



# EXMOOR

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## NATIONAL PARK

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21 August 2019

### EXMOOR NATIONAL PARK AUTHORITY

**To: All Members of the Exmoor National Park Authority**

A meeting of the Exmoor National Park Authority will be held in the Committee Room, Exmoor House, Dulverton on **Tuesday 3 September 2019 at 10.00am.**

The meeting will be open to the press and public subject to the passing of any resolution under s.100(A)(4) of the Local Government Act 1972.

There is Public Speaking at this meeting, when the Chairman will allow members of the public two minutes each to ask questions, make statements, or present a petition relating to any item relevant to the business of the Authority or relating to any item on the Agenda. Anyone wishing to ask questions should notify the Corporate Support Officer by 4pm on the working day before the meeting of the agenda item on which they wish to speak, indicating a brief summary of the matter or matters to be raised (contact Judy Coles on 01398 322250 or email [jcoles@exmoor-nationalpark.gov.uk](mailto:jcoles@exmoor-nationalpark.gov.uk)).

The meeting will be **video and audio recorded**. By entering the Authority's Committee Room and speaking during Public Speaking you are consenting to being video and audio recorded.

Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings at this meeting. Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman so that those present may be made aware.

(The agenda and papers for this meeting can be downloaded from the National Park Authority's website [www.exmoor-nationalpark.gov.uk](http://www.exmoor-nationalpark.gov.uk)).

Sarah Bryan  
Chief Executive

## **A G E N D A**

The first section of the meeting will be chaired by Mr R Milton, the Chairman of the Authority. If the Chairman is absent, the Deputy Chairman shall preside.

### **1. Apologies for Absence**

### **2. Declarations of Interest/Lobbying of Members/Unaccompanied Site Visits**

Members are asked to declare:-

- (1) any interests they may have in relation to items on the agenda for this meeting;
- (2) any lobbying by anyone concerned with a planning application and any unaccompanied site visits where contact has been made with any person concerned with a planning application.

(NB. When verbally making these declarations, members are also asked to complete the Disclosures at Meetings form – attached for members only).

### **3. Chairman's Announcements**

### **4. Minutes** (1) To approve as a correct record the Minutes of the meeting of the Authority held on 2 July 2019 (Item 4).

- (2) To consider any Matters Arising from those Minutes.

### **5. Public Speaking:** The Chairman will allow members of the public to ask questions, make statements, or present a petition. Questions of a general nature relevant to the business of the Authority can be asked under this agenda item. Any questions specific to an agenda item can be posed when that item is considered subject to the discretion of the person presiding at the meeting.

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**Agenda items relating to the Authority's role as sole local planning authority for the National Park area including determination of planning applications.** This section of the meeting will be chaired by Mr S Pugsley (Deputy Chairman (Planning)). If the Deputy Chairman (Planning) is absent, the Deputy Chairman of the Authority shall be preside.

### **6. Appeals:**

#### **6.1** To note the decision of the Secretary of State for Housing, Communities and Local Government to dismiss the appeal for retrospective planning consent for a domestic garden shed – Application 62/50/18/012 - Sunnyside Bungalow, Church Lane, Parracombe, Devon (Item 6.1)

#### **6.2** To note the decision of the Secretary of State for Housing, Communities and Local Government to allow the appeal and grant planning permission for the change of use of agricultural land to equestrian together with a post and rail wooden fence – Application 6/26/18/102 – Leighland House, Ham Lane, Roadwater, Watchet, Somerset (Item 6.2)

**7. Development Management:** To consider the report of the Head of Planning and Sustainable Development on the following:-

<b>Agenda Item</b>	<b>Application No.</b>	<b>Description</b>	<b>Page Nos.</b>
7.1	62/50/19/006	Application to discharge Section 106 Agreement under application 62/50/93/003. (Full) - Heale Farm, Parracombe, Barnstaple, Devon	1 - 16
7.2	6/42/19/101	Proposed change of use of land and construction of a 40m x 20m sand school together with erection of fencing and formation of access track. (Full) - Halsgrove House, Sparrows Lane, Withypool, Somerset	17 - 28
7.3	62/11/18/013	Proposed 250kW hydroelectric scheme, to include intake weir, buried pipeline, powerhouse building with ancillary equipment and grid connection. (Full) - Combe Park Lodge, Lynton, Devon	29 - 72
7.4	62/11/18/014 LB	Listed building consent for the proposed 250kW hydroelectric scheme, to include intake weir, buried pipeline, powerhouse building with ancillary equipment and grid connection. (Listed Building) - Combe Park Lodge, Lynton, Devon	73 - 90
7.5	6/3/19/104	Resubmission of withdrawn application 6/3/18/104. Proposed demolition of existing agricultural building together with the erection of an agricultural building (389sqm). (Full) - Combeland, Brompton Regis, Dulverton, Somerset	91 - 104
7.6	6/27/18/117	Outline application for proposed demolition of existing buildings and construction of up to 11 new dwellings to include road and drainage infrastructure, parking and landscaping. Provision of bat roost building. All matters reserved except means of access to the site. As per additional information. (Outline) - Former Porlock Abattoir, Porlock Hill Road, Porlock, Somerset	105 - 138
7.7	62/41/19/010	Resubmission of planning application 62/41/18/013 for the retrospective installation of four dog kennels. As per additional information. (Full) - 4 Caffyns Cross, Barbrook, Lynton, Devon	139 – 148
7.8	62/49/18/005	Proposed change of use of former Methodist Church to two holiday lets together with associated works. Resubmission of withdrawn application ref. 62/49/17/004. As per additional information. (Full) - Mineswood, North Molton, Devon	149 - 160

8. **Application Decisions Delegated to the Chief Executive:** To note the applications determined by the Chief Executive under delegated powers (Item 8).
  9. **Site Visits:** To arrange any site visits agreed by the Committee (the reserve date being Friday 27 September (am)).
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The remaining section of the meeting will be chaired by Mr R Milton, Chairman of the Authority. If the Chairman is absent, the Deputy Chairman of the Authority shall preside.

10. **Grant Funding Agreement for 2019/20:** To consider the report of the Chief Finance Officer (Item 10).
11. **Annual Appointments:** To consider the report of the Chief Executive (Item 11).
12. **Exmoor Consultative & Parish Forum:** To receive and note the draft minutes of the meeting of the Exmoor Consultative and Parish Forum held on 13 June 2019. (Item 12).
13. **Personnel Update**

Starters

- 22 July 2019 - Alison Mercer – Information Advisor – Seasonal Contract ending 1/11/19
- 22 August 2019 - Jack Hunt – Assistant Forest Manager – 12-month placement ending 21/8/20
- 9 September 2019 - Will Amos – Land & Property Student – 44-week placement ending 10/7/20

Leavers:

- 23 June 2019 - Robin Offer – Conservation Advisor (Trees and Woodlands) - resignation
- 14 July 2019 - Tessa Saunders – Senior Planning Officer - resignation
- 16 August 2019 - Grace Hammond – Land & Property Placement - end of placement

14. **Any Other Business of Urgency**

Further information on any of the reports can be obtained by contacting the National Park Authority at the address and telephone numbers at the top of the agenda. Details of the decisions taken at this meeting will be set out in the formal Minutes which the Committee will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions can be obtained from Judy Coles, Corporate Support Officer, at Exmoor House.



**EXMOOR NATIONAL PARK AUTHORITY**

**MINUTES** of the Annual Meeting of the Exmoor National Park Authority held on Tuesday, 2 July 2019 at 10.00am in the Committee Room, Exmoor House, Dulverton.

**PRESENT**

Mr R Milton (Chairman)  
Miss A V Davis (Deputy Chairman)  
Mr S J Pugsley (Deputy Chairman (Planning))  
Mrs L Blanchard  
Mr R C Edgell  
Mr M Ellicott  
Mr N Holliday  
Mr J Hunt  
Mr M Kravis  
Mrs C M Lawrence  
Mr E Ley  
Mrs F Nicholson  
Mr J Patrinos  
Mr P Pilkington  
Mr B Revans  
Mr M Ryall  
Mrs S Takle  
Mr N Thwaites  
Mr V White

Apologies for absence were received from Mr J Holtom and Mrs E Stacey

1. **ELECTION OF CHAIRMAN:** Mr R Milton was re-elected as Chairman of the Authority for the ensuing year.
2. **ELECTION OF DEPUTY CHAIRMAN:** Miss A V Davis was re-elected as Deputy Chairman of the Authority for the ensuing year.
3. **ELECTION OF DEPUTY CHAIRMAN (PLANNING):** Mr S J Pugsley was elected as Deputy Chairman (Planning) for the ensuing year.
4. **DECLARATIONS OF INTEREST:**

The following interests were declared in relation to Agenda Item 9.1 – Application No. 6/27/19/102 – Proposed installation of 10m high timber Airband mast (Full) – Porlock Village Hall Car Park, Toll Road, Porlock, Somerset, the following declarations were made:

- Miss A V Davis and Mr P Pilkington declared they were customers of Airband.
- Mrs C M Lawrence declared a personal interest as part owner of a building in Porlock, but advised she does not reside in Porlock.

The following interests were declared in relation to Agenda Item 9.3 – Application No. 62/50/19/006 – Application to discharge Section 106 Agreement under application 62/50/93/003 (Full) – Heale Farm, Parracombe, Barnstaple, Devon, the following declarations were made:

- Miss A V Davis declared a personal interest as the applicants had previously contacted her as their local Member.
- Mrs L Blanchard declared a personal interest as a long-standing friend of the applicants and indicated she would withdraw from the meeting when this item was considered.

- Mr M Ellicott, Mr J Hunt, Mr M Kravis, Mrs C M Lawrence, Mr R Milton, Mr J Patrinos, Mr S J Pugsley, Mr B Revans and Mr V White each declared having been lobbied.

## 5. CHAIRMAN'S ANNOUNCEMENTS:

- The Chairman welcomed the following new Members of Exmoor National Park Authority to the meeting:
  - Mr Marcus Kravis, Mr Nick Thwaites and Mr Peter Pilkington appointed by Somerset West & Taunton District Council.
  - Mrs Sarah Takle appointed as a Parish Council Member by the Secretary of State.
- The meeting was advised that Mr Mike Ellicott and Mr Vivian White had been re-elected as Parish Members and that Mr Robin Milton was now a Parish Member rather than a Secretary of State appointee.
- The Chairman expressed thanks to Mr Martin Dewdney, Mr Bruce Heywood, Mr Ivor Jones, Mr Bernard Peacock, Sir Richard Peek and Mrs Penny Webber for their service to the Authority, during their time as Members.

## 6. MINUTES

- i. **Confirmation:** The **Minutes** of the Authority's meeting held on 4 June 2019 were agreed and signed as a correct record.
- ii. **Matters arising:** There were no matters arising.

## 7. PUBLIC SPEAKING:

See Minutes 8, 9 and 10 for details of public speakers.

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**Items relating to the Authority's role as sole local planning authority for the National Park area including determination of planning applications.** This section of the meeting was chaired by Mr S J Pugsley, Deputy Chairman (Planning).

## DEVELOPMENT MANAGEMENT

### 8. Application No. 6/27/19/102

**Location:** Porlock Village Hall Car Park, Toll Road, Porlock, Somerset

**Proposal:** Proposed installation of 10m high timber Airband mast (Full)

The Authority considered the **report** of the Head of Planning and Sustainable Development.

#### **Public Speaking:**

- (1) Mrs M Groves, local resident
- (2) Mr G Haw, Porlock Village Hall Committee
- (3) Councillor A Milne, Somerset West & Taunton Council
- (4) Mr M McCoy, Porlock Parish Council

### **The Authority's Consideration**

The Committee noted that Planning Officers recommended the application be refused due to the unacceptable harm the proposed development would cause to the scenic beauty and character of the landscape and to the character and appearance of Porlock Conservation area.

Whilst acknowledging that the proposed mast would not contribute positively to the scenic beauty and character of the landscape, the majority of Members were of the opinion that the landscape harm was not substantial, and was nevertheless outweighed by the substantial socio-economic benefits that the proposed development would bring to the Porlock Community.

As a consequence, the Committee were of the view that the proposed development was compliant with Policies AC-S4 and AC-D5 and that therefore a refusal of planning permission could not be justified. In resolving to grant planning permission, Members delegated to Officers to attach appropriate conditions to the development, including one that would require removal of the mast and associated equipment, should it become redundant at some point in the future.

**RESOLVED:** To grant planning permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out strictly in accordance with the submitted plans, drawing numbers PPC01 and PPC05, and the 1:500 scale Block Plan, all date stamped 3 April 2019 by the Local Planning Authority.
3. The telecommunication mast and equipment hereby approved shall be permanently removed upon redundancy for its dedicated purpose and the land reinstated to its former condition within a period of six months unless agreed otherwise in writing by the Local Planning Authority.
4. All cabling to/from the telecommunication mast hereby permitted shall be underground.
5. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting those Orders with or without modification), the telecommunication mast hereby permitted shall not be replaced, and no other antenna shall be added to the mast, without the express granting of planning permission by the Local Planning Authority.
6. Prior to the installation of the metal pole and radio antenna as part of the mast hereby approved, details of the external colour finish to these elements of the development shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed the metal pole and radio antenna shall be finished with the colour prior to installation or within 1 month of being installed on site, or other such timescale as may otherwise be agreed in writing by the Local Planning Authority.

**9. Application No. 6/42/19/101**

**Location: Halsgrove House, Sparrows Lane, Withypool, Somerset**

**Proposal: Proposed change of use of land and construction of a 40m x 20m sand school together with erection of fencing and formation of access track. (Full)**

The Authority considered the [report](#) of the Head of Planning and Sustainable Development.

**Public Speaking:**

(1) Mr I Clark, applicant's agent

(2) Mr J Quinn, applicant

**The Authority's Consideration**

Members agreed to defer determination of the application and to hold a site visit in order to fully understand the scale of the proposed development and its impact on the character and appearance of the landscape and visual amenity.

**RESOLVED:** To hold a site visit (details of the site visit are set out in Minute 12 below).

Before the officer presentation, Mrs L Blanchard left the meeting room

**10. Application No. 62/50/19/006**

**Location: Heale Farm, Parracombe, Barnstaple, Devon**

**Proposal: Application to discharge Section 106 Agreement under application 62/50/93/003. (Full)**

The Authority considered the [report](#) of the Head of Planning and Sustainable Development.

**Public Speaking:**

(1) Mrs S Chapman-Walker, applicant

(2) Mr P Chapman-Walker, applicant

**The Authority's Consideration**

The Committee resolved to defer determination of the application to allow further opportunity for discussion between the applicants and Planning Officers and to allow for all relevant information to be put before Members.

**RESOLVED:** To defer determination of the application to allow further opportunity for discussions between the applicants and Planning Officers.

After the vote, Mrs L Blanchard returned to the meeting room

- 11. APPLICATION DECISIONS DELEGATED TO THE CHIEF EXECUTIVE:** The Authority noted the [decisions of the Chief Executive determined under delegated powers](#).

- 12. SITE VISITS:** In respect of the decision taken in Minute 9 in relation to Planning Application No. 6/42/19/101 to hold a site visit, it was RESOLVED that a site visit be held on Friday, 30 August 2019.

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The remaining section of the meeting was chaired by Mr R Milton, Chairman of the Authority.

**The meeting closed for recess at 11.52am and reconvened at 12.05pm**

**13. 2018/19 OUTTURN – BUDGET PERFORMANCE AND RESERVES**

The Authority considered the **report** of the Chief Finance Officer

**RESOLVED:**

1. To note the financial performance for 2018/19.
2. To approve the adequacy of the General Fund Balance at 31 March 2019.
3. To approve the transfers between reserves.

**14. 2018/19 OUTTURN – STATEMENT OF ACCOUNTS**

The Authority considered the **report** of the Chief Finance Officer.

**RESOLVED:** To consider and note the Statement of Accounts for 2018/19.

**15. BUSINESS PLAN REPORT 2018-2019**

The Authority considered the **report** of the Chief Executive and Head of Strategy & Performance

**The Authority's Consideration**

The meeting noted that in relation to the small reduction in Visitor Spend at National Park Centres, the graphical representation on Page 26 of the report contained a minor error as it appeared to show a larger reduction than the 2.7% detailed in the narrative on Page 11 of the report.

Members wished to formally thank the Authority staff for all their hard work over the past 12 months in relation to the Business Plan achievements.

**RESOLVED:**

1. To note the achievements in implementing the Authority's key commitments set out in the Business Plan 2017-2020.
2. To delegate to the Finance and Performance Advisory Panel and Leadership Team further scrutiny of Authority performance across the Corporate Plan actions for the reporting period to 31 March 2020.

## 16. ANNUAL APPOINTMENTS

The Authority considered the [report](#) of the Chief Executive.

**RESOLVED:** To make the following initial appointments for 2019/20 to the Authority's committees under the Scheme of Delegation and to those partnership boards, working groups and outside bodies as listed in the Appendix to the report:

**Final Accounts Committee and Finance & Performance Advisory Panel:** Mr R Milton, Miss A V Davis, Mr R C Edgell, Mr M Ellicott, Mr N Holliday, Mrs F Nicholson, Mr J Patrinos, Mr S J Pugsley, Mrs E Stacey, Mrs S Takle, Mr V White

**Standards Committee:** Mr M Ellicott, Mr J Patrinos, Mr S J Pugsley, Mrs E Stacey, Mr N Thwaites

**Exmoor Local Access Forum:** Mr R Milton, Mr M Ryall

**Exmoor Consultative and Parish Forum:** All Authority members

Chairman of the Forum: Mr M Ellicott

Deputy Chairman of the Forum: Mr V White

**Exmoor's Ambition Steering Group:** Mr N Holliday, Mr R Milton, Mr M Ryall, Mrs S Takle

**Dartmoor and Exmoor Joint Member Working Group:** Miss A V Davis, Mr M Ellicott, Mr J Hunt, Mrs E Stacey

**Deer Monitoring Panel:** Mr R C Edgell, Mr M Ellicott, Mrs S Takle

**Dunster Working Group:** Miss A V Davis, (with Mrs C M Lawrence as a representative for Somerset County Council and Mr P Pilkington as a ward representative for Somerset West & Taunton District Council)

**Exmoor Historic Environment Advisory Panel:** Mrs L Blanchard

**Exmoor Landscape Advisory Group:** Mrs L Blanchard, Mr R Milton

**Exmoor Learning and Engagement Panel:** Mrs L Blanchard, Mr B Revans

**Exmoor Moorland & Farming Board:** Mr E Ley, Mrs S Takle, (with Mr R Milton as a representative of the NFU)

**Exmoor Nature Conservation Advisory Panel:** Mrs L Blanchard, Mr R C Edgell, Mr M Ryall

**Exmoor Parish Members Group:** Mr M Ellicott, Mr J Holtom, Mr R Milton, Mrs S Takle, Mr V White

**Exmoor Rural Housing Network:** Mr R C Edgell, Mr M Ellicott, Mrs F Nicholson, Mr S J Pugsley, Mr M Ryall, Mrs S Takle, Mr V White, (with Mr P Pilkington as a representative of Somerset West & Taunton District Council)

**Exmoor Woodland and Forestry Advisory Group:** Mr J Hunt

**Headwaters of the Exe Project Steering Group:** Mr P Pilkington

**Pinkery Review Task and Finish Group:** Mr N Holliday, Mrs C Lawrence, Mrs F Nicholson, Mr J Patrinos, Mr P Pilkington, Mr S J Pugsley, Mr B Revans, Mrs E Stacey

**Planning Policy Advisory Group:** Mr R Milton, Miss A V Davis, Mr S J Pugsley, Mr N Holliday, Mrs F Nicholson, Mrs S Takle, Mr V White

2 July 2019

**Pony Panel:** Mr R Milton, Mr N Thwaites  
**Simonsbath Project Task and Finish Group:** Mr N Holliday, Mr S J Pugsley, Miss A V Davis (sub), Mrs F Nicholson (sub)  
**Visit Exmoor:** Mrs E Stacey  
**West Somerset and Exmoor Low Carbon Partnership:** Mr P Pilkington  
**National Parks UK Executive Committee:** Mr R Milton, Miss A V Davis (sub)  
**National Parks England Executive Committee:** Mr R Milton, Miss A V Davis (sub)  
**Campaign for National Parks:** Miss A V Davis  
**Campaign to Project Rural England Devon Advisory Committee:** Mr E Ley  
**Connecting Dartmoor and Exmoor Programme Board:** Mr N Thwaites, Mr M Kravis (sub)  
**Exmoor Hill Farming Network:** Mr M Ellicott, Mr M Ryall, (with Mr R Milton as a representative of the NFU)  
**North Devon AONB Partnership:** Miss A V Davis  
**North Devon +:** Mrs L Blanchard  
**North Devon and Torridge Leader:** Mrs C Lawrence, (with Mr R C Edgell as a representative of North Devon County Council)  
**Somerset Public Transport Forum:** Mr V White  
**South West Chamber of Rural Enterprise (South West Rural and Farming Network):** Miss A V Davis  
**South West Uplands Network:** Mr M Ryall  
**South West Water Recreation and Conservation Forum:** Vacancy  
**Western Somerset Leader:** Mr S J Pugsley

17. **PERSONNEL UPDATE:** The Authority noted the recent staff changes as set out on the agenda.
18. **ANY OTHER BUSINESS OF URGENCY:** There was none.

The meeting closed at 1.12pm

(Chairman)

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## Appeal Decision

Site visit made on 2 July 2019

by **L McKay MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> July 2019

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### Appeal Ref: APP/F9498/D/19/3227786

### Sunnyside Bungalow, Church Lane, Parracombe, Devon EX31 4QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss J Leworthy against the decision of Exmoor National Park Authority.
  - The application Ref 62/50/18/012, dated 14 November 2018, was refused by notice dated 12 February 2019.
  - The development is described as "Retrospective planning consent for a domestic garden shed".
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. The shed has been erected and therefore I have determined the appeal on the basis that the development has already occurred.

### Main Issue

3. The main issue is the effect of the development on the character and appearance of the Parracombe Conservation Area and the Exmoor National Park.

### Reasons

4. Parracombe is a traditional village in the valley of the River Heddon. The central part of the village contains a tightly knit group of buildings arranged along narrow streets. Outlying parts of the village, including the vicinity of the appeal site, display a more dispersed layout, with buildings set out along narrow lanes. This historic pattern of settlement contributes substantially to the significance of the Conservation Area as a designated heritage asset.
5. Church Lane is an ancient route way which leads to Churchtown and St Petrock's Church and as such is a significant feature of the conservation area. The appeal site is on the lower part of the lane, which is narrow, with high, vegetated banks, walls and trees either side. Although there are dwellings along the lane, they are generally set back and well screened by vegetation. As a result, this section of the lane has a strongly enclosed and verdant character with little intrusion from buildings.
6. The shed is clearly visible when approaching the site from either direction along Church Lane. It is particularly prominent when travelling up the hill towards Churchtown, where it draws the eye due to its height and proximity to the



boundary. While the surrounding trees and vegetation provided some screening at the time of my visit, this would be substantially reduced when trees and shrubs are not in leaf. The shed has introduced a sizeable and prominent building into the street scene, out of character with this part of the lane which is otherwise largely devoid of such structures. In this conspicuous, elevated position the shed detracts from the relatively undeveloped appearance of the lane and the character of this historic route way. As a result, it harms the character and appearance of the Conservation Area and by extension also harms the cultural heritage of the National Park.

7. The use of timber for the walls is appropriate for an outbuilding however the modern profiled roof sheeting is not a traditional material in this area. The roof is readily apparent from the road and adds to the building's harmful impact on the appearance of the area.
8. The shed apparently replaced other outbuildings, a greenhouse and a shed. I have been provided with photographs of these and an OS plan. These show that the previous shed appears to have been smaller than the current structure and that the greenhouse was largely transparent. I have no compelling evidence to suggest that two apparently more modest structures with a different configuration would have had a similar effect to the scheme before me. As such these previous outbuildings do not justify the harm identified.
9. Whilst the shed does not appear dominant within the site itself or out of proportion with the bungalow this does not alter the harmful effect identified above.
10. I have given great weight to the conservation of the cultural heritage of the National Park. I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and given great weight to that heritage asset's conservation. The harm I have found carries considerable importance and weight. This harm is less substantial in the National Planning Policy Framework's (the Framework) terms as it would affect a discrete part of the heritage asset. Nevertheless, there are no public benefits arising from a private domestic outbuilding that would weigh against the harm.
11. For these reasons I conclude that the shed harms the character and appearance of Parracombe Conservation Area and the Exmoor National Park and is contrary to policies GP1, CE-S4, CE-D3, CE-S6 and HC-D16 of the Exmoor National Park Local Plan 2011 – 2031 (adopted 2017). Together and amongst other criteria, these require development to achieve high quality design, conserve or enhance the cultural heritage of Exmoor National Park and preserve or enhance the character or appearance of conservation areas. Furthermore, the shed does not accord with the policies of the Framework which seek to conserve and enhance the historic environment and the cultural heritage of National Parks.

### **Conclusion**

12. For the reasons given above I conclude that the appeal should be dismissed.

*L McKay*

INSPECTOR



## Appeal Decision

Site visit made on 9 July 2019

**by S Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 August 2019**

**Appeal Ref: APP/F9498/W/19/3221965**

**Leighland House, Ham Lane, Roadwater, Watchet, Somerset TA23 0RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Richard Irwin against the decision of Exmoor National Park Authority.
- The application Ref 6/26/18/102, dated 27 April 2018, was refused by notice dated 16 August 2018.
- The development is described as "retrospective planning consent for the erection of a timber stable building and field shelter. Both structures have been in-situ for approximately 3 years. Both structures are currently located on metal skids with no solid base. This application also seeks retrospective consent for a small standing paddock in front of the stables which is bounded by a timber post and rail fence."

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural land to equestrian together with the erection of a timber stable building, tack room and field shelter together with a post and rail wooden fence at Leighland House, Ham Lane, Roadwater, Watchet, Somerset TA23 0RP in accordance with the terms of the application, Ref 6/26/18/102, dated 27 April 2018, and the plans numbered Site Location Plan and Existing Site Plans ref 1740/100A and Existing Plans and Elevations ref 1740/101, subject to the following conditions:
  - 1) The buildings and land hereby permitted shall not be used at any time other than for the purposes of agriculture or for the keeping of horses ancillary to the residential use of the dwelling known as Leighland House, Ham Lane, Roadwater Watchet TA23 0RP.
  - 2) The buildings and land shall not be used for livery letting, leasing or any other commercial equestrian activity.
  - 3) Details of any external lighting shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### Procedural Matter

2. The description of development, as stated on the application form, is set out in the banner heading above. The National Park Authority (NPA), on the decision notice, has described the development as a change of use of agricultural land to equestrian together with the erection of a timber stable building, tack room

and field shelter together with a post and rail wooden fence retrospective. The NPA dealt with the development on this basis and, accordingly so have I.

### **Main Issue**

3. The main issue is the effect of the development on the character and appearance of the area, including whether it conserves and enhances the natural scenic beauty of the landscape within the Exmoor National Park.

### **Reasons**

4. The site is located within the Exmoor Landscape Character Type 1 'Wooded and Farmed Hills with Combes'. The officer report describes key features which include a rounded landform of interconnected hills offering extensive panoramic views both inland and towards the coast. Land use is principally defined by agriculture, predominantly of improved pasture. Fields are generally of a medium size scale delineated by hedges and hedgebanks, typically with woodland lining the adjacent valley sides and floors. This is a concise assessment of the surrounding area with which I see no reason to disagree.
5. Leighland is a hamlet with several properties surrounding the church and a lane running through the centre. The appeal site is to the south of the main built form of the settlement within a small field. There are two stables with a tack room and a separate field shelter on the site. The area immediately to the front of the buildings is enclosed by a wooden post and rail fence. The buildings have a total footprint of some 45 square metres. They are constructed of horizontal timber boarding with a natural finish and have a shallow profile corrugated metal roof.
6. The development is in the corner of the field positioned against a high hedgerow which defines its southern boundary. The site is in an elevated position with a public right of way running along the eastern side of the field. The field's northern boundary adjoins Leighland Cottage, close to the rear of the property, and the stables are 50 metres (m) from this dwelling. Given this modest separation from the main built form of the settlement, the development is neither remote or isolated in this location and is viewed within the context of the nearest buildings. The post and rail fencing being close to the equestrian buildings is viewed against these timber structures.
7. The NPA note the appellant's residential property is found some 60 m to the east and is separated from the field by another residential property. I am unaware of land within the appellant's ownership and consequently whether the stables could be positioned on a site closer to the appellant's dwelling. Nevertheless, the distance is not excessive within this context and retaining a degree of separation from residential dwellings is preferable to minimise potential nuisance through odour and noise.
8. Although the development is sited in an elevated position, it is nestled within the rolling landscape and set against an established hedge of a similar height to the roof level of the buildings. It is acknowledged that selected localised views of the development are possible. However, the cumulative effects of the surrounding natural screening, simple appearance and modest scale of the buildings and fencing and the use of natural traditional materials ensure that the development does not have a significant visual impact within the wider

area, nor an unacceptable adverse harm on landscape character and the natural scenic beauty of this area of the National Park.

9. Policies GP1, CE-S1, CE-D1 of the Exmoor National Park Local Plan 2011-2031 (including minerals and waste policies) (2017) (LP) require, among other matters, development proposals in the National Park to conserve and enhance the distinctive characteristics of the landscape, minimising visual impact through high quality design that reflects local landscape character with particular regard to scale, siting, materials, and colour. Policy RT-D11 of the LP supports equestrian development subject to criteria including that the development will not harm the natural environment, landscape setting, amenity of the surrounding area, or neighbouring properties and is of an appropriate scale, unobtrusive in form, in terms of height, position and materials and be sited close to the host dwelling.
10. In relation to the main issue, the development has an acceptable effect upon the character and appearance of the area and surrounding landscape. It complies with Policies GP1, CE-S1, CE-D1 and RT-D11 of the LP. It follows therefore that I also find compliance with paragraphs 170 and 172 of the Framework which seek to protect and enhance valued landscapes and afford the highest protection to the landscapes of National Parks.

### **Conditions**

11. It is deemed necessary and reasonable to impose a condition restricting the use of the buildings in the interests of highway safety and to protect living conditions. A condition to control external lighting is also necessary and reasonable in the interests of visual amenity, wildlife conservation and to protect Exmoor's dark night sky. Where I have altered the wording of the conditions put forward by the NPA I have done so in the interests of precision.

### **Conclusion**

12. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed, subject to conditions.

*S Hanson*

INSPECTOR

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No:	<b>62/50/19/006</b>	Grid Ref.	<b>264545</b>	<b>146980</b>
Applicant	Mr P Chapman-Walker, Heale Farm Parracombe, Barnstaple, Devon			
Location	Heale Farm, Parracombe, Barnstaple, Devon			
Proposal	<b>Application to discharge Section 106 Agreement under application 62/50/93/003. (Full)</b>			
Introduction	<p>This update report refers to the planning application referenced above, which was reported to the Authority Committee on 2 July 2019 and deferred to allow discussions to take place between Officers and the applicants over the potential avenues that the applicants can consider for an alternative residential use of the farmhouse. These discussions have taken place and the applicants' responses have been taken into account to inform this report.</p> <p>It is important to note that the applicants' intention is for Members to consider the complete discharge of the subject legal agreement and the creation of an unrestricted open market dwelling as the primary consideration during the Committee meeting.</p>			

### **Planning Considerations:**

It became apparent during the previous Committee meeting that Officers are satisfied that the applicants can be considered to have met the tests under Policy HC-D12 of the Exmoor National Park Local Plan 2011 – 2031 to demonstrate that the agricultural occupancy restriction on the farmhouse can be varied in accordance with Clauses 3 and 4 of said policy.

However, it should be noted that Officers have been approached by two separate parties who are interested in purchasing the property and have the potential to meet the current occupancy restriction. One of these parties is still in discussions with Officers at the time of writing this report.

Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 set out that development plan policies are material to an application for planning permission and that the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

Article 32 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 prescribes that the Local Planning Authority have the power to depart from development plan policy where material considerations indicate that the plan should not be followed.

Following the requirements of Policy HC-D12, Clause 3 sets out that where an occupancy restriction is considered to be acceptable to vary or remove, the occupancy of the dwelling will be limited by agreement to a person(s) in local affordable housing need as defined in Policy HC-S3 (Local Occupancy Criteria for Affordable Housing).

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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This requirement has been the subject of discussions between the applicants and Officers prior to, and after, the previous Committee meeting. It is acknowledged by Officers that the farmhouse in its current form is too large in scale to be considered acceptable as affordable housing. However, Officers do consider that there are potential solutions for providing affordable housing in place of the agricultural workers dwelling that is currently provided on site.

One potential option is to subdivide the farmhouse to create two smaller residential units, both of which would be affordable housing. The applicants have rejected this option and have explained that it would be impracticable and costly to carry out such works. They have also stated that there is no evidence that there would be a market for the two affordable dwellings that would be created.

The other potential option is to re-locate the tied dwelling on to one of the holiday cottages in the form of an affordable local needs restriction, and then the holiday occupancy condition from the chosen holiday cottage would be re-located to the farmhouse. This would be similar to a scenario previously carried out by the applicants at this property in the 1990s. This option would create no additional units on the property, and would ensure that an affordable sized dwelling is provided and that there would be no unrestricted open market dwelling created.

The applicants have considered this second option and they have explained that the cottages would not provide the accommodation that has been identified as appropriate for local needs within the Parish. They have also referred to the potential community housing scheme that may come forward in Parracombe and that this other scheme would meet the recognised housing need.

Officers do consider that these options do provide viable potential solutions for the applicants. It is recognised that there would be some inconvenience and cost associated with either option for affordable housing but they are considered necessary in order for the applicants to comply with the requirements of the policy. Officers have also taken account of the recognised housing need, although this is a snapshot in time and not all people in housing need may have responded. As such, schemes that can provide one or two affordable dwellings can help to address any potential shortfall in meeting the housing need on Exmoor. There is no tangible evidence provided by the applicants that suggests that the provision of affordable housing at Heale Farm would not be achievable and that it would not meet a local housing need.

If Members are minded to agree with the applicants, then Clause 4 of Policy HC-D12 allows another alternative to the provision of affordable housing by permitting the use of the farmhouse as holiday letting accommodation. However, this alternative is only intended to be temporary and should only be considered where a local person cannot be found to occupy the dwelling(s) as affordable housing. The holiday accommodation should only be available until someone suitable to meet either the agricultural occupancy restriction or the affordable housing restriction can be found.

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Officers can confirm that the applicants have not provide evidence that there are no local people who would be able and interested in occupying affordable housing at this application property. The applicants have confirmed that to carry out such an exercise would be lengthy and costly. In addition to this, they have explained that the attachment of a holiday occupancy condition on the farmhouse would be unworkable anyway as it would lead to complex of holiday letting cottages with no dwelling for someone to manage them. This would make it difficult to sell the property.

As the applicants have not provided the required evidence outlined above, Officers consider that the temporary variation of the farmhouse's occupancy restriction to holiday accommodation would not be policy compliant.

The last potential solution of the applicants is for the agricultural occupancy restriction to be widened to allow rural workers to potentially occupy the farmhouse.

A rural worker is defined in the Local Plan as a worker in agriculture, forestry or other land-based rural enterprise operating in the locality who is engaged in actual physical work, actively contributing to the management of the land.

The reference to other rural land-based enterprises potentially opens the occupancy restriction to a wider audience, whilst still ensuring that any potential occupant is employed in an employment that helps contribute to Exmoor's landscapes.

The Local Plan states that rural land-based businesses are businesses that manage the land in a way that conserves the National Park's special qualities. These can be defined as: farming enterprises based on primary food production, rural estates, forestry, mixed enterprises (e.g. with equestrian activities and/or game shooting) and other businesses that manage the land for conservation and/or recreation, which have benefits for health and well-being. Rural land-based businesses must also have a need to be located in the open countryside due to the nature of their operations.

As can be seen from the above definition, the widening of the occupancy restriction to allow general rural workers would potentially provide the applicants with more options on who to sell the property to.

The applicants have confirmed that they are open to this as a potential solution. However, they are keen to stress that they would like Members to consider their submitted proposal for the complete discharge of the legal agreement prior to considering any other options.

Taking account of the applicants' intentions to proceed with the proposal to discharge the occupancy restriction and create an unrestricted open market dwelling, Officers must consider the proposal in front them and the conclusion is that the application should be refused as to allow the creation of an open market dwelling would be contrary to Policy HC-D12 and the wider housing strategy of the Local Plan.

If Members are minded to the application, it should be noted that the Section 106 Agreement should technically be modified rather than discharged as it also serves to

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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restrict the use of one of the holiday letting cottages. Discharging the Section 106 would also leave this other unit without any occupancy restriction.

### **Recommendation**

The Officer recommendation remains that planning permission be refused for the reason set out below:

1. The proposed discharge of the Section 106 Agreement and the agricultural occupancy restriction contained within it would lead to the creation of an unrestricted open market dwelling in the open countryside. To allow such a proposal would be contrary to the housing strategy of the adopted Local Plan and national planning policy within the National Planning Policy Framework. The application is contrary to Policies GP1, GP3, HC-S1, HC-S2 and HC-D12 of the Exmoor National Park Local Plan 2011 - 2031, and the National Planning Policy Framework.



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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **62/50/19/006** Grid Ref. 264545 146980

Applicant: Mr P Chapman-Walker, Heale Farm  
Parracombe, Barnstaple, Devon

Location: Heale Farm, Parracombe, Barnstaple, Devon

Proposal: **Application to discharge Section 106 Agreement under application 62/50/93/003. (Full)**

Introduction: This application seeks to discharge the Section 106 Agreement under application ref. 62/50/93/003. The application site is Heale Farm and the aforementioned 1993 application concerned the swapping of an agricultural occupancy from a converted barn to the current farmhouse, and the holiday occupancy restriction on to the converted barn.

The site consists of a farmhouse, which is also a converted barn, three holiday letting cottages that were converted from barns, another stone barn and a range of modern agricultural buildings. The property also has an agricultural holding of approximately 23 acres.

The applicant seeks to discharge the Section 106 Agreement so that the agricultural occupancy restriction would be removed from the farmhouse and it would have an unrestricted open market nature.

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### **Consultee Response:**

DCC - HIGHWAYS: No comment received

NORTH DEVON COUNCIL - PLANNING REGISTRATION: In accordance with the agreed protocol, the District Council, as a consultee to the Exmoor National Park Authority, has no observations.

ARCHAEOLOGIST - ENPA: No comment received

PARRACOMBE PARISH COUNCIL: Support the application.

### **Public Response:**

1 letter of support

One public representation has been made in relation to this application. The authors support the discharge of the Section 106 "in principle" for the reasons set out in the covering letter from Mr Challacombe. However, they do have reservations about the future use of the land, although, it appears that there are several parties interested in purchasing the property as it is. It has been stated that they would strongly object to a change in use of the property in its entirety if it resulted in an increase in traffic and noise, or, further development of the existing buildings. They would also expect any change of use to comply with the overarching Exmoor National Park Local Plan for the future.

### **RELEVANT HISTORY**

**62/50/19/006 Application to discharge Section 106 Agreement under application 62/50/93/003.**

**Full**

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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	Same Site		
62/50/99/005	Variation of Section 106 agreement - Removal of Agricultural Tying Clause.		
	Full	Rejected	03 August 1999
	Appeal lodged: 14/04/2000	Result:	Upheld with Mods
	Same Site		
62/50/88/003	Conversion of barn to holiday cottage.		
	Full	Approved	02 August 1988
	Same Site		
62/50/93/003	Extension of holiday cottage to incorporate farm building, transfer agricultural tie to new dwelling & holiday occupancy condition to existing farmhouse.		
	Full	Approved	22 March 1993
	Same Site		
62/50/14/002	Lawful Development Certificate for the existing occupation of a dwelling in breach of the agricultural occupancy condition (detailed in section 106 agreement) for approved application 62/50/93/003.		
	CLEUD	Withdrawn	20 August 2014
	Same Site		
62/50/18/005	Proposed conversion of barn to holiday unit. Retrospective.		
	Full	Approved	18 June 2018
	Same Site		
62/50/14/002	Lawful Development Certificate for the existing occupation of a dwelling in breach of the agricultural occupancy condition (detailed in section 106 agreement) for approved application 62/50/93/003.		
	CLEUD	Withdrawn	20 August 2014
	Same Site		
62/50/18/005	Proposed conversion of barn to holiday unit. Retrospective.		
	Full	Approved	18 June 2018
	Same Site		
62/50/93/003	Extension of holiday cottage to incorporate farm building, transfer agricultural tie to new dwelling & holiday occupancy condition to existing farmhouse.		
	Full	Approved	22 March 1993
	Same Site		
62/50/88/003	Conversion of barn to holiday cottage.		
	Full	Approved	02 August 1988
	Same Site		
62/50/99/005	Variation of Section 106 agreement - Removal of Agricultural Tying Clause.		
	Full	Rejected	03 August 1999
	Appeal lodged: 14/04/2000	Result:	Upheld with Mods

### Same Site

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN 2011 - 2031

GP1 - General Policy: Achieving National Park Purposes and Sustainable Development

GP5 - General Policy: Securing Planning Benefits - Planning Obligations

HC-S1 - Housing

HC-S2 - A Balanced Local Housing Stock

HC-S3 - Local Occupancy Criteria for Affordable Housing

HC-D9 - Rural Workers

HC-D12 - Replacement of Rural Workers Occupancy Conditions

The National Planning Policy Framework (NPPF) is also a material planning consideration.

#### **Observations:**

This is an application to discharge the planning obligation that ties the farmhouse at Heale Farm as an agricultural workers dwelling. The tie on the farmhouse means that it can only be occupied by people who are mainly or solely employed locally, or were last mainly or solely employed locally, in agriculture or forestry.

#### PLANNING LEGISLATION

Section 106A of the Town and Country Planning Act 1990 sets out the process for Local Planning Authorities. Subsection 3 explains:

Where an application is made to an authority under subsection (3), the authority may determine -

- (a) that the planning obligation shall continue to have effect without modification;
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
- (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

The key consideration in this case is whether, having regard to policies and latest Government Guidance, the obligation continues to serve a useful purpose. If it does continue to serve a useful purpose, then would it serve that purpose equally well if it had effect subject to the modifications specified in this application.

The Community Infrastructure Levy Regulations 2010 introduced stricter tests limiting when planning obligations can be used. The tests are that a planning obligations can be used where it is:

1. Necessary to make the development acceptable in planning terms,
2. Directly related to the development, and
3. Fairly and reasonably related in scale and kind to the development.

Policy HC-D12 of the Exmoor National Park Local Plan 2011 – 2031 is the key policy for applications that propose the replacement of rural workers occupancy restrictions. Clause 2 of this policy states that the removal of a condition, or variation of a planning obligation,

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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which limits the occupancy of a dwelling to a person employed or last employed in agriculture or forestry (prior to the adoption of the Local Plan), will be permitted where it can be demonstrated that:

- a) reasonable attempts have been made to allow the dwelling to be used by a person who could occupy it in accordance with the condition or obligation; and
- b) the long term need for the dwelling in the locality, in accordance with the condition or obligation, has ceased and removing the condition would be more appropriate than a temporary relaxation.

### BACKGROUND

The planning history for this property indicates that the applicant purchased the property in 1982 when it included the original farmhouse that is located on the opposite side of the lane.

A stone barn (still in the ownership of the applicant) was converted following the granting of planning permission in 1986 for its conversion to a self-catering holiday let. Planning permission was then granted the following year under application reference 62/50/87/007 for the alteration of the occupancy restriction on the barn to an agricultural workers tie. The application papers for this 1987 application included a statement from the applicants, Mr and Mrs Chapman-Walker, that stated:

“The existing farmhouse is on a grand scale, with very large rooms. It is expensive to run – i.e. heat and maintain (due to long-term neglect prior to our occupation). Due to our level of borrowing and the earning capacity of a small farm we cannot afford to continue farming here, let alone improve this house. The proceeds of the sale of this house would enable us to carry on farming here and improve the farm. The converted barn is part of the farm complex – in a functional position and economical to run. This house is on the opposite side of the road and so lends itself to separation from the working farm.”

Following planning permission being granted for an agricultural occupancy restriction on the converted barn, the original farmhouse was then sold by the applicant in 1988.

Also that year, planning permission was granted under application reference 62/50/88/003 for the conversion of part of another barn to a self-catering holiday let. Following this approval, planning permission was granted in 1994 under application reference 62/50/93/003 for the incorporation of the 1988 holiday let into the remaining larger part of the barn. As part of this permission, a Section 106 legal agreement was secured to swap the holiday let restriction on this barn with the agricultural occupancy restriction on the barn converted in 1986. As a result of this legal agreement, the building that now functions as the farmhouse (and is the subject of this current application) is agriculturally tied and the barn that was converted first is restricted to holiday occupancy only.

A further farm building was converted to holiday accommodation in 1996 under application reference 62/50/96/001.

The applicant submitted an application in June 1999 for the removal of the agricultural occupancy restriction from the farmhouse. Planning permission was refused in August 1999. The reason for refusing the application was as follows:

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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“In opinion of the Exmoor National Park Authority, the applicants have failed to test the current market situation regarding prospective purchasers in order to ascertain if a continuing agricultural need exists to retain the occupancy clause. In the absence of any recent details of genuine efforts to dispose of the property by advertising in the local and more specialist farming press, at a price which reflects the occupancy clause, the Authority considers that the removal of the clause would be harmful to the agricultural needs of the locality and set an undesirable precedent in respect of other tied properties elsewhere in the National Park.”

The decision made by the Authority to refuse the application was appealed. The Inspector concluded in June 2000 that the agricultural occupancy restriction should be retained as they did not consider that it had been shown that the restriction had outlived its usefulness. It was stated in the Inspector’s report that the occupancy restriction would ensure that the farmhouse is available to meet the needs of other farm or forestry businesses in the locality thus avoiding the proliferation of dwellings in the open countryside. It was also stated that it had not been demonstrated that the existing need for agricultural dwellings in the locality no longer warranted reserving the farmhouse for that purpose.

More recently, in May 2014, the applicant submitted an application for a certificate of lawfulness for the lawful existing occupation of the farmhouse in breach of the agricultural occupancy restriction. The applicant sought to demonstrate that the occupation of the farmhouse in breach of the occupancy restriction had occurred for a period in excess of 10 years and was therefore lawful and immune from enforcement action under Section 171B(3) of the Town and Country Planning Act 1990. However, this Section of the Act only relates to breaches of planning conditions and not breaches of Section 106 Agreements. Section 106(2)(b) of the Act states that a planning obligation imposes any restriction relating to the use of the land in any specified way either indefinitely or for such period or periods as may be specified. Section 106(5) states that a restriction or requirement imposed under a planning obligation is enforceable by injunction. Given that a legal agreement cannot be lawfully breached, the 2014 application was withdrawn.

However, the 2014 application drew Officers attention to the fact that the applicant was occupying the farmhouse in breach of the legal agreement, and that the agricultural activities at Heale Farm ceased in 2001 following the sale of the majority of the land and all stock and equipment.

In terms of the historic size of the holding, when the applicant purchased the property in 1982 there were 45 acres. Between 1984 and 1986 a further 25 acres was purchased from neighbours. In 1991 a further 123 acres of off lying land was purchased in partnership with a family member, bringing the total holding to 193 acres. Since agricultural activities have ceased, the holding has been significantly reduced to 23 acres. The applicant states that only 18 acres are “workable”.

From 1982 until 1991 the principal farming activity on the holding comprised of a dairy herd, and following that the farming activity concentrated on arable cropping and sheep. As explained above, all the stock was sold in 2001.

#### MARKETING OF PROPERTY

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Heale Farm has been marketed since April 2017 in the local press and on national websites such as Rightmove, Zoopla, OnTheMarket and Primelocation. It is stated in the application papers that there has been no interest locally, with interest and viewings only associated with people elsewhere in the country or abroad.

It is explained in the application papers that the value of the farmhouse and the two smaller holiday letting cottages would have a minimum sale value of £550,000. This is not including the larger holiday letting cottage (value - £170,000) and the 23 acres of land (value - £115,000). There is also further stone barn that is currently used as a games room and laundry, and this has been given a separate value of between £35,000 and £60,000. However, no planning permission can be found for the use of this barn for such purposes. The estate agent advised the applicant of an asking price of £895,000. However, they were instructed to advertise the property at £950,000. It was a year later when the asking price was reduced to £900,000 and it was reduced further in September 2018 to £850,000.

The estate agent explains that they have had over 75 viewers of the property, including a couple of people who viewed the property three times and another person who has viewed it four times.

The case put forward is that the property must be sold as one entity with a farmhouse, three holiday letting cottages and 23 acres of land. It is asserted that the land must be included with the farmhouse in order to comply with the occupancy restriction and the holiday letting units are subject to conditions tying them to the farmhouse. It should be noted that two of three holiday letting units are tied to the farmhouse, not all three. It is also asserted that there are practicality issues with separate off parts of the property from the farmhouse. Selling the property as one entity has meant that the estate agent has valued the property at £895,000 and they state that there has been no local interest. The interest has been from elsewhere nationally or abroad. The applicant states that those that have looked to purchase the property have been unable to comply with the occupancy restriction unless they are able to construct new buildings to run an agricultural business from the holding.

Officers have taken into account that the property has been marketed since April 2017, a period of over two years. However, it is also noted that the asking price has only been close to the valuation since April 2018 and lower than the asking price for the last 9 months.

The preamble to Policy HC-D12 states that the National Park Authority will require evidence that appropriate steps have been taken to try to sell or rent the property with the occupancy condition at a price reflecting the condition and potential market. If after a reasonable period of a minimum of twelve consecutive months, the property has not been sold or let, then permission to remove the condition and replace it with a local need affordable occupancy agreement in accordance with Policies HC-S1 (Housing), and HC-S3 (Local Occupancy Criteria for Affordable Housing), may be permitted. The latter part of this section of the preamble is considered in more detail later in this report.

The property has been marketed for a minimum of twelve consecutive months but it is debateable how long the property has been marketed at a price reflecting the condition and potential market. Given that the property was marketed between April 2017 and April

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2018 at a price that was significantly over the valuation provided by the estate agent, this period of marketing should be discounted. The property was marketed at £5,000 over the valuation between April 2017 and September 2018. This is not considered to be a significant amount over the valuation and Officers consider that the property has been marketed for fourteen months at a price reflecting the condition and potential market. However, this is only if the assertion that the property must be sold as one entity is agreed. If the property could be split into smaller lots, then the value of the farmhouse would be significantly less than £895,000 and the case that the property has been marketed at a price reflecting the condition and potential market for a reasonable period of a minimum of twelve consecutive months cannot be agreed by Officers.

As noted earlier in this report, two of the three holiday letting cottages are tied to the farmhouse. The two storey barn that has been valued at £170,000 could be sold off separately. The selling off of the other two holiday letting cottages would require separate applications to remove the tying conditions attached to them. It has stated to Officers during the determination process that marketing separate units of the farmhouse, cottages, land and farm buildings that form a tightly grouped entity, is a matter that the estate agent would need to comment further on. But it has also been stated that the group of the farmhouse, cottages and buildings at Heale Farm, are serviced by one water supply and a combined electricity and sewage system, all requiring a degree of understanding and maintenance. It is asserted by the applicant that it is difficult to comprehend how to make separation of any kind, but it is known that it would be both costly and lengthy.

Taking the property as it is, as a single entity, it could be argued that reasonable attempts have been made to allow the dwelling to be used by a person who could occupy it in accordance with the planning obligation. However, Officers consider that the applicant has not sufficiently explored whether the farmhouse could be made more affordable by selling off some of the holiday letting units on the property.

#### NEED FOR AGRICULTURAL WORKERS DWELLING

Policy HC-D12 only permits the replacement of agricultural occupancy restrictions where it is also demonstrated that the long term need for the dwelling in the locality, in accordance with the planning obligation, has ceased and removing the restriction would be more appropriate than a temporary relaxation.

It is noted that the estate agent has explained that no persons who are local, in terms of the requirement of the occupancy restriction, has shown an interest. A list of people who have shown interest in the property has been provided to Officers. Taking it at face value, the lack of local interest does suggest that the long term need for this agricultural workers dwelling in the locality has ceased. It has been in existence as an agricultural workers dwelling since the early 1990s, a period of approximately 25 years, and has been owned and occupied by the same people. However, the question over subdividing the property to create a more affordable farmhouse is also relevant to this section of the policy. Again, Officers consider that the applicant has not sufficiently explored whether the farmhouse could be made more affordable by selling off some of the holiday letting units on the property. If a more affordable farmhouse could be achieved, then it may well be the case that local agricultural workers become interested in the property.

#### REMOVAL OF OCCUPANCY RESTRICTION

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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If it could be considered that the applicant has demonstrated that reasonable attempts have been made to allow the farmhouse to be used by a person who could occupy it in accordance with the planning obligation, and that the long term need for the dwelling in the locality has ceased (which for the avoidance of doubt, Officers are not convinced it has), then Policy HC-D12 states that the occupancy of the dwelling will be limited by agreement to a person(s) in local affordable housing need as defined in Policy HC-S3 (Local Occupancy Criteria for Affordable Housing).

The applicant is proposing that if the occupancy restriction is removed, then there would be no restriction and it would have an unrestricted open market nature. This would be contrary to not just Policy HC-D12, but the entire housing strategy of the adopted Local Plan.

Policy HC-S1 (Housing) specifically states that “consistent with an exceptions approach to housing, provision will not be made for housing solely to meet open market demand”. This strategic policy carries forward the policy approach to housing in Exmoor National Park; that it is not appropriate to permit new housing simply in response to the significant external demand for open market housing. Instead, within the National Park, policies provide for new housing as an exception to normal policies of restraint. The limited number of opportunities for new housing development emphasises the importance of concentrating on the identified local need for affordable housing within the National Park.

Policy GP3, the spatial strategy for the National Park, aims to address the local need for affordable housing, and the provision of an unrestricted open market dwelling would not aid this key strategy in respect of housing in the National Park. It would also be contrary to Policy GP1, which states that opportunities must be taken to contribute to the sustainable development of the area, with particular attention being paid to providing for a size, type and tenure of housing to address local affordable needs. The provision of affordable housing and the prevention of unrestricted open market dwellings is one of the key threads that runs through the adopted Local Plan.

This is supported by national planning legislation. The National Planning Policy Framework sets out that the planning system has three overarching objectives, one of which is a social objective. Part of meeting this social objective is to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generation. Further to this, Paragraph 77 of the NPPF states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs.

It is acknowledged that the farmhouse in this case has an approximate floorspace of 190 square metres. Policy HC-S2 of the Local Plan restricts the net internal floorspace of affordable housing to 93 square metres, but there is scope in the preamble to provide a larger affordable dwelling where it would involve a conversion of an existing building. It would not be policy compliant to provide an affordable dwelling of 190 square metres. However, there is the potential for the farmhouse to be subdivided to provide to smaller units that would be more in line with the requirements of Policy HC-S2. There is also the potential option to tie one of the holiday letting cottages as local needs affordable housing and then move the holiday occupancy restriction from that cottage on to the farmhouse, a similar concept to the scheme that the applicant gained approval for in the 1990s.



As it stands, the removal of the agricultural occupancy restriction and its replacement with an unrestricted open market dwelling would be contrary to Policy HC-D12 and the housing strategy of the Local Plan.

### CONCLUSION

Officers consider that the applicant has marketed the property in its entire form at a reasonable price for a period in excess of 12 months. However, this is based on it being agreed that the property cannot be subdivided into smaller lots to allow the farmhouse itself to be sold at a more affordable price. Without this exercise being explored, it cannot be demonstrated that there is not a local need for the farmhouse on its own. Further to this, the key policy for the removal of agricultural occupancy restrictions, Policy HC-D12 of the Local Plan, requires the agricultural occupancy restriction to be replaced with a restriction limiting the dwelling as affordable housing for local people in housing need. The applicant's proposal for the farmhouse to be open market and unrestricted is contrary to this policy approach and the housing strategy of the Local Plan.

Officers consider that it has not been sufficiently demonstrated by the applicant that the Section 106 Agreement does not serve a useful purpose anymore. Officers consider that it does serve a useful purpose by preventing an unrestricted open market dwelling and no case has been put forward that it could still serve a useful purpose with modification. Given this, and the non-compliance with planning policy as set out above, Officers consider that they cannot support the application and the recommendation to Members is that the application be refused.

If Members are minded to approve the application, then it should be noted that the Section 106 Agreement should technically be modified rather than discharged as it also serves to restrict the use of one of the holiday letting cottages. Discharging the Section 106 would also leave this other unit without any occupancy restriction.

### **Recommendation:**

#### **Refuse for the following reasons**

1. The Section 106 Agreement attached to the farmhouse at Heale Farm is considered to serve a useful purpose as it prevents the creation of an unrestricted open market dwelling in the National Park. The applicant has not sufficiently demonstrated that there is not a local need for the dwelling with the agricultural occupancy restriction given that the potential to subdivide the property to achieve a more affordable farmhouse has not been sufficiently explored. Further to this, the proposal for the farmhouse to be open market and unrestricted would be contrary to both local and national planning policy. The application is contrary to Policies GP1, GP3, HC-S1, HC-S2 and HC-D12 of the Exmoor National Park Local Plan 2011 - 2031, and the National Planning Policy Framework.

### **Notes to Applicant:**

#### POSITIVE & PROACTIVE STATEMENT

This Authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with the requirements of

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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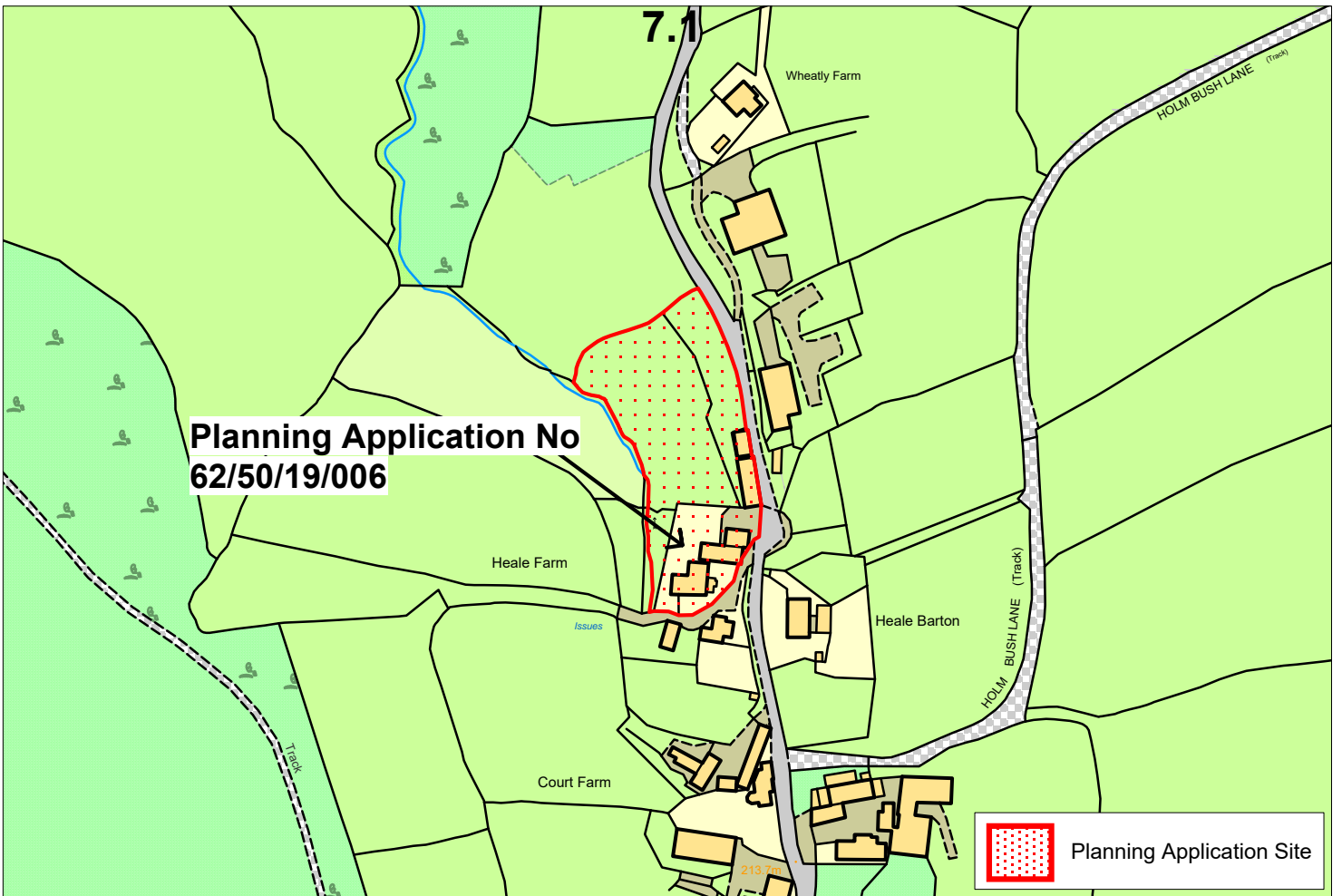
Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application, Exmoor National Park Authority has endeavoured to work positively and proactively with the agent/applicant, in line with the National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed to achieve a positive outcome. However, in this instance the relevant planning considerations have not been addressed and the application has therefore been refused.

### APPEAL INFORMATION

If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.

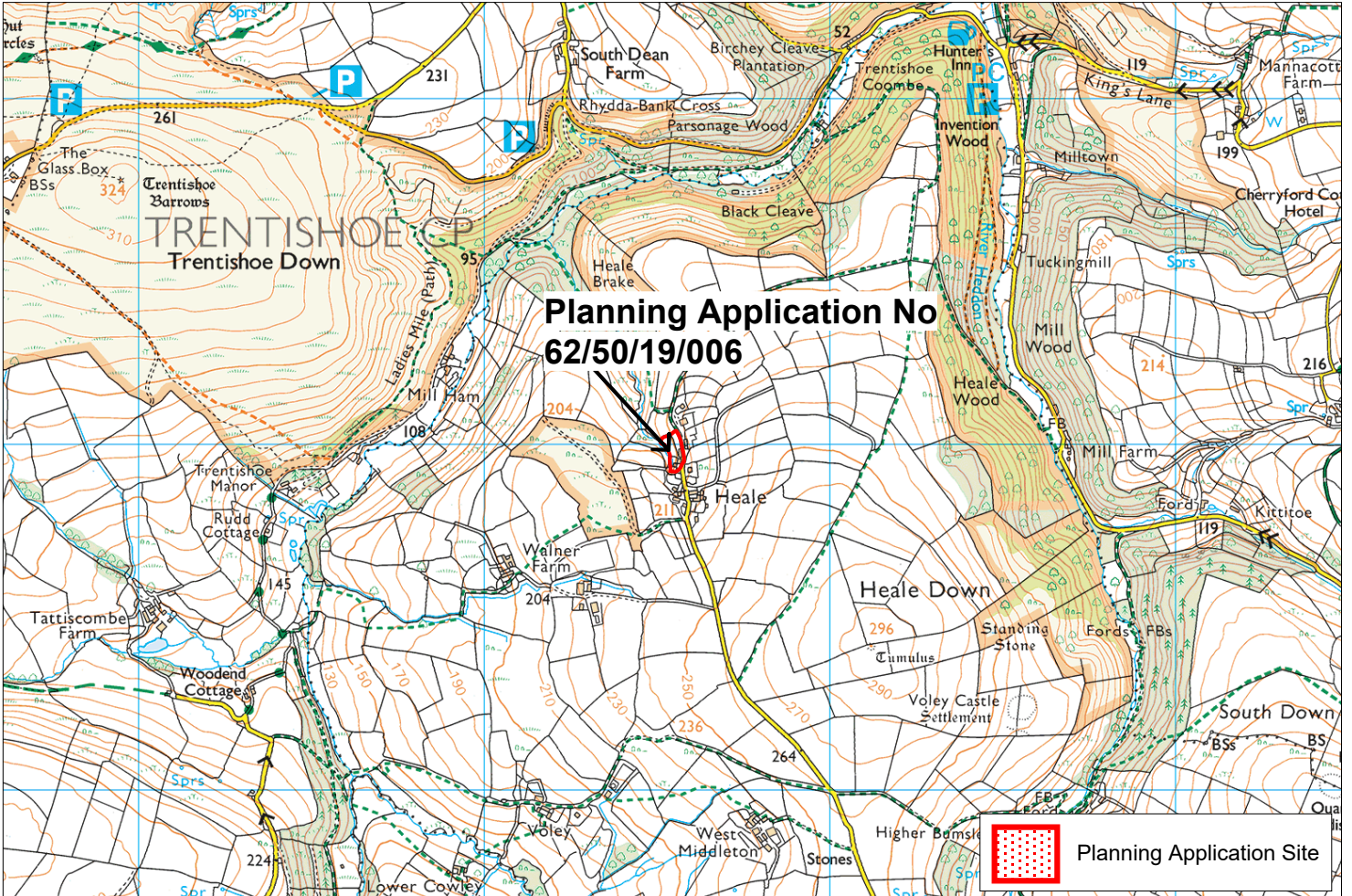
If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within:  
28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.



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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No:	<b>6/42/19/101</b>	Grid Ref.	<b>284439</b>	<b>136606</b>
Applicant	Mr & Mrs Quinn, Halsgrove House Sparrows Lane, Withypool, Somerset			
Location	Halsgrove House, Sparrows Lane, Withypool, Somerset			
Proposal	<b>Proposed change of use of land and construction of a 40m x 20m sand school together with erection of fencing and formation of access track. (Full)</b>			
Introduction	<p>This update report refers to the planning application referenced above, which was reported to the Authority Committee on 2 July 2019 and deferred to allow a Member site visit to gain a greater understanding of the impact of the development on the natural beauty and character of the landscape. The site visit will take place on 30 August 2019.</p> <p>The application was also deferred to allow a period of re-consultation to take place following amendments being made to the originally submitted scheme. For ease of reference, the applicants have amended the scheme by introducing the construction of a hedgebank to the north and east of the proposed manege and the reduction in the amount of hard standing adjacent to the southern corner of the manege. The applicant has also proposed to use a natural wood fibre chipping for the surface of the manege, rather than the originally proposed PVC chippings.</p>			

#### **Planning Considerations:**

The applicants' attempts to address the landscape concerns raised by Officers is noted. The reduction in the level of hard standing adjacent to the manege is welcomed and helps to reduce the impact of the development upon the character and appearance of the landscape. Although it should be noted that it is a small part of the overall scale of the development.

The above changes are potential improvements over the originally proposed scheme but it is considered that the proposed hedgebanks would not necessarily be of benefit in terms of conserving and enhancing the landscape. Whilst it is acknowledged that hedgebanks are a traditional feature upon Exmoor, the manner in which these particular hedgebanks would be sited could lead to a contrived and manufactured appearance. They are not typically constructed to portion small corners of fields and their construction in this case is considered to alter the layout of the agricultural field pattern around the property in a manner that would not mitigate the harm caused by the proposed manege.

The fact remains that the manege will create a new feature within the landscape that would have a large levelled surface and would fail to reflect the agricultural character and sloping form of the surrounding landscape. It should be noted that the submitted plans indicate that the 0.6 metre high retaining walls around two sides of the manege would be constructed from blockwork. This is not considered to be a feature that would be readily seen within an agricultural field.

The period of re-consultation concluded on 5<sup>th</sup> August 2019. At the time of writing this report, there have been two responses received during the re-consultation period.

Somerset County Council have referred the Local Planning Authority to their standing advice. The Wildlife Officer has stated that the comments made on 7<sup>th</sup> May 2019 still apply but with the addition of a suggested condition requiring the new hedgebanks to be planted with a minimum of five local native species along with the proposed beech.

The amendments made by the applicants are not consider to alter Officers' recommendation. The proposed development involves the construction of a manege in a prominent position within the landscape. This development includes the significant reduction and alteration of ground levels to accommodate the manege and the construction of a blockwork retaining wall. It would be visually prominent within the landscape and the associated infrastructure and changes to ground level would only serve to exacerbate this impact. It is not of an appropriate scale in this context and it is obtrusive in its form. The proposed landscaping and surface material for the development would not mitigate the harm caused to the landscape.

Overall, the proposed manège is considered to cause material harm to the character and appearance of the landscape and visual amenity, particularly when taking into account Paragraph 172 of the NPPF, which requires great weight to be applied to conserving and enhancing the landscape and scenic beauty of National Parks.

#### **Recommendation**

The Officer recommendation remains that planning permission be refused for the reason set out on the earlier Committee report, which is:

1. The proposed manege by reason of its siting, scale, materials and associated groundworks is not of an appropriate scale in this context and would be obtrusive in its form. It would cause material harm to the character and appearance of the landscape and visual amenity, particularly when taking into account Paragraph 172 of the National Planning Policy Framework, which requires great weight to be applied to conserving and enhancing the landscape and scenic beauty of National Parks. As such, the proposed manege is contrary to Policies GP1, CE-S1, CE-D1, CE-S6, RT-S1 and RT-D11 of the Exmoor National Park Local Plan 2011 – 2031 and Paragraph 170 of the National Planning Policy Framework.

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **6/42/19/101**                      Grid Ref.    284439    136606

Applicant:    Mr & Mrs Quinn, Halsgrove House  
                 Sparrows Lane, Withypool, Somerset

Location:     Halsgrove House, Sparrows Lane, Withypool, Somerset

Proposal:     **Proposed change of use of land and construction of a 40m x 20m sand school together with erection of fencing and formation of access track. (As per amended plans). (Full)**

Introduction:  This application comes before the Authority Committee in accordance with the agreed Scheme of Delegation, because Withypool Parish Council has a view contrary to the recommendation of Planning Officers.

Planning permission is sought for the construction of a manège at Halsgrove House. Halsgrove House is a residential property that is situated to the north of Withypool. The property consists of a large detached dwelling, a stable block and a barn adjacent to the drive into the property. The nearest property to the application site is Halsgrove Farm, which is situated to the north.

The manège would be constructed in a field adjoining the north western boundary of the residential curtilage of Halsgrove House. The field has a downward sloping form from east to west, and the manège would be constructed in the south western corner of the field.

The manège would measure 40 metres by 20 metres and is proposed to be used only for domestic purposes in association with Halsgrove House. The perimeter of the manège would be finished with a post and rail fence, and the surface would be covered with dark grey micro PVC granules.

The proposed development would include alterations to the levels of the field around the manège in order to ensure a flat and level surface. In the north eastern corner of the site would be an approximate reduction in levels by 2.1 metres. A 0.6 metre high retaining wall would be erected adjacent to the north eastern edge of the manège.

A gravel path would lead to the manège from the dwelling at Halsgrove House and there would be an area of gravel adjacent to the south western corner of the manège that would be approximately 200 square metres. A gravel path would pass around the edge of the manège.

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#### **Consultee Response:**

**SOMERSET WEST AND TAUNTON COUNCIL:** No comment received

**SCC - HIGHWAY AUTHORITY:** Standing advice.

**WITHYPOOL & HAWKRIDGE PARISH COUNCIL:** Approved this planning application on the grounds that it fits well in to the landscape.

**ARCHAEOLOGIST - ENPA:** No comment received

**LANDSCAPE OFFICER - ENPA:** Site Context: the proposed site is located to the west

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of Sparrow Lane public road, approximately 1km to the north of Withypool. It is located on a west facing slope at an elevation ranging between 330m and 340m AOD. Existing structures at the property include a stable block and shed in close association with the house, and a barn/ agricultural storage building to the north of the existing hedgebank that bisects the property. Panoramic views into and out of the site are experienced from the surrounding wider landscape to a distance of up to 3.5km. The site location when viewed from the west and south west sits prominently in the rising ground leading to the remains of Hernes Barrow on the top of Court Hill. Settlement and development is scarce and largely limited to individual farmsteads at this elevation.

Landscape Character: this site is located within the Exmoor Landscape Character Type (LCT) F 'Enclosed Farmed Hills with Commons'. Key features of this LCT include a broad rolling terrain of hills and ridges offering extensive panoramic views across wooded valleys and open moorland. Land use is typically defined by permanent pasture enclosed by beech hedging giving a managed, enclosed pattern to the landscape. Typically, smaller irregular fields are found in the lower valley sides extending to larger more regular fields reaching upwards to join with the more open moor. There is a strong influence of the adjacent LCT's of D 'Open Moorland' and G 'Incised Wooded Valleys' giving an open and very expansive landscape setting to the site as a whole.

Visual Amenity: This application site is in an area of elevated agricultural land, adjacent to and in the visual setting of Combe Hill immediately to the north east when viewed from Withypool Common and Withypool Hill.

A pre application meeting was held on site with the applicants to discuss a number of proposed development changes to the property including the potential for constructing a menage within the property holding. Early discussion proposed a number of site options to be considered including the scale and siting of any proposal in this location and if development of this nature seeks to conserve and enhance the wider landscape of the National Park.

The application for change of land use and the development of a 20m x 40m menage (sand school) and its associated infrastructure would be visually prominent in the surrounding wider landscape at this elevation. The associated infrastructure of surfaced tracks, hard standing and fencing to provide access to the menage as well as 'cut and fill' earthworks into the existing ground to provide a level surface further contribute to the impact of development change in this sensitive location.

This application site is located within an area where existing extensive off road bridle paths and open access land are in close proximity to this property. It should be noted that the surfacing for the arena at Halsgrove proposes the use of micro PVC chippings mixed with sand as compared to a surface of more natural materials. In light of current national concerns regarding pollution of the environment by plastic waste, the proposed use of micro plastic chips in an outdoor environment needs to be reviewed in context with Local Plan Policy RT-D11 1a. It is acknowledged there are a number of existing properties with menage facilities within the Withypool area including the recent construction of a sand school at Uppington of similar dimensions to the one that this is the subject of this application. The development at Uppington is finished with a natural grass surface.



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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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However the open, elevated and exposed nature of this application site is somewhat more prominent in the surrounding landscape, and the required surfacing and associated infrastructure works would further increase this prominence and permanent change in the wider landscape creating difficulty in achieving a sensitive design solution for this development.

WILDLIFE CONSERVATION OFFICER - ENPA: From reviewing the proposal, it looks as though the development will largely be placed over improved pasture. However for the purposes of landscaping and biodiversity net gains please attach the following conditions.

#### Recommendation

As enhancement and compensation measures, and in accordance with National Planning Policy Framework (NPPF), please apply the following conditions to any planning permission granted, to be captured within a landscape plan submitted to the LPA:

- Hedgerow/bank to be managed at a height above 3 metres with scattered trees above 3 metres to provide screening and habitat for wildlife. New trees sapling will be planted to diversify the existing hedgerow, using species from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech.

- A 1 metre wild flower buffer strip will be managed around the hedgerows bordering the proposals along the southern and western boundary. The strip is to be cut twice a year, including an early cut in late February and a late cut in late September. The planting and sowing of nectar producing flowers is recommended, which will encourage a range of pollinators to the site and to provide foraging for bats and birds. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, [www.rhs.org.uk/perfectforpollinators](http://www.rhs.org.uk/perfectforpollinators)" provides a list of suitable plants both native and non-native.

Reason: To ensure the development contributes to the Government's target of no net biodiversity loss as set out in the National Planning Policy Framework; ENPA Local Plan - ENPA Local Plan: Policy CE-S3 Biodiversity and Green Infrastructure; and the Authorities obligations for biodiversity under the Natural Environment and Rural Communities Act 2006. To ensure the success of mitigation measures are sustained for the duration of the development and that there is no net biodiversity loss in the long term as per Government and local minerals planning policy. Furthermore, the recently updated National Planning Policy Framework states in section 15, paragraph 170, that "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

#### Birds

I don't believe that any nesting bird habitat is to be removed to facilitate the proposal, however in the event that such habitat is to be removed, please attach the following condition:

- No vegetation removal works around the site shall take place between [1st March and

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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31st August] inclusive, unless a competent ecologist has undertaken a careful, detailed check of any trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period – some species can breed outside the time frame given.

#### **Public Response:**

1 letter of support

A letter has been received from the owner of Halsgrove Farm stating that she does not wish to oppose the application.

#### **RELEVANT HISTORY**

- 54739** Proposed erection of a dwellinghouse on land off Sparrow Lane at Halgrove Farm, Withypool, as described in the plans and drawings submitted as amended by letter dates 20 November 1962  
Outline Approved 15 January 1963  
Same Site
- 6/42/81/001** Proposed alterations and extension to existing house at Halsgrove House, Withypool as described in the plans and drawings submitted  
Full Approved 15 July 1981  
Same Site
- 54739/2** Proposed formation of a vehicular access on to Sparrow Lane, Halgrove, Withypool  
Full Approved 24 July 1963  
Same Site
- 54739/1** Proposed erection of a dwellinghouse on land off Sparrow Lane at Halgrove Farm, Withypool,  
Full Approved 06 May 1963  
Same Site
- 6/42/86/109** Proposed erection of double garage and entrance lobby at Halgrove House, Withypool as described in the plans and drawing submitted  
Full Approved 09 October 1986  
Same Site

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN 2011 – 2031

GP1 – General Policy: Achieving National Park Purposes and Sustainable Development

CE-S1 – Landscape and Seascape Character

CE-D1 – Protecting Exmoor's Landscapes and Seascapes

CE-S2 – Protecting Exmoor's Dark Night Sky

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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CE-S3 – Biodiversity and Green Infrastructure  
CE-S6 – Design and Sustainable Construction Principles  
RT-S1 – Recreation and Tourism  
RT-D11 – Equestrian Development

The National Planning Policy Framework (NPPF) is also a material planning consideration.

#### **Observations:**

The main material planning considerations in this case are considered to be the principle of the development, the design, scale and materials of the development and its impact on the landscape, neighbouring amenity and biodiversity.

#### **PRINCIPLE OF DEVELOPMENT**

The proposal is for the construction of an equestrian manège for domestic use. The proposed manège would be sited within an agricultural field, adjacent to the hedgerow boundary of the curtilage of Halsgrove House. In terms of distance, the site for the manège is considered to be closely related to the dwelling it would serve. In addition to this, it is considered that the property has adequate and suitable grazing land to support domestic equestrian activities, and the property is well related to suitable networks of equestrian routes. Given the above, the proposed development is considered to be compliant in principle with the equestrian development planning policy, Policy RT-D11 of the Exmoor National Park Local Plan 2011 – 2031 (the Local Plan).

#### **DESIGN, SCALE & MATERIALS AND IMPACT ON LANDSCAPE**

The proposed manège would be constructed within an undeveloped corner of an agricultural field. In terms of its design and appearance, it would be typical for this type of development, with a large flat surface and a timber post and rail fence around the perimeter. It would measure 40 metres by 20 metres but the area of cut would be a larger area to take account of the alteration to the existing ground levels and the provision of an access track around the perimeter of the manège. The surface itself would be covered with dark grey micro PVC granules.

The submission papers refer to another manège that has been recently constructed at Uppington, Withypool. The scale of this proposed manège is contiguous with the size of manèges recently constructed across the National Park, and that constructed at Uppington. However, this does not mean that this particular development will be acceptable as it should be judged on a case by case basis whether the landscape impact is acceptable or not. Whilst the manège is typical in terms of the design and scale of recently constructed manèges in the Park, Officers are concerned by the proposal for a development of this scale on this particular site. These concerns are expanded on below.

The existing built form at the property consists of the dwelling, a stable block and a barn. The stable block sits within the domestic curtilage of the property and the barn is situated adjacent to the access drive into the property. There are panoramic views into the site from the wider landscape, including the open access land on Withypool Common and Withypool Hill. It is a sloping landform that the application site is located on, rising to Hermes Barrow and falling to the settlement of Withypool. The Authority's Landscape Officer has advised that development is scarce around the application property and is largely limited to individual farmsteads at this elevation.

As noted in the submission papers, the applicant engaged the Local Planning Authority in pre-application discussions over this proposed development. Officers, including the Landscape Officer, visited the site and the discussion proposed a number of site options to be considered including the scale and siting of any proposal in this location and if development of this nature seeks to conserve and enhance the wider landscape of the National Park. Officers raised landscape concerns with the applicant at this early stage. The Landscape Officer has assessed this application and has provided a consultation response.

The Landscape Officer has advised that the proposal for a 40 metres by 20 metres manège, and its associated infrastructure would be visually prominent in the surrounding wider landscape at this elevation. The associated infrastructure of surfaced tracks, hard standing and fencing to provide access to the manège as well as 'cut and fill' earthworks into the existing ground to provide a level surface further contribute to the impact of development change in this sensitive location.

The Landscape Officer comments further by stating that the open, elevated and exposed nature of this application site is somewhat more prominent in the surrounding landscape than sites in the local area where manèges have been previously constructed, and the required surfacing and associated infrastructure works would further increase this prominence and permanent change in the wider landscape creating difficulty in achieving a sensitive design solution for this development.

Taking the above advice, it is considered that the proposed development is not of an appropriate scale in this context and it is obtrusive in its form. Further to this, it is considered that it would see the introduction of a equestrian structure with a large levelled surface and, therefore, would fail to reflect the agricultural character and sloping form of the surrounding landscape.

The proposed development is not considered to be sited sensitively in terms of visual impact and the landscape setting of the area, and when taking into account the great weight to be applied to conserving and enhancing the landscape and scenic beauty of National Parks (as per Paragraph 172 of the National Planning Policy Framework), it is considered that it would cause a level of harm to the character and appearance of the landscape and visual amenity that warrants refusal of the application.

#### IMPACT ON BIODIVERSITY

The Authority's Wildlife Officer has reviewed the proposal and has advised that the proposed development will predominantly be placed over improved pasture. However, as enhancement and compensation measures, in accordance with the National Planning Policy Framework, it is recommended that certain conditions are attached to any planning permission granted, that would be captured within a landscape plan submitted to the Local Planning Authority. These conditions are detailed in the Wildlife Officer's consultation response.

The Wildlife Officer has also commented that it appears that the proposal does not include any nesting bird habitat is to be removed to facilitate the proposal. However, a further condition is recommended to prevent the removal of any vegetation during the bird nesting season.

**CONCLUSION**

The proposed development involves the construction of a manège in a prominent position within the landscape. This development includes the significant reduction and alteration of ground levels to accommodate the manège and the laying down of an artificial surface on currently undeveloped agricultural land. It would be visually prominent within the landscape and the associated infrastructure and changes to ground level would only serve to exacerbate this impact. It is not of an appropriate scale in this context and it is obtrusive in its form. Overall, the proposed manège is considered to cause material harm to the character and appearance of the landscape and visual amenity, particularly when taking into account Paragraph 172 of the NPPF, which requires great weight to be applied to conserving and enhancing the landscape and scenic beauty of National Parks. The application is considered to be contrary to Policies GP1, CE-S1, CE-D1, CE-S6, RT-S1 and RT-D11 of the Exmoor National Park Local Plan 2011 – 2031 and Paragraph 170 of the National Planning Policy Framework.

**Recommendation:****Refuse for the following reasons**

1. The proposed manege by reason of its siting, scale, materials and associated groundworks is not of an appropriate scale in this context and would be obtrusive in its form. It would cause material harm to the character and appearance of the landscape and visual amenity, particularly when taking into account Paragraph 172 of the National Planning Poilcy Framework, which requires great weight to be applied to conserving and enhancing the landscape and scenic beauty of National Parks. As such, the proposed manege is contrary to Policies GP1, CE-S1, CE-D1, CE-S6, RT-S1 and RT-D11 of the Exmoor National Park Local Plan 2011 – 2031 and Paragraph 170 of the National Planning Policy Framework.

**Notes to Applicant:****POSITIVE & PROACTIVE STATEMENT**

This Authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application, Exmoor National Park Authority has endeavoured to work positively and proactively with the agent/applicant, in line with the National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed to achieve a positive outcome. However, in this instance the relevant planning considerations have not been addressed and the application has therefore been refused.

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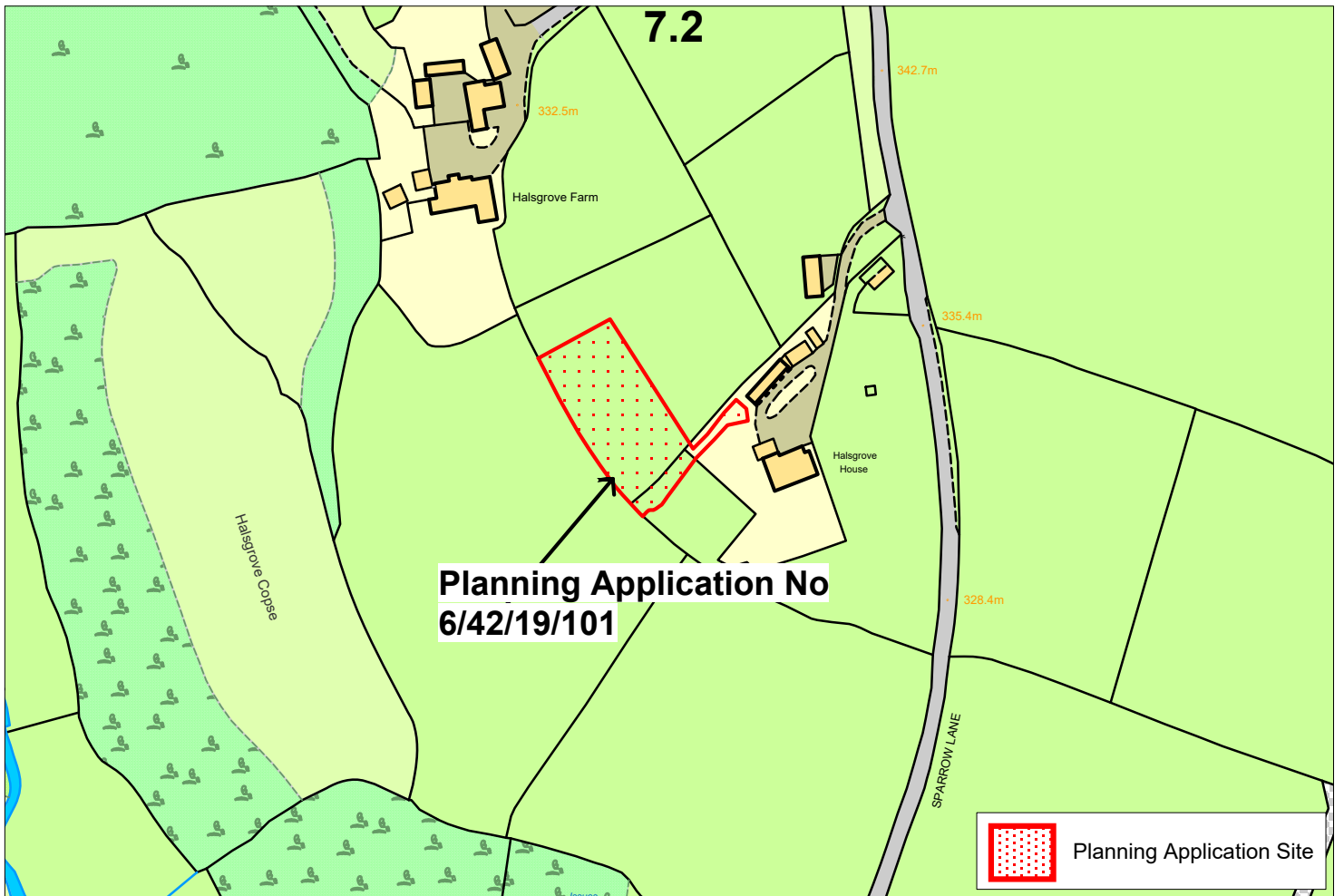
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### EXMOOR NATIONAL PARK AUTHORITY MEETING

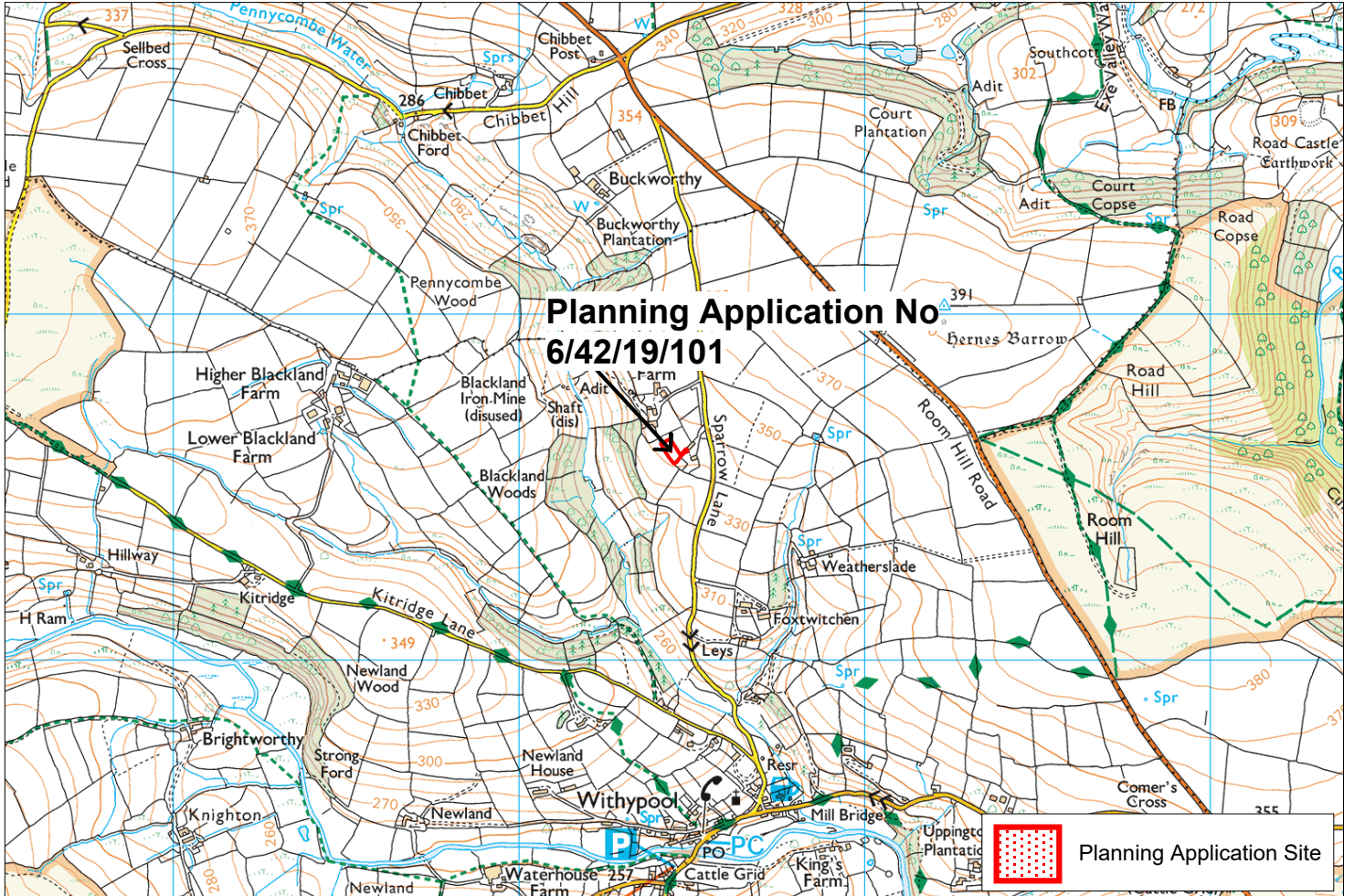
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appeal. Further details are on GOV.UK.



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Overview Map  
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## 7.3

### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **62/11/18/013**

Grid Ref. 274373 148200

Applicant: Mrs S Phillips, National Trust, Attingham Consultancy Hub  
Atcham, Shrewsbury, Shropshire

Location: Combe Park Lodge, Lynton, Devon

Proposal: **Proposed 250kW hydroelectric scheme, to include intake weir, buried pipeline, powerhouse building with ancillary equipment and grid connection. (As per additional information and amended and additional plans). (Full)**

Introduction: The application site is located to the south-east of Lynton and along the Hoarok and East Lyn rivers and consists several elements. The first section includes an area of land to the south of Combe Park Lodge and is where the intake for the proposed development will be located. This part of the application site is located in Combe Park Wood, and to the north of the car park owned and maintained by the National Trust. The intake is located in an area of water where there are a number of large boulders with the water dropping approximately 1.5m. Trees line the south of the water and is steeply sloping and to the northern side, the sides of the river steeply raise to a gently sloping grassed area with a bridle path running to the highway.

The site continues along the public bridleway (16) which runs along the eastern side of the river down to Watersmeet House, which is a Grade II Listed Building, owned and operated by the National Trust. The building is situated on the northern bank and close to where Hoarok Water and East Lyn River join. Timber bridges cross the river giving pedestrian access to Watersmeet House.

The application seeks the installation of a Hydroelectric scheme which will include a new intake weir across Hoarok Water, incorporating a Coanda screen, with 2 mm bar-spacing and fish easement to facilitate passage for Brown Trout. Following the intake the water is then carried along a 1300mm polyethylene pipe which is buried along the existing bridleway or adjacent to existing vehicle access tracks, along with a HV electrical cable. The pipe will need to cross the river on two occasions. The first being close to Hillsford Bridge and secondly near Watersmeet, where an existing timber footbridge over the East Lyn is proposed to be replaced. Also proposed is a small stone clad powerhouse building, built as an extension to an existing outbuilding at Watersmeet House with a short discharge pipe returning the flow to the East Lyn. A transformer cubicle is also proposed, located in the old quarry just above Watersmeet House.

The proposal would deliver up to 250 kW and deliver approximately 800MWh of energy per year.

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#### **Consultee Response:**

ENVIRONMENT AGENCY SOUTH WEST: No comment received

WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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#### LANDSCAPE OFFICER - ENPA:

23rd January 2019 - We object to the proposed development on the grounds that insufficient information has been submitted with the application to demonstrate that the proposal will not increase flood risk elsewhere and to fully assess the impacts of the proposal on the watercourse, habitat and fisheries. We have provided the reasons for our position below, and further technical detail and advice on the various aspects of the proposal to clarify our position in this letter.

**Flood Risk** – We require more detailed design drawings showing the intended arrangements of the pipeline crossings underneath the bridges. The current information does not specify whether these will be lower than the current bridge.

**Biodiversity, geomorphology and fisheries** – We do not agree with several of the conclusions reached within the documents supporting this proposal, including that the proposed development will have a negligible impact on the watercourse. Considering the submitted information, we cannot agree with conclusion that there will only be a 'slight depletion of waters on the Hoar oak during times of abstraction'. Our interpretation of the data included in the geomorphology assessment suggests a potentially significant negative impact on the Hoar oak depleted reach. The applicant should provide evidence for how their conclusion was reached. Furthermore, the habitat assessment submitted identifies that there will be an impact of negligible significance from the proposal however, the applicant should consider the multiple impassable barriers present in the lower reaches in relation to fish passage. The applicant should also clarify whether the data used to produce the seasonal flow percentile figures included data representative of both wet and dry years, because the relative impacts are likely to be different in years of flow extremes.

**Technical Advice** – The following technical advice provides further detail about our concerns and how the applicant may overcome these through the provision of further information.

**Flood Risk** – We consider that insufficient information has been submitted within this application to demonstrate that the two proposed pipeline crossings (across the Farley Water and the East Lyn River) would not increase risk of flooding to third parties in line with the National Planning Policy Framework (NPPF). The pipelines, or any associated brackets proposed under the Hillsford Bridge and footbridge adjacent to Watersmeet House must be no lower than the existing soffit levels of both bridges. This is vital to ensure that the flow capacity of the bridges are not diminished. The Landscape and Visual Assessment, (dated December 2018) refers to the intention to lay the pipeline 'along underside of Hillsford Bridge' and 'improved footbridge across the East Lyn, with pipeline routed on the underside of the bridge but likely still visible'. We question if there is sufficient space to accommodate a 630mm diameter pipeline. As such, we consider that proposal drawings, that demonstrate the intended arrangements, should be drawn up and submitted to us for comment, prior to determination of the application.

We would also like to highlight that the application indicates that there may be several stretches of the proposed pipeline that could potentially be in areas at risk of flooding. This puts the proposed pipeline reinstatement at risk of eroding which in turn could potentially expose stretches of the pipeline.

**Biodiversity** – We consider that the assessment of potential impacts of the proposal on

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the watercourse is insufficient. The application lacks key environmental features, as follows:

- An assessment of potential impacts on lower plants/bryophytes has been undertaken with a conclusion of negligible impact. The assessment has focussed on those species that benefit additional legal protection. However, as presented, it does not address the impacts associated with a reduced splash zone (particularly on the heavily depleted Hoarok reach) and the impact this might have on the wider lower plant/bryophyte communities (e.g. abundance, diversity, etc.).
- It is not clear whether there has been a detailed survey of ferns, which have potential to be significantly affected by changes in the hydrological regime (i.e. changes in humidity & reduction in splash zone).
- A distinct assessment of impacts on the features of Watersmeet SSSI, under the CROW Act, has not been submitted (although it is noted that some detail is provided in the Ecological Report).
- The application does not address the presence of invasive species (for example, Montbretia is present). In the absence of mitigation, there is potential for the construction phase of the scheme to cause invasive species to spread.
- The Habitat and Species Protection Plan focusses on mitigating impacts associated with the construction phase. It also needs to capture mitigation required for the operational phase.
- We welcome the inclusion of a 4 year monitoring programme. We recommend that the specification for the role of the Ecological Clerk of Works should be extended to allow for this programme, noting that specialists may need to be brought in to carry out detailed surveys (e.g. bryophytes/lower plants).
- It is unclear how the applicant will respond to a situation where monitoring finds that the scheme has an unacceptable environmental impact that hasn't been predicted at the planning application stage. The applicant should state how they plan to address any unexpected unacceptable environmental impact that may occur. We recommend that you consult Natural England regarding the sensitivity of the site because it is within a SAC and SSSI. We note that a distinct Habitat Regulations Assessment (specifically in relation to Exmoor and Quantock Oakwoods SAC) has not been submitted with this application.

Geomorphology – We have concerns that some of the conclusions reached in the Geomorphology Assessment (dated 26 October 2018) are not supported but the analysis. Our interpretations of the data included suggests that there is a potentially significant negative impact on the ability of the Hoarok depleted reach to transport sediments (the 200m reach from the abstraction point to the confluence with the Farley Water). Therefore, the associated risks are as follows:

- Increased deposition of fines (sands, silts and clays) within the bed of the depleted reach.
- This deposition would infill low flow routes, effectively creating wider and shallower low flow pathways, with greater percolation through the bed substrate (which would further reduce effective flow depths).
- The shallower flow depths would restrict fish movement
- Percolation of water through the bed, and reduced splashing (resulting from smoother bed conditions, infilling of pools etc.) will lead to reduced moisture in the channel. This

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needs to be assessed in terms of impacts on Code 3 protected species.

Fisheries – We consider that the fisheries assessment is of a good standard and supports the principal of the WFD assessment in identifying the relative significance of resident brown trout to the fish element classification of this waterbody and therefore the need to ensure this species is protected. However, we have some concerns that the full range of potential impacts have not been adequately considered and that more detail is needed in relation to the deprived reach between the intake and Farley Water confluence. The requested % abstraction above the Q90 HOF is very high relative to flows in the reach directly downstream of the intake location to the confluence with the Farley Water. We are particularly concerned with the potential impacts on fish passage and fish habitats within this reach. These are outlined below: Fish passage and connectivity:

- The assessment supports the requirement for provision of a fish pass at the intake screen in order to maintain up-stream fish passage for brown trout and prevent deterioration of the WFD waterbody status. There are a number of issues with the current fish pass design which will require potentially significant alteration before this mitigation measure can be considered appropriate. We have highlighted to the applicant through the abstraction license process that there are a number of issues.
- We agree with the report where it references the importance of maintaining connectivity with the upper Hoarook catchment for access to potentially important spawning/nursery habitat. In respect of this, potential issues of fish passage must be considered on the WFD waterbody scale.
- The fisheries assessment considered the increased barriers to adult fish only in the deprived reach downstream of the confluence with the Farley Water. The applicant should provide detailed assessment of the same issue along the depleted reach of the Hoarook water between the intake screen and Farley water confluence. Failure to consider impacts to fish passage through the whole of this reach could undermine the efficacy of the fish passage mitigation measures at the intake location.
- We require a specific assessment of potential impacts to fish passage through the full deprived reach of the Hoarook water between the intake screen and Farley Water confluence under proposed impacted flow scenarios (including wet and dry years) and with consideration of potential issues of reduced attraction flow at the point of confluence with the Farley Water during key fish migration periods.

Habitats:

- The habitat assessment for the deprived reach of the Hoarook Water identifies that the juvenile salmonid habitats in the deprived reach immediately downstream of the intake will be significantly impacted by the abstraction. This is considered of negligible significance more widely owing to the limited amount of habitat present in this reach when directly compared to what is present in the altogether much longer deprived reach downstream of the Farley Water confluence.

We do not agree with this assessment, as due to the multiple impassable barriers present within this lower reach, these areas of habitat are functionally unavailable to fish present in the more heavily impacted reach of the Hoarook water. In relative terms, the habitats present in the reach downstream of the intake will be of greater importance to the fragmented population of brown trout of this middle part of the catchment/WFD waterbody, than anything present downstream, but which is otherwise

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un-accessible to these fish. The comparative value and importance of fish habitats within the intake-Farley water reach and any assessment of impact from the abstraction, should only be considered in the context of what is more widely accessible to the fish populations which have direct connectivity to that area.

i.e. any comparative reach-scale assessment of this nature should only consider;

- o how valuable the habitats in this section of the deprived reach are in comparison to other habitats which the same fish have access to.

- o what impact the abstraction might therefore have on those habitats available to that population.

- o And, whether this impact is considered significant at the reach and/or WFD waterbody scale.

A more relevant means of assessment would be to compare the habitat availability and quality of the intake-Farley water reach with that of the up-stream Hoar oak and Farley water catchments as far as the next impassable barrier.

- The habitat modelling methodology employed considers the habitat change and suitability for different salmonid life stages in relation to changes in basic hydraulic parameters. This method does not appear to account for the potentially more complex range of qualitative changes which might be expected to affect the remaining habitat as result of impacted stream flow, such as increased fine sediment storage with a reduction in the frequency 'flushing' flows and any associated changes to invertebrate and plant communities which might result.

- Similarly the assessment methodology appears to be based on instantaneous changes to the habitat based on the physical parameters and hydraulic properties measured. It does not provide a more detailed assessment on how these changes might impact the wider stream ecology and salmonid habitat suitability in the longer term as the channel adapts to an altered flow regime. Adult pool/run habitat for example is considered more resilient to the impacts of reduced flow, but this does not necessarily mean those areas are then utilised to the same extents by adult fish compared to an un-impacted scenario, particularly if the surrounding habitats become less well connected for extended periods or are made less ecologically rich as a result (i.e invertebrate richness, temperature resilience etc). These wider qualitative elements need to be a consideration of the impact assessment.

- It is not made clear whether the data used to produce the seasonal flow percentile figures (which the modelled habitat impact results are compared against) has been inclusive of data that are representative wet and dry years. The relative impacts on habitats in the deprived Hoar oak water reach (down to the Farley confluence) are likely to be different in years of flow extremes during the key periods identified, so the temporal impacts of reduced stream flows above HOF in these periods should be specifically considered in the modelled scenarios.

The habitat impact assessment should also express results compared against flow percentiles representative of the whole year (as well as seasonally) to make them more relatable to the prescribed flow conditions.

Advice to the LPA – For your information, an application for an Abstraction Licence has been submitted to us, but we advise that we have not yet determined this application.

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LANDSCAPE OFFICER - ENPA: 24th January 2019 - The following comments are in response to the site visit held with the National Trust on the 31st October, and the submitted application details. It is acknowledged that the preparation of the Landscape and Visual Assessment report has further aided in the full consideration of this application.

In principle the development of small scale hydro generating schemes, as outlined in the Local Plan policies and identified in the Exmoor Landscape Character Assessment report (LCA) 2018, is welcomed and supported. The LCA recognises the potential for this area to provide renewable energy and notes that development of this type would introduce new features and structures into the existing landscape.

Within the LCA report, the LCT B Specific Management Guidelines states 'ensure renewable energy schemes and associated infrastructure are sensitive to their location, conserve the scenic quality of the area and do not adversely impact on the rich ecology of the rivers and streams'.

With the above context, there are significant areas of concern within the submitted application that I consider would result in permanent loss and damage to this exceptional river landscape, and that are insensitive to the scale and quality of this particular setting. These include the following:

#### Combe Park

The proposed installation of the 1.9m high concrete intake structure would result in the permanent loss of an existing highly attractive natural rock cascade at this location, impacting on the visual amenity and landscape quality of this area, and would be unsympathetic to the historic setting of Combe Park House. The proposed scale and engineered construction of this intake is insensitive to this rural and picturesque location, well used by walkers on the Two Moors Way and by picnic users of the informal riverside parkland at Combe Park.

It is not definitive from Block Plan #1 but the Environmental Report states that a 15m section of the 630mm diameter proposed pipeline is to be located within the river bed for this initial section of the route. It should be noted that the introduction of a pipeline to the river bed area would be highly visible given the existing bed rock features of this stretch of the river.

#### Hillsford Bridge

The proposed pipe bridge located to the north of Hillsford Bridge would be highly visible and intrusive to the public view from this location and would have a detrimental impact on the visual and landscape quality of this location. Clarification on the exact proposed location is needed as there is some discrepancy between the information contained in the Environmental Report and the LVA. The Environmental Report does not currently outline the proposed detail for the construction and fixing of this new structure into the existing stone faced retaining walls or detail the appearance of the pipebridge.

#### Brendon Bridleway

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The proposed pipeline follows the line of the existing bridleway from Hillsford Bridge to Watersmeet. This is a path of an undulating character with numerous gentle twists and turns to its route, with outcrops of bedrock forming natural landscape features along its length. The eastern bank rises steeply and is dominated by tree cover and ground flora containing a significant number of rare species (reflected in its SAC and SSSI status). The western bank descends steeply and unevenly to the Hoarok Water below. The pipe trenching details submitted in the application indicate three options for the installation of the pipe including below ground to the centre of the pathway; to the top of the riverside bank at a depth of approx. 750mm reinforced with soil filled and seeded sand bags; and to the side of the path on the eastern bank laid at grade level with an approximate cutting back of the existing bank to a height of 1m re-profiled on completion of works with soil filled and seeded sand bags to a height of 750mm and backfilled. These options were discussed at the site visit with the National Trust on the 31st October 2018 and detail was requested to indicate where and for what lengths each of these options were proposed to be utilised. Recognising that the above options have been proposed to limit the impact on existing tree cover, there is a significant visual and character impact that will result from each option upon the exiting landscape.

The excavation to an approximate depth of 800mm and width of 1300mm will require significant excavation into existing bedrock along the majority of the path length. These frequent rocky outcrops currently contribute to the character and nature of the pathway in this gorge like setting and are a feature that I consider will be compromised by the proposals.

The option to excavate and install the pipeline to the top of the bank area and to reinstate the top 1m of the bank with soil filled and seeded bags will result in an engineered solution that is potentially visually intrusive in this setting and will need to be significantly robust to manage the significant volumes of surface water run off at times of high and intense rainfall.

The third option to cut back the existing eastern bank to a height of 1.5m and install the pipeline at existing ground level also requires the stabilisation and covering of the pipe area by the use of soil filled and seeded bags. This potentially results in loss of tree cover to the eastern edge, loss of ground flora, and the introduction of an engineered solution in this otherwise largely natural environment. The impact of this method could be partially mitigated by the successful establishment of the seeded bags in the longer term but there is a significant localised impact.

There is no submitted detail on where each of these installation options apply and for what lengths, therefore it is difficult to fully assess the scale and permanence of those impacts both in visual and character terms within the wider environment, or to address the long term maintenance requirements and potential success of mitigation measures proposed by this installation.

Steps down to Watersmeet

This set of steps at the northern end of the bridleway form a steep access route down to

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the pedestrian bridge over the East Lyn River linking to Watersmeet House and its associated lawns. The rocky outcrop around which the steps are constructed forms a significant part of the view from Watersmeet and is a constituent part of the picturesque landscape setting of Watersmeet House.

Views from the top of the outcrop area provide dramatic and sweeping views of the scree and tree covered gorge like valley and of the tumbling river below. Proposals to remove and reinstall a set of steps (approx. 10m change in level) in this location following the excavation and installation into bedrock of a 500mm diameter pipe beneath them has a significant potential risk to existing ground conditions and would necessitate significant angled turns in the line of the pipe on the approach to the bridge.

Whilst it is recognised the proposed works could enable a more even and uniform set of steps to be constructed, this would result in a change to the character of this location and its steep and challenging nature.

Works as proposed would necessitate the removal of a number of existing trees. Whilst each of these trees individually are not of high amenity value, the removal of a group in this particular location will have some visual impact on the wider setting, and it should be noted all trees in this location are within the SAC designation. An alternative option was discussed at the site meeting of the 31st October that proposed locating a pipeline directly down the bankside of the high rocky outcrop within the direct view of Watersmeet House but it was considered this would be significantly more visually intrusive by those present and would be detrimental to the setting of Watersmeet House.

#### Pedestrian Bridge at Watersmeet

The proposal to locate the pipeline within a renewed bridge structure at this location in principle is welcomed. However the size of the pipe requires the widening of the bridge structure and an increase in its depth which results in a visually heavier structure than that presently on the site. The importance of scale and lightness of construction needs to be fully considered here within the setting of the historic property of Watersmeet.

#### Proposed Powerhouse

The extension of the existing outbuildings to the rear of Watersmeet House to accommodate the turbine engines and associated infrastructure will increase the mass of the outbuildings to be greater in length than the main property itself which impacts on the wider setting. It is noted that the proposed use of natural and matching materials will provide some mitigation to this.

#### Tailrace Pipe

The location of the proposed 800mm diameter outfall pipe approximately 1000mm above the normal river level is in close proximity to existing trees, and it is not possible to fully assess this potential impact due to the level of detail contained in the submitted drawings. The outfall pipe and associated retaining structure appear to be within the canopy cover of an existing tree which is currently shown to be retained. Clarification on this would be helpful.



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It should be noted the siting of the outfall pipe will be visible from the path on the southern side of the East Lyn River opposite Watersmeet House, and from the rocky outcrop above this. It is assumed there will be an impact on the character and volume of water flow from this location when the hydro scheme is in operation.

#### Transformer Unit and Associated Track Access

The proposed location of a new transformer unit to the area above Watersmeet House will impact on the wider character of this setting. Whilst it is noted the proposal seeks to site the unit in an existing overgrown borrow pit and to provide additional screening using evergreen species, the unit will be visible in this elevated location from the surrounding path networks above Watersmeet House, impacting on the overall setting of this historic property. Additionally, the existing rough track access to this area is heavily overgrown and of a narrower width than that proposed of a 3m width hardcore surfaced track (Outline Construction and Environmental Management Plan).

With the above points outlined, in summary I consider that both the scale and size of the proposed development as presented, whilst providing a significant source of renewable energy for the National Trust, will be out of scale and character to this setting of exceptional scenic quality. This proposal would result in the permanent loss of some existing natural landscape features and would have a detrimental impact on the character and visual quality of the highly valued landscapes surrounding Watersmeet. The lack of clarity and detail on some of the submitted drawings and technical reports adds further difficulty in accurately assessing the extent and permanent nature of that impact in the locations outlined above, and therefore represents a risk of additional impact not being fully accounted for.

ECOLOGIST - ENPA: No comment received

LYNTON & LYNMOUTH TOWN COUNCIL: 16th January 2019 - To object to the scheme, it is felt to be the wrong scheme in the wrong area, and to this end, write to Exmoor National Park expressing concerns regarding environmental impact of the scheme These comments are stated as a stakeholder from a nearby parish.

BRENDON & COUNTISBURY PARISH COUNCIL: 8th January 2019 - Brendon and Countisbury Parish Council considered the applications and adopted a balanced and measured approach. The areas addressed were:

- 1) Intake Weir
- 2) Pipeline
- 3) Powerhouse Building
- 4) Ecological Implications

The main focus was on visual impact, noise and wildlife and flora sustainability, balanced against the advantages of the green energy production. It was recognised that the Council lacked the technical expertise to address all aspects of the application.

Following the careful and prolonged debate, Council was able to either support or object to the proposal. At a vote, 3 members were against and 4 were neutral. It was acknowledged that the National Trust would be mindful of the disruption and risk to a

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beautiful area and were unlikely to undertake works negating this fact.

NATURAL ENGLAND: 30th January 2019 - As the Competent Authority, Exmoor National Park Authority is required to conduct a Habitat Regulations screening to determine the significance of impacts on European sites and the scope for mitigation and to demonstrate that the requirements of Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 have been considered by your authority.

Natural England's advice on Designated Sites and landscape is provided below.

Further advice on protected species and other natural environment issues is provided at Annex 1 of this letter.

LANDSCAPE OFFICER - ENPA: 8th February 2019 - Point 1:

For confirmation, the series of concerns stated in the Landscape Officer previous comments of the 24.01.19 were based on the scrutiny of the evidence base presented in the Landscape and Visual Assessment (LVA) as prepared by the consultants, Dulas, on behalf of the applicant, the National Trust. The LVA, alongside all other submitted application information, was used to help inform the Landscape Officer's full consideration and assessment of the application.

However in direct response to the above outlined letter, please note the following responses to address specific points raised by the applicant's consultant:

#### Predicted Landscape Character Effects

Of the seven landscape characteristics outlined in the LVA, all are described as having high sensitivity to new development with the magnitude and significance of effects being 'negligible' both on completion and operation of the development. Whilst within the wider landscape character type (LCT) the potential impact is largely specific to the site, I consider, given the scale and sensitivity of this location, that the effect on the landscape character within the application site in this National Park setting is significant rather than negligible, resulting in the permanent loss and permanent change to natural landscape features for four (items 2-5) of the predicted landscape characteristics outlined in Table 4 of the LVA report.

#### Predicted Visual Amenity Effects

The following additional responses relate solely to the operational phase of the proposed development (it is expected that there would be major to adverse localised effects during any construction phases of this proposed development should any planning approval be forthcoming).

The proposed visual amenity effects being defined as 'minor adverse' for Combe Park House and Combe Park car park and wood are not supported. As previously stated, I consider that the permanent loss of the natural water cascade, and the introduction of an 8-9m wide x 1.9m high engineered concrete structure and its associated 15m length of 630mm diameter pipeline to the river bed in this location will have a localised but significant effect on the visual amenity of this well used riverside area within the National Park context.

The visual amenity effect being defined by the applicant as 'negligible' for Brendon Bridleway is not supported. This a very popular route well used by walkers and riders of

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exceptionally high scenic quality for the entire length of the application site. As previously commented on, I would consider the three proposed methods of installation indicated for the length of this pipeline (approx. 1200m length of 630mm diameter pipe) all have the potential to have significant adverse effects within the localised context of the application site. Additionally, and as previously commented on, there is still no detailed information in the application that defines which method of construction applies where to each section of the route of the pipeline and I therefore consider it is not possible for the

applicant to determine the extent of the visual amenity effect likely to be caused by any such proposal. However it should be noted that the development as proposed would result in the

permanent loss of natural landscape elements and the introduction of uncharacteristic landscape elements to this extent of the application site.

I consider the effect on the visual amenity for Watersmeet House, its associated pedestrian bridge and set of access steps linking to the bridleway, when considered within the site context, are not 'minor adverse'. The proposed development as previously outlined, will result in permanent change,

the introduction of uncharacteristic elements and the loss of existing natural and manmade elements that contribute to the quality and distinctiveness of the setting. It is noted that the effect on the visual amenity from the adjacent highways and public roads (with the exception of users in the vicinity of Hillsford Bridge) and from the Two Moors Way is likely to be

minor adverse/ negligible on completion of works.

#### Point 2:

I consider, as previously outlined, that the range of specific elements to which potential long term adverse effects would be experienced by users to be the significant majority of the site's extent. As noted by the consultant in his own correspondence, these include the intake, pipe bridges, pipeline, steps, powerhouse, transformer and outfall. In my professional assessment, I consider the potential impact on both the landscape character and visual amenity of these elements to be detrimental to the quality of this setting.

It is the significance of the visual and character impact of the proposed development to the users of this highly popular and well visited location that needs to be addressed and specifically the context of the application site being located in a landscape of exceptional high quality (natural and cultural)

within a National Park designation . (As stated in my previous comments, I acknowledge the wider visual impact from adjacent public access routes (Two Moors Way, A39) is considered to be limited due to the steeply sloping nature of the valley sides).

#### Point 3:

In response to the point raised here by the applicant's consultant, it is of considerable concern that the consultant does not consider it within the Landscape Officers specialist field to comment on the impact of the proposed development on the wider setting of a designated heritage asset. The

concept of landscape (as defined by Natural England and underpinned by the European Landscape Convention of 2006) encompasses the physical, cultural, perceptual and

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ecological aspects of the environment and the interactions between them. It is the therefore fully within the Landscape Officer's responsibility to provide comment on any proposed development that may cause change to any and all aspects of the environment.

#### Point 4:

From the submitted application information, it is the Landscape Officers opinion that the installation of a new pipe bridge to the north (downward) side of the existing Hillsford Road bridge would be highly visible and intrusive to pedestrian users of this area, introducing a new engineered structure that is physically and visually separated (1100mm) from the existing road bridge.

#### Point 5:

It is the Landscape Officers assessment that each of the three options proposed for the construction and installation of the pipeline will potentially result in visual and character changes that impact on the quality and distinctiveness of the settings natural and physical environment. As outlined before, the significance of this impact needs to be considered in the specific context of this application site (National Park, SSSI, SAC and TPO Woodland, and a highly used public right of way).

Given there is no detail information stating where each construction installation method applies, it is not possible for the applicant or the Landscape Officer to fully assess the potential impact on both character or visual amenity, and therefore I do not consider it is possible for the applicant to state there will be 'no visual evidence of the pipeline, and therefore no lasting visual or landscape effects'. The proposal for sensitive reinstatement in this location is only outlined in principle on the 'Pipe Trench Detail' drawing and does not specify in reality where or for what lengths the use of soil filled and seeded sand bags would be used to maintain the bank profile or to mask the above ground 630mm diameter pipeline, or to what extent the existing bed rock and soil covered vegetated banks would be removed to facilitate the installation of the pipeline. To propose that this design detail is not required and can be addressed by applying a suitable

planning condition is in my opinion, inadequate in ensuring the statutory first purpose of National Parks to 'conserve and enhance the natural beauty, wildlife and cultural heritage of the area' is met by this proposed development change.

#### Point 6:

Given it is considered this set of steps is within the setting of the Watersmeet House, the proposal to excavate and install a 500mm diameter pipe below grade prior to reconstructing the set of steps is considered a risk to the existing visual quality and landscape character of this rocky outcrop, and would not be adequately protected by the application of a consent related planning condition.

#### Point 7:

Additional information on the pedestrian/ pipebridge proposed for Watersmeet has now been submitted. Whilst it is acknowledged the proposed new bridge facilitates greater access to disadvantaged groups by the proposed increased width, it is considered that

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the overall increase in depth, height and width of the bridge remains unsympathetic to the existing historic setting of Watersmeet House.

Point 8:

For clarification, from the application information submitted to date on the siting and size of the proposed tailrace/ outfall pipe (internal pipe diameter 800mm), the proposed introduction of a structure in this location will have both a visual and character impact on the setting of the property at Watersmeet House. The proposal to locate and naturalise this engineered structure in this particular landscape by the use of local stone facing and the visual screening provided by existing vegetation is not considered sufficient to mitigate the effect on its appearance in the wider setting.

Point 9:

Please refer to response to Point 3.

Point 10:

As previously outlined, the application as proposed is of a scale and size that, in the context of this particular site (National Park, SSSI, SAC, TPO Woodland, within the settings of Listed Buildings, public bridleway, long distance footpaths), is considered to cause harm to the visual amenity and landscape character of this setting. The omission of detail specifying the proposed construction and mitigation measures for the length of the pipeline does not enable a robust assessment of the full impact to be completed.

The entirety of the application site is located in an area of the highest scenic quality and rich natural environment within the National Park, and therefore the importance and effect of the proposed development change on the local site context, which is considered to be significant, needs to be applied on this basis.

HISTORIC BUILDINGS OFFICER - ENPA: 18th January 2019 - The application seeks to construct a small scale hydro-electric power scheme that will comprise of an intake weir, 1300m length of buried polyethylene pipe, 2x pipe bridges, a stone clad powerhouse building and associated transformer building and undergrounded cabling. The most significant impact of the scheme to the historic built environment will be to Watersmeet House (grade II, list entry number 1213205).

Watersmeet House was built in c1832 for the Reverend Walter Stevenson Halliday and was originally thought to function as a hunting and fishing lodge. Being positioned in an exceptionally tranquil location, at the bottom of a wooded combe and the confluence of two rivers, the site became a draw for travellers and visitors to the area, with numerous drawings, paintings and early photographs being produced of the building throughout its history. A tearooms opened in 1901 and the building was purchased by the National Trust in 1936 who now run it as a tearoom and shop.

The setting of Watersmeet is perhaps the most significant feature of the building. This is made clear in the list description that quotes the engraving above the door that reads- "The spot was made by nature for herself: /The travellers know it not, and it will remain /Unknown to them; but it is beautiful: /And if a man should plant his cottage near,

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/Should sleep beneath the shelter of its trees, /And blend its waters with his daily meal,  
/He would so love it, that in his death-hour /Its image would survive among his thoughts."

As set out in paragraph 194 of the National Planning Policy Framework (NPPF) 2018 any harm to, or loss of significance to a heritage asset from development within its setting should require clear and convincing justification. The setting of a heritage asset is defined in the NPPF 2018 as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of the setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

The English Heritage (now Historic England) guidance document 'The Setting of Heritage Assets' 2012 makes clear that it is not only visual aspects that form setting but also elements such as noise, spatial association and the understanding of relationships between places that together form the experience of the historic site. Watersmeet was very deliberately positioned in this position to make the most of its tranquil and scenic surroundings. Carefully conceived paths and bridleways lead to and from the building from the surrounding combs and countryside. The main draw of the building is still its setting with members of the public continuing to converge on the building along the same pathways shown in early mapping.

I am therefore of the view that the full extent of the proposed scheme is located within the setting of Watersmeet House and that all elements of the scheme have the potential to cause harm to its setting.

I will run through each element of the scheme in turn starting the abstraction point. The abstraction point is on the Hoar Oak, north of its confluence with Farley Water. It will be formed of a concrete weir built over an existing natural cascade. It is my opinion that this section of the river also falls within the setting of the near-by listed building of Combe Park House and its associated grade II listed gazebo as it lies adjacent to the drive and forms part of the scenic approach to the house. The Two Moors Way also passes near to the cascade before continuing past Combe Park House. The existing natural cascade is formed of large, moss covered boulders and is one of many such cascades along this section of river. The computer generated images in the supporting documents demonstrate my concerns that the natural beauty of this part of the river will be severely harmed by this aspect of the scheme and can be said to harm the setting of both Watersmeet House and Combe Park House. The pipe run from the intake to Hillsford Bridge appears to have been amended following our site visit in October so that it no longer runs under the toe of the river bank (block plan 2). This is a welcome amendment as I was not convinced that it could be adequately shielded from view. The pipe bridge adjacent to Hillsford bridge will be visually obtrusive. My preference is that it runs under or is fixed to the side of the existing road bridge. The Environmental Report explains that the Environment Agency would not allow it to run under the bridge due to risk of obstruction but it is not clear why it can't be fixed to the side.

I am very concerned that the pipe run from Hillsford bridge to Watersmeet will not be

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adequately obscured and will result in the loss of natural landscape features that are intrinsic to the setting of the building. The path edges are formed of loose stone and earth that have weathered and foliated naturally over hundreds of years. I would like the National Trust to provide examples of other, similar schemes where the reinstatement of such banking has been successful. Drawings of the pipe trench in section state that the original bank profile will be respected but I do not believe that this will be possible along the full run of the pipe, especially on the higher side of the path where the bed rock is exposed and the top soil has little stability. I think more information is required showing what sections of pipe will run under or to the sides of the path. Taking the pipe run down the existing steps to Watersmeet is a significant engineering undertaking that is likely to result in loss of character and will potentially scar this hillside. There is also a risk it will create instability. More detail is required on how this section of pipe run is to be undertaken and how new steps will be formed.

There have been concerns raised from members of the public about the strengthening required to the footbridge over the East Lyn to enable it to carry the pipe. This may make the bridge overly strong and will not allow the bridge to collapse and wash away in the event of a flood as it is designed to. The National Trust need to provide reassurance on this point. The new bridge also looks to be significantly larger than the existing, becoming both wider (by 900mm) and slightly taller. All historic images show very small, slender and simple bridges in this location. The bulk of this new bridge could have a very significant impact on the site and requires more thought as it is a key part of the setting. There is only one conceptual image of the proposed bridge in the application-Fig 31, page 35 of the Environmental Report and this does not show the revised width of the bridge in full. There is a very high risk that what is currently a footbridge will look more like a vehicular bridge.

The addition of the 'powerhouse' will be perhaps the most obvious physical structure that has a direct visual relationship with Watersmeet. Whilst there is potential that the new bay to the single story garage/storage block will create a linear block I do not believe that it will cause significant harm to the character or appearance of the building or that this harm is not outweighed by the benefits the scheme provides. However, the applicant needs to provide justification for its construction. I would therefore like it demonstrated that the existing storage units/garages could not be used to serve this function and that the items currently contained within cannot be kept elsewhere. I am also unclear if the line of the building is set back from existing. Drawings appear to show it will be set back while photomontages suggest it will continue on the existing building line.

My chief concern with this aspect of the proposal is that there will be an audible noise emitted from the powerhouse building. Even if this only heard at close quarters (within 2 meters) there is a risk that those passing it on the footpath will notice an audible hum. The Environmental Report states that the turbines "are not particularly noisy". I could not find an expected dB level. It also states that the doors will perform to a minimum of 18dB which I believe is substantially less than the level of a standard conversation (50dB). This does not seem sufficient. A window is also shown on the powerhouse building. This is likely to increase the risk of noise escape. As this is a listed building any double

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glazing is limited in thickness to 16mm.

I am also concerned that relying on the sound of the river to mask any escaping mechanical noise will not be sufficient, the steady and continuous tone of the generators is likely to cut through the noise of the river. The tranquillity of this site must not be disturbed by any mechanical noises from this scheme.

I have concerns about the size, appearance and location of the sub-station building and the requirement for an access track to it. The building is large and angular, cladding in stone and adding a sedum roof is unlikely to be sufficient to hide the structure. The drawings provided do not sufficiently show how it will be set down in the Borrow pit and I would ask that sections are provided. The image on page 36 of the Environmental report shows that transformer building is likely to be highly visible and I am not convinced that the images accurately portray the size of the building. A more detailed visual impact assessment for this structure is needed. I am aware that there are very limited options for the siting of this building due to issues with earthing but I am of the opinion that placing a transformer building in this position, above the house and maintaining an accessible track to it is highly likely to negatively impact on the site.

The outlet is likely to be visible. The 800mm pipe located 1m above river level will be difficult to shield from view from the approach on the opposite side of the East Lyn. If possible I would ask for the outlet to be reduced in size, be set back further into the bank and the outlet shielded with stones. Noise escape from the turbines may also be an issue here.

Whilst I am fully supportive of small scale green energy generation schemes such as this, I have major reservations about this being the correct location for such a scheme. This is one of the most unspoilt valleys in the National Park and is a major visitor attraction. Unless all of my concerns can be addressed I will be recommending refusal.

HISTORIC BUILDINGS OFFICER - ENPA: 4th February 2019 - The additional information has given me very severe concerns that there is a complete misunderstanding on behalf of the Trust in relation to the term 'setting' in regard to heritage assets. As stated in my original comment, the setting of a heritage asset is defined in the National Planning Policy Framework 2018 as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.

As stated in my earlier response the cascade is on the approach to Combe Park House (sometimes referred to as Combe Park Lodge in the additional information) and it is clearly visible from the driveway and to a lesser extent the footpath. The cascade is next to the primary approach to the house and forms part of the surrounding in which the heritage asset is experienced. The additional information states that "we believe that those areas not within the viewshed of the intake to be outside of the settings for these features". The fact that there is not a direct visual link between the intake and any of the surrounding listed buildings fails to understand the meaning of setting. I refer the applicant to *Steer v SSCLG* [2017]. In this case the National Trust was itself objecting to an application that involved development within the setting of a Grade I listed building in its ownership. In this instance the Trust strongly (and successfully) argued that the setting of a listed building is wider than its visibility. To state that the area of the intake is not mentioned in the list description of Combe Park House is not relevant. The function



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of a list description is purely to provide enough information to identify the structure in question. No list description would attempt to define the setting of a listed structure or to itemise all the surrounding landscape features.

I therefore maintain the opinion that the intake lies within the setting of the both Combe Park House and Watermeet House.

I fully appreciate that the intake weir will weather in overtime and that efforts will be made to help the weir blend in more readily, but I cannot come to same view of the applicant that the proposed structure will have a minor adverse impact on the natural cascade. The construction of the weir will completely change the character and appearance of the cascade. This view is supported by the senior landscape officer in her comments dated January 25th. The road bridge at Hillsford has no historic merit but it does lie within the setting of the listed buildings for the reasons outlined above. I remain of the opinion the pipe bridge will be visually obtrusive.

I do not doubt that the Trust will make every effort to reinstate the pathways following the excavation work, or that they have experience in doing so, but I still do not think that the application adequately demonstrates that burying the pipeline as outlined is achievable. I am not aware that any trial pits have been dug along the route or that burying short sections of pipe in the manner suggested has been tested in this location. Similar schemes may have been carried out elsewhere but no pictorial or documentary evidence of the success of these schemes has been provided. The proposed site will have unique challenges that may not have been faced elsewhere. The natural form of these paths, and the banks that are associated with them, are intrinsic to the setting of Watersmeet House and it needs to be better demonstrated that what is described in the application can be achieved. These views have subsequently been supported by the Environment Agency who have commented that they believe there is a risk of erosion potentially exposing stretches of the pipeline.

The additional information states that the bridge will be 50cm wider. This is incorrect. Page 17 of the Environmental report clearly both shows and states the bridge will be 900mm (90cm) wider. The diagram does not show how much taller it will be but by scaling from the drawing it would look to be approximately 300mm. I do not think it is excessive to state that there is a risk that the bridge will look more vehicular in nature. At 2 meters in width the new bridge could accommodate the width of a vehicle and would be vastly different in character to the existing structure or any structure that has gone before. If an application came forward that purely looked at replacing this bridge it would require considerable detail to be provided, the fact that only one partial image of what the bridge may look like in the context of its surroundings has been provided, (Fig 31, page 35, Environmental Report), and the fact the cross section does not show the new height of the bridge, does little to reassure me that detailed thought has gone into its design. It is also still not acknowledged that following the 1952 flood event bridges to local rivers should be constructed in a way that allows them to collapse. The recent comments by the Environment Agency would suggest that they do have concerns about flooding in relation to the bridge and that inadequate detail of its construction has been provided. Improving access to the site for those with additional needs is clearly a good thing but I am not clear how widening the bridge to the extent shown will improve access for those with special access needs. If, as stated, the existing bridge is 1100mm in width, then it is already of adequate width to allow a wheelchair to cross. There is also an existing

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alternative route to Watersmeet House that does not require the bridge to be used. The very nature of the site makes access difficult and the Trust need to ensure that in their aim to make sites such as this more widely accessible that they do not unnecessarily harm what makes them special. The comments made in relation to noise from the turbine house does little to reassure me. No suggested dB level for the turbine has been supplied against which the anticipated acoustic performance of the powerhouse can be measured. The wording of the condition suggested seems to refer to noise levels heard inside neighbouring properties. If the turbine will be heard inside Watersmeet House then it will be clearly audible outside.

I appreciate the efforts that have been made to seek alternative site for the transformer building. I will consider this

location against the burrow pit option once the new drawings and photos are received. I am unclear if the switchgear requires a separate building or whether this is attached to the transformer building and would like to seek clarification on this.

Both myself and the National Park are full supporters of green energy initiatives and are more than aware that the reliance on fossil fuels needs to be dramatically reduced if we are to tackle global warming. ENPA policy is clear that such schemes will be supported provided that the impact is not unduly detrimental to a range of aspects, including cultural heritage. The scheme undoubtable provides benefits and I have taken these into account, however, the siting of such schemes requires very careful consideration so not to harm what we seek to preserve. The scale of this scheme may be small in a national context but within the context of this valley it is significant and I do not share the view of the applicant that the harm caused will be temporary.

With the information provided I remain of the opinion that the proposed scheme will cause more harm to the surrounding cultural heritage than is acceptable when considered against both national and ENPA policy.

ENVIRONMENT AGENCY SOUTH WEST: 25th February - Following review of the revised documents and reports, we consider that sufficient information has been provided in order to enable us to remove our objection to the proposed development subject to a condition being included on any permission granted to confirm the details of the fish pass/intake screen.

DCC - HIGHWAYS: No Objection

NORTH DEVON COUNCIL - PLANNING REGISTRATION: 17th December - no observations

ARCHAEOLOGIST - ENPA: 21st January 2019 - Little is recorded on the Historic Environment Record for the route, other than that associated with Watersmeet House and its associated landscape. This indicates that these valleys are much the same in spirit to how there were when Watersmeet House was built. Natural processes (including the 1952 flood) have given them shape and form. No previous hydro schemes have been installed south of Watersmeet House. I am concerned that the proposed works will have a detrimental impact on the historic landscape of Watermeet and the Hoar Oak valley particularly in the following areas:

1. Bridleway. Contrary to the information in the Heritage Impact Assessment the bridleway is not shown on any of the Tithe Maps. This is not a direct route and unless evidence is available to the contrary it seems likely that the bridleway was constructed for access to the limekilns or as part of leisure routes or perhaps both, rather than being a former routeway for general travellers. The possibility of the network of paths and

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routes being created as part of a designed landscape in a romantic natural setting does not seem to have been fully explored in the Heritage Impact Assessment. Section 5.10 of this document states ' Given that the proposed scheme intends to excavate the entire 1Km length of this bridleway then the direct impact will have an adverse impact on this feature which will be of Major magnitude and therefore of Moderate/Major significance. However, given that it is a track has no important surface material of any significance to mention and the fact that the track will be reinstated to its original form following the ground work then this impact would also be temporary'. It should be acknowledged that the impact to the track would be

permanent even if the visual impact is temporary. However section 2.6.3 of the Outline Construction and Environment Management Plan indicates that structural works will be necessary and potentially visible along the route: 'Reinstate bridleway to original form; apply additional reinforcement as necessary to preserve/improve bank stability and drainage'. There is insufficient construction detail to assess the nature and impact of these potential reinforcement and drainage works.

2. There is insufficient detail on the adit and the position of the proposed pipe trench in relation to the adit (MEM11706). It is stated 'there is a strong chance that machinery and even trenching could damage or expose buried remains relating to the feature'. No mitigation is proposed other than to protect the entrance from construction works (Heritage Impact Assessment paragraph 5.20). It is not clear how this protection is built into the scheme it is not included in section 8.2 mitigation recommendations in the Heritage Impact Assessment, and doesn't appear to be in the Environmental Report.

3. Whilst it is accepted that earlier bridges were lost in 1952 flooding event, the proposed pipe-bridge at Watersmeet is twice the width of the existing and would seem out of character, with the pipe likely to be visible.

4. Section 9.1 of the Heritage Impact Assessment states: The desk based assessment for the proposed Hoar oak Hydropower Scheme has shown that the proposed scheme will lie in an important and spectacular landscape that has inspired generations of famous artists, poets and writers for over 250 years. Although the greater part of the scheme will be hidden from view, the weir intake being positioned in Combe Park Woods and the main penstock being buried along the Watersmeet bridleway, a small but important part of the

scheme will be positioned in a landscape that has been and still is popular to thousands of visitors annually, Watersmeet. It should be acknowledged that the scheme by the necessary excavation and construction works will have a permanent impact on this landscape.

5. The proposal will have an impact setting of the Listed Buildings of Watersmeet House and Combe Park and I

support the comments of the Historic Buildings Officer.

HISTORIC BUILDINGS OFFICER - ENPA: 4th February 2019 -The additional information has given me very severe concerns that there is a complete misunderstanding on behalf of the Trust in relation to the term 'setting' in regard to heritage assets. As stated in my original comment, the setting of a heritage asset is defined in the National Planning Policy Framework 2018 as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.

As stated in my earlier response the cascade is on the approach to Combe Park House (sometimes referred to as Combe Park Lodge in the additional information) and it is clearly visible from the driveway and to a lesser extent the footpath. The cascade is next to the primary approach to the house and forms part of the surrounding in which the

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heritage asset is experienced. The additional information states that “we believe that those areas not within the viewshed of the intake to be outside of the settings for these features”.

The fact that there is not a direct visual link between the intake and any of the surrounding listed buildings fails to understand the meaning of setting. I refer the applicant to *Steer v SSCLG* [2017]. In this case the National Trust was itself objecting to an application that involved development within the setting of a Grade I listed building in its ownership. In this instance the Trust strongly (and successfully) argued that the setting of a listed building is wider than its visibility.

To state that the area of the intake is not mentioned in the list description of Combe Park House is not relevant. The function of a list description is purely to provide enough information to identify the structure in question. No list description would attempt to define the setting of a listed structure or to itemise all the surrounding landscape features.

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The road bridge at Hillsford has no historic merit but it does lie within the setting of the listed buildings for the reasons outlined above. I remain of the opinion the pipe bridge will be visually obtrusive.

I do not doubt that the Trust will make every effort to reinstate the pathways following the excavation work, or that they have experience in doing so, but I still do not think that the application adequately demonstrates that burying the pipeline as outlined is achievable. I am not aware that any trial pits have been dug along the route or that burying short sections of pipe in the manner suggested has been tested in this location. Similar schemes may have been carried out elsewhere but no pictorial or documentary evidence of the success of these schemes has been provided. The proposed site will have unique challenges that may not have been faced elsewhere. The natural form of these paths, and the banks that are associated with them, are intrinsic to the setting of Watersmeet House and it needs to be better demonstrated that what is described in the application can be achieved. These views have subsequently been supported by the Environment Agency who have commented that they believe there is a risk of erosion potentially exposing stretches of the pipeline. The additional information states that the bridge will be 50cm wider. This is incorrect. Page 17 of the Environmental report clearly both shows and states the bridge will be 900mm (90cm) wider. The diagram does not show how much taller it will be but by scaling from the drawing it would look to be approximately 300mm.

I do not think it is excessive to state that there is a risk that the bridge will look more vehicular in nature. At 2 meters in width the new bridge could accommodate the width of a vehicle and would be vastly different in character to the existing structure or any structure that has gone before. If an application came forward that purely looked at replacing this bridge it would require considerable detail to be provided, the fact that only

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one partial image of what the bridge may look like in the context of its surroundings has been provided, (Fig 31, page 35, Environmental Report), and the fact the cross section does not show the new height of the bridge, does little to reassure me that detailed thought has gone into its design.

It is also still not acknowledged that following the 1952 flood event bridges to local rivers should be constructed in a way that allows them to collapse. The recent comments by the Environment Agency would suggest that they do have concerns about flooding in relation to the bridge and that inadequate detail of its construction has been provided. Improving access to the site for those with additional needs is clearly a good thing but I am not clear how widening the bridge to the extent shown will improve access for those with special access needs. If, as stated, the existing bridge is 1100mm in width, then it is already of adequate width to allow a wheelchair to cross. There is also an existing alternative route to Watersmeet House that does not require the bridge to be used. The very nature of the site makes access difficult and the Trust need to ensure that in their aim to make sites such as this more widely accessible that they do not unnecessarily harm what makes them special.

The comments made in relation to noise from the turbine house does little to reassure me. No suggested dB level for the turbine has been supplied against which the anticipated acoustic performance of the powerhouse can be measured. The wording of the condition suggested seems to refer to noise levels heard inside neighbouring properties. If the turbine will be heard inside Watersmeet House then it will be clearly audible outside.

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Both myself and the National Park are full supporters of green energy initiatives and are more than aware that the reliance on fossil fuels needs to be dramatically reduced if we are to tackle global warming. ENPA policy is clear that such schemes will be supported provided that the impact is not unduly detrimental to a range of aspects, including cultural heritage.

The scheme undoubtable provides benefits and I have taken these into account, however, the siting of such schemes requires very careful consideration so not to harm what we seek to preserve. The scale of this scheme may be small in a national context but within the context of this valley it is significant and I do not share the view of the applicant that the harm caused will be temporary.

With the information provided I remain of the opinion that the proposed scheme will cause more harm to the surrounding cultural heritage than is acceptable when considered against both national and ENPA policy.

FARMING AND WILDLIFE - ENPA: No comment received

WILDLIFE CONSERVATION OFFICER - ENPA: Objection - Further surveys are required.

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PUBLIC RIGHTS OF WAY AND ACCESS OFFICER - ENPA: 17th January 2019 -  
Comments on the application as submitted are as follows:

1) Running of the pipeline along Public Bridleway 16, Brendon

The proposal is to run the pipeline along the bridleway either to the uphill side, underground in the centre or downhill side of the bridleway. Whilst this is disruptive to rights of way users, I can see that looking at the scheme as a whole, this is preferable to running it through undisturbed woodland. The application states that the bridleway will be reinstated following laying of the pipe. This is acceptable provided the surface is to the same standard (or better) than previously. It is important that any imported material is approved in advance by ENPA (as agents for the Highway Authority) to ensure that stone suitable for bridleway use is utilised. On the site visit, some sections were observed where slippage at the edge of the bridleway was already occurring. Verbal assurances were given that these sections would be repaired and reinforced and this is to be welcomed. I would like to see this commitment in writing to ensure that this work is included in the contract for the pipe laying.

The application states that a 6 month temporary closure application will be made with the bridleway likely to remain closed for 3 months. The application states that the closure will avoid the peak months of July and August but my advice would be to avoid all school holiday periods eg. Easter which can be just as busy. The application states the bridleway can reopen to pedestrians at the weekend – I would have thought that it would be possible to reopen after work is completed for the day so that it can be used during the evening and early morning. This would minimise the impact on local walkers. I agree that equestrian and cycle use would need to be restricted during the laying of the pipeline. If it were possible to provide local riders with an alternative opportunity for riding elsewhere on the estate during this period, then I am sure this would be welcomed. I am also pleased to see that partial re-opening is planned where the construction team are at one end or the other of the bridleway which will for example, still allow one way access to the waterfall on foot. An application for the temporary closure can be made to the ENPA and given the impact on the network, this should be done at least 4 weeks ahead of work commencing. The temporary closure and alternative routes will need to be well signed and ENPA's Access and Recreation Team will be happy to assist with this.

2) Running of the pipeline under the Permitted Path and steps (from bridleway 16 to the footbridge) I am concerned about the proposal to lay the pipeline on steep ground underneath the existing steps. I would have thought it likely that the reinstated ground would be bound to be less stable than the current conditions and even if the new set of steps were to be better designed and easier to use, there may well be on-going maintenance issues with steps not staying in position. Since this is not a public right of way but a permitted path, I am not in a position to prevent this from happening (from a highways point of view) but I would like to make it clear that the maintenance of the steps (which form an essential link between the bridleway and Watersmeet House) remains with the applicant.

3) Footpath 14 at Watersmeet House The position and size of the powerhouse in the application mean that the definitive line of public footpath 14 will be obstructed by the building. This is recognised on p29 of the Environmental Report and has been discussed via email with the project manager. The path being used by the public on the ground will not be obstructed and a width of just under 3 metres is being maintained. However, if this planning application is successful, an application will need to be made to ENPA for a public path diversion (under the Town and Country Planning Act 1990) to allow development to take place. It is vital that this process is completed before works start so I would advise making an application as soon as possible after planning

permission is granted. There will be a charge to administer this process and to cover advertising costs. The application allows for the provision of a temporary path behind Watersmeet house to allow for a temporary closure of public footpath 14 during works. From the access point of view, this is a very welcome step and once the path had been established, something that may also be useful when other work is planned at Watersmeet [during the roof replacement works in 2016, we received numerous complaints about the path closure and lack of an alternative route].  
 ENVIRONMENT AGENCY SOUTH WEST: No comment received  
 DEVON COUNTY COUNCIL: No comment received  
 WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

**Public Response:**

31 letters of objection 8 other letters

**RELEVANT HISTORY**

**62/11/12/008LB Listed Building Consent for the proposed installation of an air source heat pump.**

**Listed Building Approved 05 February 2013**  
**Same Site**

**62/11/16/005LB Listed Building Consent for proposed re-roofing, general maintenance and re-organisation of first floor emergency exit.**

**Listed Building Approved 14 July 2016**  
**Same Site**

**62/11/05/004 Replacement of 2 No timber footbridges**

**Full Approved 23 June 2005**  
**Same Site**

**Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN

GP1 General Policy: National Park Purposes & Sustainable Development

GP2 Major Development

CE-S1 Landscape Character

CE-D1 Protecting Exmoor's Landscapes and Seascapes

CE-S3 Biodiversity and Green Infrastructure

CE-S4 Cultural Heritage and Historic Environment

CE-D3 Conserving Heritage Assets

CE-S6 Design & Sustainable Construction Principles

CE-D4 Extensions to Buildings

CC-S1 Climate Change Mitigation and Adaptation

CC-S5 Low Carbon and Renewable Energy Development

Lynton and Lynmouth Neighbourhood Plan

Policy P1 – Overall Objectives For New Development

Policy ENV1 - Location of Development & Enhancement of the Local Environment

The National Planning Policy Framework (NPPF) is also a material planning consideration.

### **Observations:**

Consultation responses

39 responses have been received, comments raised have been summarised below;

- Detrimental impact upon the local wildlife
- Should protect this beautiful green space from inappropriate development.
- Wrong location for this type of development
- The proposal will result in the reduction to the flow of water
- National Trust have submitted this application for commercial gain
- Impact upon the local tourism industry
- More appropriate location further down the water course with less visual impact
- Detrimental impact on the appearance, hydrology of the river,
- More information required regarding the hydrology process calculations,
- Insufficient information to show that the development will not increase flood risk,
- The Coanda intake replacing the waterfall which significantly impacts the heritage and landscape area;
- Is the scheme economically viable,
- No Habitat Regulations Assessment (HRA) has been submitted.
- Significant risk of subsidence, landslip and irreparable damage to the footpath, hillside and woodland.
- 25-30% draw down in mean river level will reduce the splash zone will put this rare and unique flora at significant risk.
- No report regarding bryophytes, lichen and fern flora,
- Impact upon tree roots within ancient woodland,
- Need for otter, slowworms and badger assessments prior to construction
- Impact upon the local fish population
- Significant damage to the SSSI.
- Detrimental impact upon the setting of Coombe Park House
- Noise impact from generator and turbine
- Proposal is in conflict with the National Trust's and Exmoor National Park's principle aims to protect the landscape and heritage for future generations.

## 4. MAIN PLANNING ISSUES

Summary

4.1 The main planning considerations in this case are considered to relate to the impact of the development on the character and appearance of the landscape, water environment, impact upon surrounding ecology, Cultural Heritage, Public Rights of way, noise and the production of sustainable electricity.

Major Development

The Exmoor National Park Local Plan (para 3.21) acknowledges that Exmoor National Park's landscape is recognised as being relatively free from major structures or



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development. The Government's longstanding view has been that planning permission for major developments should not be permitted in National Parks except in exceptional circumstances, as set out in the NPPF and National Parks Circular 2010.

The NPPF advises that planning permission should be refused for major development in a National Park (and the Broads or an Area of Outstanding Natural Beauty) except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 172 of the Framework Applies, is a matter for the relevant decision taker, taking into account the proposal in question and local context.

The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether policy in paragraph 172 is applicable. In relation to this national policy context, the term 'major development' is not specifically defined. Paragraph 172 of the NPPF advises that consideration of major development applications should include an assessment of:

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

The Local Plan explains that the National Park Authority will consider whether a proposed development is deemed to be 'major' on a case by case basis taking into account the potential impacts of the proposed development in the National Park and in its context.

The Local Plan, under policy GP2 (Major Development), states that major development is defined as development which has the potential to have a significant adverse impact on the National Park and its special qualities due to its scale, character and nature.

In this case, the application includes the installation of a hydroelectric scheme across an area which covered approximately 0.59 hectares with the hydroelectric scheme spanning a route of approximately 1300m. The proposal is considered to offer the potential for landscape harm, but not to an extent that would suggest that this would be nothing more than a local impact in the context of this assessment and any financial impact or benefit is considered to be minimal. Therefore, in the context of the National Park and given consideration to the NPPF and policy GP2 of the Exmoor Local Plan that the proposed development would not direct your officers to conclude that the proposed development is Major Development.

#### Principle of Development

The application site is located within open countryside where the policies within Exmoor Local Plan strictly controls development. However, policy GP1 states that, "Opportunities must be taken to contribute to sustainable development of the area. Particular attention should be paid to: ..... the needs for future generations, through sustainability and resilience to climate change and adapting to and mitigating the impacts of climate

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change.”

Policy CC-S1 sets out that climate change mitigation measures will be encouraged, including the use of small-scale low carbon and renewable energy.

Policy CC-S5 (Low Carbon and Renewable Energy Development) supports the principle of small scale renewable energy where the development meets the needs of communities, businesses or domestic energy needs, are compatible with the landscape and do not adversely affect the habitat quality.

Para 153 of the NPPF states that: “In determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”

Therefore, the principle of development is considered acceptable. However, careful consideration is needed regarding the other policies within the plan and any other material considerations.

Policy CC-S5 (Low Carbon and Renewable Energy Development) will be permitted within the park where the proposal contributes towards meeting domestic, community or business energy needs, compatible with the landscape and seascape character of the locality and avoids the most sensitive areas, does not compromise the natural beauty, wildlife, cultural heritage or historic environment, conserves the amenity of the area and makes provision of reinstatement of the land should the site cease to be operational.

Para 154 of the NPPF states that:

“When determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

The Hydroelectric project will see the production of 250Kw of power. The scheme seeks to reduce the energy demands of the Watersmeet Estate by approximately 15%, provide 50% of their own energy needs from renewable sources, reduce their oil use to less than 10% and provide energy inspiration to others.

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Overall, your officers consider that the development which seeks to support the reduction in greenhouse gases and reduce the impact of important habitats and landscapes is to be encouraged. The local plan supports the principle of such development where the development complies with the Plan as a whole.

The application has set out how the development will support the operations and provision of Watersmeet. The application includes no provision for direct local benefit, however, under policy CC-S5 of the local plan this is not a requirement. In conclusion your officers consider that the production of clean energy does accord with the local plan policies.

#### Landscape and Visual Impact

Policy CE-S1 states that proposals that conserve, enhance and restore important landscapes will be encouraged. Furthermore, policy CE-D1 sets out the need to demonstrate that the proposal will be compatible with the conservation and enhancement of Exmoor's landscape.

The application site lies within the Landscape Character Type (LCT) B 'High Wooded Coasts, Combes and Cleaves'. This identifies key features and characteristics of this LCT to include striking and dramatic landscapes of deeply incised narrow valleys and combes; steeply descending fast flowing rocky streams with occasional pools and waterfalls; trees cloaked valley sides; and its popularity as a visitor spot for people to enjoy the scenery of rocky rivers in their wooded gorge setting. Within this LCT, this application area offers users and visitors the opportunity to experience the tranquillity and drama of this setting across the seasons of the year.

Paragraph 172 of the National Planning Framework sets out that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads.

The applicant submitted a Landscape and Visual Impact Assessment (LVIA) setting out an assessment of details of the landscape character and visual impact. The LVIA sets out the professional view that the proposed scheme will cause some Major adverse impacts during the temporary construction phase, which is to be expected for new development in a region of high scenic and recreational value. Such effects are considered to be significant in planning terms, but in most cases such effects are thought to be reversed upon the completion of construction and the imposition of appropriate restoration of working site areas.

During the operational phase, many predictions of effect are considered to be substantially reduced and no longer significant. The LVIA sets out some minor adverse will arise in respect of the local properties, the Combe Park Wood car park, the Two Moors Way, and Watersmeet House (with associated footpaths). The effects are viewed to be severely contained within the immediate vicinity. The applicant provides the example, in the case of the intake structure, that views will be fleeting to the car park and Two Moors users and would not detract from the wider context and scenery of the viewer

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locations. In terms of the overall experience of the user in witnessing the surroundings and gaining a sense of place, there will be a very limited duration of, albeit Minor adverse effects. Such duration would pass quickly and enjoyment of the milieu would return rapidly and without harmful diminution of the receptor experience.

Overall, the LVIA concludes that following site reinstatement, there will be very few visible elements of the proposed hydro Scheme that would have a lasting landscape and visual impact within the tightly defined study area. Visibility of these elements will be very limited given their scale, design and location, and they are highly unlikely to lead to changes to the wider landscape character and visual amenity that would be unacceptable. As such, the applicant considers any lasting adverse effects will be highly localised and will not reduce the quality of landscape and its visual characteristics beyond the very limited impact zone of the main components, principally the intake, powerhouse and substation. In this respect the applicant is of the view, the development proposal, whilst located in a highly sensitive area, will have a very limited impact on the principal landscape and visual receptors. The applicant view is that what adverse effects there will be will, in part, be counterbalanced by the benefits of the proposed scheme.

The Authorities Landscape Officer has commented stating that the site is fully accessible to the public for its entire length and forms one of the most well used walking routes around Watersmeet and the wider Lynton/ Lynmouth area. Any proposed development change in this area will visually impact upon pedestrians and horse riders of this route, users of the informal parkland area at Combe Park, and visitors to Watersmeet House.

There are limited and glancing views of the application site from the roadside of the A39 public highway that would be visible during the construction phase and potentially in certain locations on the completion of the works. It is recognised given the very steeply sloping nature of the valley sides, the impact from adjacent public access routes, such as the A39, is very limited.

The application is of a number of elements and it would be appropriate to go through those in turn to assess the likely landscape impacts. Within the Hoar oak, close to Combe Park House, is the proposed intake area where a 1.9m high concrete wall will be erected across the river in a location of a natural waterfall. Large boulders will partially cover the concrete wall and it will be here where water will be taken from the river and a 630mm pipe will leave the intake structure initially along the riverbed for a distance of 15m. The landscape officer has raised concerns regarding the visual impact of both the intake structure and the length of pipe running through the river. Furthermore, the construction is considered to have a detrimental impact upon the landscape and historic landscape of the area. The applicant suggests that the use of natural boulders will mitigate the engineered appearance of the intake structure and the pipe. The Historic Buildings officer has raised similar concerns regarding the impact of historic landscape together with a number of local residents.

It is recognised that this area of the Park offers some of the most picturesque views. The valleys within the area all have steep sided wooded natural areas where intervention is limited. Where intervention has occurred this encroachment has caused harm to the landscape, as can be seen on the banks of the river adjacent to the A39 where a stepped retaining structure provides an overly engineered appearance and detracts from the natural landscape.

Your officers, in assessing this part of the application, acknowledge that views into and from the site are limited to the short/medium viewpoints, such as the driveway leading to Combe Park House, the bridleway and potentially from a listed outbuilding at Combe Park House together with footpaths along the bank during winter months. The use of rocks and boulders will also reduce its visual impact. The intake structure spans across the river, and following the submission of additional information, shows a concrete stepped wall, which will anchor itself into the riverbank and be covered by rocks. While the detail of this is still not clear it is likely that the rocks would be stacked in some form of gabion basket which would provide the structural strength to prevent the rocks and bank from being washed away in times of high flow. The use of rocks along the far side (southern) riverbank, while being a natural feature will appear as an engineering intervention themselves. This area is characterised by mudded banks with low level rocks forming the base of the river-bank. The rocks/boulders covering the concrete intake area will offer some mitigation but your officers consider that when taken collectively with the pipe would result in a permanent, significant impact on this river landscape setting due to the degree of change proposed.

On leaving the riverbed, via an existing retaining stonewall, the pipe travels across an area of open land towards the bridleway, which then continues to join the highway (A39). This section of the development will clearly have a significant impact upon the landscape during the course of construction but following the pipe being covered and the bridleway and open space being reinstated then the impact on this immediate and wider landscape would be negligible.

The pipe will then need to cross over the A39 and then cross the road bridge to continue down the bridleway. To cross the Hoar oak the pipe will be carried by a structure, which will be situated approximately 1m from the existing road bridge. The structure carrying the pipe is designed so turf or planting can grow which would screen the pipe from users of the bridge traversing the highway. This section of the development is highly visible from surrounding receptors including walkers along the bridleway, walkers using the bridge to walk towards Lynton and Lynmouth and motorists, albeit to a lesser extent. In the extreme limitations of the bridge, one could argue that the proposal has limited impact but once any perspective of its surroundings are included the development has a clear and damaging impact on the landscape character. While there is mitigation to cover the pipe, the structure itself will significantly and adversely impact the enjoyment of the landscape. People viewing down the stream by the bridge railings, of which a large number will, cannot but be distracted by this un-natural feature. The applicants has suggested that due to its close proximity of the pipe to the bridge that the structure would be unseen. Anyone not stood by the railings may well not observe the pipe but any one approaching the pipe from the north will have full view of the structure and when approaching the bridge the structure will become more apparent. Overall, your officers consider that visually the pipe will have a medium to significant impact upon receptors. Considering the impact upon the wider landscape, the structure will clearly have an adverse impact and will detract from the natural landscape character. This impact needs to be balanced in this area by the presence of the A39 and the existing engineered bridge. However, the pipe bridge only exacerbates this impact and therefore it is considered that the negative impact.

The pipe then continues down the bridleway leading towards Watersmeet House at the

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bottom of the valley. The applicant has recently submitted additional information which shows the majority of the pipe will be buried centrally within the existing bridleway. There are however, five areas where the pipe will be laid to the foot of the bank as it rises away from the bridleway. A typical detail has been submitted of soil filled bags showing how, in the event that the bank to the side of the bridleway needs support, this would be achieved.

During the construction phase of development the disruption and impact on the landscape will be significant. The construction phase will see the closure of parts of the bridleway to the public and relatively significant excavation of the path to allow for the pipe to be laid. Construction machinery and material will offer a significant visual impact and peoples enjoyment of the surrounding area will be significantly and adversely effected.

Following construction the development will have less of an impact upon the landscape. The newly laid bridleway will have only minor, short-term impact but where the path is in need of support the impact will be much more significant and long term. While over time this impact will be reduced it is considered that there would be limited long term and medium short term impact.

The final section of the development incorporates the steps down to Watersmeet House, the bridge crossing the river, the extension to Watersmeet and the transformer building. The proposal involves taking up the existing steps leading down to Watersmeet, laying the pipe underground and then the steps being reinstated together with any stability work required, although no details of this have been provided. Overall, the steps are considered to represent the potential for an adverse impact but without clear details it is not possible to fully assess this element of the scheme.

The proposed new footbridge will see the existing timber bridge replaced with a larger structure which will be 300mm taller. The pipe relating to the hydro scheme will run under the bridge obscuring the view. This larger bridge is located centrally where the Hoarok and East Lyn rivers converge. This area is visually dramatic and sensitive to any change. The impact upon the landscape, given the particular sensitivity of this landscape is considered to be unacceptable and add to the overall impact of the development.

Finally, the proposed extension to Watersmeet has been designed to replicate the appearance, materials and finishes of those of the existing structure. The extension will house equipment, with pipes entering the site underground. Visually the extension clearly has a visual impact on the historic environment. The use of materials, design and scale however, have been chosen to lessen its impact. There is no doubt that the proposal does have a negative impact on this sensitive historic landscape.

A number of letters received raise concerns regarding the impact that the development will have on this sensitive landscape and that the interference with the landscape that will lead to irreconcilable damage to the landscape which is afforded the highest level of protection.

During the construction phase the impact of the development will also be significant. The disturbance to the river, its banks, footpaths, bridges and the listed building will all have significant landscape harm, to both the visual amenity and landscape character.

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However, following completion of the works the impact upon the bridleway will reduce as the reinstated Bridleway weathers, but all other development will have a degree of permanency, the impact of which has been discussed above.

Overall, your officers consider that the proposed development will have a significant impact on the surrounding landscape. The areas of most significance and harm include the intake area, bridge crossing, new bridge and extension all these areas where the harm to the surrounding landscape and would be considered contrary to policy CE-S1 and CE-D1 of the Exmoor Local Plan.

#### Impact on Trees

Policy CE-S1 (Landscape and Seascape Character) sets out that development should have regard to, and appropriate in terms of impact with the conservation of significant landscape and seascape attributes including important trees, tree groups or orchards.

The area of woodland from Hillsford Bridge to approximately SS 7435 4817 is subject to a Tree Preservation Order, ref F14/1/7 Hillsford Bridge and Farley Water Valley, designated in 1964. It is therefore important that any works to trees required as part of the proposed development are included in the application or a separate application will need to be submitted for works to trees.

Part of the proposed development is within Barton Wood which is designated as an Ancient Semi-Natural Woodland. Paragraph 175 (c) and of the National Planning Policy Framework (NPPF) states;

(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

The tree report submitted with the application sets out that in total 70 trees were inspected, 16 were classed as Category A (good examples), 23 Category B (Good examples but may include impaired condition) and the remaining listed as Category C (Unremarkable).

The report recognises that following inspection of the site and seeing a number of fallen trees that the trees along the Bridleway have shallow roots and are prone to uprooting in severe weather. It is also recognised that many of the trees are growing out of a steep slope directly alongside the existing bridlepath, which also have large structural roots beneath the bridlepaths. The report states that extreme caution will be required when digging the trench alongside the trees.

The proposed turbine shed also has the potential to impact upon two oak trees which are located immediately adjacent to the hardstanding the building is to be located on. It is recommended that due to the constraints of the site a protective robust ground protection be put in place.

In conclusion, the tree reports offers specific tree protection measures for trees 2, 599, 518 & 161. More general advice is given for the remaining trees.

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The Authorities Conservation Advisor comments that the likely impacts of the proposal on existing trees has been assessed on reasonable assumptions about the likely root spread of the trees given the site condition e.g. geology, slope soil.

However, no trial excavations have taken place to assess the extent of trees rooting into the bridleway. This may be beneficial to back up the assumptions made.

Overall, it was considered by the Conservation Advisor (Tree's & Woodland), that the impact of the proposal on the treescape and individual trees could be minimal. However, due to an issue of not being able to fully assess the proposals because of the scale of the drawings and confirmation of the route of the pipeline at Combe Park and its impact on existing trees, it was considered that this issue needed to be resolved before making a fully informed judgement on the proposal.

Officers have considered the impact upon the surrounding trees carefully and it is unclear as to what the likely impacts of the development will be on some of the trees. However, further information has been submitted which provides some clarity over the route of the pipe. The tree report submitted recommends that six trees will need to be removed in order to facilitate the development and a further eight trees (and an individual stem) to be removed due to their poor structural condition. The loss of this small number of trees would not be detrimental given the context of the wider wooded landscape. Of all the trees recommended for removal, T213 would probably have the biggest impact. Although the recommendation for removal is not as a result of the proposed development, a replacement tree of the same species should be planted to ensure continuity of this feature at Combe Park.

Overall, your officers consider subject to conditions the proposed development would have negligible impact upon the surrounding trees group as a whole.

#### Biodiversity and European Protected Species

Relevant legislation includes the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and the Conservation of Habitats and Species Regulations (2010) and the EU Habitats Directive. Local planning authorities have a legal obligation to consider whether European protected species are likely to be affected by a proposed development.

The Natural Environment and Rural Communities Act 2006 requires that "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." Further, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010), Regulation 9(5) provides that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions". A Local Planning Authority is a competent authority for the purpose of these regulations and is exercising a function in deciding whether or not to grant a planning permission.

Policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan seek to protect protected species and their habitats. The National Park's Wildlife Conservation Officer has studied



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the details of the application.

The application has been submitted with an Ecological Assessment Report, which sets out that a number of species were recorded within the study area are listed as Section 41 species under the NERC Act (2006). In addition, a number of birds species are listed by RSPB as BoCC (Birds of Conservation Concern).

Overall the Ecology Report identifies a number of species rich habitats. The key habitats within the site are semi-natural broadleaved woodland and unimproved neutral grassland. The woodland within the site are a mixed deciduous woodland are long established and are indicative of ancient woodland including a number of species in the ground flora. The woodland is designated at a European level as part of Exmoor and Quantock oakwood SAC. Given the integral part of the woodlands European designation this habitat has been rated as of international level of value. An area of unimproved neutral grassland is located next to the car park at Combe Park Lodge. This area is relatively species rich and, given the decline in this habitat, has been identified as having a value of County significance.

A number of flora rich species have also been identified on the site. The protected Bluebell is one such plant. The report continues to identify a number of Atlantic, Sub-Atlantic and Western British species and in particular the Nationally Rare *Dumortiera hirsuta*, Given the presence of this plant the reports recognises the flora of being of Nationally recognised value.

With regards to species the report recognises that the assemblage birds, Otter and Retails are of County or Local Value. However, given the report identifies at least 8 species of bats in the area the site is of at least Regional Value (Potentially Nationally).

A further report has been submitted assessing surrounding Trees, which are suitable to accommodate roosting bats. The report concludes that the trees with greater than negligible potential for use by roosting bats within the predicted zone include 30 trees of which two trees were considered to have a high roost potential, 19 had moderate roost potential and nine had low roost potential. The report recommends that the two trees of high roost potential and three of the trees with moderate roost potential should be subject to three dusk and dawn surveys, although these have not been included with the application. Other precautionary measures are suggested for the remaining trees, including any works to fell or lop trees should be carried out in accordance with the bat survey protocol.

The Authorities Ecologist has raised concerns that due to the lack of information regarding the survey data and appropriate avoidance, mitigation and compensation strategies. A further report has been submitted which comprised A preliminary bat roost assessment of the trees and garage searching for signs of bats; Three dusk emergence/ dawn re-entry surveys of T15 and T18; Two dusk emergence/ dawn re-entry surveys of T7, T9 and T11; and Two dusk emergence/ dawn re-entry surveys of the Garage. Tree T15 & T18 were assessed as having high bat roost potential, trees T1, T2, T5, T7, T8, T9, T11, T14, T19, T20 and T21 were assessed as having moderate bat roost potential. T3, T4, T6, T10, T12, T13, T16, T17, T22 and T23 were assessed as having low potential for such use. Although a single dropping was recorded on the external wall of the outbuilding this was not considered to establish any roost and the garage has been

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assessed as having a moderate potential bat roost.

T7 was confirmed as supporting a common pipistrelle occasional day roost, with a maximum of two individuals recorded roosting.

No roosts were recorded in T9, T11, T15, T18 or the Garage.

In total, ten species of bats were recorded: common pipistrelle; soprano pipistrelle; Myotis sp.; natterer's, Daubenton's; barbastelle; noctule; serotine; lesser horseshoe and greater horseshoe.

Barbastelle bats were recorded infrequently over the suite of surveys, with low number of contacts being recorded during the dusk emergence surveys on the 15th May and 25th June. Likewise, lesser and greater horseshoe bats were recorded in low numbers, and no distinct trends were noted.

No defunct nests were recorded during the survey. However, a high number of birds were recorded on site. The broadleaved and coniferous trees within the anticipated zone of influence (together with the wider western sessile oak woodland habitat) provide high quality nesting and foraging habitats for a range of species, including several noteworthy Section 41, UK Red list, or UK BAP breeding bird species, characteristic of western oak woodland, such as wood warbler, pied flycatcher and redstart. It is therefore anticipated that nesting activity within the site during the breeding season would be high.

The Authority's Wildlife officer has been consulted but further comments are awaited. These will be reported to members at the meeting.

#### Cultural Heritage

Policy CE-S4 (Cultural Heritage and Historic Environment) of the Exmoor Local Plan sets out that development proposals should make a positive contribution to the local distinctiveness of the historic environment and ensure that the character, special interest, integrity, and significance of any affected heritage asset and its setting is conserved and enhanced.

Policy CE-D3 (Conserving Heritage Assets) also confirms that development proposals affecting a heritage asset and its setting should demonstrate a positive contribution to the setting through sensitive design and siting.

The NPPF, in paragraph 192 states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

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Furthermore, in para 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The applicant has submitted a Heritage Impact Assessment, which sets out what designated and non-designated historic assets they consider would be affected by the proposal as well as considering what the impact of the development is on the Historic Landscape. The assessment sets out that the proposed development lies within an important and spectacular landscape that has inspired generations of famous artists, poets and writers over 250 years. The application site is located within the designated landscapes of Principle Archaeological Landscape (PAL) and the Landscape Area of Lyn. Overall, the applicants conclude that much of the development will be buried and therefore the predicted direct effect, due to the relative small scale of development on these landscapes has been considered as negligible.

With regards to historic assets the scheme identified 11 heritage sites that could potentially be directly affected by the scheme. In total 10 were considered to be of medium value and only one is designated, Watersmeet House (Grade II). With regards to potential in-direct effects on designated and undesignated heritage sites, the assessment identified 4 heritage sites where the proposal could have a visual component. Only one, Watersmeet House, has been assessed as having a minor magnitude impact.

The Authorities Historic Buildings Officer having assessed the application and the information submitted, has raised a number of concerns with the assessment made by the applicant on the historic environment. It is considered that abstraction point, close to the Listed Building known as Combe Park House, is within the setting of the building, indeed the intake and the garden room, situated close to Combe Park Lodge and listed in its own right, have a line of sight between them. The drive, banks and woodland around the site of the intake structure all form part of the setting of the listed building. The appreciation of the listed building starts on leaving the highway and entering through the stone pillars off the A39. Your officers consider that the intake structure will have a significant adverse impact upon the setting of Combe Park House as well as, and to a greater extent, the summerhouse structure. People walking along the bridleway, particular walking in a northerly direction towards the listed buildings at Combe Park House, may be distracted by the structure given the engineered appearance, and significant intervention into the existing river banks, although it is recognised that during the summer months the structure will be less apparent.

Likewise, the pipe running along the bed of the river will, offer an engineered intervention, albeit that boulders and rocks will be stationed to screen the pipe. There is some uncertainty with regards to the plans submitted. The Plans appear to show a length of 14.6m of pipe within the river, however, when measured on site by officers it appears to be approximately 24m. Notwithstanding this uncertainty it is considered that the pipe and casing will have an adverse impact on the setting of the nearby listed structures of Combe Park House and Watersmeet.

When leaving the riverbed the pipe is then buried and makes its way to the Bridleway

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where it travels to the Highway. This element of the scheme is considered to have a temporary significant adverse impact but once works have been completed and the land, and bridleway reinstated the impact of the development is considered to be negligible.

The Conservation Officer also states that the hydro-electric scheme is situated within the setting of Watersmeet House. The valleys that surround Watersmeet offer a dramatic setting allowing visitors to be drawn to the House via the paths and valleys. The applicant has suggested that given the significant distance between the two structures and the intervening road and bridge that the setting of Watersmeet does not extend to this outer reach of the valley. Having walked the route of the hydro scheme on a number of occasions your officer considered that the wooded valley does play a vital part of the setting to Watersmeet, However, it has to be recognised that the modern intervention of the bridge over the Hoarok does provide a barrier to the experience of the Listed Building. This said, your officers do believe that the intake area and pipe is in the setting of Watersmeet and the impact is unacceptable.

The pipe then crosses the A39 via a pipe bridge, which will run parallel to the existing bridge. The pipe bridge with its grass top will appear as further engineered intervention, however, given its location this area is considered to be outside of the setting of Coombe Park House and while within the setting of Watersmeet the impact is considered to be minimal.

Running along the footpath the pipe is buried and out of sight and therefore after the construction phase, which will see a significant impact to the setting of Watersmeet, the operation phase of the development will see a negligible impact.

The footpath then leads to steps that drop down the valley side, which in the opinion of officers forms part of the immediate setting of Watersmeet. The steps will be removed, the pipe buried and steps reinstated. The Historic Buildings Officer has raised concern that these work will result in the surrounding land becoming unstable and needing stability works, while conditions may be placed on an approval to secure these works, given the sensitive nature of the site your officers consider any details would need to be agreed prior to planning approval being granted.

Proposals also include a new footbridge, which replaces an existing timber bridge, an extension to an outbuilding at Watersmeet together with a substation within the immediate vicinity of Watersmeet. The original plans for the bridge looked to be significantly larger than the existing, becoming both wider (by 900mm) and slightly taller. All historic images show very small, slender and simple bridges in this location. The bulk of the bridge would have had a very significant impact on the site. Following consultation with the applicant revised plans were submitted which reduced in width the bridge from the original proposal of 2 metres down to 1.1 metres (as existing) but has been made 300mm taller than the existing bridge to conceal the pipe under the deck. The Historic Buildings Officer still raises concerns that the bridge is going to be very strong, as confirmed as being the intention by the agent, and will act as a barrier for debris in the event of the flood rather than collapsing as the current bridge is designed to do. This could potentially put Watersmeet House at risk of flooding, especially given the history of flooding on this river. However, the Environment Agency has not raised concerns on this point and therefore cannot be given significant weight. Notwithstanding this, the Historic Buildings Officer continues to have concerns that the increased height to the proposed

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bridge will have an adverse impact upon the setting of Watersmeet House. Your officers concur with this view, when approaching the site from the west, due to the surrounding topography, your view opens and the full setting on Watersmeet House can be enjoyed. The increase to the height of the bridge will further detract from the enjoyment of the historic asset.

The proposed extension to the outbuilding at Watersmeet, measures 6.5 m by 7m, has an overall height of 3.6m, and will be clad in materials to match those of the existing outbuilding. The external appearance is considered acceptable and the Historic Buildings Officers raises no objection. The area of concern relates to the potential noise emitted by the turbine from within the building. The setting of an historic asset is not limited to what you can see, but also relates to how you experience the historic asset. Watersmeet enjoys a secluded peaceful location with little artificial light or noise pollution. In a setting such as this even low level, audible noise can have an adverse impact. The Historic Buildings Officers has raised concerns that the turbine within the building could be heard from passers by. The applicant has responded by confirming that they the turbine will not be heard from outside of the building, however, no confirmation was given to what the maximum Decibel level would be. The applicant is of the view that the surrounding running water and noise from surrounding trees in the breeze would be more audible. Your officers have given careful consideration to this issues, and while the protection of the historic asset needs to be given great weight. However, your officers consider that subject to appropriate materials and planning conditions the impact of the turbine can be mitigated.

Alternative locations for the transformer cubicle has been submitted during the lifetime of the application. Given the sensitivity of the site, the Historic Buildings Officer considers that the two options are problematic and are likely to be unacceptably intrusive. Although efforts will be made to shield the structure, in Option A (on the hill behind Watersmeet House) it will be visible from the footpath at a number of locations as it leads down from the car park on the A39. It also requires an access track to be reinstated. Option B will be highly visible from the footpath from Lynmouth just at the point where Watersmeet House starts to come into view. It is considered that further drawings are required to show how the building sits down in the borrow pit for option A as there is no accurate topographic information for this area shown in any of the drawings submitted. The agent for the application suggested these would be supplied but this has not been forthcoming. For the purposes of this proposal the planning authority are considering Option A and therefore subject conditions regarding the finish level etc this would be acceptable.

The Courts have ruled that this is not just a balancing exercise. Due weight must be given to the importance of the listed building(s) and of the statutory duty under s.66(1) of the Listed Buildings Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. (see *Barnwell Manor Wind Energy v East Northants DC* [2014] and *Jones v Mordue* [2015]). The duty under s.66 applies to development affecting the setting of a listed building as much as development affecting the building itself. Case law confirms that the setting of a listed building is an important consideration and that considerable weight should be attached.

For the reasons discussed above your officers believe there is harm caused by the development. Your Officers believe this harm is less than substantial as set out by the

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NPPF but that this harm should be given great weight. The justification provided is that this scheme will help the National Trust meet its green energy requirements and reduce its carbon emissions. Any scheme aimed at reducing our reliance on fossil fuels is clearly a very positive thing but officers cannot conclude that this scheme, sited in such a sensitive location in regard to the historic environment and one that is so admired by the general public is justified or that the harm caused is outweighed by public benefits it provides. Therefore, the proposal is considered contrary to policies CE-S4 & CE-D3 of the Exmoor Local Plan.

#### Geomorphology & Fisheries

Policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan seek to protect protected species and their habitats. The National Park's Wildlife Conservation Officer has studied the details of the application.

The application was submitted with a Geomorphology and fisheries assessment. The assessment concluded that the modelled flow estimates, within the East Lyn Catchment, are within the 68% confidence intervals and therefore no scaling or adjustment is deemed necessary.

Following an assessment of the morphology of Hoarok water upstream of the proposed intake area suggests that it is a moderately efficient conduit for the transport of coarse sediment and the intake area is unlikely to be effected by the proposal. Spate flows are still modelled to occur downstream of the intake but these are considered to be proportionately small. The impact of flow abstraction on sediment transport capacity during flows of this magnitude are likely to be minimal. It is expected that any sediment deposited during low to moderate flows will be remobilised and transported during spates. Therefore, within the area known as Reach 1 the impact of the development is considered to minimal subject to monitoring of the river post installation of the development.

Within the stretch of river known as Reach 2 the impact is considered to be negligible due to the additional flows and sources of sediment input from Farley Water.

The assessment also considered the potential impact the development has on the local fish habitat. Following a walkover survey Hoarok Water was considered to provide a range of habitats suitable for adult and juvenile life stages of brown trout. The proposed development will see a reduction in the suitable habitat in Reach 1 of approximately 8.7% across the total depleted reach. Within reach 2 the depletion of habitat is considered to be less given the additional flow of the Farley Water. The assessment concludes that the proposal is unlikely to significantly alter the overall characteristics of the habitat.

A number of letters of objection have been received raising concerns regarding the impact the scheme will have on the flows and surrounding habitats of the Hoarok Waters. Concerns include:

- That in mean flow conditions 50% of the water will be abstracted from the Hoarok Water and the combined river level will be 25-30% below the current level.
- The choice of seasonal percentile data should have been taken from another location, namely gauge stations on the East Lyn.

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- The Post Implementation Plan (PIMP) should be expanded to include active monitoring of brown trout numbers.
- PIMP should form part of a planning conditions.
- Careful consideration is required regarding the impact the Construction Management Plan may have on the river and that further consultation may be required once details have been received.
- Due to the likely potential for rubble from the excavation, particularly along the bridleway, an engineer clerk-of-works should be appointed.
- The plunge pool has insufficient length and its internal downstream face should be sloped to encourage self-scouring of the pool in high flows.
- Fish migration will be negatively impacted, despite the bypass on the intake structure.

The Environment Agency originally raised concerns that the application has insufficient information demonstrating that the proposal will not result in a greater risk of flooding elsewhere and the application lacked comprehensive assessment of the fisheries, habit and watercourse. However, following the submission of further information relating to Geomorphology, flow depths and percolation of water through beds to reduce splashing together with additional information regarding the fisheries assessment and mitigation The EA have removed their objection subject to conditions.

Overall, your officers have given careful consideration to the original objections to the scheme, including those of the Environment Agency. It is clear that there is concern that the proposed development could have a significant impact on the flow of the river, sediment build up and wider ecological impacts. Additional information has been received from the applicant during the life of the planning application to address a number of the concerns raised. Outstanding issues can be addressed via a planning condition, such as design details of the fish pass. While objections remain officers are of the opinion that subject to the inclusion of suitable planning conditions the proposal would accord with policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan.

#### Public Rights of Way

Policy RT-D12 (Access Land and Rights of Way) sets out the need for access to the public rights of network to be safeguarded and development should not adversely affect the conditions of the access network, users' interest and the character and appearance. Where harm is caused it will need to be demonstrated that benefits of the development clearly outweighs any harm, there is no alternative location, harm will be kept to a minimum, the affected network will be improved and enhanced to protect users' interest, compensation provided and linkages to other routes provided.

The proposed development will have an impact upon Bridleways 16 (Brendon) and footpath 14 (Watersmeet). The Public Rights of Way & Access Officer states that the proposal will run the pipeline along the bridleway (16) either to the uphill side or underground in the centre. Whilst this is disruptive to rights of way users, Officers can see that looking at the scheme as a whole, this is preferable to running it through undisturbed woodland. The application states that the bridleway will be reinstated following laying of the pipe. This is acceptable provided the surface is to the same standard (or better) than previously. It is important that any imported material is approved in advance by ENPA (as agents for the Highway Authority) to ensure that stone suitable for bridleway use is utilised. On the site visit, some sections were observed where slippage at the edge of the

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bridleway was already occurring. Verbal assurances were given that these sections would be repaired and reinforced and this is to be welcomed.

The application states that a 6 month temporary closure application will be made with the bridleway likely to remain closed for 3 months. The application states that the closure will avoid the peak months of July and August but my advice would be to avoid all school holiday periods eg. Easter which can be just as busy. The application states the bridleway can reopen to pedestrians at the weekend – It would also be possible to reopen after work is completed for the day so that it can be used during the evening and early morning. This would minimise the impact on local walkers. It is agreed that equestrian and cycle use would need to be restricted during the laying of the pipeline. If it were possible to provide local riders with an alternative opportunity for riding elsewhere on the estate during this period, this would be welcomed. An application for the temporary closure can be made to the ENPA and given the impact on the network, this should be done at least 4 weeks ahead of work commencing. The temporary closure and alternative routes will need to be well signed and ENPA's Access and Recreation Team will be happy to assist with this.

Officers are concerned about the proposal to lay the pipeline on steep ground underneath the existing steps. It is likely that the reinstated ground would be less stable than the current conditions and even if the new set of steps were to be better designed and easier to use, there may well be on-going maintenance issues with steps not staying in position.

Footpath 14 at Watersmeet House route is along the position of the powerhouse and therefore public footpath 14 will be obstructed by the building. This is recognised on p29 of the Environmental Report. The path being used by the public on the ground will not be obstructed and a width of just under 3 metres is being maintained. However, if this planning application is successful, an application will need to be made to ENPA for a public path diversion (under the Town and Country Planning Act 1990) to allow development to take place.

The application allows for the provision of a temporary path behind Watersmeet House to allow for a temporary closure of public footpath 14 during works. From the access point of view, this is considered acceptable.

Overall, it is considered that the proposal would have an acceptable impact and complies with policy RT D12 of the Local Plan.

#### Design

Policy CE-S6 (Design and sustainable Construction Principles) sets out that development should deliver high quality sustainable designs that conserve and enhance the local identity and distinctiveness.

The proposed development offers two distinct areas, the intake structure at the higher end and the extension and bridge to the Watersmeet end of the development.

The intake structure includes a concrete weir, which incorporates a fish pass, intake area and splash pool. At the lower level of the intake the extraction pipe flows down-stream to the edge of the river bed. The concrete weir will be dug into the bank with suitable



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retaining. The external face of the intake and pipe will be screened by large and small boulders, which will obscure the structures.

It is difficult to assess the design qualities of this proposal. The intake, without any form of mitigation offers a hard and aggressive intervention. The use of boulders to screen the structure will provide some locally distinctive materials and will ensure that the flow of water continues to follow an uneven path mimicking the flow of water currently. While the proposal will not assimilate the development the use of natural materials does show an understanding of the surrounding area.

The proposed replacement footbridge, close to Watersmeet, will see the bridge increase in height. The overall appearance of the bridge will be similar and the materials will be timber as per the current bridge. In design terms, the bridge is acceptable. The bridge will also hide the pipe under the bridge, which will ensure there is limited visual impact. Overall, in design terms the bridge is considered to offer a good quality design.

The proposed extension to Watersmeet is to be single storey and clad in stone, with a slate roof to match the existing building. The extension measures 6.5m by 7m and has an overall height of 3.6m. The Historic Buildings Officer has previously stated that the design of the extension is considered acceptable and your officers would agree with this conclusions.

The Transformer building is located within the borrow pit to the rear of Watersmeet House. The building would be 3.5m wide, 2.3m deep and height of approximately 2.5m. The building will be clad in stone with a sedum roof. The materials used are sympathetic to the surroundings and subject to topographical information which could be secured by an appropriate planning conditions, the building is acceptable in design terms.

Overall the design of the proposal is considered acceptable and accords with policies CE-D4 & CE-S6 of the Exmoor Local Plan.

#### Conclusion

The proposed development seeks planning permission for the installation of a hydroelectric scheme that would see water taken from the River Hoarok and some 800MWh of sustainable electricity generated per year. The electricity produced will primarily be used to reduce the carbon footprint of Watersmeet House for the National Trust with any further electricity being returned to the national grid. The Exmoor Local Plan supports the principle of renewable energy schemes where they respect the character and appearance of the surrounding Historic and natural landscape and consideration is given to all material considerations. National policy sets out that:

Para 154 of the NPPF states that:

“When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

It is clear to your officers that the proposed development would have a detrimental impact. However, the applicant has attempted to mitigate these impacts through the location of the development, the materials used and the design of the physical features. The Authority’s landscape and historic environment officers have both raised concern regarding the impact of the development and are of the view that while mitigation has been introduced this will not reduce the impact of the development to an acceptable level.

Third party comments raise concerns over the impact the development would have on the landscape character, the impact on the river flows and impact on the local fish population and local SSSI’s together with the impact of the development on local tourism.

Your officers have given careful consideration to all the comments received regarding this finely balanced proposal. It is important to recognise the need where appropriate to support schemes, which seek to meet the challenges of climate change. However, this cannot be at the expense of conserving the surrounding landscape. While mitigation has been introduced your officers conclude that the impact of the development upon the landscape, in particular the impact upon the landscape character of the area of the River Hoarook at the intake area, where the pipe crosses the river at Hillsford Bridge and the area around Watersmeet. Mitigation measures are not considered sufficient and no further mitigation could be achieved through planning conditions.

Furthermore, the development will have a detrimental impact of upon the setting of Coombe Park Lodge by virtue of the intake structure. Furthermore, the entire development is considered to have an adverse impact upon the setting of Watersmeet.

Overall it is considered that the proposal constitutes an unsustainable form of development which does not accord with the Framework and the Development Plan as a whole. All matters raised within third party representations (which are capable of being material planning considerations) have been taken into account by your officers. None are considered to be of sufficient weight to justify granting planning permission.

**Recommendation:**

**Refuse for the following reasons**

1. The developmet proposed through this application, is considered to cause material harm to the character and appearance of the landscape and visual amenity, particularly when taking into account the great weight afforded to conserving and enhancing landscape beauty in a National Park under Paragraph 172 of the National Planning Policy Framework. The justification provided by the applicant for the works carried out is not considered to outweigh the harm caused. As such, the development is therefore considered to be contrary to policies GP1, CE-S1, CE-D1, CE-S4 & CC-S5 of the Exmoor Local Plan and policies P1 & ENV1 of the Lynton and Lynmouth Neighbourhood Plan and Paragraph 170 of the National Planning Policy

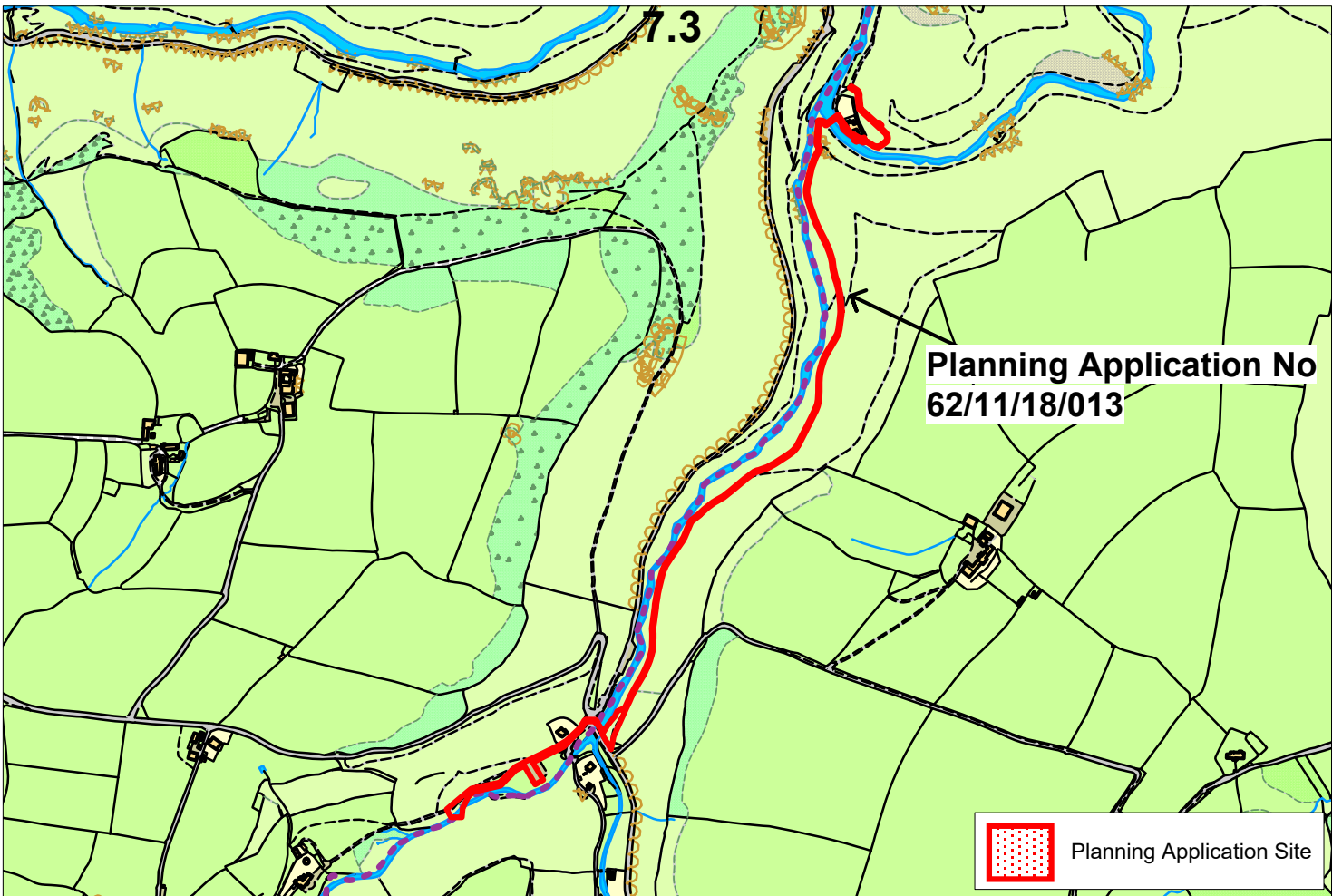
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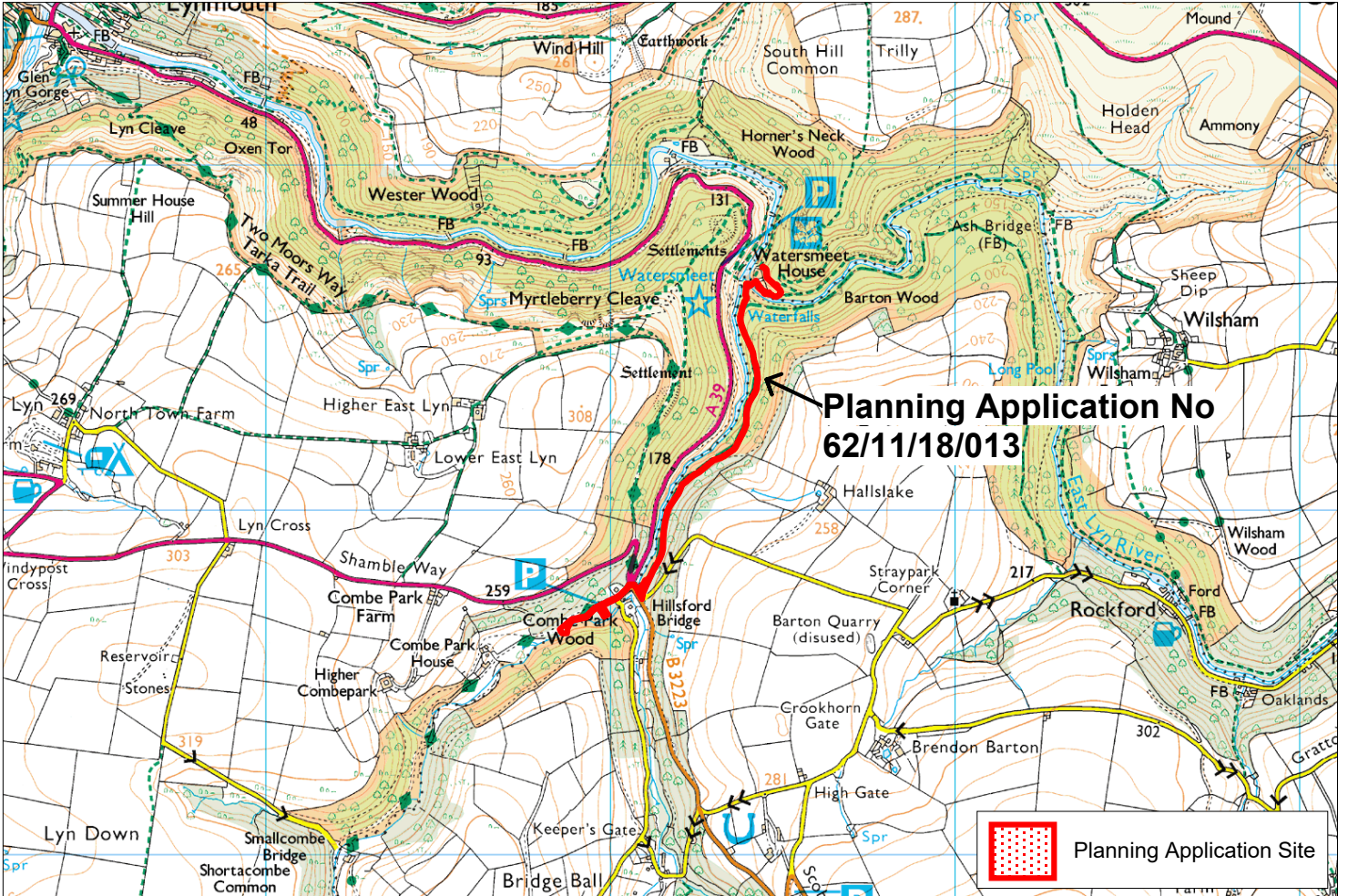
Framework.

2. The proposed development would result in an unacceptable incursion into the historic landscape which would fail to respect the rural characteristics and be detrimental to the historic setting and significance of Combe Park House & Watersmeet House, both grade II heritage assets. The proposal therefore fails to accord with policies GP1 , CE-S4, CE-D3 & CC-D3 and the National Planning Policy Framework, in particular paragraphs 79, 194 and 196.



Site Map  
1:2500

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Overview Map  
1:20000

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Application No: **62/11/18/014LB** Grid Ref. 274373 148200

Applicant: Mrs S Phillips, National Trust, Attingham Consultancy Hub  
Atcham, Shrewsbury, Shropshire

Location: Combe Park Lodge, Lynton, Devon

Proposal: **Listed building consent for the proposed 250kW hydroelectric scheme, to include intake weir, buried pipeline, powerhouse building with ancillary equipment and grid connection. (As per additional information and amended and additional plans). (Listed Building)**

Introduction:

The application site is located to the south-east of Lynton and along the Hoarok and East Lyn rivers and consists several elements. The first section includes an area of land to the south of Coombe Park Lodge and is where the intake for the proposed development will be located. This part of the application site is located in Combe Park Wood, and to the north of the car park owned and maintained by the National Trust. The intake is located in an area of water where there are a number of large boulders with the water dropping approximately 1.5m. Trees line the south of the water and is steeply sloping and to the northern side, the sides of the river steeply raise to a gently sloping grassed area with a bridle path running to the highway.

The site continues along the public bridleway (16) which runs along the eastern side of the river down to Watersmeet House, which is a Grade II Listed Building, owned and operated by the National Trust. The building is situated on the northern bank and close to where Hoarok Water and East Lyn River join. Timber bridges cross the river giving pedestrian access to Watersmeet House.

This Listed Building application is only for the extension to the outbuilding to Watersmeet. This element of the proposal seeks to extend an existing outbuilding which will measure 6.5m x 7m with an overall height of 3.6m. The extension will be erected using similar materials to the existing building and will seek to retain the linear form of the development.

This proposal forms part of a wider proposal which, seeks the installation of a Hydroelectric scheme which will include a new intake weir across Hoarok Water, incorporating a Coanda screen, with 2 mm bar-spacing and fish easement to facilitate passage for Brown Trout. Following the intake the water is then carried along a 1300mm polyethylene pipe which is buried along the existing bridleway or adjacent to existing vehicle access tracks, along with a HV electrical cable. The pipe will need to cross the river on two occasions. The first being close to Hillsford Bridge and secondly near Watersmeet, where the existing timber footbridge over the East Lyn is proposed to be replaced. Also proposed is a small stone clad powerhouse building, built as an extension to an existing outbuilding at Watersmeet House with a short discharge pipe returning the flow to the East Lyn. A transformer cubicle is also proposed, located in the old quarry just above Watersmeet House.

The proposal would deliver up to 250 kW and deliver approximately 800MWh of energy per year.

**Consultee Response:**

ENVIRONMENT AGENCY SOUTH WEST: See response on application 62/11/18/014

WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

NATURAL ENGLAND: No comment received

LANDSCAPE OFFICER - ENPA: No comment received

HISTORIC BUILDINGS OFFICER - ENPA: 18th January 2019 - The application seeks to construct a small scale hydro-electric power scheme that will comprise of an intake weir, 1300m length of buried polyethylene pipe, 2x pipe bridges, a stone clad powerhouse building and associated transformer building and undergrounded cabling. The most significant impact of the scheme to the historic built environment will be to Watersmeet House (grade II, list entry number 1213205).

Watersmeet House was built in c1832 for the Reverend Walter Stevenson Halliday and was originally thought to function as a hunting and fishing lodge. Being positioned in an exceptionally tranquil location, at the bottom of a wooded combe and the confluence of two rivers, the site became a draw for travellers and visitors to the area, with numerous drawings, paintings and early photographs being produced of the building throughout its history. A tearooms opened in 1901 and the building was purchased by the National Trust in 1936 who now run it as a tearoom and shop.

The setting of Watersmeet is perhaps the most significant feature of the building. This is made clear in the list description that quotes the engraving above the door that reads-  
 "The spot was made by nature for herself: /The travellers know it not, and it will remain /Unknown to them; but it is beautiful: /And if a man should plant his cottage near, /Should sleep beneath the shelter of its trees, /And blend its waters with his daily meal, /He would so love it, that in his death-hour /Its image would survive among his thoughts."

As set out in paragraph 194 of the National Planning Policy Framework (NPPF) 2018 any harm to, or loss of significance to a heritage asset from development within its setting should require clear and convincing justification. The setting of a heritage asset is defined in the NPPF 2018 as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of the setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

The English Heritage (now Historic England) guidance document 'The Setting of Heritage Assets' 2012 makes clear that it is not only visual aspects that form setting but also elements such as noise, spatial association and the understanding of relationships between places that together form the experience of the historic site. Watersmeet was very deliberately positioned in this position to make the most of its tranquil and scenic surroundings. Carefully conceived paths and bridleways lead to and from the building from the surrounding combes and countryside. The main draw of the building is still its setting with members of the public



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continuing to converge on the building along the same pathways shown in early mapping.

I am therefore of the view that the full extent of the proposed scheme is located within the setting of Watersmeet House and that all elements of the scheme have the potential to cause harm to its setting.

I will run through each element of the scheme in turn starting the abstraction point. The abstraction point is on the Hoar Oak, north of its confluence with Farley Water. It will be formed of a concrete weir built over an existing natural cascade. It is my opinion that this section of the river also falls within the setting of the near-by listed building of Combe Park House and its associated grade II listed gazebo as it lies adjacent to the drive and forms part of the scenic approach to the house. The Two Moors Way also passes near to the cascade before continuing past Combe Park House.

The existing natural cascade is formed of large, moss covered boulders and is one of many such cascades along this section of river. The computer generated images in the supporting documents demonstrate my concerns that the natural beauty of this part of the river will be severely harmed by this aspect of the scheme and can be said to harm the setting of both Watersmeet House and Combe Park House.

The pipe run from the intake to Hillsford Bridge appears to have been amended following our site visit in October so that it no longer runs under the toe of the river bank (block plan 2). This is a welcome amendment as I was not convinced that it could be adequately shielded from view.

The pipe bridge adjacent to Hillsford bridge will be visually obtrusive. My preference is that it runs under or is fixed to the side of the existing road bridge. The Environmental Report explains that the Environment Agency would not allow it to run under the bridge due to risk of obstruction but it is not clear why it can't be fixed to the side.

I am very concerned that the pipe run from Hillsford bridge to Watersmeet will not be adequately obscured and will result in the loss of natural landscape features that are intrinsic to the setting of the building. The path edges are formed of loose stone and earth that have weathered and foliated naturally over hundreds of years. I would like the National Trust to provide examples of other, similar schemes where the reinstatement of such banking has been successful. Drawings of the pipe trench in section state that the original bank profile will be respected but I do not believe that this will be possible along the full run of the pipe, especially on the higher side of the path where the bed rock is exposed and the top soil has little stability. I think more information is required showing what sections of pipe will run under or to the sides of the path. Taking the pipe run down the existing steps to Watersmeet is a significant engineering undertaking that is likely to result in loss of character and will potentially scar this hillside. There is also a risk it will create instability. More detail is required on how this section of pipe run is to be undertaken and how new steps will be formed. There have been concerns raised from members of the public about the strengthening required to the footbridge over the East Lyn to enable it to carry the pipe.

This may make the bridge overly strong and will not allow the bridge to collapse and wash away in the event of a flood as it is designed to. The National Trust need to provide reassurance on this point. The new bridge also looks to be significantly larger than the existing, becoming both wider (by 900mm) and slightly taller. All historic images show very small, slender and simple bridges in this location. The bulk of this new bridge could have a very significant impact on the site and requires more thought as it is a key part of the setting. There is only one conceptual image of the proposed bridge in the application-Fig 31, page 35 of the Environmental Report and this does not show the revised width of the bridge in full. There is a very high risk that what is currently a footbridge will look more like a vehicular bridge.

The addition of the 'powerhouse' will be perhaps the most obvious physical structure that has a direct visual relationship with Watersmeet. Whilst there is potential that the new bay to the single story garage/storage block will create a linear block I do not believe that it will cause significant harm to the character or appearance of the building or that this harm is not outweighed by the benefits the scheme provides. However, the applicant needs to provide justification for its construction. I would therefore like it demonstrated that the existing storage units/garages could not be used to serve this function and that the items currently contained within cannot be kept elsewhere. I am also unclear if the line of the building is set back from existing. Drawings appear to show it will be set back while photomontages suggest it will continue on the existing building line.

My chief concern with this aspect of the proposal is that there will be an audible noise emitted from the powerhouse building. Even if this only heard at close quarters (within 2 meters) there is a risk that those passing it on the footpath will notice an audible hum. The Environmental Report states that the turbines "are not particularly noisy". I could not find an expected dB level. It also states that the doors will perform to a minimum of 18dB which I believe is substantially less than the level of a standard conversation (50dB). This does not seem sufficient. A window is also shown on the powerhouse building. This is likely to increase the risk of noise escape. As this is a listed building any double glazing is limited in thickness to 16mm. I am also concerned that relying on the sound of the river to mask any escaping mechanical noise will not be sufficient, the steady and continuous tone of the generators is likely to cut through the noise of the river. The tranquillity of this site must not be disturbed by any mechanical noises from this scheme.

I have concerns about the size, appearance and location of the sub-station building and the requirement for an access track to it. The building is large and angular, cladding in stone and adding a sedum roof is unlikely to be sufficient to hide the structure. The drawings provided do not sufficiently show how it will be set down in the Borrow pit and I would ask that sections are provided. The image on page 36 of the Environmental report is shows that transformer building is likely to be highly visible and I am not convinced that the images accurately portray the size of the building. A more detailed visual impact assessment for this structure is needed. I am aware that there are very limited options for the siting of this building due to issues with earthing but I am of the opinion that placing a transformer building in this position, above the house and maintaining an accessible track to it is highly likely to negatively impact on the site.

The outlet is likely to be visible. The 800mm pipe located 1m above river level will be difficult to shield from view from the approach on the opposite side of the East Lyn. If possible I would ask for the outlet to be reduced in size, be set back further into the bank



and the outlet shielded with stones. Noise escape from the turbines may also be an issue here.

Whilst I am fully supportive of small scale green energy generation schemes such as this, I have major reservations about this being the correct location for such a scheme. This is one of the most unspoilt valleys in the National Park and is a major visitor attraction. Unless all of my concerns can be addressed I will be recommending refusal.

HISTORIC BUILDINGS OFFICER - ENPA: 4th February 2019 - Response to additional information dated January 25th 2019. The additional information has given me very severe concerns that there is a complete misunderstanding on behalf of the Trust in relation to the term 'setting' in regard to heritage assets. As stated in my original comment, the setting of a heritage asset is defined in the National Planning Policy Framework 2018 as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. As stated in my earlier response the cascade is on the approach to Combe Park House (sometimes referred to as Combe Park Lodge in the additional information) and it is clearly visible from the driveway and to a lesser extent the footpath. The cascade is next to the primary approach to the house and forms part of the surrounding in which the heritage asset is experienced. The additional information states that "we believe that those areas not within the viewshed of the intake to be outside of the settings for these features".

The fact that there is not a direct visual link between the intake and any of the surrounding listed buildings fails to understand the meaning of setting.

I refer the applicant to *Steer v SSCLG* [2017]. In this case the National Trust was itself objecting to an application that involved development within the setting of a Grade I listed building in its ownership. In this instance the Trust strongly (and successfully) argued that the setting of a listed building is wider than its visibility.

To state that the area of the intake is not mentioned in the list description of Combe Park House is not relevant. The function of a list description is purely to provide enough information to identify the structure in question. No list description would attempt to define the setting of a listed structure or to itemise all the surrounding landscape features.

I therefore maintain the opinion that the intake lies within the setting of the both Combe Park House and Watermeet House.

I fully appreciate that the intake weir will weather in overtime and that efforts will be made to help the weir blend in more readily, but I cannot come to same view of the applicant that the proposed structure will have a minor adverse impact on the natural cascade. The construction of the weir will completely change the character and appearance of the cascade. This view is supported by the senior landscape officer in her comments dated January 25th. The road bridge at Hillsford has no historic merit but it does lie within the setting of the listed buildings for the reasons outlined above. I remain of the opinion the pipe bridge will be visually obtrusive. I do not doubt that the Trust will make every effort to reinstate the pathways following the excavation work, or that they have experience in doing so, but I still do not think that the application adequately demonstrates that burying the pipeline as outlined is achievable. I am not aware that

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any trial pits have been dug along the route or that burying short sections of pipe in the manner suggested has been tested in this location. Similar schemes may have been carried out elsewhere but no pictorial or documentary evidence of the success of these schemes has been provided. The proposed site will have unique challenges that may not have been faced elsewhere. The natural form of these paths, and the banks that are associated with them, are intrinsic to the setting of Watersmeet House and it needs to be better demonstrated that what is described in the application can be achieved. These views have subsequently been supported by the Environment Agency who have commented that they believe there is a risk of erosion potentially exposing stretches of the pipeline. The additional information states that the bridge will be 50cm wider. This is incorrect. Page 17 of the Environmental report clearly both shows and states the bridge will be 900mm (90cm) wider. The diagram does not show how much taller it will be but by scaling from the drawing it would look to be approximately 300mm.

I do not think it is excessive to state that there is a risk that the bridge will look more vehicular in nature. At 2 meters in width the new bridge could accommodate the width of a vehicle and would be vastly different in character to the existing structure or any structure that has gone before. If an application came forward that purely looked at replacing this bridge it would require considerable detail to be provided, the fact that only one partial image of what the bridge may look like in the context of its surroundings has been provided, (Fig 31, page 35, Environmental Report), and the fact the cross section does not show the new height of the bridge, does little to reassure me that detailed thought has gone into its design.

It is also still not acknowledged that following the 1952 flood event bridges to local rivers should be constructed in a way that allows them to collapse. The recent comments by the Environment Agency would suggest that they do have concerns about flooding in relation to the bridge and that inadequate detail of its construction has been provided.

Improving access to the site for those with additional needs is clearly a good thing but I am not clear how widening the bridge to the extent shown will improve access for those with special access needs. If, as stated, the existing bridge is 1100mm in width, then it is already of adequate width to allow a wheelchair to cross. There is also an existing alternative route to Watersmeet House that does not require the bridge to be used. The very nature of the site makes access difficult and the Trust need to ensure that in their aim to make sites such as this more widely accessible that they do not unnecessarily harm what makes them special.

The comments made in relation to noise from the turbine house does little to reassure me. No suggested dB level for the turbine has been supplied against which the anticipated acoustic performance of the powerhouse can be measured. The wording of the condition suggested seems to refer to noise levels heard inside neighbouring properties. If the turbine will be heard inside Watersmeet House then it will be clearly audible outside. I appreciate the efforts that have been made to seek alternative site for the transformer building. I will consider this location against the burrow pit option once the new drawings and photos are received. I am unclear if the switchgear requires a separate building or whether this is attached to the transformer building and would like to seek clarification on this.

Both myself and the National Park are full supporters of green energy initiatives and are more than aware that the reliance on fossil fuels needs to be dramatically reduced if we are to tackle global warming. ENPA policy is clear that such schemes will be supported provided that the impact is not unduly detrimental to a range of aspects, including cultural heritage.

The scheme undoubtable provides benefits and I have taken these into account, however, the siting of such schemes requires very careful consideration so not to harm what we seek to preserve. The scale of this scheme may be small in a national context but within the context of this valley it is significant and I do not share the view of the applicant that the harm caused will be temporary.

With the information provided I remain of the opinion that the proposed scheme will cause more harm to the surrounding cultural heritage than is acceptable when considered against both national and ENPA policy.

LANDSCAPE OFFICER - ENPA: 15th April 2019 - Riverbank Intake Details Information indicating the wing wall structure of the intake weir and the proposed riverbank reinforcement associated with the pipeline installation in the riverbed. Pipe Details 1-6 Outline site plan information submitted, identifying areas where the pipeline installation is proposed to be above grade.

Block Plan 4 – Amended Plan Block plan identifying an alternative option and location (B) for the proposed transformer cubicle, now proposed for the drive approach to Watersmeet House.

#### Photo montage of Proposed Transformer Cubicle – Additional Information

Photo montage image of how Option B would appear on site on the approach to Watersmeet House. Site specific information had previously been requested (31.10.2019) regarding the intake weir and pipeline installation to enable assessment of the potential impact of the proposals on this specific section of river valley landscape. Discussion took place at the site meeting of the proposed detail of the intake weir including the size (height and width) of the built structure including wing walls and the bank reinforcement associated with the installation of the pipeline to the river bed. This was

requested by ENPA to help inform assessment of the visual and character impacts of this development on this river landscape.

It is acknowledged that the additional information outlined above has provided some further detail on the proposals. However the absence of topographical and spot levels survey information of those areas proposed for new infrastructure works continues to make a full assessment of the potential impacts in this highly sensitive location incomplete both in terms of loss of existing natural landscape features and the scale of newly introduced engineered structures into this sensitive environment.

#### Riverbank Intake Details

With no accurate baseline information the extent and location of existing features including the course and width of the river above and below the proposed intake weir, the location of the riverside banks, the extent of the existing stone revetments, and the existing linear rock outcrops cannot be accurately located in relation to the scale of the proposals or the

potential impacts resulting from them. The application details indicate a 10.65m wide intake weir with no clarification on the extent of the wing wall structures or bank reinforcements. Basic on site measurements carried out indicate that an intake structure in excess of 14m in width will be required to provide the intake weir and associated bank reinforcement on the eastern side with no clarification on the structure proposed for the western bank.

Given the scale and local context of this proposal to introduce a substantial engineered structure into this river landscape adjacent to an existing regional walking route, that necessitates the permanent destruction and removal of an existing natural water cascade of notable height, width and depth, I consider it is reasonable to seek clear and detailed understanding of what this is proposed to be.

#### Pipeline Details

Pipeline Details 1 – 6 indicate where the areas of above grade pipeline are proposed to be installed (this information would benefit from being on a single overall site plan, clearly demonstrating the site context). There is no accompanying detail identifying the height and extent of the engineered stabilisation works required to mitigate this installation, including the excavation of existing rock/bank faces and the associated loss of ground vegetation and tree cover.

Additionally it should also be noted that the pipeline is proposed to be installed below grade in the existing steps area leading to Watersmeet House. This is a narrow stretch of the pathway with existing stone retaining revetments to the riverward side of the path. Excavation to the proposed depth and width to accommodate the pipeline and the subsequent reconstruction in this particular location will, I consider, have considerable risk and change to the existing landscape form, quality and character.

It should be noted that infrastructure works in all the above locations will be highly visible to footpath users both on a temporary and operational basis, therefore the impact of such works needs to be fully considered.

#### Proposed Transformer Cubicle and Associated Plan (Option B)

Following the site meeting of 07.03.2019, the additional option to site the transformer unit in this location has been considered. I would comment that the approach to Watersmeet House will be impacted by the addition of a structure of this scale and nature. This is within the visual setting of the lawn as you approach from the north and does not seek to enhance the existing landscape setting.

As previously noted, the ENPA Local Plan (Section 5.62) is 'supportive in principle of small scale renewable energy developments which contribute towards meeting domestic, community or business energy needs'. For the purposes of this policy, 'small scale' is defined as schemes of a scale that can be carried out within the capacity of the local environment and consistent with its landscape character, without causing damage to its natural beauty, cultural heritage, wildlife, or eroding enjoyment of the special qualities of an area.'

I consider the proposals as submitted do not constitute small scale renewable development that is consistent with the existing landscape character. Further to that, I consider that the proposals as shown will have a harmful impact on the landscape

character, causing permanent loss and damage to its existing natural beauty, cultural heritage, wildlife and will impact negatively on its distinctive special qualities. The scale and context of this application site in the heart of this dramatic incised river valley setting which is well loved, enjoyed and accessed by many thousands of residents and visitors each year, needs to be fully addressed. The permanent change to landscape character and the amenity value of this area needs to be reviewed in the site specific context of this river valley, as experienced by users, as a natural environment of exceptional quality within the wider public interest.

DCC - HIGHWAYS: No comment received

NORTH DEVON COUNCIL - PLANNING REGISTRATION: No Observations

LYNTON & LYNMOUTH TOWN COUNCIL: 16th January 2019 - To object to the scheme, it is felt to be the wrong scheme in the wrong area, and to this end, write to Exmoor National Park expressing concerns regarding environmental impact of the scheme These comments are stated as a stakeholder from a nearby Parish.

ARCHAEOLOGIST - ENPA: 21st January 2019 - Little is recorded on the Historic Environment Record for the route, other than that associated with Watersmeet House and its associated landscape. This indicates that these valleys are much the same in spirit to how there were when Watersmeet House was built. Natural processes (including the 1952 flood) have given them shape and form. No previous hydro schemes have been installed south of Watersmeet House. I am concerned that the proposed works will have a detrimental impact on the historic landscape of Watermeet and the Hoar Oak valley particularly in the following areas:

1. Bridleway. Contrary to the information in the Heritage Impact Assessment the bridleway is not shown on any of the Tithe Maps. This is not a direct route and unless evidence is available to the contrary it seems likely that the bridleway was constructed for access to the limekilns or as part of leisure routes or perhaps both, rather than being a former routeway for general travellers. The possibility of the network of paths and routes being created as part of a designed landscape in a romantic natural setting does not seem to have been fully explored in the Heritage Impact Assessment. Section 5.10 of this document states ' Given that the proposed scheme intends to excavate the entire 1Km length of this bridleway then the direct impact will have an adverse impact on this feature which will be of Major magnitude and therefore of Moderate/Major significance. However, given that it is a track has no important surface material of any significance to mention and the fact that the track will be reinstated to its original form following the ground work then this impact would also be temporary'. It should be acknowledged that the impact to the track would be permanent even if the visual impact is temporary. However section 2.6.3 of the Outline Construction and Environment Management Plan indicates that structural works will be necessary and potentially visible along the route: 'Reinstate bridleway to original form; apply additional reinforcement as necessary to preserve/improve bank stability and drainage'. There is insufficient construction detail to assess the nature and impact of these potential reinforcement and drainage works.
2. There is insufficient detail on the adit and the position of the proposed pipe trench in relation to the adit (MEM11706). It is stated 'there is a strong chance that machinery and even trenching could damage or expose buried remains relating to the feature'. No mitigation is proposed other than to protect the entrance from construction works

(Heritage Impact Assessment paragraph 5.20). It is not clear how this protection is built into the scheme it is not included in section 8.2 mitigation recommendations in the Heritage Impact

Assessment, and doesn't appear to be in the Environmental Report.

3. Whilst it is accepted that earlier bridges were lost in 1952 flooding event, the proposed pipe-bridge at Watersmeet is twice the width of the existing and would seem out of character, with the pipe likely to be visible.

4. Section 9.1 of the Heritage Impact Assessment states: The desk based assessment for the proposed Hoar oak Hydropower Scheme has shown that the proposed scheme will lie in an important and spectacular landscape that has inspired generations of famous artists, poets and writers for over 250 years. Although the greater part of the scheme will be hidden from view, the weir intake being positioned in Combe Park Woods and the main penstock being buried along the Watersmeet bridleway, a small but important part of the

scheme will be positioned in a landscape that has been and still is popular to thousands of visitors annually, Watersmeet. It should be acknowledged that the scheme by the necessary excavation and construction works will have a permanent impact on this landscape.

5. The proposal will have an impact setting of the Listed Buildings of Watersmeet House and Combe Park and I

support the comments of the Historic Buildings Officer.

HISTORIC BUILDINGS OFFICER - ENPA: No comment received

FARMING AND WILDLIFE - ENPA: No comment received

WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

PUBLIC RIGHTS OF WAY AND ACCESS OFFICER - ENPA: No comment received

ENVIRONMENT AGENCY SOUTH WEST: No comment received

DEVON COUNTY COUNCIL: No comment received

LANDSCAPE OFFICER - ENPA: No comment received

ECOLOGIST - ENPA: No comment received

BRENDON & COUNTISBURY PARISH COUNCIL: 8th January 2019 - Hydroelectric Scheme Combe Park lodge, Lynton

Brendon and Countisbury Parish Council considered the applications and adopted a balanced and measured

approach. The areas addressed were

1) Intake Weir

2) Pipeline

3) Powerhouse Building

4) Ecological Implications

The main focus was on visual impact, noise and wildlife and flora sustainability, balanced against the

advantages of the green energy production.

It was recognised that the Council lacked the technical expertise to address all aspects of the application.

Following the careful and prolonged debate, Council was unable to either support or object to the proposal.

At a vote, 3 members were against and 4 were neutral.

It was acknowledged that the National Trust would be mindful of the disruption and risk to a beautiful area

and were unlikely to undertake works negating this fact.

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WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

#### **Public Response:**

4 letters of objection

#### **RELEVANT HISTORY**

- 62/11/12/007** Proposed installation of an air source heat pump.  
Full Approved 05 February 2013  
Same Site
- 62/11/12/008LB** Listed Building Consent for the proposed installation of an air source heat pump.  
Listed Building Approved 05 February 2013  
Same Site
- NI 1588** Proposed diversion of road, construction of new bridge and re-alignment of Hoarok and Farley Waters  
Full Approved 04 June 1954  
Same Site
- 62/11/05/004** Replacement of 2 No timber footbridges  
Full Approved 23 June 2005  
Same Site
- 62/11/06/009LB** Proposed replacement of servery counter and associated works  
Listed Building Approved 07 December 2006  
Same Site
- 62/11/18/013** Proposed 250kW hydroelectric scheme, to include intake weir, buried pipeline, powerhouse building with ancillary equipment and grid connection. (As per additional information and amended and additional plans).  
Full  
Same Site

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN

GP1 General Policy: National Park Purposes & Sustainable Development

GP2 Major Development

CE-S1 Landscape Character

CE-D1 Protecting Exmoor's Landscapes and Seascapes

CE-S3 Biodiversity and Green Infrastructure

CE-S4 Cultural Heritage and Historic Environment

CE-D3 Conserving Heritage Assets

CE-S6 Design & Sustainable Construction Principles

CE-D4 Extensions to Buildings

CC-S1 Climate Change Mitigation and Adaptation

CC-S5 Low Carbon and Renewable Energy Development

### Lynton and Lynmouth Neighbourhood Plan

The National Planning Policy Framework (NPPF) is also a material planning consideration.

#### **Observations:**

Consultation responses

6 responses have been received, comments raised have been summarised below;

- Detrimental impact upon the local wildlife
- Should protect this beautiful green space from inappropriate development.
- Wrong location for this type of development
- Detrimental impact on the appearance, hydrology of the river,
- More information required regarding the hydrology process calculations,
- Insufficient information to show that the development will not increase flood risk,
- No report regarding bryophytes, lichen and fern flora,
- Impact upon tree roots within ancient woodland,
  - Significant damage to the SSSI.
- Detrimental impact upon the setting of Coombe Park House
- Noise impact from generator and turbine
- Proposal is in conflict with the National Trust's and Exmoor National Park's principle aims to protect the landscape and heritage for future generations.

#### 4. MAIN PLANNING ISSUES

##### Summary

The main considerations in this case are considered to relate to the impact of the proposed extension to the outbuilding at Watersmeet on the Historic asset. Consideration of the proposal as a whole has been given under 62/11/18/013 and where considered appropriate wider assessments of the impact on the historic asset has been given within this report.

##### Cultural Heritage

Policy CE-S4 (Cultural Heritage and Historic Environment) of the Exmoor Local Plan sets out that development proposals should make a positive contribution to the local distinctiveness of the historic environment and ensure that the character, special interest, integrity, and significance of any affected heritage asset and its setting is conserved and enhanced.

Policy CE-D3 (Conserving Heritage Assets) also confirms that development proposals affecting a heritage asset and its setting should demonstrate a positive contribution to the setting through sensitive design and siting.

The NPPF, in paragraph 192 states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and



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putting them to viable uses consistent with their conservation;

b)the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c)the desirability of new development making a positive contribution to local character and distinctiveness.

Furthermore, in para 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The applicant has submitted a Heritage Impact Assessment, which sets out what designated and non-designated historic assets they consider would be affected by the proposal as well as considering what the impact of the development is on the Historic Landscape. The assessment sets out that the proposed development lies within an important and spectacular landscape that has inspired generations of famous artists, poets and writers over 250 years. The application site is located within the designated landscapes of Principle Archaeological Landscape (PAL) and the Landscape Area of Lyn. Overall, the applicants conclude that much of the development will be buried and therefore the predicted direct effect, due to the relative small scale of development on these landscapes has been considered as negligible.

With regards to historic assets the scheme identified 11 heritage sites that could potentially be directly affected by the scheme. In total 10 were considered to be of medium value and only one is designated, Watersmeet House (Grade II). With regards to potential in-direct effects on designated and undesignated heritage sites, The assessment identified 4 heritage sites where the proposal could have a visual component. Only one, Watersmeet House, has been assessed as having a minor magnitude impact.

The proposed extension to the outbuilding at Watersmeet, measures 6.5 m by 7m, has an overall height of 3.6m, and will be clad in materials to match those of the existing outbuilding. The extension will extend in a south eastern direction towards the River Lyn with the southern corner of the extension angles to prevent significant encroachment on to the public footpath. Wooden doors would front onto the River with a window in the eastern elevation. The external appearance is considered acceptable and the Historic Buildings Officers raises no objection. The area of concern relates to the potential noise emitted by the turbine from within the building. The setting of an historic asset is not limited to what you can see, but also relates to how you experience the historic asset. Watersmeet enjoys a secluded peaceful location with little artificial light or noise pollution. In a setting such as this even low level, audible noise can have an adverse impact. The Historic Buildings Officers has raised concerns that the turbine within the building could be heard from passers by. The applicant has responded by confirming that they the turbine will not be heard from outside of the building, however, no confirmation was given to what the maximum Decibel level would be. The applicant is of the view that the surrounding running water and noise from surrounding trees in the breeze would be more audible. Your officers have given careful consideration to this issues, and while the

protection of the historic asset needs to be given great weight. However, your officers consider that subject to appropriate materials and planning conditions the impact of the turbine can be mitigated.

The Courts have ruled that this is not just a balancing exercise. Due weight must be given to the importance of the listed building(s) and of the statutory duty under s.66(1) of the Listed Buildings Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. (see *Barnwell Manor Wind Energy v East Northants DC* [2014] and *Jones v Mordue* [2015]). The duty under s.66 applies to development affecting the setting of a listed building as much as development affecting the building itself. Case law confirms that the setting of a listed building is an important consideration and that considerable weight should be attached.

For the reasons discussed above your officers believe the development for the proposed extension is considered acceptable. Further consideration of the impact upon the setting of the historic assets has been considered in detail under planning application 62/11/18/013. Therefore, the proposal is considered to comply with policies CE-S4 & CE-D3 of the Exmoor Local Plan.

#### Biodiversity and European Protected Species

Relevant legislation includes the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and the Conservation of Habitats and Species Regulations (2010) and the EU Habitats Directive. Local planning authorities have a legal obligation to consider whether European protected species are likely to be affected by a proposed development.

The Natural Environment and Rural Communities Act 2006 requires that “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.” Further, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010), Regulation 9(5) provides that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. A Local Planning Authority is a competent authority for the purpose of these regulations and is exercising a function in deciding whether or not to grant a planning permission.

Policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan seek to protect protected species and their habitats. The National Park’s Wildlife Conservation Officer has studied the details of the application.

The application has been submitted with an Ecological Assessment Report, which sets out that a number of species were recorded within the study area are listed as Section 41 species under the NERC Act (2006). In addition, a number of birds species are listed by RSPB as BoCC (Birds of Conservation Concern).

Overall the Ecology Report identifies a number of species rich habitats. The key habitats within the site are semi-natural broadleaved woodland and unimproved neutral grassland.

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The woodland within the site are a mixed deciduous woodland are long established and are indicative of ancient woodland including a number of species in the ground flora. The woodland is designated at a European level as part of Exmoor and Quantock oakwood SAC. Given the integral part of the woodlands European designation this habitat has been rated as of international level of value. An area of unimproved neutral grassland is located next to the car park at Combe Park Lodge. This area is relatively species rich and, given the decline in this habitat, has been identified as having a value of County significance.

A number of flora rich species have also been identified on the site. The protected Bluebell is one such plant. The report continues to identify a number of Atlantic, Sub-Atlantic and Western British species and in particular the Nationally Rare *Dumortiera hirsuta*, Given the presence of this plant the reports recognises the flora of being of Nationally recognised value.

With regards to species the report recognises that the assemblage birds, Otter and Retails are of County or Local Value. However, given the report identifies at least 8 species of bats in the area the site is of at least Regional Value (Potentially Nationally).

A further report has been submitted assessing surrounding Trees, which are suitable to accommodate roosting bats. The report concludes that the trees with greater than negligible potential for use by roosting bats within the predicted zone include 30 trees of which two trees were considered to have a high roost potential, 19 had moderate roost potential and nine had low roost potential. The report recommends that the two trees of high roost potential and three of the trees with moderate roost potential should be subject to three dusk and dawn surveys, although these have not been included with the application. Other precautionary measures are suggested for the remaining trees, including any works to fell or lop trees should be carried out in accordance with the bat survey protocol.

The Authorities Ecologist has raised concerns that due to the lack of information regarding the survey data and appropriate avoidance, mitigation and compensation strategies. A further report has been submitted which comprised A preliminary bat roost assessment of the trees and garage searching for signs of bats; Three dusk emergence/ dawn re-entry surveys of T15 and T18; Two dusk emergence/ dawn re-entry surveys of T7, T9 and T11; and Two dusk emergence/ dawn re-entry surveys of the Garage. Tree T15 & T18 were assessed as having high bat roost potential, trees T1, T2, T5, T7, T8, T9, T11, T14, T19, T20 and T21 were assessed as having moderate bat roost potential. T3, T4, T6, T10, T12, T13, T16, T17, T22 and T23 were assessed as having low potential for such use. Although a single dropping was recorded on the external wall of the outbuilding this was not considered to establish any roost and the garage has been assessed as having a moderate potential bat roost.

T7 was confirmed a supporting a common pipistrelle occasional day roost, with a maximum of two individuals recorded roosting.

No roosts were recorded in T9, T11, T15, T18 or the Garage.

In total, ten species of bats were recorded: common pipistrelle; soprano pipistrelle; *Myotis* sp.; natterer's, Daubenton's; barbastelle; noctule; serotine; lesser horseshoe and greater

horseshoe.

Barbastelle bats were recorded infrequently over the suite of surveys, with low number of contacts being recorded during the dusk emergence surveys on the 15th May and 25th June. Likewise, lesser and greater horseshoe bats were recorded in low numbers, and no distinct trends were noted.

No defunct nests were recorded during the survey. However, a high number of birds were recorded on site. The broadleaved and coniferous trees within the anticipated zone of influence (together with the wider western sessile oak woodland habitat) provide high quality nesting and foraging habitats for a range of species, including several noteworthy Section 41, UK Red list, or UK BAP breeding bird species, characteristic of western oak woodland, such as wood warbler, pied flycatcher and redstart. It is therefore anticipated that nesting activity within the site during the breeding season would be high.

The Authority's Wildlife officer has been consulted but further comments are awaited. These will be reported to members at the meeting.

### Conclusion

The proposed development seeks planning permission and Listed Building Consent for the installation of a hydroelectric scheme that would see water taken from the River Hoarook and some 800MWh of sustainable electricity generated per year. The electricity produced will primarily be used to reduce the carbon footprint of Watersmeet House for the National Trust with any further electricity being returned to the national grid. The Exmoor Local Plan supports the principle of renewable energy schemes where they respect the character and appearance of the surrounding Historic and natural landscape and consideration is given to all material considerations.

The purposes of this Listed Building Consent application it is considered the proposed extension to the existing outbuilding which is attached to Watersmeet House. Matters related to the presence of bats in the outbuilding have been assessed and while there is still outstanding comments awaited your officer consider that based on the information available it is unlikely that the proposed extension will have an adverse impact upon the local Bat population. No direct objections have been received against this element of the scheme and the Authority's Historic Buildings officer has raised no objection to this element of the scheme. Conditions are considered necessary to control the materials used on the development and to control any noise from the turbine. Therefore, subject to conditions, the proposal is considered to comply with policies CE-S4, CE-D3, CE-S6 & CE-D4 of the Exmoor Local Plan.

### **Recommendation:**

#### **Approve subject to the following conditions**

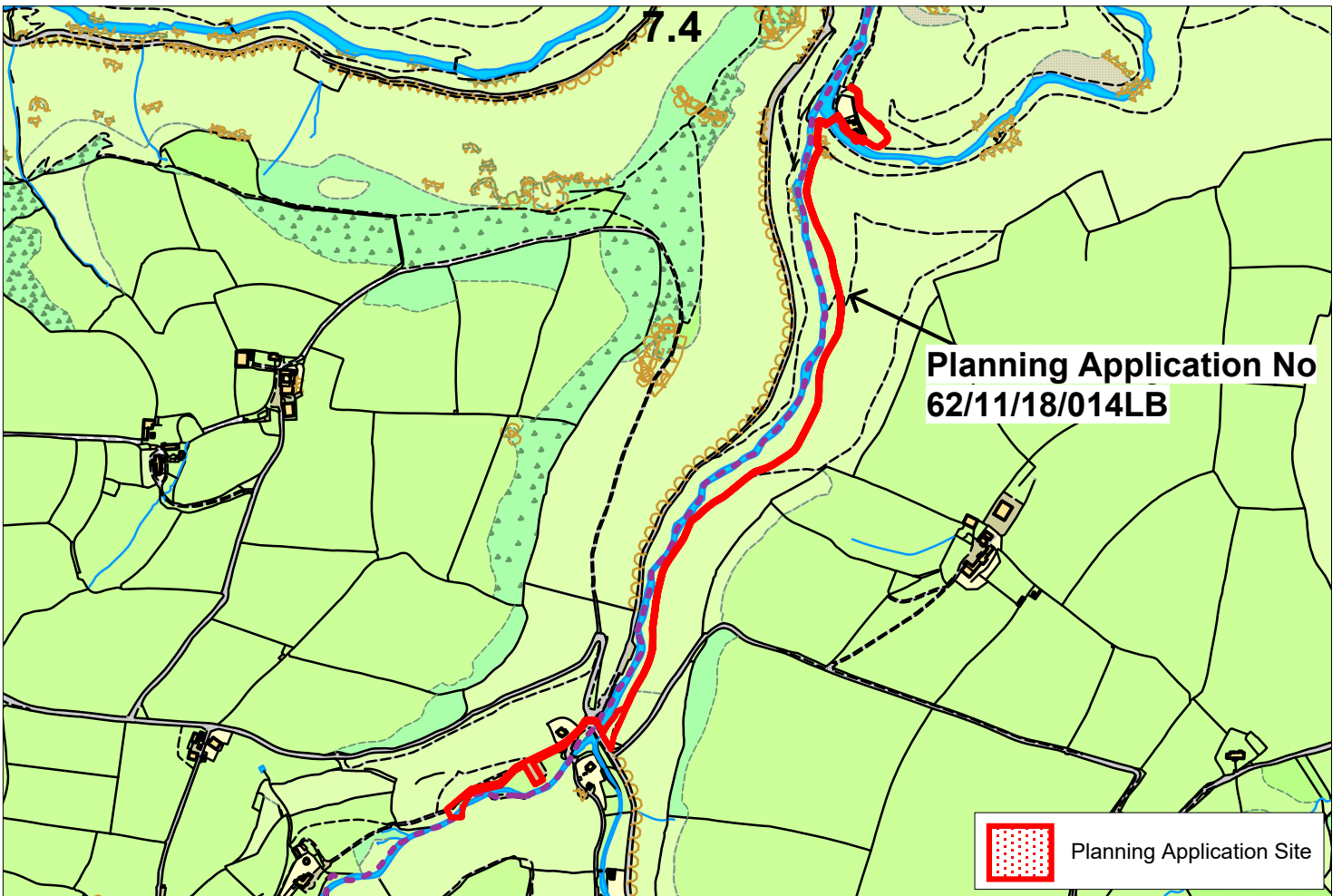
1. Time Limit for Listed Building and Conservation Area Consent
2. Window sections
3. Stone sample panel
4. Timber doors and windows
5. Accord with approved plans

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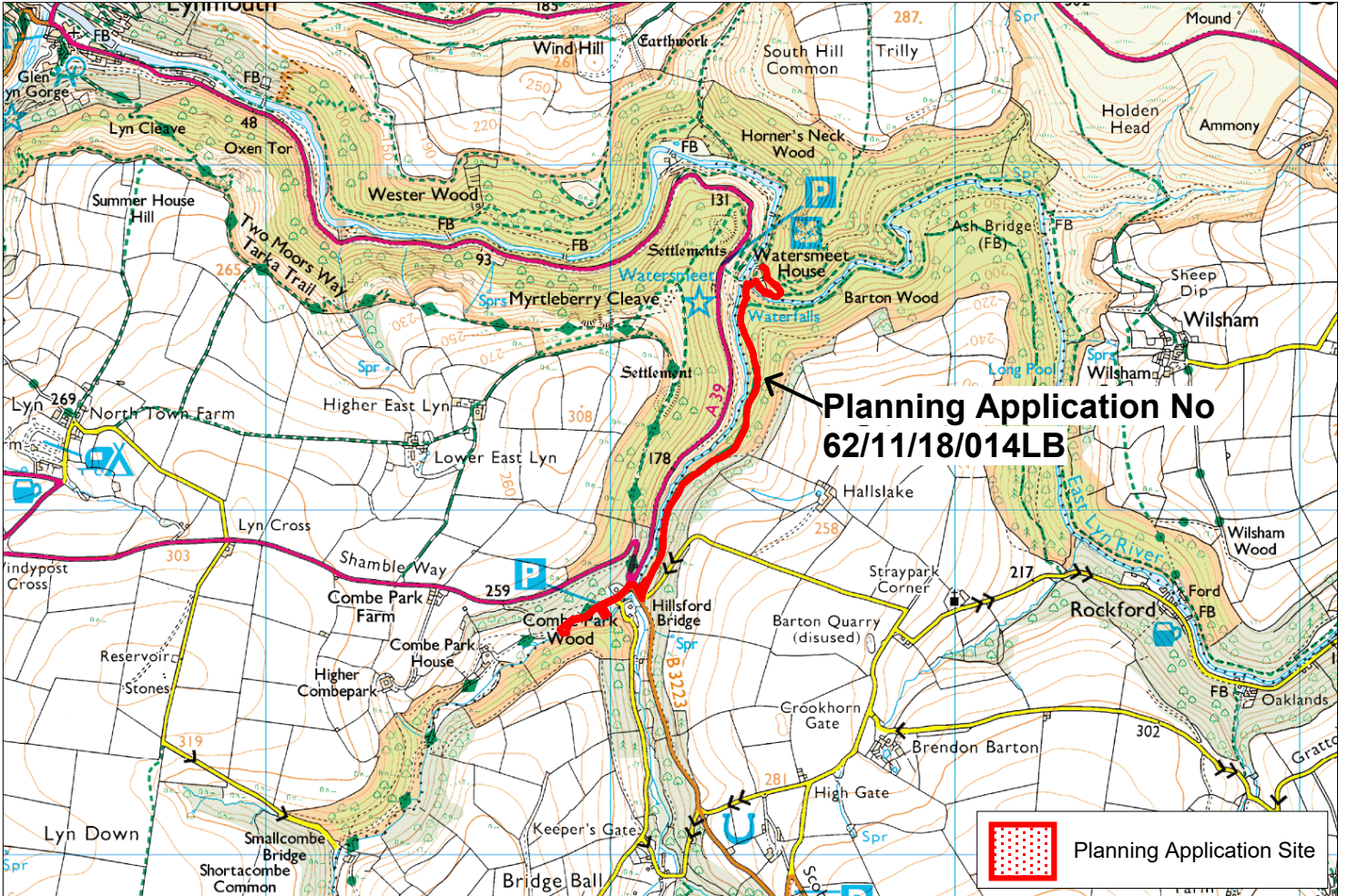
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6. Noise attenuation features
7. no external lighting
  1. To comply with Section 18 (1) of the Planning ( Listed Buildings and Conservation Areas) Act 1990.



Site Map  
1:2500

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Overview Map  
1:20000

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## EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **6/3/19/104**

Grid Ref. 295476 131369

Applicant: Mr R Cowling, Ruglands Farm  
Brompton Regis, Dulverton, Somerset

Location: Combeland, Brompton Regis, Dulverton, Somerset

Proposal: **Resubmission of withdrawn application 6/3/18/104. Proposed demolition of existing agricultural building together with the erection of an agricultural building (389sqm). (Full)**

Introduction: Combeland Farm lies in open countryside to the east of the village of Brompton Regis. The farm group is located to the east of the Pulham Stream, with the land rising steeply to the east.

The farm buildings are accessed from the south, either from the restricted Byway DU 1/33 which adjoins the public highway to the southern end of the village and passes through the ford, or a section of DU 1/33 and bridleway which connects with Kings Brompton Drive to the east. The route that connects from the southern part of the village through the ford and round, past the entrance to the farm to connect with Kings Brompton Drive is known as Trotts Lane.

Officers understand the land at Combeland extends to approximately 110 acres and is run in conjunction with a larger farm holding totalling approximately 1,340 acres of owned farm land. The main farm is based around Ruglands, Brompton Regis, and additionally there is land at Clatworthy, land at Chidgley, and land at Brown Lane and Raleigh Cross. It is understood that the farm unit operates as a traditional sheep and cattle enterprise.

The application is for the demolition of an existing agricultural building and the erection of a replacement. The proposed shed is to be 39.7m long by 9.8m wide and 6m in height at its tallest and 3.8m to eaves. The building is to be clad Yorkshire boarding, corrugated fibre cement roof and metal frame. Also proposed is the removal of a section of hedge/bank on the junction of Trotts Lane and Kingsbrompton Drive. The hedge to be removed will be approximately 2m and is to allow better visibility for agricultural vehicles using this access.

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### **Consultee Response:**

SOMERSET WEST AND TAUNTON COUNCIL: No comment received

SCC - HIGHWAY AUTHORITY: No Observations

BROMPTON REGIS PARISH COUNCIL: Brompton Regis Parish Council agreed that the comments it had submitted on the withdrawn application (May 2018) and the amendment to the application (December 2018) be resubmitted. And these have been emailed to ENPA.

May 2018: Brompton Regis Parish Council has no objection to the application which it considers to be justifiable, in a location, and with a design, that is acceptable. The Parish

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Council is of an opinion that, if approved, the works proposed will improve the visual amenity of the site and area and enable better use of the site by the farm business. With regard to access the Council was assured by the applicant that current arrangements will continue using Trotts Lane as the primary access route to and from the site.

December 2018: At its meeting on 5th December Brompton Regis Parish Council discussed this amended application. Councillors did not consider they could make a decisive comment unless there was clarification on the ownership of the land on which the splay is proposed. Because the splay is at some distance from the site of the original application, Parish Councillors questioned whether an application for the visibility splay should be a separate application rather than an amendment to the original application. It is therefore concluded that, without clarification of landownership and whether a separate application is needed, the BRPC could not make any comments on the amendment.

ECOLOGIST - ENPA: 9th April 2019 - I understand the building, it's condition and the confirmed and likely species for which it supports have not changed since my previous consultation on the 2/1/19 re App: 6/3/18/104. Therefore, please continue with the consultation and recommendations made previously.

No objection subject to appropriate conditions.

ARCHAEOLOGIST - ENPA: No comment received

ENVIRONMENT AGENCY SOUTH WEST: No comment received

HISTORIC BUILDINGS OFFICER - ENPA: No comment received

PUBLIC RIGHTS OF WAY AND ACCESS OFFICER - ENPA: No comment received

WILDLIFE CONSERVATION OFFICER - ENPA: No comment received

LANDSCAPE OFFICER - ENPA: No comment received

#### **Public Response:**

5 letters of objection

#### **RELEVANT HISTORY**

<b>6/3/17/109</b>	<b>Proposed agricultural storage shed covering existing concrete yard (15.25m x 16.8m). As per additional plan and information 20.07.17, additional information 28.07.17.</b>
	<b>Full                      Approved                      08 November 2017</b>
	<b>Same Site</b>
<b>6/3/17/112</b>	<b>Proposed agricultural workers dwelling. Re-submission and amendment of withdrawn application 6/3/17/105</b>
	<b>Full                      Withdrawn                      06 November 2017</b>
	<b>Same Site</b>
<b>6/3/18/104</b>	<b>Proposed demolition of existing agricultural building together with the erection of an agricultural building (389sqm)(Amended description and additional information and plan).</b>
	<b>Full                      Withdrawn                      04 March 2019</b>
	<b>Same Site</b>



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<b>54661/B</b>	<b>Proposed erection of HV &amp; LV overhead lines in Brompton Regis as per attached plan No. 21/40-1045/2A. This replaces previous application dated 28.4.1971 Planning ref 54661/A</b>
	<b>Deemed                      Approved                      17 September 1973</b>
	<b>Same Site</b>
<b>6/3/82/009</b>	<b>Proposed erection of extension to provide additional bedroom to first floor and kitchen, dining room and W.C. to ground floor at Roc Cottage, Brompton Regis, as described in the plans and drawings submitted</b>
	<b>Full                              Approved                              14 September 1982</b>
	<b>Same Site</b>
<b>6/3/07/105</b>	<b>Demolition of existing garage and construction of replacement new garage.</b>
	<b>Full                              Approved                              30 April 2007</b>
	<b>Same Site</b>
<b>6/3/12/103</b>	<b>Proposed replacement garage/storage building and undercover log storage building.</b>
	<b>Full                              Approved                              21 February 2012</b>
	<b>Same Site</b>
<b>8778</b>	<b>Proposed erection of a building, comprising cowstalls and a dairy</b>
	<b>Full                              Approved                              25 April 1950</b>
	<b>Same Site</b>
<b>6/3/17/105</b>	<b>Proposed agricultural workers dwelling. As per additional information dated 16.05.2017.</b>
	<b>Full                              Withdrawn                              18 May 2017</b>
	<b>Same Site</b>
<b>36076</b>	<b>Proposed erection of HV /LV extensions</b>
	<b>Deemed                      Approved                      15 October 1956</b>
	<b>Same Site</b>

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK ADOPTED LOCAL PLAN 2011-2031  
GP1 National Park Purposes and Sustainable Development  
CE-S1 Landscape and Seascape Character  
CE-D1 Protecting Exmoor's Landscape and Seascape  
CE-S3 Biodiversity and Green Infrastructure  
CE-S6 Design and Sustainable Construction Principles  
SE-S4 Agricultural and Forestry Development

The National Planning Policy Framework (NPPF) is also a material planning consideration.

#### **PUBLIC RESPONSES**

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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5 letters of representation have been received raising the following concerns:

- Why at the site meeting with ENP for the application (6/3/17/109) nothing was said for the need of additional buildings?
- What had changed so much, that as soon as the new shed was completed plans are drawn up for a new shed of nearly twice the size and why the need to incorporate these two areas when they were not needed before? Nothing is really mentioned in the application to support this other than it would look visually better.
- Given the vast under use of the sheds for livestock at Combeland and alleged change of use at Ruglands, I cannot see any agricultural justification for any further development at this site, and the continual erosion of the countryside.
- The applicant also has a proposal to destroy part of a hedgerow at the junction of King's Brompton Drive and Trotts Lane. No reason is given for the destruction of the hedgerow or how this proposal ties into this application, in fact it is hard to see given the distance from the proposed site how it forms part of this application.
- I am also concerned now once again for my own property (my land along Trotts Lane to the road). I mentioned the use of Trotts Lane through the ford to the main road in planning application 6/3/17/105 dated 9 March 2017. I said about the impact of increased vehicle use from the farm and the damage that this was now causing. Since then I have not had any further encroachment/erosion on my land until this week by one of the applicant's vehicles towing a trailer.
- The planning Authority have the power to decline to accept an application why hasn't this been invoked?
- Policy CC-S7 requires the applicant to demonstrate that there will be no unacceptable adverse impacts on the environment from agricultural slurry/by-products. The application currently provides no provision for this.
- The application for the hedge/bank removal is in a materially different location and therefore should be considered under a separate planning application.
- Lack of evidence regarding ownership of hedge/bank.
- Parish Council state that any traffic movement must be via the site's primary access, via the highway and ford to the south, no amendments have been included.
- Why was replacement of the barn not considered during the original proposal for the adjoining barn.
- Applicant is seeking to artificially increase the buildings on the site to create the need for further development.
- The correct paperwork hasn't been presented to neighbours as I have not received any formal notification from your planners regarding the proposals.
- Why not refurbish or replace the existing agricultural building.

#### **Observations:**

#### OBSERVATIONS

The main planning considerations in this instance are considered to be; design, scale and materials, ecological impact and the impact on the landscape character.

#### PRINCIPLE OF DEVELOPMENT

Policy SE-S4 of the Exmoor National Park Local Plan 2011 – 2031 is the enabling policy for agricultural development. The policy states that permission will be granted for new or replacement buildings, tracks and structures or extensions required for agriculture or

forestry purposes where:

- a) it can be demonstrated there is a functional need for the extension, building, structure or track and its size and scale is commensurate with the demonstrated need;
- b) the building, track or structure is designed for the purposes of agriculture or forestry;
- c) in the case of new buildings, the site is related physically and functionally to existing buildings associated with the business;
- d) buildings, tracks or structures are sited appropriately in the context of local topography and of an appropriate design that responds to and reinforces landscape character in terms of size, scale, massing, layout, external appearance and materials – if a landscaping scheme is required it should be in accordance with Policy CE-D1;
- e) proposals do not generate a level of activity or otherwise detrimentally affect the amenity of surrounding properties and occupiers including through loss of daylight, overbearing appearance, or conflict with neighbouring land uses;
- f) appropriate measures are taken to ensure proposals do not, including through the level of activity, have an adverse impact on biodiversity and cultural heritage (in accordance with Policies CE-S3 and CE-S4) or cause other unacceptable environmental impacts; and
- g) it can be demonstrated that opportunities have been taken for:
  - i) the integration of passive design and sustainable construction methods to improve energy efficiency;
  - ii) the integration of appropriate renewable energy technologies to reduce carbon emissions in accordance with Policy CC-S5; and
  - iii) minimising surface water run-off to avoid impacts on water quality (Policy CC-D1).

The proposed development would see a replacement building erected on the application site. The existing building is single storey and is currently partly still in use, although the applicant states that the building is in a poor state of repair. Information submitted by the applicant sets out that the new building would provide a covered loafing/handling yard and internal space to provide greater capacity for additional cattle to be overwintered and to provide additional capacity for the storage of fodder and storage for straw.

There have been a number of letters of representation raising concerns regarding the lack of justification for the additional building. The letters state that the number of cattle stored within the existing building is less than previously stated and that the need was not raised previously when applications in 2017 were considered. Your officers have given careful consideration to the information submitted and the comments made by residents, it is clear that the building will be used to increase capacity within the holding. The additional space would rationalise the existing arrangement on the site and would allow for the existing farm operation to be managed more effectively. Your officers considered that suitable justification has been given for the building. The proposal is therefore considered to comply with policy SE-S4 of the Exmoor Local Plan.

The proposed barn is to be sited immediately adjoining a recently erected barn on the same yard level. The barn is judged to be of a size suitable for its storage and livestock use and practical in terms of assisting with the proposed farming activity. While it is acknowledged that the increase in the number of cattle has not been specified the applicant has set out how the farming practices would be improved by the provision of a modern agricultural building. It seems reasonable to believe that if the applicant invests in the new building it will be related to this 110 acre section of the holding. It is also considered reasonable that the agricultural building, together with the other buildings are

reasonable required to serve this land.

To conclude on this issue there is a cogent farming case that the barn is required in association with the applicants intended improvements to the agricultural business practices and in any case the provision of this barn in conjunction with the other main barn is reasonable for the size of the holding. Therefore the proposal is considered to comply with policy.

### LANDSCAPE AND VISUAL IMPACT

Policy CE-S1 states that proposals that conserve, enhance and restore important landscapes will be encouraged. Furthermore, policy CE-D1 sets out the need to demonstrate that the proposal will be compatible with the conservation and enhancement of Exmoor's landscape.

The barn is proposed adjoining the existing barn and is of similar proportions, height and bulk to this existing building. The building is to be constructed from the same yard level as the existing building. While the overall bulk of the buildings on this site will be increased by the present application, the proposed building will be grouped together and will maintain the agricultural appearance of the farmstead. It is therefore concluded that the landscape impact of the additional barn is acceptable.

The Yorkshire boarded elevations and cement fibre roof are typical materials for an Exmoor barn and are considered satisfactory in this location.

The application also proposes the removal of a section of hedge on the junction between Trotts Lane and Kingsbrompton Drive. The area of the hedge and bank to be removed totals approximately a length of 2m. The applicants have suggested that the removal of the bank is necessary to aid visibility when leaving Trotts Lane onto Kingsbrompton Drive. Policy CE-S1 sets out that development proposals should have regard to, and be appropriate in terms of impact with the conservation of significant landscape attributes, including historic field patterns and boundary features. The hedge and bank to be removed does appear to form part of an historic field boundary line. The removal of the hedgerow is approximately 2m is considered minor and is unlikely to have significant adverse impact on the landscape character. The highway Authority have not sought to condition the removal of the hedge for visibility purposes and your officers do not consider that the removal of the hedge is necessary to make the planning application acceptable. The applicant has been invited to withdraw the removal of the hedge from the application but this has not been forthcoming. Therefore, your officers have considered this element of the application on what landscape harm the proposal will cause. As stated earlier in the report the removal of the hedge is not considered to have a significant or demonstrable adverse impact. Comments are awaited from the Authority's Senior Landscape Officer & Archaeologist and these will be reported to the committee. Your officers consider it appropriate that any removal of the hedge or bank should take place outside of the bird nest/breeding season. The removal of the hedge will retain a mature hedge and bank behind and therefore your officers do not believe that this element of the application, subject to the comments of the landscape & archaeological officer, would direct officers to refuse the application.

Overall, your officers consider that the proposed development will have an acceptable

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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impact upon the character and appearance of the Landscape and will accord with policies CE-S1 & CE-D1 of the local plan.

#### DESIGN, SCALE AND MATERIALS

Policies GP1 and CE-S6 of the Local Plan, complementing the form, character and setting of the original building and the local context, it being appropriate in terms of scale and massing and it not constituting a disproportionate addition that would lead to over development of the site.

The proposed development seeks the erection of an agricultural building, the building will be clad in timber boarding with a fibre cement roof. These materials are consistent with those used on the existing agricultural building already erected on the site. These materials are prominent within the areas and are considered acceptable.

The overall design and scale of the development are comparable to that of the adjoining buildings and visually appears a utilitarian building meeting the agricultural needs of the applicant.

Concerns have been raised regarding the scale of the development. However, these comments have been given in relation to how the proposed development relates to the existing agricultural holding. When viewed in the context of the existing building on the site the proposal is considered to be compatible with the site and its surroundings.

The design, scale and materials of the development are considered to comply with policies GP1, CE-S6, CE-D4, HC-D15 and HC-D16 of the Local Plan.

#### OTHER CONSIDERATIONS

##### Biodiversity and European Protected Species

Relevant legislation includes the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and the Conservation of Habitats and Species Regulations (2010) and the EU Habitats Directive. Local planning authorities have a legal obligation to consider whether European protected species are likely to be affected by a proposed development.

The Natural Environment and Rural Communities Act 2006 requires that “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.” Further, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010), Regulation 9(5) provides that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. A Local Planning Authority is a competent authority for the purpose of these regulations and is exercising a function in deciding whether or not to grant a planning permission.

Policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan seek to protect protected species and their habitats.

The application was submitted with a bat and bird survey, which confirmed that the site did not adjoin or overlap any designated sites. The report concluded that the surrounding area had moderate potential for commuting and foraging bats; the topography and habitat are likely to channel bat activity past the barn. This initial report recommended that further

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dusk and dawn surveys. The need for these further surveys was supported by the Authority's Wildlife officer.

A further bat survey was submitted which set out the results from the further surveys, and a method statement for a bat mitigation class licence. Three roost surveys and an automated bat detector survey were carried out in 2018. The dairy was confirmed to be used as a day roost by a small number of three species of bat: common pipistrelle (5), soprano pipistrelle (3) and brown long-eared (2). These species roost in crevices between wall tops and roof covering of gable and partition walls along with the ridge. It was also concluded that roost features present would not provide the conditions of stable temperature and high humidity necessary for hibernation. The author of the report concludes that a bat 'low impact' class licence must be obtained prior to the start of the development.

The mitigation proposed includes a toolbox talk to contractors by a registered consultant if required and a watching brief during any stage of the work where roost sites are uncovered or dismantled. Furthermore, two bat boxes are to be erected on the existing modern building. Further mitigation includes the ceasing of works immediately and the contacting a registered consultant in the event that bats are discovered.

Further compensation has been recommended that three bat boxes should be fixed to the proposed agricultural building.

The Wildlife officers has reviewed the bat survey and comments and has raised no objection subject to a number of conditions to mitigate any harm caused by the development.

#### Derogation tests

As bat habitat will be lost or damaged and with further possibility of disturbance to bats it is considered necessary to assess the application against the Conservation of Habitats and Species Regulations 2010 and the derogation tests, in accordance with Regulation 53 pursuant to the likelihood of a Protected Species licence being granted by Natural England, and taking into account the Guidance Note: "European Protected Species and the Planning Process Natural England's Application of the 'Three Tests' to Licence Applications".

The 3 tests are:

- Regulation 53(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".
- Regulation 53(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".
- Regulation 53(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".

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With regards to the first test, it is considered that there is an overriding public interest in providing a modern agricultural building, allowing the more efficient and effective agricultural practices to take place.

In the case of test 2, it is often difficult to demonstrate that no satisfactory alternative exists for a site of this scale. In this particular case, the applicant has set out why this site is considered appropriate. In planning terms a new isolated agricultural build, leaving the existing building in place would be contrary to the local plan and therefore not acceptable. Using an existing building or erecting a further building at the applicants alternative farm holding also is not considered to be appropriate for the functions of the holding in question.

For test 3, having regard to the application and the survey work, assessment and significant mitigation, your officers are satisfied in this case that the development will not be detrimental to the maintenance of the population of European Protected Species potentially affected, at a favourable conservation status in their natural range.

The proposals would not give rise to unacceptable adverse impacts on the ecological and biodiversity interest of the site and will result in considerable enhancements. In accordance with Policy GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan and paragraph 175 of the Framework.

Highways at Somerset County Council have no observations regarding the proposal. No changes are proposed to the existing access to the property from public highway. The proposal is therefore not considered to impact highway safety.

Land ownership has also been raised. Certificate B & C has been served with the application due to the applicant not owning Trotts Lane or Kingsbrompton Drive. The applicant has stated that they have a right of access across Kingsbrompton Drive and it is this which is being contested. Your officers have attempted to seek clarification on this matter and the third party has provided evidence they believe shows that there is no right to cross the drive by the applicant. Your officers have no reason to dispute this evidence however, this is not a material consideration to the merits of the application and is a civil matter between the two parties. The ownership of the hedge along Trotts Lane has also been question, but again, this is not a material consideration. The appropriate certificates have been submitted and the application should be considered on its merits.

#### CONCLUSION

For the reasons outlined above, the development is considered acceptable and in accordance with the relevant development plan policies. The application is, therefore, recommended for approval subject to the following conditions:

#### **Recommendation:**

#### **Approve subject to the following conditions**

1. 1 Time limit for commencement of development (3 years)
2. Prior to the commencement of works on site a copy of the European protected species licence shall be submitted to the Local Planning Authority.
3. 144 Lighting

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4. No demolition works to the shipham/diary or to removal the hedge/bank hereby approved shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the farm house for active birds' nests immediately before works proceed and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

As an enhancement and compensation measure, and in accordance with National Planning Policy Framework (NPPF):

2 x RSPB open fronted wren nesting box will be installed at a height above 3m on the northern or eastern elevation of the new barn.

- Installation of 2x passerine bird nest boxes on the northern or eastern elevation mature trees on the eastern or western boundary of the site, at a height above 3 metres.

5. Notwithstanding The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any other order amending or re-enacting that Order, or the definition of agriculture or horticultural defined under Section 336 of the Town & Country Planning Act 1990, the building hereby permitted shall only be used for agricultural storage of equipment, feed and bedding and for no other purpose, including the housing of livestock.
6. Where the development hereby approved ceases to be used for the purposes applied for within ten years from the date of this permission, and planning permission has not been granted authorising development for purposes other than those set out under the above condition, within three years of the permanent cessation of the authorised uses, and there is no outstanding appeal, the development shall be removed unless the Local Planning Authority has otherwise previously agreed in writing.
7. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match with those used in the adjoining agricultural building.
8. Prior to the erection of the proposed agricultural building details of the drainage system for foul and rainwater shall be submitted to and agreed in writing by the local planning Authority. Once approved works shall commence in accordance with these approved details.
  1. In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990, (as amended by the Planning & Compulsory Purchase Act 2004).
  2. In the interests of the strict protection afforded to European protected species and to comply with policy CE-S3 of the Local Plan.
  3. To protect the amenities of the locality, including the



amenities of neighbouring residential properties.

4. Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period – some species can breed outside the time frame given. To ensure the propo
5. To ensure a satisfactory standard of development in the interests of complying with planning policies and the visual amenities of the area.
6. To ensure that the development hereby permitted is used solely for the purposes of proposed in the application thereby protecting the amenities of the area, including the water course, neighbours, highway users and highway safety.
7. To ensure that the development hereby permitted is used solely for the purposes of proposed in the application thereby protecting the amenities of the area, including the neighbours and wider landscape.
8. Reason: To ensure that the site is drained so that foul drainage does not enter into the local watercourse.

### Notes to Applicant:

#### PRESENCE OF BATS

The applicant is advised that under the Wildlife and Countryside Act 1981 it is an offence to kill or injure bats, to disturb them when roosting, to destroy roosts or to block entrances to roosts. It is strongly recommended that an investigation is undertaken by a licensed bat worker prior to any demolition or refurbishment works being carried out, to ensure that no bats are present in the existing buildings.

If evidence of the presence of bats is found, advice should be sought immediately from Natural England on steps which can be taken to avoid contravention of the above Act.

Furthermore, if bats or a bat roost is identified a licence under the Conservation (Natural Habitats) Regulations 1994 is likely to be required before works can commence. The applicant is strongly advised to take specialist advice if bats or a bat roost may be present and that the contact for applying for a licence is the Licensing Officer, European Wildlife Division, Department of Environment Food and Rural Affairs, Room 1/08, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB (0117 372 8903).

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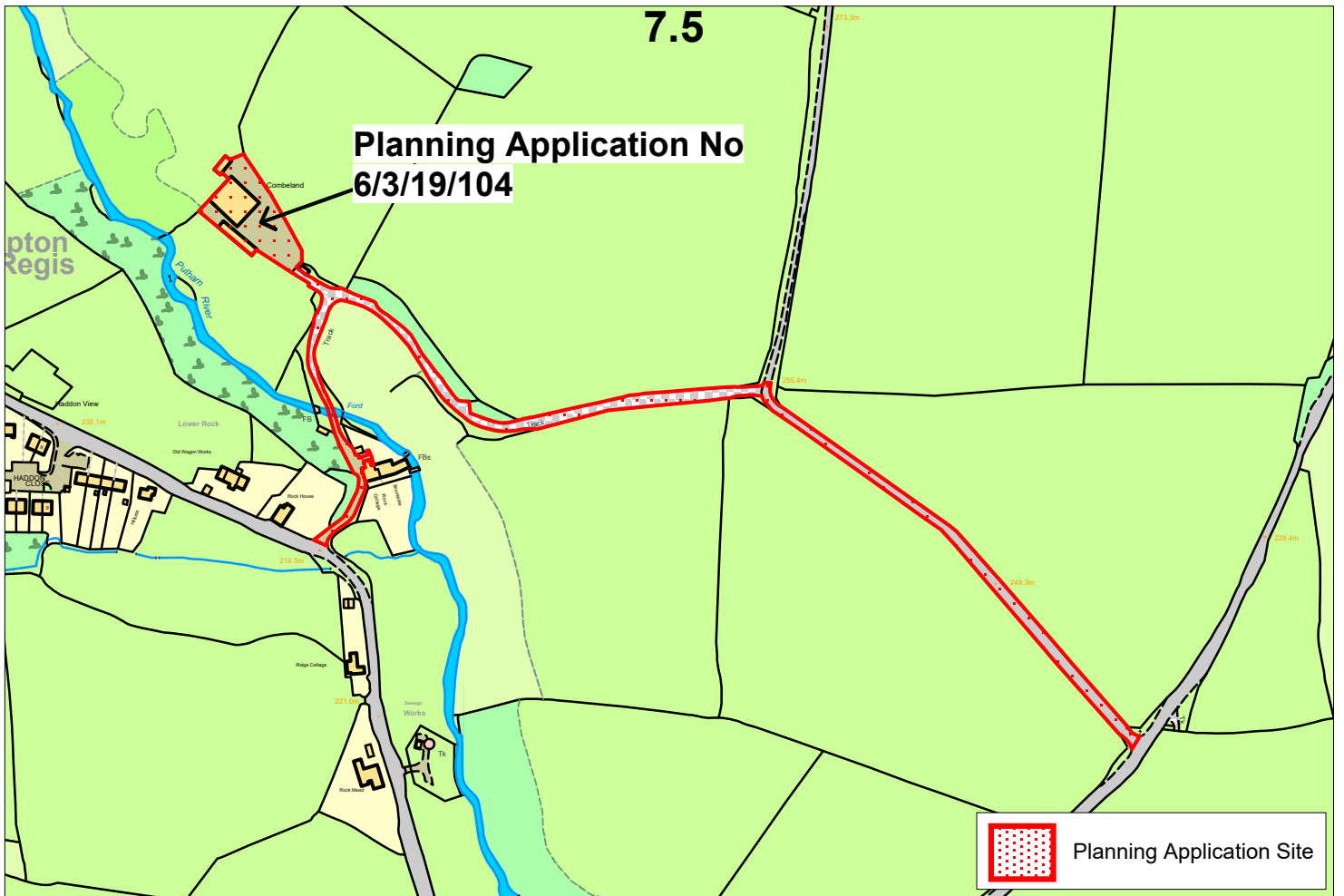
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#### MONITORING OF DEVELOPMENT

The applicant/developer is reminded that it is their responsibility to ensure that the requirements of each planning condition are met and that the works are undertaken in accordance with the approved plans. Any failure to meet the terms of a planning condition or work which does not accord with the approved plans leaves the applicant/developer liable to formal action being taken. The National Park Authority endeavours to monitor on site the compliance with conditions and building works. This has benefits for applicants and developers as well as the National Park. To assist with this monitoring of development the applicant/developer is requested to give at least fourteen days notice of the commencement of development to ensure that effective monitoring can be undertaken. The Planning Section can be contacted at Exmoor National Park Authority, Exmoor House, Dulverton, Somerset, TA22 9HL or by telephone on 01398 323665 or by email [plan@exmoor-nationalpark.gov.uk](mailto:plan@exmoor-nationalpark.gov.uk).

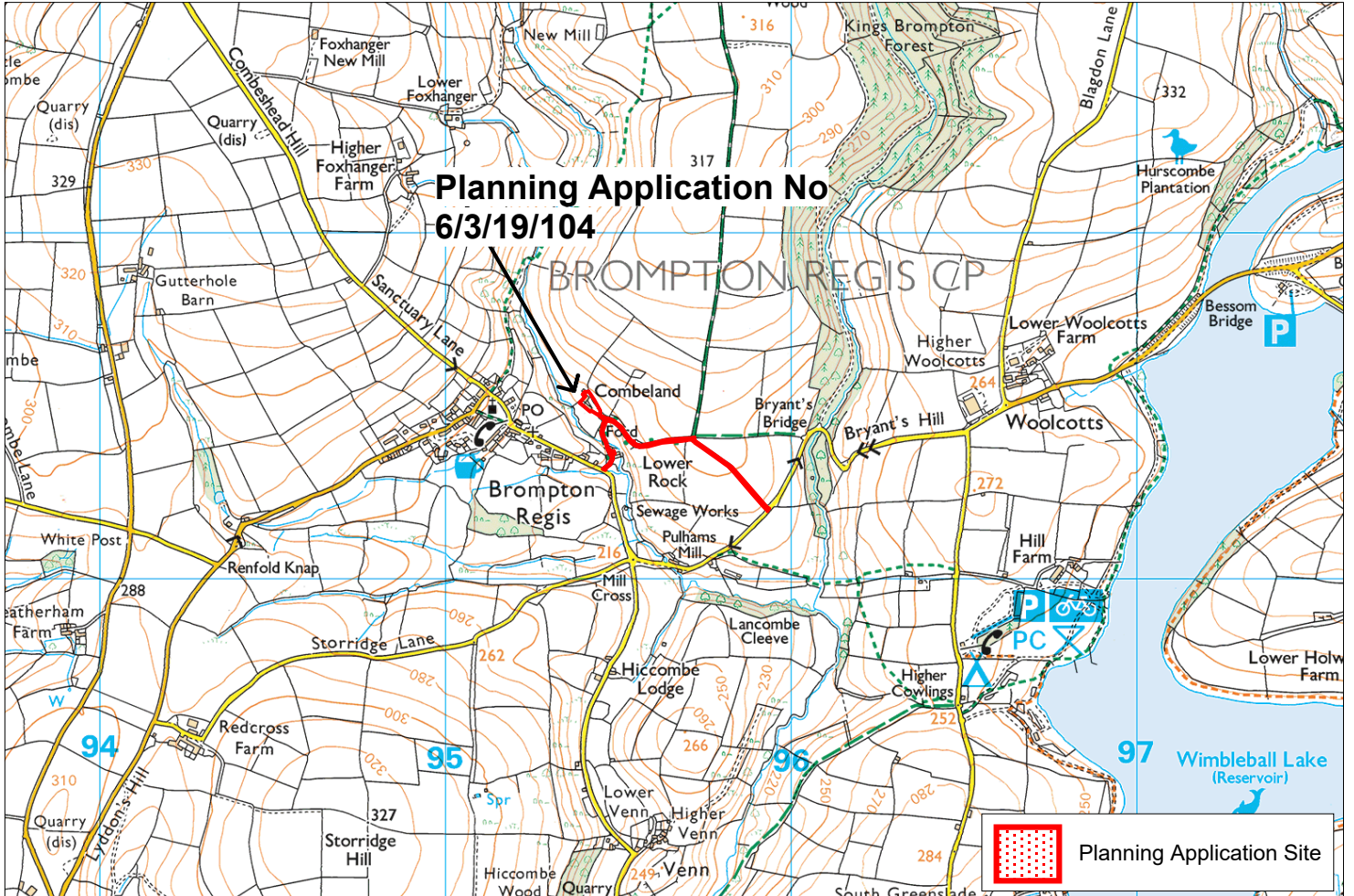
#### SILAGE/SLURRY DISPOSAL (ENVIRONMENT AGENCY NOTE)

The disposal of silage and / or slurry must be undertaken in accordance with the 2009 edition of the DEFRA "Code of Good Agricultural Practice for the Protection of Water, Soil and Air." No farm effluent or contaminated surface water, including wash down water, shall be discharged into any watercourses or water sources.



Site Map  
1:2500

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Overview Map  
1:20000

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Application No: **6/27/18/117**

Grid Ref. 288461 146670

Applicant: Mr J Tout, Tout Ltd, C/O WaLsingham Planning Ltd  
1 Gas Ferry Road, Bristol,

Location: Former Porlock Abattoir, Porlock Hill Road, Porlock, Somerset

Proposal: **Outline application for proposed demolition of existing buildings and construction of up to 11 new dwellings to include road and drainage infrastructure, parking and landscaping. Provision of bat roost building. All matters reserved except means of access to the site. As per additional information. (Outline)**

Introduction: The application is before the Authority Committee as the Chief Executive, together with the Head of Planning and Sustainable Development consider the due to the scale and nature of the proposed development the application should be considered by the Committee.

The application site is located within the settlement of Porlock, and has been previously used as an abattoir and is therefore considered a brown field site. Located towards the southern edge of the village the site is accessed from the A39 which is the main throughfare through the village. The existing access slopes steeply into the site with existing residential properties and a public house located close to the entrance of the application site. Further residential properties bound the west and east elevations with mature hedging and trees partially screening the application from these residential properties. There are also existing buildings on the site; these are located to the eastern boundary towards the northern and western edge of the site. The existing buildings are pitched roof, of an industrial appearance, with corrugated roofs and rendered or block walls. To the southern end, the site opens to a large concrete yard area, with fencing and mature hedging screening from surrounding areas. The extreme southern part of the site is currently an area of semi-improved grassland.

The application seeks the demolition of all buildings on the site and the erection of up to 11 dwellings. This application is in Outline form with all matters reserved with the exception of access. An indicative site layout plan has been submitted showing how 11 dwellings could be situated throughout the site together with the necessary parking, access, landscaping. The proposal also includes the erection of a bat roosting building, which is to shown to the southern end of the site.

The access to the site is proposed to be served from the existing access, no formal pedestrian access is proposed with the exception of a potential access along the eastern edge of the site.

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### **Consultee Response:**

SCC - HIGHWAY AUTHORITY: 26/03/19 - Further Consideration

NATURAL ENGLAND: 15/03/19 - Natural England does not object to the proposed development subject to the mitigation identified in the Habitats Regulations Assessment (HRA) being secured. The evidence gathered shows that the site is well used by

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Barbastelle bats that are a qualifying feature of the Exmoor and Quantocks Oak Woodlands Special Area of Conservation (SAC) and also well used by other rare bat species including greater horseshoe. In reaching our view we have considered both the effectiveness of mitigation measures identified and their deliverability, particularly in relation to the need to maintain dark areas for bat foraging and commuting. Protected landscapes In terms of effects on protected landscapes we would expect your Authority to give great weight to the need to conserve and enhance the Exmoor National Park, regardless of whether the proposal is judged to be a 'major development' or not, and to apply the relevant national and local planning policy.

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a decision checklist which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development.

SOMERSET COUNTY COUNCIL - LLFA: 20/12/18 - Objection as there looks to be a steep catchment area to south of the site which would potentially drain towards and through plots P6, P7, P8 onwards to the road on the northern boundary, and this doesn't seem to have been taken into consideration in the scheme.

SOMERSET WEST AND TAUNTON COUNCIL: No comment received

SCC - HIGHWAY AUTHORITY: 22/01/19 - On balance of the above, the Highway Authority are not currently in a position to make a recommendation at this stage without the necessary detail to assess the application further. Therefore, it is recommended that the applicant provide additional information on the following:

- Suitable speed survey data to justify that the access can accommodate the proposed development and be compliant with the NPPF.
- A swept Path analysis of the largest associated vehicle that will utilise the proposed access point (1:200 scale required), demonstrating that such a vehicle can access and egress (in forward gear) the proposed development.
- Full detail (including demonstrating how data was calculated) on the likely daily vehicle movements that the extant B2 use of the site would generate based on the classification of the site and the current GFA.
- Further detail on pedestrian/NMU movements to and from the development site that can be considered as suitable.

ARCHAEOLOGIST - ENPA: No comment received

HISTORIC BUILDINGS OFFICER - ENPA: 14/01/19 - The proposed development area lies outside of Porlock Conservation Area but it is within the historic settlement boundary. Porlock has a long history with the settlement first recorded as Portloca in the 9th century. It has a range of architectural styles and forms with buildings mainly dating from the 17th and 18th century's, many of which have undergone significant 19th and 20th century alteration. The development plot is located to the south and west of the village core. The site is long and thin, the boundary is still partially recognisable from the 1839 tithe map, its shape could suggest the plot was once a mediaeval burghage plot. On the north-east extent of the proposed development area, the HER also records the possible site of a postmedieval tannery. Given the position of the plot there would need to be thorough archaeological assessment of the site before and during the works.

Although the site is reasonably well shielded from view within the core of the village the

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site is elevated and will be seen from the wider landscape. I would be concerned that the scale of the development, in particular the scale of the houses to the south of the plot, (plots P6-P11), could have a harmful impact on wider views into the village that could detract from the key buildings, in particular the Church. The scale and grouping of these buildings is not something that is currently seen elsewhere in the settlement and so the scale and layout of the buildings in this plot requires careful consideration.

ECOLOGIST - ENPA: 29/01/19 - No objection subject to conditions

PORLOCK PARISH COUNCIL: 12/01/19 - Porlock Parish Council support the above planning application in principle with the following caveats below:

1. The Council note that there is an Enforcement Notice ENF/0151/13 dated 12th February 2014 on the Greenfield land at the end of the site. It recommends that all the natural features be retained such as boundary hedges, existing trees etc...
2. It was confirmed at the Public Consultation that instead of 5 affordable homes as previously agreed it is now to be 3. The Parish Council would like this number to be increased if possible, in order to provide more opportunities for low income families and would also like a wider range of Social Housing to be considered including Self Build.
3. The safety of the entrance is a paramount concern among the residents, visibility is compromised for the increased number of vehicles entering and exiting the site.

Over a number of years the Parish Council have called for improved traffic management in this area as there have been a number of accidents reported. Improvements to signage and speed restrictions would mitigate to some extent the inadequate entrance to the site.

ENVIRONMENT AGENCY SOUTH WEST: 18/12/18 - We have no objection to the development subject to a condition being included on any permission granted relating to groundwater protection.

SOMERSET COUNTY COUNCIL - LLFA: 13/02/19 - We have no objection to the application, in principle, subject to conditions.

WESSEX WATER AUTHORITY: 29/01/19 - Foul Strategy is Acceptable as well as the point of connection.

Additional information required regarding investigation of infiltration, separating foul and surface water.

WSC ENVIRONMENTAL HEALTH: 10/12/18 - No objection subject to planning condition

#### **Public Response:**

2 letters of objection 12 other letters

Consultation Responses

In total 15 letters of representation was received, these can be summarised as follows:

Access

- Site has long history relating to its unsuitability regarding visibility, safety and increased number of vehicles.
- Historic objections from Somerset County Council Highway Authority
- Number of non-injury accidents known at the access to the application site.

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- Low predicted vehicle movements
- The virtually 'blind corner' is our greatest concern.
- To mitigate highway safety issues consideration could be given to a 4 way light system near the junction.
- Pedestrian safety is a concern, particularly in the Summer months.
- Given the already limited access and tight turning space we feel that the new properties will massively disrupt our parking and House access. We already have two cars and with potentially 22 other cars coming in with all the trucks and lorries coming for the building is unrealistic with the current road. Please do not allow this permission.

#### Land Use

Proposal intends to extend into approx. 0.4 hectares of Agricultural Land. These proposals appear not to disclose that an Enforcement Notice ENF 0151/13 dated 12/2/2014 was served on the site, Building a large 4 & 5 bedroom houses together with double garages hard standings for cars roads and footpaths on Agricultural Land is not compatible nor does it Conserve or Enhance Landscape or the Scenic Beauty.

#### Over Bearing

As the owner of The Bungalow I object to the Proposals to build 4 & 5 bedroom houses to the south of my property. As the build site will be on rising ground I estimate the ridge height of the property on plot No.9 to be approx. 12.7 mts. (41feet) above my ground level. Plot 10 will be at about the same but with plots 6,7 and 8 being much higher.

#### Ground Disturbance

Due to the large ground engineering works required to excavate the hillside to accommodate house and garage footings, roads, pathways, drainage/sewage pipes plus large holding tanks, I have grave concern that the natural underground and surface water table will be irretrievably disturbed.

#### Flooding/drainage

- Due to illegal construction and use of the elevated agricultural land as a hard standing for vehicles etc. Compaction caused storm water to run off the hard standing and cascade down hill and engulf The Bungalow. Mud,silt and water blocked the drains, rose to within millimetres of the back door before entering the footings and under the floor boards, at the same time continuing into the back gardens of houses on the High Street and onward down the private driveway and on to the High Street. The very same could happen again if safeguards are not in place should planning be passed.
- I think it also very important that the village should know how the water runoff from any site can be managed and whether the existing drainage and sewage systems will be able to cope with the additional volumes that come off developed areas. Should they prove inadequate the risk to the low-lying properties on the Visitor Centre side of the road are serious. I believe that before this application should be considered or any future application be submitted that Wessex Water and even independent experts should be required to report on the potential impact to the village.



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• In this area we are acutely aware of flood risk and so drainage from this site, both in terms of natural rainwater run-off and also sewage disposal is a concern. There has in the past, been a flood problem caused by abnormal run-off possibly exacerbated by the illegal hard standings on the south of the site.

#### Demolition

I have concerns that relate to vibration, noise, dust, air pollution from gases in refrigeration units, pollution from polystyrene insulation in walls and roofs, un earthing animal wastes and the likes, untold large lorries needed to remove tons of concrete and waste thus putting pressure on unsuitable roads and exit and entry point.

#### Property and Structural Damage

Safeguards should be in place to protect nearby properties in physical and financial terms.

#### Other Comments

- Increase demand on Doctors, Schools, Electricity Supply, Sewage.
- Used as Second Homes, used as Holiday Lets.
- Night Time Light Pollution, Limit the Working Day both Demolition and Build (7 00am to 6 00pm Mon to Fri 7 00am to 4 00pm Sat).
- Affordable housing in the village supports school numbers and therefore the long term sustainable of the school. Whenever such housing has been built in the village we have had an increase in numbers (Riverside Row and Chadwyck Court).
- We have had an access gate at the top of our land for that four years and according to many locals the access gate has been there for in excess of 20 years to their knowledge. In the proposed application a house will be built.
- Blocking my access and so I will not be able to have our gardening contractors come onto our land to keep it tidy and so it will revert back to an overgrown state.
- Should the work go ahead I have concerns as to the groundwork itself, clearly with such a steep site the work will be extensive, this is going to generate a lot of mud and if it rains the potential for mud running off the hill and down into the main road is a serious problem for the village.
- I think it is very cynical of the developers to submit their application during the Christmas period, it seems to me that it is an attempt to sneak this through during a period when people are distracted by Christmas.
- While we would welcome the removal of the abattoir buildings we are very worried about the process of clearing the toxic waste, animal remains, heavy metals etc. from the site, and the risk of wider pollution (ie: of the water table etc). Given the long standing dereliction and decay of these buildings, and in order to prevent leaching, the sooner this site is cleaned up the better. This will be a long, noisy and dusty operation involving very many large lorry movements.
- The outline plan appears to have been taken from the same drawing as the original consultation document, so the errors persist, eg: line of border and extent of site. We would object to any removal or undermining of the old high stone walls, and note that the misconceived idea of a pedestrian access through the wall into our drive has now been dropped.
- At present, this proposal does not adequately address the (perceived) need for affordable housing. Six of the proposed houses are very large, beyond the means of most local

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people. Houses of this size will attract London prices as second homes, and push up the cost of local housing even further.

• In regards to Employment Land Review report submitted, I wish to state on record that there was in fact serious interest from a prospective buyer to use this site for industrial use. We at West Country Blacksmiths made an offer to buy this property 2 days before the auction & had planned to convert the existing building into a main workshop with the view to expand our business which would have included employing & training more local people. We also planned to create smaller working areas for other small local business in the 'old stock pen area.' Unfortunately we were told that this site would not be sold

#### RELEVANT HISTORY

<b>6/27/03/105</b>	<b>Outline for the erection of two dwellings and garages, following relocation of abattoir.</b>	<b>Outline</b>	<b>Withdrawn</b>	<b>07 March 2005</b>
	<b>Same Site</b>			
<b>6/27/96/123</b>	<b>Proposed extension to abattoir to form larger chiller, staff changing and livestock pens, Rear of Holmdale, High Street, Porlock, as described in the plans and drawings submitted</b>	<b>Full</b>	<b>Approved</b>	<b>01 April 1997</b>
	<b>Same Site</b>			
<b>6/27/98/122</b>	<b>Proposed alterations and extension to abattoir, including erection of fuel tanks and floodlighting (part retrospective), The Abattoir, High Street, Porlock, as described in the plans and drawings submitted</b>	<b>Full</b>	<b>Approved</b>	<b>03 November 1998</b>
	<b>Same Site</b>			
<b>6/27/98/126</b>	<b>Proposed development and regularisation of turning area for large vehicles associated with the abattoir, The Abattoir, Rear of Holmdale, High Street, Porlock, as described in the plans and drawings submitted and additional plan received 19 January 1999</b>	<b>Full</b>	<b>Approved</b>	<b>02 February 1999</b>
	<b>Same Site</b>			
<b>6/27/99/134</b>	<b>Variation of condition to enable lorry parking in previously approved turning area</b>	<b>Full</b>	<b>Approved</b>	<b>07 December 1999</b>
	<b>Same Site</b>			
<b>6/27/97/122</b>	<b>Proposed extension to abattoir service rooms in addition to approved scheme, The Abattoir, R/O Holmdale, High Street, Porlock, as described in the plans and drawings submitted</b>	<b>Full</b>	<b>Approved</b>	<b>05 September 1997</b>
	<b>Same Site</b>			
<b>75612</b>	<b>Proposed development for residential purposes of land at the rear of Homedale, High Street, Porlock, as described in the plan</b>	<b>Outline</b>	<b>Refused</b>	<b>05 April 1973</b>

Outline

Refused

05 April 1973

Same Site

**Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN (2011-2031)

GP1 General Policy: National Park Purposes &amp; Sustainable Development

GP4 The efficient use of land and buildings

GP5 Securing planning benefits – Planning Obligations

CE-S1 Landscape and seascape

CE-D1 Protecting Exmoor's Landscapes and Seascapes

CE-S4 Cultural Heritage and Historic Environment

CE-D3 Conserving Heritage Assets

CE-S6 Design &amp; Sustainable Construction Principles

CC-S6 Waste Management

CC-S7 Pollution

HC-S1 Housing

HC-S2 A balanced Local Housing Stock

HC-S3 Local Occupancy Criteria for Affordable Housing

HC-S4 Principle Residence Housing

HC-D3 New Build Dwellings in Settlements

HC-D4 Accessible and adaptable Housing for Exmoor Communities

SE-D2 Safeguarding Existing Employment Land and Buildings

AC-S1 Sustainable Transport

AC-S2 Transport Infrastructure

AC-D1 Transport and Accessibility Requirements for development

AC-D2 Traffic and Road Safety Considerations for Development

AC-D3 Parking Provision and Standards

The National Planning Policy Framework (NPPF) is also a material planning consideration.

**Observations:****4. MAIN PLANNING ISSUES**

4.1 The main planning considerations in this case are considered to relate to the principle of development, viability, impact of the development on the character and appearance of the landscape, Access, Drainage, Flooding, Ecology, cultural impact, housing need and impact upon the setting of the conservation area.

**Major Development**

The Exmoor National Park Local Plan (para 3.21) acknowledges that Exmoor National Park's landscape is recognised as being relatively free from major structures or development. The Government's longstanding view has been that planning permission for major developments should not be permitted in National Parks except in exceptional circumstances, as set out in the NPPF and National Parks Circular 2010.

The NPPF advises that planning permission should be refused for major development in a National Park (and the Broads or an Area of Outstanding Natural Beauty) except in

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exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 172 of the Framework Applies, is a matter for the relevant decision taker, taking into account the proposal in question and local context.

The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether policy in paragraph 172 is applicable. In relation to this national policy context, the term 'major development' is not specifically defined. Paragraph 172 of the NPPF advises that consideration of major development applications should include an assessment of:

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

The Local Plan explains that the National Park Authority will consider whether a proposed development is deemed to be 'major' on a case by case basis taking into account the potential impacts of the proposed development in the National Park and in its context.

The Local Plan, under policy GP2 (Major Development), states that major development is defined as development which has the potential to have a significant adverse impact on the National Park and its special qualities due to its scale, character and nature.

In this case, the application includes the removal of existing industrial buildings and concrete hardstanding and its replacement with residential development with the associated infrastructure. A significant area of the site is considered to be brownfield and is located on the edge of the settlement of Porlock. Access is via the main A39 and is visually contained within the built up environment of Porlock. In the context of the National Park and given consideration to the NPPF and policy GP2 of the Exmoor Local Plan the proposed development would not direct your officers to conclude the proposal to be Major Development.

#### Principle of Development

The application site is located on the edge of the settlement of Porlock. A large area of the application site is brownfield. policy GP1 states that,

"Opportunities must be taken to contribute to sustainable development of the area. Particular attention should be paid to:...

- ensuring high quality design and the intensity of the use or activity is appropriate to the character and appearance of the National Park,
- Supporting the function and resilience of communities by retaining and strengthening their services, facilities, protecting their.....employment opportunities
- provide for a size, type and tenure of housing to address local affordable needs, efficient use of land,

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•conserve or enhance the impact of any development on the occupiers of neighbouring properties.

Policy GP3 Spatial Strategy sets out that development within Local Service Centres (including Porlock) will need to strengthen the role and function of local service centres and address locally identified needs for housing. New build development for local need affordable housing will be acceptable in principle where it is well related to existing buildings in the settlement.

Policy HC-S1 sets out that the purpose of new housing will be to address the housing needs of local communities. A Housing Needs Survey was carried in January 2018 and recommended that 10 affordable dwellings should be provided with a mix of one to three bedroom properties. The proposed development would clearly contribute to meet this need subject to the final layout and housing types. The applicant has agreed to enter into a S106 to secure the affordable housing and has accepted that dwellings proposed to cross subsidise the development will be restricted to principle residents accommodation.

HC-D3 (New Build Dwellings in Settlements) permits new build housing development in named settlements where the site is well related to existing buildings would conserve or enhance the traditional settlement pattern of the village.

Also of consideration is the National Planning Policy Framework (NPPF). Paragraph 9 says that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

At the heart of the Framework is the presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (paragraphs 10 and 11). Where a planning application conflicts with an up-to-date development plan planning permission should be refused unless material considerations outweigh any conflict.

In rural areas, planning decisions should be responsive to local circumstances and support housing developments that reflect local needs (paragraph 77). To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities (paragraph 78).

Planning decisions should promote an effective use of land in meeting the needs for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. In particular, planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land (paragraphs 117 and 118).

The application site is located on the edge of the settlement and is well related to buildings and the settlement in general. The proposal seeks to meet an unmet affordable housing need. The site would be within walking distance to local services such as the shops, public transport links, public house and the village hall. The applicant has confirmed that they agree in principle to securing the affordable units by way of a S106 agreement and subject to a viability assessment any further development will be the

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minimum required to finance the development. Therefore, subject to careful consideration of the development against all relevant policies within the plan the principle of development is considered acceptable and would comply with policies GP1 & GP3 of the Exmoor Local Plan.

#### Loss of Employment Site

Policy SE-S1 (A Sustainable Exmoor Economy) & Policy SE-D2 (Safeguarding Existing Employment Land and Buildings) states that development proposals that would involve the loss of employment land and/or buildings will not be permitted unless it can be demonstrated that the site and/or buildings cannot be continued or made viable in the long term.

The proposed development would see the loss of the existing employment use, therefore the applicant has submitted an Employment Land Review Report. The report confirms that all buildings on site are in need of general repair but do not comment that the buildings are in a state of disrepair. The report confirms that the site was vacated by the former abattoir in December 2013 due to the previous business going into receivership. The use of the site has been suggested to fall within a B2 use (General Industrial), while there is no formal permission to support this your officers would concur that based on the information available much of the site was used for this general industrial use. However, it is important to establish that the southern end of the site is not supported by any evidence of employment use and therefore this is not as clear as it could have been. However, the applicants report confirms that "As it is unknown what current planning use of the timber framed storage barns to the south west of the site have, I assume they are currently classified as farm buildings that can be changed using the Permitted Development Order to B1 Use."

The report continues by suggesting that the current lawful use of the site for industrial purposes does not suit the sites location and proximity to surrounding residential properties. Furthermore, access to the site is considered unsuitable for commercial vehicles, which was supported by the previous operators of the site experiencing problems with turning stock vehicles.

Since the site has become vacant the site was initially marketed by Alder King receiving limited interest, none of which was from commercial property investors. The applicant considers that the nearby settlement of Minehead offers a good selection of commercial properties of purpose built estates. At the time of submitted the application Reference was made to the Somerset West and Taunton Council land which is currently on the market off Mallard Road close to the A39 in Minehead, east of the Minehead Community Hospital and West Somerset College. This site has been available for some time looking to attract both commercial and residential uses. Therefore, the applicants question whether there is a demand for such a premises in this location. The applicant concludes that potential commercial buyers or tenants would be particularly limited and whilst offices may be more compatible, the existing buildings are clearly not suitable for an office use.

The applicant has drawn officers attention to the Minimum Energy Efficiency Standards being implemented from 1st April this year. The applicant considers that this will hinder landlords from granting leases on properties that have an EPC rating of less than 'E,' unless an exception applies (it is unlikely to in this case) or all cost effective works to

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improve the premises' Energy Efficiency have been undertaken. Either way, these standards will reduce these types of properties' appeal to investors on the open market. Not only does this property require ongoing repair and maintenance, but capital investment to increase its Energy Efficiency to an acceptable standard is likely to be needed.

The applicant also raises the viability of retaining the site for employment purposes. The applicant suggests that properties of this type in these locations with their constraints generate low rents. It is considered that the only reason these types of properties are likely to attract tenants is because landlords have little choice but to ask particularly low rents, inclusive of repairs and buildings insurance which, when deducting management time, repairs, insurance, letting fees and other costs. This together with the likely need for improvements in Energy Efficiency Standards has resulted in the applicant considering that the site is unviable for commercial activities.

A letter of representation has been received from a local business which confirms that they have previously expressed an interest in using the site as a blacksmiths. However, the site was removed from market before there was an opportunity to take their proposal forward. This has been brought to the attention of the agent and they have confirmed that whilst, a local company have contacted the current owner, they did not make an offer. Their enquiry provided no evidence that they were able to meet the market value for the site or that it would be viable for them to repair, refurbish and refit the building for their intended use.

Therefore, having carefully considered this matter you officers conclude that, while some interest has been identified in running the site for a business use no formal offer has been made and given the information provided by the applicant, the proposed development would comply with policies SE-S1 & SE-D2 of the Local Plan.

#### Landscape Character & Visual Impact

Policy GP1 (Achieving National Park Purposes and Sustainable Development) seeks to conserving and enhancing the national park, its natural beauty and special qualities, amongst other things.

Policy CE-S1 (Landscape Character) states that the high quality, diverse and distinct landscapes and seascapes of Exmoor National Park will be conserved and enhanced. The policy highlights that development should be informed by and complement the distinctive characteristics of the Landscape Character Types and areas identified in the Exmoor National Park Landscape Character Assessment (LCA). The policy encourages opportunities to conserve, enhance and restore important landscapes and landscape characteristics as identified in the LCA, including minimising existing visual detractions.

Policy CE-D1 (Protecting Exmoor's landscapes and seascapes) seeks to permit development where it can be demonstrated that it is compatible with the conservation and enhancement of Exmoor's landscapes and seascapes through ensuring high quality design that reflects local landscape character and that the cumulative/sequential landscape and visual effects do not detract from the natural beauty of the National Park. Any landscaping scheme will need to reinforce local landscape character.

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Policies CE-S2 (Protecting Exmoor's Dark Night Sky) emphasis that proposals should seek to reduce light spillage and ensure good light management.

Section 15, Paragraphs 170 – 183 of the NPPF are concerned with conserving and enhancing the natural environment, including landscape. Key policy objectives include:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Conserving and enhancing the natural environment including valued landscape

National policy for National Parks is contained in para 172 of the NPPF that states:

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

Within the Exmoor Landscape Character Assessment it identifies that Exmoor falls within Exmoor National Character Area (145). More locally the site falls within the Low Farmland Coast and Marsh. Some of the key characteristics relevant to this application include that settlements are generally on higher ground at the edges of the Local Character Type and views are contained by high landforms.

The applicants have included a Landscape and Visual Impact Assessment (LVIA) with the application. The LVIA sets out that the proposal will include:

- Remove the existing commercial sheds and outbuildings which has potential to create greater permeability into the site from the immediately adjoining residential area to the east.
- There will be an opportunity to incorporate a hedged and tree planted boundary to the east where presently there is only built form. There is further opportunity to incorporate new hedged boundaries along the upper terrace boundary to the east and to the west where presently there are predominately fenced boundaries. New tree planting along these boundaries offers potential to increase the sense of the site being part of a well treed landscape that is experienced in the general settlement setting seen in views towards the site.

The LVIA also acknowledges that the proposed development would change the present character of the site. As a result of the development the character will more reflect that of the neighbouring residential area to the west. There is an opportunity for the proposed development to respond to the local topography and introduce new landscaping that reflects and support the local distinct character. Furthermore, the proposal offers an opportunity to remove existing tarmac and concrete that presents an industrial character, which in this location, is undesirable. Overall the LVIA suggests that the development of the site provides an opportunity to remove large scale and unattractive structures from the site and replace them with a residential development which support the characteristics of adjoining residential areas established on the lower sloping land adjoining the centre of the village.

Your officers would concur that in principle the removal of a industrialised site from this rural setting is beneficial in landscape terms, however, it is important to note that the final landscape design will be crucial in providing an acceptable proposal.



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With regards to the landscape and visual effects of the proposal it is difficult to assess the impact of the development given the outline nature of the proposal. However, the applicants LVIA states that the overall landscape effect is likely to be neutral. The LVIA recognises that the removal of one built form and its replacement with new, offers potential for both beneficial and negative effects. There is an opportunity for beneficial effects to arise from the sympathetic redevelopment of the site at the lower margin closest to the High Street and at the edge of the Conservation Area. There are likely to be negative effects of development from the introduction of built form where presently there is none. Your officers would agree with this assessment.

Visually the applicant considers that the visual prominence of the development is likely to be limited and due to the nature of the development proposal there is likely to be no significant visual change. Views from the High Street will remain limited, although your officers consider there is an opportunity to improve this view point. From existing public rights of way on Porlock Hill the view would change from the current view of the industrial sheds to that of domestic roofscapes. Your Officers consider that this change would be in the context of the village setting and therefore would have limited impact. Long distance views are to remain largely unchanged.

During the construction phase there is likely to be some, although limited visual harm, but given the size of the development site, its location on the edge of Porlock and the site being off the A39. This considered to be temporary and of limited impact.

The applicant also has submitted a Lighting Statement which confirms that any detailed development proposals for housing on the site that are put for at the reserved matters stage should be accompanied by a lighting scheme. This should be based on a cohesive sensitive lighting strategy plan and lux contour plots to be modelled to show predicted illumination and light spill from the development including transmission via windows. It is expected that these requirements will be included as a planning condition of an outline planning permission for development of the site.

Overall, subject to careful consideration of any final scheme your officers consider that the proposal can comply with policies GP1, CE-S1, CE-D1 & CE-S2 of the Exmoor Local Plan.

#### Highways

Policy AC-S2 (Transport Infrastructure) looks to encourage sustainable modes of transport and to ensure that proposals which include new access roads and parking provision is designed to reflect the character of the area. The policy seeks to retain the rural character of the highway network, incorporate wildlife enhancements, minimising lighting and take account of road safety interests.

Policy AC-D1 looks to ensure all opportunities have been taken to encourage safe and sustainable modes of transport and ensuring that design and details of highway works contribute to the conservation or enhancement of the area. Likewise AC-D2 (Traffic and Road Safety considerations for Development) seeks to ensure consideration is given to the capacity of the surrounding highway network. AC-D3 (Parking provision and Standards) clearly sets out the parking standards for new development. This policy also

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encourages cycle provision where considered appropriate.

The application has been accompanied by a Transport Note which reports on an assessment of the comparison of traffic movements that were generated by the industrial use before its closure, the traffic that could be generated by the site under its extant commercial/industrial use, and the traffic movements that are predicted to be generated by redeveloping the site for residential purposes. The report assesses three scenarios:

- Scenario 1 – The traffic generation associated with the former abattoir use based on traffic surveys conducted by the previous occupier of the site. The surveys identified 4 to 7 vehicle trips in the peak hours;
- Scenario 2 – The traffic generation associated with a re-use of the site for a continued commercial/industrial use based on a TRICS assessment identified 4 vehicle trips in the peak hours; and,
- Scenario 3 – The traffic generation associated with the proposed residential development of the site for 11 dwellings based on a TRICS assessment, 6 vehicle trips in the peak hours.

The report also confirms that having reviewed the accident data for the last 19 years that there have been no recorded personal injury collisions (PICs) and therefore it is the applicants conclusion that the site access has operated safely. Given the likely traffic generation of any proposed residential development the applicant suggests that there would be no material effect on the operation of the site access and, the cessation of regular heavy vehicles visiting the premises must be seen as a highway safety gain.

Somerset Highway Authority initially responded to the application confirming that the residual impact of the proposed development on the wider local highway network is not expected to be severe but there was insufficient information to comment much further.

The applicant's consultant responded by submitting a speed survey, which identified the 85th percentile as being 18.4mph(AM) & 19mph(PM) westbound and 18mph (AM) & 20mph(PM) eastbound. Furthermore, a swept path analysis showing how a 3 axel, 9.6m long refuse vehicle was also submitted together with correspondence with the Somerset Waste Partnership. Further information regarding the TRICs data used was also submitted. Clarity was also given that all vehicle and pedestrian traffic would be assumed through the existing vehicular access.

In response to this, the Highway Authority were content with the level of information submitted and considered that this is a finely balanced application. The daily associated vehicle movements of the proposed development would appear to generate similar traffic movements to the calculated movements for the extant use of the site. As such it is the view of the Highway Authority, that whilst concerns remain in particular with regard to restricted visibility onto the public highway would be difficult to sustain an objection on these grounds given the extant use of the site. The additional supporting information provided by the applicant, the existing character of the surrounding street scene of and the advice within the NPPF has drawn the Highway Authority to raise no objection.

The majority of the concerns raised by local residents refer to the unsuitable access for the site. There is concern that while there are no recorded accidents, through local knowledge, there have been a number of 'close calls' and minor accidents which were not

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recorded. The general view is that the access to the proposed site is unacceptable, given the lack of visibility, no pedestrian footways and the speed and number of vehicles using the A39.

Your officers have given careful consideration to all the information provided. Like many, your officers are concerned with the condition of the existing access and lack of pedestrian footways. While a potential pedestrian access has been presented on the indicative plans there is no certainty around its delivery and therefore your officers have restricted their consideration of the application to the existing vehicle access providing the only pedestrian access. The lack of visibility is of concern and it is acknowledged that this would be below normal standards.

In response to these concerns the applicant has advanced a fall back position of the use of the application site for industrial purposes. The information submitted, and accepted by the Highways Authority is that the two uses would generate similar traffic movements. Furthermore, there have been no recorded traffic accidents and the speed survey identified actual vehicle speeds in the area within the 20mph speed limit. Therefore, while the concerns of local residents are recognised officers do not consider that on the balance of the information before them that the impact upon the Highways network would be severe. Therefore, subject to the inclusion of the conditions suggested by the Highway Authority the proposed development is considered to comply with policies AC-S1, AC-D1, AC-D2 & AC-D3 of the Exmoor Local Plan.

#### Biodiversity and European Protected Species

Relevant legislation includes the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and the Conservation of Habitats and Species Regulations (2010) and the EU Habitats Directive. Local planning authorities have a legal obligation to consider whether European protected species are likely to be affected by a proposed development.

The Natural Environment and Rural Communities Act 2006 requires that "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." Further, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010), Regulation 9(5) provides that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions". A Local Planning Authority is a competent authority for the purpose of these regulations and is exercising a function in deciding whether or not to grant a planning permission.

Policies GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan seek to protect protected species and their habitats.

The site is located approximately 350m north of the Exmoor and Oakwoods SAC (Special Area of Conservation), with barbastelle and Bechstein's bats featuring as qualifying features for the internationally designated site. The surveys establish that at least 0.37 hectares of optimal habitat would need to be provided to mitigate for the loss of foraging and commuting habitats from site to address impacts on barbastelle and the associated

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SAC. The report also confirms that a licence will be required from Natural England.

The applicant has submitted a number of ecology reports to establish the use of the site by protected species. The first was a Bat Survey Interim Report, the purpose of this report was to provide a summary of the scoping bat surveys undertaken in 2017. The report set out a number of reports which were required to support the application, although the initial findings confirmed a minimum of eight bat species use the site, including rare Nathusius's pipistrelle, greater horseshoe and Myotis spp (species unconfirmed). The survey further clarified that the northern section of Building 1 (B1a) was confirmed to be used by a small number of lesser horseshoe bats only, both as a day roost on a semi-regular basis and as a night roost. The remaining southerly section (B1b) contained evidence of night roosting bats (most likely lesser horseshoe but unconfirmed) as did B2. Four bat species were also potentially using B2 as a night roost.

B1a is most probably used as satellite or transitional day and/or night roost for a small number of individual lesser horseshoe bats, as it was considered unlikely that B1 would support a maternity roost for horseshoe bats due to the lack of thermal stability and insulated roof voids. Although thermally unstable and open to natural light, B3 may also occasionally be used as night roosts.

With the exception of a stone wall present in B3, the potential for crevice roosting bats to use buildings as day roosts was considered to be negligible due to a lack of suitable features, thermal instability and open to natural light.

Within the site, bat activity was generally concentrated within the southern section of the site where grassland and linear habitats had good connectivity to the wider landscape. Elsewhere, individual bats were recorded foraging and commuting across the site, especially along vegetated boundaries and adjacent gardens. The conclusions of the report were that further bat surveys are essential to support the submission of any application. The following surveys are recommended for this site:

- Monthly (April to October inclusive) walked transects and static detector surveys, including at least one dawn survey
- Static detector deployment within key buildings on at least two occasions and different seasons (spring/summer/autumn)
- At least two emergence/re-entry surveys (also carried out in different seasons) of presumed access points for lesser horseshoe bats into B1a
- Internal building inspections of B1a as deemed necessary to check for the presence of lesser horseshoe bats
- Attempted survey of the inaccessible roof void located above B1a

Following these recommendations a further Bat Survey report was submitted with the application. The report confirmed that lesser horseshoe bat day roost within the main abattoir building and evidence of night roosting within the adjacent buildings B1b and B2. B1a has been considered to be used as a day roost for a small number of lesser horseshoe bats, but not as a maternity roost.

No evidence of bats was found within building 3, however roosting features with potential low suitability for opportunistic crevice dwelling bats are present within the western aspect of the retaining wall.

The recommended mitigation includes:

- Provision of standalone compensatory bat roost, with voids of varying volumes, to accommodate the loss of known lesser Horseshoe roosts.
- A soft strip demolition approach to buildings containing roosts during bat active season (March/April – October, weather permitting) under supervision of a licenced ecologist.
- Retention of hedgerow 6, excluding the creation of a 5m access route from the compensatory roost) and establishment of ecological buffers adjacent to hedgerows/vegetated boundaries to maintain their function as ecological networks within and across the sites. At a minimum, all buffers will be 5m with the exception of those adjacent to Hedgerow 6 which requires 10 metres.
- Compensatory planting to improve connectivity for bats around and through the site.

Further recommendations in the inclusion of a mitigation strategy, Construction Environmental Management Plan (CEMP), Landscape Environmental Management Plan (LEMP) and measures to ensure net gain for biodiversity. These will be required by way of a planning condition in the event that planning is approved.

The application was also submitted with an Ecological survey. This survey covered matters relating to bat habitat as set out above but also raised wider ecological matters such as the need for a sensitive design of lighting. This would be an essential requirement within the development to ensure that any future impacts on bats and other wildlife do not result from additional artificial lighting.

Natural England have offered standing advice and the Wildlife Officer has raised no objection subject to the inclusion of appropriate conditions, which is taken into account during the course of this application.

### Derogation tests

As bat habitat will be lost or damaged and with further possibility of disturbance to bats it is considered necessary to assess the application against the Conservation of Habitats and Species Regulations 2010 and the derogation tests, in accordance with Regulation 53 pursuant to the likelihood of a Protected Species licence being granted by Natural England, and taking into account the Guidance Note: "European Protected Species and the Planning Process Natural England's Application of the 'Three Tests' to Licence Applications".

The 3 tests are:

- Regulation 53(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".
- Regulation 53(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".
- Regulation 53(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural

range”.

With regards to the first test, it is considered that there is an overriding public interest in approving much needed Local affordable housing in accessible locations, this proposal will make a significant contribution towards the supply of affordable housing land giving rise to significant social and economic benefits.

In the case of test 2, it is often difficult in strategic terms to demonstrate that no satisfactory alternative exists for a site of this scale. In this particular case, given the work that has been undertaken as part of the Exmoor Local Plan and the strategy underpinning the Plan, and the socio-economic implications of a do-nothing approach, it is considered that no satisfactory alternative.

For test 3, having regard to the application and the survey work, assessment and significant mitigation, your officers are satisfied in this case that the development will not be detrimental to the maintenance of the population of European Protected Species potentially affected, at a favourable conservation status in their natural range.

The proposals would not give rise to unacceptable adverse impacts on the ecological and biodiversity interest of the site and will result in considerable enhancements. In accordance with Policy GP1, CE-S3, CE-D4 and HC-D15 of the Local Plan and paragraph 175 of the Framework, species and habitat protection and enhancement measures can be required by condition and plans for future maintenance and management and mitigation. This would include a requirement for a comprehensive CEMP, LEMP & Mitigation Strategy.

### Cultural Heritage and Historic Environment

Policy CE-S4 (Cultural Heritage and Historic Environment) of the Exmoor Local Plan sets out that development proposals should make a positive contribution to the local distinctiveness of the historic environment and ensure that the character, special interest, integrity, and significance of any affected heritage asset and its setting is conserved and enhanced.

Policy CE-D3 (Conserving Heritage Assets) also confirms that development proposals affecting a heritage asset and its setting should demonstrate a positive contribution to the setting through sensitive design and siting.

The NPPF, in paragraph 192 states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

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Furthermore, in para 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The application site is located immediately to the south of Porlock Conservation Area. The closest listed building is the Grade II-listed The Ship Inn located c. 17 m west from the proposed development site. The remaining listed buildings are divided into five broad groups. The first is clustered around the town of Porlock itself, containing a total of thirteen listed buildings, including the previously mentioned Grade II-listed The Ship Inn, which is situated adjacent to the proposed development area. Further east along the High Street, other notable designated assets include the Grade II-listed Old Rose and Crown and the Grade II\*-listed Doverhay Reading Room and adjacent cottage. Your officers consider that the scope of impact for this application can be limited to this first group.

In terms of non-designated heritage assets there is a total of 399 records within the HER for the 2 km study area relating to historic/archaeological sites or findspots, though some of these are duplicates of designated heritage assets already noted above. In the immediate vicinity of the proposed development area, there is a cluster of non-designated heritage assets centred around the town of Porlock. The vast majority of these dates to the post-medieval period, most notably the site of a former post-medieval blacksmith's shop located c. 50 m to the east and the site of former tannery lime pits located c. 100 m to the north-east. Such a concentration of craft establishments suggests that this area of Porlock was home to a number of small-scale, post-medieval industries. Also worth noting is Porlock Parks, situated c. 500 m west of the proposed development area, established in the 14th century.

The Heritage Impact Assessment indicates a limited potential for the survival of buried archaeological remains related to medieval and post-medieval settlement, small-scale industry and agriculture. Due to the modern development and re-surfacing of the majority of the western half of the site, it is considered that such limited potential would be restricted to the relatively undeveloped eastern half of the proposed development area. Any such remains would be part of the general character of medieval and later activity within the study area and are of low significance. It is considered that the potential for remains earlier than the medieval period to exist is very low. The existing buildings on the site are considered to have no heritage value and, as such, no mitigation for their removal is considered appropriate.

Of the heritage assets assessed, there would be no effect on setting given the distance to the proposed development site. The lack of intervisibility due to intervening obstacles and local screening, and the fact that the proposed development does not disrupt the coherence of any groups of heritage assets where such spatial relationships form a component of their setting. No designated heritage assets are considered to be negatively affected in any way, and the removal of the existing poor-quality buildings is considered likely to result in a slight positive impact to the significance of the adjacent conservation area, given their general disrepair and lack of sensitive design and materials.

Appropriate archaeological mitigation for the site could be a staged programme of archaeological evaluation, focussed primarily on the open areas within the eastern half of

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the site where no previous modern development has occurred.

The Parks Historic Buildings Officer has commented that “although the site is reasonably well shielded from view within the core of the village the site is elevated and will be seen from the wider landscape. I would be concerned that the scale of the development, in particular the scale of the houses to the south of the plot, (plots P6-P11), could have a harmful impact on wider views into the village that could detract from the key buildings, in particular the Church. The scale and grouping of these buildings is not something that is currently seen elsewhere in the settlement and so the scale and layout of the buildings in this plot requires careful consideration.”

Your officers agree with the statement of the Historic Building Officer that careful consideration will be needed to ensure that the development of the site respects the historic character of the area. Given that matters relating to layout, design and landscaping are matters which are reserved for a later application comments around specific plots cannot be directly resolved with this application. However, even with the above concerns your officers consider that subject to the final design the development can be incorporated within the historic setting and therefore the proposal is considered to comply with policies CE-S4 & CE-D3 of the Exmoor Local Plan and the NPPF.

#### Flood Risk & Drainage

Policies CC-S6 (Waste Management) and CC-D5 (Sewerage Capacity and Sewage Disposal) of the Exmoor Local Plan seeks to ensure that new development provides suitable and paragraphs 100 and 104 of the NPPF require consideration of flood risk and the developer to show that their development will not have an adverse impact on the wider flood dynamic.

#### Drainage

The applicants has submitted a Drainage Strategy setting out how a suitable drainage system could be incorporated within the site. The strategy recognises that the records indicate that the surrounding developments are well serviced by existing public sewerage networks, including a 150mm diameter foul water sewer located beneath Porlock Hill and West End to the north.

A CCTV drainage survey was carried out in March 2018. The drainage survey indicates that the on-site drainage comprises private combined and surface water sewers, which pick up connections from the existing abattoir building along the eastern boundary of the site, as well as an area of hardstanding. The private surface water sewer connects to the private combined sewer just to the north of the existing abattoir building before this uncontrolled combined flow routes north beneath the existing site access and connects to the public 150mm diameter foul water sewer in West End.

The CCTV drainage survey also shows that runoff from the barn located on the western boundary of the site is likely to drain off-site to the west. In addition the survey indicates that runoff from the remaining hardstanding areas flows overland off the site to Porlock Hill and West End to the north.

The proposed surface water strategy recognises that given the steepness of the site that



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it would be unfeasible to utilise on-site infiltration. Therefore, roof water from the proposed dwellings and runoff from hardstandings will be collected from down pipes, gutters and gullies and transferred to a new private surface water network.

The surface water network will pass through a control chamber designed to ensure that the proposed runoff rates are not exceeded for each return period. In order to achieve this the flows will back up into a cellular storage attenuation tank, sized to accommodate runoff from the development in all storms up to the critical 100 year (+40% climate change) event.

The restricted flows from the development are proposed to discharge to the existing onsite private 150mm diameter combined sewer which, further downstream, connects to the public 150mm diameter foul water sewer in West End. Improvements to the on-site surface water system will mean an improvement to off-site discharge from its current 63.4 l/s to 23.4 l/s in the 100 year (+40% climate change).

The final details of this strategy would be prepared for any Reserved Matters application should the application gain approval.

Foul flows generated by the development will route through a new private foul water network before being discharged to the proposed point of connection on the existing on-site private 150mm diameter combined sewer which, further downstream, connects to the public 150mm diameter foul water sewer in West End.

The Lead Local Flood Authority initially raised an objection to the application on the grounds that there appeared to be a steep catchment area to the south of the site which would potentially drain towards, and through plots P6, P7, P8 and onwards to the road on the northern boundary, which wasn't taken into consideration.

However, following the submission of further information and a commitment to providing a feature such as a wall, bund or cut off drain with ground profiling within the effected plots, to intercept, retain and direct flows within the site no objection was raised subject to appropriate conditions.

The application falls within Flood Zone 1 which is an area of 'Low Risk' and therefore the site has less than a 1 in 1000 year annual probability of river or sea flooding. This together with the potential improvements to the surface water flow rates off site draw your officers to conclude that the proposed development would see an improvement of on and off site drainage and therefore would comply with policies CC-D5 & CC-S1 of the Exmoor Local Plan.

#### Design and Layout

The design and layout of new development is extremely important. Policy CE-S6 requires all new developments should positively contribute to its setting in terms of siting, massing, scale, height, orientation, density and layout. Policy CE-S6 is consistent with the Framework where it also requires good design. Policy HC-S2 (A balanced Local Housing Stock) also seeks to ensure that dwellings contribute towards creating a sustainable, balanced inclusive community. The Framework states at para 124 that good design is a key aspect of sustainable development, creates better places in which to live and work

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and helps make development acceptable to communities.

Although this is an outline application and details of appearance, landscaping, layout and scale of development are reserved for future consideration, it is considered that the site can be developed to provide a residential environment that functions well over its lifetime, establishes a strong sense of place that is generally safe, accessible and attractive to live and/or visit.

#### Conclusion

The proposed development would see the delivery of much needed affordable housing within Porlock as established by the Porlock Vale Housing Needs Survey. However, this benefit needs to be balanced against the protection of the landscape and scenic beauty of the surrounding area. The policies within the local plan clearly set out a strategy for allowing residential development within named settlements where the development helps to meet a defined local need. The proposal will see the delivery of 4 Local Affordable dwellings with the remaining 7 dwellings being restricted to principle resident dwellings only. All properties will be subject to control through a S106 and therefore complies with the relevant local plan policies. While there will undoubtedly be some impact upon the landscape character, the site is contained by the existing settlement patterns and the proposal will see the replacement on some unsightly industrial buildings and large areas of hardstanding. Therefore, the impact upon the landscape is considered to be able to be contained. The proposed development would also result in some economic benefits; employment during construction and thereafter upon the occupation of the dwellings it is likely that the occupants would contribute towards maintaining the vitality of local services and facilities.

In respect of potential adverse impacts, the access to the site is widely accepted to be below the standards that would normally be accepted for the number of dwellings proposed. The visibility splay is below the requirements for the 85th Percentile speeds and the access lacks any clear pedestrian access. However, this does need to be balanced against the case advanced by the applicant that the existing lawful use of the site would generate similar levels of traffic with large, potentially HGV, vehicles regularly using the access. Furthermore, no reported accidents have been reported at the access. Local concerns consider that the use of the site for an industrial use is unlikely and that while there has been no reported accidents there have been a number of near misses or unreported accidents.

Overall it is considered that the proposals constitute an environmentally, socially and economically sustainable form of development that accords with the Framework and the Development Plan as a whole. All matters raised within third party representations (which are capable of being material planning considerations) have been taken into account by your officers. None are considered to be of sufficient weight to justify not granting planning permission.

#### Recommendation

Recommend that the Head of Planning and Sustainable Development be authorised to grant planning permission subject to:

The imposition of appropriate Planning Conditions necessary to control the development.

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Satisfactory completion of a S106 Legal Agreement to include the provision of 36% affordable housing (in the case of 11 dwellings this will result in 4 dwellings being provided as affordable housing on the site).

Delivery of open market dwellings all subject to a restricted principle residents occupancy clause.

Recommended conditions:-

**Recommendation:**

**for the following reasons**

2. Approval of the details of the appearance, layout, scale of the buildings and the landscaping of the site hereinafter called "the reserved matters", shall be obtained from the Local Planning Authority in writing before any development is commenced and the development shall be carried out as approved.
3. Applications for the approval of all the reserved matters of the development shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. This shall be in the form of a 'reserved matters' application. The development hereby permitted shall be begun not later than whichever is the latest of the following dates:-
  - i. The expiration of three years from the date of this permission, or
  - ii. The expiration of two years from the final approval of the reserved matters, or
  - iii. In the case of approval on different dates, the final approval of the last such matter to be approved.
4. The proposed estate roads, footways, footpaths, tactile paving, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
5. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.
7. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times, unless otherwise agreed in writing by the Local Planning Authority.

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8. Prior to the commencement of the development, a suitable Travel Plan is to be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.
9. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be made before commencement and maintained thereafter at all times.
10. During the construction phase the applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement and thereafter maintained until the construction phase of the site discontinues.
11. Plans showing a parking and turning area providing for an agreed number of vehicles shall be submitted to and approved in writing in conjunction with the Local Planning Authority before the development is commenced. The agreed parking and turning area shall be able to accommodate all associated vehicles to the consented development (including refuse and emergency service vehicles) that will safely allow entering the public highway in a forward gear. This area shall be properly consolidated before first occupation and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
12. Prior to first occupation of the development hereby permitted, access to covered electric vehicle charging points will need to be available to all residents. They shall be in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority.
13. Prior to first occupation of the development hereby permitted, access to covered cycle parking, numbers and spaces to be fully in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority.

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14. No development shall commence unless a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:
- Construction vehicle movements;
  - Construction operation hours;
  - Construction vehicular routes to and from site;
  - Construction delivery hours;
  - Expected number of construction vehicles per day;
  - Car parking for contractors;
  - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - A scheme to encourage the use of Public Transport amongst contractors; and
  - Measures to avoid traffic congestion impacting upon the Strategic Road Network.

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15. No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details. These details shall include: -
- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction.
  
  - Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters. Details regarding how surface water from offsite will be intercepted, retained and managed within the site.
  - Any works required on or off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
  - Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
  - A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

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16. No development shall commence until full details of all landscaping works for that phase have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of the following:
- all existing trees and hedgerows on site (including details of location, canopy spread, species and proposed pruning/felling and changes in ground levels);
  - a plan showing the layout of proposed tree, hedge, shrub planting as well as grassed areas;
  - a proposed planting schedule including details detailing the disposition of planting, cross referenced to a schedule listing the species, size and number and densities;
  - a written specification setting out cultivation and other operations associated with plant and grass establishment. All planting and seeding/ turfing shall be carried out in accordance with the approved details in the first planting and seeding/ turfing seasons following the completion or first occupation of the development, whichever is the sooner.
- If within a period of five years from the date of the planting of any tree planted pursuant to this condition that tree, or any tree planted in replacement for it is removed, uprooted or destroyed or dies, or becomes, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

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17. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (a) to (c) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (d) has been complied with in relation to that contamination.

a) Site Characterisation: An investigation and risk assessment, must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken

by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages.

- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and

groundwater and other characteristics that can influence the behaviour of the contaminants.

- An assessment of the potential risks to

- human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,

- groundwater and surface waters,

- ecological systems,

- archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

b) Submission of Remediation Scheme: If any unacceptable risks are identified as a result of the investigation and assessment referred to in a) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

c) Implementation of Approved Remediation Scheme: The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.



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d) Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

An investigation and risk assessment must be undertaken in accordance with the requirements of section a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section b),

which is subject to the approval in writing of the Local Planning Authority.

e) Verification of remedial works: Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the

effectiveness of the remedial works. A statement should also be provided by the developer which is signed by someone in a position to confirm that the works detailed in the approved scheme have been carried out (The Local Planning

Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage b) above). The verification report and signed statement are subject to the approval in writing of the Local Planning Authority.

f) Long Term Monitoring and Maintenance: If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared

and submitted to the Local Planning Authority for approval until the remediation objectives have been achieved. All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

18. Works to demolish the former abattoir and storage buildings but not the stables shall not in any circumstances commence unless the local planning authority has been provided with either:
  - a) a copy of the licence for bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
  - b) a statement in writing from the licensed bat ecologist to the effect that he/she does not consider that the development will require a licence.
19. Before demolition of any building site operatives should be inducted by a licensed bat ecologist to make them aware of the possible presence of bats, their legal protection and of working practices to avoid harming bats. Operatives must be made aware of the potential for bats to be present within the material of the buildings. A letter confirming the induction will be submitted to the local planning authority by the licensed bat ecologist. Any works with the potential to affect bats will thereafter be supervised by the licensed bat ecologist.

## 7.6

### EXMOOR NATIONAL PARK AUTHORITY MEETING

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20. A design for a replacement roost for lesser horseshoe bats shall be submitted to and improved in writing by the local planning authority as outlined in sections 6.3.16 and 6.3.17 of the Bat Surveys Report (Clarkson Woods, November 2018) as submitted.
21. Prior to occupation, a “lighting design for bats” shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their resting places.All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
22. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of “biodiversity protection zones”.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

## 7.6

### EXMOOR NATIONAL PARK AUTHORITY MEETING

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23. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Biodiversity enhancements including bat and bird boxes and bee bricks
  - d) Aims and objectives of management.
  - e) Appropriate management options for achieving aims and objectives.
  - f) Prescriptions for management actions.
  - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - h) Details of the body or organization responsible for implementation of the plan.
  - i) On-going monitoring and remedial measures.
- The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

2. Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).
3. Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act
- 4, 5, 7, 11. Reason: To ensure that the development is constructed to suitable standard and meets the relevant highway standards in accordance with policy AC-D1 of the Exmoor Local Plan.
8. Reason: To ensure continuous access to the highway and for improve sustainable travel permeability.
9. Reason: To ensure that the development is properly drained, avoiding flood risk and pollution in accordance with Policies CC-S6 & CC-D5 of the Exmoor Local Plan.
10. Reason: To protect users of the highway network from the

## 7.6

### EXMOOR NATIONAL PARK AUTHORITY MEETING

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unreasonable effect of mud and dust being spread on the highway and in the interests of highway safety, in accordance with policies AC-D2 & CE-S6 of the Exmoor Local Plan.

12. Reason: To ensure that the development provides adequate electric charging points throughout the development in accordance with policies CE-S6 & AC-S3 of the Exmoor Local Plan.
13. Reason: To ensure that the development provides adequate electric charging points throughout the development in accordance with policy AC-S3 of the Exmoor Local Plan.
14. Reason: To protect the residential amenities of existing and new occupiers of residential areas in accordance with Policy CE-S6 of the Exmoor Local Plan.
15. Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy
16. To ensure the environment of the development is improved and enhanced in accordance with Policy CE-S1 & CE-S5 of the Exmoor Local Plan.
17. To ensure that land contamination can be dealt with adequately to prevent any harm to the health, safety or amenity of any users of the development, in accordance with paragraphs 178 of the National Planning Policy Framework.
- 18, 19. In the interest of the strict protection of European protected species and in accordance with Exmoor National Park Local Plan 2011-2013: Policy CE-S3 Biodiversity and green infrastructure
- 20, 21. In the interest of the favourable conservation status of a population of a European

## 7.6

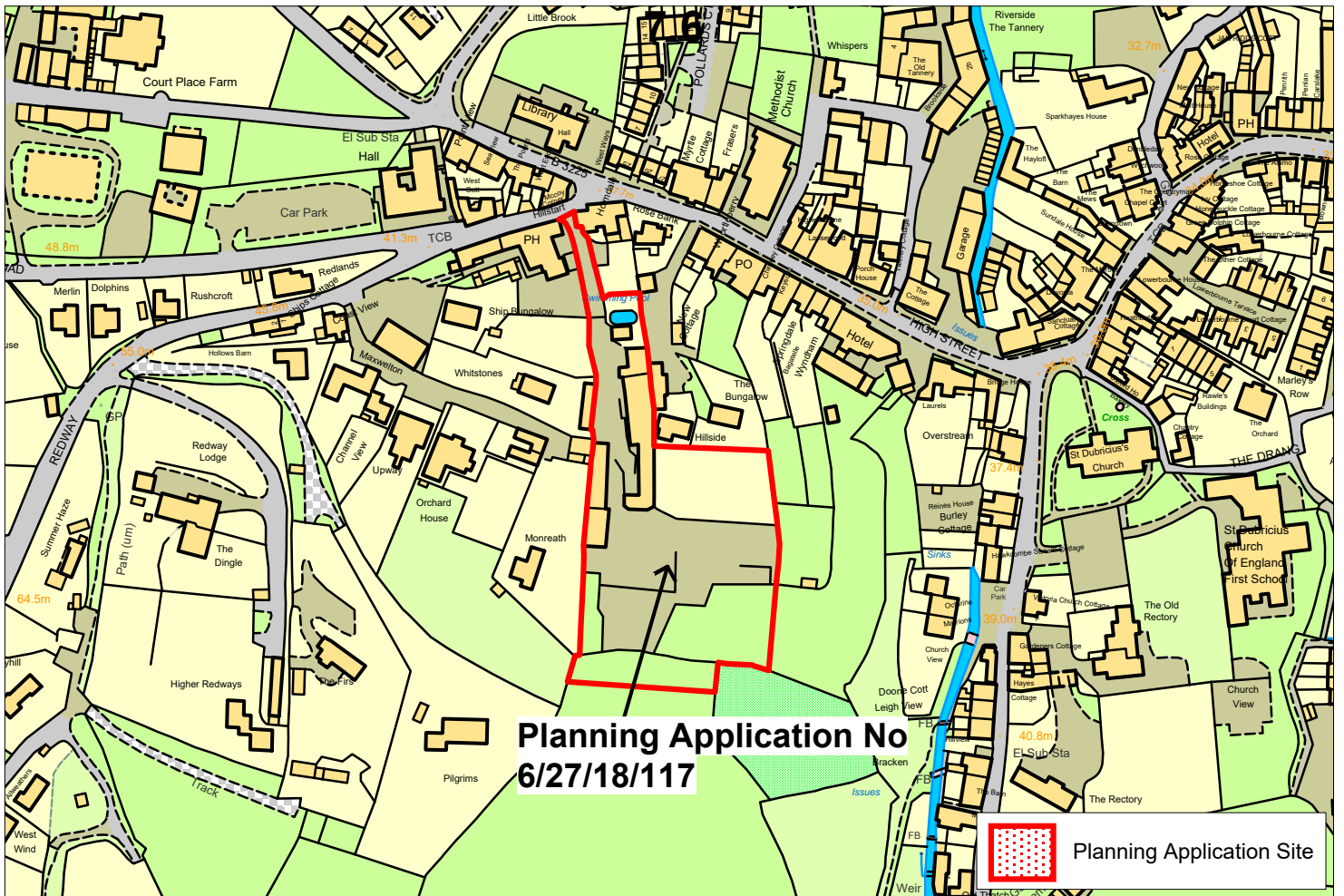
### EXMOOR NATIONAL PARK AUTHORITY MEETING

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protected species and in accordance with Exmoor National Park Local Plan 2011-2013: Policy CE-S3 Biodiversity and green infrastructure

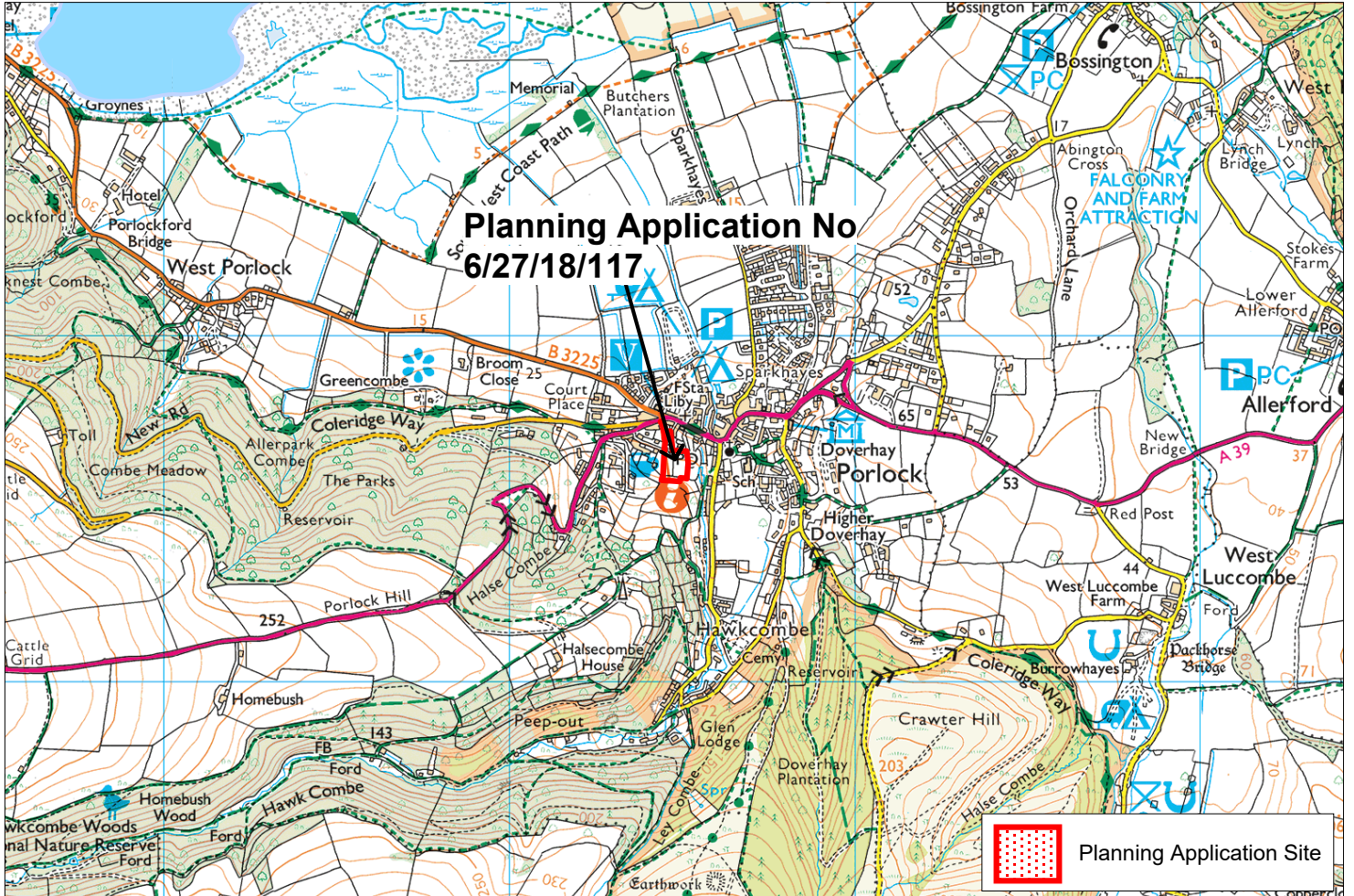
22. In the interests of European and UK protected and priority species, and in accordance with Government and Exmoor National Park Local Plan 2011-2013: Policy CE-S3 Biodiversity and green infrastructure
23. In the interests of European and UK protected, and priority species, and in accordance with Government and Exmoor National Park Local Plan 2011-2013: Policy CE-S3 Biodiversity and green infrastructure





Site Map  
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Overview Map  
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## 7.7

### EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **62/41/19/010** Grid Ref. 269924 147545

Applicant: Mrs A Willis, 4 Caffyns Cross  
Barbrook, Lynton, Devon

Location: 4 Caffyns Cross, Barbrook, Lynton, Devon

Proposal: **Resubmission of planning application 62/41/18/013 for the retrospective installation of four dog kennels. As per additional information. (Full)**

Introduction: This application comes before the Authority Committee in accordance with the agreed Scheme of Delegation, because Lynton and Lynmouth Town Council has a view contrary to the recommendation of Planning Officers.

Planning permission is sought for the retention of four commercial kennels at 4 Caffyns Cross. The application property consists of a semi-detached two storey dwelling, together with an agricultural barn to the north west of the dwelling and the kennels themselves in the northern corner of the garden. The property is in open countryside with one adjoining residential property, 3 Caffyns Cross, and three further properties to the east, 1 and 2 Caffyns Cross and Beechley.

The kennels have been erected adjacent to the boundary with the neighbouring property, 3 Caffyns Cross. They consist of enclosed indoor areas for the dogs, which are clad in timber boarding under felt roofs, and enclosed outdoor areas, which are secured by metal mesh panelling. The kennels are used for commercial boarding of dogs and is a facility that is used by locals and visitors to the area. The waste from the kennels is disposed into the property's existing septic tank.

This application is a re-submission of a withdrawn application for the same proposal to retain the commercial kennels. The previous application was withdrawn by the applicant to allow her time to consider her options following objections raised by Environmental Health in relation to that application.

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#### **Consultee Response:**

DCC - HIGHWAYS: No comment received

NORTH DEVON COUNCIL - PLANNING REGISTRATION: CONSULTATION RESPONSE DATED 03.04.19 - In accordance with the agreed protocol, the District Council, as a consultee to the Exmoor National Park Authority, has no observations.

RE-CONSULTATION RESPONSE DATED 16.05.19 - In accordance with the agreed protocol, the District Council, as a consultee to the Exmoor National Park Authority, has no observations.

LYNTON & LYNMOUTH TOWN COUNCIL: CONSULTATION RESPONSE DATED 10.04.19 - No objection to the application.

RE-CONSULTATION RESPONSE DATED 30.05.19 - Support the application.

NDC - ENVIRONMENTAL HEALTH AND HOUSING: CONSULTATION RESPONSE

DATED 12.04.19 - I have assessed this application in relation to environmental protection matters on behalf of North Devon Council's Environmental Protection service and comment as follows:

### 1 Applicant's Environmental Health Statement

I note the Applicant has submitted a statement commenting in relation to my response on a previous similar application. The Statement provides the Applicant's perspective on the issues I raised previously. The Statement also confirms that an Animal Boarding Establishment Licence was first issued in 2016 by North Devon Council and the Kennels continue to operate under the conditions of this licence.

### 2 Noise

Commercial dog kennels are associated with significant barking noise. Dogs tend to bark more when placed in unfamiliar circumstances, especially where other dogs are also present. Also, as boarding dogs are not brought into the home at night, there is a potential for barking to occur at any time of the day or night.

Although this application relates to only 4 kennel units this number still creates a potential for significant barking noise to arise. Given that the proposed location adjoins a residential garden and is less than 30m from a neighbouring dwelling there is a clear potential for significant and unreasonable noise impacts to arise should permission be granted. I note the kennels are of timber construction with open wire meshed sides and as such are unlikely to be effective in containing barking noise.

When an application is received for a commercial dog kennels that could give rise to significant noise issues, it is common practice for a specialist noise impact assessment to be required by the Planning Authority. Such assessments are prepared by a qualified noise expert and clarify whether noise impacts are likely to arise. Where significant potential impacts are identified, mitigation measures are typically proposed such as use of block wall construction to contain internal noise, acoustic barriers / roofing over open areas etc. Such measures can be effective where there is sufficient separation distance to sensitive neighbours to address residual noise breakout from open pens etc.

In this case, the proposals adjoin a residential garden and are close to a dwelling in separate ownership. As such, there is a clear potential for significant and unreasonable noise impacts to arise. Based on 20 years experience dealing with noise issues, including those relating to dog barking noise, I think it would be difficult and expensive to create sufficient additional noise mitigation in this location.

If the Planning Authority agrees with me that there is a significant potential for unacceptable noise impacts to arise then I suggest it will be a matter for the Applicant to obtain any specialist advice and /or present revised proposals in order to satisfy the reasonable requirements of the Planning Authority. I will be happy to comment on any specialist reports or revised proposals received.

Given the above, I cannot support the application as it stands and recommend refusal.

### 3 Odour



I previously commented that there is a potential for odour problems to arise in relation to dog faeces within kennel areas and waste storage arrangements. I acknowledge that operating under an animal boarding establishment licence is intended to ensure certain hygiene and cleaning practices are implemented. However, such licences are aimed at animal welfare and are not intended to address questions of neighbouring amenity. I could not find any information addressing how or where dog faeces are dealt with, stored and disposed of. Notwithstanding comments regarding noise above, I suggest additional information be requested in relation to dog waste management and storage with a view to confirming neighbouring amenity can be adequately protected.

RE-CONSULTATION RESPONSE DATED 24.05.19 - I have reviewed the additional information for this application, including that relating to odour, noise and historical complaints, in relation to environmental protection matters on behalf of North Devon Council's Environmental Protection service and comment as follows:

Odour - The additional information indicates that dog waste is effectively managed such that neighbouring amenity can be protected.

Noise - the additional information provided does not alter my concerns in relation to potential noise impacts. My emailed comments of 12 April 2019 stand.

#### **Public Response:**

1 letter of support

One support has been received from the owners of a nearby property, Beechley. They state that they have not experienced any issues with regard to barking dogs, fouling or odour from the application property. They assert that the applicant's establishment is held in high regard from locals and non-locals alike and brings economy to the area.

#### **RELEVANT HISTORY**

<b>62/41/79/027</b>	<b>Extension to property</b>		
	Full	Withdrawn	10 September 1979
	Same Site		
<b>62/41/86/011</b>	<b>Extension to dwelling.</b>		
	Full	Approved	09 May 1986
	Same Site		
<b>62/41/18/013</b>	<b>Proposed 4 dog kennels for boarding purposes. Retrospective.</b>		
	Full	Withdrawn	22 May 2018
	Same Site		

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN 2011 – 2031

GP1 – General Policy: Achieving National Park Purposes and Sustainable Development

CE-S1 – Landscape and Seascape Character

CE-D1 – Protecting Exmoor's Landscapes and Seascapes

CE-S6 – Design and Sustainable Construction Principles

CC-S6 – Waste Management

CC-D5 – Sewerage Capacity and Sewage Disposal  
 CC-S7 – Pollution  
 SE-S1 – A Sustainable Exmoor Economy  
 SE-S2 – Business Development in the Open Countryside  
 SE-D1 – Home Based Businesses  
 AC-D2 – Traffic and Road Safety Considerations for Development  
 AC-S3 – Traffic Management And Parking  
 AC-D3 – Parking Provision and Standards

THE LYN PLAN 2013 – 2028

P1 – Overall Objectives for New Development  
 ENV1 – Location of Development and Enhancement of the Local Environment  
 E1 – Local Economy  
 E10 – Parking

The National Planning Policy Framework (NPPF) is also a material planning consideration.

**Observations:**

The main material planning considerations in this case are considered to be the principle of the development, the design, scale and materials of the development and its impact on the landscape, neighbouring amenity and highway safety.

**PRINCIPLE OF DEVELOPMENT**

The applicant has erected commercial dog boarding kennels in the garden of the application property. This building provides four individual kennels and provides employment for the applicant only. It's scale and the individual employment it provides leads Officers to consider that it qualifies as a home based business. As such, the key policy for this development is considered to be Policy SE-D1 of the Exmoor National Park Local Plan 2011 – 2031. This policy states that the use of part of a residential property, a small scale extension, the use of ancillary buildings where they are well related to existing buildings or, where no suitable buildings exist new outbuildings within the domestic curtilage, for a home based business will be permitted where:

- a) there is no unacceptable adverse impact on the landscape or the amenity of the area or on the occupiers of neighbouring properties; and
- b) where an extension is proposed the development accords with Policy HC-D15 (Residential Extensions).

It is considered that the applicant could not practically use part of the existing dwelling to provide commercial kennels and it is also considered that the kennels could not be attached to the dwelling as an extension either due to the changes in ground level between the dwelling and its curtilage. There are no available existing buildings to convert into kennels due to them being in current use or not large enough to accommodate four kennels. Having considered this sequentially, Officers are of the opinion that the provision of kennels within the curtilage of the application site is acceptable and this is where the applicant has located the kennels.

The kennels provide a service to the local community and holiday makers that the applicant considers is lacking in the Lynton and Lynmouth area. The Lyn Plan 2013 –

2028 supports in principle development that meets an economic and social needs, and adds to the assets of the community.

Given the above, the principle of erecting commercial dog boarding kennels of this scale is considered to be acceptable, subject to other material planning considerations being satisfied.

### DESIGN, SCALE & MATERIALS AND IMPACT ON LANDSCAPE

The kennels have been constructed in a style that is typical for this type of development, with enclosed indoor areas for the dogs to sleep and shelter, and enclosed outside areas for each individual kennel. The indoor areas are clad in timber under felt roofs. The outside areas are contained with metal mesh panelling. These materials are considered to be acceptable in the context of an outbuilding within this residential curtilage. The design and materials of the development are considered to be congruent with commercial dog kennels and it is considered that they do not look out of place within the residential curtilage of the application site.

The scale of the kennels is considered to be necessary to provide sufficient space for the dogs that would be kept within them. They are not considered to be oversized nor are they considered to constitute overdevelopment of the residential curtilage. The scale of the development is considered to be acceptable.

Given the above, and that the kennels are located within an existing residential curtilage in close proximity to the dwelling at the application site, they are considered to be seen within the context of the built form of the property and the other properties at Caffyns Cross. As such, the development does not jar within the landscape and it is not considered to cause material harm to the character and appearance of the landscape.

### IMPACT ON NEIGHBOURING AMENITY

The issue with the development is its impact on neighbouring amenity, and this is the reason why Officers are not in a position to support the application for its retention. The Environmental Health consultant for North Devon Council has objected to the application, initially on its impact from noise and odour.

In terms of noise, Environmental Health's initially submitted comments advising that commercial dog kennels are associated with significant barking noise. The author of the consultation response states that dogs tend to bark more when placed in unfamiliar circumstances, especially where other dogs are also present. Also, as boarding dogs are not brought into the home at night, there is a potential for barking to occur at any time of the day or night. Although this application relates to only four individual kennels, this number still creates a potential for significant barking noise to arise. Given that the proposed location adjoins a residential garden and is less than 30m from a neighbouring dwelling, the advice provided states that there is a clear potential for significant and unreasonable noise impacts to arise should permission be granted. The consultant notes that the kennels are of timber construction with open wire meshed sides and as such are unlikely to be effective in containing barking noise. It has been suggested that the applicant should commission a specialist noise impact assessment to be carried out by a qualified noise expert and this would clarify whether noise impacts are likely to arise. It is concluded that the application cannot be supported due to its noise impact and it is recommended by Environmental Health that the application is refused.

In addition to the above, the Environmental Health consultant could not find any information addressing how or where dog faeces are dealt with, stored and disposed of. Notwithstanding comments regarding noise, as set out above, it was requested that additional information be submitted in relation to dog waste management and storage with a view to confirming neighbouring amenity can be adequately protected.

The applicant has confirmed that she is unable to afford to commission a specialist noise impact assessment. Instead, she has referred to the fact that there is a license in place for commercial dog boarding within the kennels and this was issued by Environmental Health at North Devon Council. It has been queried how North Devon Council can issue such a license when there may be potential noise issues from the development. The applicant has also explained that a staff member at Environmental Health has verbally confirmed to her and her agent that North Devon Council have not received any complaints in relation to noise from the kennels. According to the applicant, North Devon Council are not able to provide confirmation on this matter in writing whilst a planning application for the development is being considered by the Local Planning Authority. Lastly, the applicant has provided letters from occupiers of neighbouring properties stating that they have not experienced any disturbance from dogs barking. One of these neighbours has also independently submitted comments that raise no concerns with the development.

In terms of odour, the applicant has provided information of the process for cleaning the kennels, both the indoor and outdoor areas. This includes the disposal of waste into the property's existing septic tank, which the kennels have been erected close to.

The applicant's case for the asserted acceptability of the development in respect of noise, together with the additional details on the cleaning process for the kennels and disposal of faeces, has been the subject of a further period of public consultation.

Lynton and Lynmouth Town Council have stated that they support the retention of the kennels.

The Environmental Health consultant has provided further comments having reviewed the additional information for this application, including that relating to odour, noise and historical complaints. It is advised that the additional information indicates that dog waste is effectively managed such that neighbouring amenity can be protected. However, the additional information provided does not alter the concerns raised in relation to potential noise impacts.

The scale of the development and its positioning at the bottom of the garden of the application property leads Officers to conclude that the kennels do not materially cause issues in terms of overbearing or loss of light. The details provided by the applicant in relation to the cleaning of the kennels and dispose all of faeces demonstrate that there would not be an issue to neighbouring occupiers from odour. However, the Environmental Health concerns raised in relation to noise impact means that Officers cannot support the application. The development has the potential to cause material harm to neighbouring amenity as a result of noise due to its construction and siting close to neighbouring residential properties.

**IMPACT ON HIGHWAY SAFETY**

The presence of commercial kennels at this property is considered to lead to an increase in traffic movements to and from the property. However, there is on-road parking directly outside the property that does not block vehicle flow along the lane. This parking provision is considered to be sufficient to accommodate the increase in traffic movements, particularly as the commercial visitors would only be at the property for short period of time to drop off or collect their dog(s). Further to this, while there would be an increase in traffic movements, it is considered that this would not involve a significant increase in volume and the local road network has the capacity to accommodate this level of increase. Overall, the development is not considered to cause highway safety issues.

**CONCLUSION**

The principle of this home based business that serves the local population and visitors to the National Park is considered to be compliant with Policy SE-D1 of the Exmoor National Park Local Plan and the policies of the Lyn Plan. In addition to this, the design, scale and materials of the development are considered to be acceptable, as is its impact on the character and appearance of the landscape and highway safety. However, there are concerns over the distance of the kennels from the neighbouring properties and the noise impact that can arise from this type of development in close proximity to residential properties. Environmental Health have recommended that the application is refused on this basis. Officers have taken account of the case put forward by the applicant in relation to noise impact, which does suggest that there may not have been noise issues thus far from the development, but the expert advice from Environmental Health is that the application cannot be supported on the grounds that this is noise creating development that is in close proximity to residential properties. It is acknowledged that the development provides a useful facility for the local community but without independent expert advice that states a situation contrary to the advice provided by Environmental Health, Officers conclude that the application is contrary to Policies GP1, CE-S6, SE-S1 and SE-D1 of the Exmoor National Park Local Plan 2011 – 2031 and Policies P1 and E1 of the Lyn Plan 2013 – 2028. As such, Officers recommend that the application be refused.

**Recommendation:****Refuse for the following reasons**

1. The commercial dog kennels have been erected adjacent to the boundary with a neighbouring residential property and this type of development is associated with significant noise levels from barking dogs. There is considered to be a potential for significant and unreasonable noise impacts to arise from the development and the manner of construction of the development is not considered to be effective in containing barking noise. Given the close proximity of the kennels to neighbouring residential properties, the retention of the kennels creates the potential for harm to neighbouring amenity from noise disturbance. As such, the development is contrary to Policies GP1, CE-S6, SE-S1 and SE-D1 of the Exmoor National Park Local Plan 2011 – 2031, Policies P1 and E1 of the Lyn Plan 2013 – 2028 and the National Planning Policy Framework.

**Notes to Applicant:****POSITIVE & PROACTIVE STATEMENT**

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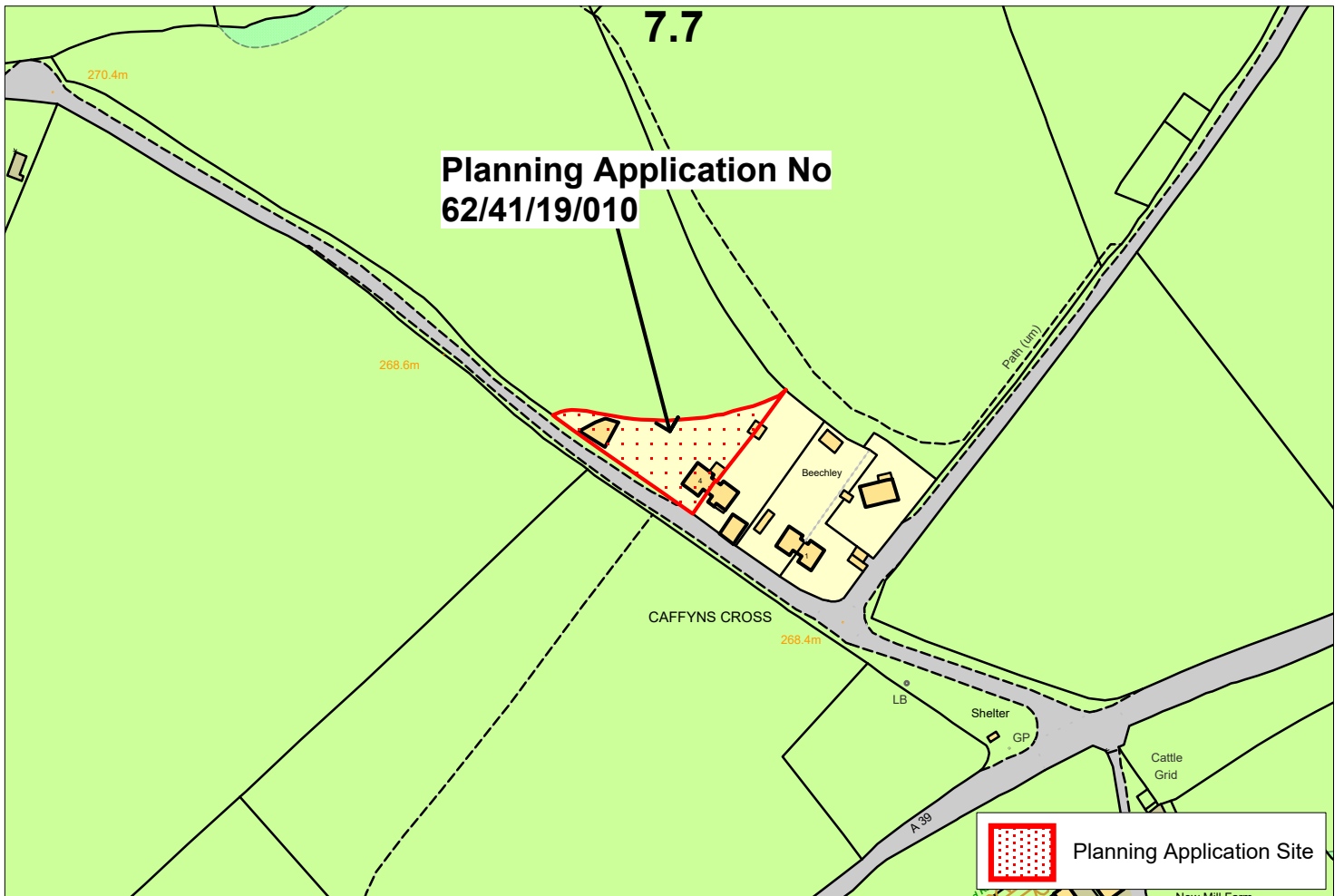
### **EXMOOR NATIONAL PARK AUTHORITY MEETING**

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This Authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application, Exmoor National Park Authority has endeavoured to work positively and proactively with the agent/applicant, in line with the National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed to achieve a positive outcome. However, in this instance the relevant planning considerations have not been addressed and the application has therefore been refused.

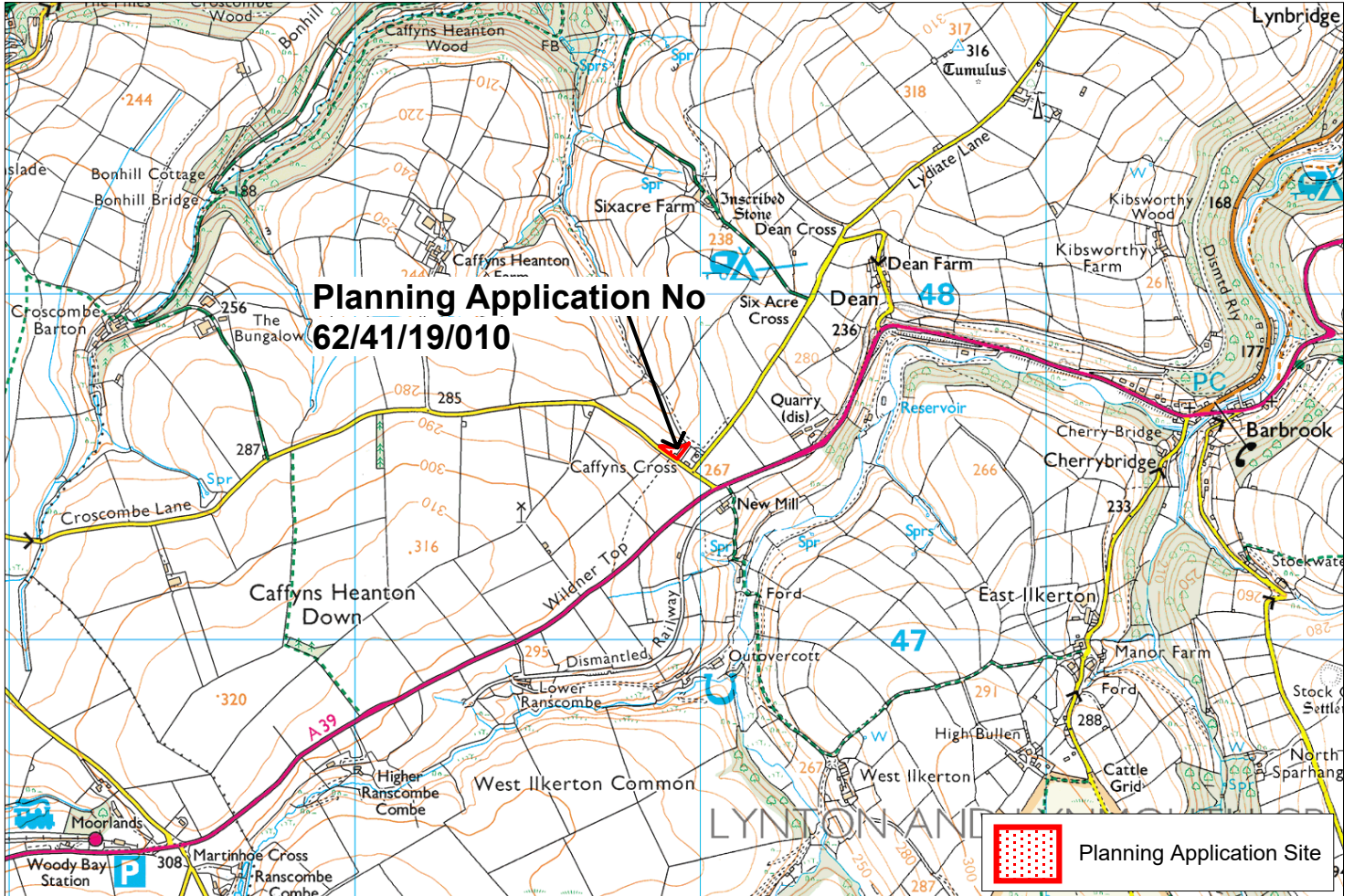
#### **APPEAL INFORMATION**

If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.



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# 7.8

## EXMOOR NATIONAL PARK AUTHORITY MEETING

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Application No: **62/49/18/005** Grid Ref. 273820 132291

Applicant: Mr R Richards, Bampfylde Hill  
Heasley Mill, South Molton, Devon

Location: Mineswood, North Molton, Devon

Proposal: **Proposed change of use of former Methodist Church to two holiday lets together with associated works. Resubmission of withdrawn application ref. 62/49/17/004. As per additional information. (Full)**

Introduction: This application comes before the Authority Committee in accordance with the agreed Scheme of Delegation, because North Molton Parish Council has a view contrary to the recommendation of Planning Officers.

Planning permission is sought for the conversion of the former Methodist chapel at Heasley Mill to two holiday lets. The former Methodist chapel (now known as Mineswood) is a single storey, stone and render building with a slate roof and a stone porch on the front elevation. The site is separated from other buildings in Heasley Mill. The site has no cemetery area and the boundaries are fairly tightly drawn around the building.

There is currently a single width vehicular access up to the chapel from the lane in front of the site. The access is sloped due to the chapel being situated on higher ground level than the lane. There is parking and turning space in front of the building. The south west section of the building is an entrance hall with the majority of the building being the formal chapel area. These two parts of the building are subdivided.

The application proposes to convert the former chapel to two holiday lets. The holiday lets would consist of a one bedroom unit over two floors within the entrance hall and another three bedroom unit over two floors within the formal chapel area. The smaller unit would have an approximate net internal floorspace of 64.5 square metres. The submitted plans indicate that the larger unit would have an approximate net internal floorspace of 115.5 square metres.

The new first floor would be positioned above the top of the existing windows, which would allow the full height of the windows to be retained. Five new rooflights would be inserted within the roofslope, three in one elevation and a further two in the opposite elevation. Two flues would also protrude from the roofslopes, one in each roofslope. A large off-road parking would be created and finished in Type 2 scalplings. A sewage package treatment plant would be installed on the property to serve the two holiday lets.

Planning permission was previously granted in 2011 for the use of the former chapel as a local needs affordable dwelling (ref. 62/49/08/001). This permission was never implemented and expired in 2014. The Officer report for that application explained that the chapel closed in December 2000 because of decreasing attendance. That application was approved with five

conservation style rooflights in the elevation facing away from the lane and a single flue in the same elevation.

The same proposal for the conversion of the chapel to two holiday letting units was previously submitted to the Local Planning Authority (ref. 62/49/17/004). This previous application was withdrawn prior to it being presented to Members in February 2018 with a recommendation for refusal. The applicant has amended the extent of external works as part of this new application.

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### **Consultee Response:**

**WILDLIFE CONSERVATION OFFICER - ENPA:** Blue Sky Ecology conducted surveys at Mineswood in 2015/16 which confirmed the presence of day roosts of soprano pipistrelle bats *Pipistrellus pygmaeus* and a transitional whiskered bat *Myotis mystacinus* roost. The bats were observed emerging from a number of locations around the chapel including from under roof tiles and from behind bargeboards and fascias.

Additional bat presence/absence surveys were conducted by Orbis Ecology in July and August 2019 to provide an up-date to the original surveys. The results of the survey confirmed:

- The combined results of the 2016 and 2019 surveys indicate that the building is being used by brown longeared bats, soprano pipistrelle bats and whiskered bats.
- There was moderate level serotine, common and soprano pipistrelle bat commuting and foraging recorded in the vicinity of the chapel during the 2019 surveys.
- There was no evidence of nesting bird activity.

### ENPA recommendations

#### Bats

The proposed conversion works would pose a risk of disturbance through noise, light and vibration, injuring or killing bats (if undertaken when bats are present) and is likely to result in damage/destruction of bat roosts of three different bat species, including brown long-eared bats, soprano pipistrelle bats and whiskered bats. The proposed works would therefore require a European protected species licence (EPSL) from Natural England. An EPSL can only be applied for once planning permission has been granted.

All species of bats and their resting places are afforded strict protection under the Habitats Regulations 2017 and individuals from reckless and intentional disturbance under the Wildlife and Countryside Act (WCA) 1981 (as amended). I would therefore recommend that the following is conditioned given the scope for mitigation measures:

- Prior to the commencement of any works a Bat Mitigation and Compensation Strategy comprised of timing of works and number, type and location of roost compensation features, shall be submitted to and approved in writing by Exmoor National Park Authority. The Strategy shall be based on up to date survey information of potential roost sites. In summary, it is considered that mitigation measures will be comprised of providing alternative roosting provision for bats, minimising any potential disturbance to

acceptable levels and maintaining the favourable conservation status of the species present. Recommended mitigation measures include: carrying out works under an ecological watching brief and providing alternative roosting provision for brown long-eared bats, soprano pipistrelle bats and whiskered bats within the converted dwelling, e.g., through use of integrated bat boxes/bat tubes or use of bat slates. Under no circumstances should a breathable roofing membrane (BRM) be used to line the roofs of any new extensions if bat roosting provision is provided in these roofs. The long fibres that make up BRMs have a tendency to be pulled out by roosting bats and pose an entanglement threat to them.

- A copy of the European protected species licence will be submitted to Exmoor National Park Authority prior to work commencing on site.

Reason: Pre-commencement conditions in the interests of the strict protection afforded to European protected species.

I am aware of recent legislation which requires the applicant to agree to pre-commencement condition. However, without it in place I cannot be confident that no harm would come to roosting bats. The Habitats Regulations requires a system of "strict protection" for European protected species including through the planning system effectively preventing harm occurring to such protected wild animals.

As the 'competent authority' under the Habitats Regulations ENPA are obliged to assess the Favourable Conservation Status (FCS) of populations of European protected species affected by development as one of 'three tests' (The other two are consideration of alternatives and over-riding public interest). In my consideration it is likely that other sites within the area will support a similar suite of bat species and that a Bat Mitigation and Compensation Strategy would mitigate and compensate for roosting provision lost when carrying out the proposed development.

#### Bats and lighting

At least five bat species have been recorded using or passing through the site (brown long-eared, soprano pipistrelle, whiskered, serotine, common pipistrelle). In addition, the scattered trees, shrubs, hedgerows and grassland surrounding the site all provide commuting and foraging habitat for species of bat, therefore, please attach the following condition to any planning permission granted:

- No artificial lighting associated with the development will illuminate the surrounding habitats, comprised of scattered trees, shrubs, hedgerows and grassland, and the new mitigation bat roosts and their access points. A lighting scheme showing how this would be achieved should be submitted to Exmoor National Park Authority before work on site commences for approval. The scheme will include the following details: External security lighting will be controlled by PIR (passive infrared) sensors (which are triggered by movement) and set to come on for the shortest period of lit-time. Roost entrances will not be directly lit or impacted by light spill. There will be no illumination above 2 m in height (except where lights are placed directly above doors), and upward light spill must be prevented. A downward facing porch light may be more appropriate than external security lighting.

Reason: All bats are afforded protection under the Habitats Regulations 2017 by which populations are to be maintained at Favourable Conservation Status as defined under Article 1 of the Habitats Directive 1992. Lacking evidence to the contrary it must be assumed the boundary hedgerows and trees forms part of the habitat available to maintain local bat populations. Bat species are adversely affected by the introduction of artificial lighting on commuting routes, which in effect can cause severance between roosts and foraging areas. A dark boundary area will also help maintain other light sensitive species on site and contribute towards conserving biodiversity.

### Birds

I note from photos within the case file that the bank to be cut back to accommodate parking contains scrub and ruderal herbs which may support nesting birds. Therefore, please attach the following condition:

- No vegetation removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of any shrubs, scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period – some species can breed outside the time frame given.

DCC - HIGHWAYS: No comment received

NORTH DEVON COUNCIL - PLANNING REGISTRATION: In accordance with the agreed protocol, the District Council, as a consultee to the Exmoor National Park Authority, has no observations.

HISTORIC BUILDINGS OFFICER - ENPA: No comment received

ARCHAEOLOGIST - ENPA: No comment received

NORTH MOLTON PARISH COUNCIL: Support the application.

### **Public Response:**

3 letters

Three letters of have been received in relation to this planning application. All three letters have raised concerns with the proposal for the conversion of the building into two holiday letting units as Heasley Mill has seen a reduction in the number of permanently occupied dwellings over the last 30 years. All three authors have requested that the chapel is converted into a permanently occupied dwelling.

### **RELEVANT HISTORY**

**62/49/17/004** Proposed change of use of former Methodist Church to two holiday lets together with associated works. As per additional plan dated 23.01.18.

Full

Withdrawn

01 February 2018

Same Site

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### EXMOOR NATIONAL PARK AUTHORITY MEETING

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<b>62/49/02/001</b>	<b>Conversion of disused chapel to three bedroomed dwelling</b>
<b>Full</b>	<b>Rejected</b>
	<b>29 April 2003</b>
	<b>Same Site</b>
<b>62/49/07/005</b>	<b>Proposed conversion of redundant chapel into one residential unit (2 bed).</b>
<b>Full</b>	<b>Withdrawn</b>
	<b>15 November 2007</b>
	<b>Same Site</b>
<b>62/49/08/001</b>	<b>Conversion of redundant chapel to 1 no local needs affordable residential unit.</b>
<b>Full</b>	<b>Approved</b>
	<b>01 November 2011</b>
	<b>Same Site</b>

#### **Most Relevant Development Plan Policies:**

EXMOOR NATIONAL PARK LOCAL PLAN 2011-2031

GP1 - General Policy: Achieving National Park Purposes and Sustainable Development

GP4 - General Policy: The Efficient Use of Land and Buildings

CE-S1 - Landscape and Seascape Character

CE-D1 - Protecting Exmoor's Landscapes and Seascapes

CE-S2 - Protecting Exmoor's Dark Night Sky

CE-S3 - Biodiversity and Green Infrastructure

CE-S4 - Cultural Heritage and Historic Environment

CE-D3 - Conserving Heritage Assets

CE-S5 - Principles for the Conversion or Structural Alteration of Existing Buildings

CE-S6 - Design & Sustainable Construction Principles

HE-S1 - Housing

RT-S1 - Recreation and Tourism

RT-D4 - Non-serviced Accommodation

AC-D2 - Traffic and Road Safety Considerations for Development

AC-S3 - Traffic Management and Parking

AC-D3 - Parking Provision and Standards

The National Planning Policy Framework (NPPF) is also a material planning consideration.

#### **Observations:**

The main material planning considerations in this case are considered to be the principle of the development, the design, scale and materials of the development and the impact on the landscape, neighbouring amenity, wildlife and highway safety.

#### **PRINCIPLE OF DEVELOPMENT**

It has consistently been recognised that National Parks are not suitable locations for unrestricted housing and the approach to housing in the National Park provides a positive strategy for the delivery of affordable housing, for the identified need within local communities. The application site is, under the Exmoor National Park Local Plan 2011 – 2031, a suitable location to deliver an affordable dwelling and, indeed, the applicant purchased the property with planning permission to convert the former church to a local need affordable dwelling. Notwithstanding that, the planning permission for conversion to a local need affordable dwelling expired in November 2014 and the applicant, through this application, proposes the conversion of the building to provide two units of holiday

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accommodation.

The National Planning Policy Framework (NPPF) is silent on the conversion of buildings to holiday accommodation, however, Paragraph 77 states that in rural areas local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing.

The strategic approach set out in the Local Plan (and is consistent with the approach since 2005) is that all opportunities should be taken to deliver affordable housing for local communities and part of the strategy is to resist other types of housing development.

Policy RT-D4 of the Local Plan prescribes that proposals for the change of use and conversion of buildings to non-serviced accommodation will be permitted where they:

- a) create additional unit(s) on an existing self-catering complex;
- b) accord with RT-D3 Safeguarding Serviced Accommodation clause 3(a);
- c) reuse a redundant building associated with a hotel/guesthouse premises; or
- d) relate to the diversification of a rural land-based business, where the building is well-related to an existing grouping of buildings.

In addition to this, the Local Plan would allow the building to be put to a variety of uses which would be beneficial to the local community including an affordable dwelling, as previously granted, and for business use. The need for affordable housing for local communities has consistently been identified as one of the key issues within the National Park.

A concession to the approach of providing affordable housing is that, in certain cases, a building could be converted to provide a dwelling for holiday accommodation purposes. Under Policy RT-D4, the policy facilitates the provision of additional holiday lets at existing tourism accommodation premises or, where these are related to rural land-based businesses. For rural land-based business, the Policy contemplates the conversion of traditional farm buildings within the farmstead complex and, that such conversions would contribute to the viability of the rural land-business, thus supporting the ability of that business to manage and maintain the land to which the business relates and, in turn, support the conservation of the appearance and character of the area of the National Park landscape that is managed by the business.

In this case, however, the proposal does not relate to an existing tourism accommodation premises, nor is the former church part of a farmstead, and while the applicant asserts that the proposal may relate to a rural land-based business, the applicant's business is not located within the National Park. Therefore, there is no convincing evidence to demonstrate that the proposal would support the positive management of land within the National Park.

To clarify this matter the Case Officer sought details from the applicant indicating where his farmstead is located and identifying the land he farms. A submitted plan indicates that the applicant lives at Bampfylde Hill, an agricultural worker's dwelling that is located over 1km outside the boundary of the National Park. The application site is not part of a farmstead and there are no agricultural buildings at this site. The plan shows that the applicant owns farmland that is all outside the Park. Further land is rented, most of which

is outside the Park as well, apart from land located near Yarde Down Cross.

The application building is over 1.5km from the applicant's dwelling, does not form part of a farmstead and is not part of the applicant's dispersed agricultural holding. The general intention of farm diversification is that traditional buildings on a farmstead are converted for alternative uses (including holiday letting accommodation), such that the additional income can help support that farm. It is acknowledged that the application building is well related to the built form of Heasley Mill but it does not form part of a building group on a farmstead, in particular, a farmstead owned by the applicant. It is therefore difficult to support this proposal as a form of farm diversification.

Further to this, a rural land-based business is defined in the Local Plan as a business that manages the land in a way that conserves the National Park's special qualities. As the applicant's farmland is predominantly outside the National Park and the land that is within the Park boundary is rented, it is considered that to allow this proposal as farm diversification would not contribute to the long term management of the landscape of the National Park.

On this basis, it is considered that the proposed development of two holiday lets does not comply with Policy RT-D4 of the Local Plan, as a matter of principle.

Three local residents have provided comments on this application. All three have raised concerns with the proposal for holiday accommodation in the chapel. They have stated that they have seen the number of permanent occupied dwellings in Heasley Mill reduce dramatically over the last 30 years with the majority being used as holiday letting accommodation and second homes. All three residents have requested that the chapel is used as a permanently occupied dwelling.

In addition to the above, the proposed use of this former chapel would reduce the redundant building stock available for affordable housing. As mentioned previously, an application has been approved previously for a local needs affordable dwelling within the building and the applicant purchased the building with this permission still in place. This type of building provides opportunities for affordable sized dwellings to be created that can meet a local housing need, such as the former chapel at Wheddon Cross and the Old School in Withypool. The loss of this building as a potential host for a local needs affordable dwelling reduces the available building stock for such housing within this Parish. The Local Planning Authority have had this approach to providing affordable housing through the conversion of traditional buildings, where they are well related to existing settlements or farmsteads, since the adoption of the previous Local Plan in 2005, furthermore this policy approach has been consistently applied since 2005 and Officers can see no planning reason to deviate from the adopted policies in this case.

#### DESIGN, SCALE AND MATERIALS

Heasley Mill Methodist Chapel does not appear on the North Molton Tithe map but is present on the 1st edition OS map which dates the buildings construction as being sometime between 1840 and 1888. Photographs show that the interior of the chapel has had its internal fixtures and fittings, including pews and alter piece, removed. Estate Agents details dated 2012 also show them absent.

The proposed conversion would utilise existing openings within the elevations of the

building and there is no extension to the building proposed nor any significant alterations to its built form. However, rooflights would be installed within the roofslopes of the buildings. Three rooflights would be installed in the south eastern roofslope, with a further two rooflights being installed in the north western roofslope. Two flues would be installed as well within the roof. These have been significantly reduced in scale compared to the scheme submitted with the previously withdrawn application. Subject to the rooflights being of conservation design and flush fitting, and the flues being coloured matt black, it is considered that these alterations to the buildings external fabric are acceptable. The conversion is not considered to cause material harm to the external fabric of the building.

The internal aspect of the conversion, with two units being provided within a building that is not large in scale, is considered to negatively alter the internal character and appearance of this former place of worship. The open nature of the building would be lost through the creation of a first floor and this would lose the internal chapel appearance. However, it is noted that the building is not listed and that the works to the interior of the building can be carried out without the benefit of planning permission. As such, Officers consider that the potentially detrimental impact on interior of the building cannot form a reason for refusal.

#### IMPACT ON LANDSCAPE

It is acknowledged that the chapel is located near to the edge of Heasley Mill but there is a degree of separation that allows the chapel to sit on its own within this area of the open countryside. It is noted that the site around the chapel is relatively undeveloped. Currently, a vegetated area is situated between the redundant chapel and a ruined miner's cottage to the south west, including natural quarry faced walls that are covered in vegetation.

The proposal is to cut this area back towards the field that is situated on higher ground level to the chapel on its north western boundary. This would allow a larger off-road parking area for the two proposed holiday lets. The loss of part of the undeveloped nature of the setting of the chapel would cause material harm to the character and appearance of its setting. It would be replaced with a large engineered area of hard standing that would be finished in Type 2 scalplings.

It is acknowledged that these works are required to provide a sufficient level of off-road parking for the two proposed holiday lets and that the works would be substantially less if only one unit of accommodation was proposed in the building, as approved for the 2011 permission for a single affordable dwelling at this site.

The creation of this large parking area would lead to an unsympathetic change in the character and appearance of the site and its undeveloped nature to the extent that it should form another reason for refusal.

#### IMPACT ON NEIGHBOURING AMENITY

The application site is considered to be located a sufficient distance for the proposed development to not cause material harm to neighbouring amenity as a result of overlooking, overbearing or loss of light.

#### IMPACT ON WILDLIFE

Blue Sky Ecology conducted surveys at Mineswood in 2015/16 which confirmed the



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presence of day roosts of soprano pipistrelle bats (*Pipistrellus pygmaeus*) and a transitional whiskered bat (*Myotis mystacinus*) roost. The bats were observed emerging from a number of locations around the chapel including from under roof tiles and from behind bargeboards and fascias.

Additional bat presence/absence surveys were conducted by Orbis Ecology in July and August 2019 to provide an up-date to the original surveys. The results of the survey confirmed:

- The combined results of the 2016 and 2019 surveys indicate that the building is being used by brown long eared bats, soprano pipistrelle bats and whiskered bats.
- There was moderate level serotine, common and soprano pipistrelle bat commuting and foraging recorded in the vicinity of the chapel during the 2019 surveys.
- There was no evidence of nesting bird activity.

The Authority's Wildlife Officer has advised that the proposed conversion works would pose a risk of disturbance through noise, light and vibration, injuring or killing bats (if undertaken when bats are present) and is likely to result in damage/destruction of bat roosts of three different bat species, including brown long-eared bats, soprano pipistrelle bats and whiskered bats. The proposed works would therefore require a European Protected Species Licence (EPSL) from Natural England. An EPSL can only be applied for once planning permission has been granted.

The Habitats Directive provides a derogation under Article 6(4) which allows such plans or projects to be approved provided three tests are met:

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

The Local Planning Authority are the 'competent authority' under the Habitats Regulations. As such, the Local Planning Authority must satisfy itself that the above tests can be satisfied as part of the determination of this application.

The Wildlife Officer has advised that it is likely that other sites within the area will support a similar suite of bat species and that a Bat Mitigation and Compensation Strategy, secured through a planning condition, would mitigate and compensate for roosting provision lost when carrying out the proposed development.

The applicant has no other buildings on the site to facilitate the provision of any form of dwelling, affordable or holiday accommodation, through the conversion of an existing building. Given the open countryside location of the site, there is no provision under the Local Plan to construct a new build dwelling. Taking this into account, it is considered that there are no feasible alternatives which are less damaging.

The proposal involves works to a traditional building, which is considered to a potential non-designated heritage asset. If Members consider that the development and

conversion of this former chapel is absolutely necessary to secure its preservation and viable future use then it can be considered that this test has been met.

The Wildlife Officer has noted that from photos with the application papers the bank to be cut back to accommodate parking contains scrub and ruderal herbs which may support nesting birds. Therefore, it is recommended that a condition is attached preventing the removal of vegetation during the bird nesting season, unless it is checked by an ecologist prior to works taken place.

#### IMPACT ON HIGHWAY SAFETY

The proposal for two units of accommodation at the site (with four double bedrooms in total) would lead to a requirement for at least four vehicles to park within the site. If the proposal were for one unit then the existing parking and turning space could be sufficient with only a minor enlargement required. The level of parking required for this proposed development would lead to a substantially larger parking area being required.

The submitted plans indicate that the majority of the vehicles would be accommodated within the new enlarged parking area by being parked perpendicular and in close proximity to the edge of the lane. This would mean that the vehicles would need to manoeuvre on the lane to be able to sufficiently park within the off-road parking area, either by stopping in the public highway and reversing into the parking spaces or reversing on to the public highway. This would prejudice road safety interests and, therefore, would be contrary to Policy AC-D2 of the Local Plan.

#### CONCLUSION

The proposed use of the former Methodist chapel as two holiday lets is not considered to comply "in principle" with Policy RT-D4 of the Local Plan as it would not constitute diversification of an existing hotel/guesthouse nor a rural land-based business. It is also a concern for Officers that the proposed use of this former chapel would see the potential loss of available building stock for affordable housing contrary to the consistent policy approach that the Authority has applied since 2005.

Further to this, the proposed landscaping works to create parking spaces would impact negatively on the undeveloped nature of the site, and the setting of the historic chapel. These landscaping works are not considered to be sympathetic to the character and appearance of the building and the immediate landscape.

Lastly, the proposed parking arrangement would not provide sufficient off-road turning space for vehicles and would therefore lead to the manoeuvring of vehicles on the public highway.

Taking the above into account, it is recommended that the application be refused.

#### **Recommendation:**

##### **Refuse for the following reasons**

1. The application site lies within the open countryside and does not form part of a farmstead. The proposed use of the former chapel as self-catering holiday accommodation does not comply with Policy RT-D4 of the Exmoor National Park Local Plan 2011 - 2031 as it would not constitute the diversification of a rural-land based business within the National Park and therefore would not

assist in the management and conservation of the landscape of the National Park.

2. The creation of a large area of hard standing at the site for off-road parking has been proposed to accommodate the number of parking spaces required to serve two units at this site. As such, the provision of two units and the associated parking area constitutes overdevelopment of the site that would lead to an erosion of the undeveloped character and appearance of the setting of this building within the open countryside. These associated work are contrary to Policies GP1, CE-S1, CE-D1 and CE-S6 of the Exmoor National Park Local Plan 2011 - 2031 and the National Planning Policy Framework.
3. The proposed layout and arrangement of parking to serve the two holiday lets would lead to the manoeuvring of vehicles on the public highway. This would cause a safety hazard to vehicular users of the public highway. The proposed development is therefore contrary to Policy AC-D2 of the Exmoor National Park Local Plan 2011 – 2031 and the National Planning Policy Framework.

#### **Notes to Applicant:**

#### **POSITIVE & PROACTIVE STATEMENT**

This Authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application, Exmoor National Park Authority has endeavoured to work positively and proactively with the agent/applicant, in line with the National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed to achieve a positive outcome. However, in this instance the relevant planning considerations have not been addressed and the application has therefore been refused.

#### **APPEAL INFORMATION**

If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.



**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/8/19/103 SS941369	Mr & Mrs J & A Levenson - Proposed alterations to dwelling including loft conversion with gable dormers, balcony and new pitched roofs to replace existing shallow pitch and flat roofs, together with conversion of garage. As per amended plans and additional information (Householder), Heathpoult Farm, Lype Steep, Cutcombe, Wheddon Cross, Somerset	Approved 21-Jun-2019
6/26/19/106 ST026375	Mr P Sawatzki - Proposed replacement agricultural machinery storage building including removal of existing building (as per amended plan). (Full), Road Barn, Roadwater, Watchet, Somerset	Approved 21-Jun-2019
62/11/19/004 SS740469	Mr & Mrs J Graham - Proposed replacement of mobile home with dwellinghouse and associated works. As per amended and additional plans. (Full), Keepers Gate Lodge, Bridge Ball, Brendon, Lynton, Devon	Approved 26-Jul-2019
6/26/19/103 ST027389	Mrs T Stevens - Lawful Development Certificate for the existing use for the stationing of a caravan for holiday letting purposes in excess of 10 years. (CLEUD), Orchard View, Rodhuish, Minehead, Somerset	Approved 10-Jul-2019
GDO 19/08  SS999368	Mr M Weatherlake - Prior notification for proposed polytunnel (16.6m x 8.5m). (General Development Order), Higher Court Farm, Court Lane, Treborough, Somerset	GDO - Prior Approval Not Reqd  15-Jul-2019
62/43/19/002 SS672488	Mr Cottingham - Proposed raised terrace with storage underneath, new bay windows and associated development. (As per amended plan). (Householder), Wringapeak House, Woody Bay, Parracombe, Barnstaple, Devon	Approved 23-Jul-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/34/19/101 SS954420	Mr & Mrs B Evans - Proposed rear extension and construction of porch to front entrance. As per additional information (Householder), 2 Bemerry Bank, Timberscombe, Somerset	Approved 23-Jul-2019
62/11/19/006 SS760490	Mr J Worley - Proposed re-instatement of field shelter for agricultural purposes (amendment of approved application 62/11/18/011). (As per amended plans) (Full), Dewcombe Wells, Countisbury, Lynton, Devon	Approved 02-Jul-2019
62/62/19/001 SS651482	Mr D Orton - Retrospective erection of boundary walls. As per amended plans. (Householder), Trentishoe Coombe, Trentishoe, Parracombe, Devon	Approved 09-Jul-2019
62/62/19/002LB SS651482	Mr D Orton - Listed Building Consent for retrospective erection of boundary walls. As per amended plans. (Listed Building), Trentishoe Coombe, Trentishoe, Parracombe, Devon	Approved 09-Jul-2019
6/26/19/102LB ST034386	Mr E Burton - Proposed variation of condition 2 of Listed Building Consent (The works hereby approved shall not be carried out except in complete accordance with the Location Plan and drawing numbers 070-01B, 070-03A, 070-07B, 070-08B, 070-09B, 070-11B, 070-13, 070-16, 070-17 date stamped the 25th November 2014; drawing numbers 070-012C, 070-15D, 070-14D date stamped the 22nd December 2014; and the 'Comments to Historic Buildings Officer Consultation Response' stamped 'Additional Information' and date stamped the 22nd December 2014 unless otherwise required by condition below.) of approved application 6/26/14/113LB to vary plans to allow alterations to the design for the approved dwelling within the workshop building. Retrospective. (Alteration/lift condition - LB), Manor Mills, Roadwater, Somerset	Approved 04-Jul-2019

### Application decisions delegated to the Chief Executive

<u>Ref and Grid Ref</u>	<u>Applicant &amp; Location</u>	<u>Decision and Date</u>
62/11/19/002 SS759495	Mr E Brooker National Trust - Proposed conversion of redundant Cart House to a meeting room, commercial lettable space and public toilets. (As per additional and amended information and plans). (Full), Kipscombe Farm, Countisbury, Devon	Approved 05-Jul-2019
62/11/19/003LB SS759495	Mr E Brooker National Trust - Listed building consent for the proposed conversion of redundant Cart House to a meeting room, commercial lettable space and public toilets. (As per additional and amended information and plans). (Listed Building), Kipscombe Farm, Countisbury, Devon	Approved 05-Jul-2019
6/15/19/103 SS958353	Mr & Mrs RS & CM Webber Webber Holdings (Exmoor) Limited - Non Material Amendment - Full - to approved application 6/15/16/109 (Proposed residential extension and change of use of barn to provide additional domestic accommodation on first floor and farm office on ground floor) to change a gable to hip roof on South East end of link and raising floor levels, reduction of height of chimney to below roof line, and increase in height of wall plate by 300mm on rear extension. (Non-Material Minor Amendments - Full), Goosemoor Farm, Armour Lane, Exton, Dulverton, Somerset	Approved 18-Jul-2019
62/13/19/001 SS694410	Mr & Mrs Rankin - Proposed single storey extension, new roof and replacement outbuilding. ( As per additional information and amended plans and information). (Householder), Sunnycot, Challacombe, Barnstaple, Devon	Approved 15-Jul-2019
6/29/19/104 SS903470	Clerk - Proposed extension of car park and widening of vehicular access. As per additional plan. (Full), Allerford & Selworthy Community Hall and Recreation Ground, Hare Park, Allerford, Somerset	Approved 21-Jun-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/42/18/109 SS844354	Mr & Mrs Winter - Proposed Variation of Condition 5 (The building hereby permitted shall only be used and operated as a home office, studio and workshop in conjunction with the dwelling house known as Withymead, and shown within the application site boundary, and/or for those purposes incidental to the enjoyment of the dwelling house. It shall not be open to visiting members of the public and shall not be let, sold or otherwise disposed of separately from the existing residential unit (Withymead) and shall not be used other than for the private benefit of the occupiers of Withymead unless otherwise previously agreed with in writing by the Local Planning Authority.) of approved application 6/42/13/101. To include ancillary accomodation. Retrospective. (As per additional information and amended plan). (Alteration/Lift Condition), Withymead, Chapel Lane, Withypool, Somerset	Approved 16-Jul-2019
62/62/19/003 SS642480	Mrs R Glover - Non-material amendment - Full - to approved application 62/62/18/004 - Replacement dwelling. (Non-Material Minor Amendments - Full), Heddon View, Trentishoe, Parracombe, Barnstaple, Devon	Approved 25-Jun-2019
6/10/19/107 SS989436	Somerset County Council - Proposed single storey extension to reception area, new access ramp, railings, canopy to courtyard & alterations to rear entrance. As per amended and additional plans and additional information. (Full), Dunster First School, St George's Street, Dunster,	Approved 16-Jul-2019
6/27/19/103 SS887462	Ms N Maw - Proposed erection of two storey and single storey extensions. (Householder), Edgecombe House, Doverhay, Porlock, Somerset	Approved 16-Jul-2019



### Application decisions delegated to the Chief Executive

<u>Ref and Grid Ref</u>	<u>Applicant &amp; Location</u>	<u>Decision and Date</u>
6/27/19/104 SS884471	Mr C Mikulla - Proposed change of use of land from agriculture to use as a site for touring caravans and tented camping. (Full), Land adjacent to Porlock Caravan Park, High Bank, Porlock, Somerset	Withdrawn 25-Jun-2019
6/26/19/101 ST034386	Mr E Burton - Proposed variation of condition 2 (The development hereby approved shall not be carried out except in complete accordance with the Location Plan and drawing numbers 070-01D, 070-07D, 070-08D, 070-09C, 070-13B, 070-16A, 070-17B, date stamped 5th April 2016; drawing numbers 070-03A, 070-11B, 070-12C, 070-14D, and 070-15D date stamped the 20th May 2016 unless otherwise required by condition below) of approved application 6/26/16/101 to vary plans to allow alterations to the design for the approved dwelling within the workshop building. (Alteration/Lift Condition), Manor Mills, Roadwater Road, Roadwater, Somerset	Approved 04-Jul-2019
6/10/19/108LB SS989436	Somerset County Council - Listed Building Consent for proposed single storey extension to reception area, new access ramp, railings, canopy to courtyard & alterations to rear entrance. As per amended and additional plans and additional information. (Listed Building), Dunster First School, St George's Street, Dunster, Somerset	Approved 16-Jul-2019
6/9/19/112 SS913277	Johnston - Proposed erection of side extension and new front entrance gates. (Householder), Greenlee, Milham Lane, Dulverton, Somerset	Approved 26-Jun-2019
6/27/19/106 SS887467	Mrs F Dunn - Proposed erection of a two storey and single storey rear extension and associated works. (As per amended plan). (Householder), 6 Threeways, Bonds Row, Porlock, Somerset	Approved 26-Jul-2019

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**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/27/19/107 SS875471	Mr C Wood Porlock Parish Council - Proposed construction of wildlife viewing platforms, one at Bossington Lane and one at the Marsh together with 6 no. benches and improvements to Rights of Way on the Marsh. (Full), Porlock Marsh, Porlock, Somerset	Withdrawn 28-Jun-2019
6/29/19/105 SS897479	Mr C Wood Porlock Parish Council - Proposed Information Sign to be affixed to side of toilet block building. (Advert), Bossington Lane, Bossington, Porlock	Approved 25-Jul-2019
62/11/19/005 SS746480	Mr & Mrs G Mugleston - Proposed variation of Condition 5 (The kennels and stables hereby permitted shall only be used for private purposes relating to the stabling of equines and kennelling of dogs in association with the dwelling within the blue line shown on the approved plans and for no other purpose notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification). For the avoidance of doubt the building hereby permitted shall not be used for commercial purposes including equine livery or as boarding kennels and shall not be let, sold or otherwise disposed of separately to the dwelling within the blue line shown on the approved plans.) of approved application 62/11/15/005 to allow the kennels to be used as breeding kennels on a commercial basis (Retrospective). As per additional information. (Alteration/Lift Condition), Hallslake Farm, Brendon, Lynton, Devon	Approved 15-Jul-2019
6/35/19/102 ST018372	Mr J Heffernan - Proposed change of use of land from agricultural to domestic together with erection of car port. Retrospective. (Full), The Coach House, Treborough Lodge Farm, Roadwater, Watchet, Somerset	Approved 26-Jun-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
62/41/19/013 SS720487	Mr K Ballard - Proposed erection of verandah (3m x 5m). (Householder), Woodcote, Lynway, Lynbridge, Lynton, Devon	Approved 19-Jul-2019
WTCA 19/07 SS720492	Mr M Gardiner - Works to trees in Conservation Area: Fell three Leylandii trees, fell two fir trees, reduce sycamores to previous cut height (Works to Trees in Conservation Area), Lyn House, Lynway, Lynton, Devon	Approved 19-Jul-2019
62/50/19/007 SS649479	Mr S James - Retrospective application for the erection of retaining wall and works to collapsed river bank. As per amended information. (Householder), Vention Cottage, Trentishoe, Parracombe, Devon	Approved 28-Jun-2019
6/42/19/102 SS845365	Mr & Mrs Quinn - Proposed two storey bay window extension. (Householder), Halsgrove House, Sparrows Lane, Withypool, Minehead, Somerset	Approved 19-Jul-2019
WTCA 19/08 SS989435	Mr Oakley - Works to trees in Conservation Area: Reduce canopy of Yew tree by 50% that has lost crown due to storm damage. (Works to Trees in Conservation Area), 7 Chapel Row, Dunster, Somerset	Approved 19-Jul-2019
6/27/19/110 SS830471	Mr R Martin - Proposed erection of a single storey extension. (Full), The Culbone, Porlock, Somerset	Withdrawn 09-Jul-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
62/19/19/004 SS577474	Mr & Mrs Hipgrove - Proposed alterations to dwelling including cladding to the exterior, new dormer and raised terrace. (As per additional information and amended plans) (Householder), 3 Sea Closes, Lester Point, Combe Martin, Devon	Approved 29-Jul-2019
62/50/19/008 SS648458	Mr B Nichols - Proposed replacement agricultural building (Full), West Middleton Farm, Parracombe, Devon	Approved 30-Jul-2019
62/41/19/015 SS721492	Mr Dixon - Proposed oil tank housing structure (Retrospective). (Householder), Royal Castle Lodge, Lynton, Devon	Approved 12-Aug-2019
6/3/19/107 SS951315	Ms A Horne - Proposed refurbishment and extension to dwellinghouse. (As per additional information) (Householder), Mulberry Cottage, Sanctuary Lane, Brompton Regis, Somerset	Approved 29-Jul-2019
GDO 19/07  SS887388	Mr A Davies - Prior approval for proposed demolition and erection of replacement agricultural building (30.5m x 15.2m). (As per additional information and plans). (General Development Order), Horsecombe Farm, Horsecombe Lane, Cutcombe, Wheddon Cross, Minehead, Somerset	GDO - Prior Approval Approved 06-Aug-2019
6/13/19/108 SS851386	Mr & Mrs Lonsdale - Proposed side extension. (Householder), Steephorne, Tudballs, Combe Lane, Exford, Somerset	Approved 08-Aug-2019
62/41/19/022 SS715476	Mr Harding - Proposed erection of 2 no. local needs affordable dwellings. (Full), Bridge House, Barbrook, Devon	Withdrawn 14-Aug-2019
62/41/19/014 SS741489	Mr & Mrs V & D Fortune & Jarvis - Proposed installation of sewage treatment plant. As per additional information. (Householder), Myrtleberry, Watersmeet Road, Lynmouth, Devon	Approved 06-Aug-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/8/19/104 SS922387	Moorland Hall & Recreational Group - Proposed demolition of existing sports pavilion and external stores and erection of replacement pavilion. Re-submission of withdrawn application 6/8/18/105. (Amended description) (As per amended plans and additional information. (Full), Sports Pavilion, Recreation Ground, Wheddon Cross, Somerset	Approved 31-Jul-2019
62/43/19/003 SS679487	Mr & Mrs Parker - Lawful Development Certificate for the existing use of apartment as a residential dwelling. (CLEUD), Springside, The Bay Apartments, Woody Bay, Parracombe, Barnstaple, Devon	Approved 05-Aug-2019
62/19/19/002 SS586475	Mr J Jay The National Trust - Proposed conversion of redundant field barn into holiday accommodation. (As per additional information and amended & additional plans). (Full), West Challacombe Manor, Combe Martin, Devon	Refused 30-Jul-2019
62/19/19/003LB SS586475	Mr J Jay The National Trust - Listed building consent for the proposed conversion of redundant field barn into holiday accommodation. (As per additional information and amended & additional plans). (Listed Building), West Challacombe Manor, Combe Martin, Devon	Refused 30-Jul-2019
6/15/19/104 SS957351	Mr & Mrs RS & CM Webber Webber Holdings (Exmoor) Limited - Proposed new field access. (Full), Land South of Armoor Lane, Armoor Lane, Exton, Dulverton, Somerset	Approved 30-Jul-2019
62/19/18/002 SS621471	Mr & Mrs Verney - Proposed replacement dwelling. (As per additional information and amended plans and additional plans). (Full), Heatherholm, Combe Martin, Devon	Approved 13-Aug-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
6/15/19/102 SS923351	Mr & Mrs T & S Stevens - Proposed laying of concrete pad (306sqm) in farmyard, extension of existing agricultural building and erection of timber stable block on concrete pad (Retrospective). (Full), Summerings Farm, Wheddon Cross, Minehead, Somerset	Approved 12-Aug-2019
6/27/19/108 SS867476	Mr C Wood Porlock Parish Council - Proposed 2 no. Information Signs to be located at Sparkhayes Lane and Porlock Weir. (As per amended description). (Advert), Porlock, Somerset	Approved 01-Aug-2019
6/31/19/002 ST086358	Mr McKelvey - Proposed new timber cladding and first floor extension within the footprint of the existing garage structure together with the construction of a new first floor bridge connection. (Householder), Springwater Farm, Maunsborough Lane, Elworthy, Taunton, Somerset	Withdrawn 12-Aug-2019
6/36/19/101 SS989308	Mr S Payne - Proposed Variation of Condition 2 of Planning Permission 6/36/16/102 to allow alterations to the approved fenestration layout, style and sizes, and for the relocation of the approved flue and the insertion of a new flue. (Amended description). As per amended plan. (Alteration/Lift Condition), Venne Farm, Upton, Somerset	Approved 12-Aug-2019
62/41/19/019 SS714473	Mr H Norris - Proposed variation of conditions 2 and 4 of approved application 62/41/17/022 to reduce dimensions of building and increase space between building and retaining wall, reorientation of building together with change of some materials. As per additional plans. (Alteration/Lift Condition), Buzzards Ridge, Barbrook, Lynton, Devon	Approved 01-Aug-2019

**Application decisions delegated to the Chief Executive**

<b><u>Ref and Grid Ref</u></b>	<b><u>Applicant &amp; Location</u></b>	<b><u>Decision and Date</u></b>
62/50/19/009 SS672446	Mr & Mrs Harding - Lawful Development Certificate for the existing use of Sunnyside Farm as two independent properties. (CLEUD), Sunnyside Farm, Parracombe, Devon	Approved 12-Aug-2019
6/23/19/102 ST072376	Mr J Stace - Proposed erection of single storey extension. (Householder), The Green, North End Road, Monksilver, Somerset	Approved 15-Aug-2019
6/29/19/106LB SS897478	Ms V Webbon The National Trust - Listed Building Consent for the resiting of kitchen, creation of shower room and boot room together with installation of multi fuel stove and new flue liner. (Amended description) (As per amended plans and additional information). (Listed Building), Holmhurst, 9 Bossington Road, Selworthy, Minehead, Somerset	Approved 14-Aug-2019
6/27/19/109 SS884467	Mrs C Connor Ship Inn - Proposed installation of domestic gas tank to service the pub kitchen and heating in the restaurant. (Full), Ship Inn, High Street, Porlock, Minehead, Somerset	Approved 30-Jul-2019
6/31/19/001 ST087357	Mr J Harris - Proposed change of use of land to equestrian together with demolition of existing buildings and erection of stable block and storage outbuildings. (As per additional information and amended plans). (Full), Ashbeare House, Elworthy, Taunton, Somerset	Approved 08-Aug-2019

## EXMOOR NATIONAL PARK AUTHORITY

3 September 2019

### GRANT FUNDING AGREEMENT FOR 2019/20

#### Report of the Chief Finance Officer

**Purpose of Report:** To brief Members on the new Funding Agreement drafted by the Department for Environment, Food and Rural Affairs.

**RECOMMENDATION:** The Authority is recommended to **NOTE** the details of the new funding agreement.

**Authority Priority:** Develop and maintain effective and efficient services.

**Legal and Equality Implications:** Local Government Act 2003, Parts 1-3 (Capital Finance, Financial Administration and Grants), Sections 1-39 Accounts and Audit (England) Regulations 2011, Part 2 (Financial Management and Internal Control)

CIPFA Code of Practice on Local Authority Accounts in the United Kingdom 2013 (the CODE).

The equality and human rights implications of this report have been assessed as having no impact on any particular individual or body.

**Financial and Risk Implications:** The new agreement does not seek to amend the amount of National Park Grant offered to Exmoor in 2019/20. It does however introduce new controls on how it is spent and circumstances in which it must be repaid.

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## 1. THE GRANT FUNDING AGREEMENT

- 1.1 Defra have sought to develop a new grant funding agreement to support the payment of National Park Grant to evidence full compliance with HM Treasury standards and processes. The new draft funding agreement has been developed between Defra and the English National Park Authorities.
- 1.2 The agreement that supports this grant is significant because it provides 85% of the Authority's funding. The agreement is not brought before Members because there is the ability to amend the draft agreement. It is instead brought before the Authority because it evidences a shift in the relationship between Defra and individual National Parks with an increased emphasis on oversight and reporting.

## 2. THE GRANT FUNDING AGREEMENT TO CARRY OUT STATUTORY OBLIGATIONS RELATING TO NATIONAL PARKS

- 2.1 The draft agreement is attached to this report as Appendix 1. It is a formal legal document that is to be signed by the Chief Executive.



- 2.2 The scope of legal spend has not changed but the agreement details obligations to report on unspent balances (reserves), ineligible expenditure, the delivery of funded activities and changes to the retention of documents.
- 2.3 In aggregate, these changes do not significantly impact on the Authority's ability to set budgets or prioritise activities. It necessitates however a closer and more formal relationship with Defra.

**Gordon Bryant**  
**Chief Finance Officer**  
**August 2019**

**THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**and**

**EXMOOR NATIONAL PARK AUTHORITY**

**GRANT FUNDING AGREEMENT  
TO CARRY OUT STATUTORY OBLIGATIONS RELATING TO  
NATIONAL PARKS**

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DRAFT

This Grant Funding Agreement is made on [insert date of signature]

Between:

- (1) **THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS** of 17 Smith Square, Nobel House, Defra, SW1P 3JR (the “**Authority**”)
- (2) **EXMOOR NATIONAL PARK AUTHORITY**, established under the Environment Act 1995 whose principal address is at Exmoor House, Dulverton, Somerset TA22 9HL (the “**Grant Recipient**”).

## BACKGROUND

- (A) The Grant is made pursuant to section 72 of the Environment Act 1995, as amended.
- (B) By operation of a Financial Grant Memorandum dated 1 April 2008 and a Grant Funding Letter dated 21 January 2016 (together the “Existing Grant Agreement”) the Authority provided a grant to the Grant Recipient for the period 01 April 2015 to 31 March 2020. The Authority and the Grant Recipient agree to terminate the Existing Grant Agreement as at [the date of this Grant Funding Agreement] and enter into a new grant agreement on the terms set out herein.
- (C) The Authority will provide the Grant to the Grant Recipient as provided for in this Grant Funding Agreement.
- (D) The Grant Recipient will use the Grant for the Funded Activities.

## 1. INTRODUCTION

- 1.1. The Authority and the Grant Recipient agreed that the Existing Grant Agreement and any previous grant agreement which operates / operated during the Funding Period will cease to have effect and shall be replaced by this Grant Funding Agreement.
- 1.2. This Grant Funding Agreement sets out the conditions which apply to the Grant Recipient receiving the Grant from the Authority.
- 1.3. The Authority and the Grant Recipient have agreed that the Authority will provide the Grant as long as the Grant Recipient uses the Grant in accordance with this Grant Funding Agreement.
- 1.4. The Parties confirm that it is their intention to be legally bound by this Grant Funding Agreement.

## 2. DEFINITIONS AND INTERPRETATION

- 2.1. Where they appear in these Conditions:

**Annex** means the annexes attached to these Conditions which form part of the Grant Funding Agreement;

**Asset** means any assets that are to be purchased or developed using the Grant including equipment or any other assets which may be a Fixed Asset as appropriate in the relevant context, and **Assets** will be construed accordingly;

**Asset Owning Period** means the period during which the Assets are recorded as Assets in Grant Recipient's accounts;

**Authority Personal Data** means any Personal Data supplied for the purposes of, or in connection with, the Funding Agreement by the Authority to the Grant Recipient;

**Bribery Act** means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning this legislation;

**Commencement Date** means the date on which the Grant Funding Agreement comes into effect, being **DATE AGREEMENT IS SIGNED**

**Condition** means any condition that applies to the Grant Recipient receiving the Grant from the Authority pursuant to this Grant Funding Agreement;

**Confidential Information** means any information (however conveyed, recorded or preserved) disclosed by a Party or its personnel to another Party (and/or that Party's personnel) whether before or after the date of the Grant Funding Agreement, including but not limited to:

- (a) any information that ought reasonably to be considered to be confidential (whether or not it is so marked) relating to:
  - (i) the business, affairs, customers, clients, suppliers or plans of the disclosing Party; and
  - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party; and
- (b) any information developed by the Parties in the course of delivering the Funded Activities;
- (c) the Authority's Personal Data;
- (d) any information derived from any of the above.

Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of paragraph 11 of these Conditions);
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a Third Party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

**Contracting Authority** means any contracting authority (other than the Authority) as defined in regulation 3 of the Public Contracts Regulations 2015 (as amended);

**Controller and Processor** take the meaning given in the GDPR;

**Crown Body** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

**Disposal** means the disposal, sale, transfer of the Grant or any interest in any Asset and includes any contract for disposal;

**Data Protection Legislation** means (i) the GDPR, and any applicable national implementing Law as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to the processing of Personal Data and privacy (iii) all applicable Law about the processing of Personal Data and privacy;

**DPA 2018** means the Data Protection Act 2018;

**Domestic Law** means an applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation which replaces EU law as a consequence of the UK leaving the European Union;

**Domestic Successor** means:

- (a) a body that takes over the functions of the EU Commission in the UK on the date the UK withdraws from the European Union; or
- (b) the relevant courts in England and Wales which take over the functions of the Court of Justice of the European Union in England and Wales on the date the UK withdraws from the European Union

**Eligible Expenditure** means the payments made by the Grant Recipient during the Funding Period for the purposes of delivering the Funded Activities which comply in all respects with the eligibility rules set out in paragraph 5 of these Conditions;

**EIR** means the Environmental Information Regulations 2004;

**Event of Default** means an event or circumstance as defined by paragraph 24.3;

**Financial Year** means from 1 April to 31 March;

**Fixed Assets** means any Asset which consists of land, buildings, plant and equipment acquired, developed, enhanced, and constructed in connection with the Funded Activities;

**FOIA** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

**Funded Activities** means the activities set out in Annex 2 of these Conditions;

**Funding Period** means the period for which the Grant is awarded starting on the Commencement Date and ending on 31 March 2020;

**General Data Protection Regulations and GDPR** means (Regulation (EU) 2016/679);

**Grant** means the sum or sums the Authority will pay to the Grant Recipient in accordance with paragraph 4 of these Conditions and subject to the provisions set out at paragraph 24.

**Grant Claim** means the payment request submitted by the Grant Recipient to the Authority for payment of the Grant. The Grant Claim shall be submitted by the Grant Recipient in the form set out in **Annex 4** of these Conditions;

**Grant Funding Agreement** means these Conditions together with its annexes including but not limited to the Annex 1 Grant Funding Letter;

**Grant Funding Letter** means the letter the Authority issued to the Grant Recipient dated 21 January 2016, a copy of which is set out in Annex 1;

**Grant Manager** means the individual who has been nominated by the Authority to be the single point of contact for the Grant Recipient in relation to the Grant;

**Grant Sum Payable**, for a given Instalment Period means the percentage of the Grant as set out in Annex 3 against that Instalment Period;

**HRA** means the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

**Ineligible Expenditure** means expenditure which is not Eligible Expenditure and as set out in paragraph 5 of these Conditions;

**Information Acts** means the Data Protection Legislation, FOIA and the EIR, as amended from time to time;

**Intellectual Property Rights or IPRs** means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and any modifications, amendments, updates and new releases of the same and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**IPR Material** means all material produced by the Grant Recipient or its Representatives during the Funding Period (including but not limited to, materials expressed in any form of report, database, design, document, technology, information, know how, system or process);

**Instalment Period** means the intervals set out in Annex 3 when the Authority will release payment of the Grant to the Grant Recipient during the Funding Period;

**Law** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation;

**Losses** means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and **Loss** will be interpreted accordingly;

**Management Plan** means the management plan the Grant Recipient is required to maintain pursuant to Section 66 of the 1995 Environment Act;

**Maximum Sum** means the maximum amount of the Grant the Authority will provide to the Grant Recipient for the Funded Activities subject to paragraph 24;

**Party** means the Authority or Grant Recipient and **Parties** shall be each Party together;

**Payment Schedule** means the payment schedule set out in Annex 3;

**Personal Data** has the meaning given to it in the Data Protection Legislation as amended from time to time;



**Procurement Regulations** means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Defence Security Public Contracts Regulations 2011 and the Utilities and Contracts Regulations 2016 together with their amendments, updates and replacements from time to time;

**Prohibited Act** means:

- (a) directly or indirectly offering, giving or agreeing to give to any servant of the Authority or the Crown any gift or consideration of any kind as an inducement or reward for:
  - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Funding Agreement; or
  - (ii) showing or not showing favour or disfavour to any person in relation to the Funding Agreement;
- (b) committing any offence:
  - (iii) under the Bribery Act;
  - (iv) under legislation creating offences in respect of fraudulent acts; or
  - (v) at common law in respect of fraudulent acts in relation to the Funding Agreement; or
- (c) defrauding or attempting to defraud or conspiring to defraud the Authority or the Crown;

**Quarterly Report** means the report submitted by the Grant Recipient to the Authority in accordance with the provisions of paragraph 4.7.1 of these Conditions;

**Remedial Action Plan** means the plan of action submitted by the Grant Recipient to the Authority following an Event of Default pursuant to the Rectification Plan process set out in paragraphs 24.5-12;

**Representatives** means any of the Parties' duly authorised members, directors, employees, officers, agents, professional advisors and consultants;

**Special Payments** means ex gratia expenditure by the Grant Recipient to a third party where no legal obligations exists for the payment and/or other extra-contractual expenditure. Special Payments may include, but is not limited to, out-of-court settlements, compensation or additional severance payments to the Grant Recipient's employees;

**State Aid Law** means the law embodied in Article 107- 109 of section 2, Title VII of the Common Rules on Competition, Taxation and Approximation of Laws – Consolidated Versions of the Treaty on European Union and the Treaty for the Functioning of the European Union or any Domestic Law which replaces such State Aid Law following the UK's exit from the European Union;

**Third Party** means any person or organisation other than the Grant Recipient or the Authority;

**VAT** means Value Added Tax chargeable in the UK;

**Working Day** means any day from Monday to Friday (inclusive) which is not specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971 including Christmas Day and Good Friday.

2.2. In these Conditions, unless the context otherwise requires:

- (1) the singular includes the plural and vice versa;
- (2) reference to a gender includes the other gender and the neuter;

- (3) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- (4) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (5) the words "including", "other", "in particular", "for example" and similar words will not limit the generality of the preceding words and will be construed as if they were immediately followed by the words "without limitation";
- (6) references to "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing will be construed accordingly;
- (7) references to "representations" will be construed as references to present facts, to "warranties" as references to present and future facts and to "undertakings" as references to obligations under the Grant Funding Agreement;
- (8) references to "paragraphs" and "Annexes" are, unless otherwise provided, references to the paragraphs and annexes of these Conditions and references in any Annex to parts, paragraphs and tables are, unless otherwise provided, references to the parts, paragraphs and tables of the Annex in which these references appear; and
- (9) the headings in these Conditions are for ease of reference only and will not affect the interpretation or construction of these Conditions.

2.3. Where there is any conflict between the documents that make up this Grant Funding Agreement the conflict shall be resolved in accordance with the following order of precedence:

- 2.3.1. the Conditions set out within this Grant Funding Agreement;
- 2.3.2. Annex 1 – The Grant Funding Letter.

## **CONDITIONS**

### **3. DURATION AND PURPOSE OF THE GRANT**

- 3.1. The Funding Period starts on the Commencement Date and ends on 31 March 2020 unless terminated earlier in accordance with this Grant Funding Agreement.
- 3.2. The Grant Recipient shall use the Grant solely for the delivery of the Funded Activities. The Grant Recipient may not make any changes to the Funded Activities, except those made in line with s66 of the Environment Act.

### **4. PAYMENT OF GRANT**

- 4.1. Subject to the remainder of this paragraph 4 the Authority shall pay the Grant Recipient an amount not exceeding the amount for 2019-2020 as set out in the Grant Funding Letter. The Authority shall pay the Grant in pound sterling (GBP) and into a bank located in the UK.
- 4.2. Subject to the remainder of this paragraph 4 and to the other provisions of these Conditions, the Authority shall pay the Grant to the Grant Recipient in accordance with the Payment Schedule and the Claims Procedures and Conditions of Payment.

- 4.3. The Grant Recipient shall make available to the Authority, on request, evidence of the costs/payments, which are classified as Eligible Expenditure in paragraph 5.22, which may include (but will not be limited to) receipts and invoices or any other documentary evidence specified by the Authority.
- 4.4. The Authority will not make the first payment of the Grant and/or any subsequent payments of the Grant unless or until, the Authority is satisfied that:
- (i) The Grant Recipient will use the Grant payment for Eligible Expenditure only; and
  - (ii) if applicable, any previous Grant payments have been used for the Funded Activities.
- 4.5. By a date set by the Authority, the Grant Recipient shall produce an estimate of its annual income and expenditure under each functional head for the financial year using the template in Annex 6. The estimate shall include details of the source and amount of all income expected and expenditure, setting out its anticipated draw down of the Grant in 4 instalments, made quarterly.
- 4.6. The Grant Recipient shall promptly provide a revised estimate of income and expenditure:
- 4.6.1. when the Grant Recipient anticipates that the amount claimed in a Grant Claim will differ from the Grant Sum Payable for the relevant Instalment Period by 5% (five per cent) or more; and/or
  - 4.6.2. at the request of the Authority.
- 4.7. Each quarter, the Grant Recipient shall submit a Grant Claim to the Authority in the format and at the times prescribed by Annex 4. The Grant Recipient shall submit together with the Grant Claim:
- 4.7.1. a Quarterly Report, which shall include the information prescribed elsewhere in these Conditions and listed in Annex 4 under the heading 'ADDITIONAL QUARTERLY REPORTING'; and
  - 4.7.2. any other documentation that the Authority may reasonably prescribe from time to time.
- 4.8. On receipt of a Grant Claim for an amount which differs from that set out in the information provided by the Grant Recipient in paragraph 4.5-6 for the relevant Instalment Period, or otherwise at its absolute discretion (subject to, where possible, giving advance notice to the Grant Recipient), the Authority may deviate from the Payment Schedule.
- 4.9. In preparing and submitting Grant Claims and estimates of income and expenditure, the Grant Recipient shall seek to ensure that an accumulation of grant in excess of immediate requirements is avoided.
- 4.10. The Authority will have no liability to the Grant Recipient for any Losses caused by a delay in the payment of a Grant Claim howsoever arising.
- 4.11. The Authority reserves the right not to pay any Grant in respect of Grant Claims not submitted within the period set out in paragraph 4.7 or Grant Claims which are incomplete, incorrect or submitted without the full supporting documentation, but will in such event give the Grant Recipient the opportunity within a reasonable period of time to submit a grant Claim, or as the case may be, to make corrections or provide additional information to enable Grant to be paid.
- 4.12. The Grant Recipient shall promptly notify and repay immediately to the Authority any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes

(without limitation) situations where the Grant Recipient is paid in error before it has complied with its obligations under the Grant Funding Agreement. Any sum which falls due under paragraph 4.9 shall fall due immediately and shall be payable within 30 days. If the Grant Recipient fails to repay the due sum within 30 days, the sum will be recoverable summarily as a civil debt.

- 4.13. Where the Grant Recipient enters into a contract with a Third Party in connection with the Funded Activities, the Grant Recipient will remain responsible for paying that Third Party. The Authority has no responsibility for paying Third Party invoices.
- 4.14. Onward payment of the Grant and the use of sub-contractors shall not relieve the Grant Recipient of any of its obligations under the Grant Funding Agreement, including any obligation to repay the Grant.
- 4.15. Except without the prior consent of the Authority, no later than 30 days after the end of each Financial Year, the Grant Recipient shall submit to the Authority the Grant Recipient's analysis of projected year-end balances, and its opinion as to the adequacy of those balances. If its analysis projects that any funds will remain unspent and uncommitted at the end of the Financial Year, the Grant Recipient shall submit to the Authority a report at the same time as its analysis. For the funds which the Grant Recipient projects to remain unspent and uncommitted, the report must state whether they are necessary to maintain an adequate year-end balance, whether the Grant Recipient has a clear intention to use the funds for a specific purpose falling within the Funded Activities, or whether the intention is to retain the funds as part of the Grant Recipient's general reserves.

## **5. ELIGIBLE AND INELIGIBLE EXPENDITURE**

- 5.1. The Authority will only pay the Grant in respect of Eligible Expenditure incurred by the Grant Recipient to deliver the Funded Activities and the Grant Recipient will use the Grant solely for delivery of the Funded Activities (as set out in Annex 2 of these Conditions).
- 5.2. The following costs/payments will be classified as Eligible Expenditure if incurred for the purposes of the Funded Activity:
  - 5.2.1. Fees charged or to be charged to the Grant Recipient by the external auditors for auditing the financial accounts of the Grant Recipient.
  - 5.2.2. giving evidence to Parliamentary Select Committees;
  - 5.2.3. attending meetings with government ministers or civil servants to discuss the progress of work being undertaken by the Grant Recipient.
  - 5.2.4. responding to public consultations, where the topic is relevant to the objectives of the Funded Activities. To avoid doubt, Eligible Expenditure does not include the Grant Recipient spending the Grant on lobbying other people to respond to any such consultation (unless explicitly permitted in the Grant Funding Agreement);
  - 5.2.5. providing independent, evidence based policy recommendations to local government, departments or government ministers; and
  - 5.2.6. providing independent evidence-based advice to local or national government as part of the general policy debate, where that is in line with the objectives of the Grant.

- 5.3. The Grant Recipient may not in any circumstance claim the following non-exhaustive list as Eligible Expenditure:
- 5.3.1. Paid for lobbying, which means using the Grant to fund lobbying (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, government or political activity; or attempting to influence legislative or regulatory action;
  - 5.3.2. using the Grant to directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the grant;
  - 5.3.3. expenses such as for entertaining, specifically aimed at exerting undue influence to change government policy;
  - 5.3.4. input VAT reclaimable by the grant recipient from HMRC;
  - 5.3.5. payments for activities of a political or exclusively religious nature.

## **6. REVIEWS**

- 6.1. The Authority will review the Grant Recipient's delivery of the Funded Activities during and at the end of the Funding Period. It will take into account the Grant Recipient's delivery of the Funded Activities set out in Annex 2 of this Grant Funding Agreement. As part of the review the Authority will review any reports produced by the Grant Recipient in accordance with paragraph 7 of these Conditions.

## **7. MONITORING AND REPORTING**

- 7.1. The Grant Recipient shall closely monitor the delivery and success of the Funded Activities throughout the Funding Period to ensure that the aims and objectives of the Funded Activities are being met and that the Agreement is being adhered to.
- 7.2. The Grant Recipient will notify the Authority as soon as reasonably practicable of any actual or potential failure to comply with any of its obligations under the Grant Funding Agreement, which includes those caused by any administrative, financial or managerial difficulties.
- 7.3. At the Authority's written request, the Grant Recipient shall provide the Authority with financial reports and operational reports on its use of the Grant and delivery of the Funded Activities, containing such information, and in such formats as the Authority may reasonably require. The Grant Recipient shall provide the Authority with each report on a date to be determined by the Authority. The Authority may at its discretion provide the Grant Recipient with feedback on the adequacy of a report and may also require the Grant Recipient to re-submit a report, having taken into account any issues raised in the Authority's feedback.
- 7.4. Where the Grant Recipient has obtained funding from a third party for its delivery of part of the Funded Activities, the Grant Recipient shall include the amount of such funding in its financial reports together with details of the purpose for which that funding has been used.
- 7.5. The Parties, if requested by the Authority, shall meet annually to carry out a review of the performance of the Grant Recipient in respect of the Funded Activities, and to consider key issues and risks relating to the Funded Activities. These meetings shall take place at the Authority's premises, unless otherwise agreed or, where suitable, conducted by phone or video-conference.

- 7.6. The Grant Recipient shall on request provide the Authority with such further information, explanations and documents as the Authority may require in order for it to establish that the Grant Funding has been used properly in accordance with this Agreement.
- 7.7. The Grant Recipient shall permit any person authorised by the Authority access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Grant Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations as required during the Funding Period and for so long as any Grant remains unspent.
- 7.8. The Grant Recipient shall permit and facilitate any person authorised by the Authority for that purpose to visit the Grant Recipient to monitor the delivery of the Funded Activities.
- 7.9. The Grant Recipient represents and undertakes (and shall repeat such representations on delivery of the relevant report):
- 7.9.1. that the reports and information it gives pursuant to this paragraph 7 are accurate; and
  - 7.9.2. that it has diligently made full and proper enquiry of the matter pertaining to the reports and information given.

## **8. AUDITING AND ASSURANCE**

- 8.1. Within six months of the end of each Financial Year the Grant Recipient will provide the Authority with independent assurance that the Grant has been used for delivery of the Funded Activities. To satisfy this requirement the Grant Recipient will provide annual accounts audited by an independent and appropriately qualified auditor where the Grant is clearly segregated from other funds.
- 8.2. The Authority may, at any time during and up to six years after the end of the Grant Funding Agreement, conduct additional audits or ascertain additional information where the Authority considers it necessary. The Grant Recipient agrees to grant the Authority or its Representatives access, as required, to all Funded Activity sites and relevant records. The Grant Recipient will ensure that necessary information and access rights are explicitly included within all arrangements with any sub-contractors.
- 8.3. The Grant Recipient shall:
- 8.3.1. ensure that an independent external auditor is nominated to verify the final statement of expenditure and income submitted to the Authority;
  - 8.3.2. identify separately the value and purpose of the Grant Funding in its audited accounts and its annual report; and
  - 8.3.3. maintain a record of internal financial controls and procedures and provide the Authority with a copy if requested.

### **Retention of documents**

- 8.4. The Grant Recipient shall retain all invoices, receipts, accounting records and any other documentation (including but not limited to correspondence) relating to the Eligible Expenditure and all income generated by Funded Activities during the Funding Period, and retain all accounting records relating to that expenditure and income for a period of six years from the date on which the Funding Period ends.

8.5. The Grant Recipient shall ensure that all its sub-contractors retain each record, item of data and document relating to Funded Activities for a period of six years from the date on which the Funding Period ends.

**9. FINANCIAL MANAGEMENT AND PREVENTION OF BRIBERY, CORRUPTION, FRAUD AND OTHER IRREGULARITY**

9.1. The Grant Recipient will at all times comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act.

9.2. The Grant Recipient must have a sound administration and audit process, including appropriate internal financial controls to safeguard against fraud, theft, money laundering, terrorist financing or any other impropriety, or mismanagement in connection with the administration of the Grant. The Grant Recipient shall require that the internal/external auditors report on the adequacy or otherwise of that system.

9.3. For any case of actual or suspected theft or financial irregularity, the Grant Recipient shall give careful consideration as to whether the case is one that the Authority might reasonably consider significant. For the avoidance of doubt, this includes (but is not limited to) any case such that, were it to become known to a Third Party, it would be capable of bringing the reputation of the Grant Recipient, the Funded Activities or the Authority into disrepute.

9.4. Where the Grant Recipient, acting reasonably, considers that the condition at paragraph 9.3 is met, it shall include full information on the suspected theft or financial irregularity in the next Quarterly Report.

9.5. The Grant Recipient shall also give careful consideration as to whether the case is such that the Authority might reasonably wish to be informed of it sooner than the date of the next Quarterly Report. Where the Grant Recipient, acting reasonably, considers that this condition is met, it shall notify the Authority of the suspected theft or financial irregularity without delay.

9.6. For any case of actual or suspected theft or financial irregularity, the Grant recipient shall, at the request of the Authority, explain to the Authority what steps are being taken to investigate the case and keep the Authority informed about the progress of such investigation. If so requested by the Authority, the Grant Recipient shall refer the case to external auditors or other third parties as required. The Grant Recipient may be required to provide statements and evidence to the Authority or appropriate investigating organisation as part of pursuing sanctions, criminal or civil proceedings.

9.7. The Authority will have the right, at its absolute discretion, to insist that Grant Recipient take additional steps to address any actual or suspected theft or financial irregularity and/or to suspend future payment of the Grant to the Grant Recipient.

9.8. Suspected theft or financial irregularity includes any matter which the Grant Recipient, acting with due care, ought reasonably to have suspected.

9.9. The Grant Recipient agrees and accepts that it may become ineligible for grant support and be required to repay all or part of the Grant if it engages in tax evasion or aggressive tax avoidance in the opinion of HMRC.

9.10. For the purposes of this paragraph 9.7 “financial irregularity” includes (but is not limited to) potential fraud or other impropriety, mismanagement, and the use of the Grant for any purpose other than those stipulated in the Grant Funding Agreement.

## **10. CONFLICTS OF INTEREST**

- 10.1. Neither the Grant Recipient nor its Representatives shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to the Grant Funding Agreement.
- 10.2. The Grant Recipient must have and will keep in place adequate procedures to manage and monitor any actual or perceived bias or conflicts of interest.

## **11. CONFIDENTIALITY**

- 11.1. Except to the extent set out in this paragraph 11 or where disclosure is expressly permitted, each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons who are directly involved in the provision of the Funded Activities and who need to know the information.
- 11.2. The Grant Recipient gives its consent for the Authority to publish the Grant Funding Agreement in any medium in its entirety (but with any information which is Confidential Information belonging to the Authority or the Grant Recipient redacted), including from time to time agreed changes to the Grant Funding Agreement.
- 11.3. Nothing in this paragraph 11 shall prevent the Authority disclosing any Confidential Information obtained from the Grant Recipient:
  - 11.3.1. for the purpose of the examination and certification of the Authority's accounts; or pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
  - 11.3.2. to any government department, consultant, contractor or other person engaged by the Authority, provided that in disclosing information the Authority only discloses the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate;
  - 11.3.3. where disclosure is required by Law, including under the Information Acts.
- 11.4. Nothing in this paragraph 11 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under the Grant Funding Agreement in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

## **12. TRANSPARENCY**

- 12.1. The Authority and the Grant Recipient acknowledge that, except for any information, which is exempt from disclosure in accordance with the provisions of the Information Acts, the content of the Grant Funding Agreement is not confidential.

## **13. STATUTORY DUTIES**

- 13.1. The Grant Recipient agrees to adhere to its obligations under the Law not limited to the Information Acts and the HRA.



- 13.2. The Grant Recipient hereby acknowledges that the Authority is subject to requirements under the Information Acts. Where requested by the Authority, the Grant Recipient will provide reasonable assistance and cooperation to the Authority to assist the Authority's compliance with its information disclosure obligations.
- 13.3. On request from the Authority, the Grant Recipient will provide the Authority with all such relevant documents and information relating to the Grant Recipient's data protection policies and procedures as the Authority may reasonably require.
- 13.4. The Grant Recipient acknowledges that the Authority, acting in accordance with the codes of practice issued and revised from time to time under the Information Acts, may disclose information concerning the Grant Recipient and the Grant Funding Agreement without consulting the Grant Recipient.
- 13.5. The Authority will take reasonable steps to notify the Grant Recipient of a request for information to the extent that it is permissible and reasonably practical for it to do so. Notwithstanding any other provision in the Grant Funding Agreement, the Authority will be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

#### **14. STAFFING AND MEMBERSHIP**

- 14.1. The Grant Recipient shall determine staff terms and conditions with due regard for economy, efficiency and value for money in the delivery of the Funded Activities. In determining staff terms and conditions, the Grant Recipient shall give consideration to any general policy on public sector pay which may be in effect or announced by the government from time to time.
- 14.2. Under this paragraph 14 staff means any employees, officers, agents, professional advisors and consultants employed by the Grant Recipient for the purposes of the Funded Activities.
- 14.3. The Grant Recipient shall immediately notify the Authority if the Grant Recipient becomes aware, or suspects, or, acting with due care, ought reasonably to suspect that any of its members or senior executive officers or post holders:
  - 14.3.1. has acted dishonestly or negligently at any time during the term of the Grant Funding Agreement and to the detriment of the Authority; or
  - 14.3.2. has taken any actions which unfairly bring or are likely to unfairly bring the Authority, the Grant Recipient or the Funded Activities into disrepute. Actions include omissions in this context.
- 14.4. Under this section 14.3 members or senior executive officers or post holders means any duly authorised directors or senior executive responsible managers or members of the Grant Recipient's board.

#### **15. DATA PROTECTION, PUBLIC PROCUREMENT AND STATE AID**

##### **Data Protection**

- 15.1. The Grant Recipient and the Authority will comply at all times with their respective obligations under Data Protection Legislation.
- 15.2. The Grant Recipient agrees that it is the Controller of any Personal Data processed by it pursuant to the Funded Activities and shall comply with the provisions set out in this paragraph 15.

##### **Public Procurement**

- 15.3. The Grant Recipient will ensure that any of its Representatives involved in the Funded Activities will adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant.
- 15.4. Where the Grant Recipient is a Contracting Authority within the meaning of the Procurement Regulations the Grant Recipient will comply, as necessary, with the Procurement Regulations when procuring goods and services in connection with the Grant Funding Agreement and the Authority shall not be liable for the Grant Recipient's failure to comply with its obligations under the Procurement Regulations.

#### **State aid**

- 15.5. Where state aid may apply to the Funded Activities:
  - 15.5.1. The Grant Recipient will make sure the Funded Activities are structured so they are compatible with State Aid Law; and
  - 15.5.2. The Grant Recipient will maintain appropriate records of compliance with the State Aid Law and will take all reasonable steps to assist the Authority to comply with State Aid Law requirements and respond to any investigation(s) instigated by the European Commission (or its Domestic Successor) into the Funded Activities or any equivalent regulatory body as the case may be.

#### **16. INTELLECTUAL PROPERTY RIGHTS**

- 16.1. Intellectual Property in all IPR Material will be the Property of the Grant Recipient. Other than as expressly set out in these Conditions, neither Party will have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- 16.2. The Grant Recipient grants to the Authority a non-exclusive irrevocable and royalty-free, sub-licensable, worldwide licence to use all the IPR Material developed using the Grant monies for the purpose of supporting other projects.
- 16.3. Ownership of Third Party software or other IPR necessary to deliver Funded Activities will remain with the relevant Third Party.
- 16.4. The Grant Recipient must ensure that they have obtained the relevant agreement from the Third Party proprietor before any additions or variations are made to the standard 'off-the-shelf' versions of any Third Party software and other IPR. The Grant Recipient will be responsible for obtaining and maintaining all appropriate licences to use the Third Party software.

#### **17. ENVIRONMENTAL REQUIREMENTS**

- 17.1. The Grant Recipient shall perform the Funded Activities in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 17.2. The Grant Recipient shall pay due regard to the use of recycled products, so long as they are not detrimental to the provision of the Funded Activities or the environment, to include the use of all packaging, which should be capable of recovery for re-use or recycling.

- 17.3. The Grant Recipient shall take all possible precautions to ensure that any equipment and materials used in the provision of the Funded Activities do not contain chlorofluorocarbons, halons or any other damaging substances, unless unavoidable. The Grant Recipient shall endeavour to reduce fuel emissions wherever possible.

## **18. ASSETS**

### **Inventory of the Assets**

- 18.1. The Grant Recipient shall keep and maintain an accurate and up-to-date register of all its Fixed Assets with a value exceeding the minimum set by the Grant Recipient's accounting policy.
- 18.2. Assets purchased with Grant funding must only be used for delivery of the Funded Activities.

### **Disposal of Assets**

- 18.3. Where the Grant Recipient uses any of the Grant to develop, improve or purchase any Assets, the Grant Recipient must ensure that the Assets are maintained in good condition over the Asset Owning Period.
- 18.4. Any disposal by the Grant Recipient of Assets other than land shall be at market value.
- 18.5. Land may be disposed of for less than the best consideration that can reasonably be obtained, but only subject to the conditions set out in the Local Government Act 1972: General Disposal Consent (England) 2003 and the associated Office of the Deputy Prime Minister Circular 06 of 2003 ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7690/462483.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf)). In all cases, this includes the condition that the undervalue does not exceed £2,000,000 (two million pounds sterling). Where such disposal at undervalue occurs, the Grant Recipient shall include the details of the disposal in the next Quarterly Report.
- 18.6. If the Grant Recipient makes any disposal of Assets, or any series of related disposals, the proceeds of which exceed £2,000,000 (two million pounds sterling), the Grant Recipient shall include in the next Quarterly Report details of how it has made use of the proceeds from that disposal or those disposals.

## **19. INSURANCE**

- 19.1. The Grant Recipient will, with effect from the Commencement Date, during the term of the Funding Period and for six years after termination or expiry of the Grant Funding Agreement, ensure that it holds all appropriate forms of insurance necessary for the normal execution of its activities and any such extension of cover as may be necessary for the activities or risks associated with the Funded Activities.
- 19.2. The Grant Recipient will upon request produce to the Authority its policy or policies of insurance or where this is not possible, a certificate of insurance issued by the Grant Recipient's insurance brokers confirming the insurances are in full force and effect together with confirmation that the relevant premiums have been paid.

## **20. ASSIGNMENT**

- 20.1. The Grant Recipient will not transfer, assign, novate or otherwise dispose of the whole or any part of the Grant Funding Agreement or any rights under it, to another organisation or individual, without the Authority's prior approval.

- 20.2. Any approval given by the Authority will be subject to a condition that the Grant Recipient has first entered into a Grant Funding Agreement, authorised by the Authority, requiring the Grant Recipient to work with another organisation in delivering the Funded Activities.

## **21. LOSSES AND SPECIAL PAYMENTS**

- 21.1. The Grant Recipient must include any debts or liabilities written off and any Special Payments or series of connected debts or liabilities written off and any Special Payments made in connection to this Grant Funding Agreement above £2000 in the Quarterly Report.

## **22. PUBLICITY**

- 22.1. The Grant Recipient gives consent to the Authority to publicise in the press or any other medium the Grant and details of the Funded Activities using any information gathered from any reports submitted to the Authority, including but not limited to the reports submitted under paragraph 7.
- 22.2. The Grant Recipient will comply with all reasonable requests from the Authority to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Authority in its promotional and fundraising activities relating to the Funded Activities.
- 22.3. If the Grant Recipient wishes to use the Authority's name and logo it must first seek the Authority's written permission. If the Grant Recipient is given permission to use the Authority's name and logo, it will comply with all reasonable branding guidelines issued by the Authority from time to time.

## **23. CHANGES TO THE AUTHORITY'S REQUIREMENTS**

- 23.1. The Authority will notify the Grant Recipient, where reasonably possible of such changes to the activities, which are supported by the Grant, in advance to coming into effect. The Authority will have regard to any legally binding agreements the Grant Recipient has already entered into, which might be affected by such changes.
- 23.2. The Grant Recipient will accommodate any reasonable changes to the Authority's needs and requirements under these Conditions.

## **24. CLAWBACK, EVENTS OF DEFAULT, TERMINATION AND RIGHTS RESERVED FOR BREACH AND TERMINATION**

- 24.1. Without prejudice to the Authority's other rights and remedies, if the Grant Recipient fails to comply with any of its obligations in the Grant Funding Agreement the Authority may at its discretion, reduce, suspend, or terminate payments of Grant, or require any part or all of the Grant to be repaid.
- 24.2. Where the Authority requires any part or all of the Grant to be repaid in accordance with paragraph 24.1 above, the Grant Recipient shall repay this amount no later than 30 days of the date it received the demand for repayment. If the Grant Recipient fails to repay the Grant within 30 days of a demand from the Authority for payment, the sum will be recoverable summarily as a civil debt.
- 24.3. The Authority may exercise its rights set out in paragraph 24.1 if, in particular, any of the following events occurs:

- 24.3.1. the Grant Recipient uses the Grant for a purpose other than the Funded Activities or fails to comply with any of the other obligations of the Grant Funding Agreement;
- 24.3.2. the Grant Recipient uses the Grant for Ineligible Expenditure;
- 24.3.3. the Grant Recipient fails, in the Authority's opinion, to make satisfactory progress with the Funded Activities and, in particular, fails to meet to a material extent the agreed outcomes set out in the Management Plan;
- 24.3.4. the Grant Recipient is, in the opinion of the Authority, delivering the Funded Activities in a negligent manner (in this context negligence includes but is not limited to failing to prevent or report actual or anticipated fraud or corruption);
- 24.3.5. the Grant Recipient obtains funding from a Third Party which, in the opinion of the Authority, undertakes activities that are likely to bring the reputation of the Funded Activities or the Authority into disrepute;
- 24.3.6. the Grant Recipient provides the Authority with any materially misleading or inaccurate information and/or any of the information provided in their grant application or in any subsequent supporting correspondence is found to be incorrect or incomplete to an extent which the Authority considers to be significant;
- 24.3.7. the Grant Recipient commits or committed a Prohibited Act or fails to report a Prohibited Act to the Authority, whether committed by the Grant Recipient or a Third Party, as soon as they become aware of it;
- 24.3.8. the Authority determines (acting reasonably) that the Grant Recipient has:
  - (i) acted dishonestly or negligently at any time during the term of the Grant Funding Agreement and to the detriment of the Authority; or
  - (ii) taken any actions which unfairly bring or are likely to unfairly bring the Authority's name or reputation and/or the Authority into disrepute. Actions include omissions in this context;
  - (iii) transferred, assigned or novated the Grant to any Third Party without the Authority's consent;
  - (iv) ceased to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
  - (v) become Insolvent as defined by section 123 of the Insolvency Act 1986, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due;
  - (vi) incurred expenditure on activities that breach the Law;
- 24.3.9. the European Commission (or a Domestic Successor) or the Court of Justice of the European Union (or Domestic Successor) requires any Grant paid to be recovered by reason of a breach of State Aid Law or the Grant Recipient fails to comply with the provisions of the exemption or scheme under State Aid Law that applies to the Funded Activities and the Grant;
- 24.3.10. The Grant Recipient breaches the Code of Conduct for Grant Recipients (the "[Code of Conduct](#)") and/or fails to report an actual or suspected breach of the Code of Conduct by the Grant Recipient or its Representatives in accordance with paragraph 28.

#### **Rights reserved for the Authority in relation to an Event of Default**

- 24.4. Where, the Authority determines that an Event of Default has or may have occurred, the Authority may by written notice to the Grant Recipient take any one or more of the following actions:
  - 24.4.1. suspend the payment of Grant for such period as the Authority shall determine; and/or
  - 24.4.2. reduce the Maximum Sum in which case the payment of Grant shall thereafter be made in accordance with the reduction and notified to the Grant Recipient; and/or

- 24.4.3. cease to make payments of Grant to the Grant Recipient under the Grant Funding Agreement and (in addition) require the Grant Recipient to repay the Authority the whole or any part of the amount of Grant previously paid to the Grant Recipient. Such sums shall be recovered as a civil debt; and/or
- 24.4.4. terminate the Grant Funding Agreement.

### **Opportunity for the Grant Recipient to remedy an Event of Default**

- 24.5. If the Authority gives written notice to the Grant Recipient pursuant to paragraph 24.4 to suspend payment of Grant, such notice shall specify the relevant Event of Default and give the Grant Recipient an opportunity to rectify the relevant Event of Default by submitting a draft Remedial Action Plan for approval by the Authority.
- 24.6. Where the Grant Recipient is required to submit a draft Remedial Action Plan in accordance with paragraph 24.5, the draft Remedial Action Plan shall be submitted to the Authority for approval, by such date as the Authority, acting reasonably, shall specify.
- 24.7. The draft Remedial Action Plan shall set out:
  - 24.7.1. full details of the Event of Default; and
  - 24.7.2. the steps which the Grant Recipient proposes to take to rectify the Event of Default including timescales for such steps.
- 24.8. On receipt of the draft Remedial Action Plan and as soon as reasonably practicable, the Authority will submit its comments on the draft Remedial Action Plan to the Grant Recipient.
- 24.9. The Authority shall have the right to accept or reject the draft Remedial Action Plan. If the Authority rejects the draft Remedial Action Plan, the Authority shall confirm, in writing, the reasons why they have rejected the draft Remedial Action Plan and will confirm whether the Grant Recipient is required to submit an amended Remedial Action Plan to the Authority.
- 24.10. If the Authority directs the Grant Recipient to submit an amended draft Remedial Action Plan, the Parties shall agree a timescale for the Grant Recipient to amend the draft Remedial Action Plan to take into account the Authority's comments.
- 24.11. If the Authority does not approve the draft Remedial Action Plan the Authority may at its absolute discretion terminate the Grant Funding Agreement.
- 24.12. The Authority shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Authority, capable of remedy, exercise its rights under either paragraph 24.4.3 or 24.4.4 unless the Grant Recipient has failed to rectify the default pursuant to paragraph 24.5 to the satisfaction of the Authority.

### **25. DISPUTE RESOLUTION**

- 25.1. The Parties will use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of the Grant Funding Agreement.
- 25.2. All disputes and complaints shall be referred in the first instance to the Parties' Representatives.
- 25.3. If the dispute cannot be resolved between the Parties' Representatives within a maximum of three months, then the matter will be escalated to formal meeting between the Grant Manager and the Grant Recipient's chief executive (or equivalent).

## **26. LIMITATION OF LIABILITY**

- 26.1. The Authority accepts no liability for any consequences, whether direct or indirect, that may come about from the Grant Recipient running the Funded Activities, the use of the Grant or from withdrawal, withholding or suspension of the Grant. The Recipient shall indemnify and hold harmless the Authority, its Representatives with respect to all actions, claims, charges, demands Losses and proceedings arising from or incurred by reason of the actions and/or omissions of the Grant Recipient in relation to the Funded Activities, the non-fulfilment of obligations of the Grant Recipient under this Grant Funding Agreement or its obligations to Third Parties.
- 26.2. Subject to this paragraph 26, the Authority's liability under this Grant Funding Agreement is limited to the amount of Grant outstanding.

## **27. VAT**

- 27.1. For the avoidance of doubt, the Authority and the Grant Recipient consider that the Funded Activities are outside the scope of VAT. It is therefore not envisaged that there will be a service on which VAT will be properly charged.
- 27.2. Notwithstanding paragraph 27.1, if VAT is held to be chargeable in respect of the Grant Funding Agreement, all payments shall be deemed to be inclusive of all VAT and the Authority shall not be obliged to pay any additional amount by way of VAT.
- 27.3. All sums or other consideration payable to or provided by the Grant Recipient to the Authority at any time shall be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided the Grant Recipient shall at the same time or as the case may be on demand by the Authority in addition to such sums or other consideration pay to the Authority all the VAT so payable upon the receipt of a valid VAT invoice.

## **28. CODE OF CONDUCT FOR GRANT RECIPIENTS**

- 28.1. The Grant Recipients acknowledges that by signing the Grant Funding Agreement it agrees to take account of the [Code of Conduct](#) and that it will ensure that its Representatives undertake their duties in a manner consistent with the principles set out in the Code of Conduct.
- 28.2. If the Grant Recipient becomes aware of any actual or suspected breaches of the principles outlined in the Code of Conduct, it shall notify the Authority of these by including them in the next Quarterly Report
- 28.3. If, having given the matter due consideration, the Grant Recipient considers that the Authority might reasonably wish to be informed of an actual or suspected breach of the Code of Conduct sooner than the date of the next Quarterly Report (for example because the matter is such that, were it to become known to a Third Party, it would be capable of bringing the Funded Activities, the Grant recipient or the Authority into disrepute), the Grant Recipient shall notify the Authority immediately.
- 28.4. The Grant Recipient acknowledges that a failure to notify the Authority of an actual or suspected breach of the Code of Conduct may result in the Authority immediately suspending the Grant funding, terminating the Grant Funding Agreement and taking action to recover some or all of the funds paid to the Grant Recipient as a civil debt in accordance with paragraph 24.3.10

## **29. NOTICES**

29.1. All notices and other communications in relation to this Grant Funding Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to in Annex 5 or otherwise notified in writing. All notices and other communications must be marked for the attention of the contact specified in Annex 5 (Contact Details). If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any Working Day they shall be deemed received on the next Working Day) and if mailed all such communications shall be deemed to have been given and received on the second Working Day following such mailing.

**30. GOVERNING LAW**

30.1. These Conditions will be governed by and construed in accordance with the law of England and Wales and the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

**SIGNED by:** .....  
**Signature**

**[insert authorised signatory's name]** .....  
**Title**

for and on behalf of the **[insert name of Department]** .....  
**Date**

**SIGNED by** .....  
**Signature**

**[insert authorised signatory's name]** .....  
**Title**

for and on behalf of **[insert name of Recipient]** .....  
**Date**



## ANNEX 1 – GRANT FUNDING LETTER



Department  
for Environment  
Food & Rural Affairs

Nobel House  
17 Smith Square  
London SW1P 3JR

T 03459 335577  
helpline@defra.gsi.gov.uk  
[www.gov.uk/defra](http://www.gov.uk/defra)

All National Park Authority Chairs

21 January 2016

**From Rory Stewart OBE MP**

Parliamentary Under Secretary of State for Environment and Rural Affairs

Thank you for your letter of the 29 November about the outcome of the Spending Review. You are clearly aware of the Chancellor of the Exchequer's announcement that the funding for National Parks and Areas of Outstanding Natural Beauty would be protected. I am happy to be able to confirm that the protection will be in real terms and that there will be additional funding for the recently announced extensions of the Yorkshire Dales and Lake District National Parks. I have set out in the table below the National Park Authorities grant for the financial years 2016/2017 to 2019/20.

	2015-2016	2016/17	2017/18	2018/19	2019/20
	£	£	£	£	£
Broads Authority	3,188,952	3,243,802	3,299,595	3,356,348	3,414,078
Dartmoor	3,573,586	3,635,052	3,697,575	3,761,173	3,825,865
Exmoor	2,999,762	3,051,358	3,103,841	3,157,227	3,211,532
Lake District	5,218,491	5,284,481	5,402,483	5,495,406	5,589,927
New Forest	3,037,096	3,089,334	3,142,471	3,196,521	3,251,501
North York Moors	4,092,793	4,163,189	4,234,796	4,307,634	4,381,726
Northumberland	2,496,673	2,539,616	2,583,297	2,627,730	2,672,927
Peak District	6,257,122	6,364,744	6,474,218	6,585,575	6,698,847
South Downs	9,794,737	9,963,206	10,134,574	10,308,888	10,486,201
Yorkshire Dales	4,070,398	4,540,613	5,054,433	5,141,369	5,229,801

This settlement reflects the huge value the Secretary of State and I attach to the National Parks and how impressed we have been by the impact that the Authorities are having across a whole range of important issues, including: natural capital, ecosystems services, water catchment, rural business and food production and community engagement, as exemplified in your November letter. We very much look forward to working with you and your Chief Executives in the delivery of Defra's priorities and in particular the 25 Environment Plan and a new Plan for the National Parks.

I am copying this letter to Andrew Sells at Natural England, and Paul Hamblin at National Parks England.



INVESTORS  
IN PEOPLE

## ANNEX 2 –THE FUNDED ACTIVITIES

### **Background/purpose of the Grant**

- 1.1. The Environment Act 1995 sets out the purposes and functions of National Parks
- 1.2. The Accounts and Audit Regulations 2015 set out the accounting framework for the Grant Recipient.

### **Funded Activities**

- 1.3. The Funded Activities are activities which enable the Grant Recipient to comply with its obligations in accordance with the Law and in particular to deliver the purposes and functions of National Parks as set out in the Environment Act 1995 and its own activities set out in the National Park Management Plan (as defined in section 66 of the Environment Act 1995) and its responsibilities as a statutory planning authority as defined in sections 67 and 68 of the Environment Act 1995 from time to time.

DRAFT

### ANNEX 3 – PAYMENT SCHEDULE

<b>INSTALMENT/ INSTALMENT PERIOD</b>	<b>CLAIM DATE</b>	<b>EXPECTED PAYMENT DATE</b>
April - 1st instalment	22 March 2019	4 April 2019
July - 2nd instalment	19 June 2019	4 July 2019
October - 3rd instalment	13 September 2019	3 October 2019
January - 4th instalment	6 December 2019	7 January 2020

DRAFT

**ANNEX 4 - GRANT CLAIM**

Note: all supporting information referred to in the Grant Funding Letter or this payment schedule must be submitted in accordance with the claims procedures and conditions of payment at the foot of this payment schedule.

This document is an invoice for the Protected Landscapes Team in Defra's Land Use Directorate.

<b>1. Applicant's Name and Address</b>	<b>2. Grant Recipient Name</b>
<b>3. Amount of Grant Offer:</b>	<b>5. Amount of Grant Claim</b>
<b>4. Period of Grant Offer</b>	<b>6. Period covered by Grant claim</b>
<b>7. Claim type</b> Q1 Q2 Q3 Q4*  (* Delete as applicable)	<b>8. PO number</b>  <b>9. Grant Claim unique identification number (e.g. the Grant Recipient's invoice no.)</b>
<b>10. Breakdown of expenditure claimed</b> Note: Note: Please use key headings as contained in your annual forecast provided under Annex 6 or Management Plan, continuing on a separate sheet if necessary	
(a) Functional Head	(b) Eligible Expenditure for following quarter (to be invoiced)
<b>Total to be claimed</b>	
I certify that:	
i. The Funded Activities to which the claim relates are planned as set out in the grant recipient's management plan and/or have been completed as planned;	
ii. The items of Expenditure incurred/anticipated comprise only Eligible Expenditure which does not fall within any of the categories of Ineligible Expenditure in the Grant Funding Agreement.	
iii. I have to the best of my knowledge and belief complied with all the Conditions subject to which I have agreed to receive the Grant have been met.	
iv. In completing this Claim Form I have been truthful, accurate and complete and have in good faith given honest estimates of any anticipated Eligible Expenditure.	
I therefore invoice payment of £ .....	
Signed ..... Name (CAPS) .....	

Date .....	Position .....
------------	----------------

### Claims procedures and conditions of payment

- I. All payments made in respect of any Claim form are made subject to the payment terms below and to the Authority's right to demand repayment in accordance with the Conditions in paragraph 24 of your Grant funding Agreement.
- II. The Grant Recipient must submit four separate claims for payment of each instalment of the Grant on dates set out in Annex 3 in respect of actual and forecast Eligible Expenditure as explained in the form above. All sections of the claim form must be fully and accurately completed and submitted to: [NationalParks.AONBS@defra.gov.uk](mailto:NationalParks.AONBS@defra.gov.uk)
- III. The Authority may request the Grant Recipient to provide additional evidence of how the Grant is used at any time.
- IV. The Grant Recipient must only include the relevant allocations of Eligible Expenditure to the relevant activity and the basis of any apportionment/allocation must be clearly set out in the breakdown.
- V. If the Grant Recipient is unsure whether Expenditure is Eligible Expenditure or Ineligible Expenditure, the Authority's written consent should be obtained before incurring that Expenditure.

ADDITIONAL QUARTERLY REPORTING	
AREA OF REPORTING – please cross reference to the section of the Grant Funding Agreement	DETAILS

**ANNEX 5 – CONTACT DETAILS**

The main departmental contact in connection with the Grant is:

Name of contact	Daniel Jones, Meghna Patel
Position in organisation	Protected Landscape Team
Email address	NationalParks.AONBS@defra.gov.uk
Telephone number	020 8026 3689
Postal address	Protected Landscapes Defra Seacole Building, 2 Marsham Street London

This information is correct at the date of the Grant Funding Agreement. The Authority will send you a revised contact sheet if any of the details changes.

The Grant Recipient's main contact in connection with the Grant Funding Agreement is:

Reference	Contact 1	Contact 2
Organisation	[REDACTED]	
Name of contact	[REDACTED]	
Position in organisation	[REDACTED]	
Email address	[REDACTED]	
Telephone number	[REDACTED]	
Fax number	[REDACTED]	
Postal address	[REDACTED]	

Please inform the Authority if the Grant Recipient's main contact changes.

**ANNEX 6: ESTIMATE OF ANNUAL INCOME AND EXPENDITURE**

NATIONAL PARKS GRANT – PROFILE OF EXPENDITURE FOR 20\_\_\_\_/\_\_\_\_

To be submitted to Defra by \_\_\_\_\_

\_\_\_\_\_  
National Park Authority

Forecast Total	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Gross Expenditure – by functional headings				

Conservation of the Natural Environment

Conservation of Cultural Heritage

Recreation Management and Transport

Promoting Understanding

Rangers, Estates and Volunteers

Development Control

Forward Planning and Communities

Specialist Ringfenced Accounts

Service Management and Support Services

Corporate and Democratic Core

Non Distributed Costs

Income (**excluding** NPG) – by functional headings

Conservation of the Natural Environment

Conservation of Cultural Heritage

Recreation Management and Transport

Promoting Understanding

Rangers, Estates and Volunteers

Development Control

Forward Planning and Communities

Specialist Ringfenced Accounts

Service Management and Support Services

Corporate and Democratic Core

Non Distributed Costs

---

Total (approved net expenditure)

---

Below the line items/accounting adjustments

---

---

Total Estimated NPG Claim

---

Total Estimated NPG Claim  
(as a % of total NPG)

.....

External funding providers e.g. grants, project funding	£Amount

Signed ..... (National Park Officer or Nominated Officer)  
 On behalf of the ..... National Park Authority  
 Date .....



## EXMOOR NATIONAL PARK AUTHORITY

3 September 2019

### ANNUAL APPOINTMENTS

#### Report of the Chief Executive

**Purpose of the report:** In accordance with Standing Orders to set out the annual appointments to be made to the Authority's Committees, partnership boards and working groups as are necessary to carry out the work of the Authority and to set out the annual appointments to be made to other organisations.

**RECOMMENDATION:** To make appointments to all operational Committees, partnership boards, working groups and outside bodies as listed in the Appendix to this report, or as agreed by the Authority Committee.

**Authority Priorities:** The Authority's annual appointments are central to the achievement of each of the Partnership Plan and Corporate Plan priorities.

**Legal and Equality Implications:** Local Government Acts 1972, 2000 etc. – the meetings and proceedings of a National Park Authority are regulated by local government law as if the National Park Authority was a local authority. The equality impact of the recommendations of this report have been assessed as having no adverse impact on any particular group or individual.

**Financial and Risk Implications:** There are no significant financial or risk implications of the recommendation of this report.

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## 1. INTRODUCTION

- 1.1 At its Annual Meeting on 2 July, the Authority made appointments to its Committees under the Scheme of Delegation and to those panels, working groups and other organisations where there was a member vacancy and which were due to meet in the coming weeks.
- 1.2 To allow time for new members to find out more about any particular area of the Authority's work, before expressing interest in any of the other panels, working groups and organisations on which the Authority is represented, these appointments were deferred until the Authority's September meeting.

## 2. APPOINTMENTS TO COMMITTEES, PARTNERSHIP BOARDS, WORKING GROUPS AND OUTSIDE BODIES

- 2.1 The appointments which the Authority is invited to consider are attached at Appendix A to this report.

**Sarah Bryan**  
**Chief Executive**  
**August 2019**

Statutory Meetings	Current Appointments	Expressions of Interest 2019/20
<p><b>Final Accounts Committee</b> The Committee comprises at least 5 Members of the Authority, of whom at least one shall be a local authority member and at least one shall be a member appointed to the Authority by the Secretary of State. The Members shall be the Chairperson of the Authority (who shall preside at meetings) and the Deputy Chairperson of the Authority and at least 3 Members chosen by the Authority.</p> <p>The Committee will meet annually to receive and approve the annual Statement of Accounts in accordance with statutory deadlines. Committee members will meet at regular intervals as the <b>Finance &amp; Performance Advisory Panel</b> with the Chief Executive, Head of Finance &amp; Operations and Head of Strategy &amp; Performance to maintain a detailed overview of the financial position, overall performance and management of risk within the Authority; the membership of the Panel to comprise (but not be limited to) the members of the Final Accounts Committee.</p>	<p>Mr R Milton (SoS) Miss A V Davis (DCC) Mr M Ellicott (Parish) Mr N Holliday (SoS) Mr J Patrinos (NDC) Mrs E Stacey (SoS) Mr V White (Parish)</p>	<p><u>Authority Chairperson</u> Mr R Milton (Parish)</p> <p><u>Authority Deputy Chairperson</u> Miss A V Davis (DCC)</p> <p>Mr R C Edgell (DCC) Mr M Ellicott (Parish) Mr N Holliday (SoS) * Mrs F Nicholson (SCC) Mr J Patrinos (NDC) Mr S J Pugsley (SWT) Mrs E Stacey (SoS) * Mrs S Takle (Parish) Mr V White (Parish)</p>
<p><b>Standards Committee</b> Comprises 5 Authority members of whom at least one shall be a local authority Member and at least one shall be a Member appointed to the Authority by the Secretary of State. The general functions of the Committee are to promote and maintain high standards of conduct by members and officers; to assist members to observe the Code of Conduct; and to consider and determine complaints against members under the Code of Conduct. Meets as required, at least annually to appoint a Chairperson and Deputy Chairperson.</p>	<p>Mr M Ellicott (Parish) Mr J Patrinos (NDC) Mr S J Pugsley (SWT) Mrs E Stacey (SoS)</p> <p><i>Formerly Mr M Dewdney (SWT)</i></p>	<p><u>Chairperson</u> Mr J Patrinos (NDC)</p> <p><u>Deputy Chairperson</u> Mrs E Stacey (SoS) *</p> <p>Mr M Ellicott (Parish) Mr S J Pugsley (SWT) Mr N Thwaites (SWT)</p>
<p><b>Exmoor Local Access Forum</b> (Lead Officer: Dan Barnett, Access &amp; Recreation Manager). The Forum is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan and is a statutory independent advisory body which includes 2 representatives from the Authority. The Forum advises on the improvement of public access to land for the purposes of open-air recreation and enjoyment and meets twice a year.</p>	<p>Mr R Milton (SoS) Mr M Ryall (SoS)</p>	<p>Mr R Milton (Parish) Mr M Ryall (SoS) *</p>
External Consultation Group	Current Appointments	Expressions of Interest 2019/20
<p><b>Exmoor Consultative and Parish Forum</b> Acts as a forum for consultation and discussion of matters of principle affecting the National Park and promotes better understanding between the National Park Authority and other bodies having an interest in the National Park. Meets 5 times a year. <b><u>The Authority to appoint the Chairperson and Deputy Chairperson of the Forum.</u></b></p>	<p>All Authority Members Mr S J Pugsley (SWT) (Chairperson) Mrs F Nicholson (SCC) (Deputy Chairperson)</p>	<p>All Authority Members</p> <p><u>Chairperson</u> Mr M Ellicott (Parish)</p> <p><u>Deputy Chairperson</u> Mr V White (Parish)</p>

Partnership Boards and Working Groups	Current Appointments	Expressions of Interest 2019/20
<p><b>Exmoor's Ambition Steering Group:</b> (Lead Officer: Sarah Bryan, Chief Executive). The Working Group was established following a report to the Authority Committee on 4 July 2017 on upland farming support post the UK's exit from the European Union. The Group will oversee the development of an example Exmoor agri environment scheme, in consultation with local farmers, landowners and stakeholders, Defra, NE, Exmoor Hill Farming Network, NFU, CLA, Exmoor Society, RSPB and environmental groups. Meets as required.</p>	<p>Mr R Milton (SoS) Mr N Holliday (SoS) Mr M Ryall (SoS) <i>Formerly Mrs P Webber (Parish)</i></p>	<p>Mr N Holliday (SoS) * Mr J Holtom (Parish) Mr R Milton (Parish) Mr M Ryall (SoS) * Mrs S Takle (Parish)</p>
<p><b>Dartmoor and Exmoor Joint Member Working Group:</b> (Lead Officers: Clare Reid, Head of Strategy &amp; Performance and Gordon Bryant, Head of Finance &amp; Operations). The Working Group's terms of reference are to produce a joint strategy for sustainable income generation, building on the success and best practice of other joint initiatives; identify activities and resources required - capitalising on economies of scale, joint working for savings and joint income generation initiatives; report progress regularly to respective Authorities through a joint report. Meets as required.</p>	<p>Miss A V Davis (DCC) Mr M Ellicott (Parish) Mrs E Stacey (SoS) <i>Formerly Mr M Dewdney (SWT)</i> <i>Formerly Sir Richard Peek (Parish)</i></p>	<p>Miss A V Davis (DCC) Mr M Ellicott (Parish) Mr J Hunt (SCC) Mrs E Stacey (SoS) *</p>
<p><b>Deer Monitoring Panel</b> (Lead Officer: Sarah Bryan, Chief Executive). The panel's focus is a stable and healthy population of red deer in balance with its impact on the natural environment. Meets occasionally as required and includes 3 Members of the Authority.</p>	<p>Mr R C Edgell (DCC) Mr M Ellicott (Parish) <i>Formerly Mr B Heywood (SWT)</i> <i>Formerly Sir Richard Peek (Parish)</i> <i>Formerly Mrs P Webber (Parish)</i></p>	<p>Mr R C Edgell (DCC) Mr M Ellicott (Parish) Mrs S Takle (Parish)</p>
<p><b>Dunster Working Group</b> (Lead Officer: Tim Braund, Head of Information &amp; Communication and Rob Wilson-North, Head of Conservation &amp; Access). <i>(This comprises 1 member of the Authority plus representation from various external organisations)</i>. The role of the Dunster Working Group is to develop a vision for environmental quality, economic viability and social well-being for Dunster Village and the surrounding area, together with a programme for consultation and implementation of the vision. Meets as required.</p>	<p>Miss A V Davis (DCC) Mrs C M Lawrence (SCC) (as local County Councillor)</p>	<p>Miss A V Davis (DCC) <i>Mrs C M Lawrence (SCC) (as local County Councillor)</i> <i>Mr P Pilkington (as SWT ward representative)</i></p>
<p><b>Exmoor Historic Environment Advisory Panel</b> (Lead Officer: Shirley Blaylock (Conservation Officer Historic Environment)). The panel is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan <i>(comprises representatives from partner organisations and 1 Authority Member)</i>. Meets as required, usually twice a year.</p>	<p>Mrs L Blanchard (SoS)</p>	<p>Mrs L Blanchard (SoS) Mr J Holtom (Parish)</p>
<p><b>Exmoor Landscape Advisory Group</b> (Lead Officer: Pamela Morris, Senior Landscape Officer). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan and is a partnership of landscape planners and managers from the public, private and voluntary sectors which reviews all landscape matters in the National Park, in particular the relationships between people and place. The group includes two member appointments. Meets as required, usually twice a year.</p>	<p>Mrs L Blanchard (SoS) Mr R Milton (SoS) <i>Formerly Mr B Peacock (Parish)</i></p>	<p>Mrs L Blanchard (SoS) Mr R Milton (Parish)</p>

\* Current appointment terms for these Secretary of State (SoS) Members run until 31.03.2020

Partnership Boards and Working Groups	Current Appointments	Expressions of Interest 2019/20
<p><b>Exmoor Learning and Engagement Network</b> (Lead Officer: Tim Braund, Head of Information &amp; Communication). The panel is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan (<i>comprises representatives from partner organisations and to include 1 Authority Member</i>). Meets twice a year.</p>	<p>Mrs L Blanchard (SoS)</p>	<p>Mrs L Blanchard (SoS) Mr B Revans (SCC)</p>
<p><b>Exmoor Moorland &amp; Farming Board</b> (Lead Officer: Alex Farris, Conservation Manager). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan (<i>comprises 3 Authority Members plus people nominated by other organisations with a particular interest in Exmoor's moorlands</i>). The Board usually meets two or three times a year.</p>	<p>Mr R Milton as NFU rep <i>Formerly Mr B Heywood (WSC)</i> <i>Formerly Mr B Peacock (Parish)</i> <i>Formerly Sir Richard Peek (Parish)</i> <i>Formerly Mrs P Webber (Parish)</i></p>	<p>Mr J Holtom (Parish) Mr E Ley (NDC) Mrs S Takle (Parish)  <i>Mr R Milton (Parish) as NFU rep</i></p>
<p><b>Exmoor Nature Conservation Advisory Panel</b> (Lead Officer: Ali Hawkins (Conservation Officer (Wildlife)). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan (<i>comprises representatives from partner organisations and 1 Authority Member</i>). Meets twice a year.</p>	<p>Mr R C Edgell (DCC) Mr M Ryall (SoS)  <i>Formerly Mr B Heywood (SWT)</i> <i>Formerly Mr B Peacock (Parish)</i></p>	<p>Mrs L Blanchard (SoS) Mr R C Edgell (DCC) Mr J Holtom (Parish) Mr M Ryall (SoS) *</p>
<p><b>Exmoor Parish Members Group</b> (Lead Officer: Dean Kinsella, Head of Planning &amp; Sustainable Development). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan. Meets as required.</p>	<p>Parish Members of the Authority</p>	<p>Parish Members of the Authority</p>
<p><b>Exmoor Rural Housing Network</b> (Lead Officer: Dean Kinsella, Head of Planning &amp; Sustainable Development). The Exmoor Rural Housing Network will consider and take forward options and ideas to develop a locally managed mechanism for the delivery of local needs housing in Exmoor National Park. Meets as required.</p>	<p>Mr R C Edgell (DCC) Mr M Ellicott (Parish) Mrs F Nicholson (SCC) Mr M Ryall (SoS) Mr V White (Parish)</p>	<p>Mr R C Edgell (DCC) Mr M Ellicott (Parish) Mr J Holtom (Parish) Mrs F Nicholson (SCC) Mr S J Pugsley (SWT) Mr M Ryall (SoS) * Mrs S Takle (Parish) Mr V White (Parish)  <i>Mr P Pilkington (SWT) (as SWT District Councillor)</i></p>
<p><b>Exmoor Woodland and Forestry Advisory Group</b> (Lead Officer: Graeme McVittie (Conservation Officer (Woodlands)). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan (<i>comprises representatives from partner organisations and 1 Authority Member</i>). Meets as required.</p>	<p><i>Formerly Mr B Heywood (SWT)</i></p>	<p>Mr J Holtom (Parish) Mr J Hunt (SCC)</p>

\* Current appointment terms for these Secretary of State (SoS) Members run until 31.03.2020

Partnership Boards and Working Groups	Current Appointments	Expressions of Interest 2019/20
<p><b>Headwaters of the Exe Project Steering Group</b> (Lead Officer: Heather Harley, Programme Manager (Headwaters of the Exe)). The Headwaters of the Exe programme focuses on water quality and wider ecosystem services in the headwaters of the River Exe catchment, covering an area of 27,559 hectares and including the upper Exe, the Rivers Barle, Quarne, Pulham, Haddeo and smaller tributaries, as well as Wimbleball Reservoir (<i>comprises representatives from partner organisations and 1 Authority Member</i>). The Steering Group meets twice per year.</p>	<p><i>Formerly Sir Richard Peek (Parish)</i></p>	<p>Mr P Pilkington (SWT)</p>
<p><b>Pinkery Review Task and Finish Group</b> (Lead Officer: Tim Braund, Head of Information &amp; Communication). Established to guide and implement an independent review of Pinkery Centre for Outdoor Learning. Meets as required.</p>	<p>Mr N Holliday (SoS) Mrs C M Lawrence (SCC) Mrs F Nicholson (SCC) Mr J Patrinos (NDC) Mrs E Stacey (SoS)  <i>Formerly Mr M Dewdney (SWT)</i></p>	<p>Mr N Holliday (SoS) * Mrs C M Lawrence (SCC) Mrs F Nicholson (SCC) Mr J Patrinos (NDC) Mr P Pilkington (SWT) Mr S J Pugsley (SWT) Mr B Revans (SCC) Mrs E Stacey (SoS) *</p>
<p><b>Planning Policy Advisory Group</b> (Lead Officers: Dean Kinsella, Head of Planning &amp; Sustainable Development and Clare Reid, Head of Strategy &amp; Performance). The Advisory Group assists Officers in relation to the preparation of local development documents and supplementary planning documents to guide the development and use of land in the National Park, and which inform decisions on planning applications and appeals. The group will also take forward discussions on key themes for the community and economy, engage with other organisations, monitor change and communicate with and involve communities. Meets as required. Meetings open to all Members.</p>	<p>Mr R Milton (SoS) Miss A V Davis (DCC) Mr N Holliday (SoS) Mrs F Nicholson (SCC) Mr S J Pugsley (SWT) Mr V White (Parish)  <i>Formerly Mr M Dewdney (SWT)</i> <i>Formerly Mr B Peacock (Parish)</i> <i>Formerly Sir Richard Peek (Parish)</i> <i>Formerly Mrs P Webber (Parish)</i></p>	<p><u>Authority Chairperson</u> Mr R Milton (Parish)  <u>Authority Deputy Chairperson</u> Miss A V Davis (DCC)  <u>Deputy Chairperson (Planning)</u> Mr S J Pugsley (SWT)  Mr N Holliday (SoS) * Mr J Holtom (Parish) Mrs F Nicholson (SCC) Mrs S Takle (Parish) Mr V White (Parish)  <i>Open to all Authority Members</i></p>
<p><b>Pony Panel</b> (Lead Officer: Matt Harley, Land &amp; Property Manager). (<i>Established at the Resources &amp; Performance Committee meeting on 3 March 2009, to comprise 1 member of the Authority</i>). The Panel's role is to advise on the management of the Authority's pony herds. Meets as required, usually annually.</p>	<p>Mr R Milton (SoS)  <i>Formerly Mrs P Webber (Parish)</i></p>	<p>Mr R Milton (Parish) Mr N Thwaites (SWT)</p>
<p><b>Simonsbath Project Task and Finish Group</b> (Lead Officer: Rob Wilson-North (Conservation Manager). (<i>The group comprises Authority officers and 2 Member appointments, together with community representatives</i>). The role of the group is to take forward the vision for Simonsbath as a visitor destination including the restoration of White Rocks Cottage, links to other historic buildings in the area and potential to provide a centre for the interpretation of the Exmoor Forest. Meets as required.</p>	<p>Mr N Holliday (SoS) (Miss A V Davis sub (DCC)) Mr S J Pugsley (SWT) (Mrs F Nicholson sub (SCC))</p>	<p>Mr N Holliday (SoS) * (Miss A V Davis sub (DCC))  Mr S J Pugsley (SWT) (Mrs F Nicholson sub (SCC))</p>

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Partnership Boards and Working Groups	Current Appointments	Expressions of Interest 2019/20
<p><b>Visit Exmoor</b> (Lead Officer: Dan James, Sustainable Economy Manager). The group is a <i>Partnership Plan Group</i> with a key role to lead in the development and delivery of relevant action plans set out in the Exmoor National Park Partnership Plan (comprises representatives of the tourism organisations and industry providers and to include 1 member of the Authority). Meets as required, usually four times a year.</p>	Mrs E Stacey (SoS)	Mrs E Stacey (SoS) *
<p><b>West Somerset and Exmoor Low Carbon Partnership (formerly Carbon Neutral Exmoor Steering Group)</b> (Lead Officer: Clare Reid, Head of Strategy &amp; Performance). The Partnership has been encouraged to add to its role the strategic overview of relevant action plans set out in the Exmoor National Park Partnership Plan which aim to support communities and land managers in developing low carbon initiatives that will contribute to the aspiration of achieving carbon neutrality for the National Park. Includes up to 2 Member appointments.</p>	<i>Formerly Mrs P Webber (Parish)</i>	Mr P Pilkington (SWT)
Appointments to Outside Bodies	Current Appointments	Expressions of Interest 2019/20
<p><b>National Parks UK Executive Committee</b> (Lead Officer: Sarah Bryan, Chief Executive). National Parks UK is an association of the 15 Chairmen and Convenors of the UK National Park Authorities. The vision is to raise the profile, understanding and relevance of these protected landscapes and to facilitate training and development opportunities for Members and staff.</p>	The Chairperson of the Authority, sub Deputy Chairperson	
<p><b>National Parks England Executive Committee</b> (Lead Officer: Sarah Bryan, Chief Executive). National Parks England exists to promote and further the needs of the ten English National Park Authorities by providing a collective voice; representing their interests to a range of policy makers, Parliamentarians and other decision makers; and raising the profile of the work of the authorities and facilitating discussion on issues of common concern.</p>	The Chairperson of the Authority, sub Deputy Chairperson	
<p><b>Campaign for National Parks</b> (Lead Officer: Sarah Bryan, Chief Executive). The Campaign for National Parks is a national charity that campaigns and speaks out to protect and promote National Parks.</p>	<i>Formerly Mrs P Webber (Parish)</i>	Miss A V Davis (DCC)
<p><b>Campaign to Protect Rural England Devon Advisory Committee</b> (Lead Officer: Sarah Bryan, Chief Executive). CPRE Devon has invited the Authority to nominate a member representative to its Advisory Committee. The Committee tries to get people from different groups and organisations across Devon together, including from Natural England, Country Land &amp; Business Association, NFU South West, Dartmoor NPA and Dartmoor Preservation Association. The Advisory Committee meets two or three times a year and provides an opportunity to hear about what's going on in the different parts of the County and to discuss the various issues.</p>	<i>Formerly Mrs P Webber (Parish)</i>	Mr E Ley (NDC)

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Appointments to Outside Bodies	Current Appointments	Expressions of Interest 2019/20
<p><b>Connecting Dartmoor and Exmoor Programme Board</b> (Lead Officer: Dan James, Sustainable Economy Manager). The Board is responsible for monitoring and ensuring that the Programme is delivered in accordance with the Local Broadband Plan. Membership includes all funding bodies and the Board meets at least once every two months and as may be necessary for the effective implementation of the Programme.</p>	<p><i>Formerly Mr M Dewdney (SWT)</i></p>	<p>Mr N Thwaites (SWT) (Mr M Kravis sub (SWT))</p>
<p><b>Exmoor Hill Farming Network</b> (Lead Officer: Heather Harley, Conservation Officer (Farming &amp; Land Management)). The Network helps livestock farmers to improve the profitability of their businesses, including the development of strategic projects as well as encouraging access to support and funding. Includes 2 Member appointments.</p>	<p>Mr R Milton (SoS) as NFU representative Mr M Ryall (SoS) <i>Formerly Mrs P Webber (Parish)</i></p>	<p>Mr M Ellicott (Parish) Mr M Ryall (SoS) * <i>Mr R Milton (Parish) as NFU rep</i></p>
<p><b>North Devon AONB Partnership</b> (Lead Officer: Rob Wilson-North, Head of Conservation &amp; Access). The North Devon AONB Partnership's primary task is taking forward the objective of conserving the natural beauty of the landscape of the North Devon Area of Outstanding Natural Beauty.</p>	<p>Miss A V Davis (DCC)</p>	<p>Miss A V Davis (DCC)</p>
<p><b>North Devon and Torridge Leader</b> (Lead Officer: Dean Kinsella, Head of Planning &amp; Sustainable Development). The Leader comprises representatives from a wide range of local stakeholders and has responsibility for the securing, management, co-ordination, implementation and monitoring of LEADER funding within the programme area to provide funding and support to address economic growth and rural development challenges.</p>	<p><i>Formerly Sir Richard Peek (Parish)</i></p>	<p>Mrs C M Lawrence (SCC) <i>Mr R Edgell (DCC) (as local County Councillor)</i></p>
<p><b>Somerset Public Transport Forum</b> (Lead Officer: Dean Kinsella, Head of Planning &amp; Sustainable Development). The Forum provides a focal point for communication between officers and Members of Somerset County Council, train and bus operating companies.</p>	<p>Mr V White (Parish)</p>	<p>Mr V White (Parish)</p>
<p><b>South West Chamber of Rural Enterprise (South West Rural and Farming Network):</b> (Lead Officer: Rob Wilson-North, Head of Conservation &amp; Access). The South West Chamber of Rural Enterprise will act as lead organisation in the new South West Rural and Farming Network to advise Defra on a range of issues.</p>	<p>Miss A V Davis (DCC)</p>	<p>Miss A V Davis (DCC)</p>
<p><b>South West Uplands Network</b> (Lead Officer: Rob Wilson-North, Head of Conservation &amp; Access). The primary focus of the Network is to help achieve sustainable livestock farming and environmental management in the region's upland areas. Meets as required.</p>	<p>Mr M Ryall (SoS)</p>	<p>Mr M Ryall (SoS) *</p>
<p><b>South West Water Recreation and Conservation Forum</b> (Lead Officer: Rob Wilson-North, Head of Conservation &amp; Access). This Forum consists of representatives of South West Water, local authorities, Exmoor National Park Authority, conservation bodies and recreation user groups. It advises South West Water on recreation and conservation issues on its property holding and meets twice a year.</p>	<p><i>Formerly Mr M Dewdney (SWT)</i></p>	<p>Mrs L Blanchard (SoS)</p>
<p><b>Western Somerset Leader</b> (Lead Officer: Dean Kinsella, Head of Planning &amp; Sustainable Development). The Leader comprises representatives from a wide range of local stakeholders and has responsibility for the securing, management, co-ordination, implementation and monitoring of LEADER funding within the programme area to provide funding and support to address economic growth and rural development challenges.</p>	<p><i>Formerly Mr M Dewdney (SWT)</i></p>	<p>Mr S J Pugsley (SWT)</p>

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## EXMOOR NATIONAL PARK AUTHORITY EXMOOR CONSULTATIVE AND PARISH FORUM

**MINUTES** of the meeting of the Exmoor Consultative and Parish Forum held on Thursday 13 June 2019 at 7.00pm at Brendon and Countisbury Village Hall.

### PRESENT

Steven Pugsley	Exmoor National Park Authority and Chairman of the Forum
John Anson	Cutcombe Parish Council
Andrew Bray	Wootton Courtenay Parish Council
John Bray	Winsford Parish Council
Beccy Brown	Somerset West and Taunton District Council
Kevin Connell	Winsford Parish Council
Martin Dewdney	Nettlecombe Parish Council
Mike Ellicott	Exmoor National Park Authority and Exford Parish Council
Astra Fletcher	Brendon and Countisbury Parish Council
Wendy Floyd	Brendon and Countisbury Parish Council
David Garth	Brushford Parish Council
Rosamund Griffin	Wootton Courtenay Parish Council
Mike Groves	Exmoor Uprising
Molly Groves	Porlock Parish Council
Suzette Hibbert	Lynton and Lynmouth Town Council
Graham Lamacraft	Dunster Parish Council
Robin Milton	Exmoor National Park Authority
Frances Nicholson	Exmoor National Park Authority and Somerset County Council
Jeremy Payne	Oare and Culbone Parish Meeting
Bearnard Peacock	Exmoor National Park Authority and Lynton & Lynmouth Town Council
Angela Percival	Brendon and Countisbury Parish Council
Alastair Rodway	Lynton and Lynmouth Town Council
Leslie Silverlock	Exmoor Young Voices
Vivian White	Exmoor National Park Authority and Cutcombe Parish Council
James Wilmoth	Wootton Courtenay Parish Council
David Woodbury	Combe Martin Parish Council
Christine Wyr	Combe Martin Parish Council

### 1. Apologies for absence were received from:

John Addicott	Beagles
Sarah Bryan	Exmoor National Park Authority
Valerie Carveth	Exton Parish Council
Louise Crossman	Invitee
Andrea Davis	Exmoor National Park Authority, DCC & Kentisbury Parish Council
Richard Edgell	Exmoor National Park Authority, DCC & North Devon District Council
Samantha Harris	Exmoor Young Voices
Bruce Heywood	Exmoor National Park Authority
Nick Holliday	Exmoor National Park Authority
Will Lock	Exmoor Young Voices and Withypool & Hawkridge Parish Council
Susan May	Exmoor Trust
Sir Richard Peek	Exmoor National Park Authority and North Molton Parish Council
Evelyn Stacey	Exmoor National Park Authority

**National Park Authority staff in attendance:**

Dean Kinsella, Head of Planning & Sustainable Development  
Shirley Blaylock, Historic Environment Conservation Officer  
Hazel Malcolm, Business Support Officer (Note Taker)

2. **MINUTES:** The [minutes](#) of the Forum meeting held on 14 March 2019 were agreed as a correct record.

**Matters Arising**

- **Parish Council Election Ballot** – To note that the official count of the Parish Council Election will take place at 3pm on Tuesday 18 June at Exmoor House.

3. **QUESTIONS FROM THE FLOOR:**

- The issue of unofficial unauthorised events such as Raves taking place on Exmoor was raised. There had been a recent unauthorised event at Brendon Common attended by approx. 150 vehicles. The National Park Authority has no official powers to deal with such events but can provide a watching brief and report matters to the police. The Police have a range of powers to deal with raves and illegal gatherings through the Criminal Justice and Public Order Act 1994 and can also deal with any specific illegal behaviour that may be going on such as use of drugs, criminal damage etc. In February 2018 Devon and Cornwall Police issued a strategy on the Policing of Unlicensed Music Events / Raves. This is available at Appendix 1.
- Exmoor Young Voices reminded the Forum there was to be a Self-Build Tour at Wheddon Cross on Saturday, 15 June. Four Housing Associations and 13 Parish Councils are supportive of the scheme. There are 10 Case Studies on Exmoor of young people / affordable housing. Steven Pugsley is setting up a summit of the 9 organisations involved.
- The Housing Needs Survey has now closed and the responses are being analysed.

4. **HISTORIC SIGNPOST PROJECT:** Shirley Blaylock, Conservation Officer – Historic Environment, provided an update on the Historic Signposts Project.

- This has been a very successful project with 219 signposts repaired, and 163 volunteers involved in the project.
- There has been a huge amount of work from Charlotte Thomas, the Project Officer. Charlotte's efforts were noted and commended by the Forum.
- A booklet about the project has been published and is available to purchase through National Park Centres, at a cost of £2. Profits from booklet sales will fund future repairs.
- The project is ongoing, though not on the same scale. Other Signpost projects have been rolled out across Somerset.
- There is now an appeal in CareMoor for the project. Volunteers involved in the ongoing Signpost Project who need Health & Safety training, will have their training paid for by donations to the project through CareMoor.
- Co-ordination on the condition of signposts on Exmoor is via the Signpost section of the Exmoor National Park Authority website or can be reported to the relevant Parish Council who will forward to the National Park. The Steering Group will then collate these reports.

## 5. FARMING ISSUES:

- A joint meeting of the Moorland and Farming Board and the Historic Environment Advisory Group had taken place, the meeting had reported on 2019 being a good year for swaling.
- The National Environmental Land Management Scheme (NELMS) is still being considered by DEFRA. £70 million is needed by DEFRA for Tests and Trials. 2024 is the proposed start date for NELMS, and 2020 is when the current Stewardship Scheme will stop payments. This will leave a funding gap. In cases of rural hardship, faster payment can be achieved by pressure from organisations such as the Royal Agricultural Benevolent Institution (RABI) and a hardship claim submitted to DEFRA.

## 6. PLANNING ISSUES: Dean Kinsella, Head of Planning & Sustainable Development updated the meeting as follows: -

- The consultation on Rural Worker and Succession Farm Dwellings was now live, with an extended deadline of 31 July. The Forum was reminded and encouraged to put forward views via this consultation.
- The Forum was reminded should individuals have planning queries they are welcome to speak to the Planning Team at Exmoor National Park Authority.

## 7. EMERGING ISSUES OR TOPICS FOR WIDER DEBATE: The following were noted:

- In order to ensure continuing best practice, the National Park Authority are undertaking a number of reviews, including of the Exmoor Consultative and Parish Forum. To date the Review has received no responses. The review will look at how the Forum is run, how often it meets, agenda topics, outcomes, etc. Currently the Review recommendations put forward are to hold 4 meetings of the forum per year, in the mornings. Evening meetings put considerable extra pressure on National Park Officer time, at a time when the National Park is being constrained by funding cuts.

Responses to the Review and recommendations on the Forum are encouraged by emailing Dean Kinsella [dkinsella@exmoor-nationalpark.gov.uk](mailto:dkinsella@exmoor-nationalpark.gov.uk). The conclusions of the review will be presented to the Forum at the next meeting.

- Problem car parking of visitors to the National Park is to be kept on the agenda for the next meeting.
- There was a suggestion of having an agenda item from the emergency services, covering rural policing and an update from the fire brigade.
- The National Trust have offered an agenda item of a talk on their water management project. This was agreed. The contact is Beccy Brown.
- Events on Exmoor agreed as an agenda item.

## 8. DATE AND TIME OF NEXT MEETING: The next meeting will be held on Thursday 12 September 2019 at 7.00pm at Withypool Village Hall.

## 9. OTHER BUSINESS OF URGENCY: There was none

The meeting closed at 8:30 pm

(Chairman)