposed settlement boundary. Emerging policy 7.14 (2) states that:

- '1. An area of land at Palstone Lane is allocated for community-led affordable and local needs custom and self-build housing of around 15 homes, of which not less than 45% must be affordable housing to meet identified local needs. Development should come forward only in response to an identified local need.
2. Development of this site must allow for highway access in conjunction with Proposal 7.15 (an area of land directly adjacent to this allocation).
3. Applications should be supported by evidence to inform an appropriate assessment (Habitats Regulations) in order to establish that development of this site will have no adverse impact on the South Hams Special Area of Conservation.'

2.3.9 This scheme seeks to deliver a development of 17 units of which 12 will be affordable custom build dwellings (70% affordable dwellings). The plans allow for highway access to the site in conjunction with Proposal 7.15. The necessary appropriate assessment in respect of wildlife issues has been undertaken and confirms that the site will have no adverse impact on the South Hams Special Area of Conservation.

2.4 THE DEVELOPMENT

2.4.1 The development is proposed to be built by a single contractor who will carry out all groundworks, and develop all units to a shell, passing the affordable units to the Community Land Trust (CLT) at a stage ready for custom finish by the members of the CLT.

2.4.2 The affordable dwellings and Open Space are to be handed over to the CLT prior to the occupation of any Open Market dwelling. In the event of a higher profit than expected, a further viability report will be required and if the profit is higher than the estimated profit, then the Owner shall pay the Affordable Housing Commuted Sum to the Local Housing Authority.

2.4.3 Funding of £900,000 has been provided by Homes England for delivery of the scheme in partnership with the CLT and South Hams District Council.

2.4.4 The landscaping shall be carried out within 12 months of the commencement of development as per the conditions in the report.

2.4.5 An education contribution has been agreed to the sum of £2,871.00.

2.5 S106 LEGAL AGREEMENT

2.5.1 The signed document is appended to the report for information. The twelve custom build affordable dwellings will be subject to the following restrictions;

- Affordable custom build homes are to be occupied in accordance with the obligations.
- Affordable homes to be sold to eligible households, at the appropriate rate.

- If no eligible household can be found upon future sale, then the cascade is to be followed for occupation of the units.
- No unit shall be used as a second home.
- Prior to occupation of the 5th open market dwelling, an updated viability report will be submitted to the Authority to adjust any provision of affordable properties if delivery of these is covered by profit from the OM dwellings.

2.6 UNILATERAL UNDERTAKING

- 2.6.1 The dwellings can only be used as a primary residence by any occupier and none shall be occupied as a holiday let, or advertised online as such and any occupant is required to keep proof that the dwelling is occupied as a primary residence.

2.7 REPRESENTATIONS

- 2.7.1 One further representation has been received since the resolution has been made in November 2019. This raises a number of concerns on behalf of the owner of a neighbouring property (Brambles – to the east). Specifically that:
- Number 1 Palstone Lane floods
 - there is a perceived danger to pedestrians and vehicles due to the proposed new access, together with emergency service access required and waste/recycling vehicles
 - a Bat survey of the Brambles has not been carried out
 - unacceptable overlooking of the property known as Brambles
 - a lack of appropriate consultation with neighbouring residents
 - the detrimental effect of contractors vehicle parking on the adjacent property Brambles
- 2.7.2 Similar issues were raised by others during the initial consultation and addressed in the presentation to Members in November 2019. They have also been addressed through consultee responses from Devon County Highways, the Flood Authority (DCC) and Ecology Officers which formed part of the report and background papers to that committee presentation. The matters are adequately dealt with by the proposed conditions attached to the report.
- 2.7.3 In particular, it is considered that the proposed properties are at an obscure angle to the Brambles and therefore would not create undue overlooking from the distance proposed. Brambles is some 30 metres way from the nearest property, across a highway and behind a mature hedge screen.
- 2.7.4 The applicant has properly addressed ecological matters within the development site as required. That assessment would have addressed wider habitat impacts and connectivity but would not specifically consider aspects on private land outside of their ownership.
- 2.7.5 While it has been acknowledged that this property (Brambles) was not specifically notified (by letter) of the proposal at the time, the required public consultation (by display of site notice) has been undertaken. The application was widely publicised in the community, with public meetings, and attracted a significant number of representations.
- 2.7.6 Re-presenting this matter gives the opportunity for the correspondent to address Members in person if they desire to ensure all concerns are properly understood before

the matter is determined.

2.8 SUMMARY

- 2.8.1 Members are asked to note the attached report and minute related to the resolution made in November 2019 and to consider the relevant updates provided in the above report before coming to a resolution on this matter. The signed Unilateral Undertaking and s106 legal agreement are appended for completeness. It is recommended that the resolution made by Members to approve the development is once again endorsed with the conditions as set out.
-

**ORIGINAL REPORT TAKEN TO DEVELOPMENT MANAGEMENT COMMITTEE
ON 1 NOVEMBER 2019**

2. Application No: **0147/19** District/Borough: **South Hams District**
Application Type: **Full Planning Permission** Parish: **South Brent**
Grid Ref: **SX705598** Officer: **Nicola Turner**

Proposal: **Erection of 17 dwellings (12 affordable and 5 open market) and associated infrastructure**

Location: **Land at Palstone Lane, South Brent**

Applicant: **South Hams District Council & South Brent Community Land Trust**

Recommendation **That, subject to the completion of a S106 legal agreement in respect of phasing of development, affordable housing, local occupancy and an 'overage clause', permission be GRANTED**

Condition(s)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved drawings numbered 1711 01, 1711 344, 1711 345, 1711 346 Rev A, 1711 347, 1711 348 Rev A, 1711 349, 1711 350 Rev C, 1711 351 Rev D, 1711 360, 1711 370, 1711 371 Rev A, 1711 372, 1711 373 Rev A, 1711 374, 1711 375 Rev A, 1711 376, 1711 377 Rev A, Highway Long Section Rev P03, Proposed Drainage and Utilities P02, Flood Routing Plan P01, Engineering Layout Rev P02 and Tree Protection Plan DTS.151.1.TPP, Valid 08 April 2019, and 1711 301 Rev H Received 23 September 2019.
3. 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. 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. Works shall then be carried out in accordance with the agreed details through the construction phase.
4. 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.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the dwellings shall be carried out and no extension, building, enclosure, structure, erection or hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwellings hereby permitted without the prior written authorisation of the Local Planning Authority.

6. No part of the development hereby approved shall be commenced until:
 - i) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 30 metres back from its junction with the public highway
 - ii) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - iii) A site compound and car park have been constructed in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.
7. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out in accordance with the agreed details:
 - i) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - ii) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - iii) The cul-de-sac visibility splays have been laid out to their final level;
 - iv) Any street lighting for the cul-de-sac and footpaths has been erected and is operational;
 - v) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - vi) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - vii) The street nameplates for the cul-de-sac have been provided and erected.
8. When once constructed and provided in accordance with condition 6 and 7 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority
9. No development shall start until a Construction Method Statement, to include details of:
 - i) parking for vehicles of site personnel, operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials;
 - iv) programme of works (including measures for traffic management);
 has been submitted to and approved in writing by the Local Planning Authority.

Only the approved details shall be implemented during the construction period.

10. No site clearance, preparation or construction work shall take place on site outside of the hours of Monday - Friday 0800 to 1800 and Saturdays 0900 to 1300, nor at any time on Sundays, Bank or Public Holidays. This includes vehicle movements on the site. Deliveries or collections of materials should only be made during these times, and vehicles should be discouraged from collecting on the public highway outside of these times with their engines and radios left running.

11. Prior to the commencement of the development hereby permitted, details of the proposed landscaping and planting scheme shall be submitted to the Local Planning Authority for approval. The landscaping and planting shall be carried out in accordance with the approved scheme within twelve months of the commencement of the development, or such longer period as the Local Planning Authority shall specify in writing. The landscaping and planting shall be maintained for a period of five years from the date of the commencement of the development, such maintenance shall include the replacement of any trees or shrubs that die or are removed.
12. A detailed schedule of the materials and finishes to be used on the approved dwellings shall be submitted and approved in writing by the Local Planning Authority prior to the use of such materials. This shall include samples of the roofing, walling, details of render finishes, window/exterior door units, verge/soffit details, positions of meter boxes, boundary fence design, driveway surface materials, roadway surface materials, kerbs and any proposed exterior lighting units.
13. There shall be no street lighting within the development unless otherwise agreed in writing with the Local Planning Authority.
14. No development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of the maintenance strategy for the open spaces within the development, a maintenance schedule for the public open spaces together with details of the protection and enhancement of the hedgerow on the western boundary of the site.
15. Prior to the commencement of any works, demolition or development on the land, all existing trees, shrubs and hedges to be retained shall be protected by fences or suitable barriers erected beyond their dripline. Such fences or barriers shall be maintained until the completion of the development on the land. Within these protected areas there shall be no storage, deposit, tipping or placing of any materials, soil, spoil or other matter, no parking or movement of vehicles or trailers, no erection or siting of buildings or structures, no excavation or raising of ground levels and no disposal of water or other liquid. Furthermore, no fire(s) shall be lit within 20m of any protected area without the prior written authorisation of the Local Planning Authority.

Introduction

This application is a proposal by South Brent Community Land Trust (CLT) (with support from South Hams District Council) for a development of custom build housing on the edge of South Brent. Officers have worked with the CLT over a long period over time (including on an earlier site, which did not progress), to support the group.

The site is accessed from Palstone Lane and is an open field site enclosed with hedgerows. Surrounding the site to the North is Middle Green and Lower Green and to the west is Crowder Meadow. The 17 houses being proposed are on a site of approximately 0.8ha in area.

The proposed dwellings are to be laid out around a central green area. The road access would be a cul-de-sac and the houses built around this, inward facing, with a play area and public open space with workshop and parking in the central area. The dwellings are all two-storey comprising semi-detached dwellings.

12 affordable units are proposed (3 four-bed dwellings, 4 three-bed dwellings and 5 two-bed houses). In addition, 5 open market units are proposed (1 two-bed dwelling, 3 three-bed dwellings and 1 four-bed dwelling).

12 dwellings are affordable with a local needs connection, to be secured through a S106 agreement. It is also to be conditioned that the open market dwellings are to be used only as principal residences (i.e. not second homes), with a Unilateral Agreement alongside to the same effect.

The application is presented to the Committee as it is a large and more complex proposal, of community interest.

Planning History

0354/14	Residential development comprising forty dwellings including affordable housing, areas of open space and landscaping; a new access and pedestrian footway onto Exeter Road and associated infrastructure	Full Planning Permission	Grant Conditionally	27 November 2014
9/45/0096/75/1	Residential development	Outline Planning Permission	Refused by SHDC	08 April 1975
0346/18	Erection of 40 dwellings, including 14 affordable dwellings and associated infrastructure	Full Planning Permission	Not yet determined	

Consultations

Environment Agency:	Flood Zone 1 - Standing Advice Applies
South Hams District Council:	No objection
County EEC Directorate:	No objection to amended plans - The proposal is acceptable to the Highway Authority from a highway safety point of view. A shared surface is preferable. Some concern is expressed over the distance from the dwellings that the parking has been provided.
	Conditions are summarised as follows: Development shall not commence until highway works have been carried out to the access, works to access each property shall have been carried out prior to occupation, the pavement and highway shall be maintained, and prior to construction a method statement shall be submitted.
DNP - Ecology & Wildlife Conservation:	No objection subject to conditions requiring a Construction Environment Management Plan and Landscape Ecological Management Plan to be submitted.
DNP - Trees & Landscape:	No objection, subject to conditions requiring the retained trees to be protected in accordance with the Tree Protection Plan (DTS.151.1.TPP) and a detailed landscape scheme is submitted and approved by the Authority prior to the commencement of works.
Devon County Council (Flood Risk):	No comment received

Natural England Consultation Service: No objection

South Hams District Council: No objection

Devon & Cornwall Police: No objections but advise that to design out crime, the applicant should use Approved Document Q to ensure safe doors and windows. Also the path at the rear of plots 1-5 should be left as open to view as possible, measures should be taken to prevent parking on the play area. Area adjacent to plot 6 should be monitored, garden gates should match fence height at 1.8 metres. Front doors should not be deeply recessed.

Parish/Town Council Comments

South Brent PC: Support application

Relevant Development Plan Policies

COR1 - Sustainable Development Principles

COR10 - Providing for renewable energy

COR12 - Meeting the need for local infrastructure, community facilities and public services

COR13 - Providing for high standards of accessibility and design

COR14 - Meeting the infrastructure requirements of new development

COR15 - Providing for limited new housing to meet local needs

COR16 - Meeting the needs of vulnerable groups and those with special needs

COR17 - Promoting increased health and well-being

COR2 - Settlement Strategies

COR21 - Dealing with development and transport issues in a sustainable way

COR24 - Protecting water resources from depletion and pollution

COR3 - Protection of Dartmoor's special environmental qualities

COR4 - Design and sustainable development principles

COR7 - Providing for the conservation of Dartmoor's varied plant and animal life and geology

COR8 - Meeting the challenge of climate change

COR9 - Protection from and prevention of flooding

DMD14 - Biodiversity and geological conservation

DMD15 - Renewable energy

DMD19 - Sustainable Communities

DMD1a - Presumption in favour of sustainable development

DMD1b - Delivering National Park purposes and protecting Dartmoor National Park's special qualities

DMD2 - Major Development

DMD23 - Residential development outside Local Centres and Rural Settlements

DMD3 - Sustaining the quality of places in Dartmoor National Park

DMD30 - Low impact dwellings in the countryside

DMD32 - Protection of recreational and amenity open space

DMD38 - Access onto the highway

DMD4 - Protecting local amenity

DMD40 - Parking provision - Residential
DMD42 - Public Rights of Way
DMD46 - Parish plans and development management
DMD5 - National Park Landscape
DMD7 - Dartmoor's built environment

Representations

13 letters of objection 75 letters of support

Supporting -

- Important that local people have the opportunity to build their own home and stay within the Parish.
- Encouragement for sustainable living and building in the community.
- The project is undisruptive and will help to provide affordable dwellings in the community.
- Good model for future development.
- Brilliant scheme focused on affordability and sustainability for people in the local area.
- The project has been carefully developed and will support people living and working on Dartmoor.
- It meets Local Plan guidance and park purposes.
- There will be no impact upon South Brent whatsoever.
- Well designed eco application which will fit in well.
- Well controlled for occupancy to give people their forever home in the area.
- An exciting project to keep local families local.
- The project is appropriate because of its emphasis on sustainability and allows for partial self build, rewarding both long term thinking and personal initiative.
- Grouping and open space designed to enhance the sense of community.
- Range of styles and sizes to attract a demographic mix and to visually enhance the development.
- Exemplar development.
- Only occasionally used for dog walking so would be a good use of the field.
- Zero-carbon design
- Can a condition be imposed that the open market dwellings be for Local occupancy/owners.
- Incorporation of wildlife areas in the development
- Quality build of a new home to ensure longevity

Objections -

- The proposal will result in the loss of privacy to all existing dwellings and create overlooking.
- Visual amenity of the proposed dwellings overshadowing existing dwellings.
- Generation of more traffic through Palstone Lane.
- Loss of a green field site rather than using brown field sites.
- How will this scheme be affordable? Should it not be 100% affordable
- Palstone Lane floods during sustained periods of rainfall, contrary to the FRA submitted. A scheme to ensure the drainage of the whole lane area is required.
- Is a single lane access road suitable for around 79 homes ? No.
- Structural impact on adjacent Barns should be taken into account with access for construction vehicles and an agreement along the lines of that undertaken by Cavanna Homes should be carried out.
- It is felt that the access to the new site should be through Middle Green as that is where the access points already are.

- No infrastructure or facilities/shops to support the growing population.
- Loss of wildlife which is just returning after other local new development.
- Why an additional community building when there are several in South Brent already?
- Are the buildings self build, or by contractors?
- Impact upon schools and medical services, is this being addressed?
- Highway layout shows that it is possible to come through from Middle Green, this would be safer.

Observations

ENVIRONMENTAL IMPACT ASSESSMENT

The proposal has been screened under the Environmental Impact Assessment (EIA) Regulations and determined not to be EIA development having a significant environmental impact requiring the submission of an Environmental Statement. This does not negate the need for relevant technical reports, and these have been submitted with the application.

SUSTAINABLE DEVELOPMENT

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

Local Centres, including South Brent, are the towns and larger villages within the National Park, where development is intended to serve the needs of the settlement and its wider rural hinterland, including through delivering affordable housing. This site adjoins the settlement boundary of South Brent.

PRINCIPLE OF DEVELOPMENT

This site was initially discussed with the CLT as a rural exception site; a development of affordable housing adjoining the settlement, to meet an identified affordable housing need. In this instance, whilst the 'traditional' affordable housing need is being met through development on allocated sites in conjunction with a housing association, the principle of custom/self-build need, was supported.

Whilst this is an exception site, the application has been 'caught up' by the review of the Local Plan, which identifies this site and an adjoining parcel of land for housing development. Whilst the emerging Local Plan does not at this point carry any notable weight, it would be unreasonable to ignore the emerging intentions of the Plan in this area.

This is therefore being treated as an exception site to meet an identified need for custom/self-build housing, in the context of an emerging allocation.

MAJOR DEVELOPMENT TEST

Paragraph 172 of the National Planning Policy Framework (NPPF) states that planning permission should be refused for major developments in designated areas (National Parks, the Broads and Areas of Outstanding Natural Beauty) "...other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) 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;
 - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way;
- and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. "

The NPPF makes it clear that whether a proposal amounts to 'major development' is a matter to be determined by the decision maker, taking into account the nature, scale and setting of the proposal, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. It is not synonymous with the definition of a 'major planning application', but rather whether the development could be construed as major development in the ordinary meaning of the word having regard to the character of the development in its local context. Recent examples of major developments in National Parks include applications for fracking, power line infrastructure and quarrying.

Having regard to the character, nature and scale of the proposed development adjoining the settlement limit, and taking the local circumstances and context into account, it is not considered to fall under the paragraph 172 definition of 'major development'.

POLICY CONTEXT

Core Strategy Policy COR1 seeks to ensure development is undertaken in a sustainable manner, with criteria including making efficient use of land, waste reduction, conservation of natural resources, high quality design and construction, service provision and avoidance of medium to high flood risk zones.

COR2 identifies South Brent amongst other larger settlements, as a Local Centre, noting the priorities include meeting housing needs as well as maintaining, and where possible enhancing, the range of local services.

COR15 sets out "...a strong priority for the provision of affordable housing to meet local needs...targeted at... needs within and adjoining Local Centres..." The policy specifies a mix of around 70% social rent and the remainder being intermediate housing, with the precise mix being determined as applicable for each site.

DMD1a states that where an application which accords with policies, it will be approved, taking into account a positive approach that reflects the presumption in favour of positive development contained within the NPPF, to improve social and environmental conditions in the area. This positive approach continues through DMD1b; that proposals shall conserve and enhance the natural beauty of the National park, and shall be approved where social and economic wellbeing is fostered.

Policy DMD21 "Residential development in Local Centres" permits development within designated settlement boundaries "...on sites allocated in this document." The policy specifies a minimum of 50% affordable housing. It includes provision for exception sites, stating; "Exceptionally, where the need for affordable housing cannot be met within the settlement boundary, and there is a specific local need identified for such housing, then permission will be granted for a development on suitable sites adjoining the settlement boundary. In such cases all the housing will be required to be affordable." The site in question adjoins the settlement boundary.

The application proposes 70% affordable housing, deliverable through the CLT working with Homes England through the construction of dwellings built in a sustainable manner. Development of this site provides an opportunity for the Authority to meet its duty under the self and custom housebuilding Act to provide plots which meet a need for this type of housing. Furthermore it is doing so in a way which also meets the clear strategic priority for the delivery of affordable housing.

AFFORDABLE HOUSING

Policy DMD21 requires that on an exception site, all the housing shall be affordable. The Authority's adopted Affordable Housing SPD, in line with the National Planning Policy Framework, allows for cross-subsidy on exception sites; this means an element of market housing is acceptable where it is necessary to support the delivery of affordable housing.

In this instance, the applicant has submitted the application for 70% affordable housing and this is supported by a viability assessment, undertaken by Plymouth City Council.

The affordable housing need which justifies this exception site development relates to self-build. The Authority holds a Self-Build Register. The members of the CLT who are intending to occupy the proposed dwellings, are on part 2 of the Authority's self-build Register, which relates specifically to 'local people' as defined in the Local Plan.

The Authority has considered the viability assessment in the submitted statement to assess whether the applicant's proposal is maximizing affordable housing delivery. This report has indicated that the proposed scheme is not considered to be viable without the Open Market housing. The scheme states that the 5 open market houses will be required to support the delivery of the 12 affordable units.

The viability of the development is also supported through a £400,000 contribution from Homes England.

Affordable housing will be secured through a S106 agreement. This will include an 'overage' clause, which means that if the development viability alters, the mix could alter slightly to provide for either a change in the level of discount rate on the properties, or switching one of the market units, to an affordable house.

It has been agreed at pre-application stage that the proposed units can be built slightly larger to allow for futureproofing the properties for growing families. There is space in the loft areas, due to the height of the eaves and wall plate to easily convert the roof space to allow for a growing family.

THE PROPOSAL

The application proposes 17 dwellings comprising:

12 No Affordable

- Two-bed properties
- Three-bed properties
- Four-bed properties

5 No Open Market

- two-bed properties
- three-bed properties
- four-bed properties

The 12 affordable units will comprise properties to be owned by members of the CLT, who meet the eligibility criteria (being local people, in housing need and unable to afford market prices). They will be discounted by 65% from open market value. The discount and the local occupancy condition will remain on the properties in perpetuity.

The 5 open market units will have no specific occupancy or value restrictions, apart from the obligation to ensure they are a principal residence.

The proposed open market and affordable units will be 'tenure blind', built in a style representative of a rural farmyard grouping, as stated in the Design and Access Statement. The affordable housing will be dispersed through the site and it is intended to be indistinguishable from the private market housing in terms of design, character and architectural treatment.

The vehicular access point will be provided through the existing access at the north east corner of the field, linking with Palstone Lane. This will serve the whole of the application site. The highway authority considers this access is appropriate.

The proposed units are aligned and orientated so that they face onto the internal road and outdoor space within the site, however there is limited public aspect of the site as it is surrounded on the north and west sides by residential development, and the south and south west are backing onto a field. The full length of the eastern boundary is running along Palstone Lane where there is a mature Devon hedge.

All dwellings will have off road car parking provision in the form of driveways or parking bays.

A pedestrian link has been proposed through the southern end of the site, located alongside plot 15.

The existing boundary hedges along all the boundaries are to be retained. The existing landscape features will be supplemented by tree planting and new landscaping within the residential development, particularly within the curtilage of properties along the road frontages and outside edges of the site. There is the provision of a shared workshop for the residents of the properties for storage, and as a working area during construction. The site also has provision of a play space which would be accessible to anyone.

ACCESS AND PARKING

Policy COR21 sets out the requirement for new development in relation to highways safety. Given the emerging local plan context, there is a requirement to show the ability to link the vehicular access to this site, the site to the south, and Middle Green in the future. A road link between the two sites does not form part of this proposal, however needs to be achievable to support delivery of an allocated site in the emerging Local Plan.

The proposal meets the parking requirements set out in DMD40 for new residential development, that is, for detached and semi-detached dwellings – a minimum of two spaces per dwelling.

The development does not justify the imposition of contributions to highway safety improvements off site. DCC Highways Officer is satisfied with the scheme as it stands.

It is inevitable with any development, that there will be an increase in vehicular traffic. However, the impacts of this proposal cannot be said to be unacceptable or severe. The proposal is therefore considered to accord with Local Plan Policies DMD38, DMD40 and COR21, subject to the imposition of the conditions.

DESIGN

Policies COR1, COR4 and DMD7 set out the objectives for high quality locally distinctive design and for the conservation and enhancement of the built environment.

The detailed materials of the dwellings has been the subject of discussions between Officers and the applicant prior to submission, and officers are supportive of details of the scheme, which perhaps represent a different and contemporary approach compared with the traditional design elements seen in affordable housing schemes in the National Park.

The proposed scheme is designed to meet the current Passivhaus standard of low energy requirements, with low embodied energy and environmentally conscious building materials. The layout aims to create a traditional farmstead cluster, with a narrow entrance into the 'farm yard' and each property would be accessed over a swale feature via a bridge. The fabric first design approach seeks to minimise emissions and heating costs as well as comply with policy COR8. There is considered to be no need for further energy efficiency additions, for example photovoltaic or solar thermal panels.

The choice of materials are predominantly render, natural stone and timber horizontal weatherboarding and natural slate roofing with PVC windows.

The dwellings are proposed to have an upper floor of untreated larch cladding, some black stained larch cladding and a ground floor of self-coloured render. Local stone in gabion baskets would also be used. The roofs would have natural slate pitched roofs, and some with dark corrugated steel profiled roofing, and some green roofs. The doors and windows would be a composite timber frame and powder coated aluminium finish. The divisions between properties would be Devon banks, or larch, boarded fencing.

FOUL DRAINAGE

Surface water will be disposed of using soil infiltration via a network of soakaways. The foul water will be connected to a below ground system linked up to the existing public foul pumping station within the adjacent Middle Green development. South West Water have confirmed a connection to this and agreed the connection points.

ECOLOGY

The application has been accompanied by an Ecological Impact Assessment (EclA), part of which details a range of bat surveys carried out between summer 2017 and summer 2018.

The EclA concludes with mitigation in place no significant adverse effects are predicted.

Both DNPA's Ecologist and Natural England (NE) have reviewed the proposals.

It is therefore considered the proposal complies with Local and National Policy for biodiversity including Local Plan Policies DMD14 and COR7, which both require development to conserve and enhance biodiversity.

LANDSCAPE IMPACTS

The Trees and Landscape Officer has raised no formal objection to the proposal. The site, from the majority of views towards the site, has the backdrop of other residential development.

Local Plan Policies DMD1b, DMD5, COR1 and COR3 require development to conserve or enhance the Dartmoor landscape and features that contribute to its special qualities. Policy COR11 also seeks to ensure the National Park continues to offer a sense of tranquility to residents, and those who work in or visit the National Park.

A significant amount of local concern has been raised regarding the landscape and visual impacts of the proposed development. It is accepted the development will be visible from several public vantage points but many are longer distant, screened views, some are to a greater degree than others and this is inevitable with any development of its scale.

However, this is not an isolated site. It is adjoining the settlement boundary and any development on it will be viewed against the backdrop of existing built development to the north and west. With the exception of minor works to provide the access points, existing hedgerows are to be retained. Significant hedgerow planting is proposed, and this will, over time, help to assimilate the development into the landscape once the planting matures.

NEIGHBOUR IMPACTS

As set out above, the site is bounded on more than one side by existing residential development.

The proposed development sits on lower ground than the rear of the dwellings to the north, many of which have strong planted or fenced boundaries between them and the development site. As the land slopes away from these properties, down towards the south, through careful design and the retention of existing hedgerows, overlooking of rear elevations has been reduced as far as possible.

It is acknowledged that views can currently be gained from Middle Green and the other surrounding roads across to the open countryside, and the proposed dwellings will be seen in these views. However, planning legislation does not protect the right to a view. Due to the sloping land, views will still be gained and it should be noted that the layout of the scheme has been designed to maintain these as far as is practical through the layout of the road and the pattern of semi-detached properties, rather than blocks of terraces.

It is considered that the proposed properties do not overlook or create loss of privacy to any of the surrounding houses. The degree of separation is acceptable, and there are either road access routes or hedges and fields between properties.

PLANNING OBLIGATIONS

A Section 106 Agreement is in draft form and has been agreed in principle.

The developer will be entering into a S106, which is currently being finalised with DNP's

solicitors, and will secure:-

- The affordable housing
- Phasing of development
- Any additional grant funding forthcoming shall lead to a re-evaluation of the affordable/open market/discount ratio (an 'overage' clause)
- The local occupancy requirement

The Affordable Housing SPD states "we would expect the cross-subsidy element of the scheme to explore how it could meet other local housing needs or requirements in the community". In this instance officers have encouraged the applicant to volunteer a principal residence restriction on the open market units, ensuring they cannot be occupied as second homes. The applicant has provided a Unilateral Undertaking, which provides this commitment.

OTHER MATTERS

In this instance, the CLT has proposed sustainable construction, reuse of spoil and energy efficiency in the built fabric. The dwellings will have to be built to current Building Regulations. The proposal is considered to broadly conform to Policies COR4 and COR8.

Future development - The proposed layout does show a potential access point to the land to the south, and footpath access to the south. This does not commit the Authority to further development options, but is a matter of good planning to future proof development, considering permeability and not prejudicing future options.

PARISH COUNCIL/NEIGHBOUR COMMENTS

The comments from neighbours are acknowledged by Officers and these have been predominantly addressed throughout this report. Whilst accepting the principle of development there is particular concern in respect of the proportion of affordable housing, connectivity and design.

CONCLUSION/PLANNING BALANCE

It is accepted there will be some landscape impacts from the proposal, as is the case for any development. The development will be visible from various vantage points, however, will be viewed against the backdrop of the existing built form of South Brent. There will also be some additional traffic generated, but the Highways Officer is content this can be accommodated without detriment to the local highway network.

Biodiversity has been carefully considered and both DNP's Ecologist and the statutory body, Natural England, are satisfied that appropriate mitigation and enhancement can be secured by condition.

Paragraph 59 of the NPPF states "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."

The scheme proposes 70% affordable housing, supported by the Local Housing Authority, secured with grant funding from Homes England, and provides associated social and economic benefits through the construction phase and in meeting a pressing need for local affordable housing. It meets a specific need for custom build housing identified within South

Brent.

Overall, the scheme is considered to be a positive opportunity to provide affordable housing within South Brent and an enhancement opportunity consistent with the desire to improve the overall character and appearance of the National Park.

Concerns of the Parish and local community have been carefully considered and Officers believe that careful management of the construction phases, conditional planning approval and a robust legal agreement give the confidence that this can be achieved with the minimum disturbance.

SECTION FROM AGREED MINUTES OF THE DEVELOPMENT MANAGEMENT COMMITTEE MEETING HELD ON 1 NOVEMBER 2019

Item 2 – 0147/19 – Erection of 17 dwellings (12 affordable and 5 open market) and associated infrastructure – land at Palstone Lane, South Brent

Speaker: Mr John Presley, on behalf of the Applicant

The Case Officer advised Members that the application site is some 0.8ha in size and is situated at the north eastern side of South Brent. The site is an 'exception site' which has only been able to come forward as the proposal is for custom build affordable housing. Several sites have been considered; however, this is the only deliverable site which has access to the village and is adjacent to the settlement. The application is for 17 dwellings – 12 affordable dwellings at 65% of the market rate, and five open market dwellings which would enable the delivery of the affordable units. The affordable housing is to be custom build with eligible occupants in the Community Land Trust having been part of the design and build process. The affordable units will be secured by a S106 legal agreement. All of the dwellings would be mixed together around a central green area.


Devon County Council's Flood Team has requested that any conditions include a requirement that the removal of surface water is adequately dealt with. The foul drainage would be dealt with via the pumping station on site. It is proposed that a shared workshop be provided in the centre of the scheme layout, together with a public play area. An education contribution of £2871 has been agreed by the applicant and this forms part of the S06 legal agreement.

With regard to the custom build design, South Hams District Council will appoint a contractor to construct the properties to the point of sign off by Building Control; the occupants will finish off their properties e.g., tiling, painting and other décor.

Mr Presley, Chairman of the South Brent Community Land Trust, advised Members that the Trust had been set up in order to build sustainable homes. The South Brent Community Plan has key ambitions for the community to look after its own, to try to ensure that those on moderate incomes were able to remain in South Brent. The Community Land Trust has been recognised by Government regarding its assistance with the rural housing need. The Trust has worked with South Hams District Council, South Brent Parish Council and Dartmoor National Park Authority. The main aim is to be able to provide an affordable home to those who have strong links with South Brent but are unable to purchase an open market dwelling. The proposed dwellings are considered to be deliverable on a tight budget, with minimal impact on the environment. The Trust will retain the Freehold and the properties in order to maintain affordability in perpetuity. Whilst the properties will not achieve Passivhaus accreditation, it is proposed that the dwellings will be constructed to achieve Category 6 rating.

The Head of Development Management commented that the scheme is an exciting example of how DNPA has worked with the local community and other groups to achieve a favourable result. Custom Build affordable housing needs a small element of open market construction to enable properties to be built. This is an unusual scheme where the community has come together to help themselves.

In response to a Member query, Mr Townsend, Highways Officer, advised that the access to the development would be onto the B3172, not onto the narrow lane.

Signed  Date 6/12/19

Mr Sanders proposed the recommendation, which was seconded by Mr McInnes.

RESOLVED: That, subject to the completion of a S106 legal agreement in respect of phasing of development, affordable housing, local occupancy, an 'overage clause' and an educational contribution of £2,871, and subject to the conditions as detailed below, permission be GRANTED.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved drawings numbered 1711 01, 1711 344, 1711 345, 1711 346 Rev A, 1711 347, 1711 348 Rev A, 1711 349, 1711 350 Rev C, 1711 351 Rev D, 1711 360, 1711 370, 1711 371 Rev A, 1711 372, 1711 373 Rev A, 1711 374, 1711 375 Rev A, 1711 376, 1711 377 Rev A, Highway Long Sec Rev P03, Proposed Drainage and Utilities P02, Flood Routing Plan P01, Engineering Layout Rev P02 and Tree Protection Plan DTS.151.1.TPP, valid 08 April 2019, and 1711 301 Rev H received 23 September 2019.
3. 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. 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. Works shall then be carried out in accordance with the agreed details throughout the construction phase.
4. 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.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order with or without modification, no material alterations to the external appearance of the dwellings shall be carried out and no extension, building, enclosure, structure, erection or hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwellings hereby permitted without the prior written authorisation of the Local Planning Authority.
6. No part of the development hereby approved shall be commenced until
 - (i) the access road has been laid out, kerbed, drained and constructed up to case course level for the first 30 metres back from its junction with the public highway;
 - (ii) the ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - (iii) a site compound and car park have been constructed in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.
7. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out in accordance with the agreed details:
 - (i) The cul-de-sac carriageway, including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;

Signed



Date

6/12/19

- (ii) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - (iii) The cul-de-sac visibility splays have been laid out to their final level;
 - (iv) Any street lighting for the cul-de-sac and footpaths has been erected and is operational;
 - (v) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - (vi) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary property defined;
 - (vii) The street nameplates for the spine road and cul-de-sac have been provided and erected.
8. When once constructed and provided in accordance with conditions 6 and 7 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.
9. No development shall start until a Construction Method Statement, to include details of:
- (i) Parking for vehicles of site personnel, operatives and visitors;
 - (ii) Loading and unloading of plant and materials;
 - (iii) Storage of plant and materials;
 - (iv) Programme of works (including measures for traffic management) has been submitted to and approved in writing by the Local Planning Authority.

Only the approved details shall be implemented during the construction period.

10. No site clearance, preparation or construction work shall take place on site outside of the hours of Monday – Friday 0800 to 1800 and Saturdays 0900 to 1300, nor at any time on Sundays, Bank or Public Holidays. This includes vehicle movements on the site. Deliveries or collections of materials should only be made during these times, and vehicles should be discouraged from collecting on the public highway outside of these times with their engines and radios left running.
11. Prior to the commencement of the development hereby permitted, details of the proposed landscaping and planting scheme shall be submitted to the Local Planning Authority for approval. The landscaping and planting shall be carried out in accordance with the approved scheme within twelve months of the commencement of the development, or such longer period as the Local Planning Authority shall specify in writing. The landscaping and planting shall be maintained for a period of five years from the date of the commencement of the development, such maintenance shall include the replacement of any trees or shrubs that die or are removed.
12. A detailed schedule of the materials and finishes to be used on the approved dwellings shall be submitted and approved in writing by the Local Planning Authority prior to the use of such materials. This shall include samples of the roofing, walling, details of render finishes, window/exterior door units, verge/soffit details, positions of meter boxes, boundary fence design, driveway surface materials, roadway surface materials, kerbs and any proposed exterior lighting units.
13. There shall be no street lighting within the development unless otherwise agreed in writing with the Local Planning Authority.

Signed  Date 6/12/19

14. No development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of the maintenance strategy for the open spaces within the development, a maintenance schedule for the public open spaces together with details of the protection and enhancement of the hedgerow on the western boundary of the site.
15. Prior to the commencement of any works, demolition or development on the land, all existing trees, shrubs and hedges to be retained shall be protected by fences or suitable barriers erected beyond their dripline. Such fences or barriers shall be maintained until the completion of the development on the land. Within these protected areas there shall be no storage, deposit, tipping or placing of any materials, soil, spoil or other matter, no parking or movement of vehicles or trailers, no erection or siting of buildings or structures, no excavation or raising of ground levels and no disposal of water or other liquid. Furthermore, no fire(s) shall be lit within 20m of any protected area without the prior written authorisation of the Local Planning Authority.

Members requested that this development be followed and included in a future study tour.

Mr Smerdon returned to the meeting room.

Item 3 – 0310/19 – Erection of timber frame building for housing of horses and sheep – land adjacent to Southcombe, Widecombe-in-the-Moor

Speaker: Mr Dave Faulkner, Applicant

The case officer advised Members that since writing the report, two additional letters of support had been received; no new issues had been raised. The application is for a mixed use building for two horses and a small number of sheep, plus feed etc. The proposed building would be 14.6 metres in length and seven metres wide, part of the building being open, and a yard area to the front. The sheep would be brought in for grazing as, otherwise, with only two horses on site, the land would be under grazed. Excavation works into the slope of the ground would be undertaken in order to ensure that the building would sit into the corner of the field.

The site sits within one of the most iconic views in the National Park, the area having a strong medieval field patterns and pastoral character. There are very few isolated buildings within the landscape.

Mr Faulkner advised Members that he had lived in Widecombe for the past 12 years and had no desire to affect the landscape. He advised that no yard was proposed to the front of the building; everything would be kept inside. He stated that as of this morning, seven additional letters of support had been submitted. With regard to pre-planning advice, he advised that he had received advice from two officers; initially he had proposed a building which was 20m x 10m and had put forward four possible locations for its siting, none of which had been agreed. In his opinion, the proposed site for the building was the result of meticulous consideration; the land falls away from the road and it would be well screened. Should Ash Dieback take the trees that currently form the boundary he would be prepared to replace them. All soil from the excavation works would be used for Devon banking.

Signed  Date 6/12/19

Dated *Please do not date* 2021

PLANNING OBLIGATION AGREEMENT

Pursuant to section 106
of the Town & Country Planning Act 1990

relating to land at Palstone Lane, South Brent, Devon

- (1) Dartmoor National Park Authority**
- (2) South Hams District Council**
- (3) Devon County Council**

Ref: ME/B16854 (Palstone Lane)

Legal & Democratic Services
Dartmoor National Park Authority
Parke, Bovey Tracey
Newton Abbot
Devon TQ13 9JQ

THIS DEED is made the day of 2021

BETWEEN:

- (1) **Dartmoor National Park Authority** of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ ("the Authority")
- (2) **South Hams District Council** of Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE ("the Owner")
- (3) **Devon County Council** of County Hall, Topsham Road, Exeter ("the County")

WHEREAS:

1. The Authority is the Local Planning Authority for the purposes of the Town & Country Planning Act 1990 for the area that includes the Land and by whom the Obligations imposed by this Agreement shall be enforceable.
2. The County is the local education authority for the purposes of the Education Act 1996 and the highway authority for the purposes of the Highways Act 1980 for the area within which the Land is situated and a local planning authority by whom certain obligations contained in this Deed are enforceable.
3. The Owner is registered as the owner of the freehold interest in the Land with Title Absolute under Title Number DN724371.
4. The Authority in exercise of its powers under the Town & Country Planning Act 1990 has resolved to grant Planning Permission for the Development, subject to satisfactory completion of this Deed and the Unilateral Undertaking given by the Owner to the Authority of the same date

THIS DEED NOW PROVIDES AS FOLLOWS:

1 General Definitions

In this Deed the following definitions shall apply:

Affordable Custom and Self Build Dwelling has the meaning set out in Schedule One

Affordable Custom and Self-Build Plots has the meaning set out in Schedule One

Application the application for full planning permission registered by the Authority under reference 0147/19 to develop the Land by the erection of 17 dwellings (twelve

		affordable and 5 open market) and associated infrastructure
Commencement Development	of	the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of land clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, pegging out operations, diversion and laying out of services, laying out of a road, erection of any temporary means of enclosure, the temporary display of land notices or advertisements and "Commence Development" shall be construed accordingly
Community Land Trust		means South Brent Community Land Trust of School House, Totnes Road, South Brent TQ10 9BP
Dartmoor National Park		means all that land designated as Dartmoor National Park under the Dartmoor National Park (Designation) Order 1951 as amended by the Dartmoor National Park (Designation) Variation Order 1990
Development		the development of the Land in accordance with the Planning Permission
Dwelling		A dwelling to be constructed on the Land pursuant to the Planning Permission inclusive of Open Market Dwellings and Affordable Custom and Self Build Dwellings
Expert		means a person of not less than 10 (ten) years recent and relevant experience within the locality in the matter in dispute and who will be appointed in accordance with clause 5 of this Deed
Index		means the All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation and Indexation shall be construed accordingly
Interest		means interest at 4 per cent above the base lending rate of the Bank of England from time to time

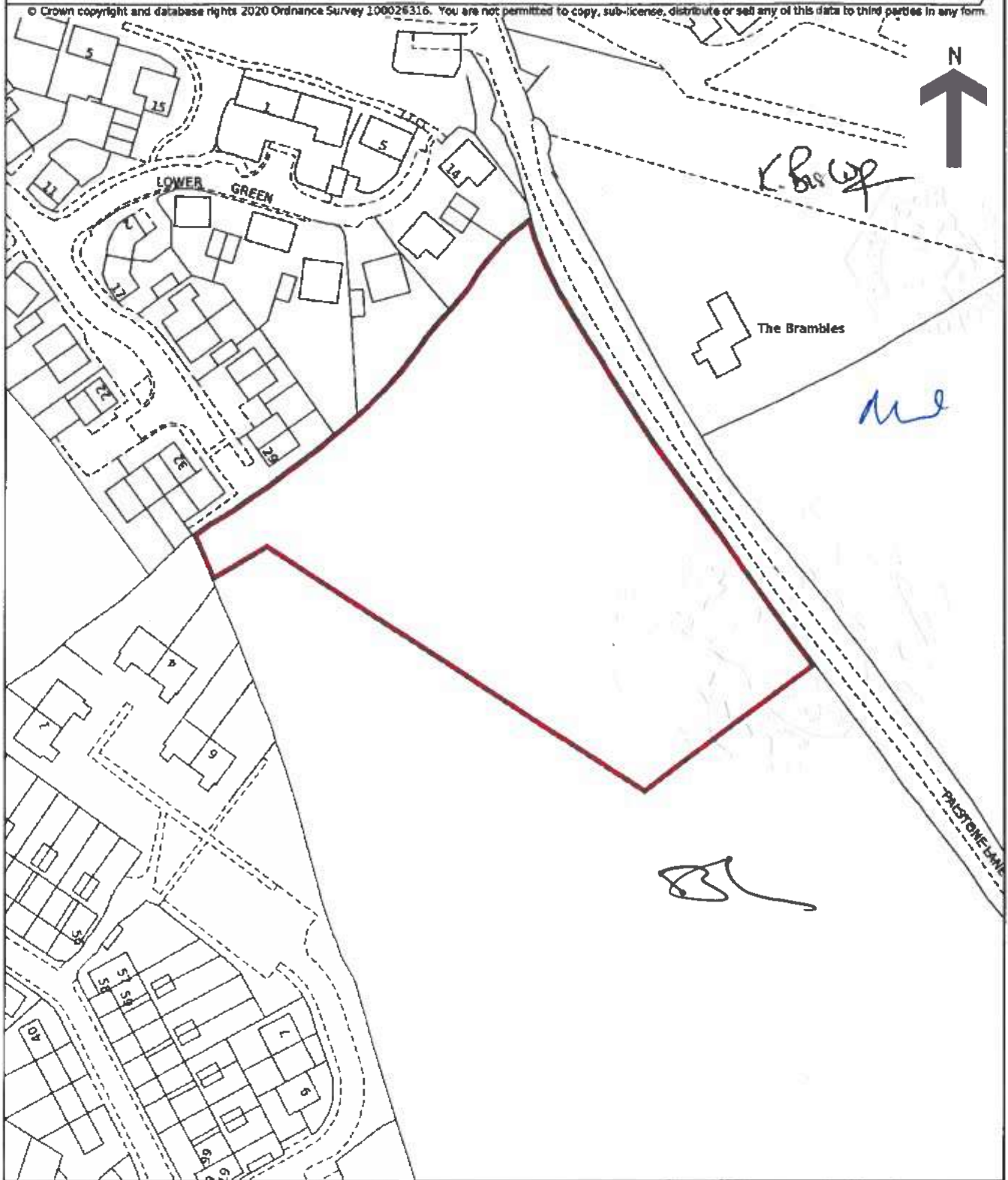
Land	land at Palstone Lane, South Brent in the county of Devon as shown edged red on Plan 1 and registered under Title Number DN724371
Mortgagee	a mortgagee or chargee or any receiver or manager (including administrative receiver) appointed by such mortgagee or chargee pursuant to the Law of Property Act 1925 or otherwise or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security
Obligations	the planning obligations described in the Schedules to this Deed and 'Obligation' shall be construed accordingly
Open Market Dwellings	all those Dwellings which are not Affordable Custom and Self Build Dwellings
Open Space Land	means that part of the Land to be transferred to the Community Land Trust pursuant to Schedule Two of this Agreement and which does not comprise Affordable Custom and Self Build Plots and shown coloured blue on Plan 2
Plan 1	the plan appended to this Deed and marked "Plan 1"
Plan 2	the plan appended to this Deed with Drawing No: 1711.04 103 Rev C and marked "Plan 2"
Planning Permission	such planning permission as may be granted by the Authority in respect of the Application
President	Means the President for the time being of one or other of the following professional bodies (where an independent expert is to be appointed for the resolution of disputes under clause 5) or such other person duly authorised by the President to make such appointments: <ul style="list-style-type: none"> • The Law Society in relation to the determination of any legal matter; or • The Royal Town Planning Institute in relation to the determination of any planning matter; or • The Royal Institute of Chartered Surveyors in relation to the determination of any other matter

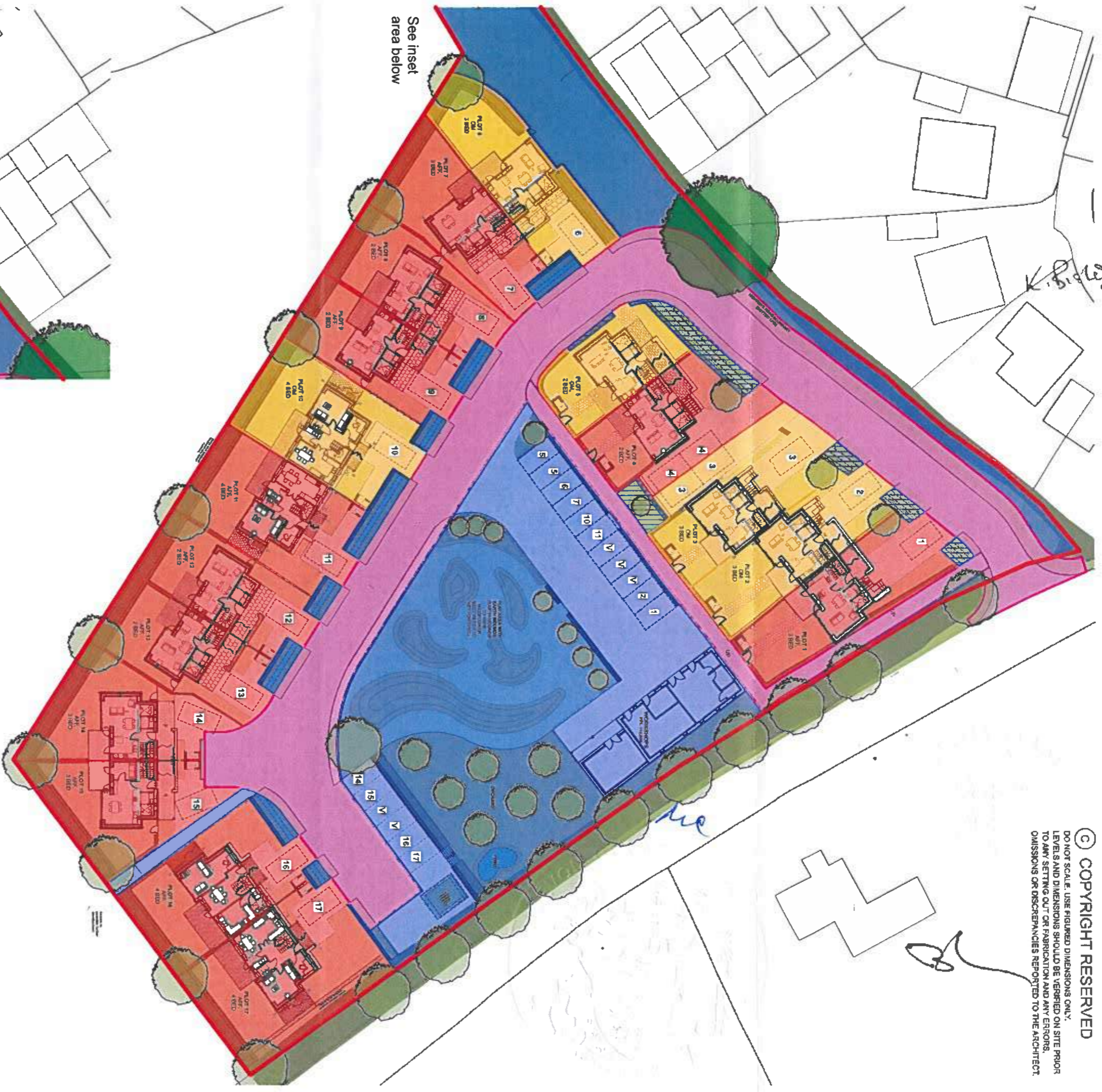
HM Land Registry
Official copy of
title plan

Title number **DN724371**
Ordnance Survey map reference **SX7059NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Devon : South Hams**



© Crown copyright and database rights 2020 Ordnance Survey 100026316. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.





KEY

- Community Land Trust plot ownership**
Maintenance of elements within this are the responsibility of the plot resident.
- Open Market plot ownership**
Maintenance of elements within this are the responsibility of the plot resident.
- Community Land Trust land ownership**
Maintenance of elements within this are the responsibility of South Brent Community Land Trust.
- Highways' ownership**
Maintenance of elements within this are the responsibility of the Highways Authority.



Rev.	Date	Dm.	Chk.	JOB	DRAWING TITLE	DATE	SCALE	BY	CK'D
A	21/01/20	HD	AK	South Brent CLT Palstone Lane	Land Ownership Site Plan	16/07/19	1:500 @ A3	HD	AK
B	23/01/20	HD	AK			JOB NO. 1711	DRG NO. 04 103	REV C	
C	21/02/20	HD	AK			Parking spaces allocated to plot numbers with meeting between Tom Morris and John Presley. Drawing put onto A3, scale changed to 1:500. Open market plots changed to yellow hatch.			

DISCOVERY HOUSE
 DART MARINE PARK,
 LOTTIES, DEVON, TQ9 5AL
 191803 887377
 www.adriysarchitects.com
 E:andrew.adriy@adriysarchitects.com

T&CPA 1990 the Town & Country Planning Act 1990 (as amended)

Working Day means any Monday to Friday (other than any statutory or bank or public holidays or a day on which clearing banks are not open for normal business) and does not include the days between 23 December and the immediately following 2 January in each year and 'Working Days' shall be construed accordingly

2 Interpretation

In this Deed, except where the context clearly requires otherwise:

- 2.1 The singular includes the plural, the masculine includes the feminine and vice versa;
- 2.2 References to clauses and schedules are to the clauses in and schedules to this Deed;
- 2.3 Any reference to any party having an interest in the Land shall include any successor in title to that party to the Land or any part of it or any assign deriving title from or under him;
- 2.4 Any reference to any party having a statutory function referred to in this Deed shall include any successor to that statutory function;
- 2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it;
- 2.6 Where an Obligation applies to more than one person, their liabilities shall be joint and several;

3 The Land shall be subject to the Obligations

- 3.1 Subject to clause 4 below, the Owner covenants to observe and perform the Obligations which shall bind the Land (and every part of it) as planning obligations under Section 106 of the T&CPA 1990.
- 3.2 The Obligations shall take effect upon the Commencement of Development (save for those Obligations that are expressly or by necessary implication require compliance prior to the Commencement of Development which are conditional only upon the grant of the Planning Permission or as otherwise stated in this Deed) and otherwise the matter contained herein shall take effect on the date of this Deed.
- 3.3 The Obligations shall be enforceable by the Authority and the County as a local planning authority.
- 3.4 Save by any operation of clauses 2.3 or 2.4, none of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the

Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this Agreement.

- 3.5 The Obligations are Local Land Charges and shall be registered as such.
- 3.6 No person shall be liable for any breach of an Obligation occurring after he has parted with all interest in the Land or his interest in the part of the Land in respect of which such breach occurs **PROVIDED** that a Mortgagee shall only be liable for a breach of any of the Obligations if it has itself caused or permitted the breach whilst mortgagee in possession of the Land and a Mortgagee shall not be liable for any pre-existing breach of such Obligations
- 3.7 The Authority covenants with the Owner as set out in Schedules One and Three to this Agreement.
- 3.8 The County covenants with the Owner as set out in Schedule Four.

4 Miscellaneous Provisions

- 4.1 Nothing in this Deed is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the T&CPA 1990.
- 4.2 If the Planning Permission should expire before the Commencement of Development or shall at any time be revoked or quashed or varied without the consent of the Owner, this Deed shall forthwith determine and cease to have effect.
- 4.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.
- 4.4 The Authority and the County (as appropriate) shall, upon receipt of the written request of the Owner, at any time after the obligations of the Owner under this Agreement have been fulfilled, issue written confirmation to that effect.
- 4.5 The County Court in whose district the Land is situated shall have full jurisdiction to hear and determine proceedings arising from or relating to this Deed or for the enforcement of all or any of its terms.
- 4.6 Upon the completion of this Deed, the Owner shall pay the reasonable legal fees of the Authority in respect of the preparation, execution and completion of this Deed.
- 4.7 Following a written request from the Authority and/or the County, the Owner shall as soon as reasonably possible supply all such information as the Authority may reasonably require to enable the Authority and/or the County to monitor compliance with this Deed.
- 4.8 Save as lawfully permitted, nothing in this Deed shall prejudice or affect the Authority's or County's powers, duties and obligations in the exercise of their respective functions and the rights, powers, duties and obligations of the Authority or the County under all public and private statutes, byelaws, orders and regulations may be as fully and effectively exercised in relation to the Land as if this Deed had not been executed by the Authority and the County.

- 4.9 If any clause, schedule or paragraph of this Deed is found to be invalid or unenforceable, such finding shall have no effect in relation to any other clause, schedule or paragraph of this Deed.
- 4.10 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Authority or the County under the terms of this Deed, such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 4.11 The Obligations shall not be binding or enforceable against the following people and their successors in title:
- 4.11.1 an individual residential owner or purchaser of any single Dwelling save for Schedule One which shall apply to all owner-occupiers or tenants of an Affordable Custom and Self Build Dwelling except in the circumstances expressly set out in this Deed; or
- 4.11.2 any statutory undertaker, public utility company or other person who acquires any part of the Land or any interest in it for the purposes of the supply of gas water foul and surface water drainage or telecommunication services
- 4.12 The Authority shall issue the Planning Permission within five (5) Working Days of the date hereof
- 4.13 If any payment due to be paid by the Owner under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.
- 4.15 Any sum referred to in Schedule Three to this Deed (excluding the Updated Profit) shall be increased by an amount equivalent to the increase in the Index from the date of this Deed until the date on which the sum is payable or, in the case of the Estimated Profit, the date on which the Increase in Profit is calculated.

5 Expert Determination

- 5.1 In the event of any dispute or difference arising between any of the parties in respect of any matter contained in this Deed such dispute or difference shall on the agreement of the parties be referred to the Expert to be appointed by agreement between the Authority and the Owner and in default of such agreement on either party's request by the President. Following appointment, such person shall act as an Expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the Expert shall determine and failing such determination shall be borne by the parties in equal shares;
- 5.2 Any Expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight Working Days after the conclusion of any hearing that takes place or twenty-eight Working Days after he has received any file or written representation
- 5.3 The Expert shall be required to give notice to each of the said parties requiring them to submit to him within thirty Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further thirty Working Days.

SCHEDULE ONE

Affordable Custom and Self Build Dwellings

Definitions

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definitions:

The Act	The Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993
Adjacent Rural Parish	the rural parishes adjacent to the Parish of Provision which are wholly or substantially within the Dartmoor National Park, namely Dartmoor Forest, Dean Prior, Rattery and Ugborough
Affordable Housing	<p>means housing which is defined in the NPPF at Annex 2 as housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:</p> <p>a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a AHP, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a AHP); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).</p> <p>b) Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has</p>

	<p>the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.</p> <p>c) Discounted market sales housing: is that sold at a discount of at least 20% below local open market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.</p> <p>d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local open market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement</p>
Affordable Rent	a rent which does not exceed 65% of the Open Market Rent (inclusive of any service charges) for the relevant property type (and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant property market area allowing for any modifications to a level of allowance as published from time to time by the Government)
Affordable Rented Housing	means rented housing let by the Community Land Trust or an AHP to households who are eligible for housing at an Affordable Rent
Affordable Rented Dwellings	means Affordable Custom and Self Build Dwellings which are to be let as Affordable Rented Housing
Affordable Custom and Self Build Dwelling	each of the twelve (12) Dwellings authorised by the Planning Permission which will be either Affordable Rented Dwellings or Shared Ownership Dwellings restricted in value as described in this Schedule and will either be constructed by or the construction commissioned by an Eligible Household or such person or persons permitted by paragraphs 1.8, 1.9

	and 2.8 of this Schedule who will live in the dwelling as the Initial Owner.
Affordable Custom and Self-Build Plots	the plots, with Services, upon which each Affordable Custom and Self Build Dwelling is to be constructed as shown coloured red on Plan 2 and "Affordable Custom Self-Build Plot" shall be construed accordingly
AHP	means a registered social landlord or a local or similar authority or a housing association or similar organisation or a social landlord or such other body or organisation whose main objective is the provision of Affordable Housing or such other company or individual as might be agreed in writing between the parties.
Allocation Scheme	<p>means the scheme for allocation and / or advertising of the Affordable Custom and Self Build Dwellings which in the case of:</p> <p>(a) Affordable Rented Dwellings shall set out the requirements for notification of vacancies of the Affordable Custom and Self Build Dwellings for rent, for advertising them and for determining to whom they will be allocated for Occupation; and shall be compatible with the Devon Home Choice Policy (as amended from time to time) or such other local authority and housing association policy which sets out how affordable housing across Devon will be let; and</p> <p>(b) Shared Ownership Dwellings shall set out the requirements for notification of vacancies of the Affordable Custom and Self Build Dwellings for shared ownership, for advertising them and for determining to whom they will be leased which may for the avoidance of doubt involve Help to Buy agents appointed by Homes England</p>
Devon Home Choice	means a choice based letting scheme developed and operated in partnership between the relevant District or Borough Council and the AHP or any successor scheme or arrangement agreed as a replacement for Devon Home Choice.
Disposal	Means a disposition within the meaning of section 27(2) of the Land Registration Act 2002 or the grant

	of any tenancy (including but not limited to an assured tenancy or a starter tenancy) but not the grant or reservation of an easement or a legal charge and "Disposed" and "Dispose" shall be construed accordingly;
Eligible Household	means a household who: <ol style="list-style-type: none"> 1. has a Local Connection; and 2. either: <ol style="list-style-type: none"> a. is in Housing Need or b. is releasing an affordable dwelling elsewhere
Employment	Employment, self-employment or other paid work (in each case for not less than 16 hours per week).
Housing Need	means a household formally assessed and registered as being homeless or threatened with homelessness or living in accommodation which in the opinion of the relevant District or Borough Council is insecure or unsuitable and being unable to purchase or rent reasonably suitable accommodation in the open market for property in the locality where the Affordable Custom and Self Build Dwelling is situated taking into account the person's income and capital and other financial circumstances. Accommodation may be unsuitable on the grounds of cost, overcrowding, unfitness or lack of basic amenities or because of a person's infirmity, physical disability, mental disability or specific social or care needs
Initial Owner	The person who is the first Occupier of the Affordable Custom and Self Build Dwelling
Initial Period (Rental)	the period of four (4) weeks starting from the date the Affordable Rented Dwelling is advertised for rent
Initial Period (Sale)	the period of thirteen (13) weeks starting from the date a Shared Ownership Dwelling is marketed for sale
Local Connection	means a household containing at least one permanent resident who –

	<p>A) currently lives in the Parish of Provision or Adjacent Rural Parish and having done so for a least five years; or</p> <p>B) has lived in the Parish of Provision or Adjacent Rural Parish for at least five years, but moved away within the past five years; or</p> <p>C) has a strong local connection to the Parish of Provision or Adjacent Rural Parish by virtue of, for example: upbringing or current Employment.</p>
Local Housing Allowance	means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department for Work and Pensions or such similar framework that may replace it.
Nominee	means the Head of Service Delivery (Housing Services) of South Hams District Council being the local housing authority for the area in which the Dwellings are situated
NPPF	Means the National Planning Policy Framework dated February 2019
Occupy	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction or fitting out, or occupation for marketing or display or occupation in relation to security operations and "Occupied" "Occupier" and "Occupation" shall be construed accordingly.
Open Market Rent	means a rent valued using the definition of the International Valuations Standard Committee as adopted by the Royal Institution of Chartered Surveyors and approved by the Authority or it's Nominee
Open Market Value	means the price which 100% of the freehold or long leasehold interest in the relevant Shared Ownership Dwelling would fetch if sold on the open market by a

	willing vendor and after expressly taking into account the obligations and restrictions contained in this Agreement
Parish of Provision	the Parish of South Brent
Reasonable Service Charge	means a sum that covers the contributions required from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with the Affordable Custom and Self Build Dwelling such as maintaining repairing and keeping secure the relevant Affordable Custom and Self Build Dwelling and its common parts the cleaning and lighting of the common parts and the maintenance of any communal gardens or landscaping areas that directly benefit the Affordable Custom and Self Build Dwelling
Services	the provision of electricity, telecommunications, water supply, waste water disposal, and vehicular and pedestrian access to and from the public highway in each case to the boundary of the Affordable Custom and Self-Build Plot.
Shared Ownership Dwellings	means Affordable Custom and Self Build Dwellings which are to be let under a Shared Ownership Lease and "Shared Ownership Dwelling" shall mean any one of them
Shared Ownership Lease	<p>means a lease substantially in the form approved or published by Homes England whereby the tenant having paid an initial premium of no more than 75% of the Open Market Value of the particular unit pays a rent in respect of the remaining equity held by the Owner plus (if appropriate) a Reasonable Service Charge PROVIDED THAT such rent per annum shall:</p> <p>(a) initially be at a level not exceeding 2.75% of the full Open Market Value of the Owner's retained share of the relevant Affordable Custom and Self Build Dwelling; and</p> <p>(b) not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant.</p>

1. The Owner's Covenants

- 1.1 The Owner covenants to manage and deal with the Affordable Custom and Self Build Dwellings at all times in accordance with the Obligations set out in this Schedule
- 1.2 The Owner covenants not to permit or allow any of the Affordable Custom and Self Build Dwellings to be Occupied other than as Affordable Rented Dwellings or Shared Ownership Dwellings.
- 1.3 Not to Commence Development unless and until the Allocation Scheme has been submitted to the Authority for approval.
- 1.4 Not to construct any of the Affordable Custom and Self Build Dwellings unless in accordance with the relevant approved Allocation Scheme

Affordable Rented Dwellings

- 1.5 Subject to paragraphs 1.8 and 1.9 of this Schedule, the Owner covenants not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
 - 1.5.1 to an Eligible Household; and
 - 1.5.2 at a sum not exceeding the Affordable Rent; and
 - 1.5.3 to persons selected in accordance with the principles of the Devon Home Choice policy and the Service Level Agreement for Devon Home Choice as amended from time to time whether or not the Owner is a member of the Devon Home Choice scheme
- 1.6 To advertise the relevant Affordable Rented Dwelling in accordance with the approved Allocation Scheme
- 1.7 If the Affordable Rented Dwellings are to be let otherwise than in accordance with paragraph 1.5 of this Schedule One then paragraphs 1.8 -1.11 of this Schedule One shall apply.

No Eligible Household can be Found

- 1.8 If upon the expiry of the Initial Period (Rental), an Affordable Rented Dwelling is vacant and no person has signed a tenancy agreement, the relevant Affordable Rented Dwelling may be allocated to any person who demonstrates to the reasonable satisfaction of the Authority or the Nominee that they are in Housing Need, and **either**:
 - (a) they are currently living in Dartmoor National Park, having done so for a continuous period of not less than 12 months; or
 - (b) they have a strong local connection to Dartmoor National Park, for example by reason of:
 - (i) Employment in the Dartmoor National Park, having done so for a continuous period of at least two (2) years
 - (ii) being a person whose upbringing or a significant part of their upbringing took place in the Dartmoor National Park

(iii) having a family member who is living in the Dartmoor National Park and has done so for a continuous period of at least five (5) years.

(iv) having previously lived in the Dartmoor National Park for at least five (5) years

1.9 If upon the expiry of a period of 10 working days, commencing on the expiry of the Initial Period (Rental), no person has signed a tenancy agreement, the relevant Affordable Rented Dwelling may be allocated to any person who demonstrates to the reasonable satisfaction of the Authority or the Nominee that they are in Housing Need and any such person shall be conclusively presumed for the purposes of this Deed to be entitled to Occupy the Affordable Rented Dwelling.

1.10 In the event that an Affordable Rented Dwelling is let pursuant to paragraphs 1.8 or 1.9 above, to a person who is not part of an Eligible Household within the meaning of this Schedule, once that person's tenancy comes to an end, the provisions of this Schedule shall continue to apply

1.11 For the avoidance of doubt, no person shall be permitted to Occupy, use or let the Affordable Rented Dwelling as a holiday home, second home, or as short let holiday accommodation.

1.12 Nothing in this paragraph 1 shall prevent an Eligible Household (or a person Occupying an Affordable Rented Dwelling in accordance with paragraphs 1.8 or 1.9 above) from permitting any person to Occupy a room in the Affordable Rented Dwelling as a guest, or as a lodger

Restrictions on disposals of an Affordable Rented Dwelling

1.13 No estate or interest in any Affordable Rented Dwelling shall be Disposed of except in accordance with this Schedule, or pursuant to any statutory authority or pursuant to an Order of the Court.

1.14 The provisions of this Schedule One shall cease to apply to any Affordable Rented Dwelling where the Owner shall be required to Dispose of the same pursuant to a right to buy under Part V of the Act provided the transfer pursuant to Part V of the Act contains the following;

1.14.1a covenant in accordance with section 157(1) of the Act or any successor legislation thereto limiting the freedom of the purchaser under Part V of the Act and its successors in title to dispose of the Affordable Rented Dwelling; and

1.14.2a covenant requiring the purchaser and its successors in title to serve notice on the Authority within 20 Working Days of the completion of a sale under this clause 1.14

1.15 The Owner shall serve notice on the Authority within 20 Working Days of completion of a sale pursuant to Part V of the Act.

- 1.16 The Owner may Dispose of the Affordable Rented Dwellings to an AHP or another community land trust who shall be bound by the obligations within this Schedule One and shall serve notice of any such Disposal on the Authority within 20 Working Days of completion of any such Disposal.

2. Shared Ownership Dwellings

Persons who may occupy a Shared Ownership Dwelling

- 2.1 Subject to the following sub-paragraphs of this Schedule One, no person shall occupy or be permitted to occupy a Shared Ownership Dwelling unless he/she is a member of an Eligible Household who is occupying the Shared Ownership Dwelling as his/her principal or main residence.
- 2.2 For the avoidance of doubt, no person shall occupy, use or let a Shared Ownership Dwelling as a holiday home, second home, or for use as short let holiday accommodation.
- 2.3 Nothing in this Schedule One shall prevent an Eligible Household permitting any person to occupy a room in a Shared Ownership Dwelling as a guest, or as a lodger.

Restrictions on Disposals of a Shared Ownership Dwelling

- 2.4 No estate or interest in any Shared Ownership Dwelling shall be Disposed of except in accordance with this Schedule One.
- 2.5 No Shared Ownership Lease shall be granted in respect of a Shared Ownership Dwelling and no estate or interest in any Shared Ownership Dwelling shall be Disposed of whereby any person may be permitted to acquire more than eighty percent (80%) of the equity of the Shared Ownership Dwelling.
- 2.6 No estate or interest in any Shared Ownership Dwelling (other than a mortgage or a charge or an easement or a Disposal pursuant to clause 2.7 below) shall be Disposed of unless the Authority and its Nominee were given seven (7) days prior notice in writing of the intention to advertise or market the Shared Ownership Dwelling for Disposal in accordance with the Allocation Scheme.
- 2.7 The Owner may Dispose of the Shared Ownership Dwellings to an AHP or another community land trust who shall be bound by the obligations within this Schedule One and shall serve notice of any such Disposal on the Authority within 20 Working Days of completion of any such Disposal.

No Purchaser can be Found

- 2.8 If upon the expiry of the Initial Period (Sale), no offer has been received for the purchase of the occupier's equity share in the Shared Ownership Dwelling (subject to contract) at the full asking price, the definition of Eligible Household shall be extended to include a person who is in the reasonable opinion of the Authority or its Nominee in Housing Need and:

2.8.1 has a strong local connection to Dartmoor National Park, for example by reason of:

- (i) Employment in Dartmoor National Park for a continuous period of at least two years
- (ii) being a person who lived in Dartmoor National Park for a significant part of their upbringing
- (iii) having a family member who is currently living in Dartmoor National Park and who has done so for a continuous period of at least five years.
- (iv) having previously lived in Dartmoor National Park for a continuous period of at least five years; or

2.8.2 is currently living in Dartmoor National Park, having done so for a continuous period of not less than six months.

and any such person shall be conclusively presumed for the purposes of this Deed to be an Eligible Household for the duration of their occupation of the Shared Ownership Dwelling only and in the event of a Disposal of any such occupier's equity share in the Shared Ownership Dwelling, the provisions of this Schedule shall continue to apply.

Restrictions on tenancy and rent

2.9 A Shared Ownership Dwelling shall not be let to any person, save:

2.9.1 by way of a Shared Ownership Lease whereby no person may be permitted to acquire more than eighty percent (80%) of the equity of the Shared Ownership Dwelling; or

2.9.2 by way of rented accommodation at an Affordable Rent and to a person who is a member of an Eligible Household who is occupying the Shared Ownership Dwelling as his/her principal or main residence

Shared Ownership Mortgagee in Possession clause

2.10 If a Mortgagee shall come into possession of a Shared Ownership Dwelling, the provisions of this paragraph shall apply.

2.11 Provided that the conditions in paragraph 2.12 of this Part are met, the requirement for the Shared Ownership Dwelling to be occupied by an Eligible Household shall not apply to any Disposal by that Mortgagee and any person to whom the Mortgagee shall Dispose of the Shared Ownership Dwelling shall for the purposes of this Deed be conclusively presumed to be entitled to occupy that Shared Ownership Dwelling

2.12 The conditions are that:

2.12.1 the Mortgagee first gives written notice to the Authority and the Nominee that it is seeking a purchaser for the Shared Ownership Dwelling; and

2.12.2 for a period of three (3) months from the date of such written notice, no sale, transfer or other disposal shall be made except to the Community Land Trust or an AHP in accordance with paragraph 2.13 of this Part; and

2.12.3 no Disposal shall be made until the purchaser has entered into a binding legal covenant with the Authority to observe the restrictions and perform the Obligations in this Deed, and to secure that any future purchaser shall be required to so covenant prior to any Disposal of the Shared Ownership Dwelling.

2.13 The purchase price payable to a Mortgagee shall be limited to the higher of:

2.13.1 the Open Market Value of the Shared Ownership Dwelling; or

2.13.2 the amount required to redeem the amount secured upon the Shared Ownership Dwelling concerned together with all interest and charges accrued thereon

3. Mortgagee in Possession Clause

3.1 The planning obligations and other provisions contained in this Schedule One shall not apply to any Mortgagee to the intent that any Mortgagee may deal with or Dispose of any of the Affordable Custom and Self Build Dwellings free from the said Obligations and on the basis that any person deriving title through or under such a Mortgagee shall not be bound by any of the said obligations which provisions shall determine absolutely PROVIDED THAT the Mortgagee shall first have complied with its duties at paragraphs 3.2 and 3.2.1- 3.2.3 of this Schedule One and further PROVIDED THAT the provisions of paragraphs 2.10- 2.13 of this Schedule One shall apply to any Shared Ownership Dwellings.

3.2 The Mortgagee shall prior to seeking to Dispose of any Affordable Custom and Self Build Dwellings pursuant to any default under the terms of its mortgage or charge give prior written notice ("Mortgagee's Notice") to the Authority and the Nominee of its intention to Dispose and:

3.2.1 in the event that the Authority or the Nominee responds within 3 months from the date of the Mortgagee's Notice indicating that arrangements for the transfer of the relevant Affordable Custom and Self Build Dwelling(s) can be made in such a way as to safeguard them as housing for Eligible Households and to secure repayment of all sums outstanding under the terms of the relevant security documentation (including all accrued principal monies, interest and

reasonable and proper costs and expenses) then the Mortgagee shall cooperate with such arrangements and use its reasonable endeavours to secure such transfer

3.2.2 if neither the Authority nor the Nominee serves its response to the Mortgagee's Notice served under paragraph 3.2 within 3 months from the date of the Mortgagee's Notice, then the Mortgagee shall be entitled to Dispose of the relevant Affordable Custom and Self Build Dwelling(s) free from the obligations set out in this Schedule One which provisions shall determine absolutely in respect to the relevant Affordable Custom and Self Build Dwelling(s)

3.2.3 if neither the Authority or its Nominee (or such other relevant person) can within 3 months of the date of the Mortgagee's Notice secure such transfer then provided that the Mortgagee shall have complied with its obligations under this paragraph 3, the Mortgagee shall be entitled to Dispose of the relevant Affordable Custom and Self Build Dwelling free from the obligations set out in this Schedule One which provisions shall determine absolutely in respect of the relevant Affordable Custom and Self Build Dwelling.

SCHEDULE TWO

Phasing of Development

1. Definitions

For the avoidance of doubt, in this Schedule the definitions in the preceding Schedules and in the body of this Deed shall apply.

2. The Owners' Obligations

- 2.1.1. Not to sell, transfer or otherwise Dispose of any Open Market Dwellings, nor to permit any Open Market Dwellings to be Occupied by any person, until such time as the Owner has Disposed of the Affordable Custom and Self-Build Plots and the Open Space Land to the Community Land Trust in accordance with paragraphs 2.1.2 and 2.1.3 of this Schedule Two below
- 2.1.2. The transfer of the Affordable Custom and Self Build-Plots to the Community Land Trust shall be in such form as the Owner shall reasonably require to ensure that the Affordable Custom and Self Build Dwellings are subject to substantially the same rights and easements and covenants (both restrictive and positive) as are to be granted and reserved in sales of the Open Market Dwellings PROVIDED THAT for the avoidance of doubt this paragraph does not prevent the Owner from requiring that the Affordable Custom and Self Build Dwellings are subject to additional rights, easements and covenants as are necessary to secure the continued use of the Affordable Custom and Self Build Dwellings as Affordable Housing
- 2.1.3. The Owner shall provide to the Authority at least 20 Working Days prior written notice of the anticipated date on which the Affordable Custom and Self-Build Plots and the Open Space Land shall be Disposed of to the Community Land Trust.

SCHEDULE THREE

Affordable Housing Commuted Sum

Definitions

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definitions:

Affordable Housing Commuted Sum		means the Increase in Profit
Estimated Profit		An estimated profit of the Development provided within the Initial Development Viability Assessment Report as £22,120;
Further Funding	Grant	means any grant funding provided by Homes England or any successor in function thereof, and/or the Local Housing Authority or any other grant funding in addition to the Initial Grant Funding
Initial Funding	Grant	means the sum of £900,000 being grant funding provided by Homes England or any successor in function thereof
Grant Funding		The Initial Grant Funding and the Further Grant Funding (as applicable)
Homes England		means the Homes England of Fry Building, 2 Marsham Street London, SW1P 4DF or any successor in function and any alternative provider of Grant Funding
Increase in Profit		In the event that the Updated Profit is higher than the Estimated Profit (taking into account Indexation in respect of the Estimated Profit only) it will be the following formula: Updated Profit – Estimated Profit= Increase in Profit
Initial Development		An appraisal prepared by Plymouth City Council and dated 4 September 2019, together with further

Viability Assessment Report	appraisals prepared by Plymouth City Council and dated 20 December 2020 and 26 February 2021 respectively, all of which are appended to this Deed at Appendix 1 which used estimated costs and revenue (including the receipt of any Grant Funding) of the Development to provide the Estimated Profit;
Local Housing Authority	South Hams District Council or in the event South Hams District Council remains the Owner, the Authority or its nominee
Updated Profit	An updated Estimated Profit to be provided in the Updated Development Viability Assessment Report using real costs and revenue (including any Grant Funding) of the Development incurred/ received to date and estimated costs and revenue where required;
Updated Development Viability Assessment Report	means an updated viability appraisal in the same format as the Initial Development Viability Assessment Report but using real costs and revenue (including any Grant Funding) of the Development incurred/ received as at the date of any such report and estimated costs and revenue where required;

1. Calculation of Profit and Viability

- 1.1 The Owner shall provide the Updated Development Viability Assessment Report to the Authority prior to Occupation of the 5th Open Market Dwelling.
- 1.2 On receipt of the Updated Development Viability Assessment Report the Authority shall within thirty (30) Working Days of receiving the Updated Development Viability Assessment Report, request reasonable additional information and evidence in respect of disputed matters contained in (or omitted from) the Updated Development Viability Assessment Report.
- 1.3 If the Authority has not responded within thirty (30) Working Days of receiving the Updated Development Viability Assessment Report it will be deemed that the Authority has approved the Updated Development Viability Assessment Report.
- 1.4 Where the Authority has responded with details of the elements of the Updated Development Viability Assessment Report that are not agreed together with reasons for disagreement and alternative figures assumptions or bases of calculations then the Owner shall within thirty (30) Working Days following the receipt of the Authority's response provide a reply in writing either:
- a) confirming the Owner's acceptance of the Authority's alternative figure, assumptions or bases of calculation; or
 - b) specifying those matters contained within the Authority's response that are not agreed together with full reasons for the same ("Disputed Matters").

1.5 The parties will use reasonable endeavours to agree the Disputed Matters and if not agreed within thirty (30) Working Days then either party may refer any Disputed Matters to be determined as provided for in clause 5 of this Deed.

1.6 Following agreement of the Updated Development Viability Assessment Report in accordance with paragraph 1.3 or 1.5 above, then the Updated Profit will be that contained in the Updated Development Viability Assessment Report.

1.7 If the Updated Profit is higher than the Estimated Profit (having taken into account Indexation in respect of the Estimated Profit only) then the Owner shall pay the Affordable Housing Commuted Sum to the Local Housing Authority.

2. Authority's Covenants

The Authority covenants with the Owner to comply with its obligations under this Schedule Three.

SCHEDULE FOUR

Education Contribution

1. Definitions

For the avoidance of doubt, in this Schedule the definitions in the preceding Schedules and in the body of this Deed shall apply.

- 1.2 **"BCIS Index"** means the BCIS General Building Cost Index of the Royal Institution of Chartered Surveyors (or in the event of the said Index being discontinued the nearest equivalent Index)
- 1.3 **"Education Contribution"** means a financial contribution in the sum of £2,871.00 (two thousand eight hundred and seventy one pounds) (Index Linked) to be used towards the cost of transporting children between the Development and King Edward VI Community College
- 1.4 **"Index Linked"** means calculated in accordance with the formula $C = \text{£}Y \times (B \div A)$ where:
- A is the value of the last BCIS Index figure published before the date hereof
 - B is the value of the last BCIS Index figure published before the relevant contribution has been paid
 - C is the amount to be paid pursuant to this Agreement; and
- £Y is the amount of the relevant contribution as specified in the definition thereof contained herein

2 Owners' Covenants

The Owner covenants with the County as follows:

Not to cause or permit the Occupation of the 2nd Open Market Dwelling until all of the Education Contribution has been paid to the County

3 County's Covenants

The County covenants with the Owner as follows:

- 3.1 Not to use the Education Contribution for any purpose other than towards the cost of transporting children between the Development and King Edward VI College
- 3.2 In the event that upon the expiration of ten years after the date on which the final instalment of the Education Contribution was paid to the County there should be any unexpended or uncommitted balance of the contribution, to repay the said unexpended or uncommitted balance to the person who paid the contribution to the County together with interest on the said unexpended or uncommitted balance at a rate of the higher of 1% below the Bank of England Base Rate or 0% for the period from the date of payment of the relevant contribution to the County to the date of repayment

IN WITNESS of which the parties hereto have executed this Deed the day and year first before written

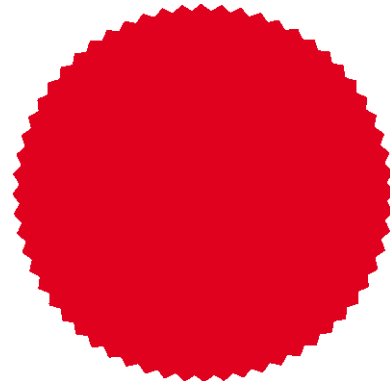
The Common Seal of)
Dartmoor National Park)
Authority was affixed)
in execution as a Deed)
in the presence of :)



K. Bishop

.....
Chief Executive (National Park Officer)
Document no. 776

The Common Seal of)
SOUTH HAMS DISTRICT)
COUNCIL)
was affixed)
in execution as a Deed)
in the presence of :)



[Signature]

.....
Authorised Signatory
Document no. SH/893

The Common Seal of)
DEVON COUNTY)
COUNCIL)
was affixed)
in execution as a Deed)



in the presence of :)

Megan MEGAN LAO
.....

Authorised Signatory

Document no. 51310

Dated please do not date 2021

SOUTH HAMS DISTRICT COUNCIL
to
DARTMOOR NATIONAL PARK AUTHORITY

UNILATERAL UNDERTAKING

under section 106 of the Town and Country Planning Act 1990
relating to land at Palstone Lane, South Bent, Devon

THIS UNILATERAL UNDERTAKING is made on

2021

BY:

SOUTH HAMS DISTRICT COUNCIL of Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE ("**the Owner**")

TO:

DARTMOOR NATIONAL PARK AUTHORITY of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ ("**the Authority**").

Introduction

- (A) This Unilateral Undertaking relates to land at Palstone Lane, South Brent, Devon shown edged red on the Plan ("**the Land**").
- (B) The Authority is the local planning authority for the purposes of the 1990 Act for the area in which the Land is situated.
- (C) The Owner is registered as the owner of the freehold estate in the Land with Title Number DN724371.
- (D) The Owner has submitted the Application to the Authority for the Development on the Land.
- (E) The Owner has provided this Unilateral Undertaking to the Authority to secure the following Planning Obligations.
- (F) The Authority in exercise of its powers under the Town & Country Planning Act 1990 has resolved to grant Planning Permission for the Development, subject to satisfactory completion of this Unilateral Undertaking and a Section 106 Agreement between (1) the Owner (2) Authority and (3) Devon County Council of the same date

Definitions

It is agreed that for the purposes of this Unilateral Undertaking the following expressions shall have the following meanings:

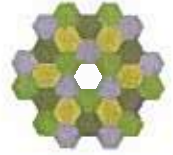
- 1.1. **“the 1990 Act”** means the Town & Country Planning Act 1990 (as amended).
- 1.2. **“Application”** means the application for planning permission to carry out the Development registered by the DNPA on 8 April 2019 and allocated reference number 0147/19.
- 1.3. **“Commencement of Development”** means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Unilateral Undertaking and for no other purpose).
 - 1.3.1. operations consisting of site clearance;
 - 1.3.2. demolition works;
 - 1.3.3. archaeological investigations;
 - 1.3.4. investigations for the purpose of assessing ground conditions;
 - 1.3.5. remedial work in respect of any contamination or other adverse ground conditions;
 - 1.3.6. pegging out works or erection of any temporary means of enclosure;
 - 1.3.7. diversion and laying out services;
 - 1.3.8. laying out of a road; and
 - 1.3.9. the temporary display of site notices or advertisements.
- 1.4. **“Council Area”** means the administrative area of the Council
- 1.5. **“Council”** means South Hams District Council
- 1.6. **“Development”** means the erection of 17 dwellings (12 affordable and 5 open market) and associated infrastructure in accordance with the Planning Permission.
- 1.7. **“Disposal”** means a disposition within the meaning of section 27(2) of the Land Registration Act 2002 or the grant of any tenancy (including but not limited to an assured tenancy or a starter tenancy) but not the

grant or reservation of an easement or a legal charge and "Dispose" and "Disposed" shall be construed accordingly.

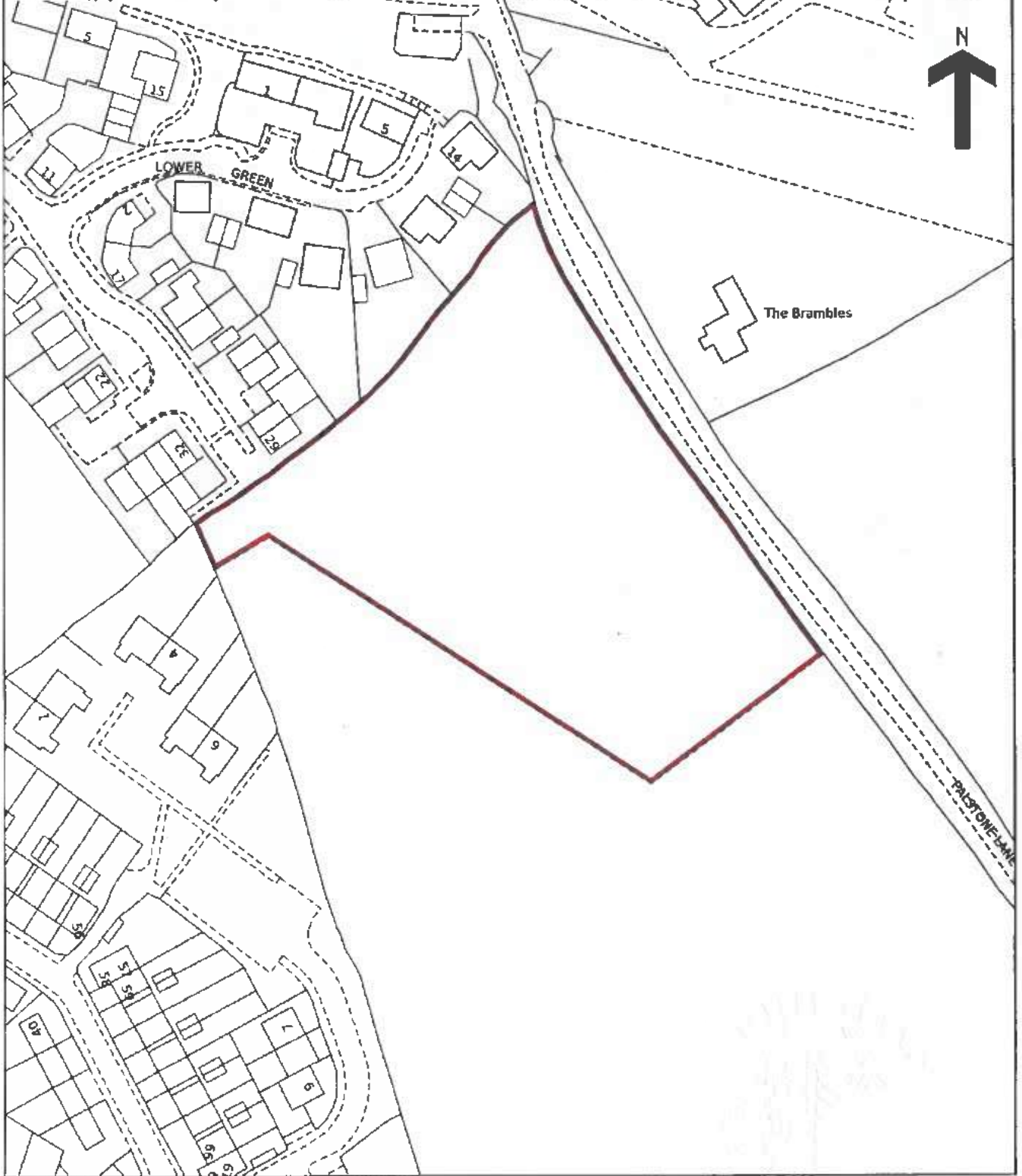
- 1.8. **"DNPA Area"** means the administrative area of the Authority.
- 1.9. **"Family Members"** means the Owners' or Tenant's parents, spouse, siblings, children or an individual related by blood or adoption.
- 1.10. **"Occupation"** means occupation for the purposes permitted by the Planning Permission, but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the terms **"Occupied"** and **"Occupy"** shall be interpreted accordingly.
- 1.11. **"Open Market Dwelling"** shall have the same meaning as that given by an agreement made under section 106 of the 1990 Act dated []
2021 and made between (1) the Owner (2) the Authority and (3) Devon County Council
- 1.12. **"Parish"** means the Parish of South Brent.
- 1.13. **"the Plan"** means the plan attached to this Unilateral Undertaking
- 1.14. **"the Planning Obligations"** means those covenants given by the Owner as set out in Schedule 1.
- 1.15. **"Planning Permission"** means the planning permission granted following the Planning Application and the expression Planning Permission shall include all approvals granted
- 1.16. **"Principal Residence"** means an Open Market Dwelling Occupied as the resident's sole or main residence where the resident spends the majority of their time when not working.
- 1.17. **"Proof"** means such written proof as the Authority may reasonably require and shall include, but is not limited to, one or more of the following items:

HM Land Registry
Official copy of
title plan

Title number **DN724371**
Ordnance Survey map reference **SX7059NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Devon : South Hams**



© Crown copyright and database rights 2020 Ordnance Survey 100026316. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.



This official copy is incomplete without the preceding notes page.

- 1.17.1. Payment of Council Tax at the full rate (save for any single person discount);
 - 1.17.2. Utilities being connected and used with realistic levels of consumption;
 - 1.17.3. being registered on an electoral roll for the Parish or adjoining town/parish or for an area within the DNPA Area or the Council Area;
 - 1.17.4. confirmation of children having been registered at a local school in the Parish or adjoining town/parish or in the DNPA Area or the Council Area; or
 - 1.17.5. being registered at a doctor's surgery or healthcare centre in the Parish or in an adjoining town/parish or within the DNPA Area or the Council Area.
- 1.18. **"Restriction"** means a restriction placed on the Title Register of the Land in the terms set out in Clause 4.5 to protect the interests of the Authority in securing compliance with this Unilateral Undertaking.
- 1.19. **"Tenant"** means a person who rents the Open Market Dwelling from the Owner under a lease for a term of not less than 12 months and Occupies the Dwelling in accordance with the Planning Obligations.
- 1.20. **"Working Day(s)"** means any day(s) of the calendar week except a Saturday a Sunday a Bank Holiday or other public holiday.

2 Interpretation

- 2.1 The singular includes the plural, the masculine includes the feminine, and vice versa.
- 2.2 References to clauses and schedules are to the clauses in and schedules to this Unilateral Undertaking.

- 2.3 Reference to any party having an interest in land affected by this Unilateral Undertaking shall include any successor in title of that party to that land or to any part of it.
- 2.4 Reference to any party having a statutory function referred to in this Unilateral Undertaking shall include any successor to that statutory function.
- 2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it.
- 2.6 Where any Planning Obligation applies to more than one person who has an interest in the Land or that part of the Land to which a Planning Obligation relates, their liabilities shall be joint and several.
- 2.7 The clause and paragraph headings are for ease of reference only and shall not affect the interpretation of this Unilateral Undertaking.

3 Legal Basis

- 3.1 This Unilateral Undertaking is made under Section 106 of the 1990 Act and all other enabling powers with the intention that it will bind the Owner's interest in the Land and that the Planning Obligations shall be planning obligations for the purposes of Section 106 of the 1990 Act.
- 3.2 The Planning Obligations are enforceable by the Authority.
- 3.3 Insofar as any clause or clauses of this Unilateral Undertaking are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Unilateral Undertaking.

- 3.4 No provision of this Unilateral Undertaking shall be enforceable under the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 3.5 This Unilateral Undertaking is a Local Land Charge and shall be registered as such.
- 3.6 The Planning Obligations are conditional upon the issue of the Planning Permission and the Commencement of Development.
- 3.7 This Unilateral Undertaking will be determined and have no further effect if:
- 3.7.1 The Planning Permission is quashed following legal challenge;
or
 - 3.7.2 The Planning Permission is varied or revoked (other than at the request of the Owner); or
 - 3.7.3 The Planning Permission expires or is withdrawn before Commencement of Development.

4 Owner's Covenants

The Owner covenants with the Authority so as to bind each and every part of the Land as follows:

- 4.1 To fulfil, perform, observe and comply with the Planning Obligations.
- 4.2 Following written request from the Authority, to supply to the Authority as soon as reasonably possible such information as the Authority reasonably considers that it requires to determine whether the terms and conditions of this Unilateral Undertaking are being observed.

4.3 To notify the Authority in writing of any change in ownership of or interests (excluding any interest created by a mortgage or charge or the grant of an easement) in the Land or any part of the Land such notice to give the names and addresses and other contact details of the new owners or persons holding the new interests within 20 Working Days of the change.

4.4 No estate or interest in an Open Market Dwelling (other than a mortgage or a charge or an easement) shall be Disposed of without securing that:

4.4.1 all persons acquiring an estate or interest shall concurrently enter into a Deed of Covenant with the Authority, executed in the form of the Deed specified in Schedule Two, and the Authority shall be provided with duplicate copies of that Deed for execution by an authorised officer of the Authority

4.4.2 in any initial or subsequent contract for the sale, transfer or other Disposal of the Open Market Dwelling, a condition is included that all persons acquiring the estate or interest will forthwith upon completion enter into a Deed of Covenant with the Authority, in the form specified in Schedule Two.

4.5 The Owner will apply to HM Land Registry for a Restriction on the Title Register of the part of the Land upon which the Open Market Dwellings are located as shown on the Plan in the form set out below:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the Dartmoor National Park Authority of Parke, Bovey Tracey, Devon TQ13 9JQ by its Chief Executive (National Park Officer) or their conveyancer,

that the provisions of clause 4.4 of a Unilateral Undertaking given by the South Hams District Council to the Dartmoor National Park Authority dated [] 2021 have been complied with, or that they do not apply to the disposition

5 Release

5.1 No person shall be liable for breach of a Planning Obligation after he shall have parted with all interest in the Land or his interest in the part of the Land in respect of which such breach occurs, but without prejudice to liability for any subsisting breach of covenants prior to parting with such interest.

6 Severance

6.1 If any provision or part-provision of this Unilateral Undertaking is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Unilateral Undertaking.

IN WITNESS of which the Owner has executed this Unilateral Undertaking as a Deed on the day and year set out on the front of this Unilateral Undertaking.

SCHEDULE 1

Owner's Covenants with the Council

The Owner covenants with the Authority as follows:

1. Not to permit the Occupation of an Open Market Dwelling otherwise as his or her Principal Residence or the Principal Residence of a Tenant or their Family Members (with their invitees and visitors for the time being).
2. That an Open Market Dwelling shall not be Occupied by any person under a lease for a term of less than 12 months' duration.
3. That the terms of any lease will include a covenant that the Tenant shall only Occupy an Open Market Dwelling as a Principal Residence.
4. That an Open Market Dwelling shall not be Occupied as a commercial or private holiday let.
5. That an Open Market Dwelling shall not be advertised online, by newspaper or magazine or otherwise other than for sale or for Occupation under a lease for a term of not less than 12 months.
6. That the Owner shall not permit Occupation of the Open Market Dwelling unless he has provided the Authority with at least fourteen (14) days notice of the details of the Occupier and shall not permit Occupation of the Open Market Dwelling until it is approved by the Authority, who shall not unreasonably withhold or delay such approval Provided that if the Authority shall not have responded within fourteen (14) days of the date of the notice by the Owner then the Authority's approval shall be deemed to have been given.
7. That the Owner will keep Proof that an Open Market Dwelling is being Occupied in accordance with the Planning Obligations and shall produce in writing such Proof as the DNPA may reasonably require within twenty (20) Working Days of being requested to do so by the DNPA.

SCHEDULE 2

Deed of Covenant

THIS DEED OF COVENANT is made the ... day of 20....

BETWEEN:

- (1) **Dartmoor National Park Authority of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ**
("the Authority"); and
- (2) ("the New Owner")

WHEREAS:

- (i) By a Deed pursuant to Section 106 of the Town and Country Planning Act 1990 dated the day of 20.... ("the Agreement") and given to the Authority by ("the Initial Owner") in relation to land at ("the Land") the Initial Owner covenanted to observe the restrictions and perform the obligations contained within the Agreement and more particularly defined in the Schedules to the Agreement.
- (ii) The Initial Owner further covenanted within the Agreement not to Dispose of any estate or interest in the Land without ensuring that all persons acquiring that estate or interest concurrently enter into a Deed of Covenant with the Authority in the terms of this Deed of Covenant.
- (iii) The New Owner has become the owner of that part of the Land known as [.....] ("Property") [and shown edged red on the plan attached hereto]/[registered at the Land Registry under title number [.....]].
- (iv) For the purposes of this Deed of Covenant unless stated otherwise all words shall have the same meaning as defined in the Agreement.

NOW THIS DEED PROVIDES AS FOLLOWS:

- 1 The New Owner covenants with the Authority in all respects to observe and perform all covenants and other obligations contained in the Agreement and more particularly defined in the Schedules to the Agreement.
- 2 The New Owner further covenants with the Authority in all respects to observe and perform all covenants and other obligations contained in this Deed of Covenant.
- 3 The New Owner hereby gives irrevocable consent for the Authority to apply to the Chief Land Registrar for the entry of a Restriction embodying the terms of this Deed on the Proprietorship Register against the title to the Property in the following form:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the Dartmoor National Park Authority of Parke, Bovey Tracey, Devon TQ13 9JQ by its Chief Executive (National Park Officer) or their conveyancer, that the provisions of clause 4.4 of the Unilateral Undertaking given by the South Hams District Council to the Dartmoor

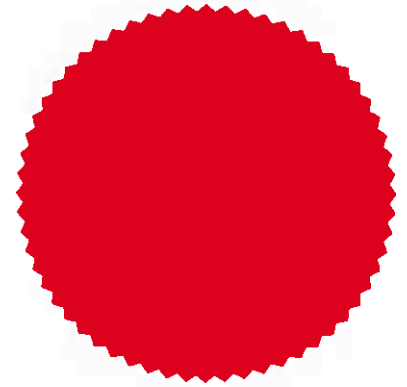
*National Park Authority dated []
have been complied with, or that they do not apply to the disposition"*

IN WITNESS of which the parties hereto have executed this document as a Deed the day and year first before written.

The Common Seal of)
SOUTH HAMS DISTRICT)
COUNCIL)
was affixed)
in execution as a Deed)
in the presence of :)



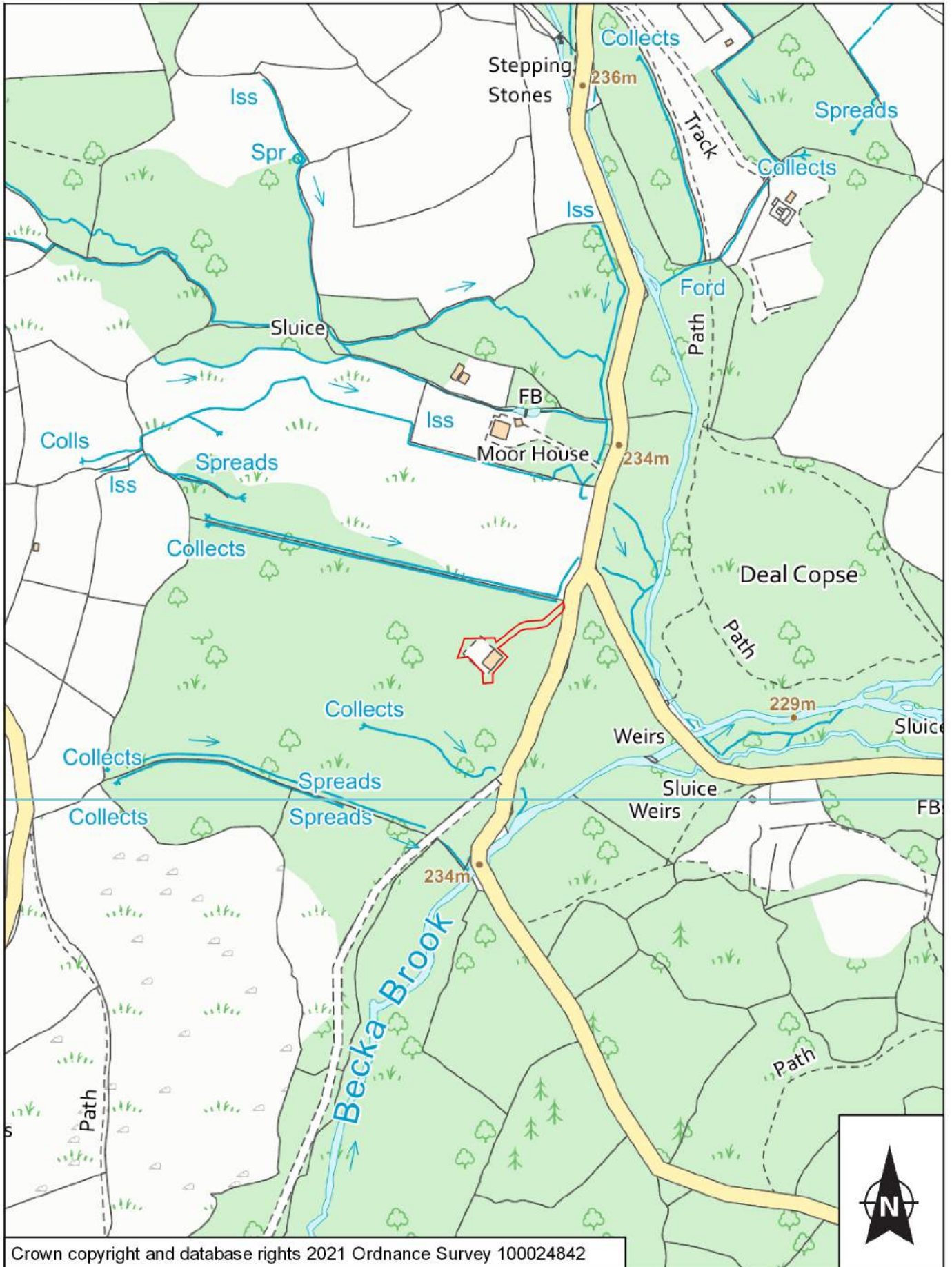
SH/894



0486/21 - Barn at SX 7564 8011, Manaton



Scale 1:4,000



Crown copyright and database rights 2021 Ordnance Survey 100024842

Application No:	0486/21	District/Borough:	Teignbridge
Application Type:	Full Planning Permission	Parish:	Manaton
Grid ref:	SX75648011	Officer:	Phil Twamley
Proposal:	Partial conversion of existing building to create a one bedroom local persons dwelling and associated works		
Location:	Barn at SX 7564 8011, Manaton		
Applicant:	Mr A Pascoe		
Recommendation:	That permission be REFUSED		

REASONS:

1. The proposal would result in the development of a permanent residential dwelling, located in open countryside outside of a designated settlement, in an area where the Authority would only permit residential development which is justified due to a functional requirement specific to the site, in support of agriculture or an established rural business. There is no over-riding justification or specific evidenced need for the provision of permanent residential development in this location. The proposal is contrary to the Dartmoor National Park Development Plan in particular policies COR1, COR2, COR15 and DMD23, to the emerging Dartmoor Local Plan, to the advice contained in the English National Parks and the Broads UK Government Vision and Circular 2010 and the National Planning Policy Framework 2021.
2. In the absence of an overriding public benefit, the Authority does not consider the proposed development to meet two of the three derogation tests necessary to justify development requiring an EPSL to safeguard statutorily protected and Dartmoor Biodiversity Action Plan priority species. The proposed development is considered contrary to policies COR7 and DMD14 of the Dartmoor National Park Development Plan, the emerging Dartmoor Local Plan, the advice contained in the English National Parks, the Broads UK Government Vision and Circular 2010 and National Planning Policy Framework 2021.
3. The proposed residential conversion, by reason of its siting, would have a detrimental impact on the character and appearance of this part of the Dartmoor National Park. The proposal is therefore contrary to policies COR1, COR3, COR5, DMD1a, DMD1b, DMD3, DMD4, DMD7, DMD8 and DMD23 of the Dartmoor National Park Development Plan, the emerging Dartmoor Local Plan, the advice contained in the Dartmoor National Park Design Guide, the English National Parks and the Broads UK Government Vision and Circular 2010 and National Planning Policy Framework 2021.

1 Introduction

- 1.1 The application proposes the partial conversion of an existing tractor shed and woodstore to form a permanent residential affordable dwelling. The site is located in a broadleaved woodland approximately 600m south of the village of Manaton . Access to the barn is along an existing track from the highway. An open area with hard standing lies to the northwest of the barn and small structures are located close to the barn with equipment scattered through the adjacent woodland.
- 1.2 The application is presented to the committee at the request of Mr Dracup (DNPA Member).

2 Planning History

0570/20	Partial conversion of existing building to create a one bedroom local persons dwelling and associated works Full Planning Permission	Refused	20 January 2021
0326/08	Tractor shed and wood store (13.5m x 8m) Prior Notification	No Objection	4 June 2008

3 CONSULTATIONS

- 3.1 **Environment Agency** Flood Risk Zone 1 - Standing advice applies
- 3.2 **Teignbridge District Council** Does not wish to comment
- 3.3 **County EEC Directorate** Does not wish to comment

3.4 **DNP - Trees & Landscape** Object

3.4.1 Permission was granted for the barn because it was necessary for the management of the woodland. If this is no longer a requirement, the barn should be removed.

3.4.2 Landscape Character Type - 2D Moorland Edge Slopes

3.4.3 The proposed development is located in a broadleaved woodland. The land around the site is river valley woodland. Winding lanes bounded by high hedges thread across the landscape with sunken lanes. There is a sparse settlement pattern with small hamlets, villages and nucleated farmsteads nestled into the folded rolling landform and often surrounded by woodland. It is a very quiet and tranquil site.

3.4.4 Local plan policy DMD5 sets out how Dartmoor's internationally renowned landscape should be protected. It is recognized that landscapes change, but the emphasis is on protecting the character and special qualities of Dartmoor's landscape. The policy states that:

3.4.5 Development proposals should conserve and/or enhance the character and special qualities of the Dartmoor landscape by:

- respecting the valued attributes of landscape character types identified in the Dartmoor National Park Landscape Character Assessment; ensuring that location, site layout, scale and design conserves and/or enhances what is special or locally distinctive about landscape character;
- retaining, integrating or enhancing distinctive local natural, semi-natural or cultural features;
- avoiding unsympathetic development that will harm the wider landscape or introduce or increase light pollution;
- respecting the tranquility and sense of remoteness of Dartmoor.

3.4.6 The policy is very clear that development should conserve and/or enhance the character of Dartmoor's landscape.

3.4.7 Changing the use of the building will introduce a domestic use into an isolated wooded site. This will lead to a change in the local environment with the introduction of domestic infrastructure and the likely creation of a garden or recreational space. It is difficult to see how introducing a domestic unit onto the land will conserve the character of this woodland site. The site is presently used intermittently, and a permanent residential use will increase noise which will impact on the tranquility of the area. The development does not enhance the character of the woodland and an increased use of the site will impact on the tranquility of the area. In my view the development will be contrary to DMD 5.

3.4.8 Visual Amenity

The building is hidden from public view.

3.4.9 Conclusion

The development will have an adverse impact on the character of the local landscape by introducing a domestic element into a tranquil woodland. The development will be contrary to policy COR 1 in that it does not respect or enhance the character, quality or tranquility of the local landscape. It is contrary to policy COR 3 in that the development does not conserve or enhance the characteristic landscapes and features that contribute to Dartmoor's special environmental qualities. The development is also contrary to DMD5 because it does not conserve/or enhance the character and special qualities of the Dartmoor landscape specifically the broadleaved woodland and the tranquility of the area.

3.5 **DNP - Ecology & Wildlife**

3.5.1 A Bat and Protected Species Survey & Bat Emergence Survey (EcoLogic, August 2021) has been submitted.

3.5.2 The survey methods, presentation of results and recommendations are satisfactory.

3.5.3 The installation of pipework and the sewage treatment plant will disturb an estimated maximum area of 100 m² (0.01 ha) of woodland, with permanent loss of around 20 m² (0.002 ha) of woodland/woodland ground flora.

3.5.4 The combined survey results identified the building to support a night roost for brown long-eared bats (*Plecotus auratus*) and a low-level summer day roost for common pipistrelle (*Pipistrellus pipistrellus*) bats. The proposed works will modify and destroy the identified bat roosts, and potentially cause disturbance or injury to any roosting bats present at the time of the proposed works. Therefore a European Protected Species Licence (EPSL) will need to be obtained from Natural England prior to the commencement of works – these works are applicable for the Bat Mitigation Class Licence (BMCL).

3.5.5 The Authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed.

1. Imperative reason overriding public interest - Establish the public interest (social, economic) which has some imperative nature (i.e. required soon) for undertaking this proposed development which overrides the retention of the building (and supported roosts) as they are at present
2. There is no satisfactory alternative - Consider and discount alternatives – e.g. design/layout that would not require loss of the existing roosts – why these are unfeasible.

3. There will be no significant detrimental population impact (on the bats)

3.5.6 A detailed mitigation plan sets out the following measures for bats:

- Commencement of works to be undertaken with a prior ecological inspection/s and subsequent ecologist supervision, required to safely exclude and remove any roosting bats from the roost for the period of the works;
- Positioning of temporary bat roosting provisions, consisting of at least two bat boxes fixed to a suitable tree/s. These would be used to relocate any bats found during the works;
- Creation of an enclosed night roosting space within the workshop
- The remaining wooden cladding will be internally lined with type 1F bitumen felt, with a gap measuring 25 mm high x 40 mm wide access point, created beneath one of the wooding cladding boards to provide a crevice roosting feature

3.5.7 It is my opinion that the survey results and mitigation measures included in the report satisfy the third test of the Habitats Regulations.

3.5.8 If upon consideration of the first two tests you consider them met (I would draw your attention to the low conservation status of this roost which can be taken into account with respect the IROPI test), then it is reasonable to conclude that Natural England would grant an EPS licence. If this is the case, then please apply the conditions below:

- No works shall commence until the LPA has been provided with a copy of the licence for Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the works to go ahead, or confirmation in writing from Natural England that such a licence is not required.
- The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements stated in the Bat and Protected Species Survey & Bat Emergence Survey (EcoLogic, August 2021) to any variation required by Natural England under any license it may issue.
- At no times shall any external lighting be installed or used in association with the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority
- A Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase, will be conditioned. This will need to be agreed with the LPA

4 Parish Council Comments

4.1 Manaton Parish Council has no objections to the planning application. The application is to create a one bedroom local persons dwelling in the category of affordable home ownership. Appropriate conditions should be attached to any planning permission granted.

5 Relevant Development Plan Policies

- COR1 - Sustainable Development Principles
- COR2 - Settlement Strategies
- COR3 - Protection of Dartmoor's special environmental qualities
- COR4 - Design and sustainable development principles
- COR7 - Providing for the conservation of Dartmoor's varied plant and animal life and Geology

- COR12 - Meeting the need for local infrastructure, community facilities and public services
- COR14 - Meeting the infrastructure requirements of new development
- COR15 - Providing for limited new housing to meet local needs
- COR21 - Dealing with development and transport issues in a sustainable way
- DMD1a - Presumption in favour of sustainable development
- DMD1b - Delivering National Park purposes and protecting Dartmoor National Park's special qualities
- DMD3 - Sustaining the quality of places in Dartmoor National Park
- DMD4 - Protecting local amenity
- DMD5 - National Park Landscape
- DMD7 - Dartmoor's built environment
- DMD14 - Biodiversity and geological conservation
- DMD19 - Sustainable Communities
- DMD23 - Residential development outside Local Centres and Rural Settlements
- DMD38 - Access onto the highway

6 REPRESENTATIONS

15 letters of support

- 6.1 Supporters regard the proposal as a positive opportunity to provide a valued member of the community with an affordable property.

7 OBSERVATIONS

7.1 ADOPTED / EMERGING LOCAL PLAN POLICY STATUS

- 7.1.1 The site falls outside of the settlement of Manaton, being approximately 600m to the south of the village, identified as a Rural Settlement by policy COR2 of the Development Plan. Strategic Policy 1.3(3) of the emerging Local Plan identifies Manaton as a small Village or Hamlet where limited development to meet identified needs of the settlement and its parish will be acceptable in principle within the settlement.
- 7.1.2 The strategic framework for spatial planning in Dartmoor National Park in the period up to 2026 is set by the Core Strategy Development Plan Document, which was adopted in April 2008. The Development Management and Delivery Development Plan Document (DMD), adopted in July 2013, sets out more detailed policies and proposals including site allocations to assist in the implementation of the Core Strategy.
- 7.1.3 The application is founded on incorrect information. The applicant's planning statement (September 2021) states that "the emerging Dartmoor Local Plan is yet to be subject to examination" and therefore it would have "no more than modest weight at this stage". This is incorrect. The emerging Local Plan has been in examination for 12 months, having progressed through submission, hearings, the Inspectors post-hearings report and the track changes modification of the local plan (published 7 June). The emerging Plan is now at the final stages prior to adoption, with policies contained within that Plan having weight of some significance in the determination of applications.
- 7.1.4 Both adopted and emerging policy are referenced for clarity.

7.2 ASSESSMENT UNDER CURRENT POLICY

- 7.2.1 The site is outside of settlement areas, in an area of the National Park where residential development is appropriately restricted.

7.2.2 Policy DMD9: Conversion or re-use of non-residential buildings outside classified settlements:

7.2.3 The conversion or re-use of buildings outside classified settlements will only be permitted where the proposal:

- (i) Relates to a historic building within the definition set out in paragraph 2.10.18*; and
- (ii) Comprises business uses and short stay tourist accommodation; or
- (iii) Will provide local community services or facilities; or
- (iv) In cases where a business or community use has been shown not to be viable or feasible, will provide affordable housing for local persons or accommodation for agricultural, forestry or rural enterprise workers.

*2.10.18 states that the conversions policy (DMD9) applies to historic buildings that may be considered 'traditional' within the context of Dartmoor's built heritage. Traditional Dartmoor buildings are identified as being constructed in a distinctive local style, of local materials or materials readily available historically; walling being predominantly stone or cob with lesser elements of brick or wood; have a dominance of solid over void; have pitched roofs; demonstrate an agricultural or industrial history in the Dartmoor tradition and were built before 1919.

7.2.4 The proposed conversion relates to a modern agricultural store of timber construction. The existing building was justified as required to support an existing business and is in active use rather than redundant. The proposal does not include any evidence to suggest that the building no longer has a viable business use. The proposal does not accord with the established policy approach of DMD9

7.2.5 The Park Authority's adopted policies focus on residential development in settlements where existing services and transport infrastructure are best equipped to support it. As this development site is located outside a designated settlement it would be considered under policy DMD23 which states residential development outside designated settlements will only be permitted where:

- (a) It is an essential requirement in support of an agricultural holding, forestry enterprise or a rural-based business; or
- (b) The proposal comprises the conversion of an existing building to an affordable dwelling and the conversion is compliant with Policy DMD9 (relating to historic buildings); or
- (c) The development comprises low impact residential development compliant with Policy DMD30 (again, relating to a functional requirement tied directly to the land on which it is located)

7.2.6 The proposal does not accord with DMD23 as it does not seek to provide essential accommodation in support of an enterprise as included in (a), does not accord with DMD9 as detailed above, and does not comprise low impact residential development compliant with DMD30.

7.3 EMERGING DARTMOOR LOCAL PLAN

7.3.1 Strategic Policy 1.1(2) states that within the Dartmoor National Park, the conservation and enhancement of the natural beauty, wildlife and cultural heritage will be given priority over other considerations in the determination of development proposals. The National Planning Policy Framework 2021 (NPPF) attributes great weight to these considerations within National Parks.

7.3.2 Strategic Policy 1.3 (3) establishes the spatial strategy for the National Park and allows for development outside of classified settlements where development is related to essential farming, forestry or other land-based rural businesses; gypsy, traveller or low impact development well related to a Local Centre or Rural Settlement; new business development making use of redundant buildings; and development related to existing businesses; householder or domestic related development.

7.3.3 The proposal is not justified by the presence of a functional requirement tied directly to the land on which it is located. The proposal does not conserve or enhance the special qualities of this area of the National Park. The proposal would result in a permanent affordable dwelling in an unsustainable location away from identified settlement areas. It therefore does not accord with emerging Local Plan policy.

7.4 AFFORDABLE HOUSING

7.4.1 The proposed property is described as modest and affordable, however it is on a large area of woodland under single ownership. Advice contained in the adopted Affordable Housing SPD seeks to ensure that affordable dwellings remain affordable in perpetuity. Para 3.4.8 of the emerging plan reiterates this stance, stating that; "For the successful delivery of affordable housing it is crucial that the land value also reflects its use for affordable housing. This will include ensuring the size of the plot and the building's design support its affordability. In particular: • Garages will not be acceptable, a modest car port may be. • The property should have a modest amount of garden space. Large gardens or associated land and buildings will not be acceptable."

7.5 LANDSCAPE CHARACTER

7.5.1 Local Plan policy DMD5 sets out how Dartmoor's internationally renowned landscape should be protected. It is recognised that landscapes change, but the emphasis is on protecting the character and special qualities of Dartmoor's landscape. The policy states that:

7.5.2 Development proposals should conserve and/or enhance the character and special qualities of the Dartmoor landscape by:

- respecting the valued attributes of landscape character types identified in the Dartmoor National Park Landscape Character Assessment; ensuring that location, site layout, scale and design conserves and/or enhances what is special or locally distinctive about landscape character;
- retaining, integrating or enhancing distinctive local natural, semi-natural or cultural features;
- avoiding unsympathetic development that will harm the wider landscape or introduce or increase light pollution;
- respecting the tranquillity and sense of remoteness of Dartmoor.

7.5.3 The policy is very clear that development should conserve and/or enhance the character of Dartmoor's landscape.

7.5.4 Changing the use of the building will introduce a domestic use into an isolated wooded site. The introduction of a domestic unit onto the land will not conserve or enhance the character of this woodland site. The site is presently used intermittently and a permanent residential use will increase noise which will impact on the tranquillity of the area. The development is considered contrary to DMD5.

7.5.5 The development will have a detrimental impact on the landscape character of the area, contrary to policy COR 1 (h) and COR 3. The development does not enhance what is special or locally distinctive about the landscape character, being unsympathetic development that will harm the wider landscape. The development is contrary to policy DMD5 as it does not conserve and/or enhance the character and special qualities of the Dartmoor landscape specifically the broadleaved woodland and the tranquillity of the area.

7.5.6 Emerging policies 1.1 (2) 'Delivering National Park purposes and protecting Dartmoor's Special Qualities' and 2.1 (2) 'Protecting the character of Dartmoor's landscape' maintain the Authority's policy position with regard to this development.

7.6 ECOLOGY

7.6.1 A Bat and Protected Species Survey & Bat Emergence Survey (EcoLogic, August 2021) has been submitted.

7.6.2 The survey methods, presentation of results and recommendations are satisfactory.

7.6.3 The installation of pipework and the sewage treatment plant will disturb an estimated maximum area of 100 m² (0.01 ha) of woodland, with permanent loss of around 20 m² (0.002 ha) of woodland/woodland ground flora.

7.6.4 The combined survey results identified the building to support a night roost for brown long-eared bats (*Plecotus auratus*) and a low-level summer day roost for common pipistrelle (*Pipistrellus pipistrellus*) bats. The proposed works will modify and destroy the identified bat roosts, and potentially cause disturbance or injury to any roosting bats present at the time of the proposed works. Therefore a European Protected Species Licence (EPSL) will need to be obtained from Natural England prior to the commencement of works – these works are applicable for the Bat Mitigation Class Licence (BMCL).

7.6.5 The Authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed.

7.6.6 The three tests derogation tests to be met are :

1. There are no feasible alternative solutions to the plan or project which are less damaging.
2. There are "imperative reasons of overriding public interest" (IROPI) for the plan or project to proceed.
3. Compensatory measures are secured to ensure that the overall coherence of the network of European sites is maintained.

7.6.7 The Authority's Ecologist considers the survey results and mitigation measures included in the report to satisfy the third test of the Habitats Regulations:

7.6.8 A detailed mitigation plan sets out the following measures for bats:

- Commencement of works to be undertaken with a prior ecological inspection/s and subsequent ecologist supervision, required to safely exclude and remove any roosting bats from the roost for the period of the works;

- Positioning of temporary bat roosting provisions, consisting of at least two bat boxes fixed to a suitable tree/s. These would be used to relocate any bats found during the works;
- Creation of an enclosed night roosting space within the workshop
- The remaining wooden cladding will be internally lined with type 1F bitumen felt, with a gap measuring 25 mm high x 40 mm wide access point, created beneath one of the wooding cladding boards to provide a crevice roosting feature

7.6.9 Having considered the first two tests, Officers have the following opinion;

Test 1 - The applicant has submitted a statement outlining the issues of local affordability and difficulties in obtaining a mortgage. The submitted statement does not however provide an assessment of the current rental market or evidence any attempts to secure a rental property in the immediate or wider area. The proposal is considered to have a clear feasible alternative of securing local accommodation through the rental market.

Test 2 - The proposal is considered a departure from the adopted Local Plan and the emerging Dartmoor Local Plan. There is no functional need for the provision of a dwellinghouse on this site. For those reasons previously detailed, the harm of developing a residential dwelling in this area is considered to outweigh the limited public benefit. Officers are mindful of the low conservation status of this roost which can be taken into account with respect the IROPI test. Notwithstanding this point, in the absence of a planning balance in favour of an overriding public interest to support the proposal, officers do not consider the third test to be met.

7.6.10 In combination, there is considered to be insufficient evidence or justification to satisfy the necessary derogation tests.

7.7 HIGHWAYS

7.7.1 There are no objection on highway safety grounds.

8 Conclusion

8.1 The proposal would result in a permanent dwelling in an unsustainable location away from identified settlement areas, contrary to both the current and emerging Development. The housing/spatial strategy in the emerging Dartmoor Local Plan with regard to development in the open countryside is largely unchanged from the adopted policy position, is consistent with the NPPF, and does not support residential conversion of a non-traditional building as proposed. With regard to the location, scale, and context of the site, the conversion would not be considered to provide an affordable dwelling.

8.2 The Authority recognises the applicant's long standing valued role in the local community and his desire to live in the local area. The provision of a local person's affordable dwelling is not however appropriate through the partial conversion of an existing non-traditional tractor and wood store in this location. Both the current and emerging Local Plan provide for opportunities for affordable housing in suitable and sustainable locations, but rightly restrict opportunities in the open countryside.

8.3 The proposal would fail to conserve or enhance the character and special qualities of the Dartmoor landscape, in addition to Dartmoor's biodiversity.

- 8.4 The proposal represents a departure from both the adopted Development Plan and the emerging Local Plan.
- 8.5 The application is recommended for refusal.

CHRISTOPHER HART

DARTMOOR NATIONAL PARK AUTHORITY
DEVELOPMENT MANAGEMENT COMMITTEE

5 November 2021

Monitoring and Enforcement

Report of the Head of Development Management

INDEX

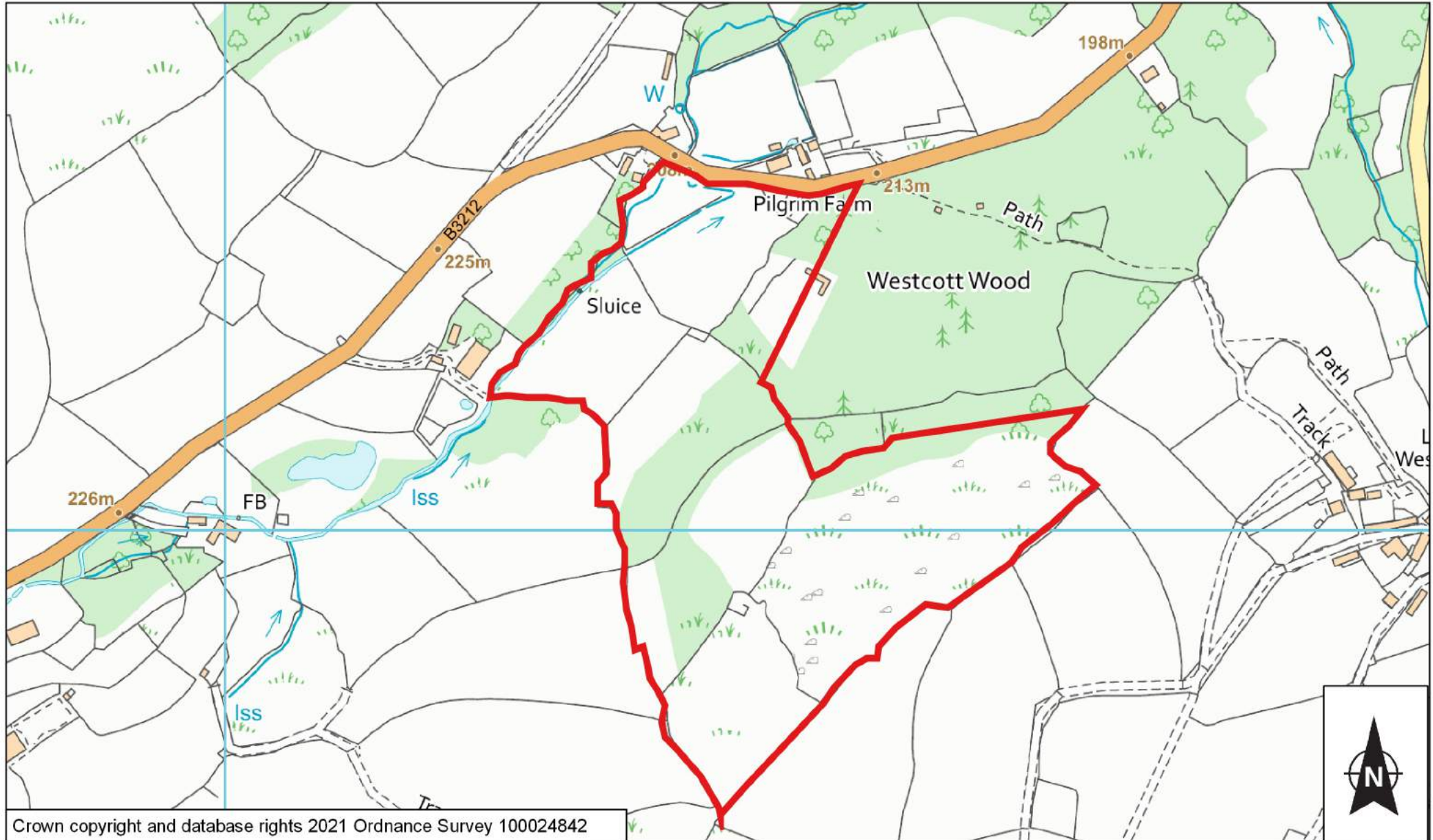
<u>Item No.</u>	<u>Description</u>	<u>Pg. No.</u>
1.	ENF/0186/18 New house constructed in woodland Woodland opposite Rock Valley Farm, Doccombe	110

Dartmoor National Park Authority

Rock Valley Farm, Doccombe

Scale 1:4,000

Map created by nsavin on 25/10/2021



1

Enforcement Code **ENF/0186/18** District/Borough: **Teignbridge District**
Grid Ref: **SX784871** Parish: **Moretonhampstead**
Officer: **Nick Savin**

Description : **New house constructed in woodland**

Location : **Woodland opp Rock Valley Farm, Doccombe**

Recommendation : **That, subject to consideration of any comments from the Parish Council, the appropriate legal action be authorised to:**
1. Secure the cessation of the residential use of the land, and
2. Secure the cessation of all non agricultural or forestry use of the land, and
3. Secure the removal of the residential building from the land.

1 Relevant Development Plan Policies

COR1 - Sustainable Development
COR2 - Settlement Pattern
COR3 - Environment &
Heritage COR4 - Built
Environment COR15 -
Housing

DMD1a - Sustainable
Development DMD3 - Sustaining
the quality of places DMD5 -
Landscape Character
DMD7 - Built Environment
DMD23 - Residential Development

1.2(3) - Sustainable Development
1.3(3) - Spatial Strategy
2.1(2) - Protecting Landscape

2 Observations

2.1 THE SITE

2.1.1 Rock Valley Farm is situated some three and a half kilometres east of Moretonhampstead and about 750 metres to the north east of the centre of the village of Doccombe. The land and building subject to the investigation is south of the B3212 opposite Rock Valley Farmhouse.

2.2 THE INVESTIGATION

2.2.1 In October 2018 the Authority was informed that a new house was being constructed on sloping land near Westcott Woods at Rock Valley Farm, south of the B3212.

2.2.2 A visit, in late 2018, revealed that a large building was under construction on the land. The building is a wooden construction and domestic in appearance; it is set out on three platforms stepped into the sloping land. Adjacent to the building is a wooden kennel set just below the building.

- 2.2.3 At that time the building was empty with little domestic paraphernalia. There was no evidence of a bedroom, bathroom (or washing facilities) or kitchen. It could not be described as a dwellinghouse.
- 2.2.4 The lower section had window openings but no windows and it was evident that the roof was still under construction. The remainder of the building had a mixture of window openings, windows of various designs and sizes and openings for doors. The building was very much still under construction. Toilet facilities were in a small building a little way from the structure.
- 2.2.5 The landowner claimed to have used the land for residential purposes on and off for about 14 years and that there had been a number of different structures in the same place. He confirmed that the "new building" was, at the time, only a few months old and still being constructed. He also confirmed that the whole farm had been owned and occupied by him and his family until 2016 when he went through a divorce and the farmhouse and the land to the north of the main road was sold off separately. He retained ownership of the land to the south of the road.
- 2.2.6 The landowner provided information that attempted to explain how the residential use of the land had occurred over time. The information that he provided suggested sporadic use of the land for overnight accommodation but no conclusive evidence of occupation. The owner has made no attempt to regularise the building or use of the land through an application for a Certificate of Lawfulness (CLUED).
- 2.2.7 The Authority issued welfare forms in April 2021 but these were not returned.
- 2.2.8 A further visit at the end of September 2021 confirmed that the building was in a similar condition to the initial visit at the end of 2018. It was still unfinished and unfurnished and cannot be described as a dwelling. It was clear, however, that it was being used as sleeping accommodation as noted by the sleeping platform and bedding.
- 2.2.9 The owner confirmed that he had been residing in the building for 3 years and 4 months and that recently his 16 year old son had come to stay.
- 2.2.10 Welfare forms were again left with the landowner who confirmed his willingness to complete and return them. As yet the forms have not been received.
- 2.3 OPERATIONAL DEVELOPMENT AND USE OF THE LAND.
- 2.3.1 It is clear from the investigation that the building is currently used for sleeping accommodation. It is not substantially complete and therefore not considered to be lawful through the passage of time (it is less than 4 years old). There appear to be no reasons or overriding justification for a building of this type in this location, necessary for the proper management of the land. It is not of a design or a use that would accord with adopted planning policy. Similarly, the small toilet building nearby is considered development and facilitates the unauthorised residential use of the land.
- 2.3.2 The land appears to be in a mixed use including residential use, a business use, "Dartmoor Archery", and agricultural use.

2.4 POLICY CONSIDERATIONS

- 2.4.1 Development Plan Policy COR1 seeks to ensure that all development in the National Park is undertaken in a sustainable manner with consideration given to, amongst other things, the need to make efficient use of land and respect for and enhancement of the character, quality and tranquillity of local landscapes and the wider countryside. The development is contrary to policy COR1 as the development is not of a high quality design nor does it respect or enhance the character, quality and tranquillity of local landscapes and the wider countryside.
- 2.4.2 Policy COR3 states that development will conserve and enhance the characteristic landscapes and features that contribute to Dartmoor's special environmental qualities. The development does not conserve or enhance the characteristic landscapes of Dartmoor.
- 2.4.3 Policy COR4 states that proposals should conform to a number of design principles, which include the need to demonstrate a scale and layout appropriate to the site and its surroundings. Development must also use external materials appropriate to the local environment. The development is not appropriate to the local environment, and has a detrimental visual impact on this site and its surroundings and does not therefore accord with this policy.
- 2.4.4 Policy COR15 aims to actively encourage and promote affordable housing in Local Centres and Rural Settlements. Outside Local Centres and Rural Settlements, housing development will be restricted to that serving the proven needs of agriculture and forestry or other essential rural businesses. There is no proven need for this development for agriculture, forestry or any essential rural business. The operation of 'Dartmoor Archery' does not constitute a defined need for accommodation on the land.
- 2.4.5 Policy DMD1b seeks to protect the special qualities of the National Park. The wooden building and its use does not accord with this policy as it fails to protect those special qualities.
- 2.4.6 Policy DMD3 states that development proposals should help to sustain good quality places in the National Park by reflecting the principles set out in the Design Guide. Furthermore, the development should conserve and enhance the character and special qualities of the Dartmoor landscape by ensuring that location, site layout, scale and design conserves and enhances what is special or locally distinctive about landscape character. The development is considered contrary to this policy.
- 2.4.7 Policy DMD5 seeks to conserve and/or enhance the character and special landscape and qualities that contribute to Dartmoor's distinctiveness. The visual impact of the wooden building and its use is considered detrimental to the characteristic landscape features that contribute to Dartmoor's special qualities.
- 2.4.8 DMD7 states that within the built of Dartmoor National Park, high standards of design and construction will be promoted to conserve or enhance urban settings, settlement layouts and distinctive historic, cultural and architectural features. The building is not of a high standard of design and construction.
- 2.4.9 Policy DMD23 seeks to restrict the erection of new dwellings outside Local Centres or Rural Settlements, except where a proven need for an essential rural worker has been established. There is no proven functional requirement for a new dwelling on this land.

2.5 The HUMAN RIGHTS ACT 1998

- 2.5.1 It is believed that the building is in residential use. As such, the courts will view any decision to take enforcement action as engaging the occupiers' rights under Article 8 European Convention on Human Rights (ECHR) (right to respect for private and family life and home) and Protocol 1, Article 1 (peaceful enjoyment of possessions). The service of an Enforcement Notice requiring the unauthorised residential use to cease would represent a serious interference with these rights. However, it is permissible to do so "insofar as is in accordance with the law and necessary in a democratic society for the protection of rights and freedoms of others".
- 2.5.2 The courts have held that provided a balanced and proportionate approach is taken, having regard to all relevant considerations and not giving irrational weight to any particular matter, the UK planning system (including the enforcement process) is not incompatible with the Human Rights Act.
- 2.5.3 Tackling breaches of planning control and upholding Local Plan policies is clearly in accordance with the law, protects the National Park from inappropriate development and enshrines the rights and freedoms of everyone to enjoy the natural beauty and special qualities of the National Park.
- 2.5.4 Welfare forms have been issued however but as yet have not been returned.

3 Conclusion

- 3.1 Members are therefore advised that enforcement action would be:
- (i) in accordance with law – s.178(1) T&CPA 1990
 - (ii) in pursuance of a legitimate aim – the upholding of planning law and in particular the Development Plan policies restricting development in the open countryside of the National Park
 - (iii) proportionate to the harm and therefore not incompatible with the Human Rights Act.
- 3.2 The use of the land and associated buildings represent a serious breach of planning control. The landowner has made no effort to regularise that use through the planning system.
- 3.3 Members are now asked to endorse legal action to secure the removal of the residential building and associated toilet building from the land; the cessation of any residential use of the land; and the cessation of any non-agricultural use of the land – returning the land to its previous agricultural use.

CHRISTOPHER HART