PLANNING REF: 4116/24/OPA

DESCRIPTION: Outline planning application for up to 75 dwellings & all other associated development, with all matters reserved apart from access

ADDRESS: Land at SX 656 522 Barrack Road, Modbury.

11th January 2026

LETTER OF OBJECTION FROM THE SOUTH HAMS SOCIETY

The South Hams Society interest

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and oppose inappropriate development.

The Society are writing to DMC members because of the implications of this application, were it to be approved, on the impact to communities' engagement with Neighbourhood Plans. Indeed, the National Planning Policy Framework paragraph 14 recognises this consequence.

'14. ***The application of the presumption has implications for the way communities engage in neighbourhood planning.*** *Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.* ***In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:***

a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).'

This paragraph of the December 2024 NPPF remained unchanged from the previous 2023 version of the NPPF.

Consequently the Society would remind the District Council of the statement made to the House of Parliament by the Minister of State for Levelling Up, Housing and Communities on the 19th of December 2023.

https://questions-statements.parliament.uk/written-statements/detail/2023-12-19/hcws161#:~:text=In%20summary%2C%20the%20new%20NPPF,local%20plans%20from%20annual%20updates

'Neighbourhood Plans.

The poor performance of local planning authorities will lead to consequences. But local communities that have worked hard to put neighbourhood plans in place should not be penalised for the failure of their council to ensure an up-to-date local plan. The new NPPF therefore protects neighbourhood plans from speculative development from two to five years, where those plans allocate at least one housing site'.

Crucially Modbury allocated three housing sites (Penn Park, West of Palm Cross and West of Barracks Road).

Of the Smaller Towns and Key Villages settlements of Bere Alston, Dartington, Hatherleigh, Lifton, Modbury, North Tawton, Salcombe, Stokenham / Chillington and Yealmpton, **Modbury had the largest number of homes proposed**.

The JLP proposal for Modbury was:

'5.137** As set out in policy TTV24, **173 new homes and 1,900 sqm of employment floorspace are proposed within Modbury and this is considered to be an appropriate scale of growth to support the future sustainability of the town'.

Modbury's Neighbourhood Plan (NP) consultation was the most fraught of all consultations for any of the South Hams District NP's when identifying the most suitable locations for development.

Modbury straddles the South Devon National Landscape and the whole of Modbury is within its setting.

The NP provided for many new homes.

The Modbury NP and the NPPF paragraph 14 balance.

Modbury is in a rare, protected position.

In 2026, Paragraph 14 of the NPPF remains the most important 'shield' for local communities. It is designed to protect Neighbourhood Plans from being overridden by developers when a local council fails to meet its housing targets.

Normally, if a council cannot prove a 5-year land supply, the 'Tilted Balance' (Paragraph 11d) kicks in, making it very easy for developers to get permission for sites not in the plan.

Paragraph 14 is the exception that 'tilts the balance back' in favour of the community. As of January 2026, the status of the Modbury Neighbourhood Plan and how the 'Paragraph 14' shield applies to it is as follows:

1. Is Modbury protected by Paragraph 14?

Yes. The Date Test: The Modbury Neighbourhood Plan was formally 'made' (adopted) on the 30th of March 2023. **Since it is less than five years old, it currently qualifies for the protection offered by Paragraph 14 of the NPPF.**

The Allocation Test: **The plan includes specific housing site allocations (the largest number of any of the small towns and key villages)**. Because the plan actively provides for housing rather than just resisting it, it meets the requirement for Paragraph 14 protection.

2. The 'Tilted Balance' Threat

Despite having a plan, Modbury is at risk because of the South Hams District Council (SHDC) housing supply position.

The Supply Crisis: As of late 2025, the joint authorities (South Hams, Plymouth, and West Devon) reported a housing land supply of only 2.33 years.

What this means: Under normal rules, when a council has less than 5 years of land, the 'Tilted Balance' (NPPF Paragraph 11) kicks in, and developers can often ignore local rules.

Modbury's Shield.

Because Modbury has a 'made' plan that is less than 5 years old, Paragraph 14 acts as a shield. It tells planners that even though South Hams is failing its targets, the Modbury Neighbourhood Plan should still carry significant weight, and development that conflicts with it should generally be refused.

The statement made to House of Parliament by the Minister of State for Levelling Up, Housing and Communities on the 19th of December 2023 made the operation of the new paragraph 14 of the NPPF clear.

It cannot be correct that the Council's opinion that *'PPG Paragraph: 097 Reference ID: 41-097-20190509 makes it clear that strategic site allocations in other development plan documents cannot be relied upon for the purposes of paragraph 14*' can override a statement made to the house over 4 years later.

There is no requirement for counsel or councils' legal interpretation of paragraph 14. The ministers statement was clear.

If the Council is willing to ignore a statement to the House of Parliament by the Minister of State for Levelling Up, Housing and Communities then the Golden Rules should still apply.

The Modbury planning decision:

Check the 'Golden Rules': Ensure the developer is meeting the 50% affordable housing target and infrastructure requirements. If they aren't, the 'override' might be unlawful.

Finally, the Society question why the Transport Report chose not to include the most recent accident data:

'Transport Assessment

Palm Cross Extension, Modbury

Bloor Homes

Prepared by:

SLR Consulting Limited

6 Victory House, Dean Clarke Gardens, Exeter, EX2 4AA30

September 2025'

Paragraph 3.35 and 3.36 states:

Personal Injury Collision

3.35 It is recommended in the NPPG, ID42-015 that:

"an analysis of the injury accident records on the public highway in the vicinity of the site access for the most recent three-year period, or five-year period in the proposed site has been identified as within a high accident area."

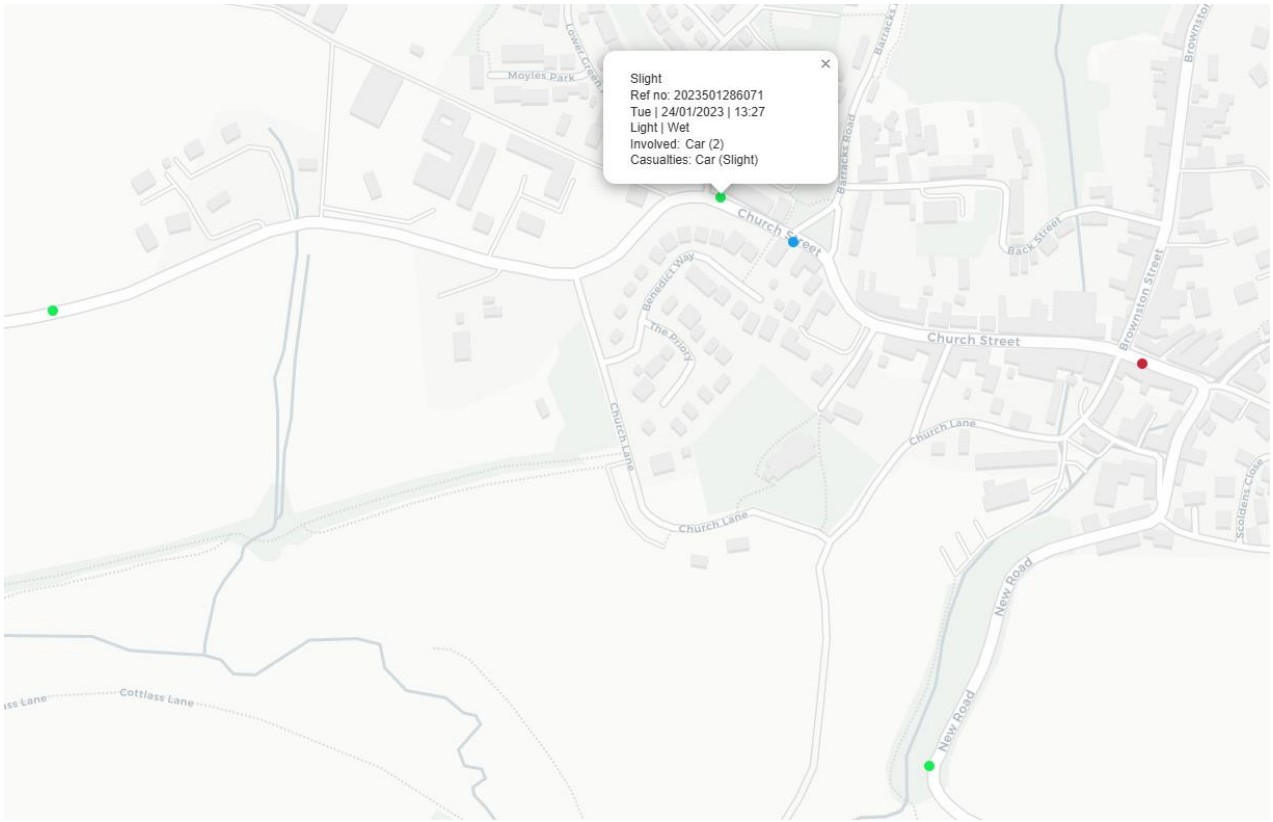
3.36 Personal Injury Collision (PIC) data was obtained from the Crashmap online database for the previous 3-year period covering 2020-2022, in accordance with NPPG guidance. There have been no collisions within the immediate vicinity of the site access over the previous 3-year period.

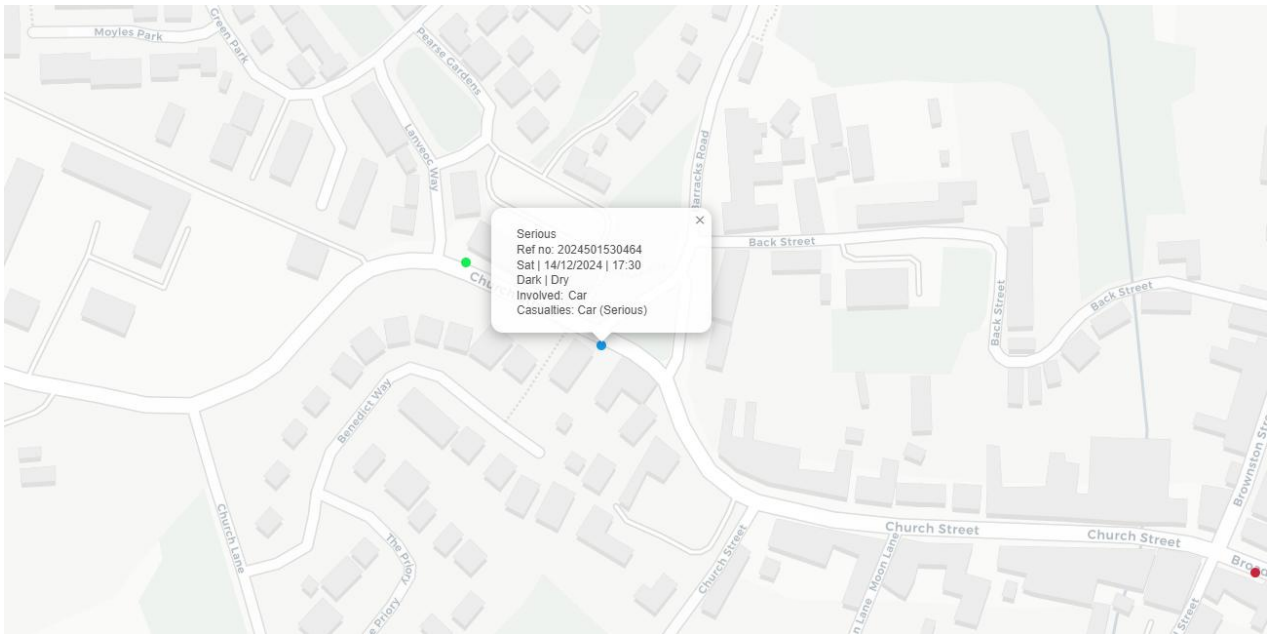
Paragraph 3.38 states:

3.38 As shown at **Figure 3.5**, there have been zero collisions within the immediate vicinity of the site access. Further from the site there have been two collisions in Modbury itself, including one fatal and one slight collision. The fatal collision occurred in 2021 on the A379 / Broad Street, involving a pedestrian. Further analysis found that the incident occurred near the post office on the high street. A review of the local road network has found there are appropriate crossing provisions within the vicinity of the collision, including a zebra crossing point and footways with dropped kerbs and tactile paving.

Why did the report not include 2023 and 2024?

Because of the failure to record these latest years, two recorded accidents within 70 metres of the Lanveoc Way Junction have not been reported to the local planning authority or councillors.





Church Street is particularly hazardous for pedestrians because of the traffic queues that form either side of the street parking and particularly around the zebra crossing where pedestrians appear between stationary vehicles.

For all these reasons the South Hams Society respectfully requests this application is refused.

For and on behalf of the South Hams Society.

Leslie Pengelly,
Planning Lead