

PLANNING APPLICATION REPORT

Case Officer: Anna Henderson-Smith

Parish: Hatherleigh **Ward:** Hatherleigh

Application No: 1794/18/FUL

Applicant:

Mr P Jones Kingswood Homes (UK) Ltd
8 Bridge Court
Liverpool New Road
Little Hoole, Preston
PR45JT

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Site Address: Hatherleigh Market, Hatherleigh, Devon, EX20 3HT

Development: Redevelopment of former Hatherleigh Cattle Market comprising 102 residential units, fur and feathers auction facility/pavilion, A1/A2/A3 commercial units, market square, associated infrastructure, pumping station and car parking

Reason item is being put before Committee:

Both Ward Councillors considered this should be determined by planning committee. Cllr Kimber cited the following reason:

'I think it should go to the planning committee because it is a major change for our town and the community is divided. I would like residents to be able to make representations directly to the members on the committee'

It is understood that the above combined with the viability issues surrounding the site are the main reasons for call in.



Recommendation:

Delegate to Head of Practice lead Development Management, in conjunction with Chairman to conditionally grant planning permission, subject to a Section 106 legal agreement.

However, in the event that the Section 106 legal Agreement remains unsigned six months after this resolution, that the application is reviewed by the HoP Lead Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the HoP to refuse to application in the absence of an agreed S106 Agreement.

All pre-commencement conditions agreed by the applicant.

Conditions:

- 1) Standard Time limit for Full planning permission
- 2) Adherence to plans
- 3) Cycle parking plan
- 4) Details of demarcation of market area
- 5) Scheme for continued provision of space and parking for operations of the market during construction
- 6) Landscaping to include details of retaining structures
- 7) Boundary treatments and retaining wall details
- 8) Vegetative Environmental Buffer details
- 9) Render colours as per approved plans unless otherwise agreed in writing by the LPA
- 10) Material sample condition
- 11) Play space delivery and equipment
- 12) SWW condition re no run-off to public sewer system
- 13) Tree protection (fencing etc)
- 14) Tree protection (excavations)
- 15) Arboricultural Method statement – general activity
- 16) Arboricultural Method statement – no dig requirement
- 17) Tree pit/soil information
- 18) Full details of construction drainage strategy for surface water
- 19) Full details of permanent drainage strategy for surface water
- 20) Excedence pathways and overland flow routes
- 21) CEMP
- 22) Electric Vehicle Charging points
- 23) Contaminated land condition
- 24) Contaminated land condition
- 25) Unexpected contaminated land condition
- 26) Energy/low carbon statement
- 27) Mitigation Method statement adherence
- 28) LEMP submission
- 29) Lighting strategy submission
- 30) Ecological Mitigation and Enhancement Strategy submission
- 31) High speed broadband ducting to all properties and business units
- 32) Use restrictions upon the use of the market building and associated square
- 33) Use class restrictions upon the A1/A2/A3 units
- 34) Noise mitigation scheme to protect proposed residential units
- 35) Noise mitigation scheme to protect adjacent residential units from the approved market/community use
- 36) Detail of external plant to serve any commercial units

S106 Heads of Terms:

-Play space management and maintenance
-Suds Management and maintenance
-Claw back – education, AH and OSSR policy compliant limit/cap including provision of annual reviews and provision for any future changes of use on the site
-Land scape Ecological Management Plan (LEMP) secured in perpetuity
-Phasing scheme:

- Phase 1 seeks to deliver 37 units and covers the south eastern part of the site, accessed off Bridge Street near the public car park. The market would continue in its current position, accessed from the main access off the by-pass, the large building can remain with the hardstanding around it, but the old livestock sheds would be demolished as early as possible. Any areas of demolition or construction would be fenced off from the public for safety reasons.
- The Vegetative Environmental Buffer (VEB) along the boundary with the abattoir would be implemented in phase 1. This is a considerable cost and demonstrates commitment at an early stage.
- Prior to the occupation of the 42nd dwelling, the grasscrete parking area to the north will be substantially completed (with the exception of the area taken for the site compound).
- Prior to the occupation of the 55th dwelling, the road and parking (infrastructure) to the proposed market area will be substantially completed. At this point the large existing building will be demolished and a temporary marquee or other such facility will be made available. This land proposed is phase 3 and so will remain available for the market to use during this stage of build.
- Prior to occupation of the 80th dwelling, the market pavilion / fur and feathers building and the market square and landscaping will be substantially completed and the market can then move into its permanent home
- Prior to occupation of the 90th dwelling, the shops and apartments will be substantially completed.
- Riverside path to be delivered in 2 stages within its respective phase

-£178,000 to DCC Education

-A £5k contribution to cover the investigation, consideration and, if approved by the appropriate committee, imposition of a revision to the speed limit on the A386 in the vicinity of the site together with the installation of all revisions to signage.

-Works associated with the provision of additional and revised street lighting on the A386 required by the installation of (1) above, if approved

-A link between the site and Bridge Street capable and accommodating buses, cycles and pedestrians.

-Improvements to the footway to the industrial estate access on A3072 together with an informal road crossing point.

Key issues for consideration:

The main issues for consideration regarding this proposal are the numbers of residential units, their mix, type and tenure, the provision of public realm associated with the market and the future facilities and longevity of the market operation.

The site has several constraints including rights of access across it, flood zones, landscape features, the adjacent employment use at the Abattoir and some abnormal costs around

construction. A large proportion of the site is also given over to open space and parking or the market, as well as the new market and auction building itself.

Due to several contributing factors the site has been demonstrated to be unviable to provide policy compliant financial contributions or Affordable Housing levels. As such Members will need to balance this under-provision of infrastructure payments against the proposal's benefits including housing delivery and modernised bespoke facilities for the market along with its continuation.

Overall, officers now consider that a quality and place appropriate scheme has been arrived at for this site. The proposal before members is the result of productive pre-application discussions between the applicant and Council and extensive consultation and discussion between Kingswood Homes and the community of Hatherleigh. It is acknowledged that the proposal does not deliver policy compliant contributions or Affordable Housing levels, however there are multiple physical constraints to the site's development and it is considered that it accords as closely as it is able to with the JLP (Joint Local Plan) allocation policy given the more recent changes to the NPPF.

Financial Implications:

It is estimated that this development has the potential to attract New Homes Bonus of £124,848 per annum (102 x £1224), payable for a period of 4 years. Members are advised that this is provided on an information basis only and is not a material planning consideration in the determination of this application.

Site Description:

The site is allocated within the newly adopted Joint Local Plan and is a brownfield site sandwiched between Hatherleigh Town to its East and the river and A386 to the west. To its North is the abattoir and to the south is the river, Council owned 80 space car park, community centre and further residential use. It comprises 4.95ha of land which currently includes several buildings some of which are associated with the present market and auctions which continue to be held on the site at present, the wider market area and is mainly hard-surfaced.

The site lies within the Hatherleigh Town Settlement Boundary. It is immediately adjacent to the Conservation Area which is to its east and is also very close to several listed buildings including the Grade I listed Church and also includes areas of flood zone on its west.

There are no Tree Preservation Orders on site but there are several significant trees and areas of planting on the site including a large swathe of trees and undergrowth to the north of the present main site entrance from the A386, this is both a landscape feature and provides nesting opportunities and habitat.

Members have shall have visited the application site prior to the committee date so are familiar with its location and situation.

The Proposal:

The proposal is a full application for 102 dwellings, a market pavilion with attached enclosed feather and fur building, associated market square, 5 x A1/A2/A3 units (totalling and 200

public parking spaces (not including the additional available on-street parking). A1 use are shops, A2 is professional and financial services and A3 are restaurants and cafés.

All of the dwellings proposed are market units, with no affordable housing units proposed. The mix of units proposed is as follows: 25 x 1-bed (including 21 bungalows) , 21 x 2-bed, 35x3-bed, 21 x4+bed. This includes flats, semi-detached properties, terraces, detached properties and 21 bungalows. Some properties have garaging, others off street parking spaces.

The Market/community facility proposes an external market/open square area of approximately 2400 square metres adjacent to a pavilion of approximately 550 square metres which includes an enclosed linked building to one end for the feather and fur function of approximately 165 square metres. The square area can accommodate 60 stall spaces plus 10 vehicle spaces, or a variation on this mix.

The market will be catered for in order that it can remain operational throughout the development of the site through ensuring that a phasing strategy for the sites development, agreed by the Council, always allows for a space for market operations. The Borough Council cannot force the market to continue to be operated but it can ensure that there is space and provision for it to do so.

Proposed to front the market square area is a dog-leg line of five A1/A2/A3 units with residential flats above. There are several small pockets of landscaped POS (public open space) in the site, some with benches and two with some play equipment suitable for younger children.

It is proposed that the main access to the site will be from the A386 via the existing entrance, however there will be pedestrian access into the north of Hatherleigh to the existing old Market Square area and continued vehicular and pedestrian access into the main street through Hatherleigh via the road between the Co-op and ex-Natwest Bank building

The scheme will allow for a new bus route from Bridge Street, through the site, along the A386 and back into the top of Hatherleigh rather than the buses trying to turn in the Town alongside the Co-op. This is a requirement of DCC highways but they have requested no S106 monies apart from £5'000 for a traffic regulation order to move the 30mph signage further up the A386 to the entrance. DCC education have requested monies and the applicants are in agreement to making as large a contribution as the scheme allows to education although this is short of the required amount by quite some sum as discussed below.

The layout as proposed shows a buffer area around the Abattoir site in which only less sensitive uses are contained in order to protect both future residents of the site but also protect the abattoir and its operations from additional restrictions as a result of the development, this discussed further below.

Provision within the section 106 will ensure the various uses are delivered in a phased manner and that infrastructure/contributions are delivered alongside residential units. A broad scheme of phasing has been negotiated upon and agreed with officers. This seeks to ensure that the community requirements are 'frontloaded' as far as is financially possible rather than

all the residential elements coming forward first leaving the less profitable elements to a later stage.

The initial scheme submitted by Kingswood Homes varied from that before members today. It contained more houses and other building uses such as a Doctor's surgery, supermarket and industrial units. As a result of other planning approvals (such as for use of the old Natwest building as a Doctors Surgery), further exploration of site constraints (in particular protection of the Abattoir's continued operations), consultation and comments received this original scheme was amended to that before Members today and has been fully re-consulted upon.

Some members will remember in detail the previously approved scheme from 2013 which was an outline with access only - this permission has now lapsed. The scheme before members now is a different offer but retains fundamental components and the narrative behind some of the key differences are set out below.

Consultations:

- Hatherleigh Town Council - 25/7/18 – comments on first submission scheme were that they appreciated that the market site will be developed, but voted to object to the scheme on the basis of insufficient parking, roads too narrow, too high a density of houses and still would like to see some bungalows, can the pavilion be adapted to have sides added.

'8/8/18 – additional comments received from Town Council - Hatherleigh Town Council wishes to emphasise that it does not object in principle to the redevelopment of the former Hatherleigh Cattle Market. Hatherleigh Town Council welcomes the economic benefits and new opportunities that redevelopment would bring. However the Council is concerned about the issues noted in its earlier submission ie:

a) parking over the entire site (as recognised by the Police)

b) width of roads and adoption of adjacent roads (DCC Highways comments are noted)

c) too high density of housing area and type to reflect an ageing population

The Pannier Market is of immense importance to the social structure and well being of both Hatherleigh and the surrounding rural community and Kingswood Homes acknowledge the history and importance of the market in their planning proposal.

Hatherleigh Town Council is concerned that a lack of parking will reduce the viability of the pannier market which might result in its demise. Hatherleigh Town Council would like to see a development proposal which balances the needs of all stakeholders.'

Additional comments then received following a meeting of the TC with the applicant:

'Following a meeting with Kingswood Homes on the 23/08/2018 Hatherleigh Town Council would like to submit a re-evaluated submission to our earlier comments. This is because we have had some of our earlier concerns explained and clarified - namely bungalow dwellings for elderly can be accommodated in the one bed flats; width of roads will meet required policies.

The comment concerning the connecting road from Bridge St is directed to WDBC as this is a matter for them to resolve.

As things now stand our earlier submission of a unanimous objection has changed - there is now a split decision, as follows:

SUPPORT 6

OBJECT 3 *(for reasons previously stated on concerns of parking, notably comments issued by the police – we understand the viability argument but nonetheless feel it is*

incumbent to object on these grounds considering the future implications a lack of parking will have on future residents and users of the pannier market and employment units).

UNSURE ‘

Following resubmitted and re-consulted scheme

‘4 Councillors supported the application, 2 were against and there was 1 abstention. Following this vote, the Council would like to make the following additional comments:

-concerns regarding stacked parking remain. Human behaviour is such that this will result in the use of roads for parking

- the market building should have sides to be wind and waterproof, and fit for purpose for many community uses KWH have stated a desire to see the continued operation of the Pannier Market. Provision of a fit for purpose building is a pre requisite if that stated desire is to be achieved

- continued operation of the current market is essential. Cessation risks a potentially catastrophic loss of traders and customers and must be avoided

The Town Council very much hope that we can continue working with KWH to address any future finer points/concerns over the operational nature of the market layout.’

- Highways England – no objection 3/7/18, nothing to add upon reconsultation
- County Highways Authority – initial comments on 25/7/18 – DCC broadly accept the contents and conclusions of the Transport Statement submitted, however some details need to be addressed – alignment of the road junction at the site entrance, full tracking and turning diagrams needed, clarification over accesses sought, shared surface queries, street-lighting, adoption of the road, and further more detailed comments requiring minor detail changes to some individual plots and areas.

Further comment received 21/9/18 removed concerns/objection and stated that: *‘ The applicant has now either addressed or provided additional information in respect of all the issues raised in the original response. It has been noted in the interim, however, that there is no specific reference in the application documentation to the modest improvements to the pedestrian access in the vicinity of the industrial estate access on the A3072. This requirement still stands and is referred to in the requirements that need to be included in the Section 106 Agreement. Details can be agreed with the highway authority at a later date as all works are on the existing highway. Suitable planning conditions are recommended following the recommended requirements for the Section 106 Agreement’*

- DCC Public Rights of Way (PRoW) – initial objections as public right of way was not demonstrated to have been catered for and was being routed along what is proposed to be vehicular carriageway. Following negotiation and minor alteration to the scheme the PRoW has now been adequately accommodated and the objection removed.
- DCC Education – regarding the initial submission, contributions towards education infrastructure and school transport required. Following the revised scheme resubmission and a subsequent reduction in 2 bed + units by altering the 2 bed bungalows to one bed, DCC revised their required contributions. Following this the case officer contacted DCC to make them aware of the viability issues with the site and the amount of monies available

and the shortfall re education. As a result and after much discussion, DCC's final comments are as follows:

Hatherleigh primary school infrastructure

There is sufficient forecast capacity at Hatherleigh Primary School and therefore no request is made for primary infrastructure.

Secondary School infrastructure – Okehampton College

A development of 77 family dwellings is likely to generate 11.5 secondary age pupils (77 x 0.15). There is a deficit of places at Okehampton College and we are therefore requesting £252,090.00 (11.5 x secondary extension rate £21,921.00) towards Okehampton College. This will relate directly to providing education facilities for those living in the development.

Early Years

In addition, a contribution towards early years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated at £250 per dwelling. We are therefore requesting £19,250.00 towards early years provision (77 x £250.00).

School Transport

Due to the distance from the development to the secondary school, a request is made for secondary school transport. The cost of transporting children from Hatherleigh to Okehampton College is £3.43 per student per day. Therefore, a school transport contribution is sought for £37,472.00 (being £3.43 x 190 days in the academic year x 5 years at secondary school x 11.5 secondary pupils).

The initial financial contribution offer from Kingswood Homes to West Devon Borough Council was a £78,000 upfront payment with an additional payment of £100,000 should the scheme achieve 15% profit on GDV. I understand that the applicant is now willing to make the initial contribution unconditional, meaning the upfront figure would be increased to £178,000.

If all of the £178,000 is made available by WDBC to provide education infrastructure the shortfall between the offer and the amount needed (£308,812) is £130,812.

As a general point, you are aware DCC has a statutory duty to provide for education infrastructure and has an expectation that such infrastructure will be provided by contribution from development. It is my view that that without adequate contributions to education infrastructure development cannot be considered sustainable and can lead to a situation where the educational needs of children are compromised.

I am aware of the development difficulties of this site and thank you for providing me with information on the planning history of the site and the extraordinary circumstances which I appreciate has had a significant impact on the viability of the site. I also note that the site is identified for development in the Plymouth and South West Devon Local Plan and this development is important for maintaining the vitality and viability of Hatherleigh.

In this case, given the specific circumstances of the site, I can confirm that subject to a contribution of £178,000 towards education infrastructure, DCC does not raise objection to the application. However, I feel it must be made clear that this is very much a one-off decision and does not set a precedent for any future development in West Devon.

I appreciate that this will mean that education will be prioritised over all other requests but consider that in this case this is justified given the amount of the shortfall.'

- NHS England – 24/8/18 *'NHS England has no specific comments to make on this application other than to advise we have no plans for a new medical centre on the proposed site. We are actively working to provide new surgery premises for the population of Hatherleigh and an application has already been submitted for change of use of alternative premises. It would not be intention of NHS England, at this time, to seek another provider of primary medical services in Hatherleigh in addition to those we are seeking to resolve currently. As such, any reference to a primary medical care facility on this application site would be purely speculative and unlikely to be delivered. It is, of course possible that the reference to a medical facility could be for some alternative use so my comment is purely for clarification from NHS England's point of view.'*

Following the revisions to the scheme the medical centre was removed and the change of use of the former Natwest building to a Medical Centre referred to above has now been approved and is underway.

- Historic England – we do not wish to offer any comments, we suggest you seek the views of your specialist conservation and archaeological advisers, as relevant
- DCC Archaeology – 31/7/18 *'Previously submitted desk-based studies, geotechnical investigations and site inspection suggest that areas that may have held archaeological potential have been removed by the creation and expansion of the market buildings, yards and hardstandings. I do not think that further archaeological work would be effective or reasonable'*
- Conservation Specialist – Notes that with the revisions some of the design detailing has been lost from the housing and from the previous market pavillion building, in favour of something more generic, however with suitable use of materials clarified within a condition *'there should be no harm to CA setting if an overall neutral and consistent roofscape is achieved.*

Detailing of surface treatments and enclosures will also be significant in trying to achieve a result that ties into the character of the conservation area rather than contradicting it or looking like a separate entity entirely.

With appropriate conditions I have no objection from a heritage perspective With appropriate conditions I have no objection from a heritage perspective'

- Police Designing out Crime Officer – Advice provide on 18/7/18 re safety, security, design, parking etc. Following revisions made by the applicant on receipt of this advice, some of these elements of concern have been designed out or overcome (27/9/18).

Following re-consultation on revisions: *'The police, in principle, do not object to the proposal and the masterplan redesign is much preferred in providing an overall*

improved level of surveillance, specifically over parked vehicles and dwelling frontages; the back to back gardens create secure rear enclosures and reduce opportunity for burglary, and the increase in parking spaces is welcome but unfortunately the 'tandem' style of parking, which is prevalent throughout remains a concern.'

- Fire Authority: advice only provided.
- Natural England – have no comments to make 6/7/18, maintain none to make upon re-consultation
- Biodiversity Specialist – no objections subject to conditions securing adherence to the mitigation method statement, pre-commencement lighting strategy, submission of a LEMP and Ecological Mitigation and Enhancement Strategy. LEMP to be secured through the S106.
 - Landscape Specialist – 2/8/18 no objections subject to amendments/clarification and some conditions. 5/4/19 following consideration of revised scheme, notes the amendments to the scheme which represent an improvement in terms of internal amenity, and continues to raise no objection to the scheme on landscape grounds. Notes proposed conditions and requests an additional 2 re landscape and boundary treatments.
- Tree Specialist – no objections, requests conditions.
- OSSR Specialist: comments on revised scheme 11/3/19, notes significant shortfall in on site provision and lack of funds available for S106 offsite, however appreciates viability issues of the scheme and requests OSSR monies are included in the claw back cap level. Following discussion and negotiations, pleased to see pockets of equipped POS included on the site and requests through conditions/S106 that the details of these are provided and their delivery and maintenance secured.
- Affordable Housing Specialist – accepts the viability information provided and is content with the review mechanism approach arrived at. Discussed in more detail below.
- South West Water – 20/7/18, no objections, are able to provide potable water, require a condition ensuring only foul water going to the mains sewage disposal. Highlights that there are mains foul and water pipes crossing the site and confirmed re surface water disposal that 'Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that the method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.' Nothing further to add on re-consultation.
- Environment Agency – 18/7/18 – recommend that the application is not determined until additional information is provided with the FRA to address location of LPG storage areas. The LPA will need to ensure that the sequential test is satisfied. Also advice on contamination, pollution prevention and environmental permitting in relation to the adjacent abattoir. EA considered submission sufficient to demonstrate that the development will not adversely impact upon controlled water.

Additional response on 24/9/18 and 26/3/19 – maintain the above comments

4/4/18 – informal comments received (to be updated at committee) however EA have confirmed this objection is addressed if the LPG tanks are removed from the proposal, which they duly have been.

- DCC as Lead Local Flood Authority – 26/7/19 - At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information

Following additional information - 12/9/18 objection withdrawn and no in-principle objections to the above planning application at this stage, assuming that the required pre-commencement planning conditions are imposed on any approved permission.

Following the revisions to the scheme and reconsultation the LLFA stated no objection in principle but required additional information to confirm the drainage as previously proposed would still function (1/3/19) this information was provided and as a result DCC are content with the scheme subject to conditions (3/4/19).

- Environmental Health Section – no objections subject to conditions covering noise, odour, air quality, contamination and a CEMP

Representations:

Representations from Residents

Representations received on first scheme submitted:

Objections 24

(including one from CPRE)

Hatherleigh does not have the amenities to support this many houses

The school is not big enough

No Doctor's surgery at present

The market facilities provided are not adequate, not enough parking

The market will decline and finish which will be a great loss and remove this area for trade, socialising and tourism

Who will want to buy a property near the abattoir?

What will these new residents bring, will they take pride in Hatherleigh?

The market as proposed will prevent any return to livestock being sold again

The Council should put people before profit

Not enough jobs for the new residents

No one local will buy the houses due to the abattoir so the residents will come from 'away' and lose the community spirit

Rural life and maintaining the way of life is important, not housing at any cost

Little faith that the developers will continue the market

We don't need a new supermarket

Why do we need another market square

The abattoir smells and the odour is sometimes short lived and thus often difficult to address and people are reluctant to complain as local people understand its importance.

Other smaller first time homes in Hatherleigh have either ended up as second homes or have been bought and then let out at high rents, how are the Council going to prevent this happening again

Object to the loss of the market or its decrease in size

Not enough market parking

A change from a market to housing will affect the wider rural area and communities

The scheme will destroy jobs whilst creating job seekers

The infrastructure can't cope with these additional numbers, such as the school etc

The market easing social and mental wellbeing issues

Not enough parking for housing

Market canopy is unsuitable

The market promotes local produce

The town will lose its identity and have no way to adapt and grow

This development will make it very difficult, if not impossible to stage the carnival and other large-scale events which are critical to the community spirit and health and the uniqueness of the town

The plan builds on valuable car parking

Would generate more traffic

There are houses for sale already in the town

Site may flood

Housing will create noise

The market prevents isolation in the rural community

Need to be more bungalows in the plans

Loss of trees and hedgerows is a concern

Housing density too high

Medical centre building and parking provision too low

Huge impact on the character of Hatherleigh

Will create additional light pollution

Object that the proximity and quantity of new housing near to the abattoir will hinder its operations and potential future operations and expansion
too many houses

Many units will be unaffordable

site acceptable in principle but Borough wide housing need figures challenged

Design quality not high enough

The objectives of sustainability are not being mutually pursued

Health, well-being, amenity of future users is being compromised

not large enough area for the market

development will destroy jobs whilst creating job-seekers

benefits, esp social of the market will be lost

site is a critical asset to the economy of the area and social well-being

would be better if bought by the CiC and be a model for rural regeneration

1 Concern/undecided:

More detail needs to be given about the entry point to the site to the east of the existing town car park, is this to be vehicular, if so what is the volume of traffic as this could become a cut through along this small lane which has no pavements

Support – 1

In support of the redevelopment and retention of the market use

Representations received following revisions and full re-consultation:

Support – 13:

- Having lived in Hatherleigh for 50 years and my family before me I fully support the redevelopment of the market. It has become a real eyesore to Hatherleigh, the MAJORITY of the town want the redevelopment. I really hope this gets through planning and the works starts promptly so we can all move on and make Hatherleigh a better place
- too much objection about parking when the current council car park is barely used would like to thank Kingswood Homes and Mr Vick for their continued generosity and patience
- people forget this is private land and Kingswood have been more than accommodating of everyone
- Kingswood could have just left a plot for the market but they are providing new facilities etc 5 stars Kingswood Homes
- Kingswood seem to have listened to local people and adjusted their plans accordingly to allow the market to continue in a sustainable way and provide housing needed
- fully support the redevelopment, cattle market was the heart 20/30 yrs ago but now it has dwindled and is an eyesore and a health and safety hazard
- can understand the objections to the scheme
- Over riding feeling locally is for the development to go on
- Time to embrace the new development
- fully in favour, the market has been of the utmost importance it has been the heart of the community for many years
- would be a good thing for the young people of Hatherleigh to be able to rent or buy
- the prospect of new homes and a secure area for the market traders would be a very good outlook for the town
- the new owners of the site have allowed rent-free use of the site since April 2018 and have made plans for the market and are committed to securing its long term success
- time to move forward

Objections 26

- Does not accord with the JLP
 - Does not accord with NPPF
 - design looks cheap and nasty with no real thought gone into design
 - should look at a different style of housing
 - house design does not fit in with the rest of Hatherleigh or conservation area
 - wish to see certain tree retained for amenity and odour alleviations
 - will the asbestos be dealt with safely during demolition
 - no Affordable units
 - units will go to landlords not first time buyers
 - too many houses
 - infrastructure can't cope
 - no access from the top of the site to Strawbridge
 - scheme pays lip service to the continuation of the market and does not properly cater for its continuation
 - housing on the flood plain
- Increased traffic and pollution
- no café or toilets
 - loss of market will lead to social isolation and mental health issues
 - revision is just a diluted version of the initial scheme
 - proposed building too small for redevelopment of a livestock market

- no details of how the market will be accommodated during construction or on what basis it will be let or run afterwards
- land is too contaminated for housing and people
- principal of small amount of housing ok but not this amount
- Hatherleigh will become a dormitory town
- No room for carnival or fair
- don't destroy this lovely very special town
- still overdevelopment of the site
- more houses than needed
- still insufficient parking
- The CiC should buy the site instead
- the new residents will complain about the smell and threaten the abattoir
- concerned about continuity as a market trader through the construction period
- market building is open sided – this is a problem and not ok in the local climate

Including South Tawton Parish Council who object for the following reasons:

- Market is of huge significance in the area as far out as S Tawton
- Many parishioners regularly visit, buying and selling
- Rural isolation is an issue and the Council should be aiming to combat it
- The social benefit of the market is incalculable
- The community will not easily recover from the loss of such a gathering place and it would be a terrible loss
- Car parking provision must be taken into account properly as car ownership rises
- There is inadequate parking for the market shown which will lead to a worsening of parking issues and deter people from the market, thus having a negative economic effect

Including Iddesleigh Parish Council –

Concerns re closure of the market in relation to social isolation

The market aids mental wellbeing

Local markets and abattoirs better for the animals than having to travel

Other markets in the area are too far away, the developer's do not understand country life

There needs to be adequate car parking

Market is critical asset for Hatherleigh and the surrounding areas economically

Strongly object and hopes the planning committee refuses it

Also one petition with 540 signatures:

Petition was on the basis that the signatories were asking WDBC to refuse planning permission on the market site and that they support the reinstatement of the livestock and pannier market.

Undecided 2:

Monkokehampton Parish Council – would like the following taken into consideration:

Concerns re closure of the market in relation to social isolation

Other markets in the area are too far away, the developer's do not understand country life

The social interaction is very important at the market, a friendly face and familiarity

There needs to be enough car parking to sustain the town and market

If the buildings are not in use for the market then could they be rented out to small businesses

If the market goes where will the carnival start from as the site accommodates the Fair and Carnival

The problems caused by rural isolation and the social benefit of Hatherleigh Market as a community facility is immeasurable

The Parish Council has concerns over this application

Highampton Parish Council – *'Highampton Parish Council wishes to express its concerns about the future of the Hatherleigh Market and the general facilities for the community, as well as the knock on effect for other businesses in Hatherleigh and surrounding parishes together with those currently trading in the Market.'*

Relevant Planning History

00760/2013 – Outline application (with access to be considered) for a mixed use development, following demolition of existing buildings, including Residential (106 units including 11 affordable), Retail (Use Classes A1, A2 and/or A3), Employment floorspace (Use Classes B1, B2 and/or B8), together with new Public Realm including Market Square with associated Pavilion, Play Space, Hard and Soft Landscaping, Community Allotments, Means of Access, Public and Private Car Parking, and associated Infrastructure – approved by planning committee on 22/7/13

ANALYSIS

Principle of Development/Sustainability:

The proposal site has previously been allocated for mixed-use development in the West Devon Borough Council Core Strategy, and continues to be allocated for mixed-use development in the recently adopted Plymouth & South West Devon Joint Local Plan. It is a brownfield site and the redevelopment of such sites in preference to greenfield is strongly advocated in the NPPF (esp para 117)

The allocation policy (TTV 24.8) identifies the site should deliver 106 homes and 880sqm of employment floorspace. This allocation essentially reflects what was approved under the previous outline planning permission granted on the site referred to in the history above.

The policy pre-ambles very clearly acknowledges the key characteristics of the Town and what any development needs to contribute:

'5.123 Hatherleigh is a thriving small town in the north of the JLP area located on the A386 some 7 miles from Okehampton. It has a popular weekly market which is at the heart of the local community and is part of traditional life in this town.'

5.124 The town benefits from a range of shops, cafes and restaurants, and is also located on the popular Devon coast-to-coast cycle trail that brings a large number of passing visitors each year. There is a large dependent community of smaller villages and hamlets that surround the town, which help support the range of services and facilities available.'

5.125 There is a strong agricultural tradition in and around the town which traditionally focussed around the cattle market. As agricultural industry and practices have changed over the years, the need for a cattle market has diminished. However, other market functions continue to be popular and are important for the continued success of the town. As a result, the market has been identified as having potential for a comprehensive redevelopment for some time with the retention of market provision. 5.126 In addition to the market site, there is potential to meet some local housing and employment needs on the south western edge of the town, providing greater diversity of housing and employment options for the town than relying on a single large allocation.

5.127 Additional primary school capacity may be needed during the plan period. Land to the south of Hatherleigh primary school was identified for this purpose in the West Devon Local Plan 2005 (Policy H45), and this will be an option for further consideration with Devon County Council. Should it be determined that additional land is required this will be identified through local planning documents linked to the provisions of Policy SPT13.

5.128 As set out in Policy TTV24, 156 new homes and 8,000 sqm of employment floorspace are proposed within Hatherleigh and this is considered to be an appropriate scale of growth which respects this traditional market town and to support the future sustainability of the settlement.'

However, since the drafting of this JLP policy, due to changes in national policy in the NPPF 2018, the developable site area has been reduced on account of proximity to the abattoir and the impact of some activities from the abattoir on adjacent users and the heightened requirement within this newer NPPF to afford more protection to existing employment generating uses (such as the abattoir) from potential newly introduced more sensitive receptors (such as new residents) and puts the onus for any mitigation for this potential 'conflict' onto the agents for the change (i.e. the developers/applicant) this is discussed more fully below. The applicants have explained that the proposal reflects ongoing community consultation, and that the proposed combined A-uses will provide a broadly equivalent floorspace figure as identified in the JLP for B-uses.

Retail

As required by policy TTV 24.8 and chapter 7 of the NPPF, the applicants have demonstrated that the potential impact of the proposed retail elements of the proposal will not be detrimental to the town centre. The previous planning permission on this site included the provision of an A1 convenience store, although this has since been dropped from the current proposal. A retail impact assessment had been prepared to assess the impact of the combined offer (including the convenience store), and found that the level of impact on Hatherleigh town centre would be acceptable in planning terms. The removal of the convenience store will reduce the impact on the town centre, and it is accepted that the provision of the market square and associated retail units will diversify the retail offer within the town and not have an adverse impact on the existing town centre uses.

Housing Mix

The proposed housing mix comprises 25 x 1-bed dwellings, 21 x 2-bed, 35 x 3-bed and 21 x 4-bed. As the number of dwellings is 102, the quantified number of each dwelling is broadly the same in percentage terms. The broad requirements for open market dwellings for West Devon to 2034 (taken from the Strategic Housing Market Needs Assessment SHMNA part 2) is for 10% 1-beds, 30% 2 beds, 30% 3 beds and 30% 4 beds. Whilst there is some variation

within this proposal from the SHMNA, policy DEV8 requires that local circumstances are taken into account when considering housing mix. The current housing mix within Hatherleigh shows the greatest proportion of the stock comprises 3-beds (40%) so this current proposal will not perpetuate an over-provision of 3-beds within the town. The proportion of 2 beds dwellings is higher in Hatherleigh than the West Devon average (31% in the town compared to a Borough average of 26%) and as such a slight under-provision of 2-beds on this scheme compared to SHMNA requirements is considered justifiable. The provision of 25 x 1-bed bungalows does create diversity within the overall housing mix by introducing an additional house type to the site. The number of 1-bed bungalows does appear to far exceed the SHMNA requirement, but the floorplans show an additional reception room that could be used flexibly to create an additional bedroom subject to personal requirements, and this is not considered to be to the detriment of the overall housing mix, particularly given that 1 bed market units, in particular bungalows, are rarely provided for on new developments. This is in accordance with paras 127 and 61 of the NPPF.

The above housing mix comments only concern open market housing, and that the proposal does not include a policy compliant affordable housing component. This matter is discussed below in relation to viability and the priorities of the community and Council at this site (JLP policy DEL1).

On balance it is considered that the proposal accords with the requirements and aspirations of the JLP allocation policy TTV 24.8. The type of employment floorspace being brought forward is different from that identified in the policy, although this is considered justified by the impact on developable site area of the revised NPPF in 2018.

Viability and contributions/Infrastructure provision:

This application was previously granted outline planning permission with a very low affordable housing offer in 2013. At the time this was not a policy compliant application in terms of the AH offer but was demonstrated to be an unviable scheme at policy compliant levels. Due to the sensitivity of the site and its viability to certain factors the previously approved S106 included a review mechanism that allowed the Local Planning Authority (LPA) authority to claw back any additional profit as an off-site contribution. Over the passage of time the viability of the scheme appeared not to have improved and as a result a full viability study has been undertaken afresh and accompanied this current application and has been updated as a result of the revisions to the scheme part-way through its consideration. The LPA has re-assessed the viability of providing on-site affordable housing and the other required infrastructure and monies on the scheme's deliverability. This analysis has been completed by Plymouth City Council's viability specialists on the LPA's behalf.

The viability of the scheme has been demonstrated to have deteriorated further and the uncertainty of the abattoir's impact on potential property prices, particularly given the high number of odour complaints last year has been a factor in addition to the inflation of build costs. This has combined with the above mentioned changes to the protection for employment units in the revised NPPF to cause a portion of the site to be economically unviable to develop. Further exploratory work has also been carried out on the site since the previous approval and it has been identified that greater than expected remediation of the

land and piled foundations will be required in addition to the infrastructure and delivery costs surrounding the market.

Since the previous scheme's approval Okehampton College has also reached capacity and as such the requirement for financial contributions from DCC has increased considerably from that previously required.

The wish from the community has always been that a functioning market and adequate car parking provision was the aspiration for bringing this site forward as a mixed use site within the community plan. The NPPF also reiterates the importance of such community and rural services, Para 83. Therefore any financial contributions that the development could viably afford has continued to be targeted at the market square, market building and car parking in preference to Education, Affordable Housing and Open Space Sport and Recreation (OSSR). The infrastructure costs to provide these market related plus those additional accosts to develop the site as cited above, has diminished any possibility of providing any on site units, this was previously 11, or any up front affordable housing contributions. The remaining available money which is available has been prioritised to Education in order to help support the scheme's sustainability as a development and ensure, as far as possible, education provision is not compromised. This has prioritisation to education has been arrived at by officers in conjunction with the wishes of the ward members.

Officers have thus secured a position that is considered acceptable to ensure the ongoing function of the market which was the communities wish first and foremost and ensures that any additional profit which is made will contribute towards firstly education and then affordable housing and OSSR. The review mechanism has been secured in the Heads of Terms and has been agreed in principle by the applicant from the outset. It is important to note that this has been arrived at through discussions between both the LPA officers and the developer and also between the LPA and DCC officers. In particular in the cases of OSSR and education it has been noted that in other locations such an under-provision of monies/infrastructure would be a cause for objection, however given the exchange on the site occurred prior to the new NPPF guidance around viability and land values and the heightened protection of the adjacent abattoir use, these combined with the constraints and community/Council requirements of the site for the market render it an exception and as such no objections are raised.

The completed market building and the parking themselves could potentially have a substantial future value which would improve viability if put to an alternative use other than the market, therefore in the interests of maintaining it as a community asset accessible for the intended use an agreement has been reached whereby the following terms apply for the future rental of the building. (The additional reason for securing this is that the reduced S106 monies offered were as a result of this intended community use).

- Issue a full repairing and insuring lease
- years 1-5 zero rent
- Years 5 - 10 years 50% of independent market valuation
- years 10 onwards 100% of independent market valuation

The developers have agreed to share with the authority 'open book' financial information at any given time to provide a clear picture of the costs and sales. This will be secured in the S106 as annual reviews which will be submitted.

In addition to this, productive conversations have taken place between the applicant, LPA and housing providers to try to secure affordable housing. Interest has been expressed from for profit registered providers. This type of provider cannot secure affordable housing in perpetuity but can provide accommodation for a term of up to 20 years and are able to apply for Homes England funding. This is not something the Council can secure here but it may be a route for provision of a form of AH and it is heartening to see that the applicant voluntarily and willingly entered into these discussions in order to seek a solution to provide and enable this form of accommodation.

Open Space, Sport and Recreation:

With regard to OSSR, the 2013 outline application (00760/2013) secured an on-site LEAP of 0.097 ha with up to five pieces of play equipment as well as an off-site play contribution of £25,000 for enhancement and maintenance of play facilities in the Hatherleigh area, and the provision of land for a second cricket pitch through the agreement of a lease.

Due to the viability issues as discussed above, the current application includes a number of small pocket parks/green spaces, as well as a landscaped buffer to the north boundary, around the grasscrete parking spaces, and further landscaped buffers, providing informal open space, on the south and west boundaries. The private gardens are also of a generally good size providing valuable amenity space for new residents. The level of green space is considered adequate and falls broadly in line with the policy requirements given the viability issues of the scheme.

At the request of officers the applicant has revised proposals to enlarge and enclose 2 pockets of landscaped space in order to now include the provision of 2 areas of on-site play facilities for younger children each containing 3 pieces of equipment. The detail of the equipment and the delivery and retention/maintenance will be secured by condition/S106 and it is anticipated these 2 areas will complement one another (one more usual formal equipment and one more natural equipment) but will also complement the older child offer at Island Park and, whilst not being as large as policy requires, they will meet an immediate need for safe play for young residents or toddlers and young children attending the market.

In order to set a cap within the S106 claw-back the level of contribution usually required for such a scheme has been calculated in order to inform the S106. Such contributions would be towards enhancement and maintenance of the nearby off-site facilities at The Island and Hatherleigh Community Centre.

The development does not include any sports provision, however formal facilities are available at the cricket ground, football field and bowls club. In addition, the Hatherleigh Community Centre includes a Multi-Use Games Area which is available for group and individual hire at reasonable rates. However, under the previous S106, due to common ownership at the time between the market site and the land adjacent to the cricket pitches, a required additional pitch space was leased to the local cricket club in line with the S106 agreement despite the permission lapsing, an arrangement which continues.

It should be noted that typically a development of this scale would generate an off-site contribution of £140,744, based on the figures from the West Devon Open Space, Sport and Recreation Study (Atkins, 2007) and an average 2.36 residents per dwelling. Whilst it is noted that the viability of the scheme is unlikely to allow for full contributions, it is recommended that some local consultation with the clubs is undertaken to assess current

needs should monies be forthcoming from the claw-back mechanism. Again, noting the viability issues of the scheme, it is suggested that any S106 contribution towards OSSR could be flexibly worded with a cascade to allow for expenditure on either identified play or sports projects (subject to justifiable sports projects being identified through local consultation).

It is also worth noting that, although not strictly within the usual definition of OSSR, this proposal retains and provides for a community and area-wide leisure use by accommodating and providing for the Market and square. It is evident from the many representations, that the market is considered as important for its social and mental wellbeing benefits as it is for its economic and cultural ones. Thus in providing for the market in the way that this scheme does, i.e. with an enclosed feather and fur building, an adjoining semi enclosed pavilion and an open air area, this can accommodate not only the market but is flexible enough to also complement the offer of other community buildings and spaces within Hatherleigh for existing successful events such as the Music and Arts festival, live music and various auctions as well as others which may come as a result of the new facilities. The scheme also secures and delivers the 'Riverside walk' route which is an aspiration of the community (and was secured through the last permission). These are in sort recreational leisure uses and should be weighed in the planning balance as such.

Biodiversity and ecology:

The submission was supported by a Preliminary Ecological Appraisal (PEA by EPS Ecology, August 2017) with addendums (latest being 31st Jan 2019) reflecting the revisions to the layout and covering the implications of these for ecology and biodiversity.

The PEA notes that the site remains largely unchanged since previous surveys were undertaken at the site between 2011-13. The habitats on site are of limited ecological value beyond that of site value, there is of course suitable habitat for nesting birds, and slow worms have been recorded at the site, with much of this existing habitat proposed to be retained along the boundaries. The one change of note being that Phase 2 bat surveys undertaken in 2017 found an absence of bat roosting such that the previous evidence would be considered historic (i.e. no current bat roost) - 2017 bat surveys also found a very low level of bat activity in terms of levels and species diversity using the site.

It is evident that there will be a loss of some vegetation to facilitate the development. This will be compensated for to a degree by planting throughout the development, predominantly through the VEB required to the abattoir boundary and street/parking area trees and small pockets of POS.

Notwithstanding the need to formally demonstrate this enhancement, the ecological loss is limited, and there is plenty of scope to include enhancements within the development reflecting what will be a built up environment - inbuilt bat and bird boxes, reptiles hibernacula, bee bricks, soft landscaping, etc. Whilst these have not yet been detailed, a condition has been detailed above which requires details of how the wildlife value of the site will be enhanced (i.e. demonstrating biodiversity net gain, consistent with national and local policy).

Otherwise, in relation to biodiversity, the key conditions relate to adherence to Mitigation Method Statements to avoid harm to wildlife during vegetation removal, and a LEMP securing appropriate ongoing management and maintenance of habitat features (including boundaries) on site.

It is also noted that whilst offsite, the River Lew is in close vicinity to the southern boundary and would without doubt be a route used for foraging and commuting by bats. It is important that the development does not lead to light spillage upon this habitat. There is therefore also a requirement for a sensitive lighting strategy (including modelling of external lighting, including highways lighting) to demonstrate that the development is not having an impact on off-site/adjacent bat activity associated with this linear feature.

With the addition of the required conditions it is considered that this scheme complies with policy SPT1 part 3 (ii), DEV26 and para 175 of the NPPF.

Design:

The proposal for consideration is the result of extensive discussion and negotiation with the Council through engagement in its formal pre-application process (as advocated by the NPPF para 39) and has involved specialist landscape, conservation and planning officers.

The layout of the site as arrived at has been constrained by several factors not least the multiple accesses, private and public rights of way across the site, the need to allow for continuations of the market during construction and the buffer are required to the abattoir. Despite these constraints however, the proposed layout accommodates all of these whilst still managing to make efficient use of the site, incorporates the majority of its few existing treed and planted areas and reflects the historic road pattern of Hatherleigh Town with its triangular 'island' of properties.

The exclusion of piecemeal pepper-potting of landscaping features has been avoided in favour of an approach which reflects the existing town which is for street end or junction punctuations of a pocket of larger planting with seating. These can be seen on 2 corners of the market square and elsewhere, with 2 further pockets being enlarged to include children's play equipment. The hard landscaping too has drawn from the existing features in Hatherleigh and has combined elements already present such as black bollards (as can be found along Bridge Street), raised planters and changes in surfacing to denote private and public space (both of which are prevalent around the existing town square). This change in surfacing and textures is a key characteristic within Hatherleigh, particularly within the Conservation Area and has been embraced by the architects here in favour of the more commonly proposed but uninspiring grass verge type service strips to the front of properties.

The house types have also been a result of discussions and have sought to incorporate features common to the more historic properties through the town, such as recessed front doors and simple flat canopies over doors, darker plinth, terracing and simple unfussy frontages. Whilst incorporating these architectural elements, the units are also contemporary and modern, honest to its construction period. The quantum of development on this site is such that it is considered by officers that it can carry its own unique design to create its own sense of place, rather than simply trying to create a replica pastiche of more historic or traditional properties.

The rhythm of the existing Town is difficult to replicate as much of the centre of Hatherleigh is characterised by long organic terraces of low cob properties which have little or no parking - to readily accommodate necessary private parking into a new development such as this, this continuous frontage has to be broken. However part of the reason for incorporating some ground floor business units into the frontages around the proposed market square was to reflect the active road frontage found in Hatherleigh at present and give an opportunity for

businesses to utilise these units to exploit the existing passing trade and customers from the market as well as continue this combination of use classes around from the top of Bridge Street into the proposed site.

The proposed materials have been chosen to complement the existing town finishes. Hatherleigh has quite a number of coloured render finishes compared to other nearby towns and villages. This is reflected within the proposal which seeks to combine white and buff properties with a scattering of pastel blue and green to aid in tying the new development to the old and continuing this colour through from the top of Bridge Street into the new market square area.

The corner building to be two and three storey (rising where the topography falls) and accommodate flats over commercial A use units (café, retail, financial type businesses etc) is located in an area where a greater height is considered acceptable and the design is contemporary but utilises traditional materials for the facing and presents a continuous commercial frontage along this stretch, characteristic of the older Town.

The design of the market building and fur and feathers auction has altered as a result of the revisions. The two elements have been combined into one building at the request of the community during Kingswood Homes' discussions with them. The building is simple and utilitarian, but reflects its agricultural heritage well whilst also being functional and flexible. There appears from representations and discussions to be opposing views on whether an open or fully enclosed market building was desired, however this building is considered to be flexible enough to be fitted out with temporary enclosure should it be needed, or can be opened for the market or other uses if that suits.

The size of the feather and furs building and adjoining covered market has been arrived at as a result of the existing market uses and similarly outdoor pitch numbers have been informed by current operations. A condition is attached to ensure that the final marking out of the pitch area is carried out and accommodates the vehicles/units as necessary.

Both the previous Development Plan and the current JLP carry policies relating to design and delivering low carbon development (JLP policy DEV32). This scheme has many constraints, both spatial and financial and as such it is considered more appropriate, given the time period and policy regime over which this scheme has been developed, that a policy application combining the 2 approaches and a condition reflecting this is more appropriate in this particular instance.

Overall then the design of the buildings proposed and their public realm and townscape is thought well considered and to comply with the guidance of the NPPF, esp para 127, and the JLP relevant JLP policies including DEV20.

Heritage

The site allocation and design has been arrived at through consultation with the Council's Heritage Specialist and no objections have been raised to the scheme. It is sensitive to the adjacent Conservation Area and the removal of some existing buildings, although they may have some cultural and social heritage value for the community. Are not architecturally valuable and the conservation area and setting of the adjacent thatched grade II building and grade I church will be improved by their removal (para 200 of the NPPF).

Views to and from the church will be improved or maintained through the careful positioning of the new market buildings and housing and overall it is considered an improvement in terms of the setting of the church and adjacent listed thatched cottage, with no harm considered to occur. Even were a different view considered and some, less than substantial, harm was considered to occur, this would be weighed in the balance against the public benefits of the scheme and these (predominantly the provision of upgraded public realm and market facilities, as well as an additional A-use commercial space in the town and the delivery of housing) would be considered to outweigh any minor harm, however officers maintain no harm exists.

The main heritage value on site is the use of the buildings and their function and community use, this will be maintained with the continuation of the market on the same site.

Landscape:

The principle of mixed-use development at this site is established by the adopted allocation for the site. As a visually well-contained brownfield site with significant boundary vegetation, there is no objection to the principle of development here on landscape and visual grounds.

The Council's landscape specialist has made several suggestions for incorporating additional trees into the public and private realm all of which can be secured through condition. This covers boundary treatments, retaining structures, soft and hard landscaping/surfacing.

Similarly the Specialist has raised concerns re the levels of contamination on site and reiterated the request of the EH specialist that contamination remediation be secured via condition, but in this instance for the purposes of ensuring that the resulting ground is suitable for use as residential gardens and amenity space and will allow for shrub and tree growth. This is secured via condition also.

As such the scheme is considered acceptable in terms of landscaping and para 127 of the NPPF and policy DEV20.

Amenity:

In relation to this scheme there are two main factors within this aspect - the protection of future residents from existing adjacent employment uses, and also the protection of the residential amenity of neighbouring properties from the proposed dwellings and market facility.

The nearest residential properties to this proposal are those on Vicks Meadow to the south of the site, Knights Court to the East and 'Kimberley' to the NE. The nearest and most prevalent employment use is the adjacent abattoir to the North of the site.

The scheme before Members is the result of prolonged but constructive discussions between the LPA's officers and the agent and specialist consultants for the developer, in order to arrive at a scheme which protects all existing and future residents and businesses and enables them to be comfortable bedfellows within and around this constrained site.

Following these discussions and on receipt of the revised scheme, and having considered the representations made by the public on it (including that submitted by the planning agent representing Dunbia abattoir), the Environmental Health Specialist for the Council stated the following:

'Having reviewed the revised plans I was pleased to see that the layout has been amended to move the more sensitive uses away from the abattoir building and its associated plant. I note the objection of the abattoir to these proposals on the basis that it increases the number of potential receptors to any odour or noise emanating from their plant.

The Environmental Health department was keen to ensure that the proposed plans complied with National Planning Policy Framework paragraphs 180 and 182. Paragraph 180 states;

"180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."*

Furthermore the national policies have in the view of our Environmental Health team been strengthened by Paragraph 182 of the NPPF which states;

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

These policies have been transposed into the Joint Local Plan within policy DEV2 which states;

"Development proposals which will cause unacceptable harm to human health, the natural environment and general amenity by unacceptable levels of soil, air, water or noise pollution or land instability will not be permitted. Development should:

- 1. Avoid or mitigate against harmful environmental impacts and health risks from air, water, land and noise pollution...."*

It is recognised that this site is sited next to an existing industrial meat processing site which has received and continues to receive complaints about due to excess noise and odour, however the proposed site has also been allocated in the current Joint Local Plan as a mixed use site.

Therefore when considering the proposals and to ensure compliance with the NPPF and JLP policies it was important to ensure that a reasonable level of protection was afforded to both the future residential occupants, and that there was minimal increased risk of complaints about the processes from the abattoir.

It is not possible to remove a person's right to complain about a statutory nuisance that they are being impacted by, and therefore there is a risk that future residents will complain about the abattoir operations and the Council would be under a legal duty to investigate and serve notice where it was satisfied that a nuisance existed.

However to mitigate this potential for impact on the abattoir's operations and in discussions with the developer the layout was amended so that there were no new sensitive receptors to noise or odour in any closer proximity to the abattoir than currently exists. There are also plans put in place to mitigate as far as is reasonably practicable any odour impacts from normal operations of the plant.

Noise

Continued from the Council's EH Specialist: 'I have reviewed the noise assessment by the applicant and the one produced on behalf of the abattoir and there appears to be a difference in opinion about the nature of the noise sources and the relevance of the abattoir as a noise source.

There is currently an issue regarding the lawfulness of the operations at the abattoir site as the new effluent treatment plant would appear not to have been built in accordance with the approved planning permission. It is possible that the difference in the two reports is due to the fact that one report was carried out before the effluent plant became operational and the other was completed post completion.

The new layout for the application site moves the proposed residential dwellings as far away from the noise sources as all existing residential premises, and there is a positive requirement on the abattoir site to ensure that they minimise the pollution from their site (which includes odour and noise emissions) to as low as reasonably practicable.

The abattoir objectors state that by demolishing the market building there may be a negative impact on neighbouring residential houses. As there would be no legal requirement for the owners of the market to seek planning permission to demolish the market, this should not in my view be viewed as a reasonable objection to this application, especially as at this time the waste treatment plant is not operating as it should, due to not being constructed in accordance with its planning permission. . In addition the reliance of the abattoir operations on third party buildings as a buffer to noise/odour pollution is not especially reasonable.

It is therefore my view that the noise impact assessment produced by WYG on behalf of the applicant seems reasonable. The report does show that there will be a need for some form of façade treatment of some properties to ensure that there is adequate insulation with windows closed to meet the suggested noise levels in BS8233:2014. There will also be a need for suitable ventilation so that windows do not need to be opened, but this can be provided by trickle vents.

On this basis I would suggest a noise mitigation scheme condition' Further due to the mixed use nature of the development and the proximity to existing residential premises the Specialist also advised a noise mitigation scheme to protect residential premises and businesses from potential noise from the market building and area hereby approved. This is considered reasonable as it is not designed to be overly restrictive, however the existing market and auction predominantly happens at present under cover in an enclosed building and is a historic use so such a condition will ensure responsible and considerate use of the proposed new premises going forward.

Odour

In relation to amenity and odour, similar to noise the new layout reflects the previous concerns regarding the potential conflict between the abattoir operations and the future users of the site. The EH Specialist is satisfied that the proposed vegetative environmental buffer will provide a degree of mitigation of odour emanating from the abattoir site.

The objectors have stated that the close proximity of the proposed car parking to the proposed Vegetative Environmental Buffer (VEB) may create a problem due to the fact that odour can accumulate in the immediate shadow of the buffer zone.

The site is already currently used as a car park, and whilst the area discussed above is currently not ideal for this purpose due to accumulations of chippings and other waste there is nothing preventing

the land owner from opening up the equivalent area as car parking at this time without planning. As such officers therefore do not support the view that the proposals increase the risk of odour complaints arising from the proposed use as a car park.

However it does need to be ensured that the VEB is constructed and maintained in perpetuity to ensure that once the abattoir is operating in accordance with its permit the odour should not cause a material impact to the future users of the site such as to affect their reasonable amenity or the operational ability of the abattoir. This is secured through condition and the S106 heads of terms as set out above.

In relation to the impact of the proposed residential units upon those existing residential units, it is considered that in the cases of Knights Court, Kimberley and those properties on Vicks Meadow, the separation distances between the proposed and existing combined with oblique angles from one to the other and the retention and or introduction of rear boundaries adequately protects the existing and proposed residential units from undue levels of neighbour overlooking or general amenity loss.

In relation to other amenity aspects of the proposed units, the garden sizes proposed are all considered more than adequate and are very generous in some cases, providing not only good amenity for residents but also adding to the variety of housing offered to the market, as newer units developer constructed units do not generally offer the garden sizes some units such as

Contaminated Land

The Contaminated land assessment has shown that the land has areas of made ground placed upon it, and in certain areas there is the potential for significant risk from biodegradable material, however there are opportunities for remediation options to be carried out without jeopardising the housing numbers on site and as such to resolve this issue a standard suite of contaminated land conditions will address the remaining work that needs doing in accordance with NPPF guidance (para 178 especially) and policy

Highways/Access:

In relation to the above the scheme differs little from that previously approved. Essentially the main access will be at the existing point off the A386 but the site can also be accessed off Bridge Street. This through route allows for an improved circular bus route and for the site to be served by the existing buses. DCC Highways are content with the scheme in terms of highway and access designs, highway safety etc. Subject to the above cited conditions and S106 contributions/works DCC raise no objections on highways grounds and are satisfied with the proposal.

It is understood from the constraints plan that all private rights of way traversing the site have been accommodated within the existing layout. Although this is a civil issue, this too has been a constraint imposed upon the site in terms of design and layout.

Re the public right of way which crosses the NE corner of the site, after a request from the DCC PRoW officer and case officer, the applicant has accommodated this by way of a surfaced footway along the northern edge of the site which is considered to be betterment of the existing poorly surfaced and ad hoc route which competes with vehicles and parking at present.

Private residential parking levels are a matter for the LPA rather than DCC. There are no minimum parking standards at WDBC, however the numbers proposed are considered acceptable for the dwellings and bed numbers proposed. It is noted that the Police Designing Out Crime Officer has raised concerns about the functionality of stacked parking, however

this is not at odds with any WD policy and given the levels of private parking provision plus the ability of the carriageway proposed to accommodate some on street parking, this is not considered an issue in this location and locale.

With regards to the parking levels for the Market, this has been one of the mostly highly noted issues within letters of representation. It is absolutely accepted that the market will struggle to continue if adequate parking is not provided for it and as well as noting those numbers supplied by letters of rep and the applicant, council officers have noted parking numbers first hand by counting parked vehicles at a peak time during market hours. The following is a summary of the parking provided to serve the market, these spaces are in addition to private spaces and garage:

	<i>No. of spaces</i>	<i>Did this include On street or not?</i>
<i>Previous outline approval</i>	150 approx	Unknown as outline only
<i>KWH Initial submission June 18</i>	153	Yes 16
<i>KWH revised submission Feb 19</i>	200 (194 plus 6 in a lay-by area.)	No

In addition to this the adjacent Council owned car park can accommodate a further 80 vehicles. On the day officer's counted, despite a busy market at peak time, the Council car park had 60 empty spaces.

Overall then it is considered that, given that a certain level of housing and market space is required to make this scheme viable and deliver a suitable market facility, the scheme makes efficient and good use of the space to deliver the maximum parking possible whilst also placing it in areas of the site which can not accommodate other uses (such as adjacent to the abattoir) and without simply providing large areas of permanent barren hardstanding when the market is not in use i.e. through the use of the permeable, more rural and softer finish grasscrete.

Overall then the scheme is considered acceptable in terms of the levels of parking, provided for the residential and market uses and in terms of highway provision and safety. It also improves circulation and connectivity around Hatherleigh and will provide for a bus route and cycle parking. Overall it is considered to comply with the guidance of policy DEV29 and NPPF guidance.

Flood risk and drainage:

Following the submission of some additional information regarding the scheme and some minor amendments to it, DCC as LLFA are now in agreement with the scheme, subject to conditions, as are the Environment Agency. There is no vulnerable development proposed within the flood zone which encroaches into this site, tight to the River Lew and there are additional routes either for vehicles or pedestrians out from the site other than the access onto the A386 which lies in the flood zone. The foul and surface water schemes are suitable for the site and proposal. As such the scheme is considered to accord with policy DEV35 and the guidance of the NPPF, in particular chapter 14 para 155 onward).

Conclusion:

The development of the market site is understandably highly emotive - the site sits physically, historically and socially at the centre of Hatherleigh Town, which in turn is central to so many surrounding rural villages.

The Development Plan has, for some years now, set out the Council's commitment to encouraging and supporting the continuation of the market whilst it remains operational and viable. Through the work undertaken in 2014/15 in relation to the Community Plan and previous planning application, it became increasingly clear that a fall-back position for the site was needed should this no longer be the case. A new housing development which regenerated the market site and facilities was thus the scenario catered for in the Community Plan which informed the previous planning application, which in turn informed the previous planning application, now reflected in the adopted Joint Local Plan. This states the following as policy considerations/thing to be provided for by the development:

- a. Regeneration of existing site to make more efficient use of land including demolition of buildings as appropriate.*
- b. Retail uses where there is no adverse impact on the town centre.*
- c. New public realm including Market Square with associated Pavilion.*
- d. Contributions to expanding primary school capacity in the area.*
- e. Public and private car parking, and associated Infrastructure.*
- f. Appropriate flood risk mitigation measures.*

It is understood from discussions with, and representations from, the community and their representatives, that there are very mixed views regarding the current scheme. However it is evident from the consultation responses summarised above which refer to Kingswood Homes' engagement and the major revision and smaller amendments which have occurred that this scheme has evolved – responding to community comments and needs, changes in viability and the housing market as well as to changes in the NPPF, abattoir operations and officer advice. The scheme now includes more parking than any previous iteration and has sought to join the feather and furs building to the market hall in response to community requests.

Officers appreciate that there have been recent valiant efforts by some members of the community to protect and retain the current situation and revive the livestock element which has been sadly absent for many years. However the site has been exchanged upon on the basis of an element of housing and from the figures provided to the Council it is evident that this housing is needed in order to provide the new market facilities and its associated infrastructure. The community has benefitted for many years, from the use of this large edge of town site for several community uses, such as the carnival, however this has been at the benevolence of the site owner and the site is currently changing hands in a commercial sale which does not contain a requirement for these uses to continue. Over the many years that this site has been a subject of planning discussion, and never more than of late, the community here has demonstrated its resilience and resourcefulness and it is hoped that this will aid in finding a solution to allow these events to continue albeit perhaps in an adapted way.

Although there is never complete certainty that an applicant will build out a site as sites can change hands etc, it is Kingswood Homes' intention to develop this site and their portfolio of

previous sites suggests they are adept at developing bespoke schemes for sites with constraints and idiosyncrasies, rather than simply mass housing on greenfield sites. It is officer view that the applicant has engaged productively with the Council, Town Council and community and as a result the scheme has responded well to the changes in the competing financial, legislative and community pressures and aspirations upon it. Whilst this scheme has its planning policy shortcomings with regards to a lack of Affordable Housing provision and financial contributions and some shortfalls in the view a portion of the community, it is considered overall to be a sound and considered scheme for the Town and most importantly has prioritised continuation of the market whilst improving the current facilities.

Overall Officers consider that the current proposal is a quality scheme which, once completed, will deliver all of the requirements of the policy for this brownfield allocated mixed use site. The Market can be accommodated throughout construction and eventually relocate into its new improved facilities. The levels of parking proposed are considered adequate for the market to operate and thrive and improved bus route through the development right past the market square will improve its accessibility whilst the housing is of an appropriate mix, type and quantum to complement and diversify the housing offer already present in and around the Town. As such it is officer recommendation that this scheme be approved.

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

Planning Policy

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

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

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

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes
SPT5 Provision for retail development
SPT6 Spatial provision of retail and main town centre uses
SPT9 Strategic principles for transport planning and strategy
SPT11 Strategic approach to the Historic environment
SPT12 Strategic approach to the natural environment
SPT13 Strategic infrastructure measures to deliver the spatial strategy
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV24 Site allocations in the Smaller Towns and Key Villages
TTV27 Meeting local housing needs in rural areas
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV3 Sport and recreation
DEV4 Playing pitches
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV9 Meeting local housing need in the Plan Area
DEV10 Delivering high quality housing
DEV14 Maintaining a flexible mix of employment sites
DEV15 Supporting the rural economy
DEV16 Providing retail and town centre uses in appropriate locations
DEV17 Promoting competitive town centres
DEV18 Protecting local shops and services
DEV19 Provisions for local employment and skills
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV27 Green and play spaces
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV30 Meeting the community infrastructure needs of new homes
DEV31 Waste management
DEV32 Delivering low carbon development
DEV33 Renewable and low carbon energy (including heat)
DEV35 Managing flood risk and Water Quality Impacts
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 127, 61, 117, 83, 85, 122, 123 and 200 and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

Hatherleigh Community Plan

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

Condition wording in full:

- 1) Standard 3 year time limit for Full planning permission
- 2) The development hereby approved shall be fully in accordance with the following approved plans:

Location Plan PL01 Rev A
Existing Site Plan PL02 Rev A
Topographic Plan PL03 Rev A
Proposed Master Plan PL04 Rev V
Master Plan – Unit Key PL05 Rev N
Environment Exclusion Zone PL06
Type L PL10 Rev E
Type M PL11 Rev G
Type N PL12 Rev E
Type O PL13 Rev F
Type P PL14 Rev D
Type Q PL15 Rev B
Type R PL16 Rev D (Formerly Type Ra)
Type S PL18 Rev D
Proposed Street Elevation 1 PL23
Proposed Street Elevation 2 PL24
Proposed Street Elevation 3 PL25
Proposed Street Elevation 4 PL26
Site Section PL28
Type T PL29
Market Hall PL30
Apartment Block & Retail, Types U, V, W, X & Y PL31
1769 Arboriculture Impact Assessment Rev B
1769 TPP- Rev E (C, N, SE, SW, NE)

- 3) Prior to first residential occupation, details of bicycle parking shall be submitted to and approved in writing by the LPA and the parking shall be installed as approved and retained as such.

Reason: In the interests of the accessibility of the site and carbon reduction

- 4) Prior to the occupation of the 55th dwelling, details of demarcation of market area for stall shall be submitted to and approved in writing by the LPA and shall be fully completed prior to the occupation of the 80th dwelling.

Reason: In the interests of the continued and efficient operation of the market and its facilities

- 5) Prior to the commencement of the development hereby approved, details of suitable and adequate provision for the operation of the market and its required vehicle parking during the construction of the development, shall be submitted to and approved in writing by the LPA and such provision shall be made at all times as approved unless otherwise agreed in writing by the LPA.

Reason: In the interests of the continued and efficient operation of the market and its facilities

- 6) Prior to commencement (other than demolition), a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Scheme shall be prepared by an appropriately qualified professional and shall include:

- location, number, species, density, form and size of proposed tree, hedge and shrub planting;
- the method of planting, establishment and protection of tree, hedge and shrub planting;
- maintenance schedules for the establishment of new planting for a minimum period of 5 years;
- details, including design and materials, of ancillary structures such as bin stores and signage;
- the construction method, facing and ground profile of any planted banks; and
- materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas.

All elements of the Landscape Scheme shall be fully implemented within the first planting season following reasonable completion or occupation of the dwellings (whichever is sooner), and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. Any plants that die, are damaged, removed or fail to thrive within the first five years after planting shall be replaced with the same size and species in the following planting season, unless otherwise agreed with the local planning authority.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to policy DEV 20 and DEV23.

- 7) Prior to commencement (other than demolition), materials, heights and details of fencing and any other boundary treatments including garden gates, and details and materials of any retaining walls, underbuild, steps, railings, walls or other supporting structures shall be submitted to and agreed in writing by the Local Planning Authority and shall be implemented prior to first occupation/use of the plots/parcels to which they relate.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment

- 8) Prior to the occupation of the first residential unit, full details of the Vegetative Environmental Buffer including
- location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - the method of planting, establishment and protection of tree, hedge and shrub planting;
 - maintenance schedules for the establishment of new planting in perpetuity
- Shall be submitted to and approved in writing by the LPA and fully implemented prior to first occupation.

Reason In the interests of residential amenity, commercial operations and odour control.

- 9) Render colours to be implemented as per the approved plans and details unless otherwise agreed in writing by the LPA

Reason: In the interests of the quality of housing, built environment and setting of the Conservation Area and listed buildings

- 10) Prior to their installation, samples of roofing and facing materials, including the timber treatment of the market building, and the natural stone, shall be submitted to and approved in writing by the LPA and the development carried out in accordance with these details as approved.

Reason: In the interests of the quality of housing, built environment and setting of the Conservation Area and listed buildings

- 11) Prior to the first occupation of the phase in which a play space sits, full details of the play space, including the equipment it shall contain, shall be submitted to and approved in writing by the LPA and the play space shall be completed and available for use.

Reason: In the interests of public and resident amenity and recreation.

- 12) Foul drainage from the Development (and no other drainage) shall be connected to the public foul or combined sewer.

Reason: To ensure the discharge of drainage from the Development shall not be prejudicial to the public sewerage system and ensure there are adequate public foul sewerage facilities to receive foul water flows, in order to safeguard the public and environment.

- 13) The protection of any existing tree to be retained in accordance with the approved plans and particulars under condition 2 shall be achieved as follows:

- (a) no equipment, machinery or material shall be brought onto the site for the purpose of development or demolition until fencing has been erected in accordance the approved tree protection plans.
- (b) if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced to the satisfaction of the Council;
- (c) the fencing shall be maintained in position to the satisfaction of the Council, until all equipment, machinery and surplus materials have been moved from the site; and
- (d) within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the Council.

Reason To ensure the preservation and protection of existing trees on the site.

14) Prior to the commencement of any works on site within the identified root protection areas of trees to be retained shown on the approved plans (including demolition and site clearance or tree works), details of the design of building foundations, car park surface construction and the layout (with positions, dimensions and levels) of service trenches, ditches, drains and other excavations on site, shall be submitted to and approved in writing by the Planning Authority.

Reason: To ensure the continued well-being of retained trees in the interests of the amenity of the locality.

15) Prior to the commencement of development within the identified root protection areas of trees to be removed shown on the approved plans or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved AMS. The AMS shall include full details of the following:

- a) Implementation, supervision and monitoring of the approved Tree Protection Scheme
- b) Implementation, supervision and monitoring of the approved Tree Work Specification
- c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
- d) Timing and phasing of Arboricultural works in relation to the approved development.

Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures.

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the locality.

16) Prior to the commencement of development within the identified root protection areas of trees to be removed shown on the approved plans or other operations being undertaken on site in connection with the development hereby approved details of the proposed site specific design of no dig methodology for the protection of rooting zones where vehicular or pedestrian access is required where new surfacing is to be introduced.

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the locality.

17) Prior to the planting of any trees approved under the conditioned landscaping scheme, either:

- details of site specific tree pit designs including sufficient clean soil volume for the particular tree species, shall be submitted to and approved in writing by the LPA, or
- sufficient information shall be submitted to and approved in writing by the LPA to adequately demonstrate that any contamination remediation of the site will be undertaken to such a standard as to provide an adequate species specific quantity of clean topsoil for tree establishment and future growth.

Reason: in the interests of tree establishment and landscaping quality.

18) No part of the development hereby permitted shall be commenced, other than demolition works, until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment (Ref. 173345; dated May 2018), Flow Exceedance Routes (drawing No. 173345/PDL/002; October 2017), Drainage Strategy (drawing No. 181101-KWH-PLD-001; revision -; dated 28th January 2019) and the Letter titled Response to the LLFA (dated August 2018).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

19) No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

20) No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

21) Prior to commencement of development the following components of a scheme to deal with the environmental impacts of the construction phase of the development shall be

submitted and approved by the local planning authority in writing. That scheme shall include details of noise impacts and controls, hours of operation, and dust impact assessment and proposed control in accordance with the Institute of Air Quality Management guidance for dust assessment from construction sites.

Reason: in the interests of the environment and amenity

22) Prior to construction above slab level the applicant shall submit for approval, full details of proposed electric vehicle charging points to be provided, these details shall include the location, number and power rating of the charging points. This shall accord with good practice guidance on mitigating air quality impacts from developments produced by the Institute of Air Quality Management.

This agreed scheme shall be implemented as agreed and available for use prior to first occupation of any building approved by this permission, and retained as such

Reason: In the interests of the environment, air quality and public health

23) Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

A preliminary risk assessment/desk study identifying:

All previous uses

Potential contaminants associated with those uses

A conceptual model of the site indicating sources, pathways and receptors

Potentially unacceptable risks arising from contamination at the site

A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these agreed elements require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: The previously submitted contamination assessment shows that there is a potential risk of ground gas arising due to previously deposited bio-degradable waste, therefore further gas monitoring is required before a remediation strategy is confirmed. The condition covers the full range of measures that may be needed depending on the level of risk at the site. If the LPA is satisfied with the information submitted with the application they can decide to delete any of elements 1 to 4 no longer required. The LPA may still decide to use the whole condition as this would allow them to declare the information no longer satisfactory and require more or better quality information if any problems are encountered in future.

24) Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the local planning authority.

Reason: Without this condition, the proposed development on the site may pose an unacceptable risk to the environment. This is listed as a separate condition as it gives the LPA the option to choose a later control point: i.e. prior to occupation, rather than commencement of the development for the main phase of the remedial works.

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

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

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

26) Prior to the commencement of any development (other than demolition), the applicant shall provide to the Local Planning Authority an energy statement setting out the details of the ‘fabric first approach’ to be incorporated for approval. *The carbon savings which result from this will be a minimum of 10% above and beyond what is required to comply with Part L 2010 Building Regulations.* The energy-use reduction construction methods, shall be provided in accordance with these details prior to the first occupation of the development and thereafter retained so long as the development remains in existence.

Reason: To ensure that the development incorporates the principles of low carbon energy hierarchy and in the interests of the environment

27) The development shall adhere fully to the Mitigation Method Statement (MMS) for reptiles, breeding birds and dormice which are appended to the PEA (EPS Ecology, August 2017).

Reason: In the interests of biodiversity and the environment

28) Prior to the commencement of development (other than demolition), a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the LPA and the development carried out fully in accordance with the approved details.

Reason: In the interests of biodiversity and the environment

29) Prior to the commencement of the development hereby approved, other than demolition, a sensitive lighting strategy (reflecting PEA recommendations relating to bats and to include LUX contour modelling if there is to be street lighting along the road adjacent to the southern boundary) to demonstrate there shall be no unacceptable impact on the off-site River Low tree-lined corridor.

Reason: In the interests of biodiversity, protected species and the environment

30) Prior to the commencement of the development hereby approved, other than demolition works, details of an Ecological Mitigation and Enhancement Strategy, to be integrated with any Landscaping Details and to include enhancements for bats, birds, reptiles, and other wildlife demonstrating a net gain for biodiversity, shall be submitted to and approved in writing by the LP and the measures of the strategy in each phase to be fully implemented prior to the occupation of the final residential unit in each phase.

Reason: In the interests of biodiversity and the environment

31) Prior to first occupation, details of provision of high speed broad band ducting to all residential and commercial premises shall be submitted to and approved in writing by the LPA and the development carried out as approved.

Reason: In the interest of commerce and connectivity.

32) Notwithstanding the provisions of the Planning use Classes Order 2017 (as amended), the Market building, attached 'feather and fur' building and adjacent market square, shall be utilised for community markets, auctions, and D2 assembly and leisure use only and for no other retail purposes or other such purposes as are permitted by the Order.

Reason: In the interests of the protection of residential amenity, the vitality of the Town centre and the continuation of the market operation.

33) Notwithstanding the provisions of the Planning use Classes Order 2017 (as amended), the ground floor commercial units as approved shall be use classes A1/A2/A3 only and for no other purpose as are usually permitted by the Order.

Reason: In the interests of residential amenity and the protection of the vitality of the Town.

34) Prior to construction above slab level, a noise mitigation scheme shall be submitted to and approved in writing by the LPA detailing those measures which will be incorporated into the construction or wider development site to ensure that internal noise levels within the noise sensitive properties i.e. houses meet the following levels in the following rooms and at times as stated;

- Bedrooms (23:00 – 07:00): 30 dB LAeq, 1hour, and 45dB LAmax (slow)

- Living Rooms (07:00 – 23:00): 35 dB LAeq, 1hour
- External amenity areas associated with the residential curtilage (07:00 – 23:00): 55dB LAeq, 1 hour

Once approved these measures shall be completed and installed prior to the occupation of the first unit and shall be retained as such in perpetuity.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy

35) Before use of the development commences, a noise-mitigation scheme shall be submitted in writing and approved in writing by the local planning authority detailing measures that will be implemented to ensure that any noise associated with the Market, auction and leisure uses aspect of the development does not cause detriment to amenity or a nuisance, especially to those living and working in the vicinity. This scheme shall then be implemented as approved and maintained as such unless otherwise agreed in writing by the LPA

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy

36) Prior to installation of any external plant associated with the permitted commercial units, a noise impact assessment shall be conducted in accordance with BS4142:2014 and submitted to the local planning authority for approval. This assessment shall include, where necessary, details of any mitigation measures required to be installed. Once approved the plant shall be installed in accordance with the submitted noise impact assessment and maintained in accordance with manufacturer's guidance.

Reason: In order to protect residential amenity