

PTE/17/27

Development Management Committee  
7 June 2017

**County Council Development**

**South Hams District: Flood alleviation scheme to provide a bund with associated works to control the flow of water (Area 2) on land east of Burns Lane and Ayleston Park, Modbury**

**Applicant: Devon County Council**

**Application No: 1098/17/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 subject to the Environment Agency being satisfied with the revised flood risk assessment planning permission be granted in accordance with 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 an earth bund for flood defence purposes on land to the east of the town of Modbury (Area 2). This application is part of a wider scheme of flood alleviation works taking place within the town, including the works taking place at Area 1, subject of Report PTE/17/26 which is a separate item of this Agenda.

1.2 It is considered the main material considerations in the determination of this application are an examination against of proposal against relevant planning policy; the impacts on the developments on the amenity of local residents during construction; the visual impacts on the local landscape; impacts upon trees; 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 an earth bund to retain surface water run-off in times of heavy rainfall.

2.2 The application site is on land to the east of the settlement boundary of Modbury, between Galpin Street, Burns Lane and Ayleston Park, approximately 250m to the east of the town centre. It is currently agricultural land and a public right of way runs to the west of the proposed area. The application site is located within a valley, with a stream flowing through the centre. The land rises towards Galpin Street and to the north of the application site.

- 2.3 The proposal consists of a single bund that has a maximum width across the valley of approximately 58m and a maximum length along the valley of 41m. The bund will have a maximum height of 5m from the stream bed level. Approximately 3,100m<sup>3</sup> of material will be required to be imported to construct the bund. In order to accommodate the bund some vegetation will be removed, including 5 trees. The proposal does, however, include the planting of hedgerow trees, a length of new hedgerow and a native woodland area. This application also proposes some ground re-profiling works with an area of 700m<sup>2</sup> immediately to the west of the bund which is intended this will provide the topsoil to be used on the bund.
- 2.4 A flow control device will be located within the bund, controlling the forward flow of water. The bund will hold water which will be allowed to pass when downstream capacity is available. The bund is designed to hold flood volumes up to the 1% Annual Exceedance Probability (AEP) design event. At present, the existing onset of flooding for several properties, for which this scheme offers protection, is between the 20% AEP and 10% AEP flood events. The temporary attenuation area would hold water, in the event of a flood, for up to 12 hours, with a proposed storage capacity of 9,920m<sup>3</sup>.
- 2.5 Access to the development site is proposed via a turning area at the bottom of Ayleston Park, a cul-de-sac residential estate road. From the turning area a temporary haul road would be constructed, first running between a gap between two residential properties then running east through an agricultural field before swinging down into the valley and the site boundary.
- The haul road will cut across an existing public right of way, which will be temporarily diverted and the ground reinstated upon completion. Temporary security and/or stock-proof fencing will be erected around the haul road.
- 2.6 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, offering protection to 46 residential properties and 32 commercial properties.

### **3. Consultation Responses**

- 3.1 South Hams District Council – No objection.
- 3.2 Modbury Parish Council – Supports the application.
- 3.3 Natural England - No objection in relation to statutory nature conservation sites.
- 3.4 Environment Agency – No in principle objection and fully support the scheme on the basis that it will provide significant betterment to flood risk. Nevertheless, request a revised flood risk assessment providing further information on how the relevant standard of protection for each area has been derived; consideration of a scenario where the flow control device becomes blocked; and the future maintenance for the scheme.
- 3.5 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.

- 3.6 South West Water – No objection.
- 3.7 Wales and West Utilities – Advise that they are contacted to ensure safe working practices are adopted when working close to power lines.

#### **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 3 representations have been received.
- 4.2 Two of the representations do not object to the scheme, but raise concerns relating to the proposed construction traffic using Ayleston Park:
- The application is misleading to say the 96% of those surveyed supported the scheme, as objections were raised regarding the proposed access route;
  - The route will cause disruption to 16 residential properties;
  - Damage will be caused to the roadway, pavement and drainage systems, which will not be repaired;
  - Mud and stone will be deposited on the road;
  - Safety concerns as school children, residents and mobility scooters use the pavement and the road has a steep gradient and a blind access from Tuckers Brook;
  - Parking takes place on Ayleston Park and on Brownston Street between Dark Lane and Silverwell Park, rendering the swept path analysis irrelevant;
  - Significant works are required to ensure the haul road is suitable, including excavation, reprofiling, vegetation removal, and the removal of a traditional gatepost;
  - The haul road traverses the boggiest part of the field and the area is vital in soaking up drainage off the field and has a field drain incorporated;
  - Restoration of access area, hedgebank and gateway has not been considered;
  - The Top Field route is considered to have the least negative impact, followed by Old Traine.
- 4.3 The third representation also does not object, but comments on the description of the development in the planning application.
- 4.4 Copies of the representations and consultation responses are available to view on the Council website under reference DCC/3974/2017 or by clicking on the following link: <https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3974/2017>

#### **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; the impacts on the developments on the amenity of local residents during construction; the visual impacts on the local landscape; impacts upon trees; and impacts on nature conservation interests.

### Planning Policy Considerations

- 6.2 The proposal looks 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.

### Construction impacts on neighbouring properties

- 6.3 The importation of material for the construction of the bunds may impact on the properties along the roads used by construction traffic. It is noted that the objections to this scheme are on the basis of construction traffic impacts. Other than the chosen route which uses Ayleston Park, the applicant has considered two alternative haulage routes, one at Old Traine and the other accessing the site at Top Fields. Access to these alternatives would involve haulage vehicles traveling along Dark Lane and then then turning left onto Brownston Street. The visibility at the junction between Dark Lane and Brownston Street looking left is poor and the geometry of the junction is such that large vehicles turning left would need to use the full width of the road leading to potential conflict with on-coming traffic. Similarly on the return journey, vehicles turning left onto Dark Lane from Brownston Street have limited visibility.
- 6.4 Old Traine is an existing poorly constructed narrow track that is a public right of way and provides vehicle access to 5 properties and it is considered that the use of the track for construction traffic would lead to conditions of danger for existing users. There is limited visibility for vehicles at the junction of Old Traine and Brownston Street due to the high banks at each side. The use of this route would also require the removal and realignment of the existing gate posts. The length of haul road that would need to be constructed using this option would be 200 metres.
- 6.5 The route via Top Fields would utilise an existing field gate and cross farm land to the site. However, there is no visibility splay here and turning movements for large vehicles would require the use of the full width of Brownston Street. The use this route would require the removal of the existing road side hedge. From this point the length of haul road that would need to be constructed is 460 metres.
- 6.6 The applicant considers that the Ayleston Park option has the advantage insofar as the visibility at junctions is good; improvements to the highway would not be required; the roads are of sufficient width the accommodate the HGV traffic; and the length of haul road to be constructed would be the least distance at 160 metre.

- 6.7 The scheme requires the importation of material to construct the bund, given the amount of material (3,100m<sup>3</sup>), it is estimated that approximately 300-400 lorry loads would be generated, depending on the size of vehicles used. It is anticipated that the importation of construction material will take place over a period of 3-6 weeks which will equate to 27 vehicles (54 two way movements) per day. In order to minimise any potential impacts and conflict with pedestrians during construction, it is recommended that a Construction Management Scheme is required by condition which outlines the hours of working, delivery times and management of construction traffic.
- 6.8 It is likely that on-street parking would have to be suspended during construction, due to the width of the road (6m) and the size of the vehicles required. Any restrictions would be considered by the Highways Co-ordination team at the County Council.
- 6.9 Concerns have been raised over the deposition of mud on the road during construction. It is considered that details of wheel washing facilities and cleaning the public highway can be provided within a Construction Management Plan to ensure measures are employed.
- 6.10 The application documents submitted state that it would be a requirement of the project that the route would be returned to its current condition, this includes and damage to the road, pavement or drainage infrastructure. This requirement will be included in the Construction Management Scheme.
- 6.11 Whilst it is acknowledged that there will be impacts due to HGV traffic during the construction period it is considered that the Ayleston Park route is the preferred option in terms of road safety and any impacts would be appropriately mitigated by the suggested planning conditions.

#### Visual impact

- 6.12 By necessity the earth bund would be located in a secluded rural valley which is considered to be of high local landscape sensitivity as it is visible from a public right of way. The introduction of this bund will result in a permanent change in the valley topography and result in the removal of mature trees and a historic stone-faced hedgebank adjacent to the stream.
- 6.13 The proposal will mitigate impacts by the careful siting of the bund to have the least harm to mature trees; including a belt of woodland planting around the base of the bund to provide screening for close and mid distant views. Feathering the edges of the bund to integrate with the valley profile and reusing the stone by cladding the downstream head wall and when restoring the bank will integrate the feature into the landscape. This proposed mitigation will be secured by planning condition and it is considered this will reduce any adverse impacts to acceptable levels and look to conserve the quality of the local area, in accordance with Policy DP1 (Landscape Character) of the South Hams Development Policies Development Plan Document 2010.
- 6.14 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.

### Landscaping and impact upon trees

- 6.15 In order to accommodate the proposal, eight mature trees (are required to be removed and two trees require partial removal. However the location of the bund represents the 'least worst' option in terms of unavoidable tree removals when judged against arboricultural criteria i.e. tree condition & quality, useful life expectancy and landscape contribution.
- 6.16 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 an ash tree and there are trees and hedgerows surrounding the ground reprofiling area and the footprint of the bund and haul road. In order to ensure retained trees are protected, details of tree protection measures, including any ground protection and tree protection fencing, will be required by condition.
- 6.17 Replacement planting is proposed. This includes strengthening the existing hedgerow on the eastern boundary of the bund and the creation of a woodland belt at the base of the bund. This is supported and in order for this vegetation to successfully establish, a condition requiring a Landscape and Ecology Management Plan (LEMP) will be required.
- 6.18 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.

### Ecological impacts

- 6.19 The proposal would result in the loss of improved grassland, a group of trees and the cutting back of species-rich hedgerows, by approximately 1m, in order to gain access to the site. The habitats affected and surrounding 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.
- 6.20 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 woodland and hedgerow planting consisting of native species. The establishment and management of the proposed and retained habitats would be secured under the LEMP which will be required by condition. With the implementation of these measures, it is anticipated that there will be no residual impacts as a result of the scheme.

## **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 looks to 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 properties along the construction access route and change the local

landscape character. However, it is considered any impacts will be temporary and/or appropriately mitigated with the recommended conditions and measures already outlined in the application. On balance, it is considered that the benefits of the flood defence works outweigh any adverse 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

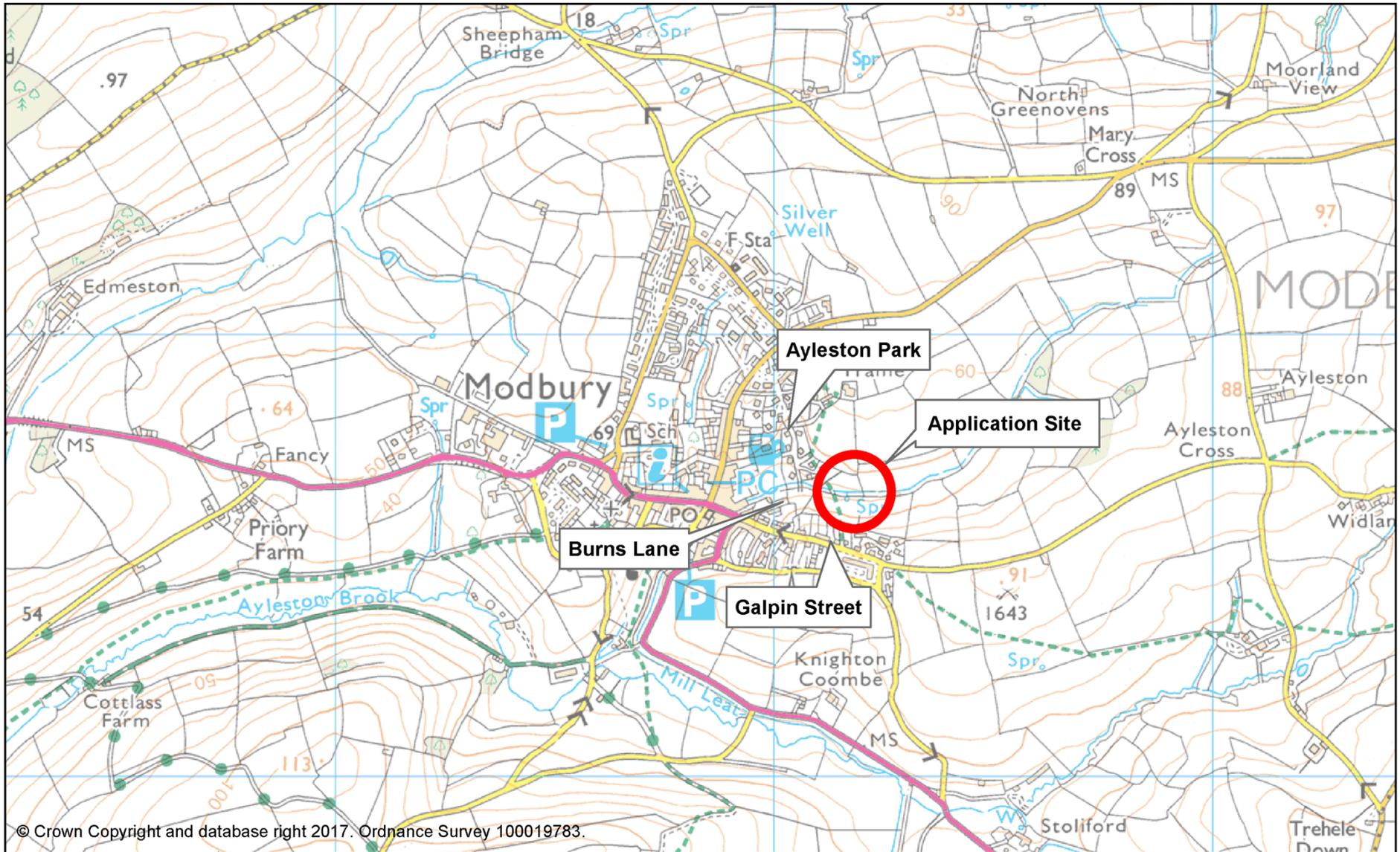
Contact for enquiries: Emily Harper

Room No: AB2, Lucombe House, County Hall

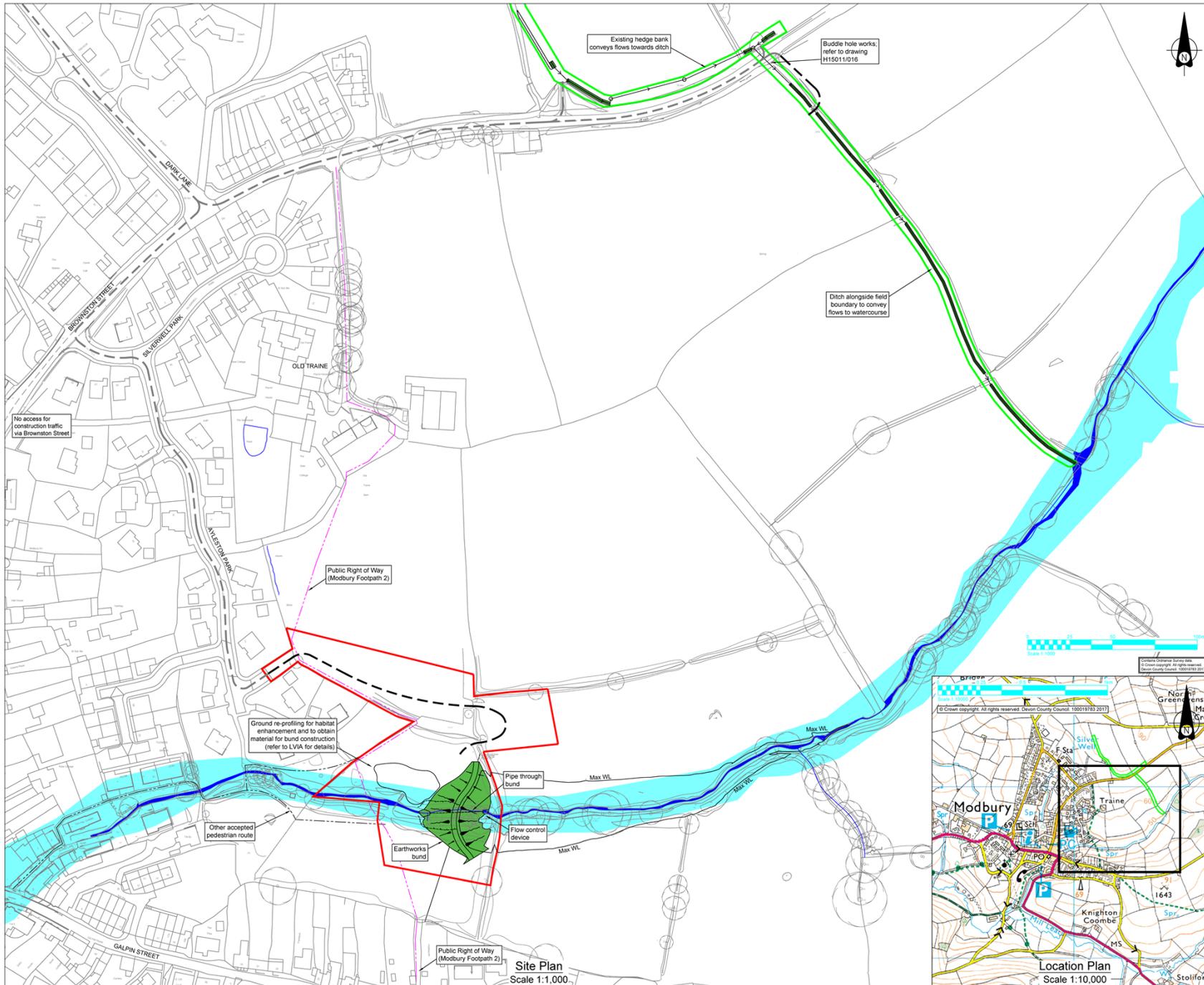
Tel No: 01392 383000

<b>Background Paper</b>	<b>Date</b>	<b>File Ref.</b>
Casework File	Current	1098/17/DCC

eh220517dma  
sc/cr/flood alleviation scheme area 2 modbury  
03 260517



	Head of Planning, Transportation and Environment	Development Management Committee	date June 2017	scale 1:11,000
		County Council Development	Application No: 1098/17/DCC	
South Hams District: Flood alleviation scheme to provide a bund with associated works to control the flow of water (Area 2)				



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 (approximate extent: refer to EA flood map for definitive boundary)
	Public Right Of Way (Modbury Footpath 2)
	Other accepted pedestrian route
	Tree / vegetation

**KEY TO PROPOSED FEATURES**

	Planning red line boundary
	Development requiring planning permission Earthworks bund
	Access route to/from site
	Temporary haul road on private land
	Maximum water level at stated return period (years)
	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	First issue	JS
P1	16/12/16	DC	General revisions	JS
P2	16/01/17	DC	Issued for planning	JS
P3	17/05/17	DC	Ground re-profiling extent and public right of way route revised	JS



**Engineering Design Group**

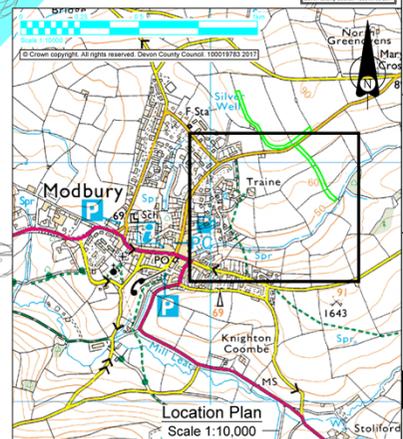
Mattford Offices  
County Hall  
Topsham Road  
Exeter  
EX2 4QD

Tel. 0845 155 1004  
Fax. 01392 382342  
customer@devon.gov.uk  
www.devon.gov.uk

**MODBURY FLOOD RISK MANAGEMENT**

**PLANNING APPLICATION  
AREA 2 (BURNS LANE)  
LOCATION AND SITE PLAN**

drawing number	H15011/036	Rev	P3
SCALE(S)	As shown	SIZE	A1



**Site Plan**  
Scale 1:1,000

**Location Plan**  
Scale 1:10,000

**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; DP7: Transport, Access and Parking; and DP15: Development in the Countryside.

**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 H15011/041 Rev P0; H15011/042 Rev P0; H15011/043 Rev P0; H15011/045 Rev P0; H15011/036 Rev P3; FRM/02 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 30<sup>th</sup> 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/02 dated 20/01/2017) and the Arboricultural Method Statement (ref jwmb/rpt4/modburyfloodrisk/AMS dated 30th 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) reinstatement details of the temporary haul road, the informal footpath and hedgebanks, including methodologies, ground levels and planting;
  - (c) management of the invasive species identified in the Modbury Wildlife Report (ref B2300388/ECOLOGY/003 dated January 2017);
  - (d) 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/reptile hibernacula and any steps required to be taken prior to construction;
  - (e) details of soil management and handling to maintain the soils quality for reinstatement; and
  - (f) 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).

## MATERIALS/DESIGN

5. No development shall take place until construction details of the culvert headwall and the spillway have been submitted to and approved in writing by the County Planning Authority.

REASON: To ensure the local landscape is conserved and enhanced in accordance with Policy DP2: Landscape Character of the South Hams Development Policies DPD (2010).

## ARCHAEOLOGY/HISTORIC BUILDINGS

6. 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

7. 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

8. 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.