

**TOWN AND COUNTY PLANNING ACT 1990**

**PRE-APPLICATION ENQUIRY RESPONSE**

<b>Applicant:</b> Mr M Kelly	<b>Application No:</b> ENQ/2839/2021
<b>Address:</b>	<b>Application Type:</b> Pre Application Enquiry
<b>Agent:</b> Mr Mike Kelly	<b>Date of Registration:</b> 5 November 2021
<b>Address:</b> PPL	<b>Date of Decision:</b> 15 December 2021
<b>Proposal:</b> Erection of 28 dwellings	
<b>Location:</b> Land at Park Gate Umberleigh Devon EX37 9DA	

Thank you for your enquiry which was received on the 5 November 2021

It is my understanding that you are seeking an informal officer opinion on the residential development of up to 28 dwellings. This is a follow-up to ENQ/2000/2021 which was for the erection of 6 dwellings on land adjacent to Park Gate and Parkend Cottages, Umberleigh.

The site currently comprises agricultural land which amounts to approx. 3.8 hectares and lies to the east of the A377, River Taw and railway line with the land rising upwards from a west to easterly direction.

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan.

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

**Principle of development and policy requirements**

As previously stated, Umberleigh is a Schedule B village where Policy ST07(2) (Spatial Development Strategy for Northern Devon's Rural area) applies. In identified villages such as Umberleigh, development will be enabled in accordance with the appropriate local

spatial strategy (Policy UMB – Umberleigh Spatial Strategy) in order to meet local housing needs and growth aspirations. As recognised at paragraph 12.864, ‘Villages have a role in providing services and development opportunities. Umberleigh has no defined development boundary. Proposals that are well related to the existing settlement and appropriate to the scale of the locality will be considered against the general policies of the Local Plan’.

From a policy perspective, Umberleigh has no defined development boundary where Policy DM23 (Residential Development in defined Settlements without development boundaries) will support new development where the economic and social needs of the community are addressed within the context of the locally specific vision and spatial strategy.

The Policy team have commented that they are of the opinion that in this particular instance it is very difficult to clearly identify the principal built form of the settlement (criterion (a)) of Policy DM23 and this is highlighted in paragraph 12.866 which states *‘opportunities for residential development in the settlement of Umberleigh are very limited due mainly to the dispersed development pattern and the severe risk of flooding. Therefore, the village has neither a defined development boundary nor site-specific allocations, although the requirement to provide additional housing to meet local needs and address aspirations for improvements to local services and facilities still remains. Appropriate windfall development will be supported’*. Paragraph 12.867 continues *‘where suitable land is available for development, is appropriate in terms of its scale and location in relation to flood risks and has no significant impact on listed buildings in the village, it will be considered for development in accordance with general policies of the Local Plan. Opportunities to secure additional housing to meet local needs will continue to be explored’*.

The location of the proposed dwellings within Umberleigh has a very dispersed settlement pattern. It could be argued that this area is not within the principal built form and therefore an affordable housing focussed development (criterion b) should be delivered in accordance with Policy ST19 but as extensive areas of the settlement is within indicative flood zone 3 where new housing is not considered acceptable, the policy team are of the opinion that as the site is within flood zone 1 then we should look more positively to a proposed housing development in accordance with criterion (a) of Policy DM23 subject to the stated criteria (2 (a to c)) and Policy UMB(a) which supports a limited number of new dwellings well related to existing housing.

The Policy team have commented that to put this level of proposed housing growth in the context of existing homes in Umberleigh, which does not include all homes within the village, but has been taken from around the bridge and primary school, and going as far south as Hollycot and east to include Lower Park / Park Gate as an indicative snapshot of the principal built-up area, this level of growth for Umberleigh is high for a Village (approximately 60% growth) above the existing baseline number of households identified within Umberleigh as outlined above (47 households) although it is accepted that housing delivery is very constrained and new build housing has been very limited over this Plan and previous Plan periods. Therefore, the acceptability of housing to meet a locally identified need on land to the east of Park Gate and Lower Park (approximately 12 dwellings) in accordance with Policies UMB and DM23 is supported in principle but from a policy perspective and in consultation with the local community, I would wish to understand

whether 28 new build dwellings is considered as being '*limited*' and '*meets the housing needs in the community*' in the accordance with Policies ST07(2) and UMB.

Following the Burwood appeal decision in Torridge, the Councils recognise that they are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1<sup>st</sup> April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031. The Policy Team have commented that they recognise the base date for this assumed housing supply is April 2019 and although the Council has not updated that position to April 2021, from a policy perspective they have commented that they do not see that the 4.23 year supply would have improved to a position that we could confidently demonstrate a 5 year supply of deliverable housing sites.

Therefore, National planning policy (Footnote 8, National Planning Policy Framework (NPPF)) establishes that when a local planning authority is unable to demonstrate a five year supply of deliverable housing sites, for the purposes of triggering the presumption in favour of sustainable development, it should consider the policies which are most important for determining the application to be out-of-date. Accordingly, the presumption in favour of sustainable development (paragraph 11(d), NPPF as a material consideration), should be applied for decision-taking involving applications for housing.

If there is no clear reason to refuse an application based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called *tilted balance* (Paragraph 11(d)(i), NPPF). From a policy perspective, the lack of a 5 YHLS is a material planning consideration and the policy team have suggested that moderate weight must be applied in the tilted balance to a proposal of up to 28 homes as they are of the opinion that it would make significant contribution to the Councils' shortfall in deliverable housing sites if the proposed homes were to be developed within the next 5 years.

The Policy team have further commented that, as set out above, they do not consider this proposal to being a potential 'hostile application' and therefore one that is challenging the Council on its lack of a 5 YHLS as the principle of housing is considered acceptable in accordance with current policy and therefore this site should be considered as contributing to the current shortfall and they do not agree that clause (2) of Policy ST21 is triggered. The acceptability of this site is more about the sustainability of the location, landscape, infrastructure, highways, etc. as opposed to the Council not being able to clearly demonstrate a 5 YHLS.

The Policy team would wish to understand how and when your client anticipates these proposed dwellings would be delivered. They have commented however that they do accept that this more onerous approach may not be appropriate in this instance as they are of the opinion that it is not a 'hostile application' but we would still wish to ensure a degree of certainty around housing delivery

If a planning application were to be submitted then a 'Full' application would be welcomed so development can start almost immediately post planning permission. The Policy Team would wish to understand when ownership will be transferred to a developer and how and

when their timings for housing delivery will contribute to the current shortfall in the five year supply of deliverable housing sites. It would be good to understand whether the site would be available for those wishing to build their own home as part of a small community self-build project. Any timeline to demonstrate delivery must also include the potential need for a signed s106 agreement or Unilateral Undertaking (UU), I would also expect the Heads of Terms to be agreed up-front.

Clarity is also needed around a clear housing trajectory on delivery which is suitably conditioned or through the s106/UU as the Inspector at the Torrington appeal considered that email confirmation from the developer is not good enough. To help ensure the proposal is implemented in a timely manner, the LPA would give consideration to only granting a 2 year approval as supported by paragraph 77 of the NPPF (where this would not threaten its deliverability or viability) rather than the standard 3 years but again, although the lack of a 5 YHLS is a material consideration, it is not considered necessarily a hostile application and a challenge to the Council's shortfall in 5 YHLS so such measures may not be considered necessary although from a policy perspective, they would want to fully understanding housing delivery.

**Affordable Housing**

The Policy Team have commented as follows:

*Policy ST18(1a) of the Local Plan will expect housing developments over the threshold to provide on-site delivery of affordable housing equal to 30% of the total number of dwellings (gross). In this instance (up to 28 dwellings) there should be an on-site requirement of at least 8 affordable dwellings with the 0.4 being collected as a financial contribution towards affordable housing off-site. The proposed housing mix should meet the identified housing need in accordance with Policy ST17. Page 180 of the HEDNA (CE21) provides guidance on the mix of bed sizes by tenure that would be appropriate to help meet identified housing needs. For information, Part (1) of the policy could be used to seek particular forms of housing where there is evidence of need. I have provided an extract from the HEDNA (Table 114: Recommended Housing Mix – page 214) which identifies the recommended housing mix across the Plan area.*

	<b>1 – bed</b>	<b>2 – bed</b>	<b>3 - bed</b>	<b>4 - bed</b>
Market	5-10%	30-35%	40-45%	15-20%
Affordable	30-35%	35-40%	20-25%	5-10%
All Dwellings	15%	35%	35%	15%

*Clause (1) of policy ST17 provides a mechanism to influence the mix of housing on proposals. The HEDNA can be used for evidence of need - including house sizes. More localised evidence, such as housing needs surveys, can be used if they are available and up-to-date. The policy is intended to influence both market and affordable tenures. . I note the agent is suggesting a housing mix that will include 1-4 bed units. As you can see from the evidence above, the latent demand for 4 bed units is relatively low and the highest demand is for 2 and 3 bed units although I do accept the agent has not expressed an exact housing mix. Therefore, you must be assured that this proposed housing mix will meet the numbers, type, size and tenure to meet the identified local housing needs as I do accept that these figures could increase or decrease accordingly based on the specific settlement.*

The Housing Enabling Officer has commented as follows:

*The applicant's agent refers to and includes in their enquiry Planning's Pre-Application Enquiry Response dated 12 May 2021 to the applicant's previous enquiry Application Number ENQ/2000/2021. The enquiry was for a proposed residential development comprising up to 6 dwellings.*

*The enquiry this consultation refers to is for up to 28 dwellings.*

*I stated in my response dated 29 April 2021 to your consultation regarding ENQ/2000/2021:- "Paragraph 12.864 of the North Devon and Torrridge Local Plan states "Villages have a role in providing services and development opportunities. Umberleigh has no defined development boundary. Proposals that are well related to the existing settlement and appropriate to the scale of the locality will be considered against the general policies of the Local Plan."*

*Policy DM23 states:- (1) Residential Development in Local Centres and Villages without development boundaries will be supported on allocated sites and where:*

- (a) the site is located within the principal built form of the settlement and is not protected for any other use; or*
- (b) the site is well related to the main built form of the settlement and provides an affordable housing focused development in accordance with Policy ST19."*

*And*

*"Housing Enabling considers that if Planning determine the site meets either (1) (a) or (1) (b) of Policy DM23 then an affordable housing provision of 30% would be required. If determined that it meets (1) (a) then 30% affordable housing would be required for a development of 6 or more dwellings. If determined that it meets (1) (b) then although generally Policy ST19: Affordable Housing on Exception Sites of the Local Plan would apply in this location, due to the current absence of a 5 year housing land supply 30% affordable housing provision would apply."*

*I note in the Pre-Application Enquiry Response that the Planning Policy Team commented "Policy ST18(1a) of the Local Plan will expect housing developments over the threshold to provide on-site delivery of affordable housing equal to 30% of the total number of dwellings (gross). In this instance (up to 6 dwellings) there should be an on-site requirement of at least one affordable dwelling with the 0.8 being collected as a financial contribution towards affordable housing off-site."*

*As the applicant's agent states in their Pre-Application Enquiry, in the case of 28 dwellings, 30% equates to a requirement for 8 affordable dwellings on-site and an off-site financial contribution equivalent to 0.4 of a dwelling. In accordance with need, in the case of 8 affordable dwellings the property size mix should be:- 3 x 1 bed (Social Rent); 3 x 2 bed (2 x Social Rent and 1 x Intermediate); 2 x 3 bed (1 x Social Rent and 1 x Intermediate). In the case of 9 affordable dwellings, the 9<sup>th</sup> dwelling should be a 4 bed dwelling for Social Rent. The 0.4 off-site financial contribution would therefore be with regard to a 4 bed dwelling for Social Rent.*

*Devon Home Choice (DHC) shows there are 8 households living in the parish of Chittlehampton registered as being in need of affordable housing for rent as of July 2021.*

There are 33 households registered in the adjoining rural parishes in North Devon Council’s administrative area (Satterleigh and Warkleigh, Atherington, Bishops Tawton, Swimbridge and Filleigh) as being in need of affordable housing for rent as of July 2021.

Not all households tend to register themselves on the housing register as they don’t think that they will have the opportunity to be housed so this figure is often significantly higher. It should be noted that although DHC data identifies the number of households living within the parish in housing need, it does not always provide sufficient information to firmly establish how long households have been resident in the parish or if they wish to remain in the parish; it is a snap shot in time and people’s circumstances can change extremely quickly. In addition, some households may seek affordable home ownership options (shared ownership/discounted sale). We don’t hold data on numbers of households requiring some form of affordable housing for sale.

Property sizes for affordable housing should aim to meet or exceed the “Technical housing standards – nationally described space standard”, which can be accessed at <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

(see “Table 1 – Minimum gross internal floor areas and storage (m2)” of the Department for Communities and Local Government document).

The table below shows the policy requirement for dwelling mix & occupancy levels. Registered providers require housing to be built to National Space Standards; these are indicated below:

<b>Bed size &amp; dwelling type</b>	<b>Occupancy</b>	<b>NDC dwelling mix requirement</b>	<b>Dwelling type</b>	<b>National Space Standards (m2)</b>
4 bedroom house	8 person	5-10%	<ul style="list-style-type: none"> <li>• House (2 storey)</li> <li>• Bungalow</li> </ul>	<ul style="list-style-type: none"> <li>• 124</li> <li>• 117</li> </ul>
3 bedroom house	5 person	20-25%	<ul style="list-style-type: none"> <li>• House (2 storey)</li> <li>• Bungalow</li> </ul>	<ul style="list-style-type: none"> <li>• 93</li> <li>• 86</li> </ul>
2 bedroom house	4 person	35-40%	<ul style="list-style-type: none"> <li>• House (2 storey)</li> <li>• Bungalow</li> </ul>	<ul style="list-style-type: none"> <li>• 79</li> <li>• 70</li> </ul>
1 bedroom house	2 person	30-35%	<ul style="list-style-type: none"> <li>• House (2 storey)</li> <li>• Bungalow / flat</li> </ul>	<ul style="list-style-type: none"> <li>• 58</li> <li>• 50</li> </ul>

The tenure mix would need to be at least 75% social rent (in accordance with policy) and the remainder intermediate (shared ownership, intermediate rent or discounted sale).

*The affordable homes should be designed and of the same material and construction as the open market – including car parking.*

*Those who are allocated or buy the housing would need to have a local connection. First cascade would be to the parish of Chittlehampton, second cascade to the adjoining rural parishes and third cascade to the whole district of North Devon Council.*

### **Character and appearance**

This extended greenfield site from the previous pre-application enquiry has an approximate gross site area of 3.8 hectares (2.3 ha net – SHLAA endorsed 60% gross to net site size ratio) and with a proposal of up to 28 dwellings this would equate to an approximate density of 12 dph which is considered low but is generally reflective of the adjoining housing development (12 dwellings) which has an approximate density of 14 dph. Considering the very limited development opportunities in Umberleigh and where any new housing development would support existing local services and facilities in the village such as the Primary School, Village Hall and railway station, this higher number of houses may be more appropriate and be better reflective of existing housing development within this area of the village in terms of scale, density and massing of development but as set out above, I would suggest the general principle in terms of housing numbers is dictated by the local community being satisfied that 28 dwellings is limited housing growth in the Village which is meeting the needs of the local community and not having a negative impact on its historic environment, heritage assets, character and its relationship with the countryside in accordance with Policy UMB.

The site is within landscape character type 3G: River Valley Slopes and Combes where the overall strategy is to *'protect and enhance the peaceful character of the valley slopes, fringed by well-managed woodlands and fields enclosed by an intact network of species-rich Devon banks. Opportunities are sought to restore conifer plantations to broadleaves and other semi-natural habitats, creating a climate resilient green network. New recreational spaces and infrastructure links are provided to nearby settlements'*. Any future planning application should be supported by an LVIA.

As previously stated, the design and layout of the development would be considered against Policies ST02 (Mitigating climate change), ST03 (Adapting to Climate Change and Strengthening Resilience), ST04 (Improving the Quality of Development), DM01 (Amenity considerations), DM04 (Design Principles), DM08A (Landscape and Seascape Character), UMB(c) and DM23 of the Local Plan and the National Design Guide. It is also worth noting that criterion 2 of DM04 will expect all major residential proposals such as this, to be supported by a Building for Life 12 assessment, updated to 'Building for a Healthy Life (July 2021) where the developer must minimise 'amber' scores and avoid 'red' scores.

### **Highways**

As previously stated, all highway issues would be considered against Policies ST10 (Transport Strategy), DM05 (Highways) and DM06 (Parking Provision) as well as the response from the local highway authority. Policy DM05 of the NDTLP states that all development must ensure safe and well-designed vehicular access and egress adequate parking and layouts which consider the needs and accessibility of all highway users including cyclist and pedestrians. You would need to ensure that there are sufficient visibility splays when exiting the site. In addition, sufficient vehicular parking would need to be provided for the development in accordance with Policy DM06

Devon County Highways have commented as follows:

- 1. Although the proposed access is outside of the posted speed limit, visibility splays for a 30 mph limit would be acceptable. Given the width and alignment of the carriageway; as well as the likely vehicle speeds and volume, there are a number of compromises that I would accept, such as the visibility splays being taken to the centre of carriageway, as well as the 'x' axis being 2 metres rather than the standard 2.4 metres. In which case, I would expect visibility measurements of 2 x 43 metres in either direction when measured to the centre of carriageway.*
- 2. Proposals will need to be included to ensure that excess surface water does not flow onto the public highway.*
- 3. I would expect a minimum of two parking spaces per dwelling.*
- 4. My previous pre-app response concluded that there were sufficient passing places on the route to the B3227 for the (then) 6 proposed dwellings. I was content that this would not have resulted in, say, confronting motorists having to reverse, particularly toward blind bends etc. However, I do have concerns whether this would be the case for up to 28 dwellings. Therefore, any application should be accompanied with an evidence base that demonstrates that the trip generation associated with this level of dwellings would not result in a severe cumulative impact.*
- 5. Suitable turning will need to be provided within the site to ensure motorists do not have to reverse onto the carriageway.*
- 6. Proposals would need to be included with any application to demonstrate how pedestrians from the proposed development would safely reach community facilities, such as the local school and pub etc.*
- 7. Given the additional traffic movements over the level crossing, I would recommend consulting British Rail on this matter.*

Whilst we have consulted Network Rail I have yet to receive a response.

### **Ecology and Biodiversity**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017.

As set out in paragraph 6.5 of the Local Plan, *'all development will be expected to provide a net gain in biodiversity where feasible. Where biodiversity assets cannot be retained or enhanced on site, the Councils will support 'biodiversity offsetting' to deliver a net gain in biodiversity off-site'*. If there is some loss of existing habitat then this should be mitigated against by providing additional planting on or off site. The Defra metric should be used to ensure there is an overall net gain in biodiversity. All issues around ecology should be considered against ST14 (Enhancing Environmental Assets) and DM08 (Biodiversity and Geodiversity).

It would appear the agricultural land classification of this particular site is Grade 3 where Policy ST14(d) seeks to conserve northern Devon's best and most versatile agricultural land. Paragraph 6.9 makes it clear that the best and most versatile land (grades 1, 2 and 3a) is a limited environmental resource with local concentrations across northern Devon. High-grade soils are important for local food production, although lower grade agricultural land often has the greatest ecological value. Development will be directed towards poorer quality agricultural land taking into account environmental and other sustainability issues.



Therefore, when considering the acceptability of this proposal, regard will be had for the agricultural land classification of this site.

You previously commented that to facilitate the new access a small part of the hedge would be removed. I am not quite sure how much hedgerow would need to be removed to facilitate the development and provide adequate visibility splays. It maybe that a hedgerow survey is required.

The Sustainability Officer has commented that at this stage he has no specific concerns or issues to be addressed.

### **Flood risk and drainage**

The application site is situated in flood zone 1 and no concerns are raised in this respect.

Any forthcoming application would need to provide a foul drainage assessment and percolation tests to substantiate the use of a non-mains sewerage system if you cannot connect to the mains system.

Any detailed submission would need to demonstrate surface water can be dealt with by a sustainable drainage scheme to accord with DCC Flood Risk guidance available at the following link: <https://www.devon.gov.uk/floodriskmanagement/planning-anddevelopment/sustainable-drainage/>. Please note DCC Flood & Coastal Risk Team charge for pre-application advice. If you require such assistance please contact them directly

### **Environmental Health and Amenity**

Future construction and environmental management of the site should be considered against Policy DM03 (Construction and Environmental Management).

Environmental Health have commented as follows:

*I have reviewed this pre-application enquiry in relation to Environmental Protection matters and commented as follows:*

#### 1 Land Contamination

*Housing developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. I therefore anticipate recommending the following conditions be included in due course:*

##### *- Contaminated Land Phase 1 Condition*

*Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination.*

*The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of ground contamination affecting any part of the development site. Thereafter, depending on the outcome of phase one, a proposal for any phase two (intrusive) survey that may be required shall be presented to and agreed with the planning authority.*

*Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme*

*shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice.*

*The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.*

*Reason:*

*To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning Policy Framework.*

*- Contaminated Land (Unexpected Contamination) Condition*

*Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.*

*Reason:*

*To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework*

## *2 Foul Drainage*

*The enquiry mentions connecting the dwellings to a new private foul drainage treatment system. Such a system is likely to require a permit from the Environment Agency. It is important that suitable and sufficient provision is made for foul drainage from residential developments in order to protect human health and avoid adverse impacts on the environment.*

*Achieving a suitable scheme may have implications for the space available for development and site layout.*

*I recommend any subsequent planning application include details of the proposed foul drainage scheme and the results of discussions with the Environment Agency as to whether the scheme is acceptable in relation to EA permitting requirements.*

## *3 Construction Phase Impacts*

*In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts during the construction phase of such a development, I anticipate recommending the following conditions be included on any subsequent planning permission:*

*- Construction Environmental Management Plan Condition*

*Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Environmental Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt and where relevant, the CEMP shall include:-*

- a) measures to regulate the routing of construction traffic;
- b) the times within which traffic can enter and leave the site;
- c) details of any significant importation or movement of spoil and soil on site;
- d) details of the removal /disposal of materials from site, including soil and vegetation;
- e) the location and covering of stockpiles;
- f) details of measures to prevent mud from vehicles leaving the site / wheel-washing facilities;
- g) control of fugitive dust from demolition, earthworks and construction activities; dust suppression;
- h) a noise control plan which details hours of operation and proposed mitigation measures;
- i) location of any site construction office, compound and ancillary facility buildings;
- j) specified on-site parking for vehicles associated with the construction works and the provision made for access thereto;
- k) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.

*The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and be monitored by the applicants to ensure continuing compliance during the construction of the development.*

*Reason:*

*To minimise the impact of the works during the construction of the development in the interests of highway safety and the free-flow of traffic, and to safeguard the amenities of the area. To protect the amenity of local residents from potential impacts whilst site clearance, groundworks and construction is underway.*

*- Construction Hours Condition*

*During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:*

- a) Monday - Friday 08.00 - 18.00,
- b) Saturday 08.00 - 13.00
- c) nor at any time on Sunday, Bank or Public holidays.

*Reason:*

*To protect the amenity of local residents*

*I may wish to make additional comments once any detailed proposals are received.*

Policy DM01 of the NDTLP states that development will be supported where there is no significant harm to the amenities of neighbouring occupiers and the intended occupants of the proposed development.

There are residential properties, some of which would potentially be in close proximity. Without plans it is difficult to comment on amenity impact but window positioning, separation distances and boundary treatments should be carefully considered.

### **Infrastructure requirements**

The delivery of necessary infrastructure to serve the development should be considered against Policy ST23 (Infrastructure) and the response of the statutory undertakers.

### **DCC Education**

Regarding the proposed pre-application, Devon County Council (DCC) has identified that the proposed 28 family type dwellings will generate an additional 7 primary pupil and 4.20 secondary pupils which would have a direct impact on Umberleigh Primary School and South Molton Community College.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

DCC has forecasted that the nearest secondary school does not have capacity for the number of pupils likely to be generated by the proposed development and therefore we will seek a contribution towards additional secondary education infrastructure to serve the address of the proposed development. The contribution sought for secondary would be £94,554 (based on the DfE extension rate of £22,513 per pupil). This contributions will relate directly to providing secondary education facilities for those living in the development.

DCC will also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from South Molton Community College. The costs required are as follows: -

4.20 secondary pupils

£4.52 per day x 4.2 pupils x 190 academic days x 5 years = £18,034

The contribution above has been calculated based on the DCC contract cost of transporting a pupil from the area of development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil will attend the school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 prices and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

Please note, the potential contributions will be reassessed when the application is formally submitted.

Green infrastructure

Paragraph 13.68 of the adopted Local Plan clearly sets out that new development will be required to make provision for public open space, recreation, sports facilities and green infrastructure and where possible, such facilities should be provided on site as an integral part of the development. Also, Policy UMB(d) supports additional recreation and social facilities to meet locally generated requirements and the Policy team have suggested that considering the size of the land promoted and limited development opportunities, consideration should be given to delivering a more comprehensive development that delivers a housing and a community package. The proposal should deliver green infrastructure in accordance with Policies UMB and DM10 and the standards as set out in Table 13.1 together with guidance from the consultation response of our Parks Team also set out below.

The Parks, Leisure and Culture Officer has commented as follows:

This application would generate an open space and green infrastructure requirement in accordance with policy DM10. Based on the pre-app information, I have provided the attached indicated calculation (£84,135).

Application No: 2839

Site Location: Park Gate, Umberleigh  
16.11.21

No. of Bedrooms	No. Units	Bedspaces	Total bedspaces
1	2	1.2	2.4
2	2	1.81	3.62
3	12	2.4	28.8
4	12	2.85	34.2
5+	0	3.18	0
	<b>28</b>		<b>69.02</b>

	On Site Provision		Off-Site Contribution	
	Requirement per SQM per person	On site requirement in sq.m	Cost per sq.m per person	Amount requirement
<b>Rural</b>				
Allotment	1.5	103.53	£30	3,105.90
Amenity & Green Space	0	0	£15	0.00
Play Space	1.4	96.628	£170	16,426.76
Parks, Sport & Recreation	13	897.26	£72	64,602.72
<b>Totals</b>		<b>1097.418</b>		<b>£84,135</b>

#### Impact on local health care provision

Whilst I have consulted the NHS Devon Clinical Commissioning Group, I have yet to receive a response from them.

#### **Statement of community involvement**

There is an expectation that you engage with the local community and that any application fully responds to the issues raised.

## **CONCLUSION**

From a policy perspective, due to the limited development opportunities in the village of Umberleigh there is real scope here to deliver a policy compliant scheme that will also help contribute to the spatial strategy and vision for Umberleigh although I would be interested to understand the thoughts of the Parish Council in regard to the level of housing proposed and the opportunities around delivering a more comprehensive form of development on this site.

Any forthcoming application would be considered in terms of weighing the benefits and harm, having regard to the development plan and the presumption and material planning considerations as discussed above.

If you wish to test this advice then you can submit and pay for applications through the Planning Portal which can be accessed via the North Devon Council's Website. Application forms are also available from our website. Go to [www.northdevon.gov.uk](http://www.northdevon.gov.uk) and follow the links to 'planning' and then the links to 'planning application forms'.

The application form (full planning permission) will need to be completed in accordance with the guidance notes and accompanied by the appropriate fee. **Please note each of your plans should have a least one significant measurement on them and a scale bar.** The 'local list' details the information required to ensure that your application is valid and can be registered.

In addition to the mandatory national requirements, the following will also be required:

- Application Form – as discussed earlier the LPA would recommend submitting a Full Application to ensure delivery in light of five year housing land supply
- Housing Delivery Statement, including affordable
- Heads of Terms
- Foul Drainage Assessment if not connecting to the mains system
- Flood Risk Assessment / Drainage Strategy Document
- Wildlife trigger list and Ecological Appraisal by a suitably qualified ecologist which must be no more than a year old which must be supported by a detailed Defra 2 Biodiversity Net Gain assessment
- A hedgerow survey may also be required
- Topographical Survey
- Applicable Drawings (layouts, plans, elevations, landscape etc) which should include existing levels on the site and proposed finished floor levels of the proposed dwellings and scales cross and long section drawings which show the proposed dwellings in relation to the road (existing and proposed) and to neighbouring properties.
- An evidence base that demonstrates that the trip generation associated with this level of dwellings would not result in a severe cumulative impact.
- Demonstration how pedestrians from the proposed development would safely reach community facilities, such as the local school and pub etc.
- Design and Access Statement
- Building for a Healthy Life assessment
- Statement of community involvement

- Waste Audit Statement
- Travel Statement
- CEMP (if not to be conditioned)

There are other legislative requirements outside of the planning process which need to be adhered to throughout the development process such as Building Regulations and The Party Wall Act. These are not a consideration in the planning process however you should make yourself familiar with the requirements as this may affect your proposal. Further information can be found at the following websites:

<https://www.nmdbuildingcontrol.co.uk/>

<https://www.gov.uk/party-walls-building-works>.

You should note that the above advice is an informal opinion given without the benefit of formal consultation and public advertisement and would not prejudice any decision which may be made by the Local Planning Authority in determining any subsequently submitted application, which can only be obtained by the submission of a formal application.

### **Recommendation**

Enquiry Closed

Legal Agreement Required:- No

Recommendation Date	Case Officer	Lead Officer	Admin	Check
15 December 2021	SM			

**Miss S. May**  
Case Officer