

# PLANNING APPLICATION REPORT

**Case Officer:** Anna Henderson-Smith

**Ward:** Hatherleigh

**Ward Member:** Cllr C Hall

**Application No:** 00760/2013

**Agent/Applicant:**  
PCL Planning  
FAO Dr Thomas Roche  
Unit 3A Greenway farm  
Bath Road  
Wick  
BRISTOL  
BS30 5RL

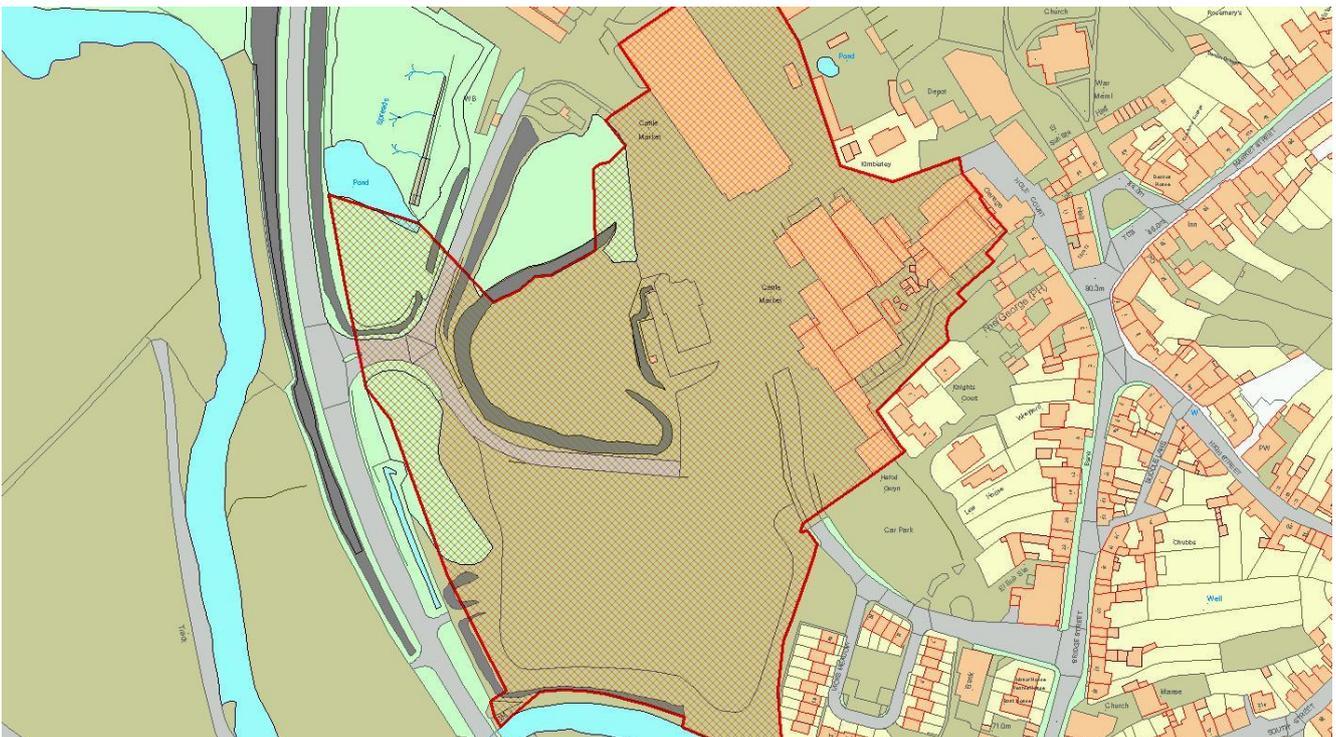
**Applicant:**  
Mr G Vick  
Vicks Hatherleigh Market LLP

C/O AGENT

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

**Development:** Outline application with access for consideration for demolition of existing buildings and replacement with mixed use development including Residential (106 units including 11 affordable), Retail (Use Classes A1, A2 and/or A3), Employment floor space (Use Class B1), together with new Public Realm including Market Square with associated Pavilion, multi-functional building, Play Space, Hard and Soft Landscaping, Community Allotments, Means of Access, Public and Private Car Parking, and associated Infrastructure.

There is an associated s106 package with this proposal, the heads of terms for which are below under the 'proposal' heading.



### **Reason item is being put before Committee**

This application is before planning committee at the request of Councillor Hall: 'As this is a major development and, together with my concerns, comments I have received and a very high level of local interest I feel it would be more applicable and fair on all concerned for the planning committee to consider the local residents' concerns.'

### **Recommendation:**

Delegate to Development Management Manager to grant subject to completion of the section 106 agreement and the following conditions:

S106 Heads of terms:

- Scheme of phasing
- Affordable Housing
- POS monies
- Cricket club second pitch lease
- DCC Highways monies
- DCC Education monies
- Highway works
- Landscape Ecological Management Plan

### **Conditions**

1. Standard outline time limit
2. Request for outstanding reserved matters information
3. Adherence to plans
4. Requirement for Landscape Ecological Management Plan
5. Nesting birds' protection
6. Biodiversity enhancement plan and its implementation and retention
7. A detailed Bat Mitigation Strategy will be provided at Reserved Matters Stage including details of the relocated or purpose built bat roost
8. A detailed Reptile Mitigation Strategy will be provided at Reserved Matters Stage incorporating findings of additional reptile surveys, habitat creation, management and translocation.
9. Landscaping details
10. Implementation of landscaping
11. Noise details
12. Contaminated Land - details
13. Contaminated land - verification report
14. Contaminated land – unsuspected contamination
15. Surface and foul water including details of phasing and protection of existing ditches etc during construction
16. Management and maintenance of SuDS
17. Management and maintenance of POS including landscaping, riverside walk, LEMP and allotments
18. 10% renewable energy on-site
19. High speed broadband ducting to all properties and businesses
20. Restriction of employment use floor space to B1 only

21. Other commercial floor space (excluding The Market) to be A1, A2, A3 only with no permitted changes
22. Restriction on sales from main large retail unit to prohibit the following services:
  - No in-store post office
  - No in-store Tobacconist
  - No in store baking or bakery
  - No in-store pharmacy
  - No in store café area
  - Any in store delicatessen to be no more than 15 m2
  - No more than 20% of retail floor space shall be for comparison goods
23. Details of walking and cycling routes and their delivery to be submitted
24. Travel plan submission
25. Estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture details
26. No commencement, other than the highway works required, until certain highway works have been undertaken
27. No occupation until further highway works have been undertaken
28. Programme of Archaeological recording
29. Minimum of 20% of the development to be built to lifetime homes standard
30. No trees on site to be lopped chopped or felled without approval of LPA

**Informatives:**

- S106
- Proactive authority
- EA advice
- SWW informative
- Natural England requested Informative
- EH informative to advise that the layout and design should take into account the potential for odour and noise from the adjoining site.

**Key issues for consideration:**

The main issues for consideration in this proposal are those surrounding the proposed mix and proportions of uses on the site, the redevelopment and regeneration of the market and the provision of other supporting uses such as residential, parking, retail, employment etc and their compliance with the community plan and policy.

There are also on-site constraints such as flooding, biodiversity and landscape features plus the presence of the adjacent abattoir and rights of way across the site. These issues need to be considered by members in the policy context of the adopted local plan policy, more recent core strategy policies and also the Hatherleigh Community Plan.

This site also has viability constraints and cannot provide all the usual policy requirements. Similarly in order to regenerate and rebuild the market and some employment provision, a certain number of housing units are required. Officers have sought to explore and balance these, maximising the benefits of the scheme and tailoring the monies available to address the identified needs of the area, and community through consideration of their wishes as crystallised in the community plan.

Overall Officers now consider that a good and appropriate scheme has been achieved which is policy compliant and which has sought to react to and address the wishes of the community and wider borough. The scheme retains and regenerates the market whilst also providing additional employment opportunities through B1 units and also retail, office and café/restaurant uses. The section 106 heads of terms have been thoroughly negotiated upon by officers and are now agreed as being robust and suitable for the scheme considering the viability restrictions of the site.

**Financial Implications:**

It is estimated that this development has the potential to attract New Homes Bonus of £112,830 per annum, payable for a period of 6 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 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, community centre and further residential use. It proposes 4.95ha of land which currently includes several buildings associated with the present market and auctions, the wider market area and is mainly hard-surfaced.

In relation to constraints to the site, the site lies within the Hatherleigh Town Settlement Boundary. It is immediately adjacent to the Conservation Area on its East and is also very close to several listed building including the Church. It includes areas of flood zone on its west, and there is evidence of some bat activity in the buildings. There are no Tree Preservation Orders on site but there are several 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 previously visited the application site so are familiar with its location and situation.

**The Proposal:**

The scheme is outline with access only at this stage, 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 Council owned road between the Co-op and National Westminster Bank.

The initial scheme submitted varied slightly from that before members today. It contained more houses, no affordable units and other building uses. As a result of consultation and comments received this scheme was amended to that before Members today and fully re-consulted upon.

The scheme comprises 106 residential units, of which 11 are affordable, some B1 employment units (880m<sup>2</sup>), a single neighbourhood retail unit (up to 500m<sup>2</sup>) and a number of smaller units (up to 150m<sup>2</sup> each) which are use classes A1, A2 or A3 (the single unit and smaller ones total 1100m<sup>2</sup>) which allows for financial and professional services, offices visited by the public, cafes, restaurants and shops. The scheme includes a new market area and facilities to enable the continued effective operation of market activities these include (but not exhaustive of):

- Market pavilion as part of a mixed use town square and community meeting space;
- A multi-use building to accommodate the fur and feathers auction (c.100m<sup>2</sup>).
- A trading area of c. 5,475m<sup>2</sup> for pitches (equating to a minimum of 80 pitches)
- Flexible car parking (c. 150 spaces);
- Cycle parking

(Following the removal of the medical and community buildings from the scheme and dropping the housing numbers as a result of the consultation responses to be more in line with community aspirations, it is now proposed that some of this space be used for the 100m<sup>2</sup> multi-use building which could house the feather and fur sale or auction if required and an additional 50 parking space in addition to the 100 already in this market area, this will be in addition to any on street parking). The aspiration is that this will form a hub with the market surrounded by the various mixed commercial uses which will lead down into the top of Hatherleigh allowing for connection between the new market and existing shops and town centre.

The indicative masterplan shows retail, market and employment type uses will also be placed at this more northerly end of the site as they are less sensitive to the activities of the abattoir and will provide a physical buffer to the abattoir from the proposed residential units. This type of layout will be required within the details reserved matters scheme.

The market will be allowed to 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 can not force the market to continue to be operated but it can ensure that there is space and provision for it to do so.

Provision within the section 106 will ensure the various uses are delivered in a phased manner and that infrastructure is delivered alongside residential units. A broad scheme of phasing has been negotiated upon and agreed with officers. This places the market and its various elements in the first phase along with 25% of the employment space, the riverside walk, 80% of the market units and 11 affordable units. This seeks to ensure that the community requirements are 'frontloaded' rather than all the residential elements coming forward first leaving the less profitable elements to a later stage.

The proposal includes a Locally Equipped Area of Play (LEAP) on site for children's play, some more informal open space along the riverside through a buffer to the river and a riverside walk as well as on-site community allotments and a contribution towards the maintenance and upgrade of existing off-site public open space which will allow for the Town Council or a community group to apply for funds in relation to off-site POS, in particular these could include the community centre play area and the Island Park. The development also includes the provision of land for a second cricket pitch through the agreement of a lease.

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 £5k for a traffic order to move the 30mph signage further up the A386 to the entrance. DCC Education has requested monies and the applicant's are in agreement to paying these.

**The Section 106** includes the following agreed heads of terms:

- 1) The requirement for an agreed scheme of phasing to be submitted, approved and adhered to. This will include the following in each phase:

Phase 1:

The market facilities and operations area/buildings

11 affordable housing units

25% of the employment buildings

80% of the open market units, (which shall include residential units which incorporate a commercial element)

The public transport link from Bridge Street to the A386

The riverside walk

Phase 2:

The remaining 10 affordable housing units (or a £200,000 commuted sum)

The remaining employment buildings/ land

Remaining market housing

This scheme of phasing will also include details of the provision of space, parking and access throughout the construction period for the continued operation of the market.

- 2) Affordable housing – the equivalent of 20% - minimum of 11 units on site to meet the immediate need in the locality and then either a contribution of £200,000 to off-site affordable housing provision, or the provision of an additional 10 affordable housing units in the second phase to bring the overall % up to almost 20% across the scheme as a whole. The LPA to decide which option towards the end of phase 1. The s106 will confirm the local connection criteria, tenure split and trigger points for the commuted sum.
- 3) £25,000 contribution towards the provision/maintenance of off-site Public Open Space
- 4) The provision of a lease to the Cricket Club for land for a second pitch
- 5) £5000 to DCC Highways for the traffic order
- 6) DCC education monies - Hatherleigh Primary contribution £65,320 and £45,505 for secondary transport to Okehampton College
- 7) Works associated with the provision of additional and revised street lighting on the A386 required by the moving the 30mph zone if required and secure a link between the site and Bridge Street capable of accommodating buses, cycles and pedestrians. Secure improvements to the footway to the industrial access and footway together with an informal crossing point

**Consultations:**

**Hatherleigh Town Council** – object to the initially submitted scheme for the following summarised reasons:

- The application doesn't reflect the Community Plan and if ignored the whole process would have been a waste of time
- The NPPF supports the retention of markets

- Not enough linkage to the Town Centre, plan should incorporate Hancocks garage site too
- Too many houses proposed, many more than the Community Plan
- The loss of the feather and furs will be detrimental to tourism as this brings tourists
- No provision for fur and feather market to continue, nor space for the auction  
Losing these will have a detrimental effect on the market
- The size of the supermarket has decreased and there is now no dedicated parking or service bays this will lead to more traffic and take trade away from the town centre
- Lack of parking
- The allotments the Town has are already underused, this space should be put to parking instead
- There needs to be a better ratio between development/employment land and housing
- Ratio of parking to housing is incorrect, need more parking
- Too little general parking
- The design creates a buffer to the abattoir not a link to the Town Centre
- Lack of adequate parking will increase congestion and on street parking in town
- The town road will be used as a rat run
- It should be rejected as it does not meet the needs of the community.

The Town Council also continued to maintain their objection on the above grounds after the alterations to the scheme and the re-consultation.

They also added:

- None of our previous comments have been properly addressed
- The number of houses has been reduced but only by removing sheltered housing, this is more needed in Hatherleigh than affordable housing
- The allotment areas should be car parking instead, the town already has allotments
- Hancocks garage should be part of the scheme
- A revised entrance route for Cornwall Farmers' lorries should be catered for in the scheme
- Unanimous rejection of amended scheme

Following this the agent and Officers met with the Town Council and as a result additional parking and a building for the fur and feathers/auction has been incorporated within the illustrative layout for the scheme.

**Strategic Planning WDBC** – initial concerns regarding lack of Retail impact assessment, lack of affordable housing, lack of viability assessment, high dwelling numbers and a need to justify housing mix. However following negotiation, submission of additional information and the revision to the scheme to lower housing numbers and incorporate affordable housing strategic planning raise no objections to the scheme and are in support. (The policy and retailing sections of this report have been written in conjunction with Strategic Planning).

**County Highways Authority** – no objections but request a bus link through the site, monies towards the traffic order to move the 30mph zone and reference linkage to the town and street lighting.

**Highways Agency** – ‘we are satisfied that the assessment of traffic impact on the strategic road network is acceptable and the Agency therefore has no objection’.

**Environmental Health Section** - issues surrounding the abattoir to be addressed in full in the report below but noise conditions are requested, issues regarding contamination of land – no objections but request conditions.

**Environment Agency** – RE land and flooding - no objections but only acceptable with conditions covering the following: surface water, timetable, contaminations, remediation adherence, unexpected contamination (some of these conditions are covered by our own internal consultees also). Re the abattoir (as the EA are the permit issuing body) they highlight that the proposal contains sensitive uses, future potential complaints may lead to the operator of the abattoir having to increase their mitigation. The permit is currently being adhered to and it is only in exceptional circumstances that the EA would revoke the permit.

**South West Water** – no objection re capacity but stipulate foul only may go to the mains sewer. Surface water should be dealt with via soakaways/SuD's. Informative re no development within 3m of a SWW pipe otherwise a diversion will be required.

**Borough Council's Senior Engineer** – no objections but requests strict drainage conditions

**Landscape Officer** – supportive of approach but wish to see the tree swathe (T6) retained as it is the only planting within the site. She concludes that it is hard to successfully plant new development and that this existing internal planting represents decades of growth which will add some landscape maturity to this large site which has no other internal landscape features. Requests conditions

**Countryside and Community Officer** – re biodiversity - no objections but requests conditions, would prefer to retain T6, if lost mitigation and compensation required. Requests conditions for landscape enhancements and landscape ecological management plan. RE POS – no objections to proposal and contributions offered.

**RSPB** – no objections but recommend specific details are submitted, mainly around integrated nesting, suds design and landscape and ecological management

**Natural England** – the site is not a statutory nature conservation site, damage or destruction of a bat breeding site or resting place is a concern and licensable but the mitigation proposed is acceptable recommends a condition for mitigation and monitoring, license and enhancements.

**English Heritage** – do not wish to offer any comments on this occasion, left to internal specialist conservation advisor to comment.

**NHS England** – no issues raised, no monies requested

**Devon County Council Education** – primary and secondary contributions requested on all units. Given the viability issues surrounding this WD can only seek contributions on the open market units and this equates to: Hatherleigh Primary contribution £65,320 and £45,505 for secondary transport to Okehampton College

### **Representations**

58 letters of objection and 15 letters of comment were received covering the following issues:

### **The Cattle market:**

- The loss of the cattle market through the demise of Devon Cattle Markets unfortunately is inevitable.
- However this has been replaced by the Tuesday stall market which now has 60 stalls. This should be retained and operate elsewhere.
- Accept that houses need to be built on the market site. A well planned site could incorporate both the market and residential development.
- If the Tuesday market charter is passed to the Town Council, it will require investment on their behalf, but will also provide revenue to benefit the local Community.
- The plan needs a small animals and bird auction
- The loss of the market activities will have a negative impact on other local businesses through the loss of people coming to the town through tourism.
- A larger area is needed for the Pannier Market
- To lose the market is to lose the heart of the town. This will increase the sense of rural isolation. People come to the market to socialise and interact.
- How will the new pannier market be regulated? Is it to be a contracted agent, WDBC or franchisee. The pitches should be rented on a weekly basis. A percentage of the profit from the pannier market should be donated to local causes. The Tuesday auction provides a source of cheap furniture for locals and recycles unwanted goods. The Fur and animal auction is a good pull for Tourism. Visitor numbers are expected to drop by 50% with the loss of the market. This is unacceptable.
- Loss of swifts, swallows and House Martins nesting in the old buildings.
- Farmers markets in London are growing – why not here?
- Two buildings needed: a Pannier market and a flexi-use building: a Community Interest Group should run and promote the market.
- The loss of the market will have an adverse effect on Animal welfare – as they will have to travel further afield.

### **Noise and Odour Nuisance:**

- Having housing next to the abattoir will be unpleasant for people due to odours. Should there be an exclusion zone?
- The owners of the abattoir are concerned by the socio-economic effects on the business by the close proximity of residential, commercial and industrial development. They are concerned for the sustainability of the business and its long term success. It employs 70 people – 20% of the employment in the town. Investment has been made into the plant to increase output and employment. Residential development close to the abattoir raises the likelihood of complaints and in turn, limitations on their existing and future operations to control odour and noise nuisance.

**Consultation Process:**

- Complaints received regarding inadequate notification of the plans and time to respond.

*(N.B. all statutory procedures were followed, numerous site notices were erected around the site and it was advertised by letter and in the local paper. This was done both for the initial scheme and following its amendments).*

**Residential Development:**

- The scale of the development is frightening. It will double the size of Hatherleigh. This will not be good for the town
- The exclusion of Hancocks garage in the plan and reduction in housing density is a mistake in that it will cause a separation from the old town.
- The development of too many houses
- Insufficient opportunity for high quality housing
- Insufficient green space for each house
- Concerns regarding division of the old and new town.
- More thought for the local rural area ( 100yds away there are conservation area restrictions on development)
- More parking for the houses
- One bedroom housing
- The development should be sustainable
- A new town square will be detrimental to the town
- Improved highways in and around the area
- Fewer Houses
- Mixed housing types
- Architecturally – the new buildings need to be very sympathetic to local buildings.
- Bungalows for the elderly.
- Garages for private use or rental.

**Residential Development – other material considerations:**

- Water, flood risk
- Sewerage capacity concerns
- Roads and access points, traffic concerns
- Light pollution
- More houses means more crime

**Housing Need:**

- Buy to let houses – unacceptable
- There are a number of houses for sale in Hatherleigh – why need more?
- Affordable housing for locals should form part of the plan.
- Bungalows for the elderly.
- We need a visitor centre, bunk barn, bike hire (next to Tarka Trail) not unattractive boxes.

**Community Buildings:**

- The area behind Hancocks garage should be landscaped and used for the expansion of the market and a community Hall (indoor market)
- Old Schools is a meeting place for young and old. The loss of weekly coffee mornings would affect local groups.
- Why is there a need for another Community building when Hatherleigh already has Old Schools and the new Community Centre? Who is going to fund this?

**Community Events:**

- There is no provision for the carnival and fun fair.
- The market also provides a hub for other events including: the Ruby market, Car boot sales on Sunday, Tractor rallies, dog shows, auto jumbles, Young Farmers Discos, Carnival/Christmas Poultry market, Tar Barrels.
- The future of all of these events also needs to be considered.

**Community Services:**

- Concerns regarding the impact of the new housing on the Primary school.
- A supermarket off the by-pass would cause the demise of the existing shops in the town.
- What are the details of the new medical centre? This unlikely to be granted by 'The New clinical consortium', as the existing facilities in Hatherleigh are adequate.
- Where is the funding coming from for the new crèche, new medical centre, allotments, orchard etc.

**Employment:**

- A lack of emphasis on economic opportunity
- Industrial/retail units are shown on the plans. Okehampton has empty units. Would Hatherleigh have more to offer?
- Concerns regarding who will buy houses. It is a lot of housing in an area with no real employment prospects.

**Parking:**

- There is a lack of parking for the Tuesday market.
- Parking for 80 cars – this is limited for the size of site to be developed.

- Car parks should provide 400-500 parking spaces for the Pannier market.
- Car park should be owned by the Local Council not WDBC
- Multi-storey car park?
- Parking at some distance not good for those with mobility problems and small children.
- The exclusion of the field to the west of the site is an oversight as this could be used to provide car parking
- Severe parking problems in Hatherleigh will be exacerbated causing difficulty for Emergency vehicles.

#### **Hancocks garage:**

- Representation from Hancocks Garage – The plan includes land currently used as customer parking for 14 cars. We are unable to operate without these. We employ 5 full time and 4 PT staff. We would like to discuss a more workable solution.

#### **Footpath Links:**

- Hancocks garage needs to be removed for the scheme to be successful or considered carefully to achieve a better flow of pedestrians from the square, toilets and the new pannier market.
- Links to the town shops via Bridge/Market Street need to be considered.
- The Market Street entrance needs to be defined.

#### **Site Access:**

- Access to the site via Hole Court is unviable. It is narrow and unsafe.
- Concerns regarding the creation of a new access to the site from the bypass onto the new road.

#### **Transition period:**

- Concerns regarding where the Tuesday market will operate from during development.

New material issues raised during the re-consultation following reduction in residential unit numbers and removal of sheltered housing, community building and medical centre.

#### **31 Objection letters and one letter of comment received:**

- 100 houses is too many
- The reduction of housing by just 10 units will not make a difference – this is a token gesture - who is going to live in them?
- The long term viability of the town is paramount, not just fulfilling housing quotas.
- In sufficient parking shown.
- The overflow parking across the A386 does not seem to be guaranteed or all weather.
- There is enough parking at present.
- Traditional housing design essential rather than 'box' houses to give an attractive individual architectural character for visitors.
- Lack of green space for individual houses.
- The abattoir will still be a problem.
- Concerns regarding the adequacy of the drainage systems and flood risk plans.

- The market is not sufficiently catered for.
- Housing to the right of the proposed new market should be excluded from the plan to bring visitors into the heart of the town.
- The proposed size of the market square and Pavilion are too small for the scale of the markets to be held there – ‘the town will die’.
- What is happening to the Ruby market, and the fur and feather market?
- Not enough jobs to support development.
- The whole scheme needs to be reviewed and re-thought again.
- Community Enhancement, a redesigned replacement market and light industrial premises seem to have come second to the development of as many houses as possible.
- The existing shops and businesses need to be unified with the proposed market and industrial units.
- The successes in the town like the market, its’ arts and crafts scene and tourism needs to be celebrated and expanded upon.
- The ‘Plan it’ views were not considered.
- Inclusion of a medical centre and crèche are unnecessary.
- An economic impact study on the whole town is required – in addition to the retail study carried out.
- Greater emphasis and consideration should have been given to the Community Plan and community views.
- Object to additional retail units other than the market traders.
- Proposed supermarket will take business away from the town.

**Objection from the abattoir operator:**

- The amendments do not address previous objections.
- Housing remains within 100m of the abattoir, including a supermarket and the medical centre
- There are 3 vehicular rights of way that cross the site, which are used by the abattoir.

**Relevant Planning History**

None relevant

**ANALYSIS**

Policy context

The Council’s development plan consists of saved policies in the 2005 Local Plan and the 2011 Core Strategy. Both of these plans were adopted prior to the introduction of the National Planning Policy Framework (NPPF) which is also a material consideration.

Following the introduction of the NPPF, the policies in the Council’s Local Plan and Core Strategy can now only be given proportional weight depending on their degree of conformity with the NPPF. The most relevant policies relating to the redevelopment of the Hatherleigh Market site (namely Local Plan policy ED9 and Core Strategy policies SP1, SP5, SP7 and SP24) are however considered to be compliant with the NPPF. These policies are in broad conformity with the NPPF requirement to promote development in sustainable locations and to support existing business sectors, while still being flexible to allow a rapid response to changes in economic circumstances (e.g. market closure).

The NPPF (paragraph 23) specifically recognises the important contribution that markets make to the success of town centres; it promotes the retention and enhancement of existing

markets and encourages local authorities and communities to find ways to ensure markets remain attractive and competitive.

#### Principle of development

The application site is located within the adopted settlement boundary and is allocated in the 2005 Local Plan under policy ED9:

*The land at Hatherleigh Market is proposed for the continuation of the market use. Permission will be granted for market related uses and for employment uses provided that the operation of the market and its car park are not compromised and that any development proposal does not prejudice the proper redevelopment of the site in the event of the market closing.*

*In the event of the market closing permission will be granted for a mixed development of employment uses with residential use in those parts nearest the town centre.*

The 2011 Core Strategy builds on the 2005 Local Plan policy ED9 (stated above) and states that: *“the market provides an important functional role for the town and in view of its impending closure it is considered important to enable opportunities to regenerate the site by making use of this previously developed land. In the event that the redevelopment of the market site is appropriate, the Council would wish to use the Sustainable Rural Communities Toolkit to identify the needs of the town and will work with the community to enable a mixed use development which retains and builds on the site’s important historic functional role” (page 79).*

Core Strategy strategic policy 24 provides the policy framework for assessing developments which are progressed in response to the Sustainable Rural Communities Toolkit:

*In the local centres and villages of West Devon, small scale development within, adjoining or closely related to settlement limits will be permitted where a need has been identified through the use of the Sustainable Rural Communities Toolkit and, where appropriate, a Parish Housing Survey has been undertaken.*

*Proposals for development will be supported where they:*

- *Contribute to community well being and to the sustainable social and economic growth of a settlement;*
- *Seek to protect and enhance existing community facilities, provide new local services, improve local employment opportunities and/or meet a housing need; and*
- *Are in scale and in keeping with the site, its setting and the nature of the settlement, reinforce local character and protect natural landscapes and biodiversity.*

Hatherleigh Town Council embarked on a community-led planning project using the Sustainable Rural Communities Toolkit in October 2011. The project was led by the Hatherleigh Plan-It Group, which was made up of volunteers from the local community and town councillors. The project culminated in the preparation of a Community Plan which set out clear objectives for future development in the town and created a framework for the comprehensive redevelopment of the market site. The Community Plan adds detail to the Council’s adopted policies relating to the market site and recommends a series of principles for how the site should be developed.

The Community Plan was approved by Hatherleigh Town Council in February 2013 and adopted by West Devon Borough Council to be used as a material consideration in the determination of planning applications in April 2013.

The application which has been submitted has responded to the Community Plan and to the relevant Core Strategy and Local Plan policies. As such, the redevelopment of the site for the uses proposed in the application is therefore established 'in principle'. The extent to which the proposal is consistent with all of the aspirations of the Community Plan, particularly in terms of whether there is a suitable balance of different uses, is discussed in more detail later in the report.

#### Presumption in favour of sustainable development

The NPPF sets out the framework to guide new development in England and is a material consideration in determining applications. At the heart of the NPPF is the presumption in favour of sustainable development and for decision-taking purposes this means approving development proposals that accord with the development plan without delay.

Hatherleigh provides a good range of basic essential services and as such is an important destination for local residents in the town and the surrounding rural communities. Hatherleigh is identified as a Local Centre in the Council's Core Strategy Strategic Policy 5: Spatial Strategy which permits development where it can be demonstrated that it will contribute to wider sustainability benefits for the area.

The proposal itself seeks to achieve sustainable growth for the town by reusing brownfield land, contributing to Borough wide rural housing needs, providing employment units and securing a new future for the town's pannier market. The proposal includes both on-site and off-site play and recreation facilities and is well connected and within walking distance to the rest of the town where a number of important services are located. The proposal can be accommodated within the existing infrastructure, albeit with some financial contributions required towards education provision and some minor alterations to highways arrangements.

#### Consistency with the Hatherleigh Community Plan

##### **Continuation of market functions**

The site of Hatherleigh Market covers an area of approximately 4.9ha in the west of the town, directly linked to Bridge Street in the town centre. The majority of the site is brownfield land and a number of buildings used for market-related activities are located there. On market days, part of the site is used for stalls, storage, auctions and market functions with the remainder of the site being available for free parking. The market area is also used to host special community events, including the annual carnival which sees a large number of floats, fairground and the burning of tar barrels.

The market is considered by the community to provide an important functional role for the town but the livestock element of the market is no longer viable and such operations are likely to cease on the site in the short term. However, the Tuesday pannier market, including its food and produce stalls and fur and feathers auction, remains a popular attraction to both local residents and visitors from a wider area.

A key aspiration of the Community Plan is to ensure that any redevelopment of the site continues to operate the Tuesday pannier market. In particular, the plan identifies that the following key aspects should be accommodated on the site:

- Approximately 80 pitches, the majority of which should operate outdoors.
- Market buildings which incorporate suitable spaces for hosting weekly market functions and other community events.
- Poultry shed for fur and feathers auctions

The proposal includes the continuation of market functions on the site with provision for all of the elements stated above and provision for its continuation throughout the construction and development period. Valid concerns were raised by the community in response to the application which originally did not make provision for the fur and feathers auction and which showed less capacity for car parking. However, following negotiations between the applicants and Officers, amendments to the application were made and consulted on. After this, following further discussion with the Town Council and the agent, the application now includes provision for the following in relation to market operations:

- A market pavilion as part of a mixed use town square type arrangement;
- An area of c. 5,475m<sup>2</sup> for pitches (equating to a minimum of 80 pitches); and
- A simple multi-use building to accommodate the fur and feathers auction/general auction (c.100m<sup>2</sup>).

The application is therefore considered by officers to deliver the aspirations of the Community Plan in respect of the specific market facilities.

### **Car parking**

The provision of car parking in association with the redevelopment of the market site has been raised as a key concern by the community both during the preparation of the Community Plan and in response to this application. The Community Plan identified the need for sufficient parking spaces to meet the demands of visitors and traders as a priority for the development.

The application makes provision for parking in a number of ways, consisting of:

- Approximately 150 parking bays to be provided within 'flexible' parking areas. Such areas can be utilised for recreation and/or civic events (e.g. the carnival) when required.
- Dedicated parking bays for the employment units and supermarket
- Residential parking provided using a mixture of on-plot, on-street and in secure shared courtyards, equivalent to 1-2 spaces per unit (depending on the size of the property). On-street parking can be used on market days to create additional capacity. This would be approximately another 80 spaces.

The application site also benefits from being situated adjacent to the town car park which is currently owned by West Devon Borough Council. A total of 81 parking bays are available in this area, including 7 on-street bays alongside the car park on Bridge Street. This car park has historically been underused on market days, largely due to a preference to use free parking available within the market site itself. However, this car park does provide a good supply of parking bays and acts as a complementary facility to the market functions.

It is important that an appropriate balance is sought between ensuring sufficient parking and creating an attractive and safe living environment for local businesses and residents. Officers are reluctant to see large areas dedicated solely to the use of parking which may only be used for one or two days a week. However, Officers also understand the importance of ensuring that the viability of the market is not compromised by limited parking.

The flexibility offered by multi-use parking areas is welcomed by Officers as an effective way of balancing these concerns. In addition, the provision of on-street parking throughout the residential development will allow for an element of parking on market days when residents may be at work. Furthermore, there is potential to make better use of the town car park on Bridge Street which is underused on market days at present. The proposal also includes a bus route through the market site which will improve access to the market via public transport. None of these options preclude other areas of the town and its surroundings being explored for car parking at peak times outside of this application process. As such, it is considered by officers that the collective provision for car parking included within the proposal is now proportionate and appropriate.

## **Housing**

Hatherleigh has seen a high rate of growth over recent years, equating to a 26% rise in the number of houses built between 2007 and 2011. One of the major concerns raised during the consultation on the Community Plan was that improvements to the town's infrastructure were struggling to keep up with the pace of development. The Community Plan has therefore expressed a desire to balance this level of development with a steadier rate of housing delivery over the next few years to allow time for the community and its facilities to absorb the change and The Plan planned to provide approximately 105 homes between now and 2026. With 80% of this housing has been directed towards the market site (approximately 84 units), with the remaining 20% to be provided through smaller, infill developments.

In response to consultation on the application and negotiation with Officers, the original proposal for 116 units has been revised downwards to 106 units. This is still 22 units above that recommended in the Community Plan and makes provision for the entire number of houses planned in the town up to 2026. This remains a concern of the town council and community. Officers have therefore assessed the scheme in detail to understand whether such housing numbers are necessary to make the project viable, when balanced against the other policy requirements of the site (namely affordable housing, open space, sport and recreation facilities, market operations and employment units). A specialist and independent viability consultant has been appointed to assist Officers in these deliberations and negotiations and overall it is the considered judgement of Officers that the number of units proposed is justified. Whilst it remains higher than that indicated in the Community Plan, providing fewer units than this could prejudice the comprehensive redevelopment of the site, risk the continuation of market operations, limit infrastructure monies available and compromise the already reduced levels of affordable housing.

Furthermore, the NPPF requires Local Planning Authorities to "boost significantly the supply of housing" and this proposal will contribute significantly towards the Borough's overall housing needs. The Council has an approved Housing Position Statement which confirms a 5 year housing land supply. A proportion of residential development on the Hatherleigh Market site is included within this calculation. As this proposal is likely to come forward in the short-term (i.e. the next five years), it will help to support a robust five year supply of land for housing in the Borough, reducing the risk of speculative development proposals in less favourable and/or sustainable areas of the Borough.

The exact mix and design of properties are issues for a reserved matters application where officers would ensure an appropriate mix of types and sizes of units including some single floor accommodation. However in order to further ensure suitable housing for all, particularly those with particular housing needs such as those with mobility issues, it is proposed that a proportion of the units be required to be lifetime homes. The Lifetime Homes Standard seeks to enable 'general needs' housing to provide, either from the outset or through simple and

cost-effective adaptation, design solutions that meet the existing and changing needs of diverse households. This offers the occupants more choice over where they live and which visitors they can accommodate for any given time scale. It sets out 16 design criteria to be followed by developers.

Building dwellings to 'Lifetime Homes' standard is easier and usually cheaper at the initial design and construction stage than trying to retrospectively change them and make them suitable for people with disabilities once built. It reduces the amount of work necessary to adapt them to the specific needs of future residents and promotes inclusive communities. The 2013 SHMNA indicates a forecast increase in the number of individuals aged 65+ in West Devon of 56% in the period 2011-2013. It also forecasts a rise of between 2-5% in individuals with learning, physical and personal care disabilities between now and 2020. It is important that provision is made as part of this development if the overall need is to be met and the choice of suitable properties, for elderly people and individuals with disabilities, is not to be narrowly restricted.

The community plan identifies that there is a need for more homes suitable for the elderly and this site with its relatively level nature close to the Town Centre and good public transport links would provide a suitable site for such occupation. This combined with the homes being of a design that allows for their occupation over a long period and allows for their adaption etc. makes this requirement of the community achievable.

At this outline stage it is not known exactly how many of the dwellings proposed in this development will be built to Lifetime Homes standards. The adopted policy in SP8 seeks to maximise 'Lifetime Homes' in new development, subject to viability. It is supplemented by Policy H42, The Disabled and those with mobility difficulties of the Local Plan Review. Therefore it is considered prudent, at this outline stage, to apply a condition to create a 'floor' to the amount of 'Lifetime Homes' that are provided, by requiring, as a minimum, that at least 20% of the overall development is built to Lifetime Homes Standard.

Rather than having very separated commercial and retail aspects to this development, it was established early in discussions that the character of Hatherleigh includes many dwellings which incorporate a retail, office or café element and that this is both the physical nature of the main street but also its culture. As such it is expected that a proportion of the market properties will contain a commercial element of A1/A2/A3 uses (explained in more detail under retailing below) and that this historical form of live-work type unit will provide both an active street frontage as well as natural surveillance of the area.

### Affordable Housing

As part of the Hatherleigh Community Plan process a housing needs survey was undertaken by the Community Council of Devon. The survey identified a need for 11 affordable homes over the next 3 to 5 years to meet the needs of local people. The tenure of the properties required was 9 rented properties and 2 shared ownership units. Hatherleigh currently has a stock of 98 affordable rented units with a balanced amount of one, two and three bedroom properties. There is a steady turnover of these units as, per the Local Allocations Policy, applicants in housing need with a local connection to Hatherleigh are initially nominated before this cascades to the whole of West Devon.

The policy requirement for affordable housing on a site typical to Hatherleigh Market is 40%, this however is subject to viability. The initial amount of affordable housing proposed for the scheme was nil, therefore an independent consultant was appointed to test the viability and negotiations have since taken place. The negotiations have resulted in 11 units being

provided on site in phase 1 in phase 2 a financial contribution of £200k or 10 additional units will be provided. This takes the provision of affordable housing on the site to almost 20% which is acceptable to officers given the other s106 requirements and development constraints. It is recognised previously in this report that Hatherleigh has seen a large increase to the housing stock including affordable housing. Therefore the flexibility of a commuted sum or units on site over the 11 identified properties in the housing needs survey is deemed to be appropriate to provide affordable housing elsewhere in the borough.

The Section 106 will identify the local connection criteria, tenure split and trigger points for the commuted sum.

### **Retailing**

The Community Plan promotes more opportunities for locally independent stores which complement and do not compete with businesses in Bridge Street. There is limited support in the community for a large superstore but an additional smaller supermarket to provide competition to the Co-op and greater consumer choice is generally supported. There are some who do not support this view, as is evident from the objections, but the majority supported it hence its inclusion in the Plan.

The application includes provision for a single supermarket unit of 500m<sup>2</sup> alongside additional retail space totalling 576m<sup>2</sup>. In accordance with the Borough Council's adopted policies, the applicants have submitted a Retail Impact Assessment (RIA) in support of these uses on the site to demonstrate the potential impact of this proposal on the existing shops and stores in the town centre. Officers have reviewed the RIA and are satisfied that, subject to certain conditions and restrictions being imposed, there is likely to be no significant adverse impacts arising from the proposal. The supermarket will promote more customer choice and competition, whilst remaining of a reasonably modest size so that it minimises the potential for impact on local independent stores. Suitable restrictions in terms of what it will not be able to sell have also been negotiated with the applicant as follows:

- One convenience (food) retailing unit at no more than 500 square metres net (A1 food).  
The sale of goods will not include:
  - o In-store tobacconist
  - o In-store bakery or baking
  - o In-store Pharmacy
  - o In-store Café
  - o In-store Post office
  - o In-store delicatessen over 15m<sup>2</sup>
  - o The sale of any more than 20% comparison goods

In addition, the remaining retail floor space will comprise use classes A1 (food and non-food shops), A2 (financial and professional services) and A3 (restaurants and cafes) of which no single unit can be more than 150m<sup>2</sup> net floor space.

Subject to the above restrictions being in place, it is considered that the proposals for retail use on the site are broadly consistent with the aims and principles set out in the Community Plan in respect of retail development in the town.

### **Neighbour Amenity and the abattoir**

The application site abuts Dawn Meats abattoir. This abattoir is the largest in Devon and is the main employer in the town. The retention of the abattoir has been identified as a high

priority in the Community Plan and any redevelopment of the market site should therefore be sympathetic to its needs to ensure that it can continue to function successfully in the future.

Planning Officers have worked closely with Environmental Health Officers regarding this matter and have consulted the Environment Agency specifically on this matter as the EA are the licensing authority for the abattoir. Officers have given careful consideration to the responses received from all parties regarding the abattoir, in particular those from the EA and the representations from Dawn Meats. Environmental Health made the following comments:

*'Whilst considering the impact of this development and in particular the representations made by neighbouring commercial units and the Environment Agency we are of the opinion that there is insufficient reason to refuse the application based on the amenity impact.'*

*This decision is based upon the two council objectives one of which is to promote and protect business interests whilst at the same time recognising that this site has been allocated for residential development. There is also a local wish to see this site redeveloped and as such we do not feel that the concerns over the potential impact to the local business or the poorer level of future residential amenity that will potentially be offered to future occupants of the residential properties, overrides the benefits of this development coming forward and providing homes and work units.'*

*Councillors however should be mindful that there is no protection offered to the business from future occupants of the housing complaining about excessive noise or odour from the Dawn Meats site once they have moved in. However the Environment Agency have stated that the removal of the permit to operate the site would only be removed as an absolute last resort. Therefore members may feel contrary to the Environmental Health Officers views that the level of future residential amenity being offered is too poor and the risk to the amenity of the current business operating is too great. If that is the case they may feel that this application on its total merits is not acceptable.'*

Overall then it is likely that future occupiers of the residential units proposed will experience the presence of the abattoir in some form and at some time, be it odour, light or noise, and as such are likely to benefit from a lower level of general amenity than a dwelling on a usual large-scale greenfield housing development. These residents would have a right of complaint and officers wish to protect the abattoir from any future restrictions or operating methodologies imposed upon them in response to any such complaints as these could cause the business to become unviable and close. The community too wish to protect this valued business and employer. However it is not considered that the reduced level of amenity, likely to result from the presence of the abattoir, is sufficient to refuse the application, as there is support for a mixed use scheme such as this to reutilise and regenerate the market and site, and with the imposition of suitable conditions and a carefully designed detailed reserved matters scheme which carefully orientates main living areas and windows etc away from the abattoir, it is considered that the detriment to amenity can be reduced to a satisfactory level.

The phasing scheme as discussed in the section on the S106 above is also designed to ensure that employment buildings and the market are in place at an early stage, not only to ensure their delivery but also to ensure a physical barrier to the abattoir site thus reducing the perception of its proximity and providing some barrier against light and noise. The landscaping scheme will also be expected to incorporate not only native species but also those with known benefits in counteracting odour and noise. Dwellings will also be focused towards the south of the site with commercial, retail and market/business uses in the areas nearer to the abattoir.

With regards to other aspects of amenity, this is an outline only and many elements of amenity depend upon the detailed design and location of properties. However it has been demonstrated through illustrative plans that the site is able to accommodate this number and mix of dwellings and uses whilst still providing adequately sized plots, landscaping and circulation space whilst providing a buffer to the river etc.

Amongst the objections and concerns raised was the issue of community events and the fact that at present these are generally held on or involve the market site. For example the carnival fair is located on the site and it forms part of the tar barrel and float route. However with the initial number of car parking spaces proposed plus the additional 50, it is considered that the market area as proposed including its car parking could provide a large enough flexible space to allow for some or all of these uses to continue on the site. In addition for infrequent uses such as these other planning rules allow for the flexible use of other open spaces, such as recreation grounds etc of which there are several options in and around Hatherleigh.

### **Open space, sport and recreation**

The town is already well served by a range of sporting and recreational facilities, catering for most ages and abilities in the community. The Community Plan has identified potential 'gaps' in provision which will be exacerbated as a result of increased development in the town and a range of on-site provision and off-site financial contributions have been negotiated to meet some of these identified needs.

This scheme provides a linked up river walk providing informal open space alongside the river. It also proposes a LEAP within the site and some allotments. In addition it would provide £25,000 to WDBC for use towards management/maintenance and creation of other public open space and proposes providing the cricket club with a lease for a second pitch (as the applicant owns the land required for such a pitch), this was identified as a requirement in the Community Plan.

Officers are satisfied that the proposed open space, sport and recreation facilities/monies are well tailored to the needs and identified requirements of the community as well as falling broadly in line with the policy requirements given the viability issues of the scheme.

### **Landscape and Ecology**

There is only really one significant landscape feature inside the site and that is the swathe of planting towards the north of the site adjacent to the existing access (T6). Both the Countryside and Landscape officers comment on this in their consultation responses and both wish it to be retained in a future detailed design. T6 is absent from the current Illustrative Masterplan and there appears to be no compensatory planting currently shown creating a significant biodiversity deficit from the proposal. However this plan is illustrative only and a detailed landscaping scheme will be required at reserved matters stage and its submission and implementation will be secured via conditions.

With regards to ecology, bat surveys concluded evidence of a 'transitional/day roost' of small numbers of long-eared bats (within the roof void), and day roost for a single/very small number of pipistrelles (under wooden cladding) in the office at the market site. The building was thought to provide unsuitable conditions for maternity/hibernation roosts, and this was supported by findings.

As such, demolition of the building found to have bats in it (without mitigation) could result in Habitats Regulations offences related to disturbance/killing of bats, and destruction of a roost.

Accordingly, the ecologist has proposed mitigation to avoid an offence as follows:

- Timing any works to the building between late October and late March in any year
- Relocation of the half of the building allowing adequate space for the roosting requirements (and numbers) of bats found in the same period
- Supervision of this aspect of works by a suitably qualified ecologist

It is proposed to relocate the half-building to the southern margins of the site, corresponding with the main area of bat activity on the site associated with the river and vegetated corridor. The principle for mitigation is in line with guidance and an appropriate method of sustaining the ecological functionality of the roost. This retention of the roost is the current proposal. As this retains the habitat then there is no offence under the European Regulations and thus an EPS license would not be required and the three tests for derogation do not apply.

As the current submission is outline only there would seem to be some flexibility over the new location of the building (as long as it is in southern extent of the site) and this can be detailed at reserved matters stage. Should relocation of the building be considered at odds with the principles of the development scheme and not sit comfortably in terms of design with the detailed scheme then a purpose built structure would be an acceptable alternative (albeit under an EPS Licence which could be considered at this stage). The principle of proposed mitigation is acceptable, however a method of securing this will be necessary. This could be detailed at reserved matters stage through a condition.

The Extended Phase 1 Survey flagged up the presence of slowworms on site. No detailed full reptile survey has been submitted but this could acceptably be provided along with a mitigation strategy (detailing capture, translocation, habitat creation, etc) at reserved matters stage if secured by condition.

Enhancement of the site and future management and maintenance would be secured through submission of further details to be agreed. This would include on-site enhancement and favourable management as well as incorporation of nesting boxes etc within buildings.

### **Design and Heritage**

The site is not within the Conservation Area but is immediately adjacent to it. It is also in immediate proximity to several listed buildings including the Grade I St John the Baptist's Church, the Grade II thatched property associated with Cornwall Farmers and the Old Schools and several other Grade II residential properties around the old Market Square.

There is little detail to consider at this stage in relation to the setting of these heritage assets as the proposal is in outline only. The existing buildings on site have no architectural merit so their removal is acceptable and from many aspects opens up views of and from the church and listed buildings. At reserved matters stage details such as vistas of the church, setting of these listed properties, new dwelling design and the design in general of new employment and retail buildings and the market pavilion etc will be crucial in securing a quality design for the site but also in protecting the setting of these listed buildings. Work has been done in relation to these elements and the Design and Access statement clearly identifies settlement patterns already within Hatherleigh and how this can be interpreted and reflected within a street layout on the new site. Similarly designs and layouts can draw from the existing character of Hatherleigh such as frontage terraces, mixed use properties and carriageway

arches. These are all, however details for the reserved matters stage, in the mean time the current proposal is capable of adequately protecting the setting of the Conservation Area and listed buildings and has the opportunity to reflect Hatherleigh's street patterns and built character within its later detailed stages.

With regards to below ground heritage, DCC Archaeology have no objection but request a condition to allow for the protection of archaeology during works.

### **Drainage and flooding**

A small proportion of the site is within flood zones 2 and 3. This is limited to the area to the west and south west of the site where it borders the River Lew but it includes the site access onto the A386.

Flooding is a particularly topical issue at present and both Government guidance and local policies are clear that new development should not be placed within flood zone areas and that where accesses are potentially vulnerable to flooding this issue should be carefully considered too. However in the case of the Market site the majority of it is outside the flood zone and those areas identified as being within it will not be developed other than for low risk uses such as public amenity space, the riverside walk etc. In addition although the access onto the A386 lies within the EA flood zone, there is at least one alternative vehicular route into or out of the site and then out of the Town so there are no concerns about the properties being cut off in an extreme flood event.

Site specific work has been undertaken relation to the site and neither the Environment Agency nor the Council's Senior Engineer raise any objections to the proposal but both require stringent conditions relating to foul and surface water drainage.

### **Highways/Access:**

As discussed above there are two main points of vehicular, cycle and pedestrian access into the site, via Bridge Street (along an access road owned by WDBC) and via the A386. On first consultation with DCC, their comments were as follows:

*'The Transport Assessment is thorough and easy to follow and demonstrates that the traffic associated with the new development can easily be accommodated within the local road network. That said there are a number of issues which require clarification.'*

They then went on to require additional information on the medical centre parking and trip numbers, junction with the A386, pedestrian and cycle links and facilities and to request a new route be secured through the site for the bus to avoid it having to turn in the current banjo space near the co-op and money for a traffic order to move the 30mph zone.

Following the submission of the amended Transport Assessment and additional Technical Note (21 November 2013) from the applicants' consultants (WSP) DCC went on to comment as follows: *'The updated and amended TA and the Technical Note address satisfactorily the issues raised as matters of concern in the initial response and the highway authority is now able to recommend the imposition of suitable conditions, subject to the completion of an appropriate agreement for various works and matters that cannot be covered by condition.'* (Agreements and conditions required are as set out in note form above).

The Highways Agency too raised no objections. As such it is considered that, with the conditions and the S106 heads of terms as set out above, the proposed access arrangements are considered acceptable.

**Other Matters:**

The existing garage at the top of Hole Court to the NE of the site has not comprised a part of this submission. Comments have been raised by the public that its inclusion within the scheme would allow for this area to be opened up forming a clearer link to the top of the main town street and existing square. Officers agree that the incorporation of this building into the scheme would have allowed for more options to be explored in this area, however it is not included and is under separate ownership from that of the current applicant. However its lack of inclusion at this stage would not prohibit its coherent incorporation at a later stage were an application for the garage site to come in concurrent with the reserved matters scheme for this site for example.

Additionally it has been raised that this garage relies upon the parking of vehicles on the market site in order to function, however the market site does not belong to the garage and it is understood the agreement under which this parking occurs is not substantial. Although the garage may not be able to function as it does with the withdrawal of the permission to park on the market site, this is not a material planning issue.

Some concerns have been raised in letters of representation that the new market area will make a new market square which will compete with the old square. There is undoubtedly a balance to be achieved between providing adequate market facilities to allow it to continue to thrive and grow and attract people to the Town, whilst not allowing unreasonable competition with the existing town facilities and square. However the quantities of the various land uses, in the forms they are proposed are considered by officers to make that balance. The detail of the location and spatial relationship to the main square is a matter for consideration at reserved matters stage but at present it is considered to be the correct mix to sustain the Town and market, meet the demands of the Community Plan whilst not competing unfairly with the Town at present.

High speed broadband ducting will be secured to every premises on the site to allow for its implementation. This will aid in making the residential units attractive places to live, particularly given the increase in home working, and will make the commercial premises more attractive to occupiers also.

Within the representations the issues surrounding rights of way over the site have been raised in particular in relation to access to the abattoir. The current indicative layout caters for these rights of way and these rights and required routes will dictate the final layout. Any granting of permission would not revoke any such rights.

**Conclusion:**

Overall Officers now consider that a good and appropriate scheme has been achieved which is policy compliant and which has sought to react to and address the wishes of the community and wider borough. The scheme retains and regenerates the market whilst also providing additional employment opportunities through B1 units and also retail, office and café/restaurant uses. The section 106 heads of terms have been thoroughly negotiated upon by officers and are now agreed as being robust and suitable for the scheme considering the viability restrictions of the site.

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

## **Planning Policy**

### **West Devon Borough Council Core Strategy 2011**

- SP1 – Sustainable Development
- SP2 – Decentralised and Renewable Low Carbon energy to Supply New Developments
- SP4 – Infrastructure Provision
- SP5 – Spatial Strategy
- SP6 – Density of Housing Development
- SP7 – Strategic Distribution of Housing
- SP8 – Inclusive Communities
- SP9 – Meeting Housing Needs
- SP10 – Supporting the Growth of the Economy
- SP11 – Rural Regeneration
- SP 12 – Retailing
- SP13 – Community Services and Facilities
- SP14 – Accessibility Planning
- SP15 – Traffic Management
- SP16 – Safer Communities
- SP17 – Landscape Character
- SP18 – The Heritage and Historical Character of West Devon
- SP19 – Biodiversity
- SP20 – Promoting High Quality Design
- SP21 – Flooding
- SP22 – Okehampton
- SP24 – Sustainable Rural Communities

### **West Devon Borough Council Local Plan Review 2005(as amended 2011)**

- BE1 – Conservation Areas
- BE3 – Listed Buildings
- BE4 – Features and Artefacts of Local Importance
- BE5 – Important Open Space within Settlements
- BE7 – Archaeology and Sites of Local Importance
- BE8 – Archaeology and Sites of Local Importance
- BE9 – Archaeology and Sites of Local Importance
- BE10 – Archaeology and Sites of Local Importance
- BE13 – Landscaping and Boundary Treatment
- BE16 – Potentially Polluting Activity
- BE17 – Potentially Polluting Activity
- BE18 – Potentially Polluting Activity
- BE19 – Development on Contaminated Land
- H25 – Mixed Use Development in Town Centres
- H26 – Open Space Provision in New Residential Developments
- H28 – Settlements with Defined Limits
- H37 – Meeting Local Housing Needs in Rural Areas
- H41 – Business Use in Residential Areas
- H42 – Disabled and Those with Mobility Issues
- H44 – New or Replacement Community Uses
- ED12 – Safeguarding Employment Land
- R5 – Neighbourhood and Village Shopping
- TLS6 – Allotments
- TLS7 – Existing Sports Facilities

T1 – Walking and Cycling  
T2 – Pedestrian and Cyclist Safety  
T3 – Protection of Existing Footways, Cycleways and Bridleways  
T5 – Public Transport  
T8 – Car Parking  
T9 – The Highway Network  
PS2 – Sustainable Urban Drainage Systems  
PS3 – Sewage Disposal  
PS7 – Buffer areas With Rivers

Hatherleigh Community Plan

NPPF

SPD Infrastructure Delivery

**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.

---