

## PLANNING APPLICATION REPORT ADDENDUM

**Case Officer:** Chloe Allen

**Parish:** Totnes **Ward:** Totnes

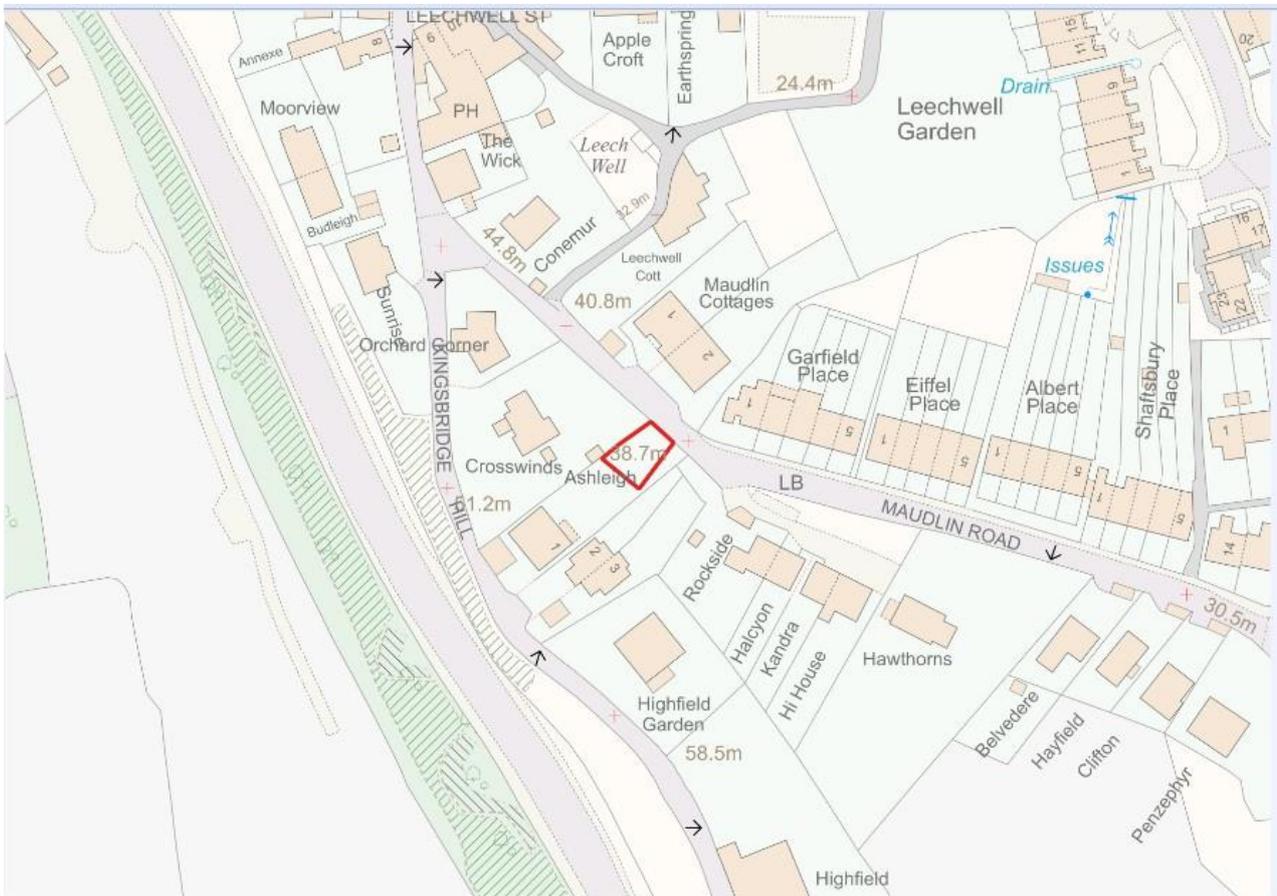
**Application No:** 3048/21/FUL

**Agent/Applicant:**  
Mrs Amanda Burden - Luscombe Maye  
Luscombe Maye  
59 Fore Street  
Totnes  
TQ9 5NJ

**Applicant:**  
Mr And Mrs G Ford  
c/o agent

**Site Address:** Montgo, Maudlin Road, Totnes, TQ9 5TG

**Development:** Provision of single dwelling house (resubmission of 1668/20/FUL)



### **Reason item is being put before Committee:**

The application was called to committee by Councillor Birch who stated *'The planning issues are finely balanced and there is an argument that the grounds for refusal as set out in the previous application apply.'*

The application was originally to be heard at Planning Committee on 16<sup>th</sup> March 2022, with the Officer Report having been published as part of the agenda, recommending approval of the application, subject to conditions.

The application was deferred to a later Planning Committee following concerns raised regarding the site location plan red outline and whether this correctly shows the land ownership and certificate which has been completed in the application form (Certificate A).

**Recommendation:** Conditional Approval.

The application remains to be recommended for conditional approval, however, there are a number of updates since the published Officer Report, as set out in the Analysis section of this report.

**Conditions:**

1. Time limit
2. Approved plans
3. Land stabilisation details
4. Site levels
5. Construction management plan
6. Construction environmental management plan
7. Access, parking and drainage
8. External materials
9. Boundary treatments
10. Landscaping scheme
11. EV charging point
12. Bin storage
13. Surface and foul water drainage
14. DEV32
15. Unidentified contamination
16. PD Removal

**Key issues for consideration:**

- Principle of development (including housing mix)
- Design/landscape
- Neighbour amenity
- Ecology
- Highways, parking and waste
- Flooding, drainage, contamination and land stability
- Sustainable construction

**Consultations (since published Officer Report):**

- **DCC Highways** – Happy to accept the proposed solution if a concrete impermeable apron/kerb is installed between the highway and the permeable pavement to ensure any permeable pavement driveway water is unable to discharge into the adjacent road construction. Depth of 600mm should be sufficient in this case. Noting the alternatives are not feasible, think this is a reasonable compromise.

- **South West Water** - South West Water will allow the pumped connection of flow flows to the 100mm combined at the rear of the property, if applicant is complying with building regs and the pumping station is to remain private. The connection will need to comply with DCG (design and construction guidance). The gravity connection for the surface water, via attenuation, can be allowed with a maximum flow rate of 1l/s. (Roof surface water via glass canopy).
- **Environmental Health** – No objections, subject to ‘unidentified contamination’ condition, and CEMP being secured
- **Parish Council** – Support

21.03.2023 – *See comment. No further comments to make to those submitted in November 2022.*

22.11.2022 – *Support. The Committee notes the objections that have been raised expressing concern about parking and would request that a double yellow line is painted across the vehicle access area to the property to avoid vehicle parking and protrusions into the road.*

19.07.2022 – *Support. Supportive of the amendments to the original plan.*

- **Drainage Officer** – No objection

19.01.24 – No objection. Recommend imposition of a condition to require the drainage scheme to be installed in strict accordance with the approved plans and thereafter to be maintained and retained in accordance with the agreed details for the life of the development. (This response follows the drainage officer’s objection (14.08.23) to the earlier revised drainage scheme).

### **Representations (since published Officer Report):**

X1 letter of support:

- Well-designed dwelling, in keeping with the neighbourhood
- Provision of parking spaces commendable

X15 letter of objection:

- Protrusion of cars from undercroft restricting sight lines and visibility and restricting traffic flow causing problems for drivers and pedestrians
- Insufficient parking
- Existing access to this part of the street already difficult, including for emergency vehicles. Impact of development on highway safety and traffic movement
- Surface water flood risk, drains are already inadequate development will make situation worse. The construction of a house on land that has previously been absorbing water will further exacerbate the potential flooding risk in the street.
- Width of Mauldin Road incorrect, no vehicular access for future occupants over private land will make it difficult for vehicles to access parking spaces

- Construction impacts on residents, no space for storage or vehicles
- Development will be overbearing on neighbours across the road, including new roof terrace.
- Instability of the land and need for permission of neighbours to carry out land stabilisation/engineering works on boundaries
- Cramped appearance of the site
- Harm to residential amenity including 2 Maudlin Cottages – loss of light, overlooking and overbearing impact
- Insufficient outdoor space
- Development out of character for the area
- Proximity of conservation area
- Insufficient publication/consultation of application.
- Inclusion of other peoples' land within red outline.
- Where will materials be stored during the construction period?

## **ANALYSIS (UPDATE):**

### **Background:**

Since the Officer Report was published in 2022, the Totnes Neighbourhood Plan (TNP) has been adopted (30<sup>th</sup> November 2023). It now forms part of the Development Plan and should be used in determining planning applications within the Totnes Parish. An update will be provided on the key considerations, with reference to relevant neighbourhood plan policies.

Additionally, the Climate Emergency Planning Statement has been adopted. However, as this application was submitted prior to adoption it is not necessary to require full compliance with the measures set out in such.

The site location plan and block plan have been amended to clearly reflect the land ownership of the applicant, being the Site Location Plan (1146/6) and the Block Plan (11463/3 Rev A), received by the LPA on 6<sup>th</sup> November 2023. The surface and foul water drainage schemes have also been amended, as shown on the following drawings/documents:

- Proposed Elevations, 1146/2 Rev B received by the LPA on 07/09/2023
- Proposed Block Plan 1146/3 Rev A received 06/11/2023
- Drainage Statement, ref. 1305w0001\_P8\_TR, dated 3<sup>rd</sup> September 2023, including plans ref: 1305 0120 P5 (Impermeable Area Plan) and 1305 0500 P8 (Drainage Layout), received by the LPA on 3<sup>rd</sup> October 2023

### **Principle of development**

The site is within the settlement boundary of Totnes (Figure 1 of the TNP), with Totnes being identified as a Main town in the JLP; an area which will be prioritised for growth. Policy En1 of the TNP states that development within the settlement boundary will only be supported in accordance with the development plan where, amongst other things: it will meet local needs and make efficient use of the site in terms of layout, density and mix of uses. Policy V2 gives support to developments which, amongst other things, results in benefits to the local community health and wellbeing through safe, convenient, comfortable movement without recourse to a car. Policy E7 and E8 requires developments to support a more sustainable local transport network

The site is considered to be in a sustainable location for residential development as stated in the published Officer Report, with key services and facilities being accessible via sustainable transport modes.

The principle of development is considered to be acceptable and accords with SPT1, SPT2, TTV1, TTV2 of the JLP and En1, E7 and V2 of the TNP.

### Housing Mix

DEV8 of the JLP seeks to deliver a wide choice of high quality homes which widen opportunities for home ownership, meet needs for social and rented housing, and create sustainable, inclusive and mixed communities. A mix of housing sizes, types and tenure appropriate to the area as supported by local housing evidence should be provided, to ensure that there is a range of housing. In particular, developments should deliver homes that redress an imbalance within the existing housing stock, housing suited for households with specific need, and dwellings most suited to younger people, working families, and older people who wish to retain a sense of self-sufficiency.

ONS Data for Totnes shows, in comparison to the south hams average, an undersupply of 3 and 4 bedroom homes, and oversupply of 1 and 2 bedroom homes. In terms of occupancy 34.6% of homes have 2 or more unoccupied bedrooms (south hams average is 47.4%) and 35.4% have 1 unoccupied bedroom (south hams average is 32.4%). 28.6% of homes are suggested to have an ideal number of bedrooms (south hams average is 18.8%). As such, the provision of a 3 bedroom home would not cause an imbalance in the existing housing stock, according with DEV8 of the JLP.

### Design/Landscape

The published Officer Report assesses the proposed development against policies DEV10 and DEV20 of the JLP, and Paragraph 130 (now Para 135) of the NPPF, which aim to deliver high quality housing and good standards of design, which positively contribute to both townscape and landscape, and protect the quality of the built environment.

Policy En1 of the TNP requires developments scale and character to be in keeping with the site and surroundings and maintain or enhance local distinctiveness. Policy V1 supports proposals which conserve and enhance the town, including by respecting local distinctiveness and historic character in land use, scale, form and appearance, and stimulating innovation and creativity in design and practice. Policy En2, En3 and En4 of the TNP are also of relevance, requiring developments to: protect the landscape setting of Totnes and important views; be of a high quality design; respect the historic character, protecting and enhancing heritage assets and having regard to the Totnes Conservation Area Appraisal; and delivering good innovative design offering a fresh interpretation of local distinctiveness.

The published Officer Report acknowledges that the proposed development would be out of character with the immediate vicinity of the site which generally comprises the rear gardens of dwellings fronting onto Kingsbridge Hill and by reason of the relatively small site. However, planning permission 56/1893/15/F, although now lapsed, is a material planning consideration, as is the refusal of 1668/20/FUL.

It is stated that the proposal would result in a slight increase in the length and area of the application site and a slight decrease in the proportion of the site area occupied by a dwelling. The site area, with the revised site location and block plan, now measures 159sqm (12.1m at the front boundary, 11.1m at the rear boundary, and 13.9m depth when measured at the centre point). The footprint of the ground floor of the proposed dwelling is approximately 83sqm (including bin storage area). Therefore, the dwelling would occupy approximately 52% of the site area; though it is acknowledged that the first and second floor front elevations overhang the ground floor front elevation, with a footprint of 90sqm (56% of the site area). The refused application had a site area of 147.5sqm, and at ground floor level a footprint of 31sqm (21% site area), at first floor level 70.8sqm (48%), and at second floor level 84.8sqm (57% site area).

The changes to the layout provide a larger area of parking/storage at ground floor level, in comparison to the refused proposal, being 45sqm in comparison to 40sqm, and both proposals allow space around the dwelling for landscaping. The first and second floor of the current proposal are also set back further into the site, being 3-4m away from Maudlin Road (first and second floor of refused proposal are 1.5-3m away from the road), which may help to reduce its prominence.

The published Officer Report acknowledges that the dwelling has a flat roof, which is proposed as roof terraces on two different levels (above second and third floors). Whilst this is stated to be out of character for the area, it is also noted that the dwelling would be built into the site, which slopes steeply from south west to north east, limiting the extent to which the side elevations of the dwelling would protrude above the sloping ground level. The only change on external appearance since the published Officer Report is the introduction of a flat roof above the lower terrace to provide space for surface water attenuation. Full details of this element can be secured by condition, however, it is not considered that its introduction alters the conclusions of the published officer report, in terms of landscape/design impacts.

Details of boundary treatment, including the natural stone wall along part of the front boundary and wrapping into the site, along with landscaping and external material details, can be secured by condition to assist in integrating the site into the surrounding area. Additionally, it is considered reasonable and necessary to remove permitted development rights for extensions and alterations to the dwelling, hardstanding areas, gates fences and walls, and curtilage buildings.

Given the limited changes to the external appearance of the proposed dwelling, the conclusion of the published Officer Report are of relevance, stating: *'By reason of the rising land to the sides and rear of the site, together with the neighbouring three-storey dwellings and the dwellings of varying architectural styles set at a higher ground level to the rear, the proposal cannot be said to appear overly prominent or incongruous. It is considered that a meaningful planting scheme would further mitigate the visual impact of the proposed dwelling and boundary treatments. Given the absence of buildings immediately adjacent to the proposed new dwelling, the scheme would not be considered to give rise to a cramped and overdeveloped appearance along this stretch of Maudlin Road or 'town cramming', notwithstanding the limited size of the site. Overall, it is not considered that the flat roof design and height of the parapet wall above the three-storey element would result in sufficient harm to the visual amenity to warrant refusal in this case. For these reasons, the scheme is considered acceptable and to accord with JLP policies DEV10 and DEV20 and the relevant paragraphs of the NPPF.'*

The proposal is also considered to accord with TNP which requires good standards of design, which positively contribute to both townscape and landscape, and protect the quality of the

built environment. Whilst there are elements of the proposed dwelling design which are not entirely in keeping with the character of the surrounding area, Officers note that both Policies V1 and En3 support proposals which stimulate innovation and creativity in design and offer a fresh interpretation of local distinctiveness.

### **Neighbouring Amenity:**

Policy En2 of the TNP requires developments to avoid unnecessary noise, light, air or other pollution.

It is not considered that the changes to the proposed development since the published report change the relationship and impacts of the development on neighbouring residential amenities, or the amenity of future occupants. Detailed consideration of such is set out in the published Officer Report.

### **Ecology:**

Policy En2 of the TNP requires developments to protect against environmental damage and En6 requires developments involving new dwellings to provide an overall enhancement in local environmental capacity commensurate with the scale of the development.

In this case, as stated in the published Officer Report, due to the scale of the development and its location, it is not considered the development would harm protected species or habitats. However, given the length of time the application has extended over, it is recommended that a Construction Environmental Management Plan is secured by pre-commencement condition to provide assurance that the development will not harm protected species or habitats. Additional landscaping is to be secured by condition, which will provide biodiversity enhancements.

As such, the proposal accords with En2 and En6 of the TNP, and DEV26 of the JLP.

### **Highways, Parking, Waste:**

Policy E7 of the TNP requires development to reduce the likelihood of travel by car and promote sustainable transport modes, and E8 requires development to be well connected to the walking and cycle networks, and provide safe cycle storage, parking and charging facilities. E10 requires adequate parking to be provided. En2 requires proposals to reduce the need to travel and, amongst other things, provide bin storage and other such features inconspicuously.

As set out in the published Officer Report, the site is in a sustainable location with key services and facilities accessible by sustainable transport modes, and the development provides an integral single garage, off-street parking, enclosed bin and cycle storage, and an EV charging point. DCC Highways were consulted and raised no objections on highway safety grounds, subject to a Construction Management Plan being secured by condition.

### **Flooding, Drainage, Contamination and Land Stability:**

Policy En2 of the TNP requires satisfactory surface water drainage to be provided for developments, including SUDs, and also requires safeguards in respect of protection against environmental damage, flooding, and local nuisance, and risks of contamination.

The published Officer Report confirms the site is within Flood Zone 1 but is within a Critical Drainage Area. The original drainage scheme proposed for foul water to be pumped and

connected to the existing SWW sewer to the rear of the site, and surface water to be attenuated within the parking area and connected to the existing SWW sewer in Maudlin Road. As it had been demonstrated an adequate foul and surface water drainage scheme could be provided, no objections were raised by the Drainage Officer. However, since this time the Highways Department have reviewed the drainage scheme and advised that it is not acceptable to connect to the existing SWW sewer in Maudlin Road due to the distance from the site to the connection point and the disruption this would cause.

The drainage scheme has been revised and now proposes to pump foul water to the SWW combined sewer to the rear of the site. Surface water from the bin store roof and on the parking area would be discharged through permeable paving/infiltration, and surface water from the rest of the dwelling would be discharged via an external gutter attached to the second floor roof terrace to private attenuation at the rear of the site; this would then discharge, via a flow control chamber, to the existing SWW combined sewer.

SWW confirmed that they can accept the pumped connection of foul flows to the 100mm combined at the rear of the property, if the applicant is complying with building regulations and the pumping station is to remain private. The connection will need to comply with DCG (design and construction guidance). SWW also confirmed that the gravity connection for the surface water, via attenuation, can be allowed with a maximum flow rate of 1l/s. (Roof surface water via glass canopy). DCC Highways also confirmed that the proposed drainage scheme is acceptable, incorporating a concrete impermeable apron between the highway and permeable pavement to ensure driveway water is unable to discharge onto the adjacent road construction.

The Council's Drainage Officer has reviewed and supports the revised drainage scheme now proposed, recommending a condition to ensure the drainage scheme is installed in strict accordance with the approved plans and is thereafter maintained and retained in accordance with the agreed details for the life of the development.

Therefore, given the constraints of the application site, it is considered that the proposal does comply with DEV35 of the JLP and En2 of the TNP.

With regard to land stability, Paragraph 180(e) of the NPPF states planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by... land instability. Paragraph 189 states planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and risks arising from land instability and contamination, and Paragraph 190 states that the responsibility for securing a safe development, where land is affected by land stability issues, rests with the developer and/or landowner.

The published Officer Report references the Preliminary Ground Investigation Report dated March 2021, which identifies that the land within and adjacent to the site is not stable and that mitigation is required prior to construction of the proposed new dwelling. The report recommends that 10m long soil nails are used to stabilise the site and adjacent land, that a pile and beam foundation approach is considered to minimise excavation depth below the slopes, and that substantial earth retaining structures with appropriately pile supported foundations and drainage will be required. The report recommends that a detailed slope stabilisation scheme should be designed and agreed with all stakeholders abounding the development.

Since the published Officer Report, the LPA have been made aware that stabilisation works may already have been carried out to the land adjoining the site, utilising ground anchors and a retaining wall. Concerns were raised that this may impact on the ability to use soil nails as

recommended in the Preliminary Ground Investigation Report. Therefore, it is considered necessary for a pre-commencement condition to be imposed to ensure that a detailed slope stabilisation scheme is composed and carried out, by a suitably qualified professional.

With regard to ground contamination, Environmental Health have reviewed the contaminated land report and have not raised any objections, subject to a condition being imposed to ensure any unexpected contamination is appropriately dealt with.

### **Sustainable Construction:**

Policy V1 of the TNP supports new development which enhances sustainability by promoting low carbon travel, uses low energy use materials, and incorporates renewable energy generation. En2 requires developments to display high quality of design by, amongst other things, being of sustainable construction, promoting sustainable lifestyles and incorporating the latest water and energy efficiency measures.

The published Officer Report confirms that the development will be constructed following Passivhaus principles and adopts modern methods of construction. The development includes an EV charging point and is in a sustainable location for residential development which is likely to minimise car use. It is not considered necessary for further details of the construction method and energy efficiency measures to be secured by condition to ensure compliance with DEV32 of the JLP and V1 and En2 of the TNP. It is acknowledged that no solar panels are proposed, however this is due to the need to provide adequate external amenity space via the roof terraces.

### **Planning Balance:**

Limited changes have been made to the proposed development since the published Officer Report, with these including small changes to the red outline to reflect the land ownership and amendments to the drainage scheme, including incorporation of a glazed roof to attenuate surface water.

Therefore, as set out in this addendum and the published Officer Report, the proposed development is considered to accord with the JLP, TNP, and NPPF and the application is recommended for conditional approval.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.***

### **Planning Policy**

#### Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. 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, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. 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 13 May 2019 confirming the change.

When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.39 years at end of 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 19<sup>th</sup> December 2023).

The 2021 HDT result remains the latest test result that is applicable for applying policy consequences as the Government has not published the 2022 HDT as it considers the test to be an unfair test upon LPA's and in need of review. The 2021 HDT result for the 3 JLP authorities is above 95% therefore there continues to be no policy consequences and a 5% buffer only is required for the purposes of the 2023 5YHLS. More information on the HDT is included in Section 3 of the final report.

[\*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  
SPT9 Strategic principles for transport planning and strategy  
SPT10 Balanced transport strategy for growth and healthy and sustainable communities  
SPT11 Strategic approach to the Historic environment  
SPT12 Strategic approach to the natural environment  
SPT13 Strategic infrastructure measures to deliver the spatial strategy  
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  
TTV3 Strategic infrastructure measures for the Main Towns  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
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  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV31 Waste management  
DEV32 Delivering low carbon development  
DEV33 Renewable and low carbon energy (including heat)  
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 Totnes Neighbourhood Plan referendum was held on 16<sup>th</sup> November 2023. The Neighbourhood Plan is due to be 'made' at the Executive meeting on 30<sup>th</sup> November 2023. Therefore, significant weight should now be given to the Totnes Neighbourhood Plan in the decision-making process.

### **Other material considerations:**

- National Planning Policy Framework
- Plymouth and South West Devon Joint Local Plan Supplementary Planning Document
- Climate Emergency Planning Statement

### **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.

### **AMENDED CONDITIONS LIST:**

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

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall in all respects accord strictly with the following drawings/documents:

Site Location Plan, 1146/6 @ A1, 1:500 received by the LPA 06/11/2023

Proposed Parking and Floor Plans, 1146/1 Rev D received by the LPA 07/09/2023

Proposed Elevations, 1146/2 Rev B received by the LPA on 07/09/2023

Proposed Block Plan 1146/3 Rev A received 06/11/2023

Proposed Site Section 1146/4A dated 22/08/2022

Design and Access Statement dated July 2021 paragraph commencing 'DEV32'

Drainage Statement, ref. 1305w0001\_P8\_TR, dated 3<sup>rd</sup> September 2023, including plans ref: 1305 0120 P5 (Impermeable Area Plan) and 1305 0500 P8 (Drainage Layout), received by the LPA on 3<sup>rd</sup> October 2023

Phase 1 Desk Study and Phase 2a Preliminary Ground Investigation report dated March 2021

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

3. No development shall commence until the site and surrounding land have been stabilised in accordance with a detailed slope stabilisation scheme carried out by a competent person (as defined in Annex 2: Glossary of the National Planning Policy Framework). A copy of the slope stabilisation scheme and confirmation from the competent person that the site and surrounding land has been sufficiently stabilised shall be submitted to the Local Planning Authority prior to commencement of any other works on site.

REASON: To ensure that the land within and immediately adjacent to the site is stable, and in the interests of the neighbouring amenity. This condition is imposed in accordance with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034, Policy En2 of the Totnes Neighbourhood Plan 2019 to 2034, and Paragraphs 180(e), 189 and 190 of the National Planning Policy Framework.

4. Notwithstanding the submitted details and approved plans, no development shall be carried out on the site until details of the existing and proposed site levels for the development hereby permitted are submitted to and approved in writing by the Local Planning Authority. The submitted levels shall be measured against a fixed datum which will not be changed by the proposed development, and shall be shown on a site layout plan and to-scale sectional drawings, which must be accompanied by a plan showing the points between which the cross-sections have been taken. The sectional drawings must also show the levels of the land immediately adjoining the site. The development shall be carried out in strict accordance with the approved details.

REASON: To ensure the development harmonises with its surroundings, in the interests of the character and appearance of the site and the surrounding area, and in the interests of the protection of residential amenity. This condition is imposed in accordance with Policies DEV1, DEV2, DEV10, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En1, V1, En2, En3 and En4 of the Totnes Neighbourhood Plan 2019 to 2034.

5. Prior to commencement of the development hereby permitted, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include:

- (a) the timetable of the works;
- (b) daily hours of construction (including times required for piling activities);
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for

loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;

(k) details of wheel washing facilities and obligations;

(l) the proposed route of all construction traffic exceeding 7.5 tonne;

(m) details of the amount and location of construction worker parking; (n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

REASON: To ensure that adequate facilities are available for the traffic attracted to the site and in the interests of the neighbouring amenity. This condition is imposed in accordance with Policies SPT9, DEV1, DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policy En2 of the Totnes Neighbourhood Plan 2019 to 2034.

6. Prior to commencement of the development hereby permitted, a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved CEMP.

REASON: In the interests of the protection of protected species and habitats and residential amenity. This condition is imposed in accordance with Policy DEV1, DEV2, and DEV26 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En2 and En6 of the Totnes Neighbourhood Plan 2019 to 2034.

7. Prior to commencement of works to construct the dwelling hereby permitted, the access, parking facilities and access drainage shall be provided in accordance with the approved plans, and shall thereafter be maintained for the lifetime of the development.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site and in the interests of the neighbouring amenity. This condition is imposed in accordance with Policies SPT9, DEV1, and DEV29 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policy En2 and E10 of the Totnes Neighbourhood Plan 2019 to 2034.

8. Prior to any works above damp proof course commencing, details of the external materials (including for the glazed roof) and hardstanding areas to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The external walls of the 'bin storage' area shown on drawing: 1146/1 Rev D and shown in grey on drawing: 1146/2 Rev B, shall be constructed/faced with natural stone. The development shall be carried out in accordance with the approved details and maintained in accordance with such thereafter.

REASON: To ensure the development harmonises with its surroundings, and in the interests of the character and appearance of the site and the surrounding area. This condition is imposed in accordance with Policies DEV10, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En1, V1, En2, En3 and En4 of the Totnes Neighbourhood Plan 2019 to 2034.

9. Prior to any works above damp proof course commencing, details of the boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The roadside boundary walls, shown in grey on drawing: 1146/2 Rev B, shall be constructed/faced with natural stone. The development shall be carried out in accordance with the approved details and maintained in accordance with such thereafter.

REASON: To ensure the development harmonises with its surroundings, and in the interests of the character and appearance of the site and the surrounding area. This condition is imposed in accordance with Policies DEV10, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En1, V1, En2, En3 and En4 of the Totnes Neighbourhood Plan 2019 to 2034.

10. Prior to any works above damp proof course commencing, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority, detailing measures to deliver visual screening of the development and biodiversity enhancements, such as bird or bat boxes and log piles, and incorporating the planting of native species of trees, shrubs, herbaceous plants and areas to be grassed, with a focus on nectar-rich flowers and/or berries as these can also be of considerable value to wildlife. The approved landscaping scheme shall be carried out in the first planting season following commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, and shall be maintained in accordance with the approved details for a period of 10 years following completion. Within the 10 year maintenance period any plant material that dies, fails or is damaged shall be replaced in accordance with the original approved details.

REASON: In the interests of the character and appearance of the site and the surrounding area and in the interests of the provision of biodiversity enhancements. This condition is imposed in accordance with Policies DEV10, DEV20, DEV23 and DEV26 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En1, V1, En2, En3, En4, and En6 of the Totnes Neighbourhood Plan 2019 to 2034.

11. Prior to first occupation of the dwelling hereby approved, the electric vehicle charging point shown on the approved plans shall be installed and maintained for the lifetime of the development.

REASON: In the interests of carbon reduction and in response to the Council's declaration of a Climate Change and Biodiversity Emergency. This condition is imposed in accordance with Policies SPT9, DEV1, DEV29 and DEV32 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policy V1, E8 and En2 of the Totnes Neighbourhood Plan 2019 to 2034.

12. Prior to first occupation of the dwelling hereby approved, the enclosed 'bin storage' area shall be constructed in accordance with the approved plans and maintained thereafter.

REASON: To encourage recycling and waste reduction in the interests of the climate emergency, to ensure adequate waste storage space is available, and in the interests of the character and appearance of the site and surrounding area. This condition is imposed in accordance with Policies DEV31, DEV32, DEV10, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policy En1, V1, En2, En3 and En4 of the Totnes Neighbourhood Plan 2019 to 2034.

13. Prior to first occupation of the dwelling hereby permitted, a foul and surface water drainage scheme shall be installed in accordance with the following documents/plans, unless otherwise agreed in writing by the Local Planning Authority:

- Drainage Statement, ref. 1305w0001\_P8\_TR, dated 3<sup>rd</sup> September 2023, received by the LPA on 3<sup>rd</sup> October 2023
- Plans ref: 1305 0120 P5 (Impermeable Area Plan) and 1305 0500 P8 (Drainage Layout), received by the LPA on 3<sup>rd</sup> October 2023

The installed foul and surface water drainage schemes shall be maintained for the lifetime of the development.

REASON: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development, and to ensure the site is adequately drained and to avoid pollution. This condition is imposed in accordance with Policies DEV35 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policy En2, En3 of the Totnes Neighbourhood Plan 2019 to 2034.

14. The construction of the dwelling hereby approved shall be carried out in accordance with the details contained in the Design and Access Statement, the DEV32 Checklist and the approved plans. All measures contained within the approved documents to limit carbon emissions and improve building efficiency shall be implemented in full and maintained thereafter. Prior to first occupation of the dwelling, an 'as built' SAP assessment, confirming the building specification as built complies with the approved details, shall be submitted to and approved by the Local Planning Authority.

REASON: In response to the Council's declaration of a Climate Change and Biodiversity Emergency, and to reduce carbon emissions. This condition is imposed in accordance with Policy DEV32 of the Plymouth and South West Devon Joint Local Plan 2014-2034, Policy V1 and En2 of the Totnes Neighbourhood Plan 2019 to 2034.

15. If during redevelopment contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. On completion of the development the Local Planning Authority shall be notified in writing if no additional contamination was identified during the course of the development and the dwelling hereby permitted shall not be occupied until the Local Planning Authority has acknowledged receipt of the same.

Reason: To ensure adequate and appropriate remediation. This condition is imposed in accordance with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En2 of the Totnes Neighbourhood Plan 2019 to 2034.

16. Notwithstanding the provisions of Part 1 and 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (or any Order or Statutory Instrument revoking and re-enacting that Order), unless otherwise shown on the approved plans or approved as part of the planning conditions, no development within the following classes of the GPDO shall be carried out:

- Class A, AA, B, C, D, E, F, G, Part 1
- Class A, B, C, Part 2

REASON: To ensure the development harmonises with its surroundings, in the interests of the character and appearance of the site and the surrounding area, and in the interests of the protection of residential amenity. This condition is imposed in accordance with Policies DEV1, DEV2, DEV10, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034, and Policies En1, V1, En2, En3 and En4 of the Totnes Neighbourhood Plan 2019 to 2034.

**OFFICER REPORT AS PUBLISHED 08/03/22**

**Case Officer:** Catherine Miller-Bassi

**Parish:** Totnes **Ward:** Totnes

**Application No:** 3048/21/FUL

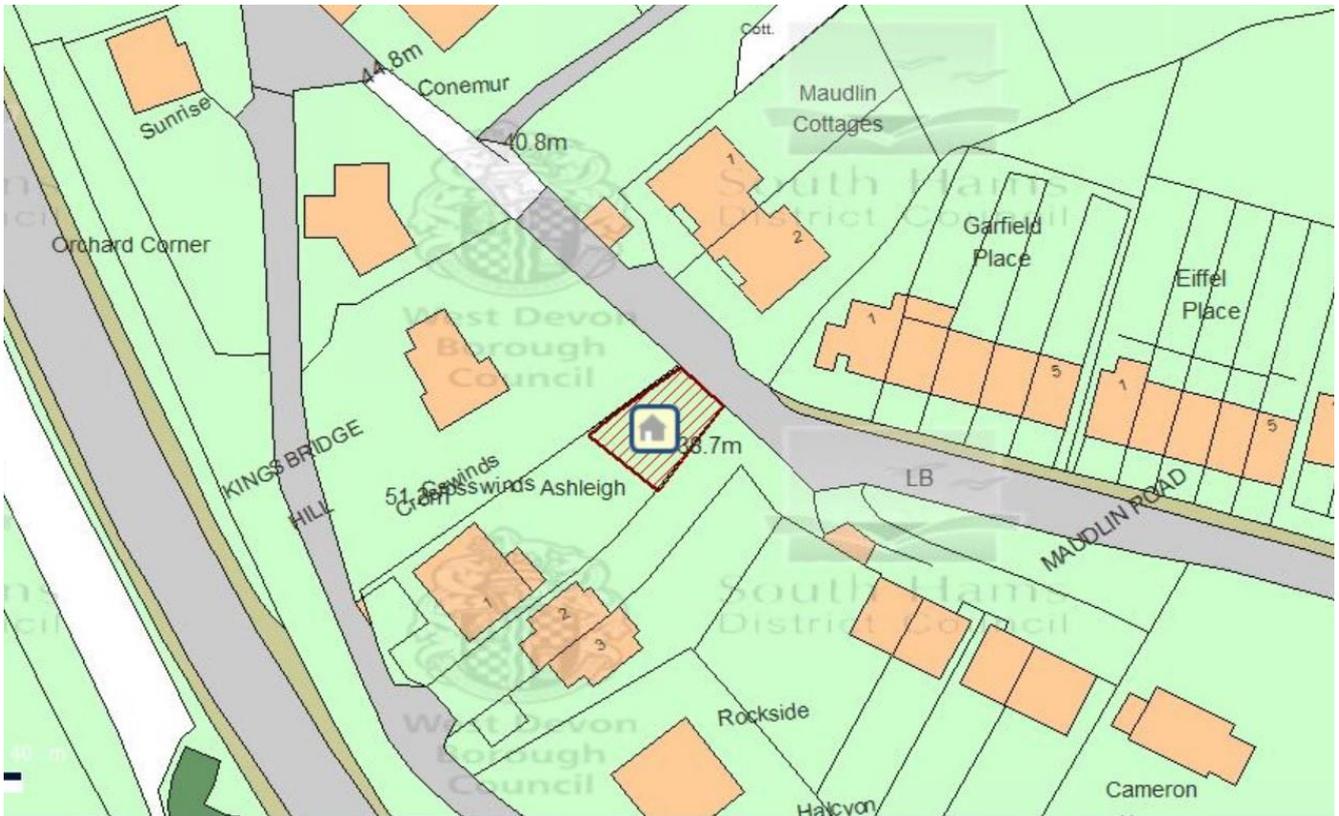
**Agent/Applicant:**

Mrs Amanda Burden - Luscombe Maye  
Luscombe Maye  
59 Fore Street  
Totnes  
TQ9 5NJ

**Applicant:**

Mr And Mrs G Ford  
c/o agent

**Site Address:** Montgo, Maudlin Road, Totnes, TQ9 5TQ



**Development:** Provision of single dwelling house (resubmission of 1668/20/FUL)

**Reason item is being put before Committee:**

Councillor Birch has stated:

*The planning issues are finely balanced and there is an argument that the grounds for refusal as set out in the previous application apply.*

**Recommendation:** Conditional approval

**Conditions:**

- Time
- Approved plans
- Materials
- Landscaping – agreement from agent secured for pre-commencement condition
- Parking, electric charging, waste – agreement from agent secured for pre-commencement condition
- Drainage
- Land stabilisation – agreement from agent secured for pre-commencement condition
- Sustainable construction

**Key issues for consideration:**

- Principle of Development
- Design/Landscape
- Neighbouring Amenity
- Future Occupiers' Amenity
- Heritage
- Ecology

- Access, Parking and Waste
- Flooding, Drainage, Contamination and Land Stability
- Sustainable Construction
- Planning Balance

**Site Description:**

The application site lies on the south-west side of Maudlin Road in the JLP defined Main Town of Totnes, just beyond the Totnes Conservation Area.

The site slopes steeply down towards Maudlin Road and forms part of the former rear garden of Ashleigh, a dwelling which fronts on to Kingsbridge Hill.

The site is currently overgrown and the historic stone retaining wall aligning the highway has been removed along the north-east boundary.

Maudlin Road is generally single track but widens north of the site to allow parking and access to the dwellings opposite, namely nos. 1 and 2 Maudlin Cottages, and narrows again within the site frontage.

The site lies within the Critical Drainage Area.

**Description of Proposal:**

The application seeks detailed permission for the erection of 1no. detached dwelling with access off Maudlin Road and parking.

The dwelling would have three bedrooms and would be partly two and partly three storeys, with an integral single garage and parking for 1no. car on the front drive. The dwelling would be flat roofed with outdoor amenity space at roof level.

The dwelling would be built into the hillside which slopes steeply from the front (north-east) to the rear (south-west) of the site.

The materials proposed involve rendered elevations, aluminium doors and window frames, with zinc roof coverings.

**Consultations:**

**External Consultees**

<b>Consultee</b>	<b>Comments</b>
DCC Highways Authority	Comments received 20/08/2021  No objections subject to conditions
Town/Parish Council	Comments received 24/08/2021  No objection - although some concern about unsustainability of building materials

## Internal Consultees

Consultee	Comments
SHWD Drainage Officer	Comments received 03/09/2021 No objections subject to conditions
SHWD Environmental Health	No comments received
SHWD Strategic Planning	Comments received 02/03/22 No objections in relation to JLP policy DEV32 subject to condition

## Representations:

9no. letters from separate addresses have been received of which 8no. object and 1no. support.

The comments received in support are summarised as follows:

- The plot has gained planning permission in the past and the proposed attractive eco friendly design includes both a garden and car parking and will make a useful contribution to housing in the area. Totnes has both primary and senior schools and a full array of transport services.

The comments received in objection are summarised as follows:

- Poor state of site
- Construction vehicles accessing site via single track road will cause problems for neighbours with access and parking
- Layout will make vehicular access to proposed garage difficult
- Water and drainage issues not resolved and will affect neighbours
- Overshadowing to bungalows opposite
- Enforcement issues should be resolved first
- Development began (clearing of the site) prior to discharge of the condition on surface water drainage
- The excavation, which is about seven metres deep, is within 1-2 metres of the sewer drain serving Crosswinds, Kingsbridge Hill, and our property at 1 Ashleigh, Kingsbridge Hill. (Note that the site in question fronts Maudlin Road and is not 1 Ashleigh as described in the planning documents). South West Water has described the sewer drain as being at risk from the potential collapse of the excavation. Note the date of commencement of the works, above is approximate. The excavation began in July 2017 as far as we remember (possibly earlier).
- Likely continuing collapse puts our property at risk, as independently assessed by a structural engineer retained by ourselves and by an engineer from South West Water. Collapse is already occurring. Further collapse increases the risk to the sewer drain with

potentially catastrophic results for our foul waste disposal (and that of our neighbours. It also risks sewage flooding Maudlin Road and so is a serious public health risk)

- Poor design and materials, large mass in small site
- Overdeveloped, cramped site, mitigation from soft landscaping limited
- 1.1m high balustrade to roof terraces will add to height
- Loss of privacy from roof terraces
- Roof terraces prohibit green roof for ecology
- Dwelling would be more visually prominent than shown in plans due to topography errors
- Previous approved scheme windows designed to avoid overlooking
- The use of the roof as amenity space effectively creates a four storey building with a single means of escape, in the event of a fire. This may not meet the requirements of approved document B of the building regulations
- Noise and light pollution from roof terraces affecting neighbouring amenity
- Overdominant appearance
- Not policy compliant with DEV10 part 6
- Significant lack of detail in the proposed plans and omission of sections through Maudlin terrace leave an incomplete picture as does the lack of window dimensions and incorrect land contour details
- Lacks detail on passiv haus proposals
- Challenging site will increase materials and works required and be less sustainable regarding climate change
- There is no space for storage of construction plant or materials due to restricted site
- Out of keeping with surroundings
- Requires much greater excavation into hillside than previous schemes and groundworks would be extremely expensive
- Design does not respect nearby Conservation Area or historic nature of Maudlin Road
- Living space for future occupants would be limited and relatively small for the area
- No structural engineering design strategy or calculations attached to the application to insure the adjoining properties and boundaries are properly safeguarded
- Nothing has been agreed with the adjoining neighbours to achieve the necessary engineering works required
- Insufficient parking for future occupiers or construction phase
- I could not understand how planning permission could be granted for this plot, I felt the old historic wall should have been replaced

### **Relevant Planning History:**

1668/20/FUL

Application for single dwelling with undercroft parking space

Montgo Maudlin Road Totnes TQ9 5TG

01 September 2020

Refusal

[Officer Note: this was refused on the grounds of overdevelopment, lack of outdoor amenity space, potential harm to land stability, neighbouring amenity and lack of evidence relating to sustainable construction]

56/1893/15/F

Erection of single dwelling with an undercroft parking space (resubmission of 56/2362/14/F)

25 May 2016

## Conditional Approval

[Officer Note: permission no longer extant as pre-commencement conditions not discharged and out of time]

## ANALYSIS

### Principle of Development:

The principle of the erection of 1 no. detached dwelling on this site has been established under previous planning permissions, ref. 56/1893/15/F.

Notwithstanding the lapsed permission, it must be recognised that the Joint Local Plan has been adopted since that time and the current application must be assessed against up-to-date policy.

Since this time, South Hams District Council has declared a housing crisis and the proposal would result in 1 no. new 3-bedroomed dwelling within a town centre location.

JLP policy SPT2 encourages development in areas well served by community amenities and public transport, inter alia, while policy SPT3 requires at least 7,700 new homes in the Thriving Towns, as Totnes is described.

In addition, JLP policies TTV1, TTV2 and DEV8 encourage residential development in the Thriving Towns or Main Towns, as Totnes is also described.

It is acknowledged that the site has a relatively long planning history and concerns have been raised about the current state of the site and lack of clarity regarding its future use. It is considered reasonable to apply the standard time restriction condition in this case in accordance with JLP policy DEL1 to encourage the delivery of the proposed development.

As such, the principle of the development is considered acceptable and to accord with the relevant policies of the JLP and NPPF.

### Design/Landscape:

JLP policies DEV10 and DEV20 encourage high quality design and improving the built environment. In particular, DEV10.6 states:

*To protect the quality of the urban environment and prevent 'town cramming', development of garden space within [...] the towns will only be permitted where it does not adversely affect the character and amenities of the area.*

Paragraph 130 of the NPPF also encourages high quality design, stating:

*Planning [...] decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting...*

The character of the immediate vicinity is of rear gardens bounded by a tall stone retaining wall on the south-west side of this section of Maudlin Road, with properties fronting onto Kingsbridge Hill and spanning the gap between the two roads, resulting in generous plot sizes. On the north-eastern side of this part of Maudlin Road, the plots between Conemur and Maudlin Cottages are relatively wide and well set back from the highway. Further east of the application site, there are several Victorian terraces with slightly narrower plots but which still extend substantially front to rear.

In terms of building heights, nos. 1 and 2 Maudlin Cottages are bungalows, while the Victorian terraces to the south-east of the bungalows, at Garfield Place, are three-storey. The newer semi-detached dwellings to the south-east of the application site are also three-storey, set at a higher ground level than the application site and the dwellings opposite, at Garfield Place, and have hipped roofs.

It is acknowledged that the proposed development would be out of character with the immediate vicinity of the site which generally comprises the rear gardens of dwellings fronting onto Kingsbridge Hill and by reason of the relatively small site. However, the approval of a two-storey dwelling on this site under lapsed permission, 56/1893/15/F, approved in 2016, is a material consideration in this case.

Notwithstanding this, a more recent application, ref. 1668/20/FUL, was refused in part on the grounds of overdevelopment of the site.

The currently proposed site would measure 12.2m along the front (north-east) boundary and 13.8m from front to rear (south-west) boundaries, with an approx. area of 178.3 sqm and a floorplan (at first floor level) of 95.2 sqm. As such, the proposed dwelling would occupy 53% of the site area.

The previously refused application measured approx. 12.1m along the front (north-east) boundary and 11.6m from front to rear (south-west) boundaries, with an approx. area of 147.5sqm and a floorplan (at first floor level) of 84.8sqm. As such, the refused dwelling would have occupied 57% of the site area.

The current proposal would, therefore, involve a slight increase in the length and area of the application site and a slight decrease in the proportion of the site area occupied by a dwelling. There is some concern that the current scheme would still result in an overdeveloped appearance that could give rise to 'town cramming'.

In addition, the current proposal would have a flat roofed design whereas the majority of dwellings in the surrounding area have pitched roofs. This would again be out of character and would involve greater bulk at an upper floor level as compared with the mostly pitched roof design of the previously refused scheme and the expired permission.

Furthermore, the three-storey element of the proposed dwelling would appear to have three and a half storeys, given the solid wall to the north-eastern edge of the roof terrace, with a height above the road level to the top of the parapet wall at over 9m.

It is acknowledged that the ground levels slope steeply from the south-west to the north-east and the site would be excavated to accommodate the building towards the rear of the plot. As such, the protrusion of the dwelling beyond the sloping ground adjacent the site would be relatively limited in side views.

It is also acknowledged that the proposed dwelling would be visually sited between the row of dwellings to the rear, fronting onto Kingsbridge Hill, that lie further up the slope, and those which front onto Maudlin Road, opposite the application site and to the south-east. As noted above, some of these dwellings are of three-storeys with pitched roofs above. It should also be recognised that a number of dwellings to the rear of the site, namely nos. 1, 2 and 3 Ashleigh, are of an unusual design, with vertical timber cladding and staggered mono-pitch and waved roof designs.

The proposed elevation drawings submitted show the south-east side boundary treatment to comprise a retaining wall that would rise to the height of the top of the balustrade along the front edge of the two storey element, with timber picket fencing at approx. 1.5m high and a strip of planting in between. To the north-west boundary, there would be a short stretch of the timber picket fencing between the front elevation of the proposed dwelling and the front (north-east) boundary.

No landscaping details have been submitted. While the site is limited spatially, it is considered that there would be sufficient space to reduce the visual impact of the proposed dwelling by the use of soft landscaping. As such, a landscaping condition will be applied should the Council be minded to approve the application.

The materials proposed involve rendered elevations, aluminium doors and window frames, with zinc roof coverings. These materials would integrate with the general colour palette of the surrounding area and would be considered acceptable.

By reason of the rising land to the sides and rear of the site, together with the neighbouring three-storey dwellings and the dwellings of varying architectural styles set at a higher ground level to the rear, the proposal cannot be said to appear overly prominent or incongruous. It is considered that a meaningful planting scheme would further mitigate the visual impact of the proposed dwelling and boundary treatments.

Given the absence of buildings immediately adjacent to the proposed new dwelling, the scheme would not be considered to give rise to a cramped and overdeveloped appearance along this stretch of Maudlin Road or 'town cramming', notwithstanding the limited size of the site.

Overall, it is not considered that the flat roof design and height of the parapet wall above the three-storey element would result in sufficient harm to the visual amenity to warrant refusal in this case.

For these reasons, the scheme is considered acceptable and to accord with JLP policies DEV10 and DEV20 and the relevant paragraphs of the NPPF.

### **Neighbouring Amenity:**

The dwellings considered most likely to be affected by the proposal include Crosswinds, nos. 1 and 2 Kingsbridge Hill and no.2 Maudlin Cottages and no.1 Garfield Place.

In terms of overbearing impact, paragraph 13.28 of the SPD states:

*In order to protect the outlook of neighbouring properties, the minimum distance between a main habitable room window and a blank wall, should be at least 12m. This distance should be increased for a three-storey development, normally to at least 15m.*

It must be acknowledged that the above relates to residential extensions and not to new development.

In respect of the two dwellings mentioned above on Maudlin Road, these sit at a lower ground level than the proposed new dwelling. The distance between the dwellings at ground floor level would measure approx. 17m, while the first and second floor projection would reduce this by approx. 2.5m, which would fall slightly below the distances stipulated above.

However, in this case, the ground levels rise substantially to the rear of the application site and the proposed dwelling would be sited at a similar ground level to the highway at this point, as if excavated into the hillside. In addition, the dwelling would not be sited directly opposite either of the neighbouring dwellings in question, but in front of the gap between no.2 Maudlin Cottages and no.1 Garfield Place at a bend in the road.

For these reasons, while the separation distance would fall slightly below that recommended for residential extensions (by 0.5m), given the respective orientations of the dwellings in question together with the proposed separation distances and the local topography, no overbearing impact or loss of light would be considered to arise in respect of the occupants of no.2 Maudlin Cottages and no.1 Garfield Place.

The proposal involves roof terraces above the second and third storey elements and representations have been received regarding overlooking. The proposed terraces would have a glass balustrade to the front of the two storey element and a parapet wall to the front of the three storey element, both of an approx. height of 1.1m.

Future occupiers would have sight from the terraces onto the front elevation and roof of no.2 Maudlin Cottages, which is a bungalow, and onto the south-west corner of no.1 Garfield Place, the front elevation of which is angled away from the application site due to the bend in the road.

It is the Officer's view that the view from the proposed dwelling windows and roof terraces onto no.2 Maudlin Cottages would not be dissimilar to that available from Maudlin Road and from nearby dwellings, namely Crosswinds. Due to the height differential between the ground floor window in the front elevation of no.2 Maudlin Cottages, together with the siting of the proposed dwelling to the west of no.2, it is not considered that users of the proposed roof terraces would have direct sight into the front window of the bungalow in question.

Paragraph 13.19 of the SPD states:

*Habitable room windows facing directly opposite one another should be a minimum of 21 metres apart for a two-storey development, as shown below. This distance should be increased to 28 metres when one or more of the buildings are three-storeys in height or there is a drop in levels that reduce privacy.*

Again, it must be acknowledged that the above relates to residential extensions and not to new development.

In this case, the proposed new dwelling would have a three storey element and would be sited at a higher ground level than no.2 Maudlin Cottages. The separation distance between the front elevations of the proposed new dwelling and that opposite would be approx. 17m, which is substantially less than 28m.

However, as shown in submitted drawing no. 1146/3, Block Plan, the front elevation of the proposed new dwelling would face onto the gap between no.1 Garfield Place and no.2 Maudlin

Cottages. As noted above, the proposed front elevation would be sited to the west of the front elevation of no.2 Maudlin Cottages. As such, no habitable room windows are proposed that would face directly opposite those of a neighbouring dwelling. For this reason, the min. separation distances in paragraph 13.19 are not applicable in this case and no unacceptable loss of privacy would be considered to ensue.

The rear gardens of the properties in question would not be overlooked by future occupiers of the proposal by reason of the intervening dwellings.

For these reasons, it is not considered that the proposed development would give rise to unacceptable overlooking that would constitute harm to the neighbouring amenity of the no.2 Maudlin Cottages and no.1 Garfield Place.

The ground levels between the above-mentioned dwellings on Kingsbridge Hill and the application site slope steeply downward from south-west to north-east. For this reason, together with the distance between these dwellings and the proposed new dwelling, no overbearing impact, loss of light or privacy would result from the proposal in respect of the occupants of these three dwellings.

In terms of noise impact during the construction phase, this would be addressed via the recommended Construction Management Plan (CMP) condition, should the Council be minded to approve the application.

For the above reasons, the proposal is considered capable of compliance with JLP policies DEV1 and DEV2 with regard to neighbouring amenity.

**Future Occupiers' Amenity:**

In terms of the internal area to be provided, the proposal would exceed the Nationally Described Space Standards as shown in the table below.

Type	Standards in sqm	Proposed in sqm	Standards	Proposed
3 bedroom 5 person 3 storey	99	145.5	-	-
Single bedroom Min width in m	-	-	2.15	2.2
Min area in sqm	-	-	7.5	12.2
Double bedroom Min width in m	-	-	2.75	3.2
Min area in sqm	-	-	11.5	24.4
Double bedroom Min width in m	-	-	2.55	3.2
Min area in sqm	-	-	11.5	11.9

In terms of the external amenity area to be provided, due to the limited plot size, this would comprise roof terraces above the second and third floors with the latter extending to the rear boundary.

Paragraph 4.138 of the SPD states that a detached dwelling should have a min. of 100sqm of external amenity space including all usable areas except for car parking spaces. In this case, the external amenity space proposed would measure 125sqm, as noted on drawing no.1146/1, Proposal. Bearing in mind the constraints of the town centre location, the proposal is considered acceptable in this regard.

For these reasons, the proposal would comply with criteria 5 of JLP policy DEV10.

The proposed layout would not give rise to fear of crime as it would provide a high level of active surveillance through the front facing windows with little opportunity for access to the sides or rear of the building by reason of the boundary treatments and rising ground levels adjacent. As such, the proposal would comply with criteria 2 of JLP policy DEV10.

Overall, the proposal would be considered acceptable with regard to health and amenity for future occupiers and would comply with JLP policies DEV1 and DEV2.

#### **Heritage:**

The site lies beyond the Totnes Conservation Area and the setting of any listed buildings.

As such, no harm to any nearby heritage assets is considered to result in this case and the scheme would accord with JLP policies SPT11 and DEV21 and the NPPF.

#### **Ecology:**

South Hams District Council declared a Climate Change and Biodiversity Emergency in 2019.

A Wildlife and Geology Trigger Table has been submitted with this application that notes the proposal would not result in significant impact on ecology.

The application is not for major development. By reason of the town centre location, the application site comprising residential curtilage and the modest size of the proposal, the development would not be considered to give rise to harm to protected species or habitats.

A landscaping condition is recommended in the interests of the visual amenity as noted above. It is considered reasonable for this condition to also encourage biodiversity enhancements notwithstanding the site constraints and town centre location.

As such, the proposal would be considered capable of policy compliance with regard to JLP policies SPT12, DEV2 and DEV26.

### **Highways, Parking and Waste:**

NPPF paragraph 111 states:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

The site lies within a town centre location that is considered accessible in transport terms with good bus and rail services nearby. The site lies in close proximity to a range of amenities that are accessible on foot.

The proposal comprises an integral single garage, off-street parking for one further vehicle, 1no. electric vehicle charging point and enclosed bin storage.

A Transport Statement dated June 2015 has been submitted in support of this application that concludes the proposal would not have a severe impact on highways safety or the network.

The County Highways Authority has been consulted and has no objections subject to conditions.

The provision of 1no. electric charging point would comply with policy DEV17.8 and DEV29.6 and the SPD. The off street parking provision for 2no. cars would comply with policy DEV29.3 and the SPD guidance for 3-bedroomed dwellings, while the accessible location would comply with DEV29.10.

The proposed waste storage would comply with policy DEV31.

Overall, the proposal would comply with policies SPT9, DEV17, DEV29, DEV31, the SPD and NPPF paragraph 111 and is acceptable in this regard.

### **Flooding, Drainage, Contamination and Land Stability:**

The site does not lie within the medium or high risk flood zones but it does lie within the Critical Drainage Area.

A Phase 1 Desk Study and Phase 2a Preliminary Ground Investigation report dated March 2021 has been submitted in support of this application that concludes the site does not comprise contaminated land.

A Drainage Statement report, ref. 1305w0001, has been submitted in support of this application that includes a drainage strategy following pre-application consultation with South West Water and the Environment Agency.

The Council's Drainage Specialist has been consulted and has no objections subject to a condition for the implementation of the approved drainage scheme.

In terms of land stability, the site occupies a portion of a rear garden that appears to have subsided, previously pertaining to Ashleigh, which lies much further down the slope than the original host dwelling. In addition, the Victorian wall along the south-west side of Maudlin Road appears to have failed at several points within and near to the application site.

Overall, the land adjacent to the site does not appear stable and concerns have been raised by neighbours in this regard.

The Planning Practice Guidance (PPG) requires the applicant to undertake an assessment of the site to identify the risks and whether these can be mitigated in order to:

- *minimise the risk and effects of land stability on property, infrastructure and the public;*
- *help ensure that development does not occur in unstable locations or without appropriate precautions; and*
- *to bring unstable land, wherever possible, back into productive use.*

In this case, the Phase 1 Desk Study and Phase 2a Preliminary Ground Investigation report dated March 2021 identifies that the land within and adjacent the site is not stable and that mitigation is required prior to construction of the proposed new dwelling. The report recommends 10m long soil nails to stabilise the site and adjacent land. The proposal also involves the erection of retaining walls along three sides of the site.

For this reason, the proposal is considered acceptable in regard to land stability subject to a condition to ensure the implementation of the recommended land stabilisation method.

On balance, the proposal is considered acceptable in this regard and to comply with JLP policies DEV2 and DEV35, the PPG and the relevant policies of the NPPF.

### **Sustainable Construction:**

As noted above, South Hams District Council declared a Climate Change and Biodiversity Emergency in 2019.

JLP policy DEV32 supports low carbon development and use of the 'energy hierarchy'.

Paragraph 152 of the NPPF states:

*The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.*

The submitted Design and Access Statement and DEV32 Checklist note that:

*The dwelling will be constructed following the Passivhaus principles in that it will be a fabric first approach with carbon reducing elements embedded in the fabric, which will also adopt the modern methods of construction using the ICF wall system. The building will also be constructed to high insulation levels of air-tightness using mechanical ventilation and heat recovery (MVHR) by reducing the energy demand of the building first, the carbon footprint proportionally reduces.*

The Council's Strategic Planning Officer has been consulted on this application and is satisfied, subject to a condition, that the proposal is capable of policy compliance in this regard.

In this case, the proposed new dwelling would be constructed using Passivhaus methods, which would maximise the energy efficiency of the fabric and would also maximise natural heating, cooling and lighting, and reduce the heat loss area. As such, it is considered that the proposal would comply with the relevant policies in this regard, subject to a condition regarding the implementation of the sustainable construction methods proposed.

For these reasons, the proposal is considered to accord with JLP policy DEV32 and paragraph 152 of the NPPF.

### **Planning Balance:**

It is recognised that previous application, 1668/20/FUL, was refused on the grounds of overdevelopment, lack of outdoor amenity space, potential harm to land stability, neighbouring amenity and lack of evidence relating to sustainable construction. For the reasons set out above in the main body of this report, it is the Officer's view that the reasons for refusing the earlier application have now been overcome and the current application is considered acceptable with regard to these considerations.

On balance, therefore, it is the Officer's view that no unacceptable harm in regard to the material considerations assessed in this report would arise from the proposed development. This would have a neutral impact.

The proposal would result in the remediation of an overgrown site that has experienced subsidence and would result in betterment in terms of localised land stability. It is the Officer's view that the scheme would enhance the visual amenity and provide a high quality amenity for future occupiers, in accordance with JLP policy SO11. These are considered benefits.

It is acknowledged that the proposed development would result in some employment opportunities during the construction phase and that the future occupiers would increase footfall to local businesses. This would have a positive impact.

The proposal would result in the addition of 1no. new three-bedroom dwelling that would be considered a moderate benefit in light of the Council's recent housing crisis declaration.

The siting of the proposed new dwelling within an accessible location, with public transport services and a good range of local amenities within walking distance, is considered to weigh positively in favour of the scheme.

Therefore, the proposal is not considered to result in adverse impacts that would outweigh the benefits, when assessed against the policies in the Development Plan taken as a whole.

The proposal is considered, on balance, to represent sustainable development in terms of the economic, social and environmental objectives of NPPF paragraph 8 and Joint Local Plan policy SPT1.

The development would, therefore, accord with the Development Plan and the policies of the NPPF and conditional approval is recommended in line with NPPF paragraph 11 c).

## **Planning Policy**

### **Relevant policy framework**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. 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, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. 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 13 May 2019 confirming the change.

On 13<sup>th</sup> January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% and the consequences are "None". Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

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

The relevant development plan policies are set out below:

### **Plymouth & South West Devon Joint Local Plan (JLP)**

(The JLP 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

SPT9 Strategic principles for transport planning and strategy

SPT11 Strategic approach to the Historic environment

SPT12 Strategic approach to the natural environment

TTV1 Prioritising growth through a hierarchy of sustainable settlements

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

DEV1 Protecting health and amenity

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

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

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV21 Development affecting the historic environment  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV29 Specific provisions relating to transport  
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

### **Plymouth & South West Devon Joint Local Plan (JLP) SPD**

The Supplementary Planning Document was adopted in July 2020

### **Neighbourhood Plan**

Totnes Neighbourhood Plan carries limited weight in this assessment due to its early stage in the adoption process.

### **Other material considerations**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)

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

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.

## PRE-COMMENCEMENT CONDITIONS AGREED 24/01/22

### CONDITIONS

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

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall in all respects accord strictly with the following drawings/documents:

Site Location Plan received 06/08/21

Proposed Plans 1146/1 received 06/08/21

Proposed Elevations 1146/2 received 06/08/21

Proposed Block Plan 1146/3 received 06/08/21

Proposed Site Section 1146/4 received 06/08/21

Design and Access Statement dated July 2021 paragraph commencing 'DEV32'

Drainage Statement report, ref. 1305w0001, including plans ref: 1305- 0500 Rev P2 and 1305-0501 Rev P1

Phase 1 Desk Study and Phase 2a Preliminary Ground Investigation report dated March 2021

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be carried out in accordance with the approved details.

REASON: To ensure the development harmonises with its surroundings in accordance with JLP policies DEV10 and DEV20 and the relevant paragraphs of the NPPF.

4. Before any above groundworks take place, details of a landscaping scheme shall be submitted to and approved by the Local Planning Authority, detailing measures to deliver visual screening of the development and biodiversity net gains, such as bird or bat boxes and log piles, and incorporating the planting of native species of trees, shrubs, herbaceous plants and areas to be grassed, with a focus on nectar-rich flowers and/or berries as these can also be of considerable value to wildlife. The landscaping shall be carried out in the first planting season after commencement of the development unless agreed otherwise in writing by the Local Planning Authority, and shall be maintained for a period of 5 years. Such maintenance shall include the replacement of any trees and shrubs that die.

REASON: To ensure the provision and maintenance of trees, shrubs, other plants and grassed areas in the interests of visual amenity and to ensure that the proposed development will deliver biodiversity enhancements, in response to the Council's declaration of a South Climate Change and Biodiversity Emergency and in accordance with Joint Local Plan policies DEV10, DEV20 and DEV26 and the NPPF.

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

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works;
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site; (k) details of wheel washing facilities and obligations;
- (l) the proposed route of all construction traffic exceeding 7.5 tonne;
- (m) details of the amount and location of construction worker parking; (n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site and in the interests of the neighbouring amenity, in accordance with Joint Local Plan policies SPT9, DEV1 and DEV29 and the relevant policies of the NPPF.

6. No part of the dwelling hereby approved shall be commenced until the access, parking facilities and access drainage have been provided in accordance with the approved plans.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site and in the interests of the neighbouring amenity, in accordance with Joint Local Plan policies SPT9, DEV1 and DEV29 and the relevant policies of the NPPF.

7. Prior to first occupation of the dwelling hereby approved, the electric vehicle charging point shall be implemented in accordance with the approved plans and maintained thereafter.

REASON: In the interests of carbon reduction and in response to the Council's declaration of a Climate Change and Biodiversity Emergency and to comply with Joint Local Plan policies SPT9, DEV17 and DEV29 and the relevant policies of the NPPF.

8. Prior to first occupation of the dwelling hereby approved, the enclosed waste and recycling storage area shall be implemented in accordance with the approved plans and maintained thereafter.

REASON: To encourage recycling and waste reduction in the interests of the climate emergency and the visual amenity and to comply with Joint Local Plan policies DEV31 and the relevant policies of the NPPF.

9. The drainage scheme shall be installed in strict accordance with the approved plans (Drainage plans ref: 1305-0500 Rev P2 and 1305-0501 Rev P1), maintained and retained in accordance with the agreed details for the life of the development.

REASON: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development in accordance with Joint Local Plan policies DEV2 and DEV35 and the relevant policies of the NPPF.

10. If any other drainage scheme than that approved as part of this permission is proposed then a mitigating drainage alternative shall be agreed with the Local Planning Authority.

REASON: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development in accordance with Joint Local

Plan policies DEV2 and DEV35 and the relevant policies of the NPPF.

11. No part of the development hereby approved shall be commenced until the land within and immediately adjacent to the application site has been stabilised in accordance with the recommendations of submitted Phase 1 Desk Study and Phase 2a Preliminary Ground Investigation report dated March 2021.

REASON: To ensure that the land within and immediately adjacent to the site is stable, and in the interests of the neighbouring amenity, in accordance with Joint Local Plan policies policy DEV2, the PPG and the relevant policies of the NPPF.

12. The construction of the dwelling hereby approved shall be carried out in accordance with the details contained in the Design and Access Statement, the DEV32 Checklist and the approved plans. All measures contained within the approved documents to limit carbon emissions and improve building efficiency shall be implemented in full and maintained thereafter. Prior to first occupation of the dwelling, an 'as built' SAP assessment, confirming the building specification as built complies with the approved details, shall be submitted to and approved by the Local Planning Authority.

REASON: In response to the Council's declaration of a Climate Change and Biodiversity Emergency, to reduce carbon emissions and to accord with Joint Local Plan policy DEV32 and paragraph 152 of the NPPF.

## **INFORMATIVES**

1. This authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with Article 35(2) of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) in determining this application, the Local Planning Authority has endeavoured to work proactively and positively with the applicant, in line with National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed.

2. The responsibility for ensuring compliance with the terms of the approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details can render the development unauthorised and vulnerable to enforcement action.

3. You should note that certain wildlife habitats and species are subject to statutory protection under the Wildlife and Countryside Act 1981 (as amended) and/or the Habitats Regulations 1994. It is a criminal offence to breach the provisions of these legal constraints and if your development impacts upon such sites or species you are advised to take advice from a competent ecologist who has experience in the habitats/species involved and, as necessary, any relevant licenses from Natural England.

4. If your decision requires the discharge of conditions then you must submit an application for each request to discharge these conditions. The current fee chargeable by the Local Planning Authority is £116 per request. Application forms are available on the Council's website.