

PTE/17/26

Development Management Committee
7 June 2017

County Council Development

South Hams District: Flood alleviation scheme to provide two bunds with associated works to control the flow of water (Area 1) on land between Back Street, Barrack Road, Champernowne and Brownston Street, Modbury

Applicant: Devon County Council

Application No: 1099/17/DCC

Date application received by Devon County Council: 20 March 2017

Report of the Head of Planning, Transportation and Environment

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that planning permission is granted subject to the conditions set out in Appendix II of this Report (with any subsequent changes to the conditions being agreed in consultation with the Chairman and Local Member).

1. Summary

- 1.1 This report relates to a planning application for the formation of two earth bunds for flood defence purposes on land to the east of the town of Modbury (Area 1). This application is part of a wider scheme of flood alleviation works taking place within the town, including the works taking place at Area 2, subject of Report PTE/17/27 which is a separate item of this Agenda.
- 1.2 It is considered that the main material planning considerations in the determination of this application are an examination against of proposal against relevant planning policy; impact upon trees; the impacts of the development on the amenity of local residents during construction; the visual impacts on the local landscape; impacts upon the historic environment; and impacts on nature conservation interests.

2. The Proposal/Background

- 2.1 The town of Modbury has experienced various flood events in recent years, most recently in 2012, when 27 properties (15 commercial and 12 residential) flooded. These past events have been subject to studies by Devon County Council to understand the hydrology; the current flood mechanisms in the Modbury catchment; and to recommend next steps to improve flood defences in the town. This application is a result of these recommendations and consists of the formation of two earth bunds to divert and retain surface water run-off in times of heavy rainfall.
- 2.2 The application site comprises an area of land between Barrack Road, Back Street, Brownston Street and Champernowne, located within the town of Modbury, approximately 150m north of the town centre. The site is within a valley, with the land rising towards Brownston Street and Barrack Road. There is a watercourse on the eastern boundary of the site. The site is currently used as a horse grazing paddock.

- 2.3 The proposal consists of two bunds. The upper, northern bund is approximately 80m in length and 21m wide at its widest point. From the lowest point in the valley, the bund will have a height of 3.1m. The lower, southern bund would be approximately 60m in length, 15m at its widest point and a maximum height of 2.5m above existing ground level. The bunds would reduce in height both width and length ways to merge with existing ground levels at the margins. Approximately 1,400m³ of low-permeability material will be required to be imported and construct the bunds.
- 2.4 The existing watercourse and, therefore, any flows of surface water will be diverted into the upper bund, where a device will control the flow along a stream channel into the lower bund. Another flow control device will then release water into the culvert inlet of the existing watercourse, only when capacity is available. The works are designed to hold flood volumes up to the 1 in 75 (1.33% Annual Exceedance Probability (AEP)) design event. Currently, the onset of flooding for several properties is between 1 in 5 (20% AEP) and 1 in 10 (10% AEP) flood events. The temporary attenuation areas would hold water, in the event of a flood, for up to 12 hours, with a proposed storage capacity of 1,280m³ and 790m³, for the upper and lower bund respectively. The bund has been appropriately designed to ensure any exceedance in flows will not cause any damage. Devon County Council as Local Lead Flood Authority would monitor and maintain the bunds and flows control structures.
- 2.5 In order to provide access for construction traffic, a temporary haul road will be constructed to the west of the development area, linking the site with Barrack Road. The haul road crosses the primary school field, which is currently used as a wild meadow area and a newly established orchard. It is proposed that the haul road is reinstated to its existing status, including any vegetation that would be removed.
- 2.6 Once complete, the bunds, and surrounding areas, likely to be affected during construction would be seeded with a mix of wet land meadow grassland, wildflower, rough grass and amenity grass. A hedgerow mix will be planted on the southern bund with a total number of 16 trees planted across the site.
- 2.7 In addition to the works proposed in the planning applications, a number of other works are to take place within, and outside of the town, including the creation of drainage ditches, improvement works to existing drains, increasing drainage capacity within the town and individual property protection. These works will be undertaken using permitted development. With this scheme in place, and these additional works, the flooding onset to these properties would be reduced to the 1 in 100 (1% AEP) flood event, offering protection to 46 residential properties and 32 commercial properties.

3. Consultation Responses

- 3.1 South Hams District Council – Awaiting response (consulted 27 March 2017).
- 3.2 Modbury Parish Council – Supports the application.
- 3.3 Natural England – No objection in relation to statutory nature conservation sites.
- 3.4 South Devon AONB Partnership – No objection given the very limited to no inter-visibility with the protected landscape and the balance of benefits derived from flood attenuation, flow reduction, new planting and stream side vegetation.
- 3.5 South West Water – No objection.

- 3.6 Wales and West Utilities – Advise that the promoter of the works to contact Wales and West Utilities as they have pipes in the area.

4. Advertisement/Representations

- 4.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. As a result of these procedures no representations have been received.
- 4.2 Copies of consultation responses are available to view on the Council website under the references DCC/3973/2017 or by clicking on the following link:
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3973/2017>

5. Planning Policy Considerations

- 5.1 In considering this application the County Council, as County Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan policies are summarised in Appendix I to this report and the most relevant are referred to in more detail in Section 6 below.

6. Comments/Issues

- 6.1 It is considered that the main material planning considerations in the determination of the proposed development are an examination against of proposal against relevant planning policy; impact upon trees; the impacts of the development on the amenity of local residents during construction; the visual impacts on the local landscape; impacts upon the historic environment; and impacts on nature conservation interest.

Planning Policy Considerations

- 6.2 The proposal seeks to improve Modbury's flood resilience by controlling the flow of water into the culverts that flow through the town centre. In general, flood defence works are supported by both national and local planning policy. Paragraphs 93 and 94 of the National Planning Policy Framework state that planning plays a key role in minimising vulnerability and providing resilience to the impacts of climate change, adding that planning authorities should adopt proactive strategies to mitigate and adapt to climate change. This is supported by Policies CS11 (Climate Change) and DP4 (Sustainable Construction) of the South Hams Local Development Framework which acknowledge the need to plan for climate change and the need to manage its effects.
- 6.3 Policy MP5 (The Environment in Modbury) of the South Hams Local Plan identifies the application area as somewhere the council will promote environmental improvements and that it should be maintained as an open space. Whilst there will be some impacts during construction it is considered the nature of the proposed development would not impact on the open character of the area. In particular no vegetation is proposed for removal; any construction impacts will be temporary; and, on establishment, the vegetation will allow the bunds to appear as part of the green space. In addition, Paragraph 17 of the NPPF highlights that open land can perform

many functions, including flood risk mitigation. The application will provide for additional planting and to diversify the current habitat provision on site, which is considered to meet the requirements of environmental enhancement required by Policy MP5. The proposed development is therefore considered to be acceptable in principle, subject to meeting all other relevant planning considerations.

Landscaping and trees

- 6.4 The application site is surrounded by mature trees, which contribute to its landscape character. The proposal looks to retain the majority of these trees, however, in order to provide construction access, one hazel tree, part of a lapsed coppice of hazel and a newly planted orchard are required to be removed. The Arboricultural Report classes these as Category C trees and considers their removal to be a low and acceptable impact. Minor crown lifting will also be required for a Category B oak tree and a group of Category B sycamore and ash trees. A methodology is recommended, and this should be conditioned. Any crown lifting is not considered to unacceptably affect the trees.
- 6.5 While not removing any other trees, the development has the potential to impact the root systems of other trees, particularly during construction. The proposed haul road will cross the root protection zone of two significant oak trees (Category B and C), it is considered the routing and form of the haul road can be altered to protect the oak trees and details of a revised haul road, including any ground protection and tree protection fencing for the whole site, will be required by condition. The lower bund may affect the root environment of a mature Category B Ash tree, which could lead to its decline, however, it is considered sufficient replacement planting is proposed.
- 6.6 In order to strengthen and replicate the landscape character and replace the lost trees, the proposal includes the planting of 17 trees, the reinstatement of the hedgebank and the inclusion of a native hedgerow mix on the lower bund. This is supported and in order for this vegetation to successfully establish, a condition requiring a Landscape and Ecology Management Plan (LEMP) is recommended.
- 6.7 The Arboricultural Report highlights that the prevailing soil conditions evidently provide a good medium for tree growth. The management and handling of soil is considered important to allow for vegetation to successfully re-establish on completion, therefore, details of the soil management will be included in the LEMP condition.

Visual impact

- 6.8 The bunds are within a small, contained valley, edged by private gardens, housing and school playing fields, which have partial views into the site. The proposal includes tree planting, retains the existing well-established screening and ensures the earth bunds are receded into the ground and varied in height to help reduce their massing and visibility, minimising any visual impact.
- 6.9 There will be some temporary unavoidable impacts on the local landscape character and visual amenity during construction. The haul road and storage area will be visible from the school, public highway and several houses. This will require the relocation of a newly established orchard on the school site, which will be replaced after construction. However, any visual impact from construction will be temporary and the land reinstated upon completion. To ensure that the reinstatement of the vegetation and haul road is appropriate and successfully establishes, a condition is recommended requiring further detail.

- 6.10 The site is approximately 200m north of the South Devon Area of Outstanding Natural Beauty. The application site is well screened from the AONB due to the existing vegetation and it is considered the introduction of earth bunds can be accommodated without changing the nature of the views enjoyed.
- 6.11 With the proposed mitigation in place, and given that any impacts from construction will be temporary, it is considered the proposal can be accommodated within the landscape whilst conserving and enhancing its quality, diversity and local distinctiveness in accordance with Policy DP1 (Landscape Character) of the South Hams Development Policies Development Plan Document 2010.

Ecological impacts

- 6.12 The proposal would result in the loss of improved grassland pasture, trees (including crown lifting), scrub and an area of swamp near the existing stream. The habitats on the site have been identified as suitable for foraging, commuting and roosting bats; breeding birds; dormice; commuting and foraging badgers; reptiles; and a movement corridor for otters during higher water levels. No evidence of dormice were found during survey work.
- 6.13 The application proposes mitigation measures which include the fixing of bat boxes to create a variety of roosting opportunities; bird boxes; reptile hibernacula; steps to be undertaken prior to and during construction for badgers and reptiles; and tree and hedgerow planting consisting of native species. The scheme will also result in the diversification of habitat by creating areas of standing water, but will also look to reinstate the land to meadow and pasture grassland. The establishment and management of the proposed and retained habitats would be secured under a Landscape and Ecology Management Plan which will be required by condition. If the measures are implemented, it is anticipated that there will be no residual impacts as a result of the scheme. With the recommended condition, it is considered the proposal is in accordance with Policy D5 (Biodiversity and Geological Conservation) of the South Hams Development Policies Development Plan Document 2010.

Construction impacts on neighbouring properties

- 6.14 The importation of material and the construction of the bunds may cause disturbance for the surrounding properties and uses. Approximately 1,400m³ of material is required to be imported during construction, which equates to approximately 140-180 lorry loads, depending on the size of vehicle used. It is anticipated that the importation of construction material will take place over a period of 3-6 weeks, which will equate to around 12 deliveries a day. Any disturbance caused from construction will be temporary; overall construction is anticipated to take place over 6 months.
- 6.15 In order to control any potential impacts during construction, it is recommended that a Construction Management Scheme is required by condition which outlines the hours of working and deliveries, dust and mud mitigation measures.

Historic Environment

- 6.16 The application site is partly within and adjoins Modbury Conservation Area. The conservation area extends to the south of the lower bund and bounds the eastern boundary of the application site. The Conservation Area Appraisal highlights a key view towards the site from Back Street as an undeveloped space characterising an important aspect of Modbury's historic development pattern and its relationship with

its landscape setting, the trees are noted as a feature of special interest. The scheme looks to retain all existing vegetation, and includes proposals for additional planting, on the southern and eastern boundary, preserving the setting of the conservation area.

- 6.17 The site has the potential to impact on below ground archaeological evidence and, therefore, a condition is recommended requiring a programme of works to be submitted and approved by the County Planning Authority.
- 6.18 The works would help to protect and preserve designated heritage assets that are currently at risk of flooding, this includes a number of listed buildings and other buildings within the conservation area. Overall, it is considered the scheme is in accordance with Policy DP6 (Historic Environment) of the South Hams Development Policies Development Plan Document 2010.

7. Reasons for Recommendation/Alternatives Options Considered

- 7.1 The Committee has the option of approving, deferring or refusing this planning application.
- 7.2 The proposal will significantly improve the town's flood resilience for which there is a clear, demonstrable need. The construction of the works will result in disturbance to neighbouring properties and the local landscape character. However, it is considered any impacts will be temporary and/or appropriately mitigated with the recommended conditions. On balance, it is considered that the benefits of the flood defence works outweigh these impacts.
- 7.3 Taking all material considerations into account, it is considered that planning permission be granted in accordance with the recommendation of this report.

Dave Black
Head of Planning, Transportation and Environment

Electoral Division: South Brent & Yealmpton

Local Government Act 1972: List of Background Papers

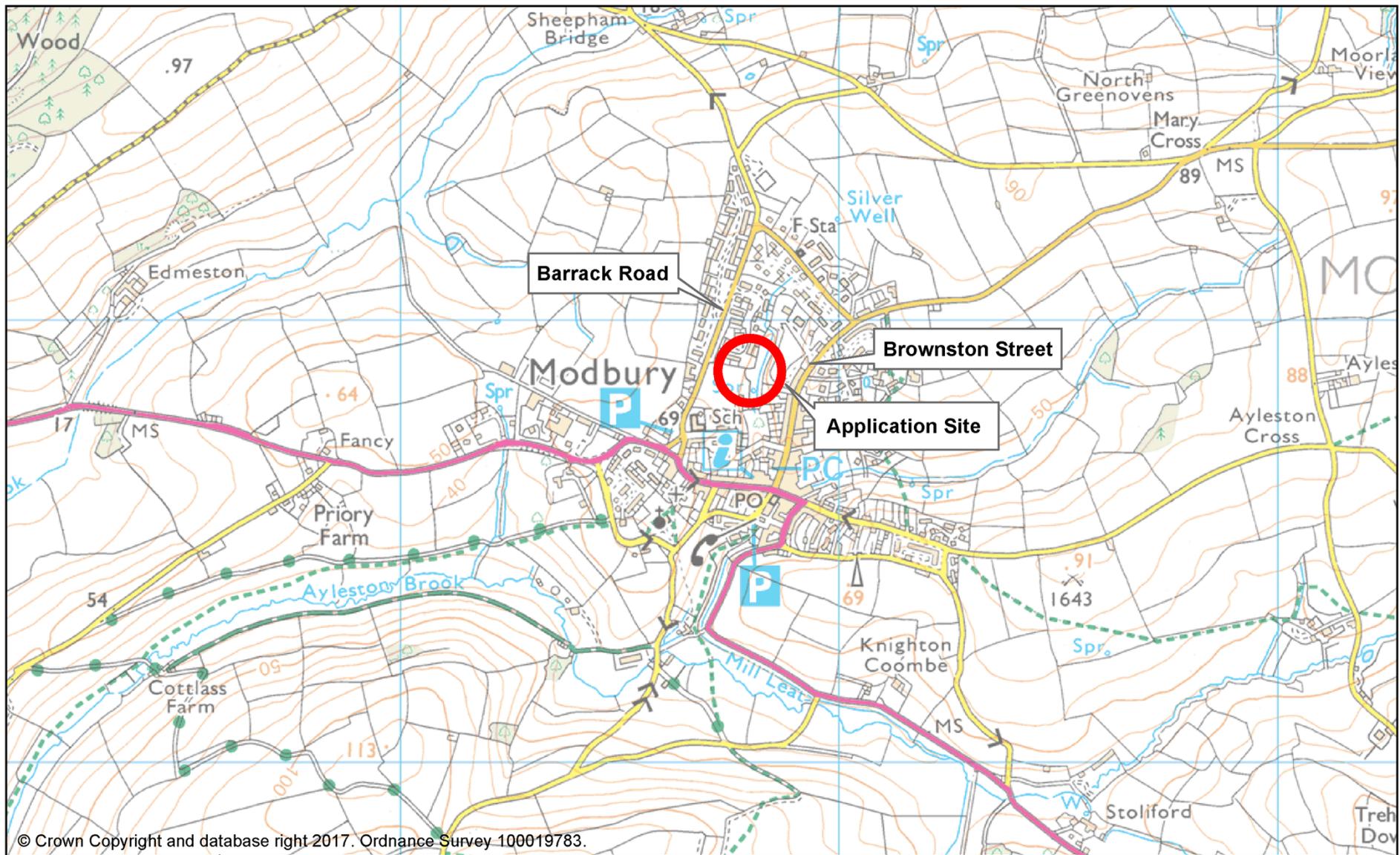
Contact for enquiries: Emily Harper

Room No: AB2, Lucombe House, County Hall

Tel No: 01392 383000

Background Paper	Date	File Ref.
Casework File	Current	1099/17/DCC

eh190517dma
sc/cr/flood alleviation scheme area 1 modbury
04 260517



	Head of Planning, Transportation and Environment	Development Management Committee	<i>date</i> June 2017	<i>scale</i> 1:11,000
		County Council Development	Application No: 1099/17/DCC	
South Hams District: Flood alleviation scheme to provide two bunds with associated works to control the flow of water (Area 1)				

Do not scale from this drawing in either hard or electronic format. No responsibility is accepted where this drawing is used in circumstances other than that for which it was originally prepared and issued.

KEY TO EXISTING FEATURES

	Extent of watercourse (taken as bottom of bank from topographical survey)
	Flood Zone 3 (no flood zone 3 within red line boundary)
	Tree / vegetation
	Downstream connecting pipework
	Land under ownership of Devon County Council

KEY TO PROPOSED FEATURES

	Planning red line boundary
	Development requiring planning permission
	Earthworks bund
	Watercourse diversion
	Access route to/from site
	Temporary haul road on land owned by Devon County Council
	Max WL Maximum water level
	Works being carried out at the same time under Permitted Development (these works do not form part of this Planning Application)

Rev.	Date	Drawn	Revisions	CHK
P0	20/09/16	DC	Issue for EIA Screening Opinion	JS
P1	30/09/16	DC	Minor revisions to bunds	JS
P2	16/12/16	DC	Minor revisions to bunds	JS
P3	14/03/17	DC	Issued for planning application	JS



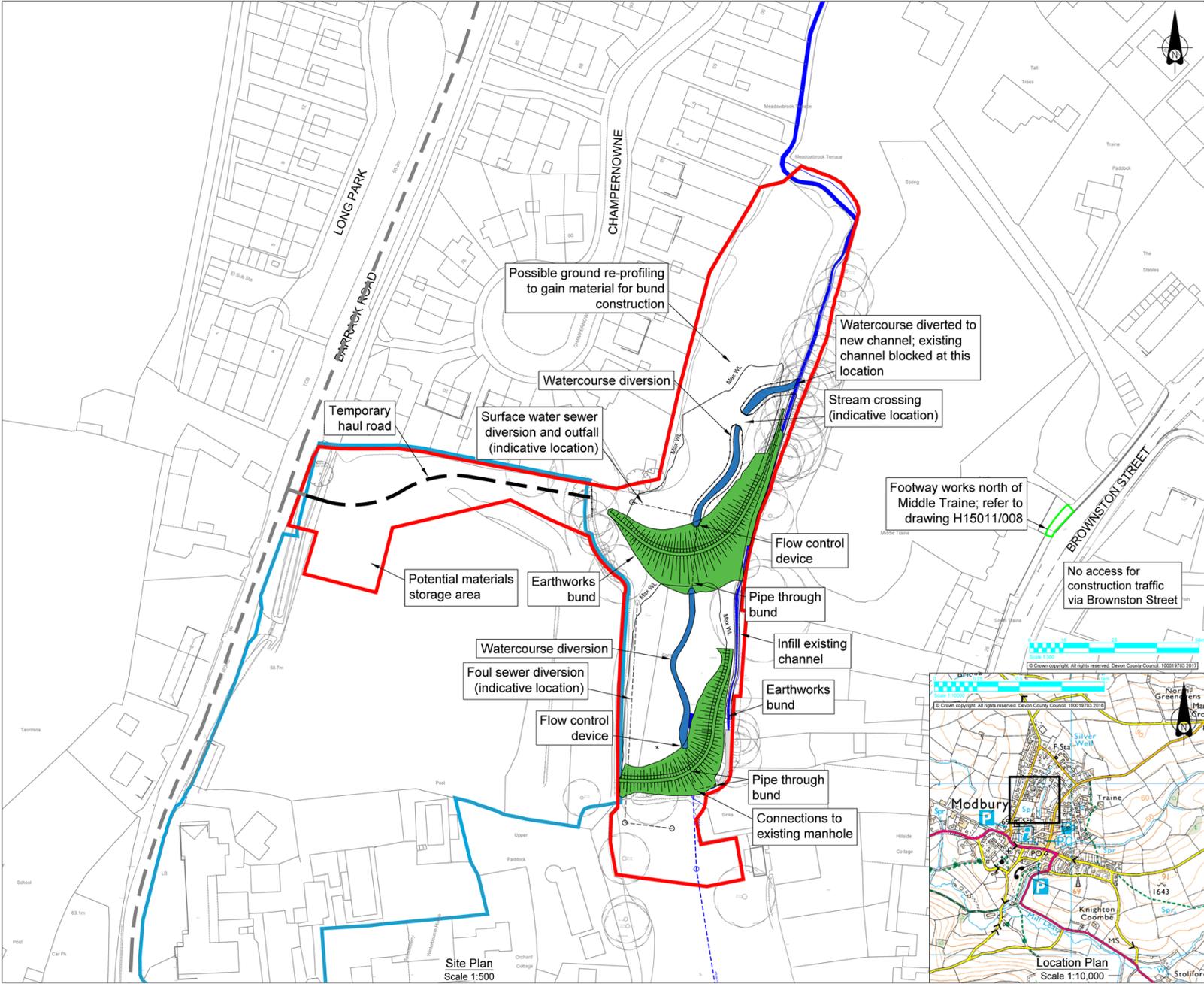
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MODBURY FLOOD RISK MANAGEMENT

PLANNING APPLICATION AREA 1 (BACK STREET) LOCATION AND SITE PLAN

Drawing number	H15011/035	Rev	P3
Scale	As shown	Size	A1



Possible ground re-profiling to gain material for bund construction

Watercourse diverted to new channel; existing channel blocked at this location

Stream crossing (indicative location)

Footway works north of Middle Traine; refer to drawing H15011/008

No access for construction traffic via Brownston Street

Temporary haul road

Surface water sewer diversion and outfall (indicative location)

Potential materials storage area

Earthworks bund

Flow control device

Pipe through bund

Infill existing channel

Earthworks bund

Watercourse diversion

Foul sewer diversion (indicative location)

Flow control device

Pipe through bund

Connections to existing manhole

Planning Policy Considerations

South Hams Core Strategy (Adopted July 2006)

Policies CS1: Location of Development; CS8: Infrastructure Provision; CS9: Landscape and Historic Environment; CS10: Nature Conservation; and CS11: Climate Change.

South Hams Development Policies Development Plan Document (Adopted July 2010)

Policies DP2: Landscape Character; DP3: Residential Amenity; DP4: Sustainable Construction; DP5: Biodiversity and Geological Conservation; DP6: Historic Environment; and DP7: Transport, Access and Parking.

South Hams Local Plan (Adopted April 1996)

Policy MP5: The Environment in Modbury.

**National Planning Policy Framework
Planning Practice Guidance**

Planning Conditions

STANDARD COMMENCEMENT

1. The development shall commence within three years of the date of this permission.

REASON: In accordance with Section 91 of the Town and Country Planning Act 1990.

STRICT ACCORDANCE WITH PLANS

2. The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered and documents entitled H15011/035 Rev P3; H15011/039 Rev P0; H15011/040 Rev P0; H15011/044 Rev P0; FRM/01 Rev A; 'Planning Supporting Statement incorporating a Design & Access Statement' (B2300388/D01 dated February 2017); 'Modbury Wildlife Report' (B2300388/ECOLOGY/003 dated January 2017; 'Arboricultural Method Statement' (jwmp/rpt4/modburyfloodrisk/AMS dated 30th January 2017); and 'Flood Risk Assessment' B2300388 D01/1 dated March 2017), except as varied by the conditions below.

REASON: To ensure that the development is carried out in accordance with the approved details.

CONDITIONS (PRE-COMMENCEMENT)

CONSTRUCTION MANAGEMENT

3. No development shall take place until a Construction Management Scheme has been submitted to and approved in writing by the County Planning Authority. The statement shall provide details of:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) hours during which delivery and construction traffic will travel to and from the site in order to minimise potential impacts on pedestrians and other road users.
 - (d) the number and sizes of vehicles (including construction traffic exceeding 7.5 tonnes) visiting the site in connection with the development, the frequency of their visits and the routing of vehicles to and from the site;
 - (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (f) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (g) the means of enclosure of the site during construction works; and
 - (h) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;

- (i) details of wheel washing facilities and obligations;
- (j) Details of the amount and location of construction worker parking.
- (k) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (l) Routing of the temporary haul road and details of the proposed levels for the haul road; and
- (m) dust control.

The development shall be implemented in accordance with the approved scheme.

REASON: To ensure adequate access and associated facilities are available for the construction traffic and to minimise the impact of construction on nearby residents in accordance with Policy DP3: Residential Amenity of the South Hams Development Policies DPD (2010).

LANDSCAPING/TREES

4. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the County Planning Authority. The LEMP shall be consistent with the Modbury Wildlife Report (ref B2300388/ECOLOGY/003 dated January 2017), the drawing entitled Landscape Design (numbered FRM/01 Rev A dated 20/01/2017) and the Arboricultural Method Statement (ref jwmb/rpt4/modburyfloodrisk/AMS dated 30 January 2017) and shall also include:
 - (a) the methods of protection of trees and hedgerows identified as remaining within the site, including a detailed plan identifying the locations of the protective fencing to BS5837:2012 to be erected and any ground protection required;
 - (b) details of the method of the translocation of the orchard trees, subsequent management and replanting in the event of any tree dying;
 - (c) reinstatement details of the temporary haul road and hedgebank, including methodologies, ground levels and planting;
 - (d) management of the invasive species identified in the Modbury Wildlife Report (ref B2300388/ECOLOGY/003 dated January 2017);
 - (e) details of any ecological mitigation recommended within the Modbury Wildlife Report (ref B2300388/ECOLOGY/003 dated January 2017), including locations/types of bird/bat boxes and any steps required to be taken prior to construction;
 - (f) details of soil management and handling to maintain the soils quality for ; and
 - (g) full details of the management and monitoring of all new planting and proposed and retained habitats for a minimum of 5 years.

The development shall be implemented in accordance with the approved LEMP. All planting and landscaping shall be implemented in the first planting and seeding season after completion of development. Planting and landscaping shall be maintained for a minimum of 5 years following completion of development.

REASON: To ensure that protected species local landscape are conserved and enhanced in accordance with Policy DP2: Landscape Character and Policy DP5: Biodiversity and Geological Conservation of the South Hams Development Policies DPD (2010), and Policy CS9: Landscape and Historic Environment and Policy CS10: Nature Conservation of the South Hams Core Strategy (2006).

ARCHAEOLOGY/HISTORIC BUILDINGS

5. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the County Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the County Planning Authority.

REASON: To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with Policy DP6: Historic Environment of the South Hams Development Policies DPD (2010) and Policy CS9: Landscape and Historic Environment of the South Hams Core Strategy (2006).

DRAINAGE

6. 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.

Development shall be carried out in accordance with the details approved.

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 in accordance with Policy DP4: Sustainable Construction of the South Hams Development Policies DPD (2010).

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

CONDITIONS (DURING CONSTRUCTION)

ECOLOGY

7. No vegetation clearance shall take place during the bird nesting season (1 March to 31 August inclusive) unless the developer has been advised by a suitably qualified ecologist that clearance will not disturb nesting birds and a record of this is kept. Such checks shall be carried out in the 14 days prior to clearance works commencing.

REASON: To minimise impacts on nesting wild birds and ensure that no birds take up residence in the intervening period in accordance with paragraph 109 of the NPPF and the wildlife and Countryside Act 1981 (as amended).

INFORMATIVE NOTE

Statement of compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement of the NPPF, as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015.