

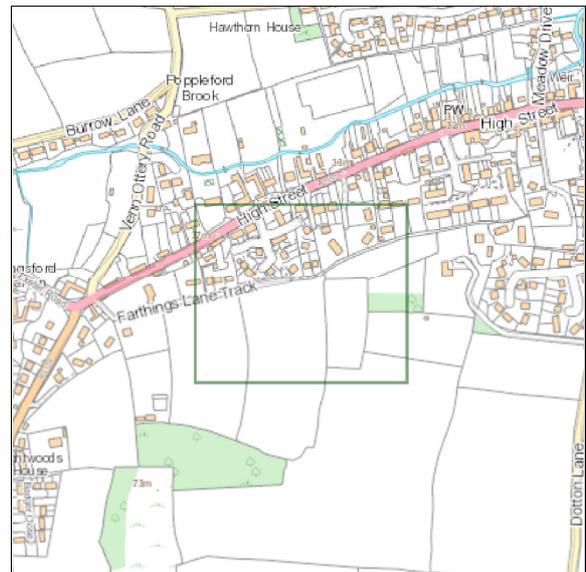
Ward Newton Popleford And Harpford

Reference 18/2608/OUT

Applicant Mr Rix

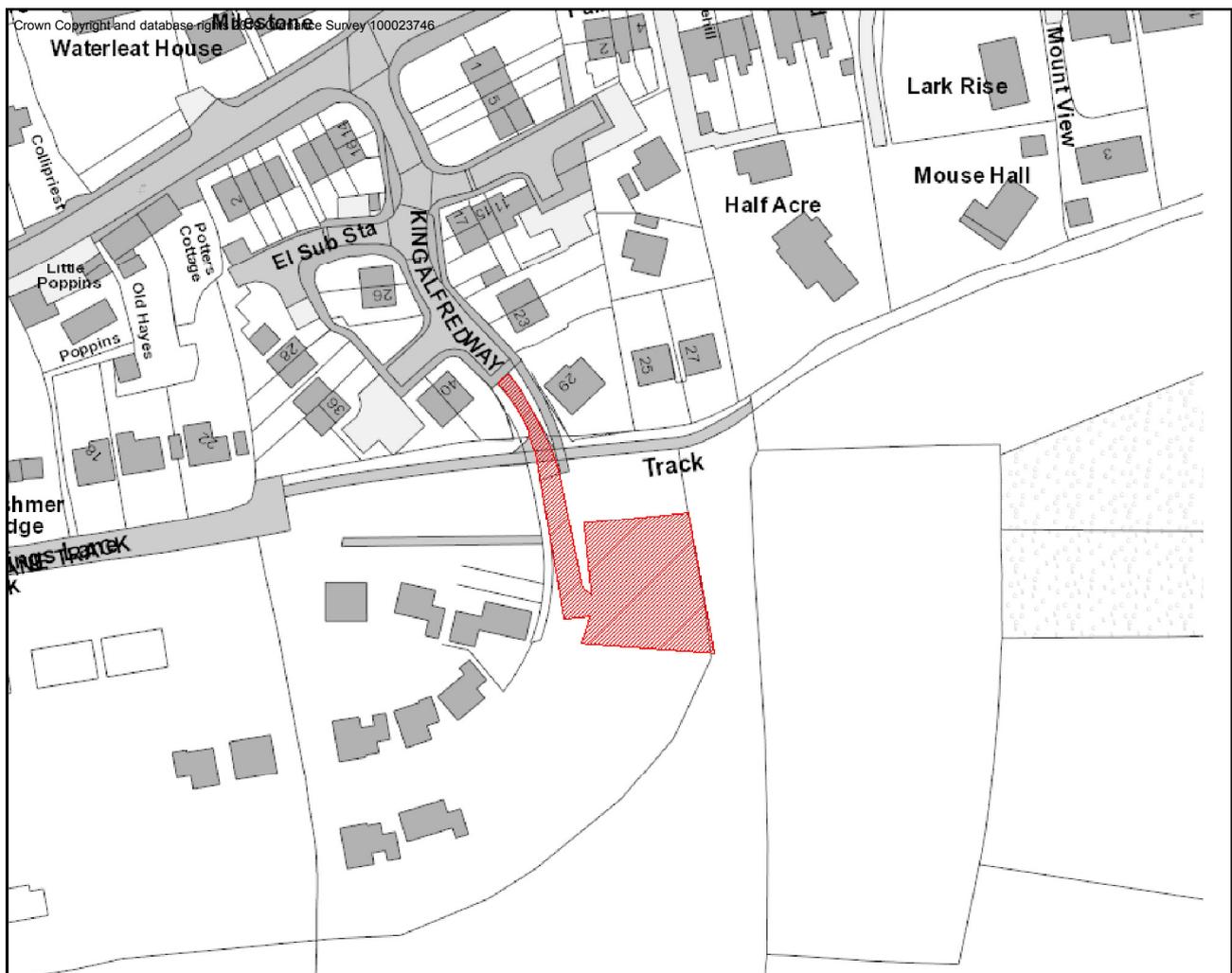
Location Land South Of King Alfred Way Newton Popleford EX10 0DG

Proposal Construction of up to two dwellings (with all matters other than access reserved)



RECOMMENDATION:

1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;
2. To advise the Planning Inspectorate that the application would have been approved with conditions had the applicant not appealed against non-determination.



		Committee Date: 6th August 2019	
Newton Poppleford And Harpford (NEWTON POPPLEFORD AND HARPFORD)	18/2608/OUT	Target	Date: 08.03.2019
Applicant:	Mr Rix		
Location:	Land South Of King Alfred Way		
Proposal:	Construction of up to two dwellings (with all matters other than access reserved)		

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;**
- 2. To advise the Planning Inspectorate that the application would have been approved with conditions had the applicant not appealed against non-determination.**

FURTHER UPDATE REPORT

The application was last considered by Members at the 11th June Development Management Committee where it was deferred, for a second time, for 3 months to provide an opportunity for the applicant, Parish Council and Coleridge Medical Centre to get together to resolve the situation with regard to the provision of the doctor's surgery and to make their positions clear to the local planning authority.

The Local Planning Authority have not been made aware of any meetings that have taken place and shortly after the last Committee decision to defer the application for 3 months, the applicant submitted an appeal against the council's failure to determine the application. The appeal was made valid on the 19/06/2019 and is likely to proceed by way of written representations.

In light of the submission of the appeal, the Committee need to determine how they wish to proceed. There are two options available. Firstly members could determine that the Local Planning Authority would have granted planning permission, advise the Planning Inspectorate accordingly, and leave it to the Planning Inspector to consider the merits of the proposal and determine the appeal. Alternatively, Members could determine that the Local Planning Authority would have refused planning permission, and advise officers of the reasons for refusal and case to be put to the Planning Inspector.

On the basis that officers have consistently recommended that planning permission be granted as there is no planning justification to resist the loss of the doctor's surgery, the officer recommendation is to advise the Planning Inspectorate that had it retained the power to determine the application, it would have approved planning permission subject to conditions.

As such, the assessment of the application and recommendation remains as laid out in the update report before the 11th June Committee and as per the original report to the 5th March 2019 Committee. Both reports are attached for reference.

As detailed in the attached reports, whilst the results of the Parish Council's Survey results demonstrate a clear desire for the surgery, there is no legal or planning requirement for the original development of 40 dwellings to provide the Doctors Surgery. At the time of the original consent for the dwellings and doctor's surgery it was clear as part of the decision that whilst the surgery was granted planning permission, it was done so on the basis of its inclusion within the planning application as proposed by the applicant and not on the basis that the development justified the provision of a doctor's surgery. The 40 dwellings granted did not generate a need for a doctor's surgery and as such its provision as part of the planning permission could not be legally justified.

As the doctor's surgery was not required to mitigate the development of the 40 dwellings, its loss cannot now be resisted.

Should Members determine that they would have refused planning permission, reasons for the decision will need to be provided and these will need to relate to conflict with a local plan policy(s) with clear harm arising. Failure to do so could lead to an application by the appellant for costs. It should be noted however that the applicant is in any case entitled to submit an application for costs on the basis of unreasonable behaviour that could include an unreasonable delay to the determination of the application to date and/or failure to adequately justify a decision to refuse planning permission. It is also within the gift of the Planning Inspector to award costs without a request from the applicant/appellant.

Whilst it is recognised that the adopted Local Plan seeks to protect and retain community buildings and land, particularly through Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) and Policy RC6 (Local Community Facilities), it is not considered that these policies could be relied on in this instance for the following reasons:

- Strategy 32 protects land where it is currently in community use or allocated for community use. However, the site is not allocated for community use and is not currently in community use. As such, it is not considered that the Strategy applies in this instance;**
- Policy RC6 states that permission will not be granted for developments that would result in the loss or closure of a community facility unless the facility is no longer needed or it is not viable or an alternative facility of equal or higher value is being provided. As with Strategy 32 however, the site is not**

currently in community use, and will not result in the closure of an existing facility and as such the policy does not apply in this instance.

- It is also material to the decision that there is no firm evidence or commitment from a medical practice or the NHS to the provision of the surgery on this site.

In light of the above, and in accordance with the case put forward in the attached report and update report, the recommendation is to advise the Planning Inspectorate that had the Local Planning Authority retained the power to determine the application, it would have granted planning permission subject to conditions. This route is the most sound on planning grounds and the most likely to prevent an application for costs against the Council or grant of costs against the Council by the Planning Inspector.

		Committee Date: 06.08.2019
Newton Poppleford And Harpford (NEWTON POPPLEFORD AND HARPFORD)	18/2608/OUT	Target Date: 08.03.2019
Applicant:	Mr Rix	
Location:	Land South Of King Alfred Way	
Proposal:	Construction of up to two dwellings (with all matters other than access reserved)	

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;**
- 2. That the application be APPROVED subject to conditions.**

UPDATE REPORT

The application was considered by Members at the 5th March 2019 Committee (copy of the original Committee Report attached) where it was deferred to seek further evidence in relation to the community need for a doctors surgery or health facility at the site from the following bodies:

The NHS
 Coleridge Medical Centre
 Newton Poppleford Parish Council
 Budleigh Salterton Hub
 Budleigh Salterton Medical Practice
 Sidmouth Medical Practice, and
 The applicant

These bodies or organisations were written to on the 6th March. Replies were received from the Coleridge Medical Centre on the 14th March, and Newton Poppleford Parish Council on the 13th April. The responses from these bodies are detailed below along with further comments from the Ward Member. No other responses have been received.

Cllr V Ranger

Thank you for this report. I do have a comment re the affordable housing contribution.

The original application for this site was 42 houses, not 40. CDE always intended to build 42 houses and only reduced this to 40 as wriggle room during the various applications put forward. They also were allowed a reduced affordable housing element originally owing to the 'cost' of providing the doctors surgery. It only adds insult to injury that it is suggested they be allowed to get away with more. CDE were already in fat profit otherwise they wouldn't be building the estate at all. In other words if they left the estate at 40 houses they are in major profit. They are now being allowed to build two very large properties which will increase their profits hugely with no further contribution. The contribution would be small change to CDE. Why would EDDC support a major developer being let off their contribution to affordable housing? It flies in the face of the recent affordable housing consultation in which EDDC claims to support the provision of AH. CDE always intended to build 42 houses.

Coleridge Medical Centre

Thank you for giving us the opportunity to respond to your enquiries regarding the above. I am authorised to respond on behalf on the Coleridge Medical Centre with the following statement:

A considerable amount of time has passed since the original planning application for a new GP Practice premises at Newton Poppleford and as such the landscape for primary care services has changed. The Health and Social Care agenda is now developing towards a larger range of clinical expertise and services on central sites and involving existing community settings to house these. Therefore funding that was available to develop joint working in smaller satellite locations is no longer available to us at this time.

We may be interested in any new schemes to develop health and social care services in new premises but our funding dilemma remains the same and we have not been formally approached with any tangible means to change our current position. In addition, our commissioners would expect us to demonstrate that improved outcomes could be gained and that these outweigh the benefits of maintaining existing services provided in the local area.

To this end the practice is currently working jointly with Beacon Health Centre to find a workable solution that enables Newton Poppleford patients to access a wider range of services than can currently be offered in existing facilities in Newton Poppleford.

Newton Poppleford & Harpford Parish Council

Further to your letter referenced above I am writing on behalf of Newton Poppleford and Harpford Parish Council (NPHPC) with its response.

Your letter states "...the committee heard from the applicant that a doctor's surgery is no longer required by local doctor's practices or the NHS". This was disputed by opponents of the application.

Prompted by the committee's direction at the Development Management Committee (DMC) meeting of 5th March 2019 NPHPC have taken a number of actions to establish the demand or otherwise for a new medical facility in the village. These include

- Undertake a full parish survey of residents
- Meet with representatives from Sidmouth, Coleridge and Budleigh surgeries
- Seek to meet with the applicant, Clinton Devon Estates (CDE).

Executive Summary

- The results of the parish survey clearly show very strong demand from the residents of the parish for a new surgery – 92% in favour with 6% undecided.
- The introduction of a “fit for purpose” surgery would significantly reduce traffic movements between the parish and local surgeries in accordance with Strategy 5B of the local plan. 92% of respondents travel to the surgery by car or lift. Granting the application for 2 houses in place of the surgery would contravene Strategy 5B.
- Coleridge Medical Centre remain willing to consider a move to a new surgery if rents can be aligned to the current rent. Time should be allowed for them to consider options that could work.
- NHS England have confirmed that, *provided the rent stays the same*, the barriers for Coleridge to move to a new surgery are minimal.
- Budleigh Surgery have not ruled out their interest in the surgery. Time should be allowed for them to consider options that could work.
- Clinton Devon Estates have to date failed to meet with NPHPC in respect of the surgery, despite being chased on numerous occasions over a 3 week period. According to Budleigh Surgery they have not made contact with them for 4 years. Both Budleigh and Coleridge confirm that, in historical discussions, CDE discussed moving to “commercial rent” but CDE could or would not specify what that was.
- Clinton Devon Estates clearly promised a surgery would be built. It was in their detailed planning application 15/2172/MRES. It was promised in response to public concern about whether the promise of a surgery would ever materialise. A promise is a promise and should be delivered. CDE should build the surgery and hand it to NPHPC to manage it.

Parish Survey

A survey was designed to ascertain the thoughts of the residents of the parish. A survey form was delivered to every residence in the village and was collected within a week, by a team of volunteers. In total 591 responses were received by the deadline of 22nd March 2019, a statistically significant 57% response rate, representing the thoughts of 1,319 residents.

The results show

87% of respondents would prefer to see their GP in Newton Poppleford than at their current surgery.

When asked the question “how do you travel to your current medical practice?” 86% of respondents said by car and a further 6% were by lifts from friends or relatives.

Of those who used other modes of transport, there were many comments on both the time and expense of travelling to a surgery, predominantly Coleridge Medical Centre in Ottery, by bus or community car. Community car use (2%) costs £10 to Coleridge and one current patient uses it 3 times per week. Bus transport is both expensive and time – consuming as there is no direct bus route to Ottery St Mary, where 78% of respondents said they were registered. Clearly the erection of a functioning surgery will sharply reduce unsustainable transport to existing surgeries. Granting permission for the removal of the surgery from the development in King Alfred Way will therefore be in contravention of Strategy 5B from the adopted local plan – Sustainable Transport.

92% of those surveyed said they want a medical surgery in the village, with 6% undecided.

NPHPC believe that the outcome of the survey shows there is clear demand for a surgery in the village, it is the preferred location for residents to see their GP and that a new surgery facility will save time, money and significantly reduce environmental emissions from car journeys.

The survey invited respondents to add any comments on their thoughts on the question of the surgery. All comments have been collated and supplied as an appendix to this response.

Meeting with Representatives of Doctor’s Surgeries

On 25th March 2019 a representative of NPHPC met with Susan Stokes, Practice Manager from Coleridge Medical Centre, together with Andy Hosking, Practice Manager at Sidmouth Beacon surgery. The results of the parish survey were shared. The key points to come out of this meeting were as follows;

- Sidmouth Beacon would not be interested in manning a surgery in Newton Poppleford. It is considered too close to the existing Sidmouth surgery.
- Coleridge stated that
 - o The existing surgery building at Roberts Way, off School Lane car park is considered to be not fit for purpose. Only 2 doctors are happy to work there and then for only limited consultations. Female doctors and lone nurses will not work there due to vulnerability of lone workers. Therefore only acute patients can be seen at the existing surgery.
 - o If a proposal was put to Coleridge they would consider relocating to the new surgery but it would require permission from the CCG.
 - o Coleridge made it clear that their changed stance since being so supportive of the new development at King Alfred Way was due to a change in NHS England’s funding criteria. However, they did agree that, if the rent currently paid to NPHPC for the Roberts Way surgery was unchanged, then subject to CCG approval, a move could be made.

- The surgery confirmed that they had been in discussions with CDE who had proposed an initially low rent, moving to a “commercial rent” in 5 years. It was said that “CDE wanted their money back”.
- On 9th April 2019 a representative of NPHPC met with Debbie Mitchell & Kathy Blurton, joint Practice Managers at Budleigh Surgery.
 - They showed interest in the survey findings and, whilst unable to give any definitive answers on interest in a surgery, said that they would be putting the idea to the GP’s at a forthcoming management meeting.
 - They confirmed that they had had discussions in respect of a surgery “around 4 years ago” with CDE.
 - Their recognition, like that of Coleridge, was that CDE would only commit to a “peppercorn rent” for the first 5 years. This lack of long term commitment made it difficult for them to proceed with strategic investment in staff etc.

Meeting with Clinton Devon Estates

At the time of writing, CDE have been unwilling or unable to meet with the Chair of NPHPC to discuss the doctor’s surgery. EDDC and the DMC committee may wish to draw their own conclusions from this.

Other

- A parish resident, who is a former CEO of one of the Devon Primary Care trusts, contacted NHS England to discuss the hurdles Coleridge Medical Centre would have to overcome if they were to move to a new surgery building. The answer was that, “if they wanted to move to a new surgery, Coleridge would have to undertake a village consultation and keep the rent the same”.
- In their “Statement of Community Involvement” in 15/2172/MRES, CDE stated “... a presentation to the NPHPC was made at the Newton Poppleford Village Hall on 24th November 2014 .The presentation was well attended by the public. Key issues which were raised comprised the following: 1) Concerns regarding the delivery of the proposed doctor’s surgery. Following the meeting and in response to the request at the meeting, a summary of these concerns was provided to the applicants by the parish council. A response to each of the points was provided in the form of a letter.”

In that letter to NPHPC, Mr Ed Brown, Development Manager for Cavanna Homes, confirmed that a doctor’s surgery would be built. There were no caveats, no conditions to that statement. “Nonetheless, the surgery building will be provided even though planning policy does not require its provision.”

Officer Comments

There has been no reduction in the provision of 40% affordable housing as required by the original outline consent, with 16 units being provided.

It is acknowledged that the community would benefit from a new surgery at this location, that there are very high levels of support for a surgery, that a surgery has been promised by the applicant; and, that this would result in reduced vehicle trips.

However, from a planning perspective this is somewhat irrelevant as there has never been a planning justification or requirement for a doctor's surgery on the site related to the provision of the planning permission for the 40 dwellings.

Given that in planning terms the development of 40 dwellings does not justify provision of a new surgery on the site serving the whole village (the planning system can only secure mitigation for the impact from the 40 dwellings and cannot be used to solve problems or shortfalls that already exist as this is not proportionate), a surgery cannot be insisted upon in planning terms. The provision of infrastructure required from the 2 additional dwellings will be delivered by the Community Infrastructure Levy that will be payable from those houses.

It is clearly understandable why the local community at Newton Poppleford are angry at the change in position of the applicant from promising the provision of a doctor's surgery, to now proposing two dwellings. However, this is not a matter that could justify refusal of planning permission as the provision of a doctor's surgery on the site could never be justified in planning terms off the back of the original development of 40 dwellings and this has been made consistently clear at stage of the planning process.

In addition, the comments from Coleridge Medical Centre are clear that there is a funding issue and that the practice may not be able to demonstrate to the relevant commissioners that this is a long-term viable proposition. They are also unsure that this is the best way of delivering services to the residents of Newton Poppleford given that there is a clear indication that clinical outcomes are being considered for patients which provide a solution which may outweigh the need for a new surgery in the village. There have been no responses to the further consultation from the NHS or bodies willing to fund and commit to the construction of the surgery. Despite the wide support for the surgery, there no longer appear to be the clear finances or support from the NHS for a surgery on the site.

It is disappointing that Clinton Devon have not chosen to expand on the justification for their application or to engage further with the Parish Council. In itself however, these are not reasons that can be used to justify a refusal of planning permission. The planning merits of the proposal being that a doctor's surgery on the site was never justified or required in planning terms, as such there is no planning justification to resist the loss of the provision of a doctor's that was never required or justified in planning terms. It is not a failing of the planning system to provide the surgery, but a change in the position of Clinton Devon.

It is also unclear that there is the relevant funding from the NHS for the surgery and a possible change in the provision of health care that appears to question whether a new surgery is supported from a health care perspective.

In light of the above, the application is again recommended for approval as detailed in the attached report to Members.

ORIGINAL REPORT

		Committee Date: 5th March 19
Newton Poppleford And Harpford (NEWTON POPPLEFORD AND HARPFORD)	18/2608/OUT	Target Date: 08.03.2019
Applicant:	Mr Rix	
Location:	Land South Of King Alfred Way	
Proposal:	Construction of up to two dwellings (with all matters other than access reserved)	

RECOMMENDATION:

- 1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;**
- 2. That the application be APPROVED subject to conditions.**

EXECUTIVE SUMMARY

This application is before Members as the officer recommendation differs from the view of ward member.

The application is in outline form and proposes residential development within the defined Built-Up Area Boundary of Newton Poppleford. Taking Strategy 27 and Strategy 6 into account the principle of residential development at the site is considered acceptable.

Due to the site being located in the East Devon Area of Outstanding Natural Beauty (AONB) particular attention has been given to the developments visual impact in the wider landscape. The addition of two additional dwellings set within the context of the wider residential scheme in place of a consented doctor's surgery would not have a significant visual impact to the setting of the village or wider landscape.

The application has received objections from third parties, local residents, local ward member and the Parish Councils of Harpford and Newton Poppleford for the removal of the doctors surgery previously granted on the application site as part of the wider residential development. It is appreciated that the provision of a doctor's surgery would have provided social benefits for the surrounding area but

it is understood that the local doctor's practice has decided not to proceed with development of a doctor's surgery on the site. In addition, whilst the doctor's surgery was approved as part of the original residential development of the site, it was not required to be provided in planning terms as the residential development itself did not justify the need for additional health space/doctors surgery. As a doctor's surgery is not required as part of the original development, and as it has been demonstrated that the site is no longer required for a doctors surgery, its loss to two dwellings cannot be resisted in planning terms.

The two dwellings will utilise the sites existing access off King Alfred Way, the visibility of which is considered acceptable. The local highway network is also considered to have the capacity to accommodate the additional traffic generated by the two dwellings. The development will include the provision of three spaces for each unit. The County Highways Team have reviewed the application and have raised no objections.

It has been considered whether the development is liable to provide onsite affordable housing or an offsite financial contribution. However, with reference to paragraph 6.19 of the East Devon Planning Obligations SPD, the development is not considered as an intentional subdivision of the plot to fall below set affordable housing thresholds and is located within the Built-Up Area boundary. Therefore there is no requirement for onsite provision of affordable housing or a financial contribution.

Taking the above into consideration it is concluded the application is in compliance with policy set out within the East Devon Local Plan and is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Newton Poppleford and Harpford Parish Council (NP&HPC)
Comments on 18/2608/OUT.

NP&HPC is deeply disappointed by this application, which seeks to replace a promised doctor's surgery, an important amenity for the village, with two executive - style houses.

Both the outline application and detailed planning application for this new estate were entitled "40 houses and a doctor's surgery". The council feels that it is disingenuous of the applicant, having been granted planning permission on the basis of the pledge of a doctor's surgery, to now seek to walk away from their promises.

At the East Devon District Council Development Management Committee meeting on 17th September 2013, which debated the outline planning application (13/0316/MOUT) the possibility of the developer's pledge to deliver a doctor's surgery being allowed to "drop straight out" was raised by Cllr Pook and was specifically

addressed by the applicant's agent, Mr Lestyn John of Bell Cornwell, who said "My client has given a commitment to provide the doctor's surgery and fit it out". This statement served to appease doubters on the DMC who then cited the delivery of the surgery as a reason for supporting the application which was, as we know, outside the then built up area boundary (BUAB) of the village in an area of outstanding natural beauty (AONB).

Cllr Howard - "The more satellite surgeries you have with Coleridge being the hub the better. It's going to be an economic benefit".

Cllr Pook also clearly went on to take the surgery into account when deciding to support the application.

Cllr Allan - "I certainly wouldn't support this proposal unless that undertaking [to deliver a surgery] was there".

Cllr Potter - "Lord Clinton is an honourable man and I have no reservations about this at all - no if [the surgery] will happen."

On the face of it this now appears to be yet another example of a developer saying ANYTHING in order to win the case for development, only to go back on their word when it comes to providing a valuable societal facility.

NP&HPC undertook a consultation with the community on 24 November 2014 when the detailed planning application (15/2172/MRES) had been submitted and wrote to the applicant's agent, Bell Cornwell (dated 15th December 2014) with a number of specific concerns, including the delivery and fit out of the surgery, which we requested should be in the first phase of the development. A response from Mr Ed Brown, Development Manager of Cavanna Homes, on 23 December 2014, stated categorically "the surgery building will be provided even though planning policy does not require its provision".

Furthermore, letters of support were received for the detailed planning appeal including (23/10/2015) the submission of a 199-name petition supporting the need for a new surgery in the village and a specific letter of support from Coleridge Medical Centre dated 2 November 2015. The Coleridge letter stated that the current facilities in Newton Poppleford are inadequate on the basis of lone working and infection control and does not enable nursing practices to be held there. Therefore, the existing surgery is underutilised and Coleridge were keen for a new facility in the village.

The planned surgery site incorporated 12 car parking spaces, which would have served as overflow parking for the new estate which has inadequate parking facilities. This amenity would be lost if the application is approved.

The two houses proposed to take the place of the surgery are of an executive style, double storey and replace one, single storey surgery building. The double storey structures are contrary to what had been planned at detailed planning. The proposed houses will be overbearing to the existing properties (specifically numbers 25, 27 and 29) in King Alfred Way, being due South / South West from these properties and uphill the houses will cast shadow over them especially during winter months.

The landscaping proposed around these properties include raised gardens, whereas the surgery layout includes a level plot - these proposed raised gardens are clearly

unnecessary (as the previous application accommodated a level plot) and will be out of keeping with the rest of the site.

There is little open space proposed in this large housing estate with the planned houses quite cramped together. There is a lack of open space at this end of the village. The new estate has already become a dominant feature of the landscape in the AONB from the north view point and two more large, executive - style houses will only exacerbate the view from the north of the estate.

The Parish Council offered to be involved in the negotiations between the applicant and potential surgery users as it currently provides the surgery facility in Newton Poppleford, but the applicant did not want to engage with the Council. All negotiations have been held without any input from the Parish Council. The reference to Sidmouth Beacon Medical Centre in the application is a red herring as Sidmouth WILL NOT take any patients from Newton Poppleford. Ottery Coleridge remains the key medical centre for our village, which has a large elderly population, and yet we have NO direct transport links to Ottery St Mary and another 50 houses currently being built in the village.

It is NP&HPC's considered opinion that the application should be refused on the grounds that it clearly involves the loss of an amenity of significant value to the village (contrary to the statement in Bell Cornwell's report - point 4 "Justification of Proposed Development"). The applicant has, since 2013, promised to deliver a doctor's surgery as an economic benefit in return for permission to build 40 new houses on agricultural land outside the BUAB and in an AONB.

This village wants its surgery, nothing less. If the applicant is unable or unwilling to secure a contract to utilise the surgery once built and fitted out then the Parish Council is willing to take over the management of the surgery once built. The Parish Council would run a new surgery to cover costs, not to seek an economic gain from the public health service.

The Parish Council does not believe that all avenues have been exhausted with regards the development of the new surgery. We would welcome an immediate discussion with all parties to find a potential solution to install a proper medical facility in the village.

Due to the large amounts of public interest in this application, and Council's wish to prepare a full, written response as their Consultee comment, Council seeks an extension to the comment submission deadline to the 18th December if at all possible, given that the 23 day window as already notified ends on a weekend, thus reducing Councils "slot" by a further 2 days.

I am sure you will understand how contentious and controversial this application is given the history of the site and the recent withdrawal of the Medical Practice from the negotiations, which has caused this application, and therefore Council wishes to make sure that its response is comprehensive, factually correct and well-balanced in case this case goes to DMC or even Appeal.

Newton Poppleford & Harpford - Cllr V Ranger

I object to this application.

My first question is why this is not a /COU application as the land was given permission previously for a doctors surgery, planning class D, whereas housing is planning class C3. I believe this is a material consideration.

The next points are comments with regard to inaccuracies in the Design and Access statement and supporting correspondence for the purposes of clarity and some historical points:

Page 2 - The revoked Section 106 was the result of a legal challenge - EDDCs own legal team on the day of the application were arguing that the S106 was not legal, it was no surprise it was subsequently quietly withdrawn.

Page 3 states that the new health centre in Sidmouth, the Beacon Health Centre, serves Newton Poppleford. This is completely untrue; the Beacon Centre will not take residents from NP onto their books. A few residents in NP remain with the Sidmouth practice from a historical perspective. The BHC will not take on new NP residents despite many residents requesting this.

Page 5 - Strategy 2 - para 3 - the applicant makes reference to the fact that this is a windfall site. This is a site under construction and should be taken as one whole site, not as a separate windfall application for two houses. It is quite clearly part of the 40 houses plus doctors' surgery development agreed at outline - 13/0316/MOUT and later 16/00053/REF.

P6 Strategy 34 - District wide affordable housing - as above, this application should not be considered to be a separate site from the site currently under construction. Part of the discussion in the 13/0316/MOUT application was the low level of affordable housing required on this site at just 40% or 38% if this application was approved. "A viability issue was raised and obviously the outcome of that was the only reason the affordable housing was being reduced below the 40% was to pay for the doctors surgery".

Strategy 34 states: Areas to which higher (50%) affordable housing targets apply: Outside of the areas listed above (i.e. all other parts of East Devon including all settlements not listed, coastal and rural areas and Budleigh Salterton and Sidmouth) 50% of the dwellings shall be affordable subject to viability considerations. The 50% figure applies to all areas that do not come under the 25% classification and which are permitted under Strategy 35 'Exceptions' policy.

Strategy 35 - Had EDDC been able to show a 5 year land supply at the time of 13/0316/MOUT, the site would have been required to provide 66% affordable housing under Strategy 35 so again the applicant has exploited this for financial gain.

Strategy 36 - The applicant also was not compelled to provide housing under Strategy 36 making further financial gain.

P10 - point 5 states there will be a reduction in traffic by giving permission for two houses each with 3 parking spaces over having a doctors' surgery. The applicant argued that a surgery would generate very few cars. It is therefore entirely disingenuous to make this point.

A DMC councillor stated at the 13/0316/MOUT hearing that the applicant had offered 'planning gain' in previous applications that they did not honour once permission has been granted. Nevertheless a number of cllrs felt the promise of the provision of a doctors surgery sufficiently convinced them to vote for the application. So despite a known history of the applicant doing this, DMC gave weight to the promises made.

The parish council objection submitted on 03/12/2018 outlines the numerous promises made in order to gain planning permission in 2013 at the 13/0316/MOUT hearing.

DMC councillors responded positively to the aggressive lobbying from both doctors and the manager of the Coleridge Medical Centre even though CMC had no idea of the rent that would be charged on the new surgery, nor of what their own budgets would be once the development was eventually constructed.

At the Inspectors planning appeal hearing on 10th January 2017. CDE's agent confirmed the proposed surgery was to be a business which the application would build, fit and rent out at commercial rates to any practise willing to pay the rent. It was never a gift to the community. The Planning Inspectors queried this and the agent again confirmed this.

Coleridge Medical Centre already pay an annual rent for a doctors surgery in Newton Poppleford. If the rent were the same for a newly built and furnished surgery; I can see no reason that CMC would not use it in preference to the existing surgery. But no real evidence has been put forward by either party as to the reasons the surgery build cannot go ahead.

A petition was raised in 2015 signed by nearly 200 residents who stated they wanted a new doctors surgery; the applicants claim they would supply one. CDE successfully split the parish over this application in a bid to win supporters for their bid to build 40 houses outside of the BUAB. Many empty promises were made both by the applicant, the previous Ward Cllr on behalf of Lord Clinton, and the Coleridge Medical Centre that this surgery would be built..

Since the applicaton 13/0316/MOUT the parish of Newton Poppleford and Harpford has been given planning permission for 65 new houses and only 16 of these are affordable. Very few of these meet the needs of current residents.

Newton Poppleford Neighbourhood Plan Steering Group has completed a whole village survey and over-whelmingly the response was that there is a need for smaller homes, one bedroom, ground floor etc. There is no demonstrable need at all for 4 bedroom 'plus' open market houses with 3 parking spaces each as can be evidenced by the number currently unsold in the village.

In conclusion:

1. It is far too early in the process of the 40 houses currently being constructed to give permission for up to 2 houses to be built on this land and effectively change its use.
2. The surgery should be built as promised so that it can be used for the benefit of the community, especially given the lower level of affordable housing the applicant managed to negotiate on the grounds of viability owing to the cost of the surgery build and fit.
3. Alternatively the site should be ring-fenced to allow for that to happen in the future. The site is very short of open public amenity/green space and could be used for that in the meantime. The applicant is eroding the benefits to the community they were once so vociferous about.
4. The construction site has already exacerbated water run-off down the existing King Alfred Way. Water is reported to gush down the road during heavy rainfall. This in itself should be properly reviewed and mitigated before further permission is granted.
5. Why is this an outline planning application if the idea is to build whilst the current team are on site?

6. The plans submitted show the houses to be over-bearing for existing neighbours.
7. This application shows just how far some developers will go to exploit the planning process in the name of profit. This is particularly unpalatable from an organisation which likes to promote itself as working for the benefit of the community.

I do not support this application and it should be refused.
Val Ranger, Ward Cllr, Newton Poppleford and Harpford.

Technical Consultations

County Highway Authority

Observations:

This application site is located on the Alfreds Gate development by Cavanna Homes.

The site comprises the former land designated for a health care surgery which is now not to relocate. The two proposed dwellings will have designated off-carriageway parking in a driveway style layout. The planning application states a consistent single access as was proposed upon its former layout. The existing access to the exterior field is also to be maintained.

I would encourage the provision of dedicated cycle storage in order to mitigate additional traffic from these dwellings and encourage sustainable travel. The visibility on the proposed access is to our current best practice guidance, having the benefit of its recent development layout.

Therefore the County Highway Authority has no objections to raise as part of this application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Officer authorised to sign on behalf of the County Council
5 December 2018

Housing Strategy Officer Melissa Wall

This application is for 2 additional dwellings in place of an already consented doctors surgery. The site forms part of a larger site which under the S106 agreement secured 40% affordable housing (16 units). If we applied the 40% as per the S106 agreement to the now proposed 42 dwellings it would result in additional 0.8 of a dwelling which could be secured via a commuted sum. This commuted sum would amount to £23,166. However under current planning policy this site should now secure 50% affordable

housing therefore this would result in 1 additional dwelling as affordable housing which could be provided on-site. This application clearly forms part of the larger development and should not be viewed in isolation and the additional dwellings would trigger either a commuted sum or an additional unit of affordable housing.

Devon County Archaeologist

Land South Of King Alfred Way, Newton Poppleford - Construction of up to two dwellings (with all matters other than access reserved): Historic Environment

My ref: Arch/DM/ED/33495a

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets. A programme of archaeological work has previously been undertaken here through the application of a condition - Condition 10 - on the consent granted for outline application 13/0316/MOUT. As such, no further archaeological mitigation is required for the development of this area.

The Historic Environment Team has no comments to make on this planning application.

Other Representations

21 objections overall have been received with concerns over the following:

- 20 comments stating the Doctors Surgery should still be provided.

'There is a massive call for adequate medical facilities in the village, and since it would appear the parish council are offering to take over the management of the surgery once built, this would clearly be in the best interests of the village.'

- 5 comments concerned with the impact on amenity on adjoining properties and between the proposed properties
- 2 comments concerned with the impact on services and facilities
- 2 commenters feel the units should be affordable housing
- 3 comments concerned with the design

'We feel that it would be more suitable for the application for 2 houses to be changed to 2 bungalows which would be much more acceptable and would not dominate the sky-line.'

Bearing in mind the fact that the original application recognised the impact that 2 storey properties would have at this location (hence the proposed single storey Medical Centre was sited here) I feel that this application should be rejected as it currently stands.'

- 4 comments concerned with the lack of parking
- 3 comments concerned with the impact on highway traffic

'At the present time we feel that the volume of traffic the King Alfred Site, with an extra 40 houses and possibly another 80 cars, will inflict on the village centre even from a health point of view is a quite alarming.'

- 5 comments stating they feel the land should be used for community benefit

'How about insisting that the space is left to be a landscaped green space for the enjoyment of all, both visually and environmentally. This means, should future requirements alter, decisions can be made to benefit the community here, not the profit margins of the builders.'

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC8 (Safeguarding of Land required for Highway and Access Improvements)

TC9 (Parking Provision in New Development)

D2 (Landscape Requirements)

Site Location and Description

The application site is located to the south of King Alfred Way and lies within the built-up area of the village of Newton Poppleford. King Alfred Way itself is a residential cul de sac and extends to the northern the boundary of the site. The application site forms part of a larger housing development for 40 dwellings and a doctor's surgery approved under 15/2172/MRES. The scheme is currently under construction.

The land rises from the existing built up area to the south and east. The application site and the rest of Newton Poppleford is located within the designated East Devon

Area of Outstanding Natural Beauty. It is also located just over half a kilometre away from the Harpford Common, part of the Pebblebed Heaths, which is designated as a Special Area of Conservation (SAC) and Special Protection Area (SPA).

Proposal

The applicant now seeks approval for the construction of two open market dwellings with all matters apart from details of the access being reserved.

The application is in outline form and not a change of use as such applications cannot involve new build development and the application does not propose a change of use of the surgery to dwellings but the construction of two separate dwellings.

Relevant Planning History

Outline planning permission was granted in May 2014 for a development of 40 houses, a doctors surgery and associated infrastructure, open space and landscaping (application 13/0316/MOUT refers). Although details of the means of access to the site were approved as part of the grant of planning permission all other detailed matters, comprising the layout, scale and appearance of the development and the landscaping of the site, were reserved for later approval.

Application was later made for the approval of the outstanding details set out above that were reserved at outline stage (application 15/0642/MRES refers). However, the details were refused on the following grounds:

1. The proposed details fail to provide for a satisfactory mix of affordable housing that properly reflects the identified affordable housing need for Newton Poppleford, more particularly on account of the lack of one bedroom and single storey units incorporated within the scheme. Furthermore, the details do not provide for an acceptable level of dispersal of the affordable units throughout the scheme and as such fail to facilitate social inclusion.
2. The proposed landscaping scheme for the development would, on account of the lack of adequate levels of tree planting within the street scene of the principal estate road, fail to adequately soften the visual impact of the built development with consequential harm to the visual amenity of the area and the wider Area of Outstanding Natural Beauty in which the site is located.

An appeal against the refusal was lodged and dismissed by the Inspector in March 2015.

A following reserved matters application was submitted under 15/2172/MRES including alterations to the mix of affordable housing to reflect local requests and concerns with the previous reserved matters applications. Additionally alterations were made to landscaping. The application was supported by officers but refused the Development Management Committee. The decision was appealed and allowed by the Inspector in February 2017.

During the timeline of the original outline application and subsequent reserved matters application the scheme had received support by the Coleridge Medical Centre to provide a surgery on site. As a result of this support a doctors surgery was included within the planning application and was promised to be provided by the developer despite the lack of any planning justification or requirement for the doctor's surgery.

However since the original application in 2013 it is understood that the strategy of the doctor's surgery and the availability of staff and funding has changed. As a result the local doctor's practice have had to withdraw the intended move to the premises at King Alfred Way.

Analysis

The main issues for consideration are the principle of development, loss of the doctor's surgery, affordable housing provision and highway safety.

Principle

The site is within the built-up area boundary of Newton Poppleford as defined by the Adopted East Devon Local Plan and East Devon Villages Plan. The spatial strategy for development is focused around the seven main towns and larger villages with a built up area boundary, as described by Strategy 27. Newton Poppleford forms one of the larger villages within which residential development is supported

The site is also located within the East Devon Area of Outstanding Natural Beauty. Strategy 46 (Landscape Conservation and Enhancement and AONBs) contains objectives that ensure development will be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of natural and historic landscapes, particularly AONBs.

The outline application was accompanied by a detailed Landscape and Visual Impact Assessment. It acknowledges that the scheme would be visible from wider viewpoints to the north, particularly from across the village. It was considered that the development would be read as an extension/in-fill to the existing built form of the village and would not break the skyline of the rising land to the south which would continue to provide a backdrop to the village.

In addition, placing two dwellings on a site with consent for a doctor's surgery is not considered to cause concern to the overall visual impact of the wider scheme or AONB. In addition a landscaping scheme would be submitted at the reserved matters stage.

The principle of residential development within the BUAB for Newton Poppleford is therefore acceptable.

Removal of the Doctors Surgery

The application has received opposition from third parties, local member and the Parish Council due to the proposed omission of the doctor's surgery being replaced by the two proposed open market dwellings.

There is a consensus between those who have objected, the Parish Council and local Councillors that the developer should be required to provide the surgery approved under applications 13/0316/OUT and 18/2172/FUL.

Whilst these comments are acknowledged there is no planning requirement or justification to insist upon the retention of the site for a doctor's surgery.

At the time of the original consent for the dwellings and doctor's surgery it was clear as part of the decision that whilst the surgery was granted planning permission, it was done so on the basis of its inclusion within the planning application and not on the basis that the development justified the provision of a doctor's surgery. The 40 dwellings granted did not generate a need for a doctor's surgery and as such its provision as part of the planning permission could not be legally justified.

Whilst it is disappointing that the doctor's surgery is no longer proposed to take place on the site, this is not through a failure of the planning permission but due to financial and operational reasons related to the local doctor's practice.

The applicant has advised that they have offered the site to other NHS and doctor's practices without any interest and the Council has no evidence to dispute this.

The Parish Council have offered to take on the building and to work with a doctor's practice to run a doctor's from the site. Whilst this does not appear to have been pursued as an option by the applicant, as there is no planning justification for a doctor's surgery on the site, and no interest from the NHS or doctor's practices, the site cannot be protected for health uses. In addition, the grant of planning permission would not prevent the Parish Council and applicant coming to an agreement over the future of the site and to implement a doctor surgery if financial viable and practical.

On the basis that the local doctor's practice and NHS no longer require the site for a surgery, and as the surgery was not required as part of the original planning permission, there is no planning justification to insist upon the retention of the site for a surgery.

Access

The two proposed dwellings will have designated off-carriageway parking in a driveway style layout. The existing access to the exterior field is also to be maintained. It has been indicated by the County Highways Team that the provision of dedicated cycle storage in order to mitigate additional traffic from these dwellings and encourage sustainable travel. It is considered this could be secured upon the submission of the reserved matters application if deemed appropriate.

Furthermore the visibility on the proposed access is in compliance with highways guidance. The highways officer has raised no objections to the scheme. The application is considered to be in compliance with policies TC2 (Accessibility of New Development), TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the Local Plan.

Affordable Housing

The provision of two dwellings within Newton Poppleford would not usually require the provision of on-site affordable housing or a financial contribution towards off-site provision.

However as the application site forms part of a larger site, consideration has been given to whether the proposal could be liable to providing onsite affordable housing or an offsite contribution.

The East Devon Planning Obligations Supplementary Planning Document states that where sites are subdivided so the developments fall below the thresholds at which contributions will be payable the Council will consider the site, and infrastructure/mitigation required, as a whole. This will prevent a situation arising where a series of applications on a given site or land area each fall below policy thresholds but collectively exceed thresholds.

In this case it is considered that the application site has not been intentionally subdivided to avoid affordable housing provision. The application site was originally intended to be used as a Doctors Surgery throughout the original outline and subsequent reserved matters applications. It has only been recently that it has arisen that the Coleridge Medical Centre no longer have an interest in taking the site. Therefore the Local Authority does not consider the application as an intended subdivision and therefore a financial contribution for affordable housing is not being sought.

Design

Whilst details of layout and design are reserved, it is considered that the development of two additional units could be compatible with the character of the site and its surroundings. It is expected that the proposed units would be similar in design, scale, layout and bulk to the units approved at plots 1-4 under application 15/2172/MRES. Details of the design and relationships to surrounding properties, including levels and heights, can be considered and controlled at the Reserved Matters stage.

Matters of drainage and surface water run-off from two dwellings can be dealt with through connection to the adjoining estate.

Ecology and Habitat Regulation Appropriate Assessment

The original outline application was accompanied by an ecological survey conducted by Richard Green Ecology. The approval was conditioned to submit an Ecological Management Plan to ensure that appropriate measures were taken as part of the development to mitigate against any adverse impacts on slow worms, various species of birds, hazel dormice, bats and badgers. The submitted mitigation plan to discharge condition 13 of 13/0316/MOUT was approved. It is also understood the development has been granted a licence from Natural England.

As part of the current application EAD Ecology have submitted an additional ecological appraisal to assess the impact of two residential units in place of the doctor's surgery. The report concluded that no new protected species were identified. The proposed alterations to the layout is not considered to affect the conclusions made within the original Ecological Appraisal made by Richard Ecology in 2013. In particular the development would have minimal impact to the habitats of Hazel Dormice whilst providing two additional swift boxes that would be installed on the residential units.

The nature of this application and its location close to the Pebblebed Heaths and its European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Conclusion

The application is in outline form and proposes residential development within the defined Built-Up Area Boundary of Newton Poppleford which is acceptable in principle.

The proposal is within the AONB but forms part of a wider site with consent for a doctor's surgery. As such there will be no detrimental or greater visual impact upon the AONB with matters of heights and levels subject to approval through a further Reserved Matters application.

The application has received objections regarding for the removal of the doctors surgery previously granted on the application site as part of the wider residential development. It is appreciated that the provision of a doctor's surgery would have provided social benefits for the surrounding area but it is understood that the local doctor's practice has decided not to proceed with development of a doctor's surgery on the site. In addition, whilst the doctor's surgery was approved as part of the original residential development of the site, it was not required to be provided in planning terms as the residential development itself did not justify the need for additional health space/doctors surgery. As the provision of a doctor's surgery cannot be insisted upon in planning terms, and as it has been demonstrated that the site is no longer required for a doctors surgery, its loss to two dwellings cannot be resisted in planning terms.

The two dwellings will utilise the sites existing access off King Alfred Way, the visibility of which is considered acceptable. All other matters are considered to be acceptable.

It has been considered whether the development is liable to provide onsite affordable housing or an offsite financial contribution. However, the development is not considered as an intentional subdivision of the plot to purposely avoid the provision of affordable housing and as such there is no requirement for onsite provision of affordable housing or a financial contribution.

Taking the above into consideration it is concluded the application is in compliance with policy set out within the East Devon Local Plan and therefore recommended for approval.

RECOMMENDATION

1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;

2. To advise the Planning Inspectorate that the application would have been approved with conditions had the applicant not appealed against non-determination.

1. Approval of the details of the layout, scale and appearance of the building, the means of access to the site and the landscaping thereof (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
3. Any landscaping scheme approved as part of a reserved matters application shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013 - 2031.)
4. Any landscaping scheme approved as part of a reserved matters application shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority

and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To preserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031.)

5. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
6. Development shall be carried out in accordance with the recommendations and mitigation measures in the Ecological Appraisal prepared by EAD Ecology dated November 2018.
(Reason - In the interests of wildlife protection in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

12706-L01-03 Rev C	Proposed Site Plan	14.11.18
1276-L01 Rev B	Location Plan	14.11.18

List of Background Papers

Application file, consultations and policy documents referred to in the report.