

PLANNING APPLICATION REPORT

Case Officer: Steven Stroud

Parish: Lamerton **Ward:** Milton Ford

Application No: 0107/22/OPA

Agent:

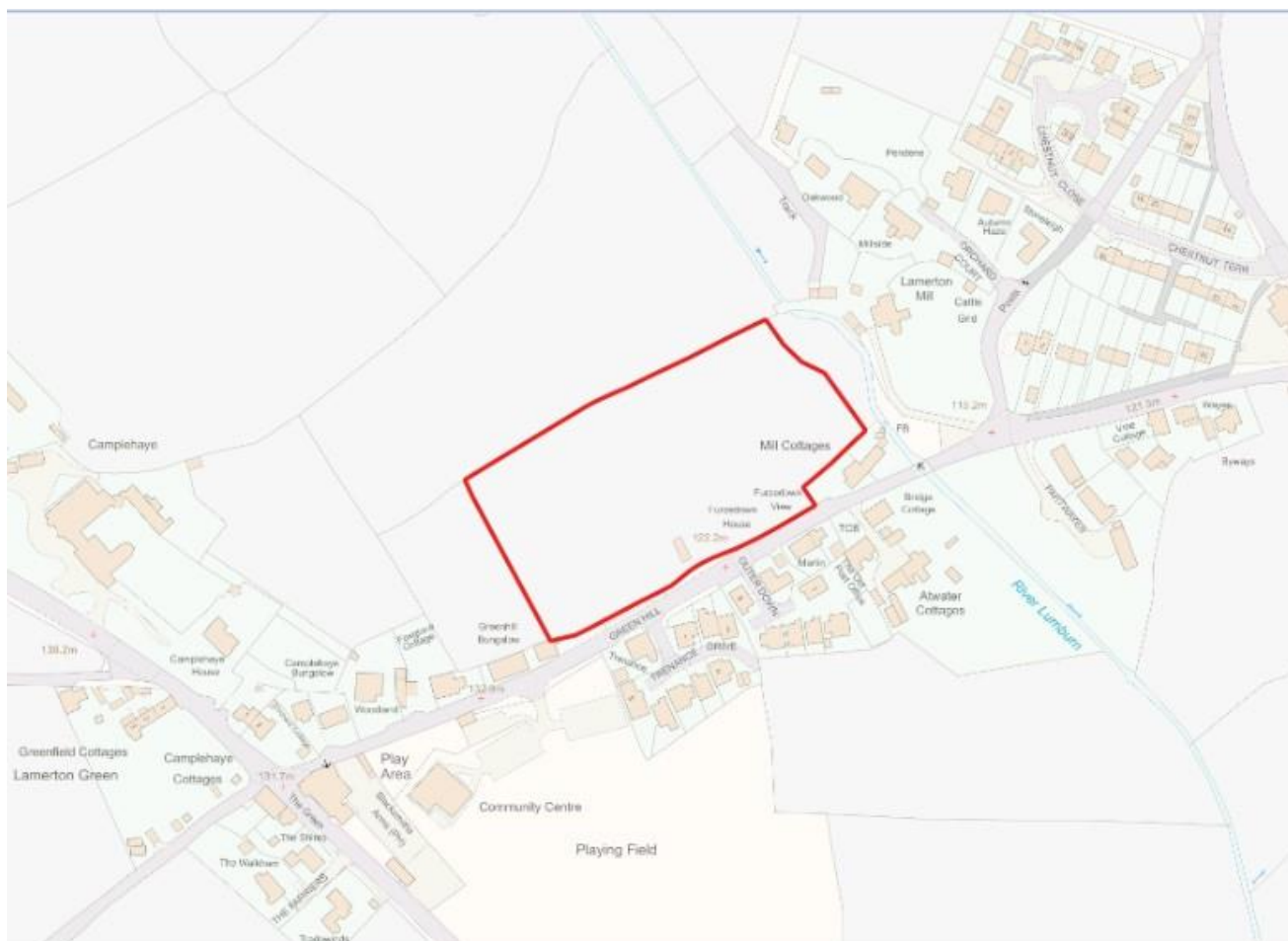
Tom Rogers
Rogers and Jones Architects
17 Gordon Terrace
Mutley
PL4 6EP

Applicant:

Piers Turner
Southern Properties
4 Culvers Meadow
Launceston
PL15 8RR

Site Address: Land north of, Green Hill, Lamerton

Development: Outline application for proposed development of 19 dwellings with access and external works, with all matters reserved other than the access.



Recommendation: Grant Conditional Planning Permission (subject to s106)

Obligations (heads of terms):

- i. Affordable Housing as required by Housing team (inc. provision of self-builds and controls for discount sale and local connection on relevant plots)
- ii. Provision, access, and future management of open space / natural greenspace
- iii. An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, allotments in Lamerton.
- iv. An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, equipped play provision in Lamerton.
- v. An off-site financial contribution towards improvements to, and on-going maintenance of, sports facilities in Lamerton and/or Tavistock.
- vi. Secondary education transport
- vii. Tamar EMS contribution
- viii. Biodiversity Net Gain

Conditions (summarised; in full at end of report):

- i. Standard time limits for RM and implementation, and phasing (noting self-build plots)
- ii. Development shall accord with red-lined location plan (S-)01, and access drawing (PL-)02 A
- iii. RM shall generally accord with Landscape Strategy Plan GE-LAM-01 A
- iv. Open market dwellings to meet Category M4(2) of Building Regulations (all to meet NDSS)
- v. Open market dwelling mix to be approved at RM
- vi. Tree Protection Plan and Arboricultural Method Statement
- vii. DEV32 / scheme for climate change and energy efficiency with RM
- viii. External lighting
- ix. Self-build Design Code
- x. As requested by LHA
- xi. As requested by LLFA
- xii. Construction Management Plan
- xiii. CEMP inc. measures to safeguard river environment
- xiv. As requested by Ecologist (inc. LEMP)
- xv. Archaeology
- xvi. Unexpected Contamination

Key issues for consideration:

- Principle of Development/Affordable Housing and Policy TTV27
- Landscape Character and Appearance; Trees
- Heritage
- Highways
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Energy Efficiency and Climate Change
- Planning Obligations and Infrastructure
- Planning Balance and Conclusion

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

The application may give rise to income through the New Homes Bonus. However, no material weight is afforded to this consideration in accordance with advice contained within the national Planning Practice Guidance ('PPG').

Site Description:

The application site relates to a greenfield area of agricultural pasture land (1.63ha) north of Green Hill, Lamerton. The site is presently used for grazing cattle and horses and slopes down

from south west to north west; levels of 139.64m AOD can be found in the western corner of the site and levels of around 113.07m AOD can be found in the eastern corner of the site. It would appear to be common ground between all parties that the site is outside of the discernible built up area of the village such that it is in the Countryside for planning purposes.

The site is otherwise well-related to the settlement taking access from a key route into the village with key facilities such as the primary school, village hall and playing pitches, public house, and bus stops, all within accessible walking distance.

The site is not within any protected landscape designation (National Park or Landscape/AONB) but is within an area that provides an important visual setting to these two designations. It is within the 3G River valley slopes and combes West Devon Landscape Character Type. A veteran Oak tree, the subject of a TPO, is situated slightly to the east of the centre of the field.

The eastern edge of the application site is adjacent to the River Lumburn and that area is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. The Environment Agency have been duly consulted and they raise no objection. It is noted that the red-lined application site boundary deliberately excludes this area so that, strictly speaking, no part of the development would take place there (as observed by the EA).

The site is not within the Lamerton Conservation Area and is sufficiently distant from it to pose no material impact. The nearest listed building is the Grade II Foxglove Cottage (a.k.a. 'Greenhill and Homelfigi', list entry 1326230), around 50m southwest of the westernmost boundary of the site and separated by mature landscaping and the wider field edge. Considerations relating to that asset are dealt with later in this report.

The site was previously considered as part of the preparation of the Lamerton Neighbourhood Plan, within the Site Options and Assessment Report prepared by AECOM (November 2019). The site – covering at that time a much larger area of 3.7ha and with an indicative capacity of 103 dwellings – was given an 'Amber' rating where it was concluded that a: 'Smaller scale development to the south of the site is considered potentially suitable to allocate in principle subject to mitigation of identified constraints.' In reaching that conclusion the Report also identified that: 'Small scale development towards the south west of the site by Green Hill would be more appropriate and fit in with the local villagescape.' Whilst a useful indicator of how the site has been viewed in the past, adopting a cautious stance officers afford no weight to this as a consideration; the application has been assessed on its own merits and in accordance with the current policy framework.

In that vein regard has also been paid to the draft submission version of the Lamerton Neighbourhood Plan (in the published form known to date, October 2020) where the site was proposed to be allocated for 18 dwellings (on a slightly smaller site area), as an exception site where affordable housing was to be maximised in a manner consistent with policy TTV27 of the Joint Local Plan (policy H3). It is understood from the supporting text to that draft Plan document that the Green Hill site was determined by a public session to be the 'alternate "first choice"' (page 52); hence, being proposed to be allocated alongside a site at Court Cottage Farm (policy H2). However, it is understood that the plan-making progress of that Plan subsequently stalled, and the relevant steering group is now preparing a new neighbourhood plan for Lamerton instead. Either way and adopting a cautious stance despite apparent historic community preference for the site in question, the stage of the plan-making process in this case means that the Lamerton Neighbourhood Plan is not a determinative consideration in this instance and has no bearing on the recommendation made.

The Proposal:

Planning permission is sought for the erection of 19no. dwellings and associated development. The application is made in outline, with all matters reserved save for the point of access into the site. Therefore, except for access (dealt with later in this report) the assessment for this application is primarily concerned with the principle of the development proposed, also having regard to its likely impacts and effects i.e., whether the quantum and nature of development applied for can be acceptably brought forward.

As an application driven to meet an identified need for affordable housing within the village, the overall housing mix by tenure/type is as follows and this can be secured by the proposed s106 legal agreement:

- 10 x local connection affordable homes (7 no. social rent and 3 no. shared ownership)
- 2 x self-build restricted market dwellings (restricted by local connection criteria (JLP area) and a 20% discount below market value of the plots) [shown as plots 3 and 4 on the illustrative layout]
- 2 x self-build market dwellings [shown as plots 1 and 2 on the illustrative layout]
- 5 x open market dwellings

Individual housing mix (size and bedroom nos.) for the open market dwellings is not for determination at this outline stage but can be controlled for future agreement by planning condition. The affordable units are to be secured as part of the proposed s106 legal agreement, being as follows, as agreed with the Council's housing officer:

7 x Social Rent units of the following sizes:

- 1 x 4 bedroom, 7 person house
- 1 x 3 bedroom, 5 person house
- 4 x 2 bedroom, 4 person houses
- 1 x 1 bedroom, 1 person house

3 x Shared Ownership units of the following sizes:

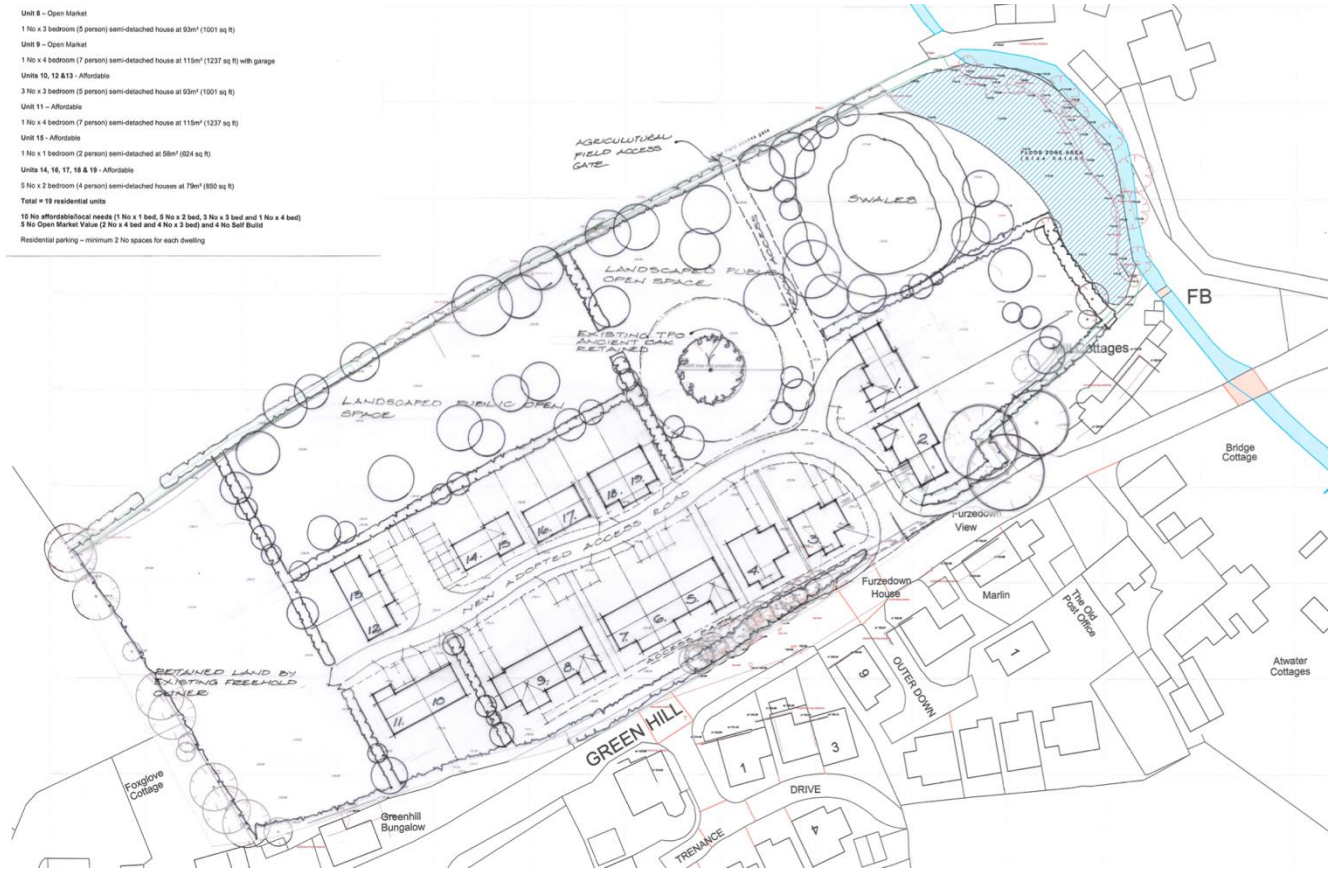
- 2 x 3 bedroom, 5 person houses
- 1 x 2 bedroom, 4 person house

All units would meet the Nationally Described Space Standard as required by policy DEV10. Planning condition can ensure that all the open market dwellings meet Category M4(2) of the Building Regulations (exceeding the 20% requirement of policy DEV9).

Following a long and iterative process (that has included a reduction in the total units proposed from 21 to 19) impacted by discussions of viability, landscape character and arboriculture, an illustrative layout has been prepared to indicate how development might be brought forward if permission is granted, where it is incumbent upon an applicant to demonstrate that there will be at least one configuration of reserved matters that will be acceptable once the principle of development has been settled through the grant of an outline planning permission.

The illustrative layout is presented below based on the submitted Landscape Strategy Plan (ref. GE-LAM-01 A, also below) which accompanied the Landscape and Visual Appraisal. For sake of prudence and considering the positive work that has been undertaken to address the key site constraints to date, it is considered important that the reserved matters at least

generally accord with that Landscape Strategy Plan. This can be secured by planning condition and gives comfort that the veteran Oak tree will be safeguarded and landscape character/villagescape positively addressed. The minor revisions that would be required to the illustrative layout to gain support from the Council's tree officer are capable of being secured (and this would be in accordance with that Landscape Strategy Plan).



Illustrative Layout

- Unit 8 - Open Market
- 1 No x 3 bedroom (5 person) semi-detached house at 65m² (1001 sq ft)
- Unit 9 - Open Market
- 1 No x 4 bedroom (7 person) semi-detached house at 115m² (1237 sq ft) with garage
- Units 10, 12 & 13 - Affordable
- 3 No x 3 bedroom (5 person) semi-detached house at 93m² (1001 sq ft)
- Unit 11 - Affordable
- 1 No x 4 bedroom (7 person) semi-detached house at 115m² (1237 sq ft)
- Unit 15 - Affordable
- 1 No x 1 bedroom (2 person) semi-detached at 68m² (824 sq ft)
- Units 14, 16, 17, 18 & 19 - Affordable
- 5 No x 2 bedroom (4 person) semi-detached houses at 79m² (850 sq ft)
- Total = 19 residential units
- 10 No affordable/low needs (1 No x 1 bed, 5 No x 2 bed, 3 No x 3 bed and 1 No x 4 bed)
- 9 No Open Market Value (2 No x 4 bed and 4 No x 3 bed) and 4 No Self Build
- Residential parking - minimum 2 No spaces for each dwelling



Landscape Strategy Plan

Consultations:

The application has been through several rounds of consultation as the application has been amended. The most up to date comments received from each consultee is summarised below. Full details are available for viewing on the planning pages of the Council's website and due to the lengthy nature of some of the responses received, Members are directed to review them at:

<https://westdevon.planning-register.co.uk/Planning/Display/0107/22/OPA>

All consultee responses and representations received have been read, duly considered, and taken into account when preparing this report for Members.

Lamerton Parish Council – objects:

- The site is in an unsustainable location / would be reliant upon the private car
- The Council has a 5.97 year housing land supply and there is no pressing need for housing Lamerton when its affordable housing need can be met through the indicative JLP requirement of 20 dwellings.
- There is no scope within TTV27 to overprovide for affordable housing i.e., provide more than 8 affordable homes.
- The overall mix is not justified and does not meet the requirements of TTV27
- Self-build units do not comply with TTV27 / should be counted as market dwellings
- The latest neighbourhood plan evidence is that the majority of people do not want more than 10 homes built in Lamerton

Housing Team – Supports:

- The application would meet an identified local housing need in the parish
- The size and tenure mix of the homes is agreed
- The overall housing mix would meet policy DEV8
- Visitor parking appears limited and could be improved
- Policy DEV9 of the Joint Local Plan, states that self and custom build housing will be supported in order to meet our duty set out in the Self-Build and Custom House Building regulations. The 4 serviced self-build plots would not be part of the open market housing mix. Self-Build is a different product and offers costs savings on VAT and CIL for households who wish to build their own home. According to the National Custom and Self-Build Association, you can typically save 20-40% on self-build compared to investing in a new mainstream home.
- Housing Crisis – In February 2022, West Devon Borough Council declared a Housing Crisis with a 15 point action plan. The crisis was declared in response to huge issues with affordability, lack of available properties to rent, delays in house building and the increase in short term holiday lets. This planning application if approved, would help the Borough to tackle the housing crisis.

Environmental Health Officer – no objection/comments:

- The site is accessed through residential areas and there is potential for building works to impact on existing residences. We therefore recommend that the standard CEMP condition is included in any approval.

Landscape Specialist – no objection:

- Overall, the amendments are welcomed, which suggest that the site has the capacity to provide an acceptable layout with the quantum of development proposed, whilst complying with adopted policy on design (DEV20), landscape character (DEV23), trees, woodlands and hedgerows (DEV28).

Trees – no objection/neutral:

- The landscape masterplan is a good step forward, easing pressure on the key tree.
- However, it places increased pressure on trees to the South from the proximity of units 3 to 6; seek easement of those units and those facing north.
- Require a tree management plan for the veteran Oak tree.
- An improvement but needs minor adjustment, deferring to the wider view of Landscape Specialist.

[officer comment: the minor revisions can be adequately secured at RM stage with the illustrative layout broadly followed but subject to the minor tweaks suggested – general compliance with the Landscape Strategy Plan would secure this alongside the proposed LEMP condition and obligation regarding provision, access and future management of public open space]

OSSR – no objection subject to the following conditions/obligations:

- Provision, access, and future management of open space / natural greenspace
- An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, allotments in Lamerton.

- An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, equipped play provision in Lamerton.
- An off-site financial contribution towards improvements to, and on-going maintenance of, sports facilities in Lamerton and/or Tavistock.

Ecology – no objection subject to conditions:

- The additional information provided by the applicant's ecologist has been reviewed and I can confirm this addresses our previous comments satisfactorily and I would suggest the following condition:
 - o Details of measures to protect the River Lumburn and other adjacent habitats from construction phase pollution must be detailed in a Construction Environmental Management Plan (CEMP).
- The previous response includes a suggested condition regarding a LEMP which would cover the additional mitigation detailed by Woodfield Ecology in their response.

Local Highway Authority – no objection subject to conditions:

- The proposed access geometry is acceptable in all respects and the proposals can safely be accommodated on the highway infrastructure in the village.

Lead Local Flood Authority – no objection subject to pre-commencement conditions.

DCC Education – no objection subject to obligation:

- Primary and Secondary schools have capacity to accommodate development
- A request is made for secondary education transport as there is an entitlement to transport to Tavistock College from this location.

DCC Heritage – no objection subject to condition requiring investigation / recording of archaeological deposits.

Devon and Cornwall Police – comments:

- Revised layout and reduction in units is welcome.
- Active surveillance of the open space area is limited and could be improved.

Environment Agency – no objection:

- No objection in principle.
- If any land within the flood zone is subject to permitted development rights, then these should be removed.
- A small part of the site is in FZ 2/3 and technically the Sequential Test is required. However, the layout approach is welcome and shows that a sequential approach has been undertaken.

South West Water – no objection:

- Clean potable water from the existing public main is available
- Connection to the existing foul system is available
- The proposed surface water strategy is acceptable and meets the hierarchy

Representations:

A significant number of representations have been received through the life of the application and rounds of consultation undertaken; some respondents have made multiple representations. For sake of prudence the material issues raised in all responses received are summarised below, but Members are directed to read them in full on the Councils website: <https://westdevon.planning-register.co.uk/Planning/Display/0107/22/OPA>

Objections

- Noise and light pollution, and harm from car headlights on higher ground
- Increase of flood risk
- 'Impact on environment'
- Highway and pedestrian safety issues / the proposed junction is unsafe
- Highway capacity issues
- Poor design / layout / scale
- Council will be responsible if an incident occurs on Green Hill as a result of development
- Would harm quality of life to residents of Green Hill
- Risks due to construction traffic
- Harm to heritage (designated and non-designated assets)
- Harm to character and appearance, and tranquillity, of the area and countryside
- Existing parking would be displaced
- Brownfield land should be prioritised over greenfield
- Outside of settlement / village boundary
- Loss of Devon bank
- Harm to wildlife
- More housing proposed than is needed / 10 dwellings already built in village (Koshti Bok and Cherry Court)
- Drainage issues
- No shops or key facilities in village; poor bus provision
- Does not comply with policies TTV26 or TTV27; too many market homes
- Only 10 further houses needed until 2034, 8 of which affordable
- The application should have been refused when first considered rather than reconsulting on amended plans
- This site was previously ruled out as being appropriate for housing
- More suitable sites have already been turned down by the Council
- Self-build homes are not affordable
- The viability assessment and appraisal are flawed; if not viable it cannot proceed
- 19 homes are not proportionate to village
- Harm to village character and street scene
- Would prejudice emerging Neighbourhood Plan
- Proper procedures should be followed; the Council appears intent to approve
- Contrary to Neighbourhood Plan
- The Council has 5+ years housing land supply and passes the Housing Delivery Test; the development is not needed
- The AECOM assessment stated the site was too large for housing
- Would disturb neighbouring residents' sleep
- The Council should follow its case made against the Farriers development
- Harm to biodiversity
- Other appeals show that housing must meet identified needs (Garden Mill, Kingsbridge)
- The Council could not previously make the site work and this shows it is undeliverable

- Self-builds are not more affordable than other types of property and only suit those with additional financial means
- Does not respect local grain of development
- Loss of agricultural land
- Harm to veteran Oak tree
- Loss of privacy
- Loss of outlook
- Limited bus provision unsuitable for commuting
- Contrary to NPPF
- There is no safe route to the school
- Landscape and Visual Appraisal is flawed
- Ecological information is flawed
- This is likely only the first phase of a much larger scheme
- The best way to protect and to conserve is to not build
- Too dense
- How will drainage strategy be managed
- Market homes will not be affordable
- Would contravene human rights
- Contrary to a large number of local policies
- Does not address climate change / policy DEV32
- The LHA must reconsider its position
- Lamerton is not a sustainable village
- Harm to Conservation Area

In addition to the above objections a letter was received from a planning consultancy known as 'D2 Planning', stated to be drafted on behalf of 60 residents. The letter makes the following points in summary:

- The updated Housing Needs Survey shows a need for 8 affordable dwellings. The likely need open market and self-build is likely to be significantly lower than stated.
- The application clearly exceeds the identified housing needs for Lamerton, on affordable housing alone.
- Self-build housing is not affordable housing and cannot be counted as such.
- The application does not accord with policy TTV27.
- The application is not small scale and does not relate to the frontage development of the site only; it is contrary to policy and guidance.
- It is the Council landscape officer's original comments that should be followed which show a fundamental objection to the application.
- No weight can be given to the illustrative layout provided.
- The loss of hedgerow to create visibility splays is objectionable and the scale of development is such that it will have a detrimental impact on the landscape character and appearance of the area.
- The development would conflict with the linear settlement pattern; the proposals would result in a form and scale of development which would adversely affect the linear character and appearance of the settlement. It would not appear as a natural or organic addition to the existing village form.
- There would be an over-reliance on use of private car in what is an unsustainable location.
- The application should be refused for the following reasons:

- Detrimental impact on the character and appearance of Lamerton village due to the scale of the proposals.
- Detrimental impact to the landscape character and appearance of the area.
- The site is outside the settlement limits of Lamerton in a greenfield and would result in development in the countryside which provides an excessive form of development which is not required to meet a proven local need.
- The proposals represent an overdevelopment of the site which would be detrimental to the rural character of the area. The proposals would not represent a sustainable form of development due to the lack of a permanent public transport system.

Support

- Green Hill was one of the top two sites identified for development by the previous Neighbourhood Plan group.
- The Court Barton site did not meet the affordable housing needs that this scheme will meet
- The previous proposal for development of the site by the Council has the full support of the Parish Council
- The planned mix of housing covers all needs
- Landscape strategy is positive
- Good access to services and facilities
- There is safe access to the school and the roads are regularly walked
- Accords with the development plan as a whole
- Accords with policy TTV27
- Development would be an asset to the village and support its vitality
- A single site, being the application site, is what is needed to meet needs and protect from other speculative development
- It is the most logical, centrally located site available
- As a member of the speed watch group, I can confirm that Green Hill is safe and does not suffer from speeding issues
- The views of the many supporters should be considered as opposed a small group of objectors
- Most if not all professional consultees now support or do not object to the development
- The original Housing Needs Survey was independently produced, and residents expressed an opinion that Green Hill was a preferred site.
- The most recent housing survey was not openly/independently conducted
- The application has been positively amended to address concerns raised
- Local needs housing is important to the village and residents with relatives who have been priced out of market but wish to stay local
- Lamerton needs houses for local families to keep the village young and vibrant and support the local amenities within
- The original housing report concluded a need for 8 affordable homes, 10 market, and some self-build; this application delivers that
- The previous Housing Topic Paper for the Lamerton Neighbourhood Plan concluded that Green Hill was the most suitable site for housing development
- The Parish Council should not be restarting the Plan from scratch
- The Parish Council and Council should follow the original Housing Needs Survey
- The application should not be subject to yet further delay
- As per WDBC rules, the 10 houses built to date are deemed windfall and do *not* count towards the 2034 target of 20 to 30 houses.

- This is the only scheme available that delivers the needed affordable housing
- The site layout is positive and respects the village
- The public open space would be a focal point and useful for wider residents
- Pleasing that the veteran Oak has been given a prominent role in the development
- Query the approach to energy efficiency; as many measures should be included as possible
- Query whether number of affordable homes needed is actually higher
- The site is far enough away not to harm amenity to neighbours
- Sustainable transport options are available
- The field has not been in active agricultural use for at least 15 years

A representation of support was also received from a Graham Parker. Exceptionally, their comments are copied below due to their concern that their opinions had been misrepresented by objectors:

‘I note that Stevens Scown and members of Lamerton Parish Council have quoted me in support of their objections to this application. For the record, Lamerton Parish Council has confirmed that its appointment letter to me was written under false pretences and they claim that, consequently, I did not speak for the council in any role connected with the Neighbourhood Plan, the Farriers appeal or the Green Hill application. Against that background, I object to the scurrilous way in which the Council and its solicitors have used selected quotes from me in support of their objection to the application and I reject any suggestion that I support their position. To be clear, since the Council has stated that I do not represent them in any way, until now, I have refrained from commenting on this application. However, now that the Council claims my support for their objection - without my permission - I feel able to offer my unbiased view based on several years of personal experience related to the JLP, the emerging Neighbourhood Plan and planning applications in Lamerton. In short, I support this application and believe that it should be approved. It is well related to Lamerton’s facilities, meets the landscape and urban design criteria for a sustainable development and accords with the JLP policy for development outside, but well related to, the existing built up area. It seems to me that Stevens Scown in particular misunderstands the difference between open market and other forms of housing, and I am entirely happy to debate this point further if they continue to challenge me on the point. I firmly believe that the mix negotiated by the Council accords with JLP policy TTV27 and all other relevant policies. That being the case, the LPA should consider that the proposal accords with the development plan. Since there are no material considerations that indicate otherwise, Section 38(6) of the Act requires the LPA to approve the application without delay and I would support such a decision.’

Relevant Planning History:

There is no relevant planning application history to the site, being as it is a greenfield area of pasture land. Previous considerations and the proposed Neighbourhood Plan allocation have been considered at the beginning of this report when describing the site and its constraints.

The present application has been considered on its own merits and in accordance with the present local and national planning policy framework and local circumstances.

ANALYSIS

- Principle of Development/Affordable Housing and Policy TTV27

- Housing Mix
- Landscape Character and Appearance; Trees
- Heritage
- Highways
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Energy Efficiency and Climate Change
- Planning Balance and Conclusion

Principle of Development/Affordable Housing and Policy TTV27:

The Plymouth and South West Devon Joint Local Plan ('JLP') sets an overarching strategy for delivering sustainable development that complements the existing settlement pattern within the plan area. The high-level strategy for delivering sustainable development is expressed within policies SPT1 and SPT2, with other policies amplifying and giving effect to those requirements.

The adopted JLP establishes a hierarchy of settlements to which development will be directed, and those settlements are named as part of policy TTV1. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy describes how the settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside will be used to inform whether a development proposal can be considered sustainable or not.

As paragraph 5.5 of the JLP explains, policy TTV26 will be applied 'outside built-up areas' and if so adjudged, will fall within the Countryside (on the bottom tier of the settlement hierarchy). In this case, it appears to be common ground between all parties that the site falls within the Countryside and is not a site strictly speaking within the village (despite in officers' view that it is nevertheless well-connected to the settlement).

Consequently, for the purposes of policy TTV1 of the JLP, the proposal site is located within the fourth tier of the Council's settlement hierarchy, which relates to Smaller Villages, Hamlets and the Countryside. In such circumstances, policy TTV1 explains that: 'development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27.'

In accordance with policy TTV1 the applicant makes a case under policy TTV27. This policy relates to "exception sites"; that is, sites that would not otherwise ordinarily be released for residential development, but which are required to meet identified affordable housing needs. This is because residential sites in the Countryside are unlikely to have any occupational justification and would therefore fail to accord with Policy TTV26 even if they are not isolated.

To comply with policy TTV27, it must be demonstrated that the site is adjoining or very near to an existing settlement. This aspect of the policy is clearly satisfied. Furthermore, the application must demonstrate that:

1. It meets a proven need for affordable housing for local people.
2. It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40% of the homes or 40% of the land take excluding infrastructure and services.

3. Management of the scheme will ensure that the dwellings continue to meet the identified need in perpetuity.
4. The proposal meets the requirement of all other relevant policies of the Plan.

Those criteria are considered as follows:

1. The development is proposed to deliver 10 affordable homes for local people. It is understood that the most recent recorded Housing Needs Report/Survey revealed a need for 8, new affordable homes 'in the near future' based on the survey with a response rate of 35%. As the Report recognises, it only represents a snapshot in time and any provision of affordable housing should account for this and recognise that personal circumstances continually evolve. In discussion with the applicant and the housing officer, it is quite foreseeable that there may be further, concealed need within the locality such that there may be a greater need than that currently identified. In any event, the application would meet the proven need that has been identified and therefore the application accords with the policy in this respect where it has the full support of the Council's housing team. That the application proposes two affordable homes additional to the 8 units recommended by the Report is not considered to be of consequence to compliance with the policy overall, recognising that the 8-unit figure is not unequivocal and in consideration of the housing and affordability crisis that persists in the Borough and affecting Lamerton.
2. There are a number of elements to the second limb. Firstly, that the scheme can provide for market housing products as part of the overall mix but only where necessary to make the scheme financially viable. Naturally, this should be the minimum amount of market housing to ensure the delivery of the affordable homes proven to be needed i.e., it is not a market-led scheme. Secondly, any open market housing must not represent more than 40% of the homes or 40% of the land take excluding infrastructure and services.
 - In respect of the first element the application has been through an iterative process and has been subject to external and independent viability review where various financial scenarios have been run to establish the minimum number of market housing units to provide a deliverable scheme. The conclusions of the appointed consultant are copied as follows:

'The aim of granting consent for development in rural areas is to encourage the provision of affordable housing. A scheme that is not viable is unlikely to be deliverable, and therefore not able to provide the affordable housing urgently required.

The purpose of this review is to assess the viability (s) of this application as presented. Consequently, this review found it possible to increase the number of affordable homes outlined in the original 21 unit scheme submission. Following a number of meetings with WDBC officers and the applicant, the architect submitted a final revised scheme (drawing - 2319/PL-04). This indicative layout plan provides 10 affordable homes, 5 Market houses and 4 self-build plots. This updated option is deemed viable.

As mentioned, the prime objective of a Rural Exception Site under policies in the Local Plan (TTV 26/27), is to provide local affordable housing. In

order to ensure that the development is deliverable, the viability exercise is undertaken to assess the minimum number of open market homes that are required to cross fund the scheme and comply with other policy requirements.

In this instance the updated application, of 19 units, with 10 affordable homes, 5 Market houses and 4 self-build plots achieves this intention.'

This aspect of the criterion is therefore satisfied.

- The second element has been subject to debate, and this ultimately turns upon how the proposed self-build units are treated. In this case there are proposed to be 4 self-build units and it is now proposed that two of the self-build plots be subject to a 20% discount on their market value, with a local connection tie (JLP area) with the remaining two to be sold at full value.

The view of the Council's housing team is that self-build homes are more affordable in general terms even if they do not strictly meet the definition of affordable housing (and would also meet a need identified in the Housing Needs Report). However, if they are not affordable homes consistent with the understood definition (JLP or NPPF) then this is of great importance to determining whether the 40% threshold of open market housing as part of the overall mix has been exceeded. Clearly, on the view of the objectors to the scheme this means that 9 of the 19 units would be open market houses and this equates to 47% thus failing to comply with the policy.

However, debate arises in the interpretation of this part of the policy and whether there is a material difference between 'open market housing' and 'market housing products'. It has been officers view that there is, and that the use of two different terms, within the same policy criterion, is deliberate and of meaningful consequence. The Housing team have also advised that the self-build plots should not be considered as open market housing. Where the interpretation of planning policy is a matter of law, officers have been provided with a legal opinion drafted by Counsel to the applicant and which concludes as follows:

'The policy does not provide any definition of either 'market housing' or 'open market housing', nor does the Development Plan as a whole or the SPD. Taking things back to basics, all that an 'open market' is, is an unrestricted market with free access. There are many different types of self and custom-build housing, some of which will be accessible on the market on an arguably unrestricted basis. However, in this case, two of the self-build plots are being offered at a 20% discount on their usual market rate. Accordingly, it is arguable that they cannot reasonably be said to comprise 'open market housing'. This would mean that only 7 of the 19 dwellings proposed could be reasonably described as 'open market housing', which is around 36% so within the confines of the policy.'

In light of the above, the 'open market housing' of either 5 open market dwellings or as a worst-case 7 open market dwellings (if including the two undiscounted self-build plots) would not exceed 40% of the total homes to be provided on the site (being 37%).

Likewise, those units would not represent more than 40% of the land take excluding infrastructure and services. Whilst layout is a reserved matter the submitted illustrative layout demonstrates how this can be achieved.

The second criterion of the policy is therefore satisfied.

3. The third criterion can be satisfied through obligation as part of the proposed s106 legal agreement and the applicant is agreeable to this control.
4. For the reasons set out in subsequent sections of this report, the proposal meets the requirements of all other relevant policies of the plan when taken as a whole. This criterion is therefore satisfied.

Overall, therefore, the application accords with policy TTV27 and this aids in establishing the in-principle acceptability of the development.

Consistent with policies SPT1 and SPT2, Strategic Objective SO10 provides context and gives effect to policy TTV27 and clarifies what the plan seeks to achieve in Countryside locations. Of relevance to this application, the strategic objective states:

'SO10 Maintaining a naturally beautiful and thriving countryside

To protect, conserve and enhance the natural beauty of South West Devon's countryside, and to avoid the creation of new homes development in unsustainable or inappropriate locations.

1. Delivering new homes only in areas where there is an identified local need.
2. Protecting and managing the landscape.
3. Contributing to carbon reduction measures by reducing the need to travel...'

As stated, the development would meet local housing needs which accords with SO10.1 (and policies SPT2 and DEV8). Local landscape character is capable of being conserved, consistent with SO10.2.

In respect of connectivity (SO10.3 and policy SPT2), officers do not consider the site to be in a wholly unsustainable location given the proximity of local facilities such as play provision and the primary school which are both walkable. Whilst the route to the school is quite narrow and without pavement, it is nevertheless a rural village where anecdotally other families make the same journey without issue and the nature of Green Hill is such that cars are unlikely to speed. Objectors have pointed to the limited bus service provision but in officers' view it is not so limited to be unusable for planned trips, recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (as NPPF para. 109). On balance, there would likely remain reliance upon the private vehicle to access local services, but the site location is not inherently unsustainable and there would be no conflict with the above policies.

Overall, the application therefore accords with policies SPT1, SPT2, TTV1, TTV27, and DEV8. It is acceptable in principle, subject to consideration of other material issues and relevant policies of the JLP.

Policy TTV25

Many objections refer to policy TTV25 and a concern that in approving the application too many houses will be built for Lamerton over and above the 20 houses figure indicated in the JLP. Aside from the fact that the lead policy for the determination of this application is TTV27,

because it is a rural exception affordable housing scheme, this criticism requires careful consideration.

Policy TTV25 concerns development in Sustainable Villages, and Lamerton is designated as such. The JLP seeks 550 homes from those villages as part of the overall housing supply for the TTV Policy Area; however, neighbourhood plans are seen as the key to identifying and meeting those needs. TTV25 identifies that Lamerton can accommodate around 20 dwellings, which should be provided through a neighbourhood plan. Where there is no neighbourhood plan, the Local Planning Authority is still able to support development which meets the identified need of local communities and which responds positively to the indicative figures set out in the policy, providing that development falls within the village (3rd paragraph).

Therefore, irrespective of whether the site falls within or outside of the village, and the compliance with policy TTV27 which provides an exception for housing in rural areas outside of settlements, the housing numbers are indicative and should be informed by local evidence. The supporting text to the policy further states that the indicative housing requirement figure should be interpreted on a local basis: neighbourhood plans or development-led proposals may deliver more or less than indicated but such action must be justified by an appropriate level of evidence.

In respect of the indicated 20-dwelling figure, it is correct that two permissions for development in Lamerton already exist and which amount to 10 dwellings¹. Neither scheme delivered any affordable housing. Those sites should be counted toward the indicative housing requirement for Lamerton, and the Council has previously advised the Parish Council that this is considered to be the case.

However, the Housing Needs Report published in December 2021 provides the most up to date assessment of housing need for the village as a true “bottom up” assessment, to be contrasted with the “top down” indicated apportionment of housing provided by the JLP.

The Housing Needs Report identifies a local need in the near future for 8 no. affordable housing units, as dealt with above. Supporting data within the Report also indicate a need for 10 no. open market units and 9 no. self-builds, however preference for those tenures could be selected by respondents together; thus, the true open market/self-build general housing “need” is likely to be much lower (as some objectors have pointed out). Such needs would still therefore be addressed by the application proposal in this case recognising the 5 open market and 4 self-build plots to be provided (two of which being available at a discounted rate and further restricted to purchasers with a local connection).

On that basis, aside from the fact that the application is justified in principle through policy TTV27 because it meets a proven need for affordable housing as an exception site, it would nevertheless generally accord with policy TTV25 too, insofar as it responds positively to the indicative requirement supported by more up to date evidence of housing need.

Landscape Character and Appearance; Trees:

The policies of the development plan seek to secure high-quality design (policy DEV10) and recognise the intrinsic character and beauty of the countryside; the application of policies DEV20 and DEV23 seek to secure development that is compatible with it.

¹ Application refs. 3244/16 and 1462/17.

The site is not within any protected landscape designation (National Park or Landscape/AONB) but is within an area that provides an important visual setting to these two designations. It is within the 3G River valley slopes and combes West Devon Landscape Character Type. A Veteran Oak tree, the subject of a TPO, is situated slightly to the east of the centre of the field.

The application is in outline (save for access) and therefore matters of scale, layout, landscaping, and appearance are reserved for consideration at a later date. Nevertheless, it is incumbent upon an applicant to show how the development might acceptably be delivered at that stage having regard to the site-specific constraints.

The outline application is supported by a Landscape and Visual Appraisal (Greenearth Landscape, Dec 2022) which is considered proportionate to the nature of the proposal, and which provides an appropriate evaluation of the current condition of the character and visual amenity of the site and surrounding area. There is also a Landscape Strategy Plan, which has informed the illustrative layout of the development and indicated how it might be brought forward, and which would provide for a generous ratio of green space (both public and private).

In this case the Council's specialist landscape officer raises no objection in principle and their comments are endorsed. The layout is indicative, and the site appears to be able to be accommodate the outline development proposals without unacceptably affecting the landscape character and visual amenity of the site and its environs. The final illustrative layout demonstrates how the LVA recommendations – as provided for in the Landscape Strategy Plan – can be acceptably accommodated. Whilst some further tweaks to the layout shown would be required, such as in relation to the frontage hedgerow, these are all capable of being secured at the reserved matters stage:

'I would support the idea of an axial layout that highlights the veteran Oak as a key feature of the site – this is an approach that should be explored further if the design progresses beyond Outline stage.

The reduction in dwelling numbers from 21 to 19 (10no. affordable, 5no. open market, and 4no. self-build) is noted.

Both layouts indicate that Landscape Officer's and Landscape Consultant's (LVA) comments have been considered, and the following points are welcomed (noting the indicative nature of the illustrations):

- a number of dwellings now front onto Green Hill Road, creating an active frontage which is more in-keeping with the rural lane character;
- development now avoids the higher ground in the north-west, where there would be likely to be adverse effects on the character and appearance of the landscape;
- The POS now shown in the NW of the site, along with the swales / attenuation features in the NE and the wider area around the veteran tree, will offer opportunities for further enhancements to the character and appearance of the landscape, and habitat and biodiversity improvements;
- the Landscape schematic suggests that dwellings would also front onto the POS as well as Green Hill, which is an opportunity that should be explored if the design progresses, as it would offer natural surveillance benefits, as well as providing an attractive outlook for those dwellings. This approach is not reflected in the amended site configuration diagram, which shows dwellings backing onto the POS to the NW.

Both 'layouts' suggest a suitable area of space has been allowed around the veteran oak tree, and that it is intended to be a focal point of the development (although the 'layout' arrangement varies between the plans).

I am aware that the WDBC Tree Officer has commented on the increased proximity of units to the hedgerow trees along Green Hill, which is an issue that would need to be addressed in any detailed layout.

The position of self-build plots at site entrance does raise concerns about allocating these key plots on the site as self-build. It would be important to establish whether there would be controls on when these plots would be built out, and what the detailed design / appearance would be, as they are located at a key arrival point to development and would be the dwellings most visible from road.

Ideally, if such controls are not possible, the self-build should be relocated to a less prominent location on the site, especially if there is a risk that their design and development may be out of the developer's control.

In relation to other indicative plots, it should be possible to redesign these to avoid tandem parking within the available space.

The additional landscape schematic layout is broadly welcomed and describes some beneficial approaches to mitigation of adverse visual effects, and goes some way to explain how the proposal might respond positively to the current settlement characteristics of the village.

Overall, the amendments are welcomed, which suggest that the site has the capacity to provide an acceptable layout with the quantum of development proposed, whilst complying with adopted policy on design (DEV20), landscape character (DEV23), trees, woodlands and hedgerows (DEV28).'

Read as a whole, the development is capable of accords with relevant development plan policy, including policies DEV10, DEV20, and DEV23. This would be subject to ensuring by condition that the final scheme at reserved matters generally accords with the positive Landscape Strategy Plan. Officers share the concern regarding the final design of the self-build plots and again this can be controlled through condition (both phasing / in respect of which housing types are located where but also securing consistency in design through the agreement of 'Plot Passports'/Design Code which is a typical measure in such schemes).

It is axiomatic that development of a greenfield site brings with it a degree of harm and to that extent makes it exceedingly difficult to both conserve *and* enhance the landscape. However, in this case it has been satisfactorily demonstrated how the development could assimilate into its setting and fulfil the objectives of development plan policy as well as recognising the intrinsic character and beauty of the countryside and villagescape thereabouts. The application is therefore acceptable in this respect. Contrary to some objections made, officers consider that the development could, if designed in accordance with the Landscape Strategy Plan, be laid out in a manner consistent with the local grain and settlement pattern.

In respect of the veteran Oak tree, planning policy DEV28 and the NPPF seek to safeguard such assets. In this case compliance with the Landscape Strategy Plan, alongside condition/obligations relating to future provision, access, and management of public open space, will ensure that this important tree is protected and would in fact form a key element

and visual feature of the public realm within the development. The Landscape Strategy also proposes additional hedge planting to mitigate for the loss caused by the provision of site access and this can be subject to further consideration at reserved matters. The application therefore complies with planning policy in this regard also.

Heritage:

In accordance with s66 of the Listed Buildings Act special regard has been paid to the desirability of keeping listed buildings as designated heritage assets from harm; in practice this means affording considerable importance and weight/great weight to any harm identified and recognising that any such harm gives rise to a strong presumption against granting permission. Every effort must be made to at least preserve significance.

Policy DEV21 identifies that development proposals will need to sustain the local character and distinctiveness of the area by conserving and where appropriate enhancing its historic environment, both designated and non-designated heritage assets and their settings, in a manner appropriate to their national and local significance. The policy goes on to state that great weight will be given to the conservation of the Plan Area's designated heritage assets. Where development proposals will lead to any harm to the significance of a designated heritage asset, they must be fully justified against the public benefits of the development. Development that harms the significance of locally important non-designated heritage assets, or their contribution to the character of a place will only be permitted where it can be justified on the basis of a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset. The local policy is consistent with the relevant provisions of the NPPF, particularly Chapter 16: 'Conserving and enhancing the historic environment'.

In this case there is a single asset of concern, being close to the application site: the Grade II-listed Greenhill and Homelfigi (now known as 'Foxglove Cottage', list entry: 1326230) located around 50m southwest of the westernmost boundary of the site and separated by mature landscaping and the wider field edge.

Its listing description is as follows:

'Pair of houses. Early C19 with some C20 alterations. Rubble, slate-hung front from about 1 metre above ground level, colour washed and rendered sides, asbestos slate roof with gable stacks. Double depth plan with entry at front of cottage to left and in right gable end of cottage to right. Cottage to left has passage along party wall formed by partition access to rear room. 2 storeys and 2 windows, all 2-light casements of 4 panes each, smaller under eaves, off-centre slightly to left C20 glazed and gabled porch with half-glazed inner and outer door, slate hanging has decorative string formed by 2 courses of scalloped and diamond-cut slates; attached to right a brick lean-to porch with door with glazed panel and 2-pane light to side. Left return has 2-light casement at ground and first floor right. Rear outshut has ground and first floor similar casement and door with glazed panel, ground floor openings with segmental heads. Interior not accessible. Built as pair of houses, formerly part of Camplehay Estate in Lamerton C.P.'

Foxglove Cottage principally derives its significance through its physical presence and related heritage interests; in that regard, as a listed building it would not be directly harmed by the proposed development. However, it is important to consider how its setting may be affected such that there may be impact upon significance indirectly.

There is some visual connection between the application site and the asset despite the dense, mature landscaped boundary that encloses the field parcel that includes the application site.

However, in historic and functional terms there appears to be limited connection between the two. For example, the Tithe records from the 1840 apportionment show the house(s) and associated land to be in different occupation to the land comprising the application site (Plots 570 and 571), identified as 'Hoopers' being pasture land occupied by Revd William Cowland.

The application site boundary has been deliberately drawn to leave a buffer of c.50m from the field edge and the site boundary would itself be subject to additional planting as part of the proposed Landscape Strategy Plan. The degree of separation involved is such that the surroundings in which the listed building is experienced would not be harmfully interrupted i.e. there would be no erosion of the significance of the building and the way that its heritage interests are understood.

Even if, adopting a very cautious stance that the development would be harmful, such harm would be 'less than substantial' within the understood local and national meaning, and would be at a low level. Such harm, even if afforded considerable importance and great weight, would not outweigh the very significant public benefits of the development as a housing scheme proposed to meet a proven local affordable housing need (and the other associated public benefits to flow from that).

On that basis, the application would accord with policy DEV21, and permission can be granted when following the statutory duties in the Listed Buildings Act. The heritage harm, however, still remains to be weighed in the overall planning balance against the other considerations of harm and benefit.

The property known as Marlin

Some objections have referred to a nearby property known as Marlin, located opposite the application site, and the potential for harm where it has been previously identified by the Council as a 'non-designated heritage asset' (NDHA). However, in a recent appeal a planning Inspector determined that the building was not a heritage asset (APP/Q1153/D/21/3289366, April 2022), stating:

'Marlin is a traditional, two storey, stone and slate built semi-detached dwelling with a single storey, rendered rear addition. The building has a pleasing form and appearance and lies within the historic core of Lamerton. However, there is no evidence to demonstrate any significant heritage value. It does not appear to have been identified as a non-designated heritage asset (NDHA) through the plan-making process. Neither is it on any list of such assets that may be held by the LPA, and it is not identified on the Historic Environment Record. There is nothing of substance to support the argument that Marlin should be treated as a NDHA.'

Officers have reflected on that decision and accept the judgement of the Inspector.

Even if the building were still considered a NDHA, any harm by virtue of the development falling within its setting would realistically be very low and such harm would not be subject to the same statutory presumption against permission and great weight because it is not a listed building. Such harm when undertaking a balanced judgement (as policy DEV21 and NPPF 209) would fail to interrupt the overall judgement of compliance with the development plan as a whole and the clear direction to grant planning permission when accounting for the very weighty public benefits associated with delivering housing to meet a proven affordable housing need in the locality.

Highways:

The LHA is satisfied that safe and suitable access can be achieved for all users and that impact upon the local highway network would be acceptable. The application therefore accords with policy DEV29 and the NPPF in that respect. Detailed consideration of parking provision and internal layout would be for determination at reserved matters.

In having regard to the above, it is considered that the proposal accords with JLP Policy DEV29.

Residential Amenity:

It is always necessary for developments to take into account the amenities of neighbours, third parties and impact on the environment. In this case, the proposed development is capable of complying with the principles of good neighbourliness and the protection of existing residential amenities. This will require further assessment at the reserved matters stage when the full and final details of the proposed development are known, however a high standard of amenity for future occupants is capable of being secured.

The development would therefore accord with JLP Policies DEV1, DEV2, DEV10 and the requirements of the NPPF.

Flood Risk and Drainage:

The red-lined application boundary has been drawn so that the site is within Flood Zone 1, but it is recognised that a small portion of land east of the wider site/field parcel is located adjacent to the River Lumburn and within Flood Zones 2 and 3 (medium and high probability of fluvial flooding). Even so, this area has been left as undeveloped and so the entirety of the developable area of the site is within Flood Zone 1. As a matter of judgement, the Sequential Test is not therefore considered to apply recognising in any event that the Environment Agency raise no objection.

The site is located at elevations above 113m AOD which is outside of the tidal limit. Therefore, the proposed developable areas of the site are not at significant risk of flooding from either fluvial or tidal sources. Groundwater flooding is also not considered to be a risk to the development.

The indicated surface water drainage system principally relies upon an attenuation basin located towards the lower levels of the site in the east which will discharge to the river at a controlled rate. The LLFA raise no objection, and this can be considered further at reserved matters/through the imposition of a planning condition that will deal with the final design of the drainage strategy based on the final approved layout.

SWW also raise no objection and are content that foul capacity is available.

The application therefore accords with policy DEV35.

Ecology and Biodiversity:

An Ecological Impact Assessment has been submitted with the application alongside a further 'Response' document to deal with the initial comments of the County ecologist. Subject to precautionary, mitigatory and enhancement measures it is considered that the application would safeguard protected and/or priority species.

In respect of BNG, the proposals would deliver net gains for habitats of c. -25% and hedgerows of 49%, therefore meeting the requirement for a 10% net gain for hedges but falling short for habitats and an alternative means of securing additional biodiversity units is required to meet the 10% net gain target. This can be secured via s106, and the ecologist raises no objection on that basis. 'Off-site' gains can be made if utilising the land immediately to the south-west and the applicant has indicated that this can be acquired and provided alongside the development site. Notwithstanding that each case turns on its own merits, such a solution would also give comfort that this scheme is not the 'thin end of the wedge' and would not be a prelude to further development beyond the current red-lined area.

The site falls within the Zone of Influence for new residents likely to have a recreational impact on the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA). Mitigation will be delivered through the 'Recreation Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site' which requires all residential development within the 12.3km Zone of Influence to contribute towards the costs of the Scheme plan. This can be appropriately secured by legal obligation, and this approach has been agreed by Natural England. Adverse impact to the protected areas can be avoided and an Appropriate Assessment has been carried out on that basis.

On that basis, the application is considered favourably where it accords with policy DEV26.

Energy Efficiency and Climate Change

The application is accompanied by an Energy/DEV32 statement which details how these policy requirements are capable of being met. Relevant measures are summarised by the applicant as follows:

'Each dwelling will use modern, efficient materials and sustainable principles throughout to justify the embodied energy of the build against lifetime energy savings made. The scheme will include:

- Air source heat pump or Photovoltaic panels on each dwelling.
- High Levels of insulation and air tightness
- Low energy light fittings
- Water saving taps and flow regulating access valves
- Dual flush sanitary systems
- Low E, Argon gas filled double glazed windows
- Electrical car charging points

In terms of the Building Regulations the heat/energy loss of all individual elements of the building such as walls, floors, windows, etc. will be designed to either meet or exceed the requirements of the regulations. This equates to a vast improvement in energy efficiency and lower running costs over the life span of each house and reduced energy bills for residents.'

This is however a matter for later determination once the full and final details of the development are known. This can be appropriately dealt with by way of planning condition to comply with local policy.

Planning Obligations and Infrastructure:

To make the development acceptable in planning terms, the following obligations and infrastructural contributions are required, where based on the justification provided by consultees and having regard to the contributions evidence base, they are considered to meet the CIL 122 tests. Heads of terms as follows:

- i. Affordable Housing as required by Housing team (inc. provision of self-builds and controls for discount sale and local connection on relevant plots)
- ii. Provision, access, and future management of open space / natural greenspace
- iii. An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, allotments in Lamerton.
- iv. An off-site financial contribution towards provision of/improvements to, and on-going maintenance of, equipped play provision in Lamerton.
- v. An off-site financial contribution towards improvements to, and on-going maintenance of, sports facilities in Lamerton and/or Tavistock.
- vi. Secondary education transport
- vii. Tamar EMS contribution
- viii. Biodiversity Net Gain

The Applicant has accepted the need for a legal agreement to meet the above obligations and a draft deed is in preparation to be completed before permission can be granted. The application can therefore be treated favourably in accordance with relevant policies including DEV4, DEV8, DEV27, and DEV30.

Planning Balance and Conclusion:

The recent case of *Corbett*² has re-emphasised that a key part of the s38(6) statutory duty is to determine whether the development accords with the development plan when viewed as a whole. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision taker must therefore make a judgement as to whether a proposal is in accordance with the plan as a whole, bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach.

Overall and in the round, the application is considered to accord with the development plan. The development positively responds to identified needs and is in a sustainable location well-related to the settlement; the development would not give rise to any unacceptable harms being as they are outweighed by the significant public benefits, even where considerable importance and weight is afforded to any heritage harm identified.

The direction is to grant planning permission, subject to the completion of a s106 agreement to secure the necessary obligations set out in this report and subject to the imposition of planning conditions including those drafted above.

This application has been considered in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Relevant policy framework

Section 70 of the Town and Country Planning Act 1990 requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the Planning and Compensation Act 2004 requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council,

² *R (Corbett) v Cornwall Council* [2020] EWCA Civ 508.

South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13th May 2019 confirming the change.

On 19th December 2023 DLUHC published the HDT 2022 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 121% and the consequences are "None".

The combined authorities can demonstrate a 5-year land supply of 5.84 years at end March 2023 (the 2023 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2023 (published February 2024).

[*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

SPT14 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV26 Development in the Countryside

TTV27 Meeting local housing needs in rural areas

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV3 Sport and recreation

DEV4 Playing pitches

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

DEV9 Meeting local housing need in the Plan Area

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV21 Development affecting the historic environment

DEV23 Landscape character

DEV26 Protecting and enhancing biodiversity and geological conservation

DEV27 Green and play spaces

DEV28 Trees, woodlands and hedgerows

DEV29 Specific provisions relating to transport

DEV30 Meeting the community infrastructure needs of new homes

DEV31 Waste management

DEV32 Delivering low carbon development

DEV35 Managing flood risk and Water Quality Impacts

DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Neighbourhood Plan:

The Lamerton Neighbourhood Development Plan is at an early stage of the plan-making process such that it carries no determinative weight in this decision.

Other Material Considerations:

Additionally, the following planning documents are also material considerations in the determination of the application:

- The Plymouth and South West Devon Supplementary Planning Document (JLP SPD)

Other material considerations include the policies of the NPPF and guidance or policy in the national Planning Practice Guidance (PPG).

The development complies with the policies of the NPPF when considered as a whole. That consideration reinforces the direction of the development plan in approving the development and, in accordance with the presumption in favour of sustainable development (para. 11.c)), planning permission should be granted without delay.

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

.....

Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale of the development, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

[Reasons for conditions 1 – 3: To comply with the requirements of the planning Acts.]

4. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan drawing ref. 2319 (S-)-01; and Site Access drawing ref. (PL-)02 A.
5. The reserved matters shall be in general accordance with the Landscape Strategy Plan ref. GE-LAM-01 A.
6. Concurrent with the first application for approval of reserved matters, a phasing plan for the location and delivery of the open market, affordable, and self-build dwellings hereby permitted shall be submitted to the Local Planning Authority for approval.

[Reasons for conditions 4– 6: For the avoidance of doubt and in the interests of proper planning to secure an orderly development and to ensure that the resultant development is consistent with the assessment undertaken in granting outline planning permission]

7. The open market dwellings shall accord with Category M4(2) of the Building Regulations and the Nationally Described Space Standards.

[Reason: To ensure that at least 20% of the dwellings to be delivered are of the required accessibility standard, in accordance with policy DEV9]

8. The plans and particulars submitted in accordance with condition 1 above shall include details of the mix of type and size of the open market dwellings to be provided (i.e. excluding the affordable homes and self-build dwelling plots). The development shall be carried out in accordance with the approved details.

[Reason: To ensure an appropriate mix of open market housing to reflect housing needs as required by policy DEV8, where affordable housing is controlled by obligation and self-build housing is only available to self-builders]

9. The plans and particulars submitted in accordance with condition 1 above shall include a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS). The TPP and AMS shall include:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of any demolition proposed within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) A full specification for the installation of boundary treatment works.
- e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) A specification for any scaffolding and ground protection proposed within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires.
- k) Any boundary treatments within the RPA.
- l) Methodology and detailed assessment of root pruning.
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist.
- n) Reporting of inspection and supervision

The development thereafter shall be implemented in strict accordance with the approved details.

[Reason: To ensure that important trees on or close to the site will not be damaged during demolition or construction and to protect and enhance the character and appearance of the site and locality, in accordance with policy DEV28]

10. The plans and particulars submitted in accordance with condition 1 above shall include details of how the development will meet with the objectives of policy DEV32 of the Plymouth and South West Devon Joint Local Plan. The development shall be carried out in accordance with the approved details and maintained in perpetuity thereafter.

[Reason: To demonstrate that the development that the development can deliver low carbon development in accordance with Policy DEV32 of the Plymouth and South West Devon Joint Local Plan.]

11. The plans and particulars submitted in accordance with condition 1 above shall include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and long-term management. The development shall be carried out in accordance with the approved details.

[Reason: In the interests of safeguarding ecology and biodiversity, in accordance with policy DEV26.]

12. The plans and particulars submitted in accordance with condition 1 above shall include the submission of a detailed Lighting Strategy that will minimise indirect impacts from lighting associated with the pre- construction, during construction and operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance has been implemented. The development shall be carried out in accordance with the approved details.

[Reason: In the interests of safeguarding ecology and biodiversity, and residential amenity, in accordance with policies DEV1, DEV2, and DEV26.]

13. The plans and particulars submitted in accordance with condition 1 above shall include:

- a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins.
- b) A detailed drainage design based upon the approved Residential Development, Green Hill, Lamerton, Devon Flood Risk Assessment incorporating A Surface Water Drainage Strategy (Report Ref. J-2078, Rev. 01, dated 15th September 2021) (for soakaway option) and Drawing Conceptual Surface Water Layout (Drawing No. 3001, Rev. C, dated 05th April 2022), and the results of the information submitted in relation to (a) above.
- c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- e) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

[Reason: The above condition is required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG, and policy DEV35. The conditioned details are required concurrent with reserved matters since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.]

14. Before the development hereby permitted is commenced a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved CMP. No burning shall take place on site during the site clearance/demolition or construction phases of the development.

The CMP shall include the following matters:

- a) Haul routes for construction traffic on the highway network and monitoring and review mechanisms.
- b) Compound locations with full details [position, size and appearance] in relations to site office/s, welfare units, building material storage areas, skip/s, concrete silo/s, on-site parking areas for construction workers, site access arrangements.
- c) Overburden/topsoil storage areas, fuel storage, hazardous materials storage.
- d) Provision of boundary hoarding with publicly visible contact details [phone and email] for site manager and lighting.
- e) Details of proposed means of dust suppression
- f) Details of equipment/plant noise suppression.
- g) Full piling details, if proposed.
- h) Details of measures to prevent mud from vehicles leaving the site during construction including wheel washing facilities and their management.
- i) Details of deliveries times to the site during construction phase.
- j) Details of provision to ensure pedestrian and cycle safety.
- k) Programme of works (including measures for traffic management and operating hours and hours of construction).
- l) Parking and turning for vehicles of site personnel, operatives and visitors.
- m) Loading and unloading of plant and materials.
- n) Storage of plant and materials.
- o) Provision and maintenance of a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the construction period.

[Reason: In the interest of residential amenity, highway safety, to avoid the hazard caused by mud on the highway and to ensure minimal adverse impact on the public highway during the construction phase. A pre-commencement condition is required in order to appropriately plan for an manage construction.]

15. Prior to commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include the following matters:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) Measures to safeguard the River Lumburn and other adjacent habitats from construction phase pollution.
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.
- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs.
- j) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP shall be adhered to and implemented throughout the construction period.

[Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).]

16. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

[Reason: To ensure, in accordance with Policy DEV21 and paragraph 200 of the NPPF, that an appropriate record is made of archaeological evidence that may be affected by the development. This condition is required pre-commencement to ensure that any archaeological assets are not harmed or destroyed.]

17. No development shall commence until a Development Design Code for the 4no. self-build plots has been submitted to and approved in writing by the Local Planning Authority. The Development Design Code shall set out the guiding principles to be applied in the design of the self-build dwellings, associated structures, hard surfaces and landscaping to be constructed pursuant to the development of those relevant plots. The code shall include maximum building height, built form, appearance, materials, plot coverage, set back from plot boundaries, boundary treatment, access and parking facilities, protection of existing trees and hedges. The design of each dwelling the subject of this permission shall be developed in accordance with the approved Development Design Code.

[Reason: To secure an orderly and coherent design with the rest of the development, in the interests of good design and the character and appearance of the area in accordance with policies DEV10, DEV20, and DEV23.]

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

sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

19. No other part of the development hereby approved shall be commenced until:
- a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway.
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out.
 - c) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.

[Reason: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.]

20. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
- a) 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.
 - b) 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.
 - c) The cul-de-sac visibility splays have been laid out to their final level.
 - d) The street lighting for the cul-de-sac and footpaths has been erected and is operational.
 - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed.
 - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined.
 - g) The street nameplates for the cul-de-sac have been provided and erected.

[Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site.]

21. When once constructed and provided in accordance with condition 20 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.

[Reason: To ensure that these highway provisions remain available.]

22. The development shall at all times adhere to, and be carried out in accordance with, the recommendations and enhancements contained within the Ecological Impact Assessment (Woodfield Ecology, November 2021) and associated 'Green Hill Response to LPA Ecologist Comments' document (Woodfield Ecology, March 2022).

[Reason: In the interests of safeguarding ecology and biodiversity, in accordance with policy DEV26.]

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

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

[Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately, in accordance with policy DEV2.]