

CET/24/33
Development Management Committee
24 April 2024

County Council Development: Mid Devon District: Change of use of land from private garden to educational use in association with Bolham Primary School, Bolham, Tiverton
Applicant: Devon County Council
Application No: DCC/4371/2023 (23/01855/DCC)
Date application received by Devon County Council:
30 November 2023

Report of the Deputy Director - Planning

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

1) Recommendation

It is recommended that planning permission is granted subject to the conditions in Appendix 1 of this report and any additional conditions that may be requested by the Environment Agency prior to the meeting (with any subsequent minor material changes being agreed in consultation with the Chair and Local Member).

2) Summary

- 2.1 This report relates to a planning application to change the use of land from private garden to educational use, to be used as part of Bolham Primary School.
- 2.2 It is considered that the main material considerations in the determination of the proposed development are planning policy considerations, the principle and need for the development, character and appearance of the area, impact on residential amenity, ecology and flood risk.
- 2.3 The planning application, representations received and consultation responses are available to view on the Council website under reference DCC/4371/2023 or by clicking on the following link:
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4371/2023>.

3) The Proposal/Background

- 3.1 The application site is located to the east of Bolham Primary School adjacent to residential properties on Bolham Lane, which are to the north of the site. The proposal is for the change of use of the land from private garden to use for outdoor teaching and forest school activities, to support the curriculum at Bolham Community Primary School. It is understood that the land is proposed to be used during school hours under the supervision of a teacher, and not for general play activities.

- 3.2 The site is a grassed area, with some small trees, and there are no structures or equipment on the land. It is understood that the proposal does not include the alteration or removal of any vegetation or trees that are currently on site. The proposal does not include the provision of any structures, equipment, canopies, or other features.
- 3.3 The northern boundary of the site adjoins residential properties. At present, the eastern end of this boundary is formed by hedge bushes and trees. There is no physical separation between the residential property on the western end of this boundary, with the boundary being marked by temporary fenceposts, but the proposal includes provision of fencing and/or planting in this area. The eastern boundary of the site is demarcated by vegetation and shrubbery.
- 3.4 The southern and western boundary of the application site is bounded by 1.8m high chain link fencing, with a 4m wide gate located on the southern boundary. Access to the site is proposed to be from the public playing field, located to the south of the site, through the existing gate.

4) Consultation Responses

- 4.1 Mid Devon District Council (Planning): No objection. Noted that the school is within Bolham Conservation Area, adjacent to a historic environment record and partially within flood zones 2 and 3. MDDC consider that the proposed use of the land will be seen in context with the school and recreational ground. They do not consider there to be a significant increase in noise above that of the existing. MDDC consider there would be no detrimental impact on the landscape or residential amenity.

MDDC advised that any engineering landscaping works or the provision of permanent buildings would require planning permission and should reflect its location within the Conservation Area.

- 4.2 Mid Devon Environmental Health Officer: No response received.
- 4.3 Tiverton Town Council: The proposal is not in line with Policy DM1 of the Mid Devon Local Plan and consider there to be impacts on wildlife, neighbours and trees. The Town Council request a condition to be attached to any consent to ensure no buildings occupy the land in the future.
- 4.4 Environment Agency: No comments received.

5) Advertisement/Representations

- 5.1 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 seven responses have been received which all raise objections to the proposal, with the main points being:

- increased noise impacts and disturbance from the proposed use;
- impacts to residential amenity due to the proximity to neighbouring residential boundaries;

- concerns regarding visual intrusion and overlooking into residents' gardens;
- impacts on trees and wildlife within and adjacent to the site, including the watercourse and woodland adjacent;
- concerns regarding the provision of equipment, canopies and other features as part of the proposal, and in future;
- concerns that the land will be developed to form a building in the future under permitted development rights;
- queries over whether the site will be used by other schools;
- access onto the plot can only be accessed via Village Trust Land and the change of use will limit use of fields for village activities further;
- concerns regarding the impact on residents ability to work; and
- a number of errors are highlighted and a lack of information is cited.

5.2 Following the receipt of an amended location plan, planning design and access statement and flood risk assessment to address the concerns raised in the initial consultation, consultees and local residents have been re-notified, with the deadline for responses being 16 April 2024. Any further comments received in response to this notification will be reported at the meeting.

6) Planning Policy Considerations

6.1 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 below and the most relevant are referred to in more detail in Section 7.

6.2 Mid Devon Local Plan (adopted July 2020)

Policies DM1 (High Quality Design); DM4 (Pollution); DM23 (Community facilities); S1 (Sustainable development priorities); S8 (Infrastructure); S9 (Environment) and S14 (Countryside)

6.3 Tiverton Neighbourhood Plan 2020-2033 (Made August 2022)

Policies T1 (Location and scale of development) and T9 (Green and blue infrastructure and delivering biodiversity net gain)

Other material planning considerations include:

- National Planning Policy Framework;
- Planning Practice Guidance

7) Comments/Issues

7.1 It is considered that the main material planning considerations in the determination of the proposed development are planning policy considerations, the principle and need for the development, character and appearance of the area, impact on residential amenity, ecology and flood risk.

Need and Principle of Development

- 7.2 Paragraph 99 of the National Planning Policy Framework gives great weight to the need to create, expand or alter schools.
- 7.3 Currently, the school has limited access to green space and, whilst they have use of the recreational land to the south of the application site, this is leased from the Recreation Trust. The school is relatively small scale, and access to learning facilities within the site is limited. This application proposal would allow for additional land within the school's boundary to be used for educational purposes and provide an opportunity for the pupils to learn about the natural environment and wildlife. It is considered that the proposed use would enhance the educational facilities and promote healthy communities, which is supported by Policies S1 (Sustainable Development Priorities) and S14 (Countryside) of the Mid Devon Local Plan.
- 7.4 This application site lies outside of the Tiverton settlement boundary and is within the countryside, where development is controlled through Policy S14 (Countryside) of the Mid Devon Local Plan, which requires development to meet local need when permitting educational facilities within the countryside. Given this application proposes to provide enhanced facilities for educational use at the school, it is considered that the principle of this application is in accordance with Policy S14 together with Policy T1 (Location and Scale of Development) of the Tiverton Neighbourhood Plan.
- 7.5 The application site is on land adjacent to the primary school, with proposed access through the existing gate where easy access for the school can be provided. Policy DM23 (Community Facilities) of the Mid Devon Local Plan seeks to ensure new community facilities are permitted where they are easily accessible by the local community. Given the site's proximity to Bolham Primary School and the existing gate, it is considered that easy access can be provided as part of this application. Therefore, the principle of this application is in accordance with Policy DM23.
- 7.6 It is therefore considered that the principle and need of this application are demonstrated and in accordance with the national and local planning policies.

Character and Appearance of the Area

- 7.7 The application site is located within the Bolham Conservation Area, but the proposal does not include the provision of any buildings, equipment, canopies or other structures, or the removal of any vegetation or trees from the site. It is proposed that additional planting in the form of screening will be provided on the boundary with the property at Little Hendon, located on the northern boundary of the site. Given that the existing vegetation is proposed to be retained, and additional planting provided, it is considered that the application proposal will preserve and enhance the character and biodiversity of the site. Therefore, it is considered that the proposal is in accordance with Policies DM1 (High Quality Design), S9 (Environment) and S14 (Countryside) of the Mid Devon Local Plan.

- 7.8 Concerns have been raised regarding the provision of equipment, structures and buildings on this land as part of the application and in the future under permitted development rights. It is recommended that a condition is attached to any consent to remove these rights to ensure that no development is undertaken on this land without planning approval. This would enable any application to be considered on its merits to ensure any proposals are acceptable at this location.
- 7.9 It is considered that this proposal is acceptable in this location and is in accordance with the development plan.

Residential Amenity

- 7.10 The site is located directly adjacent to the private gardens of three residential properties on Bolham Lane. A further four properties on Bolham Lane are located within close proximity to the application site, three of which are separated by a woodland area and watercourse to the east of the site.
- 7.11 Paragraph 191 of the National Planning Policy Framework requires development to be appropriate for its location taking into account likely effects. There have been objections raised by residents in relation to noise, disturbance and impact on privacy, which will be addressed in this section of the report.
- 7.12 Any construction works required as part of this proposal are understood to be minimal and limited to the construction of fencing on the northern boundary. It is therefore considered that noise creation and amenity impacts will be mostly limited to the operational/use phase.
- 7.13 During the operational/use phase, it is likely that the proposed use of this land for outdoor classroom activities may be associated with noise creation. Given the proposal does not increase the number of pupils attending the school, it is considered that any potential noise is likely to mirror the noise levels that are currently experienced during the school hours. It is understood that the land is proposed to be used under teacher supervision, in a controlled environment and during school hours, while the retention of the existing fences and gate will ensure access to and use of the land is controlled. It is considered that the nature of the proposed use of this land is not considered to negatively impact the quality of the environment through noise pollution. It is therefore considered that this proposal is in accordance with Policies DM1 (High Quality Design) and DM4 (Pollution) of the Mid Devon Local Plan.
- 7.14 It is acknowledged that the application site is located within close proximity to the neighbouring properties, and the use of this land may have an impact on the privacy and amenity of these properties. Currently, the boundary adjoining part of the northern boundary of the application site and a residential property, Little Hendon, is open and only demarcated by temporary fence posts. The proposal consists of the provision of a section of fencing or hedge planting, or a combination of the two, along this part of the boundary. It is considered that the provision of adequate fencing and planting will provide a screening buffer between the resident gardens and the application site to minimise the impact on neighbouring properties. In addition to this, the provision of planting is

considered to enhance the biodiversity on the site and provide further opportunities to enhance the pupil's education on the natural environment and wildlife.

- 7.15 It is recommended that a condition is attached to any consent to require the submission of the details of the fence and/or planting prior to the commencement of the development. This will ensure that the planting proposed provides adequate mitigation to the neighbouring properties, and adequately screens the site, in accordance with Paragraph 135 of the National Planning Policy Framework and Policy DM1 (High Quality Design) of the Mid Devon Local Plan.
- 7.16 No lighting is proposed as part of this application, consistent with paragraph 191 of the National Planning Policy Framework.

Ecology/Nature Conservation/Habitats

- 7.17 The site is a grassed area with some small trees, including fruit trees. The eastern boundary of the site is lined with mature vegetation and woodland, with a watercourse beyond the eastern boundary.
- 7.18 Objections have been raised by neighbours and the Town Council regarding the impacts of the proposal on the trees and wildlife within and adjacent to the site, including the watercourse and woodland adjacent. It is understood that no vegetation or habitats are proposed to be removed as part of this application and, as the proposed site is located within a Conservation Area, permission would need to be obtained for the removal of any trees that meet the criteria.
- 7.19 Paragraph 180 of the National Planning Policy Framework requires planning decisions to contribute to and enhance the natural and local environment by minimising impacts on biodiversity. The proposal includes the provision of screening planting along part of the northern boundary, and the retention of the existing trees and vegetation within the site. It is considered that the planting will enhance the wildlife of the site and provide biodiversity gains, and the proposal is therefore in accordance with Policy DM1 (High Quality Design) of the Mid Devon Local Plan and Policy T9 (Green and Blue Infrastructure and Delivering Biodiversity Net Gain) of the Tiverton Neighbourhood Plan.
- 7.20 DCC's Ecologist has confirmed that an Ecology Report is not required as part of this application due to the nature and size of the proposal. Given that no development is proposed to take place, no lighting will be installed, and there is proposed to be no vegetation clearance, the ecological impacts are considered to be limited. It is considered that the conservation of the current natural vegetation and habitat is supported by Policy S9 (Environment) of the Mid Devon Local Plan.

Flood Risk

- 7.21 The application site is located partly within Flood Zone 2, with a water course located on the eastern boundary of the site, and the River Exe is located 0.4km to the west of the site.
- 7.22 The applicant has submitted a revised flood risk assessment [FRA], which concludes that the site has a very low risk of surface water flooding. The FRA classifies the proposed development within the 'more vulnerable' category, and states that sequential or exception tests are not required. Given that the proposal is interlinked with the existing school, which is also located in flood zone 2, it is considered that this proposal is in the most appropriate location and cannot be located elsewhere. The assessment includes reference to the school's existing emergency procedure and escape strategy, and it is recommended that a condition is attached to any planning permission requiring the submission of an updated emergency procedure and escape strategy to incorporate this application site. Subject to inclusion of this condition, it is considered that this is in accordance with Paragraphs 173 and 174 of the National Planning Policy Framework.
- 7.23 The Environment Agency has been consulted on this application and the revised FRA, and any comments that are received will be reported at the meeting.

8) Strategic Plan

- 8.1 The proposed change of use of land will result in the provision of additional land for educational use as part of Bolham Primary School. This contributes to the priority to "Be ambitious for children and young people" as part of the County Council's Strategic Plan.

9) Financial Considerations

- 9.1 The proposal raises no financial implications for the Council in its role of county planning authority.

10) Legal Considerations

- 10.1 This proposal has been managed in accordance with statutory requirements and there are no specific legal considerations.

11) Equality Considerations

- 11.1 Regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty. Given the nature of the proposal and the measures within the recommended conditions, it is considered that no adverse impacts on persons with protected characteristics would occur.

12) Risk Management Considerations

- 12.1 This proposal has been managed in accordance with statutory requirements and no risks to the Council in its role of county planning authority are considered likely to arise.

13) Reasons for Recommendation/Alternative Options Considered

13.1 The Committee has the option of approving, deferring or refusing this planning application.

13.2 In conclusion it is considered that the benefits of providing an area of outdoor learning space for the use of educational activities to enhance pupils' learning about the natural environment and wildlife, outweigh the potential impacts upon the nearby neighbouring properties, which can be mitigated against. In particular, the provision of fencing and/or planting prior to the use of this land is considered to minimise the effect on privacy and amenity of the neighbouring properties. Therefore, the proposed change of use is considered to meet the requirements of the National Planning Policy Framework, the Mid Devon Local Plan and the Tiverton Neighbourhood Plan.

Jamie Hulland

Deputy Director - Planning

Electoral Division: Tiverton West

Local Government Act 1972: List of background papers

Background Paper Casework File

Date: November 2023

File Reference: DCC/4371/2023

Contact for enquiries:

Name: Kate Broad

Telephone: 01392 380000

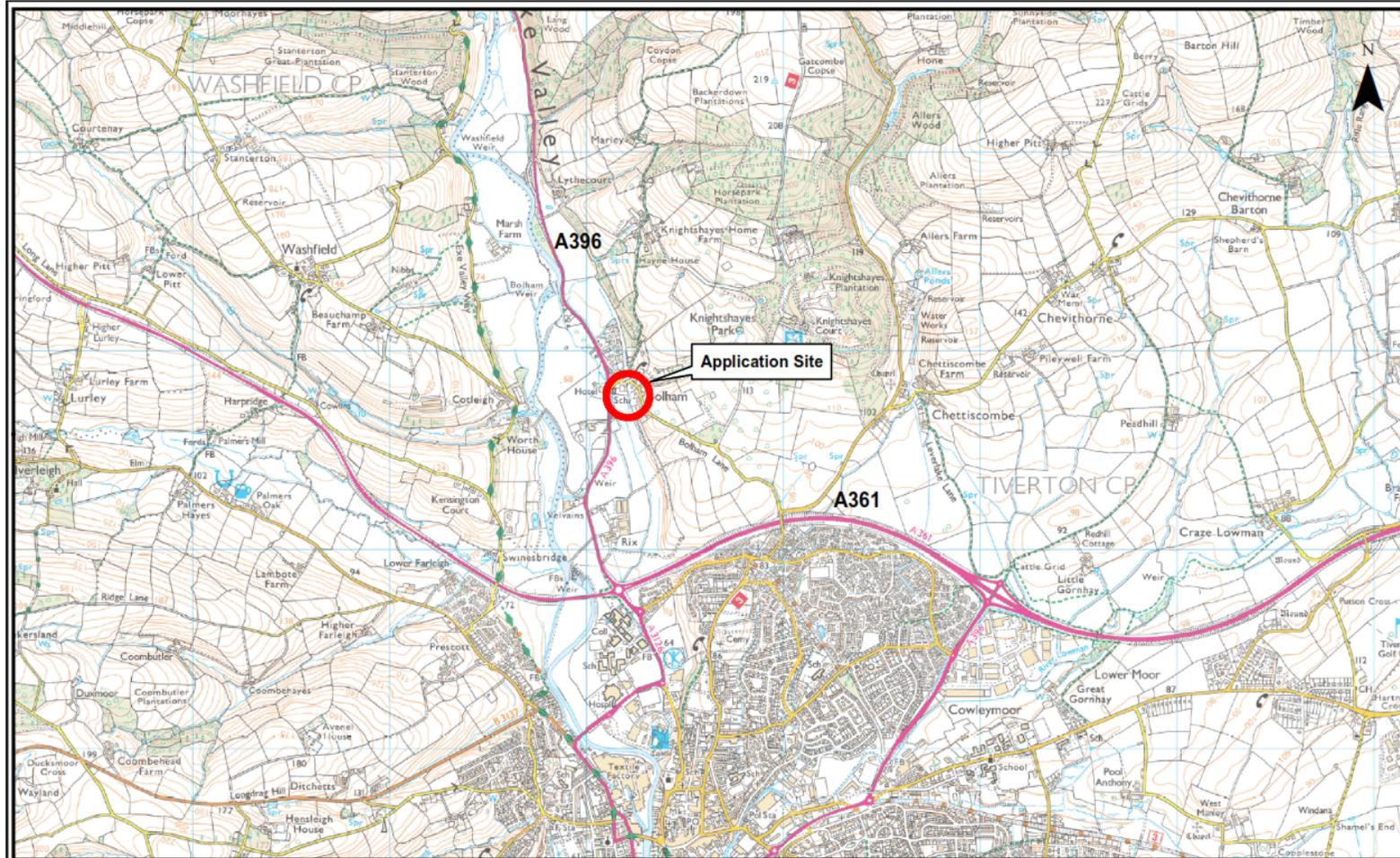
Address: County Hall, Exeter, Topsham Road, Exeter

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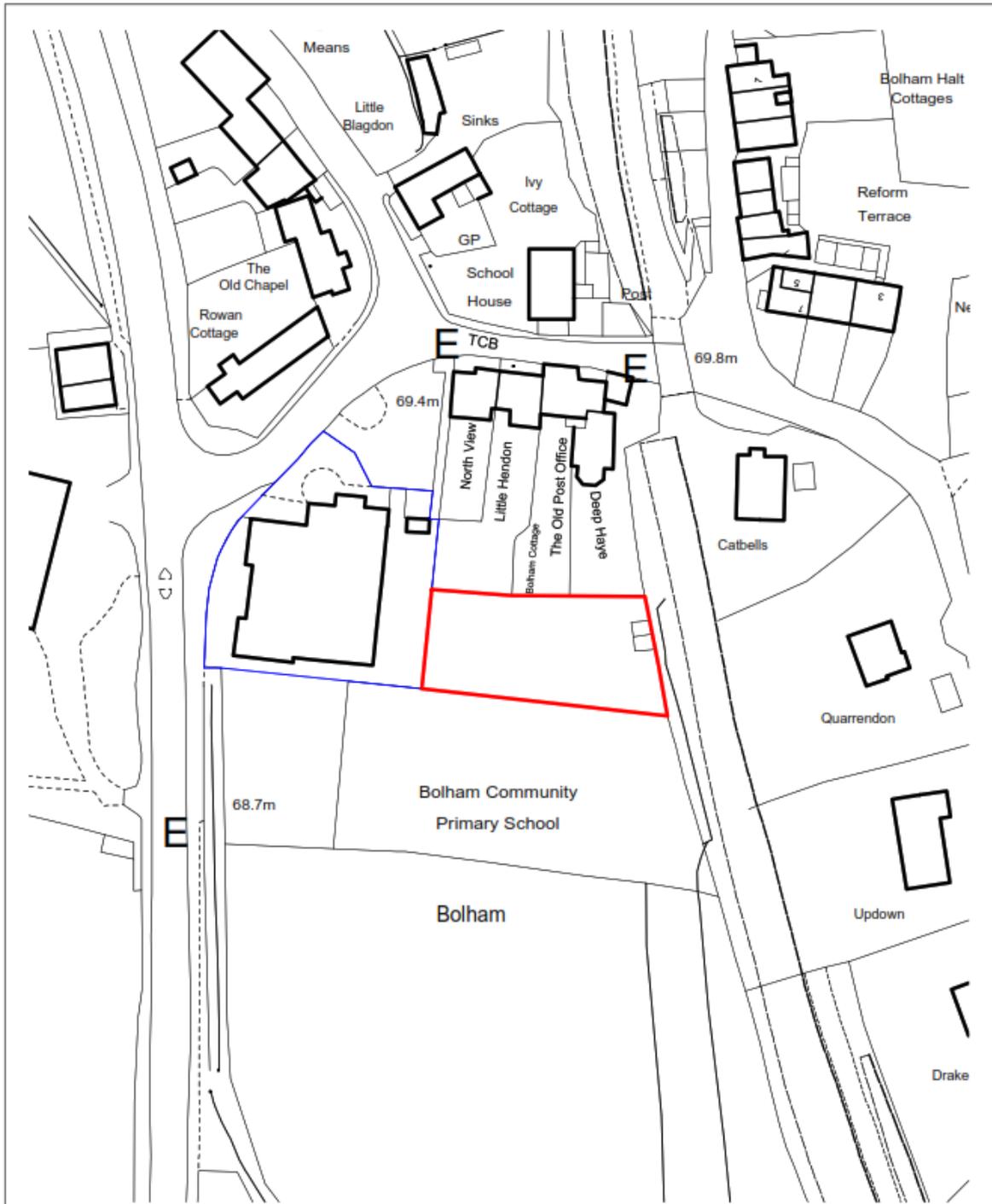
Location Plan



	Head of Climate Change, Environment and Transportation	Development Management Committee	date April 2024	scale 1:24,000
		Location Plan County Council Development Mid Devon District Council: Change of use of land from private garden to educational use in association with the school - Bolham Primary School, Road From Bolham Primary School To Knightshayes Cross, Bolham, Devon, EX16 7RA	Application No: DCC/4371/2023 23/01855/DCC	

Site Plan

To CET/24/33



CLIENT Devon County Council	SCALE 1:1250	DISCIPLINE Building Surveyor	PROJECT NUMBER 000000
PROJECT Bolham Primary School	DRAWING NUMBER SWN-XX-00-D-B-001	REV CODE P2	 <p>South West Norse Ventura House 7 Capital Court, Exeter Industrial Estate, Exeter, Devon, EX2 7PB Tel: 01392 361355, Email: info@sw-norse.co.uk, website: norsegroup.co.uk</p>
TITLE Site Location Plan	STATUS CODE S5	PURPOSE OF ISSUE Planning Approval	

Appendix 1 To CET/24/33

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/titled:
 - Site Location Plan - SWN-XX-00-D-B-001 Rev P2
 - Indicative Fencing and Planting Plan – SWN-XX-00-D-B-002 Rev P1
 - Planning, Design and Access Statement – Rev 2 – February 2024
 - Flood Risk Assessment – 0571-FRA-JEG - Rev B – April 2024

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

PRIOR TO OCCUPATION/USE

3. No part of the development shall be occupied or used until the details of the fencing and planting, as set out within section 3.3 of the planning design and access statement (February 2024) and the Indicative Fencing and Planting Plan (SWN-XX-00-D-B-002 Rev P1), have been submitted to and approved in writing by the County Planning Authority. These elements shall be retained for the lifetime of the development. The fencing shall be installed within one month of approval, and planting shall be provided in the first available planting season.

REASON: To ensure the impact on residential amenity is reduced, in accordance with Policy DM1 (High Quality Design) of the Mid Devon Local Plan 2013-2033, and Paragraph 180 of the National Planning Policy Framework, 2023.

4. No part of the development shall be brought into use until an updated emergency procedure and escape strategy for Bolham Primary School, which shall include the application site, has been submitted to and approved in writing by the County Planning Authority.

REASON: To ensure that any risk can be managed safely, and safe access and escape routes are provided, in accordance with Paragraph 173 of the National Planning Policy Framework, 2023.

FUTURE DEVELOPMENT ON THE LAND

5. Notwithstanding the provisions of Part 7 - Non-domestic extensions, alterations etc, *Class M – extensions etc for schools, colleges, universities and hospitals*) of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order), there shall be no development or activity at this site additional to that specified in this planning permission without the prior approval of the County Planning Authority.

REASON: To enable the County Planning Authority to adequately control the development according to the submitted application and approved detail.