

# Agenda for Development Management Committee

## Tuesday, 1 May 2018; 10:00am



### [Members of the Committee](#)

**Venue:** Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

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01395 517542, Issued 18 April 2018

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### [Speaking on planning applications](#)

In order to speak on an application being considered by the Development Management Committee you must have submitted written comments during the consultation stage of the application. Those that have commented on an application being considered by the Committee will receive a letter or email (approximately 9 working days before the meeting) detailing the date and time of the meeting and instructions on how to register to speak. The letter/email will have a reference number, which you will need to provide in order to register. Speakers will have 3 minutes to make their representation. **Please note there is no longer the ability to register to speak on the day of the meeting.**

The number of people that can speak on each application is limited to:

- Major applications – parish/town council representative, 5 supporters, 5 objectors and the applicant or agent
- Minor/Other applications – parish/town council representative, 2 supporters, 2 objectors and the applicant or agent

The day before the meeting a revised running order for the applications being considered by the Committee will be posted on the council's website (<http://eastdevon.gov.uk/council-and-democracy/committees-and-meetings/development-management-committee/development-management-committee-agendas>). Applications with registered speakers will be taken first.

**Parish and town council representatives wishing to speak on an application are also required to pre-register in advance of the meeting.** One representative can be registered to speak on behalf of the Council from 10am on Monday 23 April up until 12 noon on Thursday 26 April by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

### Speaking on non-planning application items

A maximum of two speakers from the public are allowed to speak on agenda items that are not planning applications on which the Committee is making a decision (items on which you can register to speak will be highlighted on the agenda). Speakers will have 3 minutes to make their representation. You can register to speak on these items up until 12 noon, 3 working days before the meeting by emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk) or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

- 1 Minutes of the Development Management Committee meeting held on 3 April 2018 (page 4-7)
- 2 Apologies
- 3 Declarations of interest - Guidance is available online to Councillors and co-opted members on making [declarations of interest](#).
- 4 [Matters of urgency](#)
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.
  
- 6 **Planning appeal statistics** (page 8-11)  
Development Manager
  
- 7 **Applications for determination**  
**Please note the following applications are all scheduled to be considered in the morning, however the order may change – please see the front of the agenda for when the revised order will be published.**

#### **18/0300/FUL (Minor)** (Page 12-29)

Broadclyst  
Land East Of High Bank  
Bridge View, Rockbeare, EX5 2UJ

#### **17/2319/FUL (Minor)** (Page 30-55)

Clyst Valley  
Land East Of Hill Barton Business Park  
Farringdon

#### **17/2473/MOUT (Major)** (Page 56-86)

Honiton St Michaels  
Land at High Street (former Foundry Yard)  
High Street, Honiton, EX14 1JZ

#### **17/2850/MFUL (Major)** (Page 87-106)

Sidmouth Sidford  
Green Close  
Drakes Avenue, Sidford, Sidmouth, EX10 9JU

**17/1201/MFUL (Major)** (Page 107-142)

Newbridges

River Cottage

Park Farm, Trinity Hill Road, Musbury, Axminster, EX13 8TB

**Please note:**

Planning application details, including plans and representations received, can be viewed in full on the Council's [website](#).

This meeting is being audio recorded by EDDC for subsequent publication on the Council's website.

Under the Openness of Local Government Bodies Regulations 2014, members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

[Decision making and equalities](#)

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Development Management Committee held at Knowle, Sidmouth on 3 April 2018**

#### **Attendance list at end of document**

The meeting started at 10am and ended at 11.10am

#### **\*45 Minutes**

The minutes of the Development Management Committee meeting held on 6 March 2018 were confirmed and signed as a true record.

#### **\*46 Declarations of interest**

Cllr Alan Dent; 17/3013/FUL; Personal interest; acquaintance of the applicant.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the Constitution, Cllr Bruce de Saram, Cllr Susie Bond and Cllr Mike Allen advised that they had been lobbied in respect of application 16/1826/MFUL.

#### **\*47 Appeal statistics**

The Committee received and noted the report written by the Development Manager setting out appeals recently lodged and outlining the two decisions notified which – one had been dismissed and one had been withdrawn.

The Development Manager drew Members' attention to the appeal of application 17/2168/FUL which had been dismissed with visual impact and amenity reasons for refusal being upheld. The Development Manager also drew Members' attention to the appeal of application 16/2197/FUL which had been withdrawn on the day of the hearing by the applicant due to inadequacies in their case; with subsequent costs applied for and awarded to the Council.

#### **\*48 Applications for Planning Permission and matters for determination**

##### **RESOLVED:**

that the applications before the Committee be determined as set out in Schedule 11 2017/2018.

#### **Attendance list**

##### **Present:**

Committee Members present for all or part of the meeting

Councillors

Mike Howe (Chairman)

Colin Brown (Vice Chairman)

David Barratt

Susie Bond

Helen Parr

Bruce de Saram

David Key

Brain Bailey

Steve Gazzard

Mark Williamson

Ben Ingham

Mike Allen

Peter Burrows  
Alan Dent

Officers present for all or part of the meeting

Henry Gordon Lennox, Strategic Lead – Governance and Licensing  
Chris Rose, Development Manager  
Jessica Crellen, Planning Officer  
Tabitha Whitcombe, Democratic Services Officer

Also present for all or part of the meeting

Councillors:  
Roger Giles  
Val Ranger

**Apologies:**

Committee Members

Councillors  
Matt Coppell  
Paul Carter

Chairman ..... Date.....

**EAST DEVON DISTRICT COUNCIL**  
**Development Management Committee**  
**Tuesday 3 April 2018; Schedule number 11 – 2017/2018**

**Applications determined by the Committee**

Committee reports, including recommendations, can be viewed at:  
<http://eastdevon.gov.uk/media/2424669/030418combinedDMCagenda.pdf>

Broadclyst (CLYST HONITON) 16/1826/MFUL  
Applicant: D S Developments (Exeter) Ltd.  
Location: South Whimble Farm, Clyst Honiton, Exeter, EX5 2DY  
Proposal: Demolition of agricultural buildings and erection of 19 dwellings, new access road and estate road and ancillary works

**RESOLVED:** APPROVED subject to a Section 106 Agreement and conditions as per officer recommendation (including an amendment to Condition 15 to reflect further landscaping information recently submitted) and subject to an additional condition requiring a revised drainage layout plan to show relocation of a tree and an Informative regarding complying with Strategy 36 in terms accessible and adaptable homes with delegated powers given to the Development Control Manager to draft the wording.

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Broadclyst (BROADCLYST) 17/2961/FUL  
Applicant: Ms Kate Shattock  
Location: Land Adjacent To 9 Shercroft Close, Broadclyst, Exeter, EX5 3DZ  
Proposal: Erection of detached dwelling  
**RESOLVED:** APPROVED as per officer recommendation

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Newton Poppleford  
and Harpford  
(SIDMOUTH)

17/3013/FUL

Applicant: Mr M Horsburgh

Location: Littlecot House, Harpford, Sidmouth, EX10 0NH

Proposal: Re-build and extension of former barn to form holiday let

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Development Control Manager to impose appropriate conditions (to include the re-use of the dismantled materials)

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Woodbury and  
Lympstone  
(WOODBURY)

18/0400/FUL

Applicant: Mr James Brown

Location: 8 Fulford Way, Woodbury, Exeter, EX5 1NZ

Proposal: Construction of two storey side extension.

**RESOLVED:** APPROVED as per officer recommendation

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Ottery St Mary Rural  
(OTTERY ST MARY)

17/1930/OUT

Applicant: Mr Christopher Gooding

Location: Three Corners, Coombelake, Ottery St Mary, EX11 1NW

Proposal: Outline planning permission for the construction of a dwelling with all matters reserved

WITHDRAWN from the agenda by the applicant

## East Devon District Council List of Planning Appeals Lodged

**Ref:** 18/0012/FUL                      **Date Received** 26.03.2018  
**Appellant:** Mr Philip Tomlinson  
**Appeal Site:** Locomotion 1 Bedford Place Station Road Sidmouth EX10 8PG  
**Proposal:** Retention and modification of rear canopy. Modifications include; replace existing slate roof with a mix of Georgian wired in a patent glazing format, vent and soil pipe surround to be clad in lead; soffit and fascia boards to be removed and guttering to be attached to rafters; side panels to be render and painted; supporting posts to be rebated with post base plinths.  
**Planning Inspectorate Ref:** APP/U1105/W/18/3198913

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**Ref:** 17/2747/FUL                      **Date Received** 02.04.2018  
**Appellant:** Mrs Lynda Cole  
**Appeal Site:** The Flat The Chatterry 67 High Street Sidmouth EX10 8LE  
**Proposal:** Replacement of three windows on front elevation (partially retrospective)  
**Planning Inspectorate Ref:** APP/U1105/W/18/3199442

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**Ref:** 17/1270/FUL                      **Date Received** 06.04.2018  
**Appellant:** Green Hedge Energy Barn 2 Ltd  
**Appeal Site:** Land To The South Of Pound Road (North Of Woodcote National Grid Sub Station) Hawkchurch EX13 5TX  
**Proposal:** Construction of a 10MW battery storage barn to provide backup electricity services to the grid and construction of access track (temporary planning consent for 25 years sought)  
**Planning Inspectorate Ref:** APP/U1105/W/18/3199871

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**Ref:** 17/1556/FUL **Date Received** 09.04.2018  
**Appellant:** Mrs C Booth  
**Appeal Site:** 23 Marpool Hill Exmouth EX8 2LJ  
**Proposal:** Conversion and extension (raising ridge height) of garage to form dwelling  
**Planning Inspectorate Ref:** APP/U1105/W/18/3196805

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**Ref:** 17/2498/FUL **Date Received** 12.04.2018  
**Appellant:** Stag Inns  
**Appeal Site:** Land To Rear Of Sams Funhouse St Andrews Road Exmouth EX8 1AP  
**Proposal:** Change of use of offices/store rooms and extensions to provide 6no. flats  
**Planning Inspectorate Ref:** APP/U1105/W/19/3200250

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East Devon District Council  
List of Planning Appeals Decided

**Ref:** 17/0475/LBC                      **Appeal Ref:** 17/00063/LBCREF

**Appellant:** Mr & Mrs R Eley  
**Appeal Site:** Barrington Villa Salcombe Road Sidmouth EX10 8PU  
**Proposal:** Re-opening and alterations to former opening in wall to provide a gate and ramped access to rear garden.

**Decision:** **Appeal Dismissed**                      **Date:** 21.03.2018  
**Procedure:** Written representations  
**Remarks:** Delegated refusal, listed building conservation reasons upheld (EDLP Policies EN8 & EN9).

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/Y/17/3187393

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**Ref:** 17/0916/AGR                      **Appeal Ref:** 17/00064/REF

**Appellant:** Mr Robin Bright  
**Appeal Site:** Land To The North East Of Ridge Cross Stockland  
**Proposal:** Construction of livestock building

**Decision:** **Appeal Dismissed**                      **Date:** 23.03.2018  
**Application for a full award of costs against the Council refused**

**Procedure:** Written representations  
**Remarks:** Delegated refusal, landscape reasons upheld (EDLP Policies D1 & D8 and Strategies 7 & 46).

**BVPI 204:** **No**  
**Planning Inspectorate Ref:** APP/U1105/W/17/3187596

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**Ref:** 17/1345/FUL **Appeal Ref:** 17/00067/HH

**Appellant:** Mr & Mrs Crafer  
**Appeal Site:** 15 Haymans Orchard Woodbury Exeter EX5 1QU  
**Proposal:** Construction of single storey extension to front elevation.  
**Decision:** **Appeal Allowed (with conditions)** **Date:** 26.03.2018

**Procedure:** Written representations

**Remarks:** Delegated refusal, amenity reasons overruled (EDLP Policy D1).  
The Inspector considered that having particular regard to outlook and daylight, the living conditions of the occupiers of the neighbouring property would not be harmed as a result of the proposed extension. The proposal would, therefore, comply with Policy D1 of the East Devon Local Plan.

**BVPI 204:** Yes  
**Planning Inspectorate Ref:** APP/U1105/D/17/3188690

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**Ref:** 17/2556/FUL **Appeal Ref:** 17/00078/HH

**Appellant:** Mr Ian Thompson  
**Appeal Site:** 26 Travershes Close Exmouth EX8 3LH  
**Proposal:** Two storey side extension and single storey front extension  
**Decision:** **Appeal Dismissed** **Date:** 26.03.2018

**Procedure:** Written representations

**Remarks:** Delegated refusal, amenity reasons upheld (EDLP Policy D1).

**BVPI 204:** Yes  
**Planning Inspectorate Ref:** APP/U1105/D/17/3192007

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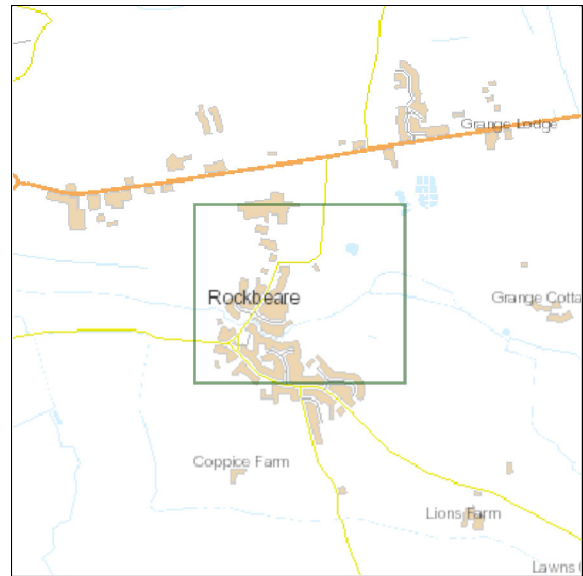
**Ward** Broadclyst

**Reference** 18/0300/FUL

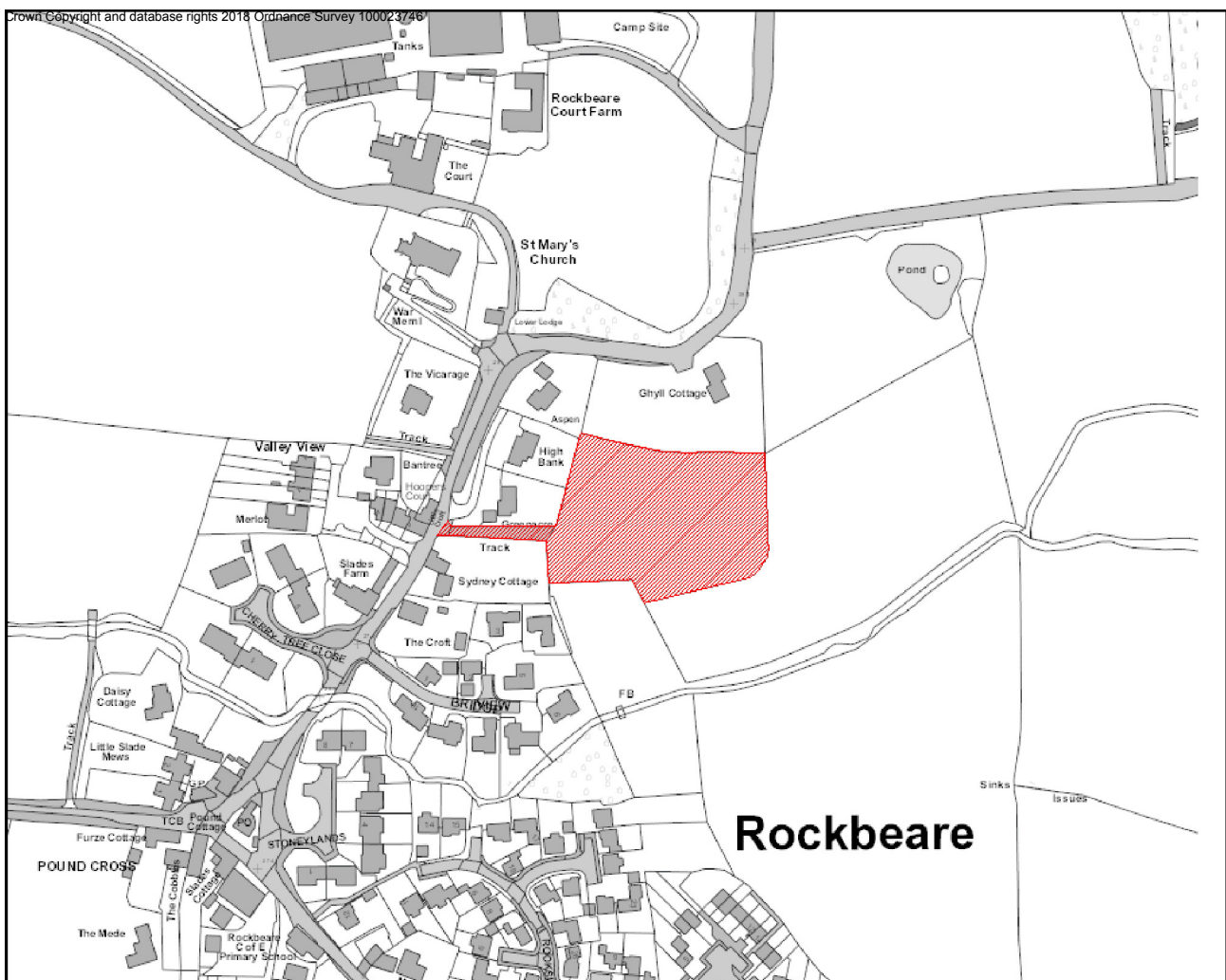
**Applicant** Mr C Emmett

**Location** Land East Of High Bank Bridge View  
Rockbeare EX5 2UJ

**Proposal** Erection of 5 dwellinghouses, construction of access and associated works.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 1<sup>st</sup> May 2018</b>
<b>Broadclyst (ROCKBEARE)</b>	<b>18/0300/FUL</b>	<b>Target Date: 13.04.2018</b>
<b>Applicant:</b>	<b>Mr C Emmett</b>	
<b>Location:</b>	<b>Land East Of High Bank, Bridge View, Rockbeare</b>	
<b>Proposal:</b>	<b>Erection of 5 dwellinghouses, construction of access and associated works.</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

The application is before Members of the Development Management Committee because the application is a departure from the East Devon Local Plan.

Whilst residential development on this site would be contrary to the provisions of Strategy 7 and Strategy 27 of the Local Plan and would not be permitted under these policies, the site does benefit from an extant outline planning permission (granted on appeal) for the development of up-to 9 dwellings. Officers consider this fall-back position to be a material consideration which should be afforded a significant amount of weight within the overall planning balance and which would make it difficult to raise an objection to the principle of residential development on this site notwithstanding its obvious conflict with the strategic policies within the Local Plan and policies within the emerging Neighbourhood Plan for Rockbeare.

Whilst concerns of the Parish Council and local residents are noted, the issues over the impact of development on the Green Wedge designation and the rural landscape character and appearance of the area, residential amenity and highway safety have previously been considered in detail as part of the last appeal for the outline application and no issues in respect of these were raised by the Inspector. The Inspector accepting that the site was in the Green Wedge but due to a lack of wider visual harm, allowed the appeal.

Regrettably this proposal, unlike that granted at outline on appeal, does not trigger a requirement for affordable housing either on site or a financial contribution as it is proposing less than 6 dwellings. Whilst this weighs against the proposal, it is not considered that this would constitute a reasonable reason for refusal because under the terms of the outline planning permission for up-to 9 dwellings, the applicant could as a fall-back position submit a reserved matters application for 5 dwellings and simply argue that the condition requiring

**affordable housing imposed by the Inspector does not apply as units numbers are less than the 6 threshold for the need to provide affordable housing.**

**In affording significant weight to the applicant's fall-back position and the extant outline consent, it isn't considered that an objection could reasonably be sustained to the principle of development on this site. The proposal is considered to be acceptable in terms of its design and layout, even though it has been purposely designed to avoid affordable housing and does not provide a mix of unit sizes required by Policy H2. The proposals relationship with and impact upon the amenities of existing residents, its impact on the setting of heritage assets, biodiversity and trees and flood risk and surface water management are all considered to be acceptable subject to conditions.**

**On balance the application is therefore recommended for approval subject to conditions.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

Re: Rockbeare Parish Council - 18/0300/Ful - Objection

Rockbeare Parish Council cannot support this application for the following reasons: -

1. The application is at odds with EDDC 's own Local Plan and Rockbeare Parish Council Neighbourhood Plan.
2. Flood Risk - despite the provision of SUDS area within this proposal, the application does not alleviate the risk of run off flooding to properties such as Little Croft, Sydney Cottage and those in Bridge View.
3. Green Wedge - Both the EDDC Local Plan and Rockbeare Parish Council Neighbourhood Plan. Within the Local Plan Rock06 relates to the Green Wedge and restricts development in the area between London Road and Rockbeare village, whilst Policy Rock07 relates to the scale and limits of development in Rockbeare village and Marsh Green.

If this application is allowed it makes a mockery of both the Local Plan and the whole Neighbourhood Plan process and puts the whole Green Wedge Policy at risk - the lack of respect for the protection of this area has been demonstrated by the recently proposed Cranbrook expansion plans.

Further comments 1<sup>th</sup> April 2018:

I have been requested by the Members of Rockbeare Parish Council to correspond with you in order to request that this letter is placed before the EDDC DMC.

The Parish Council wishes to make the following statement, in relation to the above detailed Planning Application.

18/0300/FUL

The previous Appeal in respect of this matter (APP/U1105/15/3006530) gave outline Planning Permission for 9 houses including some affordable housing. The decision was reached during a period when EDDC did not have its' new Local Plan approved, and consequently, at that juncture, could not prove that it (EDDC) had a 5 year Housing Land Supply.

EDDC now has a 'New Local Plan', which has been approved. That Plan provides confirmation that EDDC has in excess of a 5 year housing land Supply.

In consequence of the observations detailed above, it is the opinion of Rockbeare Parish Council that Planning Application 18/0300/Ful should be refused on the following grounds:

- There is no Affordable Housing content within the same and;
- The proposed site forms part of a Green Wedge, which is protected by Strategy 8 of the New Local Plan.

We look forward to hearing from you on these matters in early course.

### **Technical Consultations**

#### Conservation

Conservation do not wish to comment, as the proposal would result in no harm to the significance of heritage assets within the wider area.

#### Other Representations

9 letters of objection have been received at the time of writing this report raising concerns which can be summarised as:

- ) Loss of Green Wedge
- ) Traffic and highway safety
- ) No affordable housing
- ) Village does not have sufficient amenities
- ) Houses being constructed at Cranbrook
- ) Drainage and increased surface water
- ) Poor visibility from access
- ) Contrary to Local and Neighbourhood Plan
- ) No public benefit from a development of 5 large market houses
- ) Development in green wedge will set a dangerous precedent

### **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

18/0300/FUL

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 27 (Development at the Small Towns and Larger Villages)

Strategy 34 (District Wide Affordable Housing Provision Targets)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

H2 (Range and Mix of New Housing Development)

EN5 (Wildlife Habitats and Features)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN9 (Development Affecting a Designated Heritage Asset)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

Draft Neighbourhood Plan for Rockbeare

#### **Site Location and Description**

Rockbeare is located approximately 10.5 km East of Exeter city centre, 8 km West of Ottery St Mary, 3 km South-West of Whimble and 4 km South-East of Broadclyst just off the old A30. It is also situated close to the new community of Cranbrook. The first phase of which is located 1.3 km away. The village itself is fairly small and nucleated around a crossing of a tributary of the River Clyst. It has an historic core but 20th Century development has expanded the village significantly especially to the South-East over the lowland plains above the immediate floodplain. The village benefits from a church, village hall and primary school.

The site refers to a small section of an open agricultural field (Grade 3b) on the north eastern side of the village of Rockbeare. A single width agricultural access and track

18/0300/FUL



connects the site to the main road which runs through the village. The land slopes up from the main road in an easterly direction and also slopes down towards the village in a southerly direction. The site is bound by low density residential development on its western and northern sides with open boundaries to the east and south.

The site is located in open countryside and there are no national or local landscape designations which apply to the site although it does fall within an area designated as a Green Wedge. The site part of the site on which the dwellings are proposed is not within a flood zone although the access road to the west and land to the south which forms part of the same field is within an area designated as flood zone 2 and 3.

### **Planning History:**

Planning permission was refused in 2014 (ref 13/2676/OUT) for the construction of up to 9 no dwellings (Outline application discharging means of access only) on the grounds that it was in the Green Wedge and would undermine the principles of this policy. An appeal was then dismissed (ref APP/U1105/A/14/2215713) but only on highway safety grounds with the Inspector concluding that the visual impact from up to 9 dwellings was minimal and as such did not harm the wider Green Wedge.

Planning permission was again refused by the Council in 2015 (ref 14/1976/OUT) for the construction of up to 9 no dwellings (outline application discharging means of access only) due to the poor accessibility of the site to services and facilities, highway safety concerns and failure to secure necessary contributions towards affordable housing.

This development was however allowed on appeal in November 2015 (ref APP/U1105/W/15/3006530) with the Inspector stating that the site was sustainably located with a suitable and safe access and placing a condition on the consent to secure affordable housing. It is pertinent to note that this outline planning permission requires the submission of the reserved matters within 3 years of the date of the appeal decision. As such this is an extant outline planning permission for the construction of up to 9 dwellings on the site and this is considered to be a fall-back position which carries a significant amount of weight.

### **Proposed Development:**

This application seeks planning permission for the construction of five, detached, two storey dwellings on the site. The development would provide for 2 no 4 bedroom dwellings and 3 no 5 bedroom dwellings. The site plan demonstrates how the dwellings would be arranged around a single access road in a cul-de-sac layout.

Owing to the sloping nature of the site and in order to reduce the massing of built form on the site, it is proposed to set the development down into the site through the use of cut and fill. Indicative sections have been provided showing existing and proposed ground levels. The style of the housing has been designed to be traditional in appearance comprising a mix of brick and render under slate pitched roofs with the exception of plot 5 which would have a hipped roof design. The designs incorporate traditional features including porches, chimneys and plinths.

Vehicular access into the site would be taken from the existing field track onto the public highway in the form of a shared surface access road which would be constricted with individual driveways serving each proposed dwelling which would benefit from garaging parking and turning. A turning head at the end of the road would provide turning space for service vehicles.

SUDs are proposed on the southern portion of the site comprising of an above ground surface water feature where an outflow would be provided to a nearby watercourse where surface water from the development is intended to be discharged at greenfield run-off rates.

## **ANALYSIS**

### Issues and Assessment:

The main issues to consider in determining this application are in terms of the principle of development having regard for the extant outline planning permission for up-to 9 dwellings on the site and the 'fall back' position that this presents, the design, layout, form and appearance of the development and the impact it would have on the rural landscape character and appearance of the area and the Green Wedge designation, the impact on the residential amenities of the occupiers of surrounding properties, highway safety, surface water management, flooding and flood risk, ecology and the impact on trees within the site, the impact on the setting of heritage assets and implications for affordable housing provision. It will be appropriate to draw key points from the aforementioned appeal decisions in assessing some of these material considerations.

### Principle:

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council can at the time of writing, demonstrate having a five year land supply for housing. As such, in accordance with paragraph 49 of the NPPF, relevant policies for the supply of housing are considered to be up-to-date and can be given full weight.

The Council's spatial and strategic approach to new residential development is to direct new housing to larger towns within the District and to smaller towns and villages which have a range of services and facilities and which are considered to be sustainable locations. The smaller towns and villages are listed under the provisions of Strategy 27 (Development at the Small Towns and Larger Villages) of the Local Plan.

Rockbeare is not a village identified as a settlement suitable for residential development within Strategy 27 on the basis that it does not contain the range of facilities or services that would meet the everyday needs of residents. With the exception of the primary school, a church and village hall, facilities within Rockbeare are limited; a reflection of the fact that it is not considered to be a suitable location for new residential development.

In planning policy terms the site is therefore considered to be in the countryside where residential development is strictly controlled in accordance with Strategy 7 (Development in the Countryside) of the Local Plan and there are no other policies within the Local Plan which would support the principle of residential development on the site. As such the application is considered to be a departure from the Local Plan.

In addition, and whilst not 'made' as it is about to be the subject of examination, the Rockbeare Neighbourhood Plan does not support development on the site with the settlement boundary for the village as defined within the Neighbourhood Plan excluding the site.

However, whilst residential development on this site would be contrary to the provisions of Strategies 7 and 27 of the Local Plan and contrary to the emerging Rockbeare Neighbourhood Plan, the site does benefit from an extant outline planning permission for the development of up-to 9 dwellings.

Officers consider this fall-back position to be a material consideration which should be afforded a significant amount of weight within the overall planning balance and which would make it difficult to raise an objection to the principle of residential development on this site notwithstanding its conflict with the strategic and spatial policies within the Local Plan and the emerging Neighbourhood Plan for Rockbeare.

#### Affordable Housing:

The extant outline planning permission for up-to 9 dwellings triggered a requirement for the provision of on-site affordable housing under the provisions of Strategy 34 (District Wide Affordable Housing Provision Targets) of the Local Plan. In allowing the appeal, the Inspector imposed a condition requiring the submission of a scheme for the provision of affordable housing prior to any development taking place.

Members should note that this proposal for 5 dwellings does not trigger a requirement for affordable housing under the provisions of Strategy 34 or for financial contributions towards affordable housing under the government guidance which sets a threshold of between 6-10 dwellings, or 1,000sqm or more of floorspace, in this location.

It is clear that the application has been submitted to avoid the affordable housing condition on the outline consent and designed as 5 dwellings totalling 954sqm to purposely avoid the threshold for affordable housing.

In light of the 6 unit and 1,000sqm threshold for affordable housing, the applicant is arguing that a contribution towards affordable housing is not required. It is assumed that the same argument would have been made as part of the submission of a reserve matters application, as despite there being a condition imposed by the Inspector to require submission of an affordable housing scheme, it would be difficult to argue that there would be a need for such a scheme if the proposal fell being the 6 unit affordable housing threshold.

It is regrettable that the submitted scheme is purposely below the affordable housing thresholds and as such does not provide any public benefits, other than the payment

of wider CIL contributions that could have resulted in some local benefits given the local opposition to the proposal and its location with the Green Wedge.

Officers have considered whether a refusal of planning permission could be justified on the basis of the proposal purposely proposing 5 units to avoid affordable housing when a development of up to 9 has been granted outline consent. It is considered that a case could be made on the basis of a conflict with Policy H2 of the Local Plan that requires sites in excess of 0.5ha (which this site is) to contain a mix of dwelling sizes or comprise of smaller units. This would arguably better meet local need and provide a better range of housing types, maybe including self or custom build plots, and given that up to 9 units have been granted on appeal, it is not considered that it could be argued that 9 units would be out of character.

However, this policy does not mention a need to make an efficient use of land and the current NPPF is also silent on the need to make an efficient use of land or to provide minimum density, although the Draft NPPF that current carried no weight does including text on this. There is no support from other local plan policies or the Affordable Housing SPD that only deals with the artificial sub-division of plots rather than situations where an inefficient use of land is proposed and the application is only for 5 dwellings.

In addition, whilst policy H2 applies to this site, it applies due to the site size only and it is questioned whether refusal of permission for 5 dwellings on the basis of a failure to provide a mix of dwelling types would be upheld on appeal, particularly as it cannot be strongly argued that 5 dwellings would appear out of character. Compliance with this policy through a changed mix of development and unit size would not necessarily result in an increased number of units and application of affordable housing if the mix is changed but unit numbers remain unchanged, and may perversely reduce the amount of CIL payable if the unit sizes are reduced to provide a different mix.

On balance therefore, and whilst highly regrettable, because the terms of the grant of the outline planning permission allows for the development on the site of up-to 9 dwellings does not prevent a smaller number of dwellings coming forward as part of any subsequent reserved matters application, and given the lack of local plan or NPPF support for refusal of permission on the basis of an inefficient use of land, it is considered that despite the proposal obviously being designed to avoid the payment of an off-site affordable housing contribution, and arguably being contrary to Policy H2, it would be difficult on appeal to justify a refusal of permission on these grounds.

#### Character and Appearance and Green Wedge:

Within the two previous appeal decisions for the development of up-to 9 dwellings, the Inspector provided an assessment of the impact on the character and appearance of the area and the Green Wedge landscape designation.

Strategy 8 (Development in Green Wedges) of the Local Plan (previously Policy S6 of the old Local Plan) states that within Green Wedges, as identified on the Proposal Map (in this case land separating the villages of Rockbeare and Whimple from the new community site), development will not be permitted if it would add to existing

sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

Notwithstanding officer's previous concerns about the conflicts between the Green Wedge policy and the impact residential development would have on the rural landscape character and appearance of the area, the following comments from the Inspector are considered to be pertinent in respect of these issues:

*'There is no argument between the parties that the visual impact of the proposal would be limited. There are very few views of the site from the surrounding area, and views of the proposal would be largely limited from the proposed access road itself, and from the rear of properties nearby. Whilst the proposal would involve the construction of housing on a previously open field, designed properly and sympathetically I do not consider that this would necessarily result in an adverse effect on the character and appearance of the area. The proposed development would be closely related and contiguous with the existing development boundary and, as such, in relation to the first section of Policy S6, would not appear as sporadic or isolated in the context of Rockbeare, and the size of the proposal would not, I consider, harm the identity of the village'.*

*Whilst the proposed development is located inside the defined green wedge, the physical extent of Rockbeare is to the north of the proposed development. The key part of the green wedge between Rockbeare and Cranbrook is the area to the north of Rockbeare which separates the village from the B3174. I also note in this respect, although washed over by the Green Wedge, that development already exists in the shape of Ghyll Cottage to the north of the appeal site. In relation to the second part of Policy S6 I do not consider therefore that the proposed development would lead to or encourage settlement coalescence.*

*The Council decision notice also refers to the settlement of Whimple, and in its submissions it considers that the proposal would lead to the village moving visually closer to this settlement. However, the proposed development does not extend beyond the overall visual eastern boundary of the village and views of the appeal site are extremely limited. Whimple is a substantial distance away from the appeal site and the proposal would not, I consider, adversely affect the identity of this settlement or lead to or encourage coalescence between the two villages.*

*The Council, and other interested parties, are concerned over the possible precedent that an approval of the proposal may provide for other possible developments on green wedges in the District. However, I have not been provided with details of any directly similar/comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.*

*I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the area, having regard to the desirability of maintaining separation between Rockbeare and Cranbrook and maintaining the individual identity of Rockbeare. The proposal would comply with Policy S6 of the Local Plan'.*

Whilst each application must be determined on its own merits and against the policies within the current adopted Local Plan and the concerns of the Parish Council and local residents about the conflict between Local Plan policies and the emerging Neighbourhood Plan for Rockbeare are noted and shared by officers, given the observations of the Inspectors on two previous applications for a larger quantum of development (up-to 9 dwellings) it is not considered that an objection to a development of 5 detached dwellings at a lower density on the grounds of the impact on the character and appearance of the area or the Green Wedge designation could reasonably be sustained or defended at appeal.

Furthermore, the layout, form, design and appearance of the proposed dwellings is considered to be appropriate for the character and appearance of the area and to the general pattern and density of development in this part of the village. Subject to conditions requiring the submission of materials for the dwellings, a detailed landscaping proposal and existing and proposed ground levels to better illustrate the amount of cut and fill required, it is considered that the proposed development is acceptable given the extant outline planning permission for residential development on this site.

#### Residential Amenity:

The impacts of residential development were previously considered at appeal where the Inspector made the following observations:

*'Concerns have been raised about the potential impact of the proposal on the living conditions of existing residents to the west and north of the appeal site. However if through reserved matters the scheme is carefully laid out, and designed, then it need have no detrimental effect on the living conditions of existing residents through visual impact, overlooking or anything else'.*

Previous layouts provided for outline applications were indicative and therefore an assessment of the proposed layout and relationship between the proposed five dwellings and existing residential properties needs to be carefully considered.

It is generally accepted that a development of 5 dwellings would allow for a better relationship between the development and the properties to the north and west whose rear gardens border the boundaries of the site. The proposed site plan adequately demonstrates that each dwelling would be positioned well away from the boundaries of the neighbouring properties which would ensure that the physical impact of the development would not significantly harm residential amenity in terms of being overbearing, over dominant or through loss of light and that there would be no significant levels of overlooking or loss of privacy from first floor windows. On this basis the proposal is considered to be acceptable and complies with the provisions of policy D1 (Design and Local Distinctiveness) of the Local Plan which seeks to ensure that proposals do not adversely affect the amenities of existing residents.

## Highway Safety:

The proposal would utilise the existing field entrance on the public highway which has again been considered in detail in the two appeal decisions. In respect of visibility from the access and highway safety, the Inspector made the following observations:

*'LP Policy TA7 says that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network. Emerging Policy TC7 is similarly expressed. Importantly, however, paragraph 32 of the Framework tells us that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.*

*In the Delegated Report prepared by Council Officers, reliance is placed on the views expressed by the previous Inspector and in particular, the suggestion that a driver using the access looking south, might not be able to see easily a northbound vehicle approaching on the wrong side of the road; something that might regularly result from the need to avoid pedestrians, cyclists, or parked cars. It is fair to observe that this might arise whether the 'x' distance is taken to be 2m, which is what the previous Inspector assumed, or 2.4m. However, the key point to consider is whether this situation would be detrimental to the safe and satisfactory operation of the highway network.*

*I do not consider that it would, for a number of reasons. First of all, it was obvious from what I observed at the site visit that while a driver using the access looking south might not be able to see an approaching vehicle on the wrong side of the road, that approaching driver would certainly be able to see that there was a vehicle at the access point, preparing to join the carriageway. That ought to ensure that the approaching driver exercised caution; something that can reasonably be respected of someone driving through a rural village in any event. On top of that, as the appellant's material establishes, most drivers currently passing the access point are travelling relatively slowly. If the development went ahead, the presence of an access point, used more intensively than at present, is likely to depress those passing speeds further.*

*In that overall context, I am satisfied that the 2.4 x 40m visibility splay (to the centre of the carriageway) in a southbound direction, and 2.4 x 36m visibility splay to the nearside kerb in a northerly direction, are sufficient to allow for safe and satisfactory operation of the highway network. I note that the Highway Authority takes a similar view.*

*Points have been made about the maintenance of the visibility splay to the north, partly as a result of comments made by the previous Inspector. I do not share those concerns. While the land is not under the control of the appellant, there is a condition attached to the planning permission for the housing to the north of the proposed access that requires the splay to be kept clear. Facility exists, therefore, for the Council or the Highway Authority, to deal with any obstruction that might arise.*

*Taking all those points together, the proposal complies with LP Policy TA7, and emerging Policy TC7. The residual cumulative impact of the proposal could not*

*reasonably be described as severe and so there is accordance with the requirements of the Framework'.*

On the basis that this proposal is for 5 dwellings which would see a reduction in traffic movements to and from the site to that previously considered, it is not considered that an objection could reasonably be sustained on the grounds of highway safety provided visibility splays of 2.4 x 40m (to the centre of the carriageway) in a southbound direction, and 2.4 x 36m visibility splay to the nearside kerb in a northerly direction are provided which can be secured through condition.

No objections have been received by the County Highway Authority and the proposal is therefore considered to comply with the provisions of TC7 (Adequacy of Road Network and Site Access) of the Local Plan.

#### Heritage Impact:

There are a number of listed buildings within the village which includes Little Croft (grade II listed) which is located to the west of the access and St Marys Church (grade II\* listed) to the north. The church tower is visible from views to the south of the village although its setting has already been compromised to a degree by the modern estate on the south eastern side of the village where the roof slopes of these properties are seen in the context of the church. The development would be positioned on the opposite side of the road to the church and would be set back a sufficient distance such that it would not harm its setting and would not obstruct views of the tower on approach to the village.

Little Croft is located on the opposite side of the road to the access into the application site. Owing to the length of the access drive, it is considered that development of the site would be positioned far enough away from this property so as not to harm its setting. No concerns regarding heritage impact were raised during consideration of the previous applications/ appeals for this site and no objections have been received from the Council's Conservation Officer who has advised that the proposal would result in no harm the significance of heritage assets within the wider area. The proposal is considered to comply with the provisions of policy EN9 (Development Affecting a Designated Heritage Asset) of the Local Plan.

#### Surface Water Management and Flood Risk:

The majority of the application site is located in Flood Zone 1 although the access road to the west and land to the south including the majority of the village are designated as Flood zones 2 and 3. The application is accompanied by a Flood Risk and Drainage survey undertaken by RMA Environmental. The report identifies that with the exception of the access road, the development proposal would be located outside of the flood zones and would only be in Flood Zone 1 (low risk). The report acknowledges the flooding issues experienced by residents within the village and identifies that the site is underlain by soils which suffer from slightly impeded drainage and conclusions have been reached that infiltration and soakaways would not present a viable form of surface water disposal. This is a position reached by Inspectors on previous appeals.



The outline drainage strategy put forward is to attenuate surface water runoff within a new pond to discharge to the watercourse to the south of the site with a restricted outfall designed to mimic existing greenfield runoff rates. The access road would drain into a geo cellular storage tank which would be discharged into the highway drain in the public highway to the west.

Whilst the drainage strategy is indicative only at this stage, the general principles are considered to be acceptable should infiltration testing demonstrate that soakaways etc. are not feasible because of the ground conditions. A condition is recommended requiring the submission of a detailed drainage strategy prior to commencement of development on site. The proposal is considered to comply with the provisions of policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-Off Implications of New Development) of the Local Plan.

#### Arboricultural/ Ecological Impact:

The application is accompanied by an Extended Phase 1 Habitat Survey undertaken by Quantock Ecology which concludes that there would be no significant impact on species protected by the Wildlife and Countryside Act. In applying Natural England's standing advice to assess the likely impact upon protected species, it is considered that providing all existing vegetation is retained around the boundaries of the site (which could be secured through condition) there will be no adverse impact on protected species. Furthermore, further ecological enhancements can be secured through additional planting which would benefit biodiversity and ecological value of the site.

The proposal is considered to be sustainable from an arboricultural perspective where the trees around the perimeter of the site would be retained and not adversely affected by the development. It will be appropriate to impose a condition requiring the submission of a tree protection plan to ensure retained trees and vegetation is adequately protected during construction.

#### **Conclusion**

This is a new full application for 5 large detached dwellings on a site that benefits from outline consent for up to 9 dwellings.

Despite the location of the site within the Green Wedge and the proposal not being supported by any local plan policies, given its location outside of the settlement of Rockbeare that does not benefit from a Built-Up Area Boundary and on a site for which there is no support for development within the emerging Neighbourhood Plan, the principle of development is acceptable due to the fall-back position provided by the outline consent.

The application is considered to be acceptable in all other regards and whilst it is very disappointing that the application has been submitted in a form that is purposely below the threshold for the provision of affordable housing, it is not considered that there is strong enough local plan, neighbourhood plan or NPPF support for refusal of the application on the basis of purposely avoiding affordable housing or representing an inefficient use of the site.

On balance, it is considered that the application is acceptable, despite the lack of affordable housing provision, and is therefore recommended for approval.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority once slab (or above ground) level has been reached. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031.)
4. No dwelling shall be occupied until the access, parking and turning facilities have been provided in accordance with the details shown on drawing no 2534-PL-02.  
(Reason: To ensure adequate facilities are provided for vehicles attracted to the site in accordance with policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031).
5. Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) A full specification for the construction of main access roads including details of the no-dig specification and extent of the areas of the roads, to be constructed using a no-dig specification. Details shall include relevant sections through them.
- c) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.

- d) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
  - e) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
  - f) Boundary treatments within the RPA
  - g) Arboricultural supervision and inspection by a suitably qualified tree specialist
  - h) Reporting of inspection and supervision
- The development thereafter shall be implemented in strict accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

(Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2013-2031).

6. Notwithstanding the indicative section drawing submitted, no development shall commence until details of final finished floor levels and finished ground levels in relation to a fixed datum to include section drawings has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

7. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any hard surfacing, proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

8. The development hereby approved shall be carried out in accordance with the recommendations contained within the Preliminary Ecological Appraisal prepared by Quantock Ecology Environmental Consulting.

(Reason: In the interests of ecology and biodiversity in accordance with the provisions of policy EN5 (Wildlife and Habitat Features) of the East Devon Local Plan 2013-2031).

9. Notwithstanding the submitted details, no part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system for the development has been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

(Reason - To ensure that surface water runoff from the development is managed in an appropriate manner without impacting unreasonably on its surroundings in accordance with policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031).

10. A Construction and Environment Management Plan shall be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

(Reason - To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)

11. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide inter visibility between any points on the X and Y axes at a height of 0.600 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 36 metres in a northerly direction and 40 metres to the centre of the carriageway in the other direction.

(Reason - To provide adequate visibility from and of emerging vehicles and in the interests of highway safety in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

12. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 10 metres back from its junction with the public highway.

(Reason: To prevent mud and other debris being carried onto the public highway in the interests of highway safety in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

13. The site access road shall be widened and maintained thereafter to not less than 4.8 metres for the first 40 metres back from its junction with the public highway and shall be provided with 5 metre kerb radii at the junction.

(Reason: To prevent mud and other debris being carried onto the public highway in the interests of highway safety in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

##### Plans relating to this application:

2534-PL-01	Location Plan	07.02.18
2534-PL-02	Proposed Site Plan	07.02.18
2534-PL-04	Proposed Combined Plans	07.02.18
2534-PL-05	Proposed Elevation	07.02.18
2534-PL-06	Proposed Combined Plans	07.02.18
2534-PL-07	Proposed Elevation	07.02.18
2534-PL-08	Proposed Combined Plans	07.02.18
2534-PL-09	Proposed Elevation	07.02.18
Quantock Ecology	Ecological Assessment	07.02.18

##### List of Background Papers

Application file, consultations and policy documents referred to in the report.

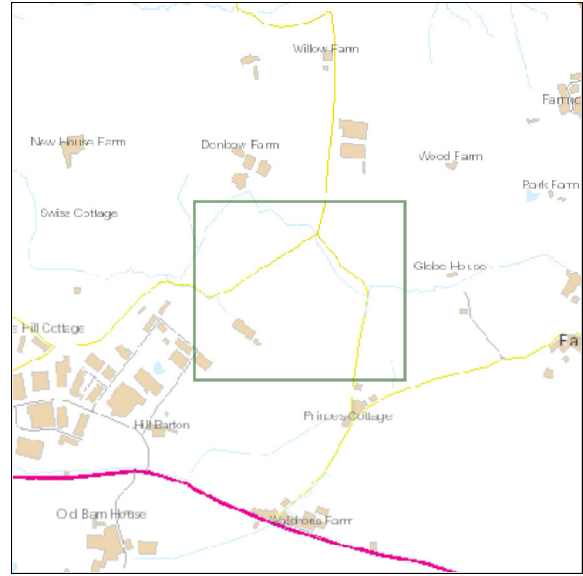
**Ward** Clyst Valley

**Reference** 17/2319/FUL

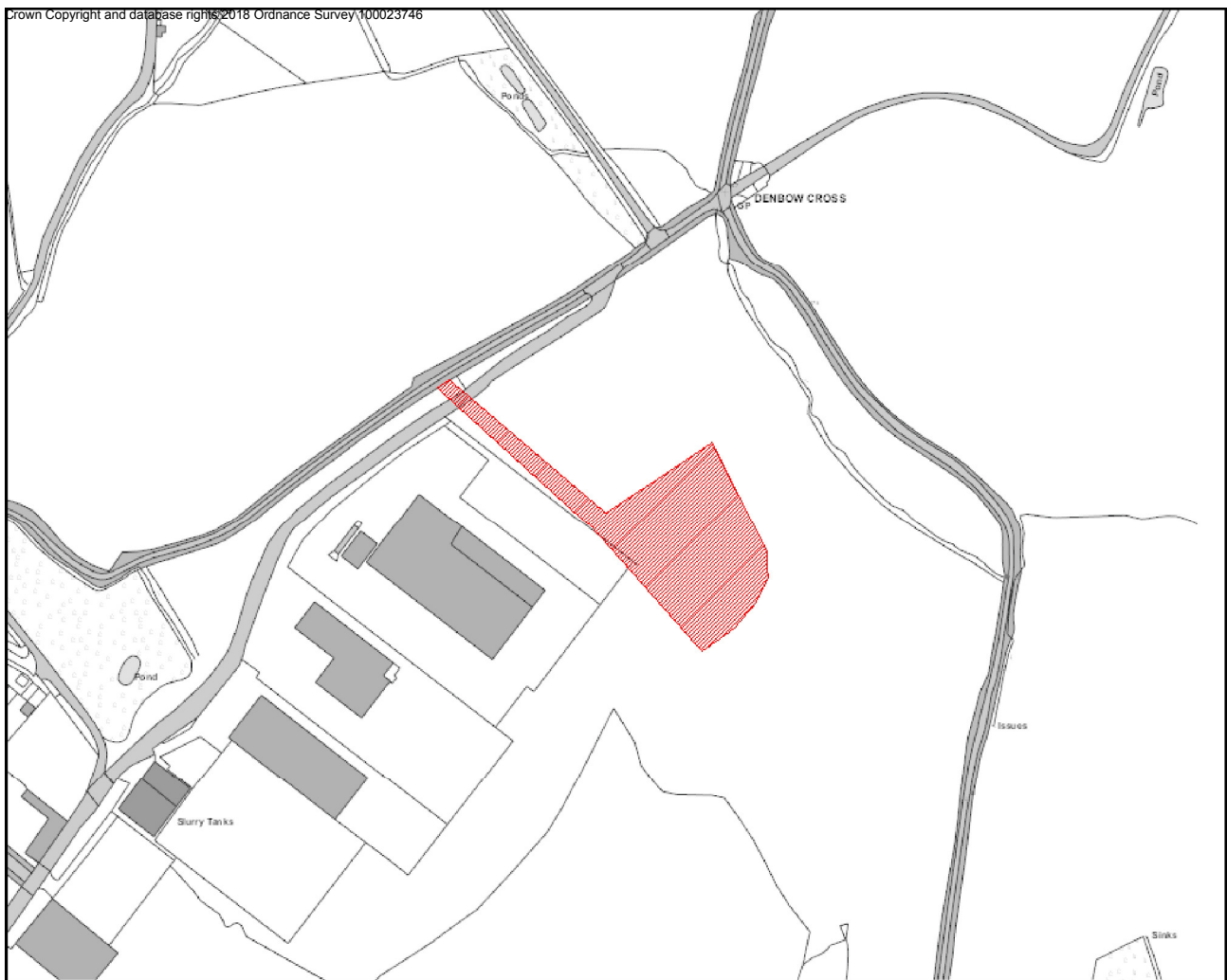
**Applicant** UK Capacity Reserve

**Location** Land East Of Hill Barton Business Park  
Farringdon

**Proposal** Installation of up to 14 no. containerised gas-fired standby generators and construction of ancillary structures including a DNO metering station, transformer compound, switch room, store room, oil storage tank, 2 no. vehicle parking spaces, vehicular access and erection of 2.4m boundary fence



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 1<sup>st</sup> May 2018</b>
<b>Clyst Valley (FARRINGDON)</b>	<b>17/2319/FUL</b>	<b>Target Date: 22.11.2017</b>
<b>Applicant:</b>	<b>UK Capacity Reserve</b>	
<b>Location:</b>	<b>Land East Of Hill Barton Business Park Farringdon</b>	
<b>Proposal:</b>	<b>Installation of up to 14 no. containerised gas-fired standby generators and construction of ancillary structures including a DNO metering station, transformer compound, switch room, store room, oil storage tank, 2 no. vehicle parking spaces, vehicular access and erection of 2.4m boundary fence</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is before Members of the Development Management Committee because the application is considered to be a departure from the East Devon Local Plan and because the officer recommendation is contrary to the view of the Ward Member.

The proposal is for the installation of a gas fuelled standby electricity plant to be called on by the National Grid at times of high demand participating in the National Grid's Short Term Operating Reserve (STOR) programme. The proposed location for the development is in the open-countryside adjacent to an existing gasification plant on Hill Barton Business Park. It is also allocated within the Devon Waste Plan as a site for an energy recovery proposal with a capacity of 80,000 tonnes.

The site is located outside of the Hill Barton business park boundary as defined by the emerging Villages DPD and whilst it is an allocation within the Devon Waste Plan, it is considered to be in the open countryside where policies of restraint apply. Strategy 7 (Development in the Countryside) of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

The proposed development would be powered by natural gas and therefore it is important to recognise that this technology is a facilitator of renewable energy rather than a renewable technology or low carbon energy project itself and therefore there is little direct policy support within Strategy 39 for this proposal.

**Officers therefore consider this proposal to be a departure from the East Devon Local Plan.**

**Whilst Strategy 39 of the Local Plan promotes renewable and low carbon energy, it does not in itself provide an in principle reason to refuse proposals for fossil fuel energy development. Nor does the NPPF which at paragraph 93 outlines policy support for the delivery of renewable and low carbon energy and associated infrastructure. Paragraphs 97-98 promote renewable and low carbon energy development but does not seek to restrict development of the alternatives.**

**The need for new energy infrastructure to support the UK's shift towards low carbon energy is set out in the National Policy Statement for Energy Infrastructure. Under the direction of the Energy Act 2013, this proposal is considered to contribute to the government's key objective to secure energy on the way to a sustainable low carbon future. Furthermore the National Policy Statement for Fossil Fuel based energy generation recognises that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating is low and to help with the transition to low carbon electricity generation.**

**Officers consider that weight should be given to the national benefits to be derived from this particular proposal, the supportive approach towards fossil fuel energy development within national Policy Statement EN-2 and its contribution towards maintaining a stable electricity supply.**

**Notwithstanding the policy context of the proposal, the proposal has been carefully assessed in terms of its impact on the rural landscape and character and appearance of the area, the residential amenities of the occupiers of surrounding properties from noise and the impact on the setting of heritage assets. Subject to appropriate noise mitigation measures suggested by the Council's EHO, in undertaking a balancing exercise, it is not considered that there adverse effects arising from the proposed gas fuelled standby electricity plant that would significantly and demonstrably outweigh the benefits that would be derived from the scheme which would support the delivery of renewable and low carbon energy by providing back-up generation which would in-turn help achieve the transition to a sustainable, low carbon future.**

**Accordingly the application is recommended for approval subject to the conditions set out at the end of this report.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Clyst Valley - Cllr M Howe**

I am not happy with the noise this will generate and strict noise conditions have to be placed with time limits on the operation I would suggest only operable hours between the hours of 8am- 5pm Monday to Friday only, this cannot be allowed to increase the noise level at resident's gardens at any time.

17/2319/FUL



Disclaimer Clause: In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

#### Parish/Town Council

a) 17/2319/FUL Proposal: Installation of up to 14 no containerized gas fired standby generators and construction of ancillary structures including a DNO metering station. Transformer compound, switch room, store room , oil storage tank, 2 no vehicle parking spaces vehicular access and erection of 2.4m boundary fence. Location : Land East of Hill Barton Business Park Farringdon Applicant: UK Capacity Reserve Ltd 6th Floor Radcliffe House Blenheim Court Solihull West Midlands B91 2AA

The PC reviewed these applications and as far as could be ascertained there was little difference to the original applications other than the sites had been swapped over. The PC still has MAJOR CONCERNS re the noise impact on the amenity of residents. No new mitigation measures have been suggested and other than location swap no new information is supplied. As there are major concerns to the amenity of residents Farringdon Parish Council strongly objects to this application and all comments mentioned before still stand.

Further comments 14.12.17:

#### NOISE CONCERN

The amenity of nearby residents at Hill Barton Business Park is already compromised by the workings of the recently extended landfill permission and skip hire businesses. In addition there are large waste to energy operations that have been granted permission by DCC which have not yet been built. There is no mechanism to monitor the culmulative effect of all these operations once up and running. As a consequence the Parish Council have been so concerned regarding the noise aspect of the above application that an Accoustic Consultant was appointed to look into UK Power Reserve Noise Report. This was submitted to the EHO officer. Our consultants found that the report did not show compliance with the NR30 condition. The night time working of the above operations is a major concern due to the fact that there is less background noise than during the day and sound is considerably amplified.

We believe that the working hours of 7am - 7pm is sufficient and cannot see the need for a 7am - 9pm permission.

#### VISUAL IMPACT

The visual impact of the gas containers which we now understand to be 9 meters high, cannot be underestimated. No amount of screening can diminish the detrimental effect to both the nearby family homes which are listed buildings and the rural environment, which is essentially open countryside.

#### WHAT IS THE NEED

We cannot understand the need for yet more operations producing electricity. Hill Barton already has DCC permission for a very large energy plant producing electricity why is another one needed?

Further comments 01.03.18:

17/2319/FUL

REF: 17/2319/FUL Proposal: Installation of up to 14no containerised gas fired standby generators and construction of ancillary structures including a DNO metering station, transformer compound, switch room, store room, oil storage tank, 2 no vehicle parking spaces, vehicular access and erection of 2.4 m boundary fence. Location : Land East of Hill Barton Business Park Applicant: UK Capacity Reserve

Farringdon Parish Council objects to this application.

## NOISE IMPACT

Farringdon Parish Council requested Curload Consultants Accoustic Engineering to review this amendment.

Their report from Sarah Radcliffe is as follows:

"I have now reviewed the Noise Statement Additional Information and have a few points to make.

1. We still do not know why the working hours are being set as 7am to 9pm as there do not seem to be measurement data to show that 9pm is the point in the day when the noise levels decrease.
2. There do not seem to be any new items of noise mitigation in this document.
3. Clarity is required as to what is meant by showing that "the plant confirms with 40dB LAeq". Is this the level from the plant measured at the nearest property, or is it the rated level - i.e. the measured level plus a 5dB penalty to account for character to the noise?
4. I assume that 40dB LAeq is used as an equivalent to the previously agreed NR30 outside the property, but this is not clear. Reason needs to be given for a limit of 40dB LAeq being set, when a limit of NR30 had been agreed. 40dB LAeq is the level obtained when the octave band level limits for NR30 are then converted to an LAeq value, but the NR30 spectrum is not representative of 'real life' noise. It is normal practice, when you want an equivalent limit, to set the LAeq level as 6dB above the NR level - so NR30 would be equivalent to 36dB LAeq. Therefore, clarity is needed on why 40dB LAeq has been selected.
5. Looking at Table 8-1 of the SLR report, if the total Rating Level from the development were 40dB LAeq, then the development would lead to an impact which would be rated between significant adverse and adverse at Denbow Farm (the nearest noise-sensitive property) at night-time. During the daytime at Denbow Farm the impact would be described as being an adverse impact. This would be a slight improvement on the situation proposed in the SLR report, but the predicted noise levels are still too high under a BS4142 assessment outside this property, particularly during the night-time period.
6. If the 40dB LAeq limit were just to be the measured noise from the site, then the impacts would be stepped up to significantly adverse at Denbow Farm during the night-time, and between significantly adverse and adverse at Denbow Farm in the daytime. This would be a worsening of the situation which we have already assessed."

In addition Farringdon Parish Council wish to point out that the application refers to an adverse impact at "Denbow Farm" as if "Denbow Farm" was one household. In fact there are several families residing in different properties all under the umbrella of

"Denbow". There is "Denbow House" "Denbow Thatch" "Denbow Barton" "Denbow Barn" "Denbow Farm". The adverse impact will be on FIVE families at FIVE homes.

#### VISUAL IMPACT

Two of these properties are grade 2 listed buildings of significant historical importance. The visual impact of the 14 tall containerised gas fired stand by generators and ancillary structures will undoubtedly have a very negative impact. This is a rural parish and these are rural historic homes of some significance in Farringdon. Tall containers will be a severe blight on the environs and completely alien to the landscape. The height of these containers has altered at different stages of this application. Initially they were to be 13.6 metres high then we understood reduced to 9 metres but this is still totally unacceptable. It is not clear from this amendment what the final height of the containers will be-?

#### LESS GREEN

The current proposal of the intermittent use and stopping and starting is more polluting than a continuous run. This is not an environmentally friendly operation.

All our previous concerns as mentioned in our first comment remain.

Farringdon Parish Council objects to this application and believes it will be highly detrimental to the families in close proximity to the site in all the ways as described above

Further comments 11.04.18:

Farringdon Parish Council commissioned noise consultants Curload Consultants to review the latest amendment on this application. As a result of their report the strong concern FPC has regarding the intrusion of noise on several homes particularly AT NIGHT still remains. Therefore our objection still stands and we cannot support this application.

Curload Consultants has reviewed the latest report prepared by SLR for the proposed STOR facility at Hill Barton. Their report is dated March 2018.

There are some changes to the report, but the results of the assessment are largely similar to the previous report. The initial noise limit of NR30 which was set by EDDC is now being met. The noise limit has now been changed to be 40dB LAeq between 7am and 9pm.

There is very little clarity as to what this limit means. It is assumed that the level of 40dB LAeq refers to a rating level – as initially the Local Authority had asked for the assessment to be carried out under the BS4142 methodology. This means that the noise limit equates to the rating level of the noise from the STOR – i.e. the level predicted at the receptor plus a 5dB correction for character in the noise.

In this case, the limit is not being met during the daytime or night-time period.

It is understood that the Facility is planned to be operated only between 7am and 9pm, and this is why the limit of 40dB LAeq has been set over this period. Looking at the condition, it is clear that if this limit were to be met, then the Applicant would look to remove the time

restriction. This potentially means that a level of 40dBA could be achieved at Denbow (the most affected location) overnight. If this level (assumed to be a rating level) were compared to the measured night-time background noise level of 32dBLA90, then BS4142:2014 would describe the impact as being between “an indication of an adverse impact” and “likely to be an indication of an adverse impact”.

As the STOR is not likely to be operated frequently overnight, then the change to the noise level in the area, combined with the character of the noise, is more likely to lead to sleep disturbance. We would therefore strongly recommend that, were planning consent to be granted, the facility should only be permitted to operate between the hours of 7am and 9pm, and not during the night-time period at all.

We therefore recommend that further work is carried out on the STOR Facility to see if it is possible to achieve the noise limits which have been set, as currently it is not being met and therefore we cannot support the application. We also recommend that, if it is possible to meet the noise limits with alterations to the plant, a planning condition should be used so that the STOR Facility cannot be used at night-time.

## **Technical Consultations**

### Landscape Architect

Please find below the landscape consultation response to 17/2318/FUL and 17/2319/FUL:

Comments on the submitted LVIA to support planning applications 17/2318/FUL and 17/2319/FUL:

- o The submitted LVIA wrongly identifies the site as being located within Landscape Character Type (LCT) 3B, the site is actually located within LCT 3E (formerly LCT4D), which has the following site applicable management guidelines:

- Where development is permitted, including woodland and copses in development proposals, to increase screening and ecological links
- Encouraging gapping up of hedges with locally indigenous species
- Encouraging the maintenance and increased planting of hedgerow oaks, to provide vertical elements and help screen development

In the mitigation section of the report, the LVIA does reference the correct LCT.

- o The LVIA does not consider any site applicable landscape related policies or nearby designation (e.g. listed buildings and their setting, etc...)

- o How were the included visual representations created and how accurate are they?

- o Have photo viewpoints 6 & 7 been located in the right locations?

- o The LVIA viewpoints' plan includes 2 viewpoints numbered 3, I've assumed the one next to Home Farm was meant to be viewpoint 13.

- o LVIA does not comply with industry best practice standard as set out in GLVIA 3rd edition.

Although there are technical issues with the submitted LVIA, the proposed mitigation measures are considered to make the development acceptable in landscape design terms.

However the following issues need addressing prior to approval or through a condition:

- o How will site run-off (surface water drainage) be dealt with?
- o Ensure off-site planting is guaranteed.

17/2319/FUL

- o Replace elm species within planting mixes as they are susceptible to Dutch elm disease.
- o Submission of boundary treatment details
- o Include Hydro-seeding of Devon bank sides if constructed with hessian sacks to ensure the scheme complies with EDDC policies:
  - Policy D1 - Design and Local Distinctiveness,
  - Policy D2 - Landscape Requirements, and
  - Policy D3 - Trees and Development Sites

### Environmental Health

I have considered this application alongside application 17/2318 as both plants would operate in combination when in use. I have considered the noise report prepared by SLR Consulting Ltd and dated September 2017, being an updated noise report following discussion with the EHO. I note the following points:

1. Neither plant is anticipated to operate very frequently, although this cannot be certain. The highest likely demand would be winter daytime, with the likelihood of night time operation being remote. However, if the plants were required to operate at night they would be clearly audible off-site and the report concludes this would be at least 10dB above the derived background level which could be significant.
2. The EHO requested that the report consider all units operating in combination, and that it should demonstrate that Noise Rating Curve 25 is not exceeded at the nearest residential receptors. The Council accepts that it is more appropriate to request NR30 during the day and NR25 at night as the daytime background level (level exceeded for 90% of the time) already exceeds 30dB in that area.
3. The writer concludes that some adjustments to design would be preferable by lowering the air intake louvres on each unit as this would enable boundary mitigation to be effective; but that the design of the selected units does not allow this. The writer also suggests that the installation of an enhanced stack silencer would mitigate stack noise significantly (reducing the unmitigated sound power level of 80dB by up to 40dB), and that the erection of a 4m high barrier on the NW and SW site boundaries could be beneficial. However the community of Farringdon, although some distance away, is East of the site and therefore the barrier would have no effect on those properties. The report writer needs to clarify this because a barrier on the NE and SE boundaries might be beneficial if installed as close to the units as possible.
4. In conclusion I recommend that all exhaust stacks are fitted with an enhanced stack silencer and that this is required by condition on application 17/2319/FUL:

" All exhaust stacks shall be fitted with an enhanced stack silencer which will achieve a sound power reduction of at least 40dB when assessed against the unmitigated sound power level. Reason: to protect the amenities of local residents from noise."

5. I also recommend, as suggested by the noise consultant, a further condition on both applications which sets a boundary noise limit:

" The residual noise level of all sources acting in combination shall not exceed Noise Rating Curve 30 (daytime) at the boundary of the nearest non-beneficial residential premises, which is Glebe Cottage, Farringdon. Reason: to protect the amenities of local residents from excessive noise."

6. In view of the predicted infrequency of night time operation I do not think a planning condition controlling night noise specifically is reasonable. However, should night noise occur and complaints be received we will investigate the occurrence, frequency, loudness and impact of the noise with a view to investigating it as a statutory nuisance under the Environmental Protection Act 1990.

Further comments 11.12.17:

My previous comments on this application still stand, but I have the following additional comments following some correspondence with the local community.

The applicant's noise report suggests that the two nearest residential properties might be affected outside on the rare occasions that the plant would operate at night, if at all. Any property further away is not predicted to be affected. In order for any noise to be intrusive it would also depend on weather conditions and wind direction at the time. In any case a closed window provides a further 30dB attenuation, and a partially open window 15dB, and the prediction suggests an outside impact much less than that. We are extremely limited in how much we can protect gardens from noise as they are not living or sleeping spaces. So putting everything together, and considering that this is a back-up system, not a continually running or even occasionally running plant, I think an operating hours restriction of 7am to 9pm is reasonable (given that the nationally and internationally accepted quiet hours are 11pm to 7am).

However I do understand that there is still some concern amongst the closest residents about the unpredictability of this noise in both frequency and time of operation. As a way forward a condition permitting daytime use only could be included with the intention that, when the units have been constructed (if approved), a noise test is carried out at all of the nearest residences to see what the impact actually is. If the noise is barely audible the applicant could of course then apply for a variation of the hours condition. The noise test would need to be carried out under realistic conditions on a day when the wind was blowing in the direction of Farringdon and all other weather conditions were suitable for a monitoring exercise.

I have previously recommended that all the mitigation measures recommended by the applicant's noise consultant should be incorporated into this proposal prior to determination and am still awaiting confirmation that this will be done.

Further comments 28.02.18:

I have now considered the additional information submitted regarding noise mitigation and control dated 16th February 2018. I am satisfied that, as far as we are able to anticipate, this combination of noise controls will be sufficient to ensure that there will be no unacceptable impacts on the amenity of local residents. In order for these measures to be incorporated into one clear condition I recommend that the applicant merge the three documents and associated drawings into one report which can be referenced in the condition. Please could the applicant also clarify which is the correct drawing of the planned acoustic fence.

## Conservation

### BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

See listing description and information on file.

### HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

A previous application under 17/1636/FUL was withdrawn. This revised application is similar.

There are several listed buildings in the vicinity of the site which are all listed Grade II: Denbow House, Denbow Thatch, Barn adjacent to Denbow Thatch, Glebe House, Barn at Glebe House.

However, due to their location, the topography of the land, the mature vegetation, hedging and trees and the distance between the sites, it is considered that the proposed works will have minimal or no impact on the setting of the listed buildings.

Further comments: Amended plans received 28th November 2017:

The amended plans show an additional planting/landscape scheme which, if acceptable, can only improve the visual screening of the scheme. No further comments.

## Devon County Council, Minerals & Waste

Installation of containerised units for storage of electricity, land east of Hill Barton Business Park (17/2318/FUL & 17/2319/FUL)

Thank you for your consultation on the above planning applications, which lie within the Waste Consultation Zone for Hill Barton.

The supporting statements for the applications address the matters raised by the County Council in its response of 6th September 2017 to the previous applications, including the Devon Waste Plan and availability of a grid connection for the nearby gasification plant.

The area allocated for energy recovery development at Hill Barton through Policy W6 of the Devon Waste Plan includes the sites of the current applications, but extends to a much larger part of the business park. Development of the application sites for electricity storage will not prevent delivery of additional energy recovery capacity at Hill Barton, and Devon County Council therefore has no objection in its role as waste planning authority.

## Other Representations

Two letters of objection have been received at the time of writing this raising concerns which can be summarised as:

) Visual impact on countryside

17/2319/FUL

- ) Increase in noise, traffic and light levels will increase- taking away the peace and quiet currently enjoyed
- ) Impact on setting of listed buildings
- ) Noise and uncertainty of hours of operation
- ) Discrepancies with the LVIA and view points

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Devon Waste Plan 2014-2031

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

### **Site Location and Description:**

The site refers to a parcel of open land around 0.49 hectares in size to the east of Hill Barton Business Park. It was previously in use as a landfill site and is bounded to the west by open land and existing industrial units which form the business park and to the north by an access road with open land beyond. To the west of the site is a grassed



earth bund which separates it from the rural lane. The site is accessed via an existing access point which runs along the northern side of Hill Barton Business Park. The site is located approximately 375 m south of residential properties at Denbow Farm, 325 m north of Glebe Cottages and 400 m west of Glebe House.

The site is located in the open countryside and is not the subject of any national or local landscape designations. The site does however form part of a larger area at Hill Barton identified for Energy Recovery under policy W6 of the Devon Waste Local Plan for an energy recovery facility with a capacity of 80,000 tonnes. There are a number of grade II listed buildings in close proximity (within 400 m) to the site.

### **Planning History:**

Members will recall a planning application (ref 17/2318/FUL) reported to DMC on the 6th February 2018 for the installation of 10 containerised units for the storage of electricity, and associated infrastructure including a highway access, and a 2.4 metre high boundary fence. This application was approved on a 0.46 ha site immediately in front of the application site for the gas fired generators. This application was approved as it was considered to comply with Strategy 39 in terms of representing a low carbon energy project with an acceptable visual impact.

### **Proposed Development:**

Planning permission is sought for the installation of a gas fuelled standby electricity plant to be called on by the National Grid at times of high demand participating in the National Grid's Short Term Operating Reserve (STOR) programme. STOR provides balance to the National Grid during unexpected periods of high demand for electricity or where there are constraints on electricity available. The supporting information suggests that the output of the generators would be 20 MW. It is stated that STOR developments typically operate during two windows per day, in the morning and the evening, with peak demand being typically between 17:00 and 19:00 hours on a weekday. Whilst this is the case, the generators could be called upon by the National Grid at any time for back up electricity generation and therefore it is difficult to predict exactly when the generators would be in use given the fact that daily flexibility is required so that the plant can respond to demand at peak times.

The generating plant would consist of a maximum of 14 generators each housed within an individual soundproof metal container. Each container would measure 12.2 m x 3.0 m x 3.5 m and would be finished in a matt fern green colour. Each container would include an exhaust stack reaching 11.0 m in height to allow for the dispersion of exhaust gases.

The site would also accommodate a mains transformer compound (4.4 m x 4.4 m x 4 m) with auxiliary transformer (2.0 m x 1.5 m x 1.8 m), a gas reception kiosk to meter gas use (5.8 m x 3.2 m x 2.2 m), two lubrication oil storage tanks (2.7 m x 1.8 m x 1.5 m), three porta cabin style buildings accommodating switch rooms (12.2 m x 3.9 m x 5.0 m), a control room (6.1 m x 2.4 m x 4.1 m) and a store room (6.1 m x 2.4 m x 2.6 m) providing ancillary facilities for field engineers when on site. The site plant would be enclosed by a 2.4 m high security fence finished in matt fern green. All equipment would be mounted on a concrete slab around which would be an area of hardstanding

for commercial vehicles. Access would be taken from the gravelled track which leads to the rear of the business park.

## **ANALYSIS**

### Issues and Assessment:

The main issues to consider in determining this application is in terms of the principle of development and the benefits to be derived from increased energy security and new energy infrastructure to support the UK's shift towards low carbon energy having regard to national and local policy which need to be carefully weighed against the impact of the development on the countryside and visual impact on the rural landscape character and appearance of the area, the impact of the proposal on the residential amenities of the occupiers of surrounding properties, the impact on the setting of nearby heritage assets, ecology and highway safety.

### Principle:

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The site is located outside of the Hill Barton business park boundary as defined by the emerging Villages DPD and whilst it is an allocation within the Devon Waste Plan, it is considered to be in the open countryside where policies of restraint apply. Strategy 7 (Development in the Countryside) of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.
3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

Policy support is offered for renewable and low carbon energy projects under Strategy 39 (Renewable and Low Carbon Energy Projects) of the Local Plan. This policy states that:

*Renewable or low-carbon energy projects in either domestic or commercial development will in principle be supported and encouraged subject to them following current best practice guidance and the adverse impacts on features of environmental and heritage sensitivity, including any cumulative landscape and visual impacts, being satisfactorily addressed. Applicants will need to demonstrate that they have;*

- 1. taken appropriate steps in considering the options in relation to location, scale and design, for firstly avoiding harm;*

2. and then reducing and mitigating any unavoidable harm, to ensure an acceptable balance between harm and benefit.

*Where schemes are in open countryside there will be a requirement to remove all equipment from the site and restore land to its former, or better, condition if the project ceases in the future. Wind turbines will only be permitted where they are in accordance with a Neighbourhood Plan or Development Plan Document.*

It is important to establish whether this policy is applicable to the development in question, given that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Local Plan helpfully defines what it means by 'Renewable and low-carbon energy' in its glossary where it states:

*Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment - from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels). Renewable Energy can also be gained from waste technologies (including energy from waste incineration, anaerobic digestion, gasification and pyrolysis).*

The question therefore is whether the development is a low-carbon technology, or in other words is it a technology that can help reduce emissions?

The proposed development would be powered by natural gas and therefore it is important to recognise that this technology is a facilitator of renewable energy rather than a renewable technology or low carbon energy project itself and therefore there is little direct policy support within Strategy 39 for this proposal. Officers therefore consider this proposal to be a departure from the East Devon Local Plan and have advertised it as such.

Whilst this is the case, it is important to consider whether there are any other material considerations, including the benefits from the scheme, national planning policy and a site specific assessment of the proposal, to assess whether any adverse impacts of the scheme significantly and demonstrably outweigh the benefits when assessed against policies within the Framework.

National Planning Policy Framework:

The NPPF is clear that it supports the transition towards a low-carbon economy. Paragraph 7 identifies this as one of the environmental aspects of sustainable development. Paragraph 17 identifies that one of the core Principles for plan making and decision taking includes supporting a transition to a low carbon future by encouraging the use of renewable resources (for example, by the development of renewable energy). While the proposal is not a renewable energy source itself, as identified above it clearly encourages and supports the use of renewable energy generation.

Paragraph 93 of the NPPF outlines the importance of planning to provide a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure.

#### National Policy Statements:

Wider national policy relating to energy generation is set out most relevantly in the National Policy Statement for Energy (EN-1) which sets out the Governments policy for the delivery of major energy infrastructure, with paragraph 3.3.11 specifically outlining the need for more electricity capacity to support an increased supply from renewables. The report confirms that *'some renewable sources (such as wind, solar, and tidal) are intermittent and cannot be adjusted to meet demand. As a result, the more renewable generating capacity we have the more generation capacity we will require overall, to provide back-up at times when the availability of intermittent renewable sources is low. With the report concluding that 'it is therefore likely that increasing reliance on renewables will mean that we need more total electricity capacity than we have now, with a larger proportion being built only or mainly to perform back-up functions'.*

Paragraph 3.6.2 explains how *'fossil fuel generating stations contribute to security of energy supply by using fuel from a variety of suppliers and operating flexibly. Gas will continue to play an important role in the electricity sector - providing vital flexibility to support an increasing amount of low-carbon generation and to maintain security of supply'.*

National Policy Statement for Fossil Fuel based energy generation (EN-2) must be read alongside EN-1 and provides specific policies to the different energy infrastructure proposals such as gas and oil fuelled electricity generation. The policy statements sets out how fossil fuel power stations play a vital role in providing reliable electricity supplies: *they can be operated flexibly in response to changes in supply and demand, and provide diversity in our energy mix.* The report continues to state *that they will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy, and Government policy is that they must be constructed, and operate, in line with increasingly demanding climate change goals.*

EN-1 also explains that a number of fossil fuel generating stations will have to close by the end of 2015 and although this capacity may be replaced by new nuclear and renewable generating capacity in due course, *'it is clear that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating capacity is low and to help with the transition to low carbon electricity generation'.*

Paragraph 3.3.4 acknowledges that *there are benefits of having a diverse mix of all types of power generation. It means we are not dependent on any one type of generation or one source of fuel or power and so helps to ensure security of supply. In addition the different types of electricity generation have different characteristics which can complement each other: fossil fuel generation can be brought on line quickly when there is high demand and shut down when demand is low, thus complementing generation from nuclear and the intermittent generation from renewables.*

## Relevant Case Law:

Whilst Strategy 39 of the Local Plan promotes renewable and low carbon energy, it does not in itself provide an in principle reason to refuse proposals for fossil fuel energy development. Nor does the NPPF which at paragraphs 97-98 promotes renewable and low carbon energy development but does not seek to restrict development of the alternatives.

This position has recently been tested in a number of appeal decisions in which the Inspector has considered the amount of weight that should be attributed to the renewable energy benefits of the scheme.

In an appeal decision for 7 gas fired engine-driven electricity generators in Hilcote (ref APP/R1010/W/17/3172633) the Inspector concluded:

*'The appeal proposal would rely on a non-renewable energy source to provide energy to the National Grid. However the appellant indicates that flexible peaking power generation capacity specifically forms part of the renewable energy infrastructure being developed to meet the UK's obligations under the EU Renewable Energy Directive because renewable sources are supplies that are dependent on the times of day and weather conditions. Moreover the Council accepts that in so far as the appeal proposal is required to provide greater capacity and flexibility in the energy generation network the proposed generators could be described as 'associated infrastructure' that would support the move towards low carbon energy supplied increasingly by renewable energy developments. It seems to me therefore that on balance it is not unreasonable to conclude that the proposed development would constitute development required for the exploitation of sources of renewable energy.'*

In an appeal decision for the installation of an agricultural barn to house flexible generation and energy storage plant which included gas fired generators in Tiverton (ref APP/Y1138/W/17/3184617) whether or not the proposal would support the transition to a low carbon future was specifically considered by the Inspector who concluded the following:

*'In isolation, the proposal could not be described as a renewable energy source....Nevertheless I am persuaded on the basis of the available evidence that the proposal would provide a source, albeit of relatively modest scale, of electrical energy which could assist in the event of interruptions in the supply of renewable energy and which result in a reduction in CO2 emissions when compared with conventional sources of back up supply.'*

*Consequently as the proposal would support the delivery of renewable and low carbon energy, it could reasonably be regarded as the type of 'associated infrastructure' meant by paragraph 93 of the Framework. Therefore as the proposal would help increase the use and supply of renewable energy it would be consistent with the first part of paragraph 97 of the Framework and it would support the transition to a low carbon future, consistent with one of the core principles at paragraph 17.'*

Whilst each application must be assessed on its own merits, there are some similarities between the manner in which the appeals were considered and this

proposal. In these appeals it is clear that the Inspector's afforded some weight to the proposals as infrastructure which would support the delivery of renewable and low carbon energy and support the transition to a low carbon future despite the fact that the technology is run on a fossil fuel.

The need for new energy infrastructure to support the UK's shift towards low carbon energy is set out in the National Policy Statement for Energy Infrastructure. Under the direction of the Energy Act 2013, this proposal is considered to contribute to the government's key objective to secure energy on the way to a sustainable low carbon future. Furthermore the National Policy Statement for Fossil Fuel based energy generation recognises that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating is low and to help with the transition to low carbon electricity generation.

Officers consider that weight should be given to the national benefits to be derived from this particular proposal, the supportive approach towards fossil fuel energy development within national Policy Statement EN-2 and its contribution towards maintaining a stable electricity supply.

Notwithstanding the policy context of the proposal, the suitability of the site must also be assessed against the proposed use and the benefits of the proposal need to be carefully balanced against the impacts on the rural landscape and character and appearance of the area, the residential amenities of the occupiers of surrounding properties from noise and the impact on the setting of heritage assets.

#### Devon Waste Plan:

Whilst the site forms a small part of an allocation within the Devon Waste Plan, this allocation is for waste and energy recovery uses and this proposal does not therefore comply with the relevant waste policy. The County Council's Minerals and Waste Officer has advised that the site lies within the Waste Consultation Zone for Hill Barton and that the supporting statements for the applications address the matters raised by the County Council in its response of 6th September 2017 to the previous applications, including the Devon Waste Plan and availability of a grid connection for the nearby gasification plant.

It is advised that the area allocated for energy recovery development at Hill Barton through Policy W6 of the Devon Waste Plan includes the sites of the current application, but extends to a much larger part of the business park. Development of the application site for electricity storage would not prevent delivery of additional energy recovery capacity at Hill Barton, and Devon County Council therefore has no objection in its role as waste planning authority.

#### Character and Appearance:

The application site is currently free from development comprising of flattened, broken up hard-core currently used for the storage of dumpsters and large vehicles. The installation would be industrial in nature and in the limited views that would be available from public vantage points outside of the site, would be largely read against the back drop of the large industrial units within the business park and the recently approved

gasification plant currently under construction on the adjacent site. The application is accompanied by a Landscape Visual Impact Assessment which has assessed the landscape impact of the proposal from a number of public roads and footpaths outside of the site.

The LVIA has been considered by the Council's former Landscape Architect who agrees with the methodology used and the conclusions within the report. It is generally accepted that the proposal would have a limited visual impact in terms of the wider landscape and long distance views because of the site's topography and its position behind a large 'C' shaped bund which provides an effective visual barrier obscuring and screening the majority of the views of the installation from public vantage points outside of the site.

The most visual elements of the development are acknowledged as being the exhaust stacks which at 11 metres in height would extend above the height of existing visual barriers provided by hedgerows outside of the site and the bund which surrounds the southern and eastern side of the site.

The greatest visual impact of the proposals would be from Denbow Cross (identified as view 5 within the LVIA), a rural crossroads at the entrance to Wood Farm and from the road which runs past the site. This view point looks in a S.W. direction towards the site and the LVIA identifies this as being harmful albeit from close and glimpsed views from this rural lane where there are views of the existing industrial units, the artificial bund and the gasification plant.

The photographic representation within the LVIA does shows that from this particular viewpoint, the gas fired generator plant, positioned behind the approved battery storage plant would be visible and it is accepted that there would be some harm to the rural character of the area. Whilst this would be the case the view is already dominated by the large gasification plant and therefore the existing visual amenity of the site is already compromised to a degree. Furthermore, the site's allocation within the Devon Waste Plan for an energy recovery plant with a capacity of 80,000 tonnes is likely to have a far greater visual impact on the rural character and appearance of the area.

In addition, the LVIA identifies that the top of the exhaust stacks are likely to be partially visible in close views from field gates to the east along Parsonage Lane (identified as views 3 and 4). Within these viewpoints visual amenity is good although already slightly negatively impacted by the roofline of an existing building within the business park. Whilst partial views on the chimneys would be achievable the majority of the plant would be hidden behind the existing bund. Mitigation in the form of changing the colour of the chimney flues to a light grey is welcomed which would make the tops of the chimneys less visually prominent against the sky line.

The application is accompanied by a detailed landscaping scheme which includes the provision of a new Devon bank and a native hedgerow on the site's frontage in addition to tree planting and landscaping on the bund which has to be implemented under an approved County Matter application. Whilst some concerns have been raised about the detail contained within the landscaping scheme, the principle of the planting scheme is considered to be acceptable and would help to provide additional screening and reduce its overall visual impact. A condition is recommended requiring the

submission of a detailed landscaping scheme which addresses the concerns raised by the Council's Landscape Architect and for the submission of a schedule of materials and finishes for the buildings.

On balance, given the above it is considered that the limited visual harm arising from the scheme would not be sufficient to warrant refusal of the application and is not considered to outweigh the benefits to be derived from this particular proposal and its contribution towards maintaining a stable electricity, providing back-up for when generation from intermittent renewable generating capacity is low, helping with the transition to low carbon electricity generation.

#### Impact on Listed Buildings:

The proposal has been considered by the Council's Conservation Officer who has advised that there are several listed buildings in the vicinity of the site which are all listed Grade II: Denbow House, Denbow Thatch, Barn adjacent to Denbow Thatch, Glebe House, Barn at Glebe House. Pursuant to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) act 1990 special regard must be had to the desirability of preserving listed building or their setting or any features of architectural or historic interest which they possess.

Policy EN9 (Development Affecting a Designated Heritage Asset) of the Local Plan states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal.

Whilst the concerns raised by local residents in respect of the impact of the proposal on the setting of nearby heritage assets are noted, the Council's Conservation Officer has raised no objections to the proposal stating that due to their location, the topography of the land, the mature vegetation, hedging and trees and the distance between the sites, it is considered that the proposed works will have minimal or no impact on the setting of the listed buildings.

In this case, in the absence of an objection from the Council's Conservation Officer it is considered that the proposal would result in less than substantial harm to the setting of heritage assets in the area and the limited harm to the setting would be outweighed by the benefits to be derived from this particular proposal, its contribution towards maintaining a stable electricity supply and supporting the move towards low carbon energy such that it is not considered that an objection could be sustained on these grounds. The proposal is therefore considered to comply with the provisions of policy EN9 of the Local Plan.

#### Residential Amenity:

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties.



Policy EN14 (Control of Pollution) of the Local Plan states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates including smell, fumes, dust, grit, smoke or soot.
2. Pollution of surface or underground waters including:
  - a) Rivers, other watercourses, water bodies and wetlands.
  - b) Water gathering grounds including water catchment areas, aquifers and ground water protection areas
  - c) Harbours estuaries or the sea.
3. Noise and/ or vibration.
4. Light intrusion

A number of concerns have been expressed by local residents and the Parish Council about the impact of the proposal on amenity largely in terms of noise and vibration from the equipment. Farringdon Parish Council share these concerns to the extent that they have appointed an independent acoustic consultant to provide an assessment of the submitted noise report.

The planning application is accompanied by a Noise report prepared by SLR Consultants which has provided an assessment of the likely impact from noise from the proposed plant and equipment. The report includes an environmental daytime noise survey and a night-time noise survey. Parameters for this assessment were discussed with the Council's Environmental Health Officer prior to application submission and an existing daytime background noise level of 37 dBA was agreed. The background noise level is the level exceeded for 90% of the time. The results of the noise survey concluded that if the plant were to operate at night (i.e. after 11 pm) it was likely to be clearly audible at the nearest residential properties.

The EHO originally advised that the applicant's noise report suggests that the two nearest residential locations (Denbow to the north comprising of Denbow House, Denbow Thatch, Denbow Barton, Denbow Barn and Denbow Farm and Glebe Cottages to the south) might be affected in their gardens on the rare occasions that the plant would operate at night. Any property further away was not predicted to be affected. In order for any noise to be intrusive it would also depend on weather conditions and wind direction at the time. Furthermore this is a back-up system not described as a continually or even occasionally running plant and this must be taken into account in assessing any impact from noise.

In further discussions with the applicant they have offered not to operate the plant outside of the hours of 7am to 9pm and this has been agreed by all parties. Therefore only daytime and early evening impacts from noise need to be considered.

The applicant offered noise mitigation at source by providing enhanced stack silencers which will reduce noise at source by at least 40 dB. This is a significant reduction which has been accepted by the EHO. The EHO also recommends that a post-commissioning noise test is carried out to demonstrate that the silencers achieve their predicted mitigation levels and result in no noise within the gardens of these properties that exceed the background noise levels.

There is a second noise source within the proposed plant from the air in-take louvres. In order to mitigate against this the applicant proposes a 3.75m high acoustic fence on the N.E., S.W. and N.W. boundaries of the site. This is considered to be an appropriate mitigation measure and has been accepted.

Whilst the concerns of the local residents and the Parish Council are noted, having regard to the fact that this proposal is a back-up system that will not be continually running, only operating in times of peak demand, in a location where the background noise levels from the business park exceed normal background noise levels, coupled with the mitigation measures proposed which include the fitting of all exhaust stacks with enhanced stack silencers, restricting operation times outside of the hours of 7am and 9pm, the installation of acoustic fencing and a condition to ensure acceptable noise levels within the gardens of the closest residential properties, it is not considered that noise levels from the plant would be significantly harmful to the residential amenities of the occupiers of surrounding properties to sustain an objection. The proposal is considered to comply with the provisions of policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the Local Plan.

#### Ecological Impact:

The application is accompanied by a Preliminary Ecological Appraisal which has been prepared by a suitably qualified ecologist. The report concludes that the site has a negligible ecological value due to it consisting of bare earth and piles of gravel. With the implementation of the proposed mitigation measures contained within the report, it is not considered that this proposal would adversely affect species which are legally protected. In addition, through additional hedgerow and tree planting it is considered that the ecological and biodiversity value of site could be enhanced. The proposal is considered to comply with the provisions of policy EN5 (Wildlife Habitats and Features) of the Local Plan.

#### Highway Safety:

No objections to the proposal have been received from the County Highway Authority on highway safety grounds. The greatest impact on highway safety would arise during the construction phases of the development and details of traffic movements and routes can be considered as part of the CEMP which would have to be submitted prior to commencement of development on site. Traffic movements once the site is operational would be limited to normal sized vehicles during regular maintenance checks from engineers. It is not considered that the proposal would give rise to any highway safety concerns and that the proposal complies with the provisions of policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan.

### **CONCLUSION**

The proposal is for a gas fired standby generator scheme and associated infrastructure. The proposed location for the development is in the open-countryside adjacent to an existing gasification plant on Hill Barton Business Park. It is also allocated within the Devon Waste Plan as a site for an energy recovery proposal with a capacity of 80,000 tonnes.

The proposal is considered to be a departure from the East Devon Local Plan as it relies on a non-renewable energy source to provide energy to the National Grid and does not therefore meet the definition of a renewable or low-carbon energy project under Strategy 39. Whilst this the case, there is clear support within the government's National Policy Statement's for Energy which recognises that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating is low and to help with the transition to low carbon electricity generation. The proposal would support the delivery of renewable and low carbon energy, and could therefore reasonably be regarded as the type of 'associated infrastructure' meant by paragraph 93 of the NPPF; a position that has been recognised by Inspectors in a number of aforementioned appeal decisions.

The location of the site provides a good level of screening from the existing artificial bund and the proposal and whilst this industrial installation would have a degree of visual impact from short distances from public vantage points outside of the site where the tops of the 11.0 m high exhaust stacks would be visible, it is not considered that the landscape harm would be enough to warrant refusal of the application given the context of the site and the proximity to the buildings in the business park. Further landscaping is proposed to mitigate what limited visual impacts there would be.

The risk of pollution from the construction and operation of the installation is minimal and any residual risks can be minimised by engineering solutions. The Council's EHO is satisfied that noise impacts from this proposal would not adversely affect residential amenity subject to conditions requiring mitigation in the form of fitting silencers to the exhaust stacks, restricting the plant's operation to between the hours of 7am and 9pm and through the installation of an acoustic fence.

The site is of little biodiversity interest but the proposal offers some mitigation in respect of badgers and also modest enhancements through the planting of native species hedgerows and trees.

The impacts on the setting of heritage assets is considered to be less than substantial and are outweighed by the public benefits of the proposal.

On balance, whilst representing a departure from Strategy 39, it is considered that the adverse impacts from the proposed gas fuelled standby electricity plant do not significantly or demonstrably outweigh the benefits that would be derived from the scheme which would support the delivery of renewable and low carbon energy by providing back-up generation to help achieve the transition to a sustainable, low carbon future. Accordingly it is recommended that permission be granted subject to the conditions set out. Strategy 39 requires a condition that all equipment be removed from the site and the land restored to its former condition if the project ceases in the future. Although the harm to visual and landscape interests identified above is considered to be limited, it is considered appropriate to use such a condition to remedy that harm when there is no longer a requirement for the installation.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4. Notwithstanding the submitted details, no development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)
5. The residual noise level of all sources acting in combination shall not exceed Noise Rating Curve 30 (daytime) at the boundary of the nearest non-beneficial residential premises, which are Broadway View and Denbow Thatch, Farringdon (noise rating curve as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide). In order to demonstrate that this condition will be complied with, a noise survey shall be carried out within 28 days of completion of the installation with all generators operating in combination.

The details of the survey shall be agreed with the Local Planning Authority and the results provided within 28 days of the survey being carried out.

(Reason - To protect the amenities of local residents from excessive noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)

6. All exhaust stacks shall be fitted with an enhanced stack silencer which will achieve a sound power reduction of at least 40dB when assessed against the unmitigated sound power level.  
(Reason - To protect the amenities of local residents from excessive noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)
7. The gas fired plant hereby approved shall only operate between the hours of 7am and 9pm on any day.  
(Reason - To protect the amenities of local residents from excessive noise during the night in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)
8. Prior to installation of the acoustic fencing, details of its design and finish shall have previously been submitted to and agreed in writing by the Local Planning Authority. The acoustic fencing shall thereafter be installed prior to first use of the gas fired plant on the north east, south west and north west boundaries of the site in accordance with the agreed details and those shown on drawing no 17190.102 Rev 3b. The acoustic fencing shall thereafter remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.  
(Reason: To protect the amenity of residents from noise in accordance with the provisions of policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031).
9. A Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Construction Traffic Routing, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.  
(Reason - To ensure that the details are agreed before the start of works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the East Devon Local Plan 2013 - 2031.)
10. The development hereby permitted shall be carried out in accordance with the recommendations set out within the Preliminary Ecological Appraisal Report prepared by SLR dated July 2017.  
(Reason - In the interests of biodiversity in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031.)

11. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.  
(Reason - To ensure that surface water runoff from the development is discharged within the site in accordance with policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan 2013-2031.)
12. Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.  
(Reason - To ensure that any contamination existing and exposed during the development is identified and remediated in accordance with the provisions of Policy EN16 (Contaminated Land) of the East Devon Local Plan 2013-2031.)
13. No external artificial lighting shall be installed during the operation of the site without the prior written agreement of the Local Planning Authority.  
(Reason - To minimise the potential for pollution and disturbance to local amenity and wildlife in accordance with Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 to 2031.)
14. Notwithstanding the submitted details, no development shall commence until the height of the slab level on which the battery units and associated infrastructure are to be sited and finished ground levels in relation to a fixed datum has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.  
(Reason - To ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)
15. Within six months following a permanent cessation of power generation and transfer the development hereby approved shall be dismantled and removed from the site. The owner shall notify the local planning authority in writing no later than five working days following cessation of power storage and transfer. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the Local Planning Authority no later than three months following the cessation of power storage and transfer.  
(Reason - To ensure the achievement of satisfactory site restoration in accordance with Strategy 39 of the East Devon Local Plan 2013 -2031.)

#### NOTE FOR APPLICANT

17/2319/FUL

**Informative:**

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

17190.102 REV 3B	Proposed Site Plan	28.11.17
17190.101 REV 3	Location Plan	27.09.17
17190.900 REV A, 1 OF 4	Other Plans	27.09.17
17190.900 REV A, 2 OF 4	Other Plans	27.09.17
17190.900 REV A, 3 OF 4	Other Plans	27.09.17
17190.900 REV A, 4 OF 4	Other Plans	27.09.17
17190.103 REV 1B	Proposed Elevation	27.09.17

List of Background Papers

Application file, consultations and policy documents referred to in the report.

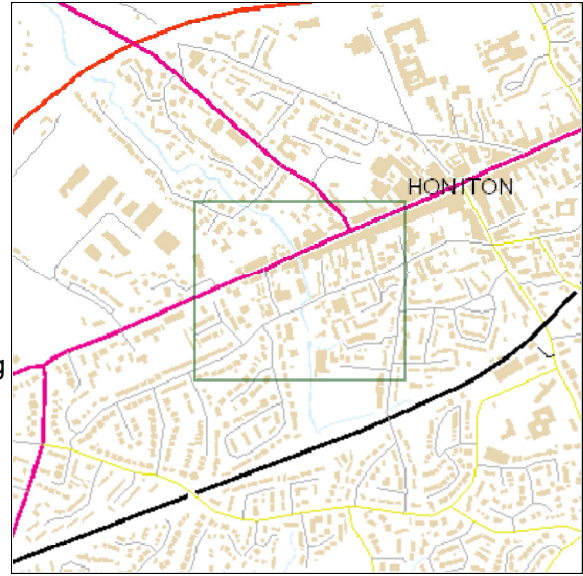
**Ward** Honiton St Michaels

**Reference** 17/2473/MOUT

**Applicant** Homes England (Mr Britton)

**Location** Land At High Street (former Foundry Yard)  
High Street Honiton EX14 1JZ

**Proposal** Outline application for the demolition of existing buildings and development of up to 32 no. dwellings (including affordable housing) and associated access (layout, scale, appearance and landscaping reserved matters)



**RECOMMENDATION: Refusal**





		<b>Committee Date: 1<sup>st</sup> May 2018</b>
<b>Honiton St Michaels (HONITON)</b>	<b>17/2473/MOUT</b>	<b>Target Date: 17.01.2018</b>
<b>Applicant:</b>	<b>Homes England (Mr Britton)</b>	
<b>Location:</b>	<b>Land At High Street (former Foundry Yard) High Street</b>	
<b>Proposal:</b>	<b>Outline application for the demolition of existing buildings and development of up to 32 no. dwellings (including affordable housing) and associated access (layout, scale, appearance and landscaping reserved matters)</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation differs from the view of one of the Ward Members.**

**The application seeks outline planning permission for residential development of up to 32 dwellings on a site close to the town centre in Honiton, which was formerly occupied by Halse of Honiton, an agricultural machinery business. All matters are reserved for approval except for access.**

**Access is shown to be from the two existing access points from the High Street and King Street, the latter being shown as a one way access permitting access into the site only.**

**The site is also within the Honiton Conservation Area and a handful of listed buildings lie adjacent.**

**The developer is proposing 30% affordable housing, whereas the required provision in this location is only 25%. This is considered to be an additional benefit over and above what would normally be expected to be provided and in addition to the benefits from additional open market dwellings.**

**There are no objections to the proposed access arrangements, noting that the Highway Authority raises no concerns.**

**The site is considered to be an employment site. It is therefore necessary for it to be demonstrated that the proposal is compliant with Strategy 32. In assessing the proposal however it has not been demonstrated that a continued use employment**

use would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems.

Furthermore, options for retention of the site or premises for its current or similar use have not been robustly explored, the site having been subject of a flawed marketing exercise that ruled out any such uses before marketing began. Evidence from the Economic Development also indicates a strong demand for employment generating sites in Honiton coupled with a shortage in the supply of such sites. The release of the site for housing would therefore not comply with Strategy 32 and the development would not be sustainable development as it would contribute to imbalances in the provision of housing and jobs in Honiton.

The site lies within flood zones 2 and 3, relating to the water course known as 'The Gissage', which flows through the middle of the site. The development is required to pass the Sequential Test, whereby it has to be demonstrated that there are no other reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This has not been achieved and there is evidence of other reasonably available sites in the District that can be used for housing that are at less risk of flooding. The proposed dwellings and their occupants would therefore be placed at unnecessary risk of flooding, contrary to policy EN21.

Notwithstanding the benefits of the open market units and additional affordable housing being proposed, the harm identified in terms of the loss of the site for employment generating uses and the failure of the proposal to pass the Sequential Test (with consequent risk to property and life) are considered to carry the most significant weight in the balancing exercise and accordingly the application is recommended for refusal.

## **CONSULTATIONS**

### **Local Consultations**

Honiton St Michael - Cllr P Twiss

14/11/17 - Having now had the opportunity to consider the arguments for and against this significant proposal in more detail, I would like to make the following points, which in overall terms boil down to a loss of employment land in the centre of Honiton in favour of new homes, some affordable in a highly sustainable location, and concerns about potential flooding, with various technical evidence for the approval or not of the application.

There are some comments in the contributors section of the application which are largely answered within the application documents, particularly in terms of scale and massing, car parking and other access matters, where DCC highways raise no objection. Some of the comments which bear no relation to this application about development of other sites in and adjoining the Honiton BUAB, and issue unrelated to the application itself.

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o In terms of the loss of employment land, I do not consider that as a District we have lost any employment due to the relocation of the former owner and occupier to another site to the western end of the district, which is easily accessible for both employees and the larger vehicles that were sometimes required to deliver equipment and products to the former foundry yard, and also reducing some large vehicle traffic in to the town from the Turks Head Lane junction , as well as actually increasing employment opportunities with the new larger site.

o I was surprised at concerns expressed by consultees, which I believe have now been satisfied by the applicant about flooding, given the adjoining 1970's flood relief scheme which continues to be very successful on the occasions it is required, and where there has never been a threat to the existing site since I have lived in the area i.e. since 1983, and where the applicant has raised the level of lower floors to mitigate the risk that the flood relief scheme would be topped

I fully support the application and would be happy for the Development Management committee to make the decision of approval or otherwise, if required.

#### Parish/Town Council

07/11/17 - The Town Council stands by its previous comments. The Committee understands that there will be an item on the agenda for the next Town Council meeting (27th Nov) with regard to the missing links in the Riverside Walk.

The Town Council unanimously objects to the application:

This proposed housing development unlike all completed housing developments in Honiton beside the River Gissage from the 1970s onwards does not include sections of a public riverside walk. The zone most likely to flood could be used for a riverside walk on both banks.

Although the applicants are proposing housing for the site and although housing is very important there is a large housing development under way in Gittisham and homes also planned on employment land at Ottery Moor Lane, so there is no need for houses at Foundry Yard to help Honiton meet its current housing allocation and other possible uses not reliant on heavy goods vehicles do not seem to have been adequately considered.

Unless the Hayne Lane Old Elm Road junction is opened to non emergency vehicles all vehicular traffic from both the above developments heading for the town centre will be funnelled along Exeter Road and the High Street. A public car park on the Foundry Yard site would reduce congestion and pollution in the town centre where it is sometimes already difficult to find a parking space.

Proposals for a one way system or for part pedestrianization have foundered due to the inadequacy of Mill Street. Development at Foundry Yard could include a road substantially wider than Mill Street to take increased traffic if such proposals were to be adopted in the future.

HTC can provide more comments on heritage however the concrete bridge is a railway bridge from the Sidmouth branch line closed in the 1960s, the more recent former Unitarian Chapel building includes more than one 'gothic' window, there is little

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mention of a claimed burial ground at the older Bridge Chapel site and no mention of the historic underground water channels a plan of which was (and presumably still is) at the Devon Heritage Centre. The channels were fed by the Town Mill leat also in a historic culvert under the proposed development site. The Town Mill is depicted on a plan from c1790 but the leat could be much older.

Further comments 12/01/18:

It was agreed that the Section 106 Officer at East Devon District Council be approached regarding CIL levy and Section 106 funding that might be available, with regard to finishing the section of Riverside Walk between King Street and the Streamers Meadows Public Open Space, as that would enable residents from this development (if permission in granted) to have easy access to a nearby multi-use games area and play area. It would also provide easy access via the Public Open Space at Oaklea to the Beehive Community Centre. It was also agreed to thank Homes England for the additional information they provided regarding the pocket park and Riverside Walk on their proposed development and to take up their offer to attend a Planning Committee meeting to discuss their application.

Further comments 8/03/18:

Members were unable to support the application for the following reasons:  
The amendments to the proposal were not considered sufficient enough to alter the Committee's previous views:

- ) Members appreciated the proposed increased access to sections of a public riverside walk but felt that insufficient commitment to this had been provided by the applicant.
- ) Members reiterated their view that there was no need for housing to be provided on this site as Honiton now had other housing developments approved.
- ) Members supported the Economic Development Officer's comment that the site should be retained as employment land.
- ) Members reiterated their concerns regarding traffic management of the site. The proposal for the King Street access to be an entry only access would exacerbate the amount of traffic exiting onto Exeter Road. If this proposed access was approved, Members would wish Mill Street to be one-way only to provide a circular route for traffic.
- ) Alternatively, to the above, Members would still support a public car park on the site.
- ) Members continued to have concerns in respect of the impact the development would have on heritage assets and their preservation.

(4 for and 1 against)

### **Technical Consultations**

#### County Highway Authority

03/11/17 - Having fully read the Technical Note provided by Pell Frischmann, this note and the various turning movements plans is in support of letter from Halse (South West) explaining why the accesses onto High Street and Kings Street and the yard

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internal turning space are not suitable for continued use as a commercial site for HGV vehicles.

As far as I can see, it does nothing to support the current application in terms of suitable visibility splays for the proposed residential development at the proposed access to the site from King Street.

As discussed at your office yesterday, I did a site visit for a pre app enquiry some time ago when I noted that existing access from Kings Street is not acceptable in terms of visibility in both directions. But especially in the easterly direction where the existing walls to the weir, The Gissage water course and the humped highway prevent acceptable visibility. The weir and The Gissage are outside the red line of the application and therefore not within the control of the applicant. Nor could I advocate any alterations to these features next to King Street as they act to preserve road safety on the highway.

Unfortunately, despite a full and thorough search of my records, and your records, it appears that my observations regarding the per app enquiry did not reach yourselves or was retained by myself. I can only apologise for this and surmise that it may have been lost when DCC IT systems were upgraded when some of my records were irretrievably lost and not sent to EDDC.

We have only just recognised that application is live and that the consultation period has begun when we received notification of the additional Technical Note on the 1st of November.

We have looked back on our weekly lists (done every Monday a week in arrears and forwarded to yourselves for your information) and at no time has this application appeared on any Monday list going forward. So it appears that this application may have been added retrospectively. Which would account for it not being picked up by ourselves.

All this sounds like a catalogue of errors, however the upshot is that the CHA will have to recommend refusal of 17/2473/MOUT in highway safety terms as it stands.

I do believe that there could be a solution to make the visibility splays acceptable to the CHA by moving the proposed Kings Street access to the west where it is likely that visibility splays of 2.4m by 43m can be achieved in both directions.

Can I suggest that the applicant is made aware of my concerns at the earliest opportunity so that matters of access can adequately be dealt with before the consultation period runs out?

I would be happy to discuss the highway elements with you and the applicant in a meeting if you so wish.

Further comments 0.04.18

The planning officer will be aware that there has been discussions with the applicant's

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Highway Consultant regarding the proposed residential development access from Kings Street and the Trip Generation figures supplied in the initial application, summarised as below:

Extract of email 13/12/2017

#### **Access Arrangements**

- *DCC cannot accept the King Street access/ egress in its current form due to the poor visibility, which would represent an unsafe arrangement. Whilst the former site previously operated using the King Street access, DCC cannot accept its use within the context of the proposed development as the required visibility standards do not conform to contemporary design guidance, i.e. Manual for Streets 2.*
- *DCC believe the King Street access could be moved further west, which would represent betterment in terms of road safety, even if the full visibility standard cannot be achieved. However, DCC have not looked at this option in detail, which may which has its own design constraints.*
- *In our conversation you were positive about providing an entry-only access on King Street (i.e. no vehicles would emerge onto King Street) or an emergency access on King Street.*
- *Alternative access measures proposed in the TA (controlled access on King Street and use of the pub car park on Mill Street) would not be supported by Devon County Council.*

#### **Trip Generation**

- *DCC are sceptical about the proposed development generating fewer trips than the previous use, based upon the TRICS-derived approach defined within the Transport Assessment.*
- *DCC would like the developer, if possible, to engage the former site occupant to determine previous level of trip generation.*

The applicant has responded with a revised access arrangements and trip generation figures contained in a Technical Note:

Extract of email 14/03/2018

*To summarise, the Technical Note addresses your comments in relation to the development trip generation, demonstrating comparable trips to the former Foundry Yard site use. Furthermore, the Technical Note provides an updated form of access from King Street, which as discussed previously prohibits egress onto King Street in order to overcome your concerns about lateral visibility for emerging traffic.*

The Technical Note was further revised after comments from the CHA:

Extract of email 21/03/2018

*Following our conversation yesterday, I have revised our Technical Note as follows:*

- 1. Revise drawing E70071-T-SK01 (appended to report) to provide footway link along the access, between King Street and the site.*
- 2. Add one-way signage at the entry to the access link.*
- 3. Demonstrate vehicle access can be achieved using an LGV (i.e. 7.5t).*
- 4. Amend Technical Note text in Section 2.1 to confirm the 10m dimension relates to the length of the entry section.*

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Please note that due to site constraints, the width of the proposed footway along the entry section is 1.8m wide and narrows to tie-in with the existing footway on King Street. I have provided an additional paragraph in Section 2.1 of our Technical Note to confirm this.

### **Conclusion**

The CHA is content that the proposed entrance from King Street, as a one-way access only, is suitable for the proposed development.

The existing entrance onto the High Street will be used for access and egress from the development, just as it always was when the site was a machinery yard.

The proposed entrance from King Street will be **access only** for vehicular traffic and by design vehicular traffic will be barred from exiting from this entrance onto King Street. This will overcome the existing poor and substandard visibility issues associated with traffic leaving via this access.

In addition the King Street access proposals will provide a footway for pedestrians from the development and a dropped kerb in Kings Street to enable pedestrians to cross the road to the existing footway on the opposite side of the road.

The Technical Note also provides revised development trip generation (before figures), that are based on actual figures of the former use of the site as an agricultural machinery supplier.

I believe that these figures give a truer representation of the amount of traffic attracted to the site, rather than those based on hypothetical data as before. This being said, the forecasted trip generation figures for the development traffic at peak traffic times are still below those that which formerly occurred as a machinery yard.

### **Summary**

The proposed residential development on the site of the former agricultural machinery yard in terms of access will be adequate for the size of the development proposed.

The proposed rearrangement of the existing access from Kings Street to a one-way access only, will overcome the existing lack of visibility *for exiting* vehicles at this access.

### **Recommendation:**

**THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION**

1. The site access shall be constructed, laid out and maintained thereafter in accordance with the attached diagram E70071-T-SK01.

REASON: To provide a satisfactory access to the site and to protect the pedestrian priority on the footway

2. There shall be no direct access for vehicular traffic from the application site onto the Unclassified County Road of King Street as shown on the submitted plan

REASON: To restrict access in the interest of public safety

3. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

(a) the timetable of the works;

- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

Economic Development Officer

29/01/18 - 17/2473/MOUT - Land at High Street (former Foundry Yard) Honiton

We have reviewed the documents and additional information submitted with this application which seeks a loss of employment use to develop 32 new residential dwellings.

There is currently a limited supply of available employment land and premises in Honiton and Economic Development strongly recommend that this application for housing on this valuable and sustainably located employment site in Honiton is refused.

Strategy 32:

Strategy 32 is relevant in that this proposed change of use will demonstrably harm employment opportunities in the area.

A current or similar employment use for the site does not appear to have been fully explored for at least 12 months. Further, in respect of Strategy 32, we can confidently conclude that there is no surplus of supply of similar employment space in Honiton which has experienced significant loss of B use land in recent years.

We support the view of our planning colleagues within the pre-app consultation response. Much more needs to be done to satisfy the requirement for a robust and effective marketing strategy to justify any loss of permitted employment use.

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The applicant should be made aware that the site requires robust and effective marketing prior to any consideration of change of use (Strat 32 point 3). Attention should be drawn to the EDDC published marketing guidance at <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/marketing-strategy-statement-guidance/>

The former owner of the site made us aware of active employment interests in this edge of town centre location which offered the opportunity to replace the local employment now relocated to their Daisy Mount facility. These should be detailed in the verifiable list of enquiries to be provided through implementation of the marketing strategy.

#### Halse Relocation:

The current application should be considered as entirely separate from the Halse relocation.

This previous application was supported by Economic Development and permitted by DMC to strengthen the businesses' viability. This addressed the physical access issue in relation to the size of the agricultural vehicles sold.

It was made clear at the time we considered their potential relocation that EDDC policy would seek ensure their current site in Honiton would continue to provide employment to the town. This was not challenged by the applicant who noted specific interest they had received in the site's future use from local employers.

On that basis, we are disappointed to see this application now seeking to end this continued employment use.

#### Employment Use:

The Applicant holds that the redevelopment of the site for commercial uses is uneconomic.

Bell Cornwell have been commissioned, supporting this position. They present a view that the continuing use of the site for employment would affect the quality of the locality.

We do not support this position and have evidence of significant unmet demand for B1 office accommodation in Honiton which this site could successfully address.

In Nov, 2017 JLL conducted viability development appraisal for the applicant based on an outline B1 proposal. We have concerns over a number of the assumptions underpinning this development appraisal and notably the inaccurate assessment of Honiton's strong office market.

Rent incentives, marketing costs and considerable void periods demonstrate a failure to properly represent the particularly high levels of current demand for B1 accommodation that we have observed as office space providers in Honiton. We are compelled to recommend that our planning colleagues ensure that a thorough review of both the submitted JLL appraisal and a reassessment of the potential viability of an amended B1 use scheme on the application site is carried out.

The JLL appraisal followed an earlier JLL report (Employment Land and Buildings Report. Nov, 2016). In 1.2 of that document, an assumption is presented that only B uses were relevant for consideration of the site's employment use. In fact, Strategy 32 demands a wider definition of town centre job creating uses. The JLL analysis does not assess potential A1, A2 and C2 employment or mixed uses.

The view presented in this work, that there is weak demand for office space in Honiton is a clear demonstration of how dated this JLL report now is, failing to adequately address the current situation in the town.

#### Employment Demand:

The local jobs that this site can accommodate are vital to a town with a stalled employment allocation and a lack of alternative employment sites.

Previously in Honiton, change of use was permitted at Ottery Moor Lane Industrial Estate. This was allowed on the basis of a number of alternative B use units then being available at Heathpark and the prospect of the allocation being adopted in the Local Plan (adopted Jan, 2016).

Two years on and local employers are facing a very different reality which the JLL report fails to acknowledge. The remaining traders at Ottery Moor Lane have been given notice and Heathpark has no available units to accommodate them. The town's employment allocation is yet to be developed out and analysis of the CoStar commercial premises data set demonstrates a shortage of available employment sites or premises within miles of Honiton.

This represents a failure of the commercial property market to meet evidenced demand which we can show goes beyond B2 and B8 uses.

East Devon District Council's business centre in Honiton is at capacity. With no more offices available to let, we have a growing waiting list of new and established businesses failing to find suitable premises to grow and provide additional local employment.

The economic case against this proposal is simply too strong to warrant consideration away from the jobs generating function it can continue to serve.

As an authority, we need to demonstrate awareness of unmet demand for employment premises and refuse this application.

#### Housing Strategy Officer Melissa Wall

14/11/17 - In accordance with strategy 34 of the local plan we will be seeking 25% (8 units) affordable housing on this site. The applicant is proposing to provide 30% (10 units) affordable housing which is welcomed in Honiton. As per strategy 34 we expect to see a tenure mix of 70% (7 units) for rented accommodation and the remaining 30% (3 units) for shared ownership. Social rented homes would be preferable to affordable rent.

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The indicative layout plans show 6 x 2 bedroom houses and 4 x 2 bedroom apartments which will meet the identified need in the district for smaller properties. The proposed flats are well thought out providing each flat with a separate entrance and are designed to resemble houses. The affordable units should be dispersed throughout the development and be tenure blind. Adequate allocated parking should be provided.

The affordable homes should all be constructed to meet part M4(2) of Building Regulations Category 2: accessible and adaptable dwellings and to the registered providers design standards and any other national design standards applicable at the time. The applicant intends to provide 5% as lifetime homes which is welcomed.

The affordable dwelling should be transferred to and managed by a preferred registered provider and be available in perpetuity. A nominations agreement will be sought with all nominations from the common housing register with preference going to those with a local connection to Honiton cascading to the district.

#### Environmental Health

07/11/17 - I have considered this application and would like to recommend the following conditions are attached to any permission granted:

A Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

No machinery shall be operated, no processes carried out and no deliveries accepted or despatched except between the hours of 0800hrs and 1800hrs Monday to Friday, or 0800hrs and 1300hrs on Saturdays, and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of local residents from noise.

#### Contaminated Land Officer

02/11/17 - I have considered the phase 1 and 2 report submitted by Pell Frischmann dated October 2017. The report identifies some contaminated surface material and a buried tank which must be removed. I agree with the recommendations of the report writer in respect of this and recommend that standard condition CT3 is applied to any approval. The first element of this condition has already been complied with.

#### Conservation

15/11/17 - In context of the conservation area, Kings Street is located, to the south of the High Street, historically defining the rear boundary and access to the burgage plots associated with the main thoroughfare / High Street. Which follows the alignment of the original Fosse way between Exeter and Lincoln, representative of a typical

medieval town layout, which by the 15th century included a pattern of established long narrow burgage plots.

The success of the town is demonstrated through the quality of the buildings addressing the High Street. Buildings which include 198 High Street, The White Lion and 186 High Street, all Grade II listed. The rear of which however differs in character and appearance from the High Street as it is typically associated with the burgage plots, the commercial workings of the former foundry and The Old Mill, the group of which are within the immediate setting of the proposed site.

Whilst there has been change to the aesthetic character of King Street, through development, the historic value associated with the inherent character is of great importance to the future interpretation of Honiton as a successful commercial town.

Aesthetically, the appearance includes the mass and scale of ad hoc, buildings which have evolved to support the various enterprises, of the more polite High Street buildings. In addition, value is found in the contribution of local building materials and historic and traditionally formed boundary walls, the combination of which, make a positive contribution to the surrounding conservation area.

In summary the historic and architectural character and appearance of King Street, that makes a contribution to the conservation area. Is found in the historic value associated with the burgage plots and aesthetically the mass and proportion of the traditional buildings, including the use of traditional materials and retention of historic boundary walls.

#### HOW WILL PROPOSED ALTERATIONS AFFECT THE HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

In considering the associated harm to the character of the surrounding heritage asset(s) as a result of the demolition of the existing commercial / foundry buildings, the following comments are made;

The mass and scale of the existing commercial properties on the foundry site, are larger than surrounding units, in addition the footprints of which are of a looser arrangement than the tight knit footprints associated with the High Street and Mill Street. And as such the built form associated with the former foundry provides a visual clue into the historic function of the land, which contributes to the historic and architectural character and appearance of Honiton conservation.

In considering their demolition this would inevitably have an impact on the future interpretation of the site as a foundry / brewery possible linked to The White Horse. However retention of historic features such as the existing boundary walls to King Street, although not listed their retention, will assist with future interpretation of the site and as such support the evolution of the town.

In summary demolition of the existing buildings, would result in harm however this harm may be mitigated through the retention of historic features that contribute to the historic evolution of the site. In addition, to the mass, scale, design, orientation and

use of materials of the proposed development being reflective of its immediate setting and those within the wider conservation area.

In considering the harm of the development on the setting of the listed buildings within the immediate setting namely; 198 High Street, The White Lion and 186 High Street, all Grade II listed, this cannot be assessed without further information being provided on location, orientation, mass, scale, design and use of materials.

In summary the principle of demolition of the former foundry buildings, would result in harm to the future interpretation of the site and the contribution it makes to the historic character of the conservation area. Concerns however that could be overcome with careful consideration being given to existing historic features which already form part of the site. Furthermore, the impact of the development on the listed building within the surround can only be considered once more detail has been provided on layout, mass, scale, design and use of materials.

#### PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

Further comments 24/01/18: - Comments addressing the Amended Illustrative Masterplan and other supporting information received on 02.01.2018, namely;

The Design Code [DC] submitted in support of the development (17.10.2017), although encouraging, unfortunately remains indicative only with detailed design matters to be dealt with at reserved matters stage.

However having considered the indicative layout, mass and scale of the residential units as suggested through the DC, in addition to the design and use of materials. This reflects that of the immediate and surrounding area, which includes several heritage assets.

The success of which however would be dependent of the use of high quality materials, including timber frame windows and natural materials. Furthermore, if sustainable measures, such as solar panels etc are to be introduced these should be design into the scheme, so as to reduce their overall impact on this town centre site.

In this respect, previous comments provided in support of the principle of the development on conservation grounds, remain relevant namely;

The principle of demolition of the former foundry buildings, would result in harm to the future interpretation of the site and the contribution it makes to the historic character of the conservation area. Concerns however that could be overcome with careful consideration being given to existing historic features which already form part of the site. Furthermore, the impact of the development on the listed building within the surround can only be considered once more detail has been provided on layout, mass, scale, design and use of materials.

#### PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

Devon County Archaeologist

08/11/17 - The proposed development site lies in an area of high archaeological potential within the historic core of Honiton that was laid out in the medieval period and is characterised by long thin plots of land aligned on High Street. The site is also occupied by the site of a former iron and brass foundry, shown on the late 19th century OS map. The High Street at the northern end of site is also thought to reflect the alignment of the Roman road between Exeter and Axminster and there are also several listed buildings adjacent to the proposed development site.

Any groundworks associated with the development of the site has the potential to impact upon below-ground archaeological deposits associated with the early settlement here as well as historic industrial activity on the site. The planning application is supported by a desk-based assessment but it is not possible to determine the presence or significance of any below-ground heritage assets through non-intrusive means alone. As such, the information submitted in support of this application is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the historic town and industrial activity and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting as well as paragraph 128 of the National Planning Policy Framework (2012).

The additional information required to be provided by the applicant would be the results of a programme of intrusive archaeological field evaluation.

The results of this work would enable the presence and significance of any heritage assets present to be understood along with the impact upon such assets. It would also enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Further comments\_04/01/18:

I refer to the above application and the recent email correspondence from the applicant's archaeological contractor - attached below..

"Dear Steve,

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Thanks again for your response below. I have reverted to our client and have been informed that there are difficulties with doing the work at this stage, primarily because they are very reluctant to breach the hardstanding or building floor slabs for archaeological investigation until such time that outline planning permission for the residential development is confirmed. Whilst they are committed to the delivery of a residential development, they do accept that it could be rejected on other grounds and the hardstanding damage would be highly disadvantageous in the scenario that they are forced to remarket the site for commercial use. When they did ground investigation for contaminated land risk and geotechnical appraisal, it was all done in mini-rig boreholes through 150mm holes in the hardstanding to minimise damage.

In addition, the geotechnical survey (available via the planning website as too big to email) has identified deep made ground overlying alluvium, which would make trenching through hardstanding to depths well in excess of 3m very challenging, extremely costly at this stage and potentially hazardous. Within the made ground was modern material, including brick and clinker. The survey also identified contaminants in the form of Lead, beryllium, benzo[a]anthracene, benzo[b]fluoranthene, benzo[a]pyrene Dibenzo[a,h]anthracene, dibenzofuran, and asbestos within the made ground, presumably due to its history of industrial use. Any investigations would therefore need detailed method statements and risk assessments to mitigate these hazards.

In summary, our clients would be happy to commit to advance archaeological investigations once they have the benefit of an outline planning permission, with the survey work then undertaken ahead of submission of a detailed application under reserved matters. This would then allow amendments to the planning layout if something is found meriting preservation in situ. As mentioned previously, if it provides you with assurance our client would be willing to submit a Written Scheme of Investigation as supporting information for the planning application, thus making an early commitment to undertake the necessary archaeological work prior to development commencing.

I look forward to your response.

Kind regards,

John

John Valentin BSc MCIfA  
Director"

In the light of the issues raised in that email the Historic Environment Team would like to withdraw its previous advice.

Instead I would now consider the application of an appropriately worded archaeological condition on any outline consent granted by your Authority an appropriate response in order to mitigate the impact of the development upon any heritage assets with archaeological interest.

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The geotechnical report submitted in support of this application recommends further ground investigation and these investigations, and any site remediation that may be required, should be subject to archaeological monitoring too.

For the above reasons and in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development, further geotechnical investigations, groundworks associated with building demolition or site remediation shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### Reason

To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

Please note that the above is a variation of usually worded archaeological condition recommended by this office, which I hope you find acceptable in this circumstance.

I would envisage a suitable programme of work as taking the form of:

- i) Archaeological monitoring and recording of any further geotechnical investigations;
- ii) Archaeological monitoring and recording of any site remediation that may be undertaken prior to development commencing;
- iii) Archaeological monitoring and recording of any building demolition work;
- iv) A staged programme of archaeological fieldwork, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation will be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits.

The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

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I will be happy to discuss this further with you, the applicant or their agent.

Environment Agency

07/11/17 - Thank you for your consultation of 23 October 2017 in respect of the above planning application.

Environment Agency position

We advise that the this outline application should not be determined until additional information has been submitted for the Flood Risk Assessment (FRA) to demonstrate that the proposal will be safe over its lifetime without increasing flood risk elsewhere in accordance with the Exception Test. The reasons for our position are set out below.

Reason - Further information required (flood risk)

We have reviewed the FRA prepared by Pell Frischmann (Ref. RE70071Y001D, dated October 2017) and whilst we broadly agree with the summary and recommendations of the report, it is felt that further consideration and assessment is required on certain aspects.

A letter from us on 22 August 2016 (Our ref. DC/2015/117633/05-L01) to Pell Frischmann in response to a pre-application enquiry indicates the need to consider 'design water levels' in the FRA. We can see no evidence that this has been considered in the latest revision of the FRA. The design flood can be considered as the 1 in 100 year fluvial event with an allowance for climate change over the 100 year lifetime of development. The FRA should evaluate the water level realised in such an event and compare this to pertinent levels on the site, to include the crest of the wall infrastructure and adjoining ground levels.

Whilst there is a recognised flood scheme in the vicinity, river walls through the site are largely boundary walls under third party ownership and not formal flood walls under our ownership. We consider that some form of condition assessment is required to demonstrate the future suitability of these walls to provide the assumed flood defence function.

Flood risks to the site include potential risks from blockage scenarios, wall collapse and surface water inundation. These risks will be further informed by the derivation of design water levels for the site, but it is considered that a more rigorous and formal approach needs to be adopted for exceedance flow routes passing through the site. Given that existing infrastructure will be demolished, providing a clear site for development, there would be scope to raise elements of the site and further reduce flood risks to more vulnerable elements and make the layout more definitive in terms of applying the sequential approach.

In terms of future operation and maintenance requirements for the 'main river' which passes through the site, we would normally promote an 8 metre undeveloped margin along either bank. There may be scope to reduce this distance, but the proposed illustrative layout in Appendix A of the assessment is not considered acceptable. There is a building abutting the river wall on the left hand bank (looking downstream) immediately downstream of the access bridge which we cannot support. In addition,

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there may be scope to re-orientate the gardens and parking for properties on the right hand bank to improve access alongside the watercourse. The FRA should provide clear recognition of the need to provide unobstructed corridors alongside the watercourse.

Further comments 22/01/18

Thank you for your consultation of 02 January 2018 following submission of additional information.

Our position remains unchanged from our letter of 07 November 2017 in that we consider further information is required.

Whilst we welcome the additional information submitted thus far it is not supported by any further flood risk commentary from the applicant's consulting engineers. We note that the letter of 14 December 2017 from the applicant's agent refers to additional work being undertaken by Pell Frischman in respect of flood risk. We look forward to reviewing this information when it has been submitted.

Further comments 05/03/18:

Thank you for your consultation of 16 February 2018 following submission of further information.

Environment Agency position

Based on the information submitted we have no objection to the grant of Outline planning permission for this proposal. However, detail regarding finished floor levels and ground raising will need to be addressed in a subsequent Reserved Matters application. The reasons for our position are set out below.

Advice - Flood risk

We have reviewed the Addendum to the Flood Risk Assessment (FRA) prepared by Pell Frischmann (Ref. RE70071Y003B, dated February 2018). We support the summary and conclusions of the FRA and we are content that previous advice in respect of flood risk has been suitably addressed. On this basis we are happy to remove our previous objection.

The 'Amended Illustrative Masterplan' (Ref. 15116\_LHC\_L02.02 Rev A) is supported because it provides significant betterment in terms of future maintenance access to the channel. Nonetheless we will expect to see more detail at the Reserved Matters stage regarding the option of ground raising at the southern extent of the site and the suitability of finished levels in relation to the need to provide an exceedance flow route through the site. There would be an expectation that finished floor levels of the properties would be elevated at least 300mm above surrounding ground levels where there is potential for overland flow.

DCC Flood Risk SuDS Consultation

10/11/17 - Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in

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order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant should submit a scaled plan of the site depicting the surface water drainage components and outfalls.

### Other Representations

7 letters of objection received raising the following concerns:

- ) Is there adequate, future-proof parking? What about an underground car park? Parking locally is difficult and the proposals adds at least 32 cars, more likely 64.
- ) Is there a facility for electric car charging points or car club parking bay?
- ) Entrance from High Street very dangerous as it crosses a footpath.
- ) Suggest splitting the site so that half of cars go via the High street, half via King Street.
- ) Suggest 20mph zone in the High Street and King Street.
- ) Suggest taller houses with undercroft parking.
- ) Allocate residents' parking.
- ) Concerned with height of buildings and overlooking.
- ) Concerned about weekend noise and disturbance (when previous business was closed)
- ) Concern about impacts when buildings taken down which abut private property
- ) Loss of value of property due to loss of privacy.
- ) Traffic in Mill Street already perilous, with traffic mounting the kerb.
- ) Where will existing resident's bins be stored once site developed?
- ) Noise is a factor as vulnerable adults live in the area.
- ) Plan initially launched was for all houses to be affordable, not just the minimum 30% the government requires.
- ) House should only be available to people from the area at a discounted price.
- ) 2 bed houses area really needed in Honiton.
- ) Developers should not be allowed to buy the houses to let.
- ) Private right of way was agreed with previous landowner and cannot be altered.
- ) 6 foot wall to south of 186 High Street has never been completed by J B Halse. Require access to west facing wall for maintenance. Proposed properties have to be 20 feet away from boundary wall and windows should not overlook our property (all stated in Deed of Exchange).

1 neutral letter:

- ) Boiler flue exits onto site and access for maintenance is required
- ) Parking is difficult in this part of town
- ) The site has flooded this past year

1 letter of support:

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) Looking to buy first property and happy that affordable housing may be provided.

## **PLANNING HISTORY**

None relevant

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 23 (Development at Honiton)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 43 (Open Space Standards)

Strategy 49 (The Historic Environment)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC7 (Adequacy of Road Network and Site Access)

### National Policy and Guidance

National Planning Policy Framework

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### **Site Location and Description**

The site lies in Honiton town centre at the western end of the High Street adjacent to the watercourse known as 'The Gissage', including a bridge over it to access an open area on the opposite bank. It is approximately 0.59 hectares in scale and relatively flat in nature. The site is a mix of open concrete yards and commercial buildings in various locations and forms. It is surrounded primarily by residential development. The site benefits from vehicular access from both the High Street to the north and from King Street to the south.

The Gissage is a heavily engineered watercourse at this location, contained entirely within a concrete channel. The entire site falls within flood zone 2 and partially within flood zone 3.

The entire site lies in the Honiton Conservation Area. In addition the White Lion, a grade II listed building adjoins the north-west boundary of the site (formerly a pub, now residential). On the northern boundary of the site lies 186 High Street, also a grade II listed building (dwelling).

The most recent use of the site was as workshops, stores and offices by a business engaged in the sale and repair of agricultural machinery. The nature of the business, involving frequent movements of large scale machinery to and from the site, meant that its continued operation and expansion was constrained by the nature of the site and its access points. It has since relocated to a new site at Daisy Mount on the A30.

### **Proposed Development**

The application seeks outline planning permission, with approval sought for access also (scale, layout, appearance and landscaping being reserved matters), for the demolition of the existing buildings and the construction of up to 32 dwellings (including affordable dwellings). Therefore the developer is seeking to gain approval for the principle of the development only, together with agreement on the detail of the access points.

The plans have been revised as the application has progressed and the access arrangements have been revised. While it is still proposed to have a vehicular access on both the High Street and King Street, the latter has been designed to be 'entry only' into the site.

An illustrative masterplan has been submitted which shows a mix of two-bed houses and 10 two-bed apartments. The scheme proposes 30% of the dwellings as affordable. In addition, some illustrative 'house type' plans have been submitted.

A Design Code has been submitted covering matters such as place-making, street design, communal gardens, parking, plot parameters, material and colour palettes, plot frontage and garden treatments and boundary treatment details.

59 car parking spaces are proposed, including on-plot spaces, allocated on-street visitor spaces, informal unallocated on-street visitor spaces and small parking courts.

However, given that all matters other than access are reserved for future consideration and the plans are illustrative only, it is not considered that the plans carry any significant weight. If Members are minded to approve the application, it would be optional whether to approve the design code submitted and tie in any subsequent reserved matters application to that code, or to simply leave all such matters to a later stage.

The application follows discussions with officers prior to the purchase of the site by Homes England where officers advised of planning policy concerns of pursuing a residential development given the loss of employment land and location of the site within Flood Zones 2 and 3.

## **ANALYSIS**

The key issues for consideration relate to the principle of development, flood risk, highways and access, design and layout and affordable housing.

### **Principle**

The site lies near the heart of the town and therefore any development would be in compliance with Strategy 6 in principle and would provide new residential development within Honiton which weighs in favour of the proposal. The application must however be tested against other policies in the Local Plan.

The site's current lawful use is considered to represent an employment use. Strategy 32 seeks to protect employment land and buildings in the interests of maintaining vibrant and viable local communities. This builds on Strategy 4 which seeks to ensure a match between jobs, homes, education and social and community facilities, leading to sustainable settlements. While concerned primarily with future job and employment land provision and large scale major developments (the latter not being the case here), Strategy 31 aims to achieve one job for each new home built.

The proposal does not seek to retain any of the land or buildings for employment use but instead provide only residential development. Strategy 32 states that this is acceptable where the following four criteria apply (taken in turn):

1. Continued use (or new use on a specifically allocated site) would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems;

The applicant assert that the site would not be suitable for industrial re-use. This however misses the point. Strategy 32 does not specify that the continued employment use of a site necessarily has to be of the same use class. It also overlooks the opportunity for the Council to impose conditions on a new commercial use that would make it acceptable in different terms (e.g. amenity/noise).

There is no evidence that suggests that any specific harm arose through the operation of the former business on the site. Environmental Health officers have not suggested that the previous use was harmful and neither have the objectors. While the operation of the former business on the site was at times inconvenient due to the regular movement of large scale agricultural machinery, that business has moved elsewhere and the policy concerns the *continued* use of the site. It is conceivable that an alternative employment use (including offices or small business units) could occupy the site that would be more appropriate in a residential area in terms of amenity and so forth.

2. The new use would safeguard a listed building where current uses are detrimental to it and where it would otherwise not be afforded protection;

This is not applicable in this case as no listed buildings are present on the site.

3. Options for retention of the site or premises for its current or similar use have been fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in a locality;

In respect of this matter, a report by JLL has been submitted by the applicant which purports to represent an analysis of the supply and demand situation for employment land in Honiton and the wider area. Unfortunately, the report initially submitted dates from November 2016, some fifteen months ago. It is not clear what marketing has taken place since that point. Additionally, as noted by the Economic Development Manager, it appears to be focussed on only the B class uses and does not consider other potentially employment generating uses, nor even a mixed use.

There is little evidence submitted in respect of the marketing strategy although a summary is provided. The JLL report refers to a marketing effort which was not for employment uses of the site but 'alternative' uses, because it suggests that following its own research there was no market for any employment uses. The marketing strategy was also determined by the fact that the lawful use value of the site would not cover the costs of Halse's new facility at Daisy Mount. It is suggested that marketing the site for a higher value use was the only way the relocation would happen. The lack of marketing for employment uses is a considerable error and it is considered that the market has not been properly tested. It is of great concern also that the strategy appears to have been driven by the objective of maximising returns, rather than by a policy-appropriate use. The marketing should have been used as a tool to determine the viability of employment uses but instead it seems to have been pre-determined that no employment uses were suitable which in turn led to a marketing exercise that excluded this possibility.

Evidence from the Economic Development Manager indicates that there was interest shown in economic re-use of this site when owned by Halse by its own admission. The EDM also reports that there is no surplus supply of land for employment in Honiton and that there is evidence of significant unmet demand for B1 office accommodation in Honiton which the site potentially could address. The EDM considers that JLL's November 2017 viability assessment for office development underestimates the

demand for office space in Honiton, among other erroneous assumptions upon which it is based, leading to an unreliable conclusion.

The supporting information does not acknowledge the loss of units at Ottery Moor Lane or their lack of replacement as expected at Heathpark. Evidence shows a growing list of new and established businesses failing to find suitable premises to grow and provide additional local employment.

The development is clearly in conflict with criterion 3 of the Strategy.

4. The proposed use would result in the provision or restoration of retail (Class A1) facilities in a settlement otherwise bereft of shops. Such facilities should be commensurate with the needs of the settlement.

This criterion is clearly not applicable in this instance.

In summary, the development would conflict with Strategy 32 and would not provide the balance of different developments the Local Plan seeks to achieve, in the interests of sustainability.

Whilst it has been suggested that there is no overall loss of employment land as Halse of Honiton who previously occupied the site have moved to new premises, Strategy 32 does not permit the loss of employment land in these circumstances and as such in policy terms the relocation of Halse of Honiton is irrelevant as it is the existing site that is protected for employment use.

### **Flooding and Sequential Test**

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere (paragraph 100). The proposal would introduce a more vulnerable use into flood zones 2 and 3. Therefore it is necessary for the Local Planning Authority to perform the Sequential Test. The aim of the Sequential Test is to steer development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This falls to be considered in advance of any other flooding matters. It is only if the Sequential Test is passed that the Exception Test is applied (a test to see if the wider sustainability benefits of the development outweigh the flood risk and to ensure the development can be made safe for its lifetime, without increasing flood risk elsewhere). These requirements are repeated under policy EN21 of the Local Plan.

There is some limited national guidance on what information is required to inform the Sequential Test, which essentially suggests that a developer discuss with a local planning authority (LPA) what it requires. It is necessary to agree with the LPA firstly the area of search. The Council has suggested that the area of search should be District wide and this is consistent with advice given for assessing all Sequential Tests.



The guidance then states that within the agreed area, a search for sites that could be suitable for the development is undertaken. First, a check of the local plan for allocated sites that could be suitable for the development is suggested. In addition, it states that sites that aren't allocated but have permission for the proposed development should be sought. Then it is also suggested that a search for windfall or potential windfall sites can be made. It is then suggested that the approximate capacity of any alternative sites should be considered, whether they are allocated sites, any issues that would prevent development on the site (e.g. roads that are too small) and whether these issues could be overcome.

The applicant has submitted a Technical Note on the Sequential Test in support of the application. Following pre-application discussion on this particular matter the area of search for the test was expanded to include other similar sites in the area.

The applicant states that its Sequential Test has assessed sites which can provide a similar capacity give or take 10%. It is suggested that considering sites of similar sizes is appropriate as while a 32 unit scheme could be provided as part of a larger development site the benefit of a relatively small scheme is lost. The site has the potential to provide regeneration within the centre of the town, provide housing close to an employment centre and benefits from local services. However, it is not considered that any of these matters should influence what size of site should be considered in the search for alternatives. They are matters which might come into play in performing the Exceptions Test, but as explained above, that comes later.

It is considered that there is no reason why the development cannot be disaggregated to assess whether it could be accommodated on a range of smaller sites. Indeed, an appeal decision from 2009 in North Lincolnshire supports this approach. The development concerned an industrial estate but the principle is considered to be equally relevant to the current proposal.

The applicant has suggested that it is appropriate to take an approach to what is a reasonably available site with reference to sites which are 'deliverable' and 'developable' as described in paragraph 47 of the NPPF (i.e. 'Deliverable': sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans. 'Developable': sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged). Reference is also made to guidance on the matter produced by four other planning authorities. Contrary to advice from the Council, the applicant has suggested that the search for other sites should be constrained to sites owned by the applicant, or for sale at a fair market value, or which are publicly owned and have been declared surplus and available for purchase. No such criteria are stated in any national guidance that advocates this approach.

The applicant considers the area of search suggested by the Council to be unreasonable but does not appear to offer an explanation why. Despite this it does

appear to use the whole District as the area of search. The site search is performed in relation to local plan allocations, the 5 year housing land supply database and the draft brownfield land register. It has based its search however on the basis of finding a similar scale site that can accommodate between 26 and 36 dwellings. This leaves only 8 sites (out of 82) from the five year land supply database. Of these, almost all are not owned by the applicant, neither for sale nor publicly owned. Most of them are underway, completed or allocated for alternative developments and so not described as being reasonably available. The applicant therefore has discounted these sites.

The search does not appear to have encompassed some obvious sites however. For example, the strategic allocation on the east side of Axminster (Strategy 20) appears to have not been considered, presumably on the basis that it exceeds the size of site required. As previously noted however there is no reason why larger sites cannot be considered. In addition, full planning permission exists for 264 houses and outline planning permission for 86 houses at Land Adjacent To Buckingham Close, Exmouth (reference 16/1022/MOUT) which was only granted in June 2016, representing another site available for the development which is at lesser risk of flooding (flood zone 1). The fundamental point is very simple, there is other land available for the development (being allocated in the Local Plan) which is at lesser risk of flooding, being predominately flood zone 1. That is all the Sequential Test seeks to ask.

Reference is made to a couple of different cases (10/1686/MFUL and 12/2770/MFUL) in East Devon concerning suggested inconsistencies in the application of the Sequential Test. However, these date from 2010 and 2012 which is some time ago and it is not considered that they have any bearing on the case in hand, which must be considered on its own merits.

Notwithstanding that the Environment Agency has no objection to the proposal following receipt of revised information, the EA has no role in performing the Sequential Test that is for the Local Planning Authority to perform. Upon consideration of the facts of the case the development is considered to fail the Sequential Test and therefore the development would be unnecessarily exposed to flood risk, contrary to national and local policy.

It has been argued that the site has not flooded since flood defence measures were installed many years ago. However, for the purposes of assessing planning applications, the Environment Agency's flood maps are used and these show the site as falling within Flood Zones 2 and 3.

It is therefore clear to Officers that the proposal fails the Sequential Test.

### **Highways and Access**

The proposed access arrangements have been amended during the course of the application so that the King Street access has become 'entry only' (to the site). The highway authority has not supported the application from its initial submission. The proposals have been revised accordingly but the highway authority has still requested some further minor information and updates to the access drawings and supporting technical information, which has recently been received. This appears to address all of the outstanding matters that the highway authority has raised and this has been

17/2473/MOUT

confirmed in the latest consultation response from DCC Highways who raise no objection subject to conditions.

The concerns of residents and the Parish Council are noted. However, the traffic movements, compared with the last existing use, have not given the highway authority reason to object to the scheme. The access onto the High Street is considered to be adequate to serve the development, even with the proposed entry only access from King Street. Being a town centre residential development there will be good opportunities for residents to make journeys into town on foot, whereas if the site were further away these journeys may well be more likely to be car based.

Parking concerns have been raised by some objectors but until the layout of the site and the house types are known, it is not possible to consider this matter in detail. The developer will need to justify parking provision at a later date.

The Parish Council have requested that a public riverside walk be created through the development. However, the site does not extend to the extent of the full frontage and given that the river is in a channel and links cannot be provided to the existing walkways to the north (across High Street) or to the south, this is not possible. However, the development will provide pedestrian access through the site via roads and footpaths that are not currently available. This will ensure a route from the King Street to High Street connecting the paths alongside the river to the north and south.

### **Heritage**

The site lies within the conservation area and there are a handful of listed buildings around the site. The application is for outline planning permission without all matters reserved except for access.

It is proposed to demolish the buildings within the site. This will have some impact on the future interpretation of the site as a foundry/brewery a possibly linked to the White Lion Pub. This could be mitigated to a degree however by the proposed retention of features such as the existing historic boundary walls to King Street. The effect on the setting of the listed buildings next to the site can only be determined once more detail is submitted as part of any reserved matters application that may be submitted in future. That said, the indicative layout, scale, mass, use of materials suggested in the Design Code indicate that the development will reflect the character of its surroundings and will not cause harm to the setting of listed buildings.

The County Archaeologist, upon receipt of additional information, has suggested that the interests of any archaeological assets that may be present can be safeguarded by a suitable condition requiring a written scheme of investigation.

### **Design Code**

All matters except for access have been reserved for approval at a later date. The applicant has however submitted a Design Code with which to inform the application, albeit that the information is indicative only. However if it is resolved to grant permission subject to a planning condition that development should be in accordance

with the code this will require any reserved matters application to be designed accordingly.

The Design Code follows the illustrative layout and shows a series of two-storey buildings with a mix of terraced and semi-detached units and demonstrates that the site can accommodate up to 32 dwellings. The design language is very much traditional and in keeping with the more traditional architecture surrounding the site, as are the suggested palette of materials. Each unit is shown with different amounts of private amenity space, with other informal/shared open space indicated, and parking is shown to be provided in a mix of on-plot, courtyard and visitor spaces. The code illustrates a development that would blend in well with its context. It is indicative however and not a fully worked up scheme. It is considered sufficient that detailed design matters can be adequately addressed through a reserved matters application and therefore were Members minded to approve the application it is suggested that a condition requiring compliance with the code would not be necessary.

### **Affordable Housing**

The development is offering 30% affordable housing, where the requirement is 25%. This is welcomed and will go some way to meeting the considerable affordable housing need in Honiton, which presently stands at a total of 352 households of various sizes. The development is for 'up to' 32 dwellings (meaning it could be less depending on how the layout is arranged) and if this came to pass it would yield 10 affordable housing units (rounded up from 9.6). A 25% provision would yield 8 units.

The provision of affordable housing, in light of the deficiency outlined, would be a considerable benefit, more so the additional units above the required threshold. This weighs in favour of the proposal.

### **Open Space**

Strategy 43 requires that developments of between 10 and 49 dwellings provide amenity open space on the site as per the standards set out in the strategy. As the application is in outline form only, any legal agreement will need to set out the requirements in terms of a formula, as opposed to a fixed quantum.

The applicant has indicated that in principle there is no objection to meeting the requirement tabulated in Strategy 43 but with recognition that the final calculations may depend on occupancy levels and any existing nearby open space provision that may serve the development. This final calculation will depend to a degree on what is proposed in the reserved matters application in terms of the type of different units. Were member minded to approve the application, this obligation would need to be secured with a S.106 agreement.

### **Other matters**

One of the objectors has raised concerns regarding the noise impact of the proposed development in light of the fact that a vulnerable adult lives adjacent. It is not explained in more detail what the concern is but the Council has had regard to its duties under the Equalities Act 2010 in consideration of the application. Although the application is

recommended for refusal on other grounds, it is not considered reasonable to raise an objection to the proposal on these grounds as there are no detailed plans submitted for approval to make that judgement and it seems likely that a residential use would raise less noise and disturbance than the previous commercial operations which involved heavy agricultural machinery.

### **Conclusion**

The application is seeking outline planning permission for a housing development on a site which until fairly recently had a commercial use. The proposal would provide up to 32 dwellings with 30% affordable housing provision, where the requirement is only 25%. The provision of further housing in Honiton, and provision of affordable housing in excess of the policy requirement in light of the acute need for affordable housing in Honiton (352 households), weighs in favour of the proposal and is afforded significant weight.

On the other hand the site lies in flood zone 2 and 3 and there are clearly other sites available for the development (including some with recent consent and some not long allocated in the Local Plan) in the District that are at lesser risk of flooding. The development therefore represents an unnecessary risk by introducing a 'more vulnerable' land use into a high risk flood area.

Furthermore, there has been inadequate marketing exercise seeking a commercial re-use of the site and a strong objection to the loss of the site from employment use by Economic Development. There is clear evidence that there is a demand for such sites in Honiton and also that there is a shortfall in supply. There is insufficient justification to allow the site to be released for housing and the development would not achieve the balance of sustainable development that the Local Plan seeks, in terms of providing employment opportunities across the District to reduce the need to travel to work.

Notwithstanding the significant weight afforded to the provision of both the market and affordable housing identified, the loss of the site as an employment site and the risk to the residents of the proposed development from flooding (when other sites are available) are considered to outweigh the benefits of the development and accordingly it is recommended that permission is refused.

### **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal for housing is a 'more vulnerable' use that would be situated within Flood Zones 2 and 3, an area of high flood risk, and policy EN21 of the East Devon Local Plan 2013 - 2031 and the National Planning Policy Framework (NPPF) require, amongst other matters, for development of this kind within Flood Zones 2 and 3 to pass a Sequential Test. It has not been adequately demonstrated why the area of search for this test should be less than the whole of the East Devon District area. Furthermore, it has not been adequately demonstrated that there are a lack of alternative sites available for the proposed development that are at less risk of flooding and therefore the development

does not pass the Sequential Test and unnecessarily puts a 'more vulnerable' development type, which includes those in need of affordable housing, at risk of flooding, contrary to Policy EN21 of the East Devon Local Plan 2013 - 2031 and Guidance in the NPPF and the National Planning Practice Guidance; and

2. The development would result in the loss of existing employment land, without it first being rigorously demonstrated through an appropriate marketing exercise that there is no interest in re-using the site for employment generating uses. Furthermore it has not been demonstrated that there is a surplus of land or provision of employment sites in the locality. The development would therefore not ensure that the local community remains vibrant and viable by reducing employment opportunities in favour of additional housing, which would not represent sustainable development and is therefore contrary to Strategies 3, 4, 23 and 32 of the East Devon Local Plan 2013 - 2031 and to the policies in the National Planning Policy Framework (paragraphs 7 - 10).

Plans relating to this application:

Technical note to DCC Comments	Additional Information	21.03.18
15116 LHC L01.01 A	Location Plan	17.10.17

List of Background Papers

Application file, consultations and policy documents referred to in the report.

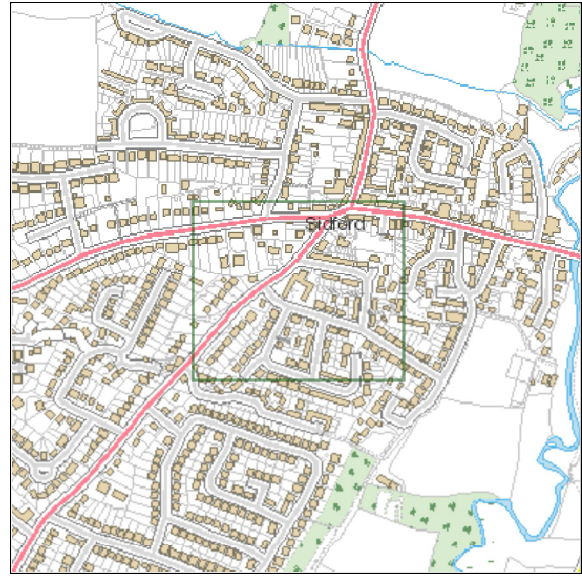
**Ward** Sidmouth Sidford

**Reference** 17/2850/MFUL

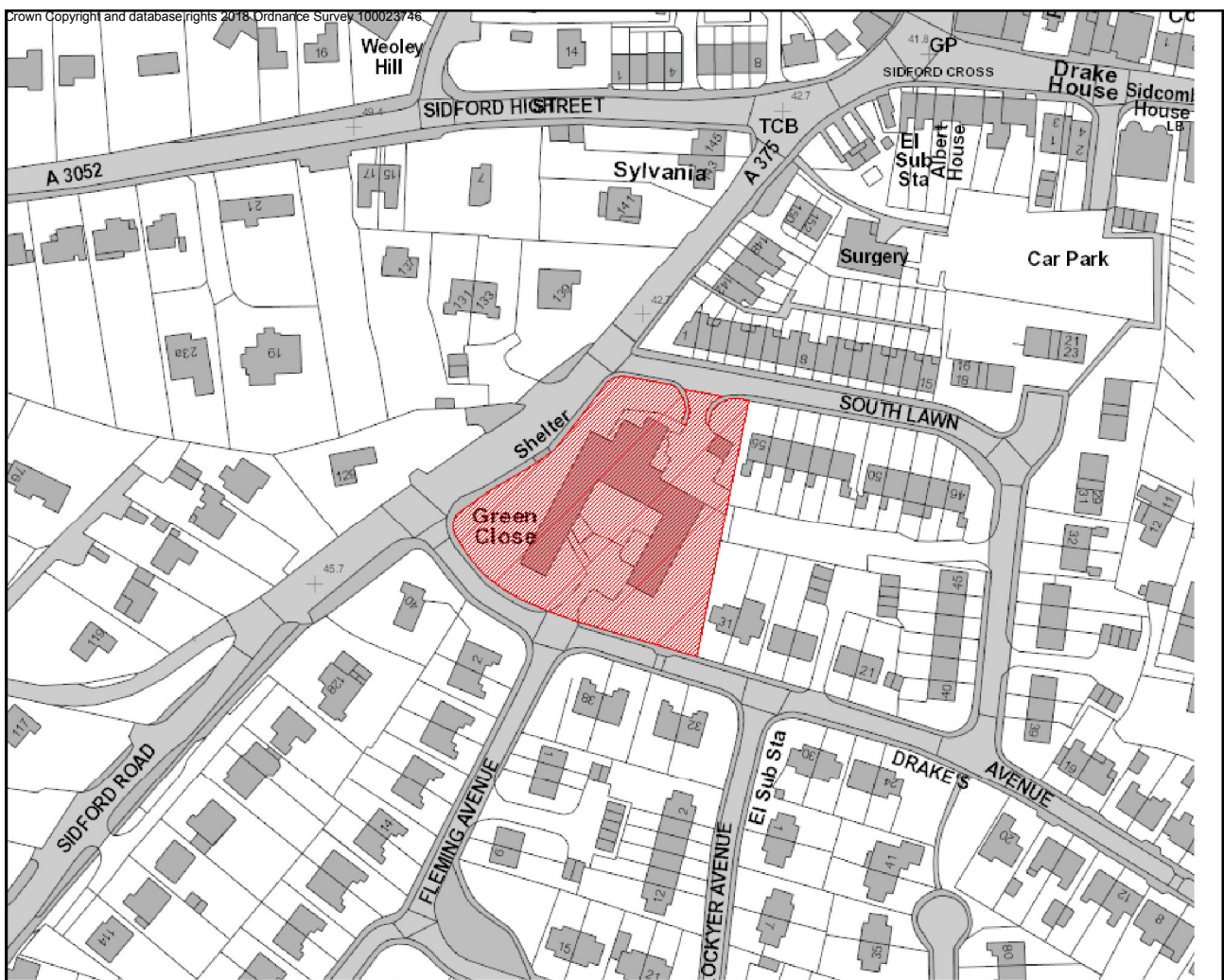
**Applicant** Churchill Retirement Living

**Location** Green Close Drakes Avenue Sidford Sidmouth  
EX10 9JU

**Proposal** Demolition of former residential care home and construction of 39 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 1<sup>st</sup> May 2018</b>
<b>Sidmouth Sidford (SIDMOUTH)</b>	<b>17/2850/MFUL</b>	<b>Target Date: 02.03.2018</b>
<b>Applicant:</b>	<b>Churchill Retirement Living</b>	
<b>Location:</b>	<b>Green Close Drakes Avenue</b>	
<b>Proposal:</b>	<b>Demolition of former residential care home and construction of 39 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is brought before the Committee in view of its status as a 'Major' application and the fact that this application site has been previously considered at DMC, and at a public inquiry, and new issues are being presented in this application.**

**The scheme involves the demolition of the currently vacant former Green Close Residential Care Home premises and the redevelopment of the site to provide a scheme comprising 39 sheltered apartments for occupation by elderly persons, incorporating integral communal facilities, in addition to the laying out of a car parking area providing 25 spaces and a landscaped garden.**

**The details show an essentially L-shaped building of variously single, two and three storeys height in place of the existing mainly two storey building. However, although there would be an increase over the existing roof ridge height throughout parts of the development, these would not be substantial. The development would also be positioned largely on the footprint area of much of the present building but laid out so as to achieve sufficient separation from neighbouring and nearby residential properties on all sides as to avoid any materially greater harmful impact upon occupiers relative to the existing structure. It would also safeguard the more important and visually semi-mature trees around the building.**

**The design approach envisages mainly red brick and painted brick wall finishes with plain roof tiles coloured grey and red. The form and elevation treatment of the development takes cues from the red brick with yellow brick detailing that characterises the terrace of older houses along the northern side of South Lawn to the north of the site. In particular it would incorporate two storey bay elements**

17/2850/MFUL



and contrasting brick detailing to window and door openings that reflect these dwellings. Ground and roof ridge levels would also be designed to reflect and respond to the gradients of the site and the adjacent Sidford Road and Drakes Avenue.

Vehicular access would be taken from the existing site entrance from South Lawn whilst a second access from Drakes Avenue would be closed off. The County Highway Authority accepts that the level of traffic generation from the site would not be significantly different to that from the former care home and raises no objection on highway safety grounds or with regard to the adequacy of the proposed level of on-site parking provision.

There are no particular concerns with regard to the effect of the proposals upon drainage or ecological interests subject to confirmation of details and compliance with submitted mitigation measures respectively.

However, the scheme makes no provision for on-site affordable housing but offers an off-site contribution of £423,576 which, together with a deduction for 'vacant building credit' (VBC), the applicant believes provides an equivalent to 50% affordable housing provision in accordance with Strategy 34. However, it is not considered that VBC should be applied in this instance as the proposal does not comply with the criteria in the Affordable Housing SPD detailing when VBC will be applied, and given the high need for affordable housing in Sidmouth which outweighs the need for seeing the site developed in its proposed form for older persons housing. The applicant has offered a financial contribution that is below the £654,870 that would be required if VBC were applied and has not put forward a viability case and will not agree to an overage clause.

In light of this, the recommendation is therefore to refuse the application on the basis that the proposal does not comply with Strategy 34 of the Local Plan as it fails to provide an adequate amount of affordable housing or provision of an overage clause.

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

26.01.18:

UNABLE TO SUPPORT

Members were unable to support the application for the following reasons:

- Members continued to have reservations regarding the proposed access from South Lawn which is a narrow road and in close proximity to the traffic junction at Sidford Cross.
- Members continued to be of the view that Sidmouth would benefit more from affordable housing on the site rather than additional sheltered accommodation.
- Members considered that any application should include either affordable housing on site or a financial contribution towards offsite affordable housing.

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Members deferred this item to the next planning meeting whilst awaiting the result of a similar nearby type of development.

Further comments 22.03.18:

Members were still unable to support the original full application but support the additional car parking space.

Sidmouth Sidford - Cllr D Manley and Cllr M Rixson

29.01.18

We object to this planning application on the following grounds:

Strategy 4 - Balanced Communities

The District Public Health Summary 2015 -16 (Devon County Council) for East Devon reveals that Sidmouth has a far higher over 85 population than the rest of the country, let alone Devon. <https://devonhealthandwellbeing.org.uk/jsna/himp/>

Sheltered apartments on this site will do nothing to redress the existing imbalance. Not only that but the Beacon Medical Centre, only built three years ago, has reported that they are already at capacity.

In Churchill's application, they state:

'Private retirement housing ... purpose built exclusively for sale to the elderly (specifically over 60s with the average age of purchasers being 80).'

The site is already being advertised on their website, 'subject to planning'. Therefore, it seems a reasonable assumption that many, if not all, of these apartments will be occupied by purchasers from outside East Devon. Yet the vision for Sidmouth was one of 'limited housing growth to meet locally generated needs'.

The Beacon Medical Centre sent a letter to Sidmouth Town Council this week, in which they state that the Centre is 'already at full capacity due to the high patient attendance which is almost entirely due to the distorted age demographics of the town. As you will see from the attached statistics the over 80s consult 5 times more frequently than their younger counterparts and with more complex and diverse problems.'

Strategy 4 states 'by balanced communities we mean that in any area of neighbourhood there is a match between jobs, homes, education, and social and community facilities'.

By providing homes for 'the over 60s with the average age of purchasers being 80', this site will exacerbate the existing mis-match between jobs and homes and put additional pressure on both the Beacon Medical Centre and the NHS in general.

Strategy 34 - District Wide Affordable Housing Provision Targets

17/2850/MFUL

The Council's own target for Sidmouth is 50% affordable 'subject to viability considerations'. The applicant has now offered £423,576 towards affordable housing. This is more acceptable than the previous offer but is this really as generous as it could be?

At Millbrook (the retirement complex in Exeter, Exeter City Council being the planning authority) the development was considered to be C3 (dwelling houses) and therefore attracted affordable housing provision which consisted of a payment to the Council of £5.65 million plus the transfer of land at no cost to enable the Council to construct a public extra care facility on the site. In addition the developer contributed almost £300,000 towards sports facilities and £35,000 towards archaeological recording.

#### Strategy 36 - Accessible and Adaptable Homes and Care/Extra care homes

The figure quoted in the local plan for Sidmouth is 150 homes up to 2031 with 50 Care/Extra homes.

Pegasus Life has recently gained consent to build 113 apartments. This application is for 39 apartments, making a total of 152 in one year, yet the total allocation of housing for the entire period of the local plan was 150 homes through 'redevelopment opportunities'. We do not believe it was intended that all these homes should be for the elderly (whether C2, C3 or a mix of the two).

Taken to its logical conclusion, if we receive additional requests for 152 homes per annum for the elderly over the next 14 years, we could have an increase of 2,128 apartments. Clearly this would be neither sustainable nor desirable.

Homes for the elderly are not in short supply but affordable homes most certainly are. Affordable homes for local people would make a far better contribution to the existing housing mix and this site would be an ideal location.

#### Policy TC3 - Traffic Management

South Lawn is very narrow and is very close to the traffic junction at Sidford Cross. This development contravenes sections 1, 2 and 3:

Safe and efficient movement of the mobility impaired, pedestrians, cyclists and vehicles

Alleviation of congestion

Reduction of traffic conflict and accident potential

Retaining the access from Drakes Avenue should be the preferred option.

#### Policy TC9 - Parking Provision in New Development

'At least 1 car parking space should be provided for one bedroom homes and 2 car parking spaces per home with two or more bedrooms. At least 1 bicycle parking space should be provided per home.'

For 39 apartments only 24 parking spaces are to be allocated, which is a ratio of only 0.61 parking spaces for residents but where is the provision for visitors? Insufficient parking will cause friction with existing residents in South Lawn where parking is at a premium. Therefore, more parking spaces should be provided.

This development should be REFUSED.

Further joint comments 26.03.18:

Whilst we welcome the additional parking space proposed in the recent update, our original comments still stand and we remain opposed to this development.

We would also add that, in response to the application for 114 Sidford Road, the county highway authority commented:

'The proposed development is adjacent to the A375 Sidford Road which connects between Sidmouth in the south and Honiton to the north. The A375 also connects to the A3052 Exeter to Lyme Regis at Sidford Cross just north of the application site with a staggered signalled junction. The signalled junction can, at peak travel times, lead to long tail-backs of traffic in all directions, and on the southern arm this could easily go past the junction of the private access road.'

The following photographs illustrate Policies TC3 and TC7 with regard to South Lawn and Drakes Avenue

Policy TC3:

- (1) Safe and efficient movement of the mobility impaired, pedestrians, cyclists and vehicles
- (2) Alleviation of congestion and
- (3) Reduction of traffic conflict and accident potential

Policy TC7:

'Planning permission for new developments will not be granted if the proposed access or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.'

The proposed access to the Green Close development is via South Lawn, which is even closer to Sidford Cross and, due to parked vehicles, is unsuitable for two-way traffic. This is why (should this development be approved) access should be via Drakes Avenue.

This application should be REFUSED.

### **Technical Consultations**

#### **EDDC Trees**

On the whole I have no objection to the proposal with the development to conform to the ARB survey and TPP supplied.

The only downside to the information is the lack of tree species details supplied on the landscaping scheme, a more accurate species location and identification is required

## Environmental Health

I have considered this application and recommend that the following conditions are attached to any permission granted:

A Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

## Housing Strategy Officer Melissa Wall

Consultee response dated 24/1/18

Under strategy 34 of the adopted local plan this development should be providing 50% affordable housing (19.5). Ideally this should be provided on-site unless there is a planning and/or another reason for why it cannot be provided on-site.

Discussions held during the previous application relating to this site concluded that on-site provision would be hard to achieve and deliver and therefore a commuted sum in lieu of on-site provision should be payable. We support a commuted sum payment for this scheme and this should be determined by the commuted sum calculator (CSC) adopted by the Council and published on our website. The CSC is a consistent and transparent mechanism to determine the payment. The applicants in their affordable housing statement, have put forward a figure of £423,576 as a commuted sum which has not been derived using the calculator and it could therefore be argued that this is not policy compliant. The calculator has not been used because this scheme proposes flats and the CSC assumes a 2 bedroom house. We can discuss this with the applicant and provide the CSC figure for flats.

The applicants are also claiming that Vacant Building Credit should be applied which would reduce the affordable housing provision to 26.6%. We are of the opinion that VBC should not apply however we are seeking further advice on this.

Strategy 34 states that where a proposal does not meet the affordable housing target it will be necessary to submit evidence to demonstrate why provision is not viable. The applicants claim that the current application 'seeks to include the maximum amount of affordable housing contribution that can be provided'. It does not take into account any arguments about viability at this stage due to the High Court appeal, however it states that viability will be a significant issue.

Once a decision has been made on whether VBC applies and in order to move forward with this application we would welcome a discussion with the applicants on the commuted sum payment.

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### South West Water

I refer to the above application and would advise that South West Water has no objection.

### Other Representations

Three objections have been received. All raise the issue of parking, and are concerned that the redevelopment of the site would exacerbate the situation. One states that access would be better from Drakes Avenue than the proposed South Lawn entrance. One of the objectors state that there is no need for more older persons housing in the town, but there is a need for affordable housing for young families. Another objection is that the local doctors surgery has recently closed and visiting the nearest surgery is inconvenient for those using public transport.

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 26 (Development at Sidmouth)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)

Strategy 43 (Open Space Standards)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

NPPG (National Planning Policy Guidance)

#### **Relevant Planning History**

A previous application, 16/0867/MFUL was submitted in 2016. Development Management Committee resolved to grant permission subject to a S106 agreement to secure the affordable housing contribution and overage clause. The application was accompanied by a viability appraisal demonstrating that the proposal could only afford a £40,000 financial contribution towards affordable housing. Following the resolution by DMC the applicant advised that they would not agree to an overage clause so submitted an appeal against non-determination. This appeal was dismissed in 2017 with the Inspector concluding that provision of an overage clause was justified in line with Strategy 34 of the adopted Local Plan.

Following the dismissed appeal, the applicant submitted a Judicial Review to the High Court against the Inspectorate decision on the basis that the Inspector erred in law by concluding that an overage clause was reasonable and required. The High Court determined that the Judicial Review did not have enough merit to proceed. This was followed by a request from the applicant for an oral hearing on the case in the High Court. The Judge again determined that the Inspectorates decision was sound.

The current application differs mainly in the details relating to the affordable housing contributions, and in the reconfiguration of the apartments to increase from 36 to 39.

#### **Site Location and Description**

The site comprises the former Green Close residential care home premises and its grounds, amounting to around 0.38 hectares in area, located on the eastern side of Sidford Road (the A375) within the built-up area of Sidmouth. Although located within close proximity of services and facilities at Sidford, the immediate surrounding area is entirely residential in character.

Formerly operated by Devon County Council as a 23 bedroom community rehabilitation unit, the building and site have been vacant since October 2014.

The site occupies an elevated position and the floor levels of the main building, which is predominantly two storey in height with attached single storey elements on its northern side, mainly sit below that of Sidford Road and South Lawn, that border the

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site to the west and south respectively, but above that of Drakes Avenue, which runs alongside the site to the south. It has largely open frontages onto all three roads (with the exception of a length of brick retaining wall along part of the Sidford Road boundary immediately adjacent to a bus stop) but is bound to the east by residential properties in both Drakes Avenue and South Lawn as well as a residents car parking area that is accessed from the latter. This boundary itself is however defined by an established hedge.

The building is loosely laid out around three sides of a parking area with a gated entrance that is accessed from South Lawn. A second parking area that mostly occupies the north eastern corner of the site is accessed from South Lawn at a point approximately 25 metres east of its junction with Sidford Road. There are entrances to the building directly from both of these.

A number of deciduous semi-mature trees occupy the grassed landscaped areas around the Sidford Road and South Lawn-facing elevations of the building. In addition, a Horse Chestnut tree is positioned close to the north eastern corner of the site adjacent to the vehicular access from South Lawn and the parking area that it serves.

The nearest part of the boundary of the designated Sidford Conservation Area is around 60 metres to the north of the site. There are otherwise no designations or other material constraints that apply to either the site or the surrounding area.

### **Proposed Development**

The application scheme involves the demolition of the building and the redevelopment of the site to provide 39 sheltered apartments for occupation by elderly persons (C3 use) alongside the provision of integral communal facilities in the form of a lodge manager's office, lift, guest suite for relatives of apartment owners who wish to stay overnight, toilet and, externally, a bin store, car parking area and a landscaped garden. A sub-station may also be installed.

The proposals also incorporate the laying out of 25 parking spaces and a service bay that would be accessed from South Lawn through the retention of the present vehicular access. The majority of the existing trees around the present building would be retained and supplemented by further planting. However, at least six trees across the site are proposed to be felled.

The proposed accommodation would be housed within an essentially L-shaped building of variously single, two and three storey height. Indeed, the topography of the site facilitates a split level design with external ground level at the rear of the building effectively a whole storey lower than at the front where it runs parallel to Sidford Road. However, it would appear mainly as a two storey building, with accommodation within the roof space, incorporating a series of stepped roof ridge and eaves lines that reflect the gradients of both Sidford Road and Drakes Avenue that fall to the north and east respectively.

In terms of scale and massing the building would exhibit eaves levels largely equivalent to those of the existing building with slightly steeper roof pitches resulting in higher maximum ridge levels by between, variously, 1 and 1.5 metres when



compared against the appropriate corresponding ridge levels of each part of the present building.

The design approach is described as 'contemporary with a modern interpretation of details commonly used in the vicinity'. To this end it would feature elements including the use of red brick with yellow brick detailing to window and door openings and two storey brickwork bays, mainly to the 'outward' facing Sidford Road and Drakes Avenue elevations that reflect the form, external appearance and rhythm of the terrace of older properties along the northern side of South Lawn. The remaining parts of the development, including further two storey bays, which feature mainly on corner at the Sidford Road/Drakes Avenue junction and at the two ends of the building would incorporate ivory painted brick with red brick detailing.

The predominance of gabled forms throughout the building is also designed to reflect that of many of the semi-detached pairs of dwellings that strongly characterise Drakes Avenue, Fleming and Lockyer Avenues and the lower part of South Lawn in close proximity of the site.

Windows and doors would mainly be of grey PVCu construction and set within reveals, the former comprising casements. Some larger doors to utility rooms would be formed in stained timber. Both the South Lawn and Sidford Road elevations are to feature a series of flat-roofed dormers serving accommodation within the roof space, the cheeks and roofs of which be pre-fabricated units. Balconies, consisting of black painted metal balustrades, would also feature on the South Lawn and east-facing elevations.

The roof finishes are to consist of plain concrete tiles, shown on the submitted elevation drawings in two colours, namely red and grey. However, exact details/samples of these and the proposed external wall finishes can be reserved for later approval.

The proposed driveway serving the parking area would be laid in tarmac with individual bays set out in block paving. Footpaths and patios are to be surfaced with concrete paving slabs.

The detail of soft landscaping of the site and boundary treatments would be the subject of a condition in the event that permission is granted. However, it is envisaged that the landscaping scheme will include informal grassed areas, lawns with hedges, shrubs, flowers and specimen planting together with new and replacement tree planting. In addition, it is intended that the current mainly open plan layout would be substituted for low brick walls and black painted railings along the South Lawn and Sidford Road boundaries to provide security whilst allowing for the retention of views into the site. However, the present soft landscaped banks that define the Drakes Avenue boundary are to be retained as natural barriers between private and public land and the boundary itself kept open to reflect the open plan character of the adjacent street scene.

## **ANALYSIS**

The key issues for consideration relate to the principle of development, design and impact upon the area, impact upon neighbour amenity, impact upon trees, highways safety, ecology, drainage and affordable housing provision.

### **Principle of Development**

The fundamental principle of the scheme is inextricably linked to issues relating to the loss of the present former care home premises and affordable housing provision that are discussed separately later on in this report.

The site occupies a sustainable location for new housing within the built-up area of Sidmouth and is close, and/or accessible, to the range of services and facilities that both the town itself and Sidford provide, including regular public transport services to the town, other parts of East Devon and Exeter. Furthermore, it is located in a predominantly residential area within which the provision of additional accommodation would not be out of character in broader land use terms.

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) of the adopted Local Plan seeks to resist the loss of (among others) employment uses and presumes against the change of use of current or allocated employment land and premises harm business and employment opportunities in the area unless certain criteria are satisfied.

However, the policy does not apply to the loss of residential uses. The former residential care home use to which the application premises were put falls within the range of uses within Class C2 (Residential Institutions) of the Order and, as such, does not constitute an employment, retail or commercial, community use that Strategy 32 applies to.

In the circumstances therefore, Strategy 32 is not relevant. It is however pertinent to note that the proposal will result in the provision of some jobs to support the proposed residential use.

Concern has been raised to the loss of the C2 units on the site but this follows a decision by Devon County Council to close the facility and given that 113 C2 care units have been approved on The Knowle (against an indicative requirement in Strategy 36 for an additional 50 care units in Sidmouth), it is difficult to argue for the retention of the site for C2 use.

Further with regard to Strategy 36, it is understood that in excess of 20% of the units will meet the standards for being accessible and adaptable.

Residential development is therefore acceptable in principle with matters regarding affordable housing provision discussed later in the report.

## **Design and Impact upon Character and Appearance of Area**

It is considered that the scheme would realise an opportunity to redevelop the site in a manner that would be largely sensitive to its built context whilst representing an improvement upon the rather utilitarian, bland and institutional character and appearance of the existing building that it would replace.

The present building exhibits a rather long and low appearance upon view from Sidford Road with no physical or visual breaks in either the ridge line of the roof or the elevation to the street to offer relief. By contrast, it is thought that the proposed design of the application scheme shows greater articulation and visual interest in the form of the depth created by the proposed two storey bay elements, the insertion of roof dormers, the variation/stepping in roof ridge heights and finishes and the contrasting brick detailing around window and door openings.

It is also considered that this extends to the treatment of the remaining elevations. In particular, the double step in the ridge level exhibited on the Drakes Avenue elevation appropriately reflects the gradient of the road itself.

Although to all intents and purposes of greater height than the existing building throughout, it is not considered that this would result in a development that would appear unduly dominant within the site in a manner that would be physically or visually disproportionate in the context of the surrounding townscape or which would fail to retain some separation and spatial relief from surrounding dwellings. The manner in which the present building sits quite low within the site is such that it is accepted that there is the potential to develop a building of greater height without any material harm to the area's character or appearance or the living conditions of the occupiers of neighbouring properties.

The layout, position and orientation of the building within the site are also thought to respond more sympathetically to the need to create a development that is outward looking and positively addresses the street scenes of Sidford Road, Drakes Avenue and South Lawn. The present building does not achieve this in relation to either Drakes Avenue or South Lawn and is indeed quite weak in relation to both. By contrast, the broadly L-shaped footprint of the development is considered to result in a building that not only strongly addresses the public domain but is set back sufficiently from the less publicly prominent and more private gardens of residential properties in Drakes Avenue and South Lawn to the east so as to avoid having unduly physically overbearing or dominating impact upon them or causing overlooking and loss of privacy.

The proposal also enables the retention of the attractive landscaped setting of the current building, and many of the trees that contribute towards it, to the benefit of the character and appearance of the area more widely. Furthermore, with the proposed parking area being located to the east of the building, this represents an extension of the present arrangements. It is anticipated however that appropriate surface treatment and planting would improve the appearance of this part of the site when compared with the existing.

Overall it is considered that the form, scale, appearance and footprint of the development would be largely sympathetic to, and would not detract from, the character or appearance of the street scene or wider area or result in an overdevelopment of the site on account of its site coverage or its height, bulk and massing.

### **Impact upon Neighbour Amenity**

As alluded to in the previous section of the report, it is considered that the separation created by the existing highways that bound three sides of the site would assist in ensuring that the development would create no significant problems in terms of overlooking/loss of privacy of/to nearby residents. Furthermore, the level of physical separation between the proposed building and neighbouring properties to the east of the site would help to reduce the extent of any similar impact upon the living conditions of the occupiers.

Although the increased physical scale, bulk and massing of the development relative to that of the existing building is duly acknowledged (the proposed building being approximately 1.5m higher), this would be offset by the distance that it would be set back from the site boundary with these properties and it is not thought that the level of impact rising from the scheme would be materially harmful to the amenities or privacy of occupiers that objection on these grounds could reasonably be supported.

### **Impact upon Trees**

The application is accompanied by an arboricultural impact assessment, tree protection plan and method statement. The principal conclusions of these are that there are no Category A (according to B.S. 5837:2012) trees on the site and the scheme would allow for the retention of all but one Category B specimen with the remaining trees to be felled all within Category C and of low retention value.

The trees of particular importance to the character and appearance of the site, namely most of the group around the south western corner of the development adjacent to the junction of Drakes Avenue with Sidford Road, would be retained along with the Horse Chestnut within the north eastern corner adjacent to the existing and proposed vehicular access to the site off South Lawn. These would be afforded protection through the construction of tree protection fencing and the undertaking of appropriate ground protection measures.

The single Category B tree, a Silver Birch, that would be felled is positioned adjacent to the eastern boundary of the site and set back by around 30 metres from Drakes Avenue and 45 metres from South Lawn. In spite of its identified future potential, its contribution towards the amenity of the site and surrounding area is therefore limited.

Additionally, as already stated, the development offers an opportunity to secure landscaping proposals, including the carrying out of replacement tree planting for those that are proposed for felling, that it is to be hoped will enhance the overall amenity of the site.

## **Highways/Access**

The application is supported by a transport statement which mainly concludes that: the development would be in an accessible location in relation to bus stops, local shops and other services; it would generate a slight increase in trip generation potential, and the level of car parking provision proposed would equate to one space per 0.64 units which is considered to be entirely appropriate given the sustainable location of the site and the likely car ownership levels of the prospective elderly occupiers of the development.

The County Highway Authority (CHA) is generally in agreement with these findings. There is an acceptance also that a small increase in traffic movements can be adequately accommodated in the existing highway network. Notwithstanding the substandard geometry of the junction of South Lawn with Sidford Road, it is otherwise satisfactory with regard to the level of visibility from and of vehicles emerging from it.

The CHA also suggest that the level of on-site parking provision proposed, amounting to over 0.5 spaces per unit, would satisfactorily accommodate the expected car ownership that would be generated from a development of the type proposed since prospective residents, predominantly aged 70 plus, frequently choose not to own a car.

In the event of approval, conditions are recommended to secure the provision of the parking and turning facilities shown on the application drawings, and maintenance and retention thereafter, alongside the closure of the present vehicular access off Drakes Avenue once the 'new' access and parking area becomes operational in accordance with details to be submitted for approval.

## **Ecology**

The submission also includes a preliminary ecological appraisal report, based upon an extended Phase 1 habitat survey and desktop study, and a further Phase 2 bat survey of the principal former care home building. The latter has been submitted in the light of identification within the former that it has medium potential for supporting roosting bats owing to the presence of missing and lifted hanging wall tiles and damaged soffit boxes and bargeboards.

The former concludes that the site is of low ecological value with the only features of relatively greater ecological interest being the native species trees.

The bat survey, consisting of one dusk emergence and two dawn re-entry surveys, recorded two common pipistrelle re-entering the building during the first of the latter. Its proposed demolition therefore has the potential to result in long-term loss of bat roosts.

The survey also recorded low levels of pipistrelle and soprano pipistrelle bat utilising the site for foraging.

As there is a confirmed bat roost present within the building, a protected species licence will be required prior to commencement of works. Mitigation proposals would

be expected to include the appropriate timing of demolition works to minimise the impact on roosting locations following external inspection, the provision of two bat boxes on the Horse Chestnut trees within the south western and north eastern corners of the site to provide replacement roosting opportunities, careful removal of all identified bat roost areas and suitable roosting features by or under the supervision of a licensed bat worker and the installation of two modified roof tiles and two wall mounted bay shelters to provide roosting opportunities for crevice dwelling species.

The report also recommends that mitigation measures for breeding birds (house sparrows and starlings) that have been identified as having nests within damaged soffit boxes on the building be incorporated within the development. These would comprise substitute nesting provisions in the form of a nest box on the Horse Chestnut tree at the north eastern corner of the site and a pair of sparrow terraces on the east elevation of the proposed building. Any clearance would need to take place outside of the bird breeding season.

### **Drainage**

The proposals envisage a mains connection for the discharge of foul drainage from the development. However, as will be evident from South West Water's consultation response, there is some concern regarding the capacity of the public sewer to serve it. There is a need therefore to establish and agree the point of connection to it.

Indicative proposals for surface water drainage disposal show the installation of an attenuation tank to control and regulate discharge rates to the existing public surface water sewer during storms up to and including the 1 in 100 year plus climate change event. This would be in the event that percolation testing shows that it is not possible to use an infiltration drainage system as a means of surface water runoff disposal.

A condition is therefore recommended to secure details as to the means of disposal of both foul and surface water drainage.

### **Loss of Existing Building and Affordable Housing**

Strategy 34 (District Wide Affordable Housing Provision Targets) requires, in this case, on site provision of affordable housing at a target rate of 50%. It also states that 'affordable housing shall be provided on site unless it is exempted through Government Policy or Guidance, is not mathematically possible or where off site provision of equivalent value is justified by circumstances such as no registered provider being willing to manage the new affordable units or other planning reasons. In such cases a payment towards an offsite contribution will be required in lieu of on-site provision.'

As with the previous application, it is accepted that on-site provision is difficult given the single building proposed and nature of the proposal. As such it is accepted in this instance that affordable housing would be secured through a financial contribution towards off-site provision. The Council's on-line affordable housing calculator would require a financial contribution of £1,230,294 for a 39 unit development within Sidmouth.

The submission is however accompanied by an affordable housing statement. This proposes what is described as a 'policy compliant scheme', comprising 50% affordable housing. In reaching this conclusion, the application has deducted Vacant Building Credit (VBC) from this figure, giving a figure of 26.61% affordable housing (or 10 units), or a sum of £423,576.

This sum does not come from the use of the Council's on-line affordable housing calculator but from the applicant's own affordability calculations. The Council's on-line affordable housing calculator would result in a financial contribution of £654,870.31 based upon the provision of 10 affordable units and the application of VBC.

Vacant Building Credit is a mechanism introduced in the National Planning Practice Guidance that allows, in certain circumstances, existing vacant floorspace to be deducted from affordable housing requirements for new development. It was introduced to provide an incentive for brownfield development sites to be brought back into use. In effect, the developer is provided with financial credit equivalent to the existing floorspace that is off-set against affordable housing requirements.

In calculating whether VBC shall be applied, it is necessary to consider the position outlined in the Council's adopted Supplementary Planning Document on Planning Obligations. This states that:

"The Council approach is that VBC will be considered on a case by case basis, and that, other than in exceptional circumstances, the following criteria shall be applied:

- VBC will only be granted where it would help to secure the redevelopment of vacant brown-field land or buildings;
- VBC will not be granted where land has been purchased for redevelopment and a 'vacant' period of time is a normal part of the development process;
- VBC will not be applied when the 'vacant' period is a policy requirement for demonstrating the land is no longer required."

With regard the first of these criteria, a full viability appraisal should be submitted to determine whether VBC needs to be applied to make this proposal viable. Without this viability appraisal it is unclear if VBC needs to be applied to make the proposal viable. VBC has been applied to other sites where this has resulted in an unviable scheme becoming viable.

With regard to criteria 2, the site has been 'vacant' simply between the point where it was sold by DCC and the applicant purchased it and as such VBC should not be applied in this circumstance. In terms of criteria 3, this does not apply as no marketing period is required.

It is not therefore considered that the proposal meets any of the three criteria in the SPD for applying VBC.

In addition, as the application of VBC is contained within the NPPG, it is not policy and therefore at the discretion of the local planning authority to decide when, and if, to apply it. Appeal decisions have determined that if the local affordable housing need is high then this could be a sound reason to outweigh the application of VBC.

It is therefore clear that the Council is able to assess the application of VBC in relation to other factors. In this case the pertinent question is whether VBC should be applied to this site given the affordable housing need in Sidmouth?

There is a critical shortage of affordable housing within Sidmouth. Of 2967 applicants for rented accommodation on the Devon Home Choice register, 312 have specified Sidmouth. This does not include those requiring shared ownership properties, of which there are 686 in East Devon (however this is not broken down into specific towns). East Devon is, after Plymouth and Exeter, the local authority in Devon which has the highest need for affordable housing, and the need has grown by over 50% since 2015 (source: Devon Home Choice monitoring report 2018).

Whilst demand is high, supply of affordable housing in Sidmouth is low. There are no housing sites in Sidmouth which are proposing any affordable housing. The permission granted for 113 extra care homes at the Knowle did not include any provision for affordable housing due to its C2 use, and the only other allocations within Sidmouth shown in the proposals map of the Local Plan are at Manstone Depot, which has an allocation of 20 houses (therefore potentially 10 affordable units), and at Port Royal, which is understood to no longer be proposing housing due to its location within a flood zone. It is therefore clear that there is a severe mismatch in the supply and demand of affordable housing in Sidmouth, and where opportunities arise to deliver affordable housing in the town, these need to be taken, to try to redress the balance.

Balanced against this, the Council is aware of the continued increase in the numbers of older persons both within, and wishing to move to, East Devon, and Sidmouth in particular. Strategy 36 of the Local Plan states that the Council will aim to secure care and extra care homes in all of our towns and villages, with provision of 50 spaces at Sidmouth. As stated above, it is clear that this figure has been exceeded by the permission granted at The Knowle. Officers therefore consider that the need for older persons housing in Sidmouth is not as acute as the need for affordable housing.

It is also important to balance the positives of the scheme, which are the redevelopment of the site, provision of housing and a contribution towards affordable housing, against the negatives, being the lack of a full contribution towards affordable housing and the implications for Sidmouth of not meeting the current need for affordable housing.

With the regard to the application of VBC, it should be noted, that the draft of the National Planning Policy Framework currently out to consultation (and likely to be published in final form in June/July this year) states that 'to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution dues should be reduced by a proportionate amount'. It is unclear whether this moves the application of VBC from guidance in the NPPG to policy in the NPPF and concerns over this, along with clarification, has been made within the Council's response to the draft NPPF. The draft NPPF cannot be given weight at present and in any case should this change result in VBC being within the NPPF, the applicant's financial contribution falls short of the policy requirement.

To conclude on this matter, Officers are of the view that VBC should not be applied to the proposal given that it does not comply with the criteria for applying it as laid out in



the SPD, and as the affordable housing needs in Sidmouth outweigh its application. As such the full off-site affordable housing contribution of £1,230,294.31 should be sought.

Even if VBC were to be applied, the applicant's financial contribution does not reflect the Council's adopted affordable housing calculator figure for the appropriate contribution, being £230,000 short. On this basis, even if VBC were applied, officers would recommend refusal of permission as the financial contribution is inadequate.

Strategy 34 requires a target of 50% provision of affordable housing in Sidmouth, does not allow for any discount for VBC, and only allows a lower percentage of affordable housing provision where supported by a viability appraisal and subject to application of an overage clause. However, the applicant has made it clear that they are not arguing viability and are not willing to accept an overage clause. In the absence of a viability argument and agreement to an overage clause, the application is contrary to Strategy 34 as it is proposing an unjustified level of off-site affordable housing contribution.

In light of the above, regardless of whether VBC is applied to the site, the proposal is considered to be contrary to Strategy 34 as the financial contribution being offered is inadequate and not justified given the lack of a viability argument and lack of agreement to an overage clause.

### **Other issues**

One of the representations has raised the issue that Sidford no longer has a branch surgery and residents are therefore required to visit The Beacon Medical Centre, situated at Stowford. However, this is part of the Sid Valley Practice which also has a branch within the town centre, at Blackmore Health Centre, which is close to a bus route which connects with Green Close. Health Centre provision is also covered by CIL for which this development will be liable.

### **Conclusion**

Although the principle of development is acceptable and the application is acceptable with regard to its design, layout, drainage and access, the proposal does not propose a policy compliant affordable housing offer, relying upon the application of vacant building credit with no agreement to provision of an overage clause and on the basis of a financial contribution figure that is not agreed.

Given the lack of compliance with the Affordable Housing SPD, and the high level of the need for affordable housing in Sidmouth, it is considered that vacant building credit should not be applied to the site. Even if vacant building credit is applied, the contribution amount being offered falls short of the amount required by the affordable housing calculator.

In the absence of a viability argument, and with no agreement to an overage clause, and on the basis that the current financial offer falls well short of a policy compliant amount, the application is considered to be contrary to Strategy 34 and is recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reason:

1. The application fails to secure the provision of a sufficient level of affordable housing, including application of an overage clause, in a location where there is a high need for affordable housing. As such the proposal is contrary to the provisions of Strategy 34 (District Wide Affordable Housing Provision Targets) of the Adopted East Devon Local Plan 2013-2031).

### Plans relating to this application:

100845F-PA01 E Proposed Site Plan 07.03.18  
10084SF-PA00 Location Plan 28.11.17  
10084SF-PA02 Proposed Floor Plans 28.11.17  
10084SF-PA03 Proposed Floor Plans 28.11.17  
10084SF-PA04 Proposed Floor Plans 28.11.17  
10084SF-PA10 Proposed Floor Plans 28.11.17  
10084SF-PA05 Proposed roof plans 28.11.17  
10084SF-PA06 Proposed Elevation 28.11.17  
10084SF-PA07 Proposed Elevation 28.11.17  
10084SF-PA08 Proposed Elevation 28.11.17  
10084SF-PA09 Proposed Elevation 28.11.17  
211983-SU-01 Other Plans 28.11.17  
15404-BT3 Tree Protection Plan 28.11.17  
10084SF Landscaping 28.11.17

### Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

### List of Background Papers

Application file, consultations and policy documents referred to in the report.

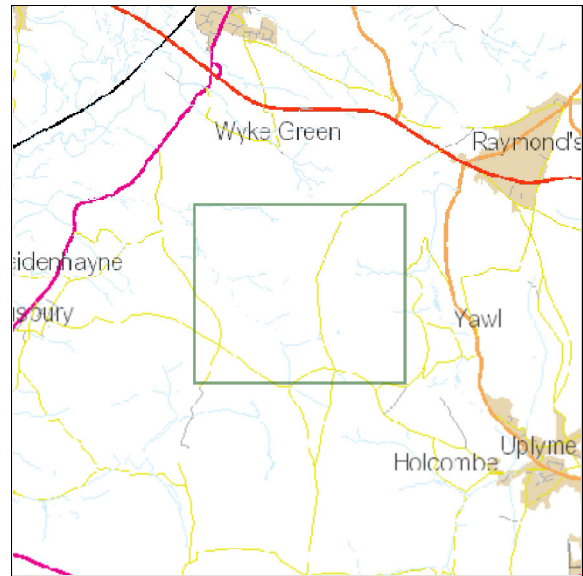
**Ward** Newbridges

**Reference** 17/1201/MFUL

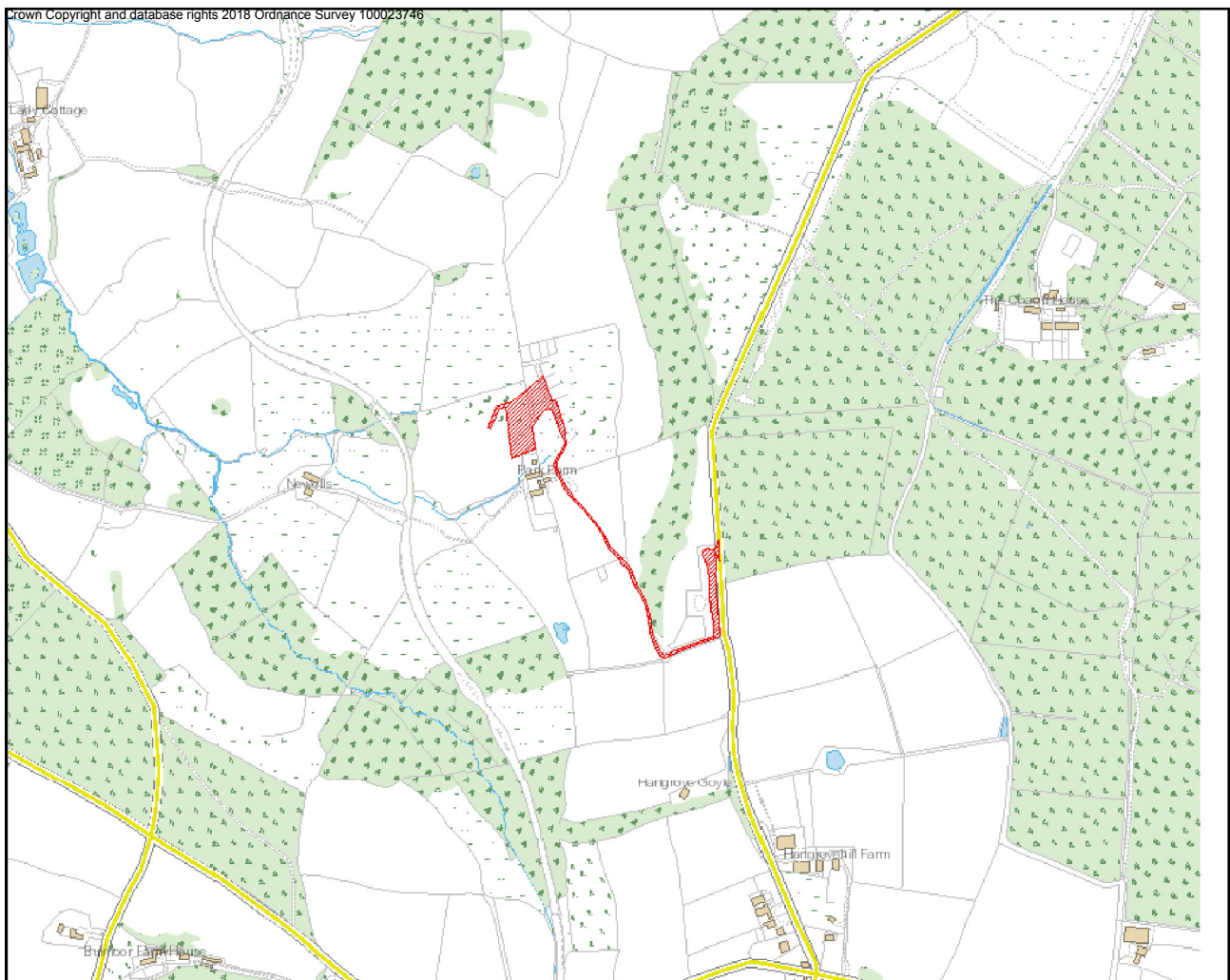
**Applicant** Mr James Houston (River Cottage Ltd)

**Location** River Cottage Park Farm Trinity Hill Road  
Musbury Axminster EX13 8TB

**Proposal** Proposed buildings to provide expansion of existing facilities for rural courses at River Cottage, consisting of a 16 bedroom guesthouse, cookery school, an events space and informal lounge space



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 1<sup>st</sup> May 2018</b>
<b>Newbridges (MUSBURY)</b>	<b>17/1201/MFUL</b>	<b>Target Date: 19.09.2017</b>
<b>Applicant:</b>	<b>Mr James Houston (River Cottage Ltd)</b>	
<b>Location:</b>	<b>River Cottage Park Farm</b>	
<b>Proposal:</b>	<b>Proposed buildings to provide expansion of existing facilities for rural courses at River Cottage, consisting of a 16 bedroom guesthouse, cookery school, an events space and informal lounge space</b>	

**RECOMMENDATIONS: 1. That the Habitat Regulations Assessment is adopted and endorsed. 2. That planning permission be Approved with conditions.**

#### **EXECUTIVE SUMMARY**

**The application is before Members as it represents a departure from the Local Plan as there is no specific policy that supports a proposal of this nature within the countryside.**

**Park Farm occupies an isolated rural location within the Area of Outstanding Natural Beauty to the southeast of Axminster. The main farm house and related buildings are set in the valley bottom and the surrounding land slopes steeply up to the east to Trinity Hill Road, from which the site is accessed.**

**The proposed development would support an existing successful business which also forms a tourist attraction and supports the local economy. The proposed letting rooms would offer the chefs and apprentices attending the multiple day courses on site an offer of accommodation rather than needing to travel off site after the course has finished returning the next morning. The new facilities will enable an increase in the numbers of course attendees which in turn would mean that surrounding bed and breakfasts would still benefit from the business as existing.**

**The initial development has been successful but has underestimated demand for on-site accommodation, which the current proposal seeks to address. The development would provide a significant amount of new building, set away from the original grade II listed farmstead. The choice of location, design, materials and landscaping would help to conserve the setting of the listed building and to assimilate the development into the landscape and been subject to pre-application discussions.**

**A Habitat Regulations Assessment has been carried out due to potential impacts on a nearby Special Area of Conservation (SAC) and Sites of Special Scientific Interest (SSSIs). This is summarised within the report and should be endorsed by the Committee prior to making decision on the planning application. It concludes that there is not likely to be a significant effect on these sensitive habitats.**

**The proposals represent an expansion of a successful business that is a significant draw and 'anchor' for tourism in the local area. It will also provide educational opportunities for local people.**

**While not in the most sustainable location in terms of transport, it is recognised in National policy that rural areas will not be able achieve the same sustainable transport measures as urban locations. A Travel Plan is provided as part of the application which will go some way to managing vehicle trips to the site.**

**The benefits to the local economy, through the supply chain, increased tourism and training opportunities are considered to be significant benefits that justify a departure from local plan policy, particularly as the development can be adequately accommodated without detriment to the landscape, heritage assets, biodiversity interests of other matters of acknowledge public importance. As such, the application is recommended for approval subject to a number of conditions.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

Three of Musbury's Parish Councillors went on site at the invitation of the River Cottage team to view the plans. Other councillors viewed the plans online. They were happy to support the application.

### **Technical Consultations**

#### **Economic Development Officer**

Wed 28 Mar 2018

#### **Summary:**

The application and additional information, including that which was recently provided to East Devon District Council provides a clear economic understanding of the Local Plan and the impact of this application and the wider area. Economic Development broadly endorse this analysis and support the applicant's understanding of the local economy.

#### **Policy:**

Economic Development endorse the applicant's review of the East Devon Local Plan and support it with the following additional comments:

- ) Strategy 4 - East Devon as a whole is making great gains in delivering sorely needed housing in the district. There is however an imbalance in the delivery

of new employment. With the addition of 22 FTE jobs and the apprenticeships, River Cottage will contribute significantly to a more balanced local community.

- ) Strategy 28 - the applicant states that this development is required to enable River Cottage to grow and sustain itself. The project will help to sustain a rural enterprise and add value to rural produce (River Cottage take pride in local procurement £600,000 last year). Economic Development are keen to support business growth and happy to see wider benefits to the local economy.
- ) Strategy 29 - the project clearly identifies its apprenticeship programme and how the expansion of the facility will benefit and enhance it. Economic Development supports work skills development for young local people and recognises the benefit of accommodation being available to those from further away to make their participation easier.
- ) Strategy 30 & 33 - the localism aspect of this project contributes to a vibrant business community. This investment will continue to support the local supply chain and other local accommodation providers, as River Cottage acts as a tourism destination hook.
- ) Strategy E5 - There is a strong synergy with local employment and skills and the benefit to the local area of additional economic output will benefit the area of Axminster
- ) Strategy E20 - as a destination this development will also encourage and enable extended tourism spend in the local area this benefitting the East Devon economy more widely.

#### Economic Case:

The applicant's current business already delivers significant supply chain spend, the site acts as a destination tourism hook and visitors have used a visit to extend their stay in East Devon. This application seeks to enhance that offer. This application will deliver additional employment, apprenticeships, supply chain spend and visitor days in the district. For these reasons Economic Development strongly support this application.

#### County Highway Authority

03.06.2017

#### Observations:

I visited the site on Thursday 29th June, the road, the C69, has a national speed limit although the vertical and horizontal alignment and limited light restrict the actual speed limit.

The visibility is acceptable in either direction, although there is potential for traffic increase, this should not cause a network capacity problem.

#### Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

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EDDC Trees  
25.06.2017

In principle I have no objection to this development however I have the following observations:-

- I am concerned on the proposed access road and the loss of significant ancient hedgerow and appears some semi-mature Oak trees within the hedgerow - consideration should be considered on not having a circular route
- The track to the field removes a considerable amount of establish wildlife cover lower tree areas, with no offer of any replanting
- The building is too close to the proposed retained trees and will create conflict both at the point of construction and during occupation.
- Greater thought need to be given to the above with a good replacement tree plan and to re-design the access point

Further comments 04.10.2017:

I have read the amended supplied details, and in there seems to be no difference in relation to the trees than the previous submitted details, the Arb report in parts agrees that the access road is not ideal due to the loss of trees/habitat, the retained Birch trees will have to be pruned to allow various procedures to take place and does not take into the account the contents of the historic hedge or any replacement planting. This new submission is still not acceptable

EDDC Trees

Further comments 20.11.2017:

I am happier with the revised landscaping scheme and it is almost acceptable, part of the re-planting is describing transplanting trees of 100mm Diameter, unless these have been prepared for transplanting over the last couple of seasons these will have a low survival rate, the suggestion of obtaining the replacement trees from nearby woodlands is not ideal, I would recommend minimum of tree size 8-10 either bare root or container grown out sourced trees

Natural England

18.08.2017

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED) WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features.

European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

The application site is in close proximity to the following sites:

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- River Axe Special Area of Conservation (SAC) which is a European site and also notified at a national level as River Axe Site of Special Scientific Interest (SSSI).
- Park Farm Meadows Site of Special Scientific Interest (SSSI).
- East Devon Area of Outstanding Natural Beauty (AONB)

Please see the subsequent sections of this letter for our advice relating to SSSI and AONB features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>.

<sup>1</sup> Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

#### Further information required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

#### River Axe Special Area of Conservation (SAC) - Further information required

The site is within the 3km catchment risk zone for the River Axe Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and the application indicates that the development will discharge into a watercourse within the river axe catchment via a package treatment plant. Therefore this development has the potential to affect the SAC/SSSI through impacts on water quality, and hence the notified species, within the river.



The SAC is currently failing to meet its conservation objective targets due to high P levels. There are potential effects from the additional contribution which waste water from the proposed development could make to Phosphate (P) levels in the SAC/SSSI, in combination with existing discharges and the proposed new housing at Axminster.

In the case of the European site referred to above, your authority cannot grant permission for this proposal in the absence of a Habitat Regulations Assessment which concludes either i) no likely significant effect due to mitigation included by the applicant or, ii) no adverse effect on integrity following an Appropriate Assessment. Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process. Therefore your authority should consider both the impact of this development and the in combination effect when undertaking a Habitats Regulation Assessment.

#### River Axe SSSI

Natural England advises that there will be no additional impacts on the features of interest of the River Axe SSSI resulting from the proposed development beyond those already identified with regard to the European wildlife sites above.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitatsreview/implementation/process-guidance/guidance/sites/>

Park Farm Meadows Site of Special Scientific Interest (SSSI).

The development is unlikely to have a direct impact on the SSSI interest features provided it is undertaken in strict accordance with a suitable Construction and Environment Management Plan (CEMP) and a Landscape and Ecology Management Plan (LEMP).

Protected Landscape advice - East Devon Area of Outstanding Natural Beauty (AONB) The proposed development is for a site within the East Devon Area of Outstanding Natural Beauty (AONB). Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

### Protected Species

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

Further comments 30.11.2017:

I can confirm that we have no additional comments to make on this planning application. The additional information should allow you to reach a positive conclusion to the Habitats Regulations Assessment regarding the River Axe Special Area of Conservation. I have attached our previous advice for ease of reference.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact me using the details below. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

### East Devon AONB

6.6.2017

Background to comments, site description/context (a summary of the National, County and District character assessments)

The site is located within the East Devon Area of Outstanding Natural Beauty a nationally important designated landscape. Park Farm sits within a remote steep sided valley to the east of Musbury.

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Park Farm is a Grade II Listed Building which has undergone considerable development since 2006.

The site is located in National character area (NCA) 147 The Blackdowns, Devon County landscape character area Wooton Hills It falls within the East Devon District landscape character type Steep wooded scarp slopes LCT2A.

Natural England National Character Area Assessment  
NCA No : 147      NCA Name: Blackdowns

Key Statements of Environmental Opportunity relevant to this site

SEO 4: Protect the relatively unsettled, rural character of this nationally important landscape, maintaining open skylines and historic settlement form.

Reflect the local vernacular and geodiversity in new development and encourage provision of high-quality green infrastructure.

- o Promoting the use of landscape character guidance and other landscape tools to ensure that the key characteristics are protected and reinforced through land management and development.

- o Promoting and supporting the significance of historic landscape character in development management. Encourage the management and sustainable development of the dispersed historic settlement pattern of farmsteads, hamlets and larger village settlements.

- o Protecting locally distinctive building styles and the use of local materials, where appropriate and sustainable, and encouraging their integration into new development as well as sustainable technologies.

Devon Landscape Character Area Assessment

DCA Name: Wooton Hills

Key management guidelines relevant to this site

Protect

- o Protect the landscape's strong sense of tranquillity and remoteness with clustered villages and hamlets reinforcing a strong historic sense of place.

- o Protect the sparse settlement pattern of clustered villages and farmsteads. Prevent the linear spread of development along river valleys and roads wherever possible, to maintain the settlements' characteristic form and peaceful character.

- o Protect traditional building styles and materials, particularly local chert with red brick detailing, utilising the same styles and materials in new development wherever possible (whilst seeking to incorporate sustainable design).

Landscape Character Assessment details

LCT No :

2A      LCT Name

Steep wooded scarp slopes

Key Landscape Characteristics of the LCT(s) within which the site is located

Key characteristics of this LCT of relevance are as follows:

- o A narrow band of steeply sloping land immediately below the plateau edge

- o Mixed woodland and semi improved or unimproved pasture

- o Pastoral cultivation, with small scale irregular field pattern

- o Spring-line mires
  - o Lightly settled
  - o Narrow winding lanes with well treed banks
  - o Occasional long views out over adjoining valleys
  - o Many patches of semi-natural habitats, including spring-line mires and scrub
  - o
- Landscape Management Guidelines

Recommendations relevant to this site/application

Settlement and development: conserve by

1. Maintaining the inherent sparsely settled character.

Further Comments

This is a green field site away from the curtilages of the original farm buildings and occupies open countryside where development needs to be strictly controlled to ensure it does not impact detrimentally on the character and appearance of the surrounding nationally designated and protected landscape. As such the proposal is contrary to EDDC Local Plan Policy E5

The scale of the proposed development along with the complex mixture of roof lines represents a marked departure from the design of the additional 11 bed accommodation block which already has planning permission. The existing permission reflects an 'agricultural' style building when viewed from a distance and so maintains the agricultural feel of the existing property. The proposed complicated mixture of roof angles, verandas and chimneys bears no resemblance to an agricultural structure and as such set in an undeveloped setting appears out of context and therefore would have a very significant detrimental impact on the character of the valley. Whilst recognising that views from any residential development in the proposed location would be desirable, the lack of landscaping to the west of the site results in the proposed development being extremely visible when viewed from the western side of the valley from Puddlelake Lane, the most publicly visible aspect of the valley.

Having visited the site and viewed it from the west it is apparent that the most striking structures in the existing development are the unfortunate choice of red roof tiles on the bus stop and the bright white marquee. These underline the importance in ensuring correct materials are approved and used for any development. It is regrettable that the vernacular materials recommended within Landscape Character Assessments have not been incorporated into the design.

East Devon AONB Management Strategy Policy Reference(s)

P2- provide advice and support on planning policy and development to enable the special qualities of the historic and landscape character of the AONB to be protected, conserved and enhanced.

Further references

Landscape Character Assessment & Management Guidelines (2008)

East Devon AONB Management Strategy (2014-19)

Further comments 25.09.2017:

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Further to the changes made by the applicant to the original application we would like to make these comments.

We are concerned about the extent of the physical separation of the proposed development from the existing development, whilst recognising the desire for the proposal to be subordinate to the listed building it effectively occupies a green field site away from the curtilages of the original farm buildings and occupies open countryside where development needs to be strictly controlled to ensure it does not impact detrimentally on the character and appearance of the surrounding nationally designated and protected landscape. As such the proposal is contrary to EDDC Local Plan Policy E5

We welcome the modified design of building and proposed materials which now reflect more fully the agricultural nature of the original farmhouse complex. However we note that in drawings 700, 701 and 702 illustrating the less complicated roof lines there is no hint of a chimney structure whilst in the drawings P1518202 and 204 and 254A there are apparently chimney structures that protrude beyond the simple lines of the roof. These are not typical structures found in agricultural buildings and so would greatly weaken the effectiveness of the desired impression. There is no detail as to what materials these chimneys might be constructed from and have the potential if made from reflective metal to negatively impact upon the character and appearance of the valley.

Whilst recognising that views from any residential development in the proposed location would be desirable, the lack of landscaping to the west of the site still results in the proposed development being extremely visible when viewed from the western side of the valley from Puddlelake Lane, the most publicly visible aspect of the valley. The profile of the proposed excavation leading to the residential block rising vertically from the top of a steep slope will only magnify this effect.

Landscape Architect  
20 July 2017

No site survey has been submitted. Currently it is unclear at what level the proposed building will sit (none of the plans indicate the actual floor level). None of the provided sections show the existing ground levels. The changes to the site's topography need to be clearly indicated as they could impact upon the existing on-site vegetation.

No Flood Risk Assessment or drainage strategy has been submitted. The drainage strategy should make use of SuDS (Sustainable Drainage Systems) and should follow the SuDS management train as set out in CIRIA's SuDS Manual C735 (2015) and DCC's Sustainable Drainage Systems: Guidance for Devon (2017). The design of any SuDS features should consider the local landscape character, should aim to integrate appropriately within its context and opportunities to provide additional wildlife, amenity and water quality benefits should be maximised.

The Pre-app advice of providing a landscape visual appraisal has been ignored. (although not all information was on-line). The Blackdown Hills and East Devon AONBs and EDDC's landscape character assessment (which can be found here: <http://eastdevon.gov.uk/planning/planning-policy/environment-and-green->

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infrastructure/landscape/) and DCC's Landscape character assessment (which can be found here: <http://map.devon.gov.uk/DCCViewer/>) both promote the retention of the sparsely settled character of the local area, the creation of wetland habitats and ecological corridors through the use of native species. Taking account of the landscape character assessments and comparing the proposed building block to the scale of the existing farmstead, the scale of the proposed building appears rather large. The angular roof plain exacerbates the issue. If the roof plain was simplified and the green roof area extended the issue of scale might be able to be addressed. Currently the visual context of the site has not appropriately been illustrated.

The tree survey is insufficiently detailed to provide accurate root protection areas and extent of existing planting.

The current arb report indicates G1 and G2 in 2 different location, the survey plan shows G2 most northerly whilst the mark-up of the aerial shows G1 most northerly.

Currently it is unclear what the impact will be of the proposed development on the retained tree and hedge planting. Tree officer to advise in greater detail.

The submitted landscape proposals have increased in formality from the Pre-app proposals. The pre-app proposals were more appropriate to the site's agricultural context. The pre-app advice to include tree planting to the west of the proposed building has been ignored, although this would assist in integrating the building into its wider landscape context and could assist in setting up views. As raised above the provision of SuDS should be considered and integrated within the landscape. The following proposed species are not suited to the local ground conditions:

- Sea buckthorn (does not like acidic soils)
- For the establishment of the wildflower meadow a clear understanding is needed about the soil's nutrients level (nutrient rich soils are not suitable to wildflower meadow establishment)

Further detail on the soft landscape (e.g. detailed planting plan, plant specification, tree pit and hedge planting details & hard landscape materials detailed specification) is needed but this could be conditioned.

Detailed proposals for the extension of the car park areas need to be provided and any existing tree or hedge planting affected by the development assessed to ensure no important tree or hedge is damaged and where loss or impact cannot be avoided it is mitigated appropriately.

Detailed proposals for the loop road next to the proposed new building are needed supported by a full arboricultural assessment (Tree officer to advise).

Although the principle of development is acceptable, the current scheme will have to be revised to become acceptable in landscape design terms and to ensure it complies with the following EDDC policies:

- EDDC Strategy 46 - Landscape Conservation and Enhancement and AONBs
- EDDC Policy D1 - Design and Local Distinctiveness
- EDDC Policy D2 - Landscape Requirements

- EDDC Policy D3 - Trees and Development Sites

Further comments 25.10.2017:

The following previously raised comments have not yet been addressed:

-No site survey has been submitted. Currently it is unclear at what level the proposed building will sit (none of the plans indicate the actual floor level). None of the provided sections show the existing ground levels. The changes to the site's topography need to be clearly indicated as they could impact upon the existing on-site vegetation.

-The previously raised concerns raised in relationship to the tree survey still stands:

'The tree survey is insufficiently detailed to provide accurate root protection areas and extent of existing planting. Currently it is unclear what the impact will be of the proposed development on the retained tree and hedge planting. Tree officer to advise in greater detail.'

-Detailed proposals for the extension of the car park areas need to be provided and any existing tree or hedge planting affected by the development assessed to ensure no important tree or hedge is damaged and where loss or impact cannot be avoided it is mitigated appropriately.

Comments on the additional & revised information:

-A Flood Risk Assessment has now been submitted, however it does not follow the management train. The scheme proposes the use of green roofs and underground storage tanks with re-use of water for irrigation during summer times. Although the use of green roofs is welcomed, their extent is minimal. The use of underground storage tanks should not be considered SuDS and only delivers water retention benefits, whilst other SuDS features such as attenuation ponds deliver additional wildlife, amenity and water quality benefits. These measures should be explored further considering the greenfield and landscape sensitive nature of the site. The inclusion of wetland habitats would also accord with the guidelines set out in the landscape character assessments (which can be found here: <http://eastdevon.gov.uk/planning/planning-policy/environment-and-green-infrastructure/landscape/>) and DCC's Landscape character assessment (which can be found here: <http://map.devon.gov.uk/DCCViewer/>)

-The simplified roofscape for the cookery school and dining area improves the integration of the buildings into the landscape; however the scale of the buildings has not reduce and the accommodation block still has a roofscape at odds with the surrounding area

-The submitted visual impact assessment is insufficient and does not fully explore the visual envelope of the site. Views from across the valley (e.g. from the west) still have not been considered fully and the impact on these views has not been addressed. The landscape pre-app advice and last landscape response recommended tree planting to the west of the building, which still has been ignored.

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-The revised GA shows an improved landscape proposal however the following items still require addressing:

- o Tree planting to the west of the proposed buildings as raised above
- o As raised above the provision of SuDS should be considered and integrated within the landscape.
- o The following proposed species are not suited to the local ground conditions:
  - a) Sea buckthorn (does not like acidic soils)
  - b) For the establishment of the wildflower meadow a clear understanding is needed about the soil's nutrients level (nutrient rich soils are not suitable to wildflower meadow establishment)
- o Further detail on the soft landscape (e.g. detailed planting plan, plant specification, tree pit and hedge planting detail, hard landscape materials detailed specification and landscape management plan) is needed, but this could be conditioned

Although the principle of development is acceptable, the current scheme will have to be revised to become acceptable in landscape design terms and to ensure it complies with the following EDDC policies:

- EDDC Strategy 46 - Landscape Conservation and Enhancement and AONBs
- EDDC Policy D1 - Design and Local Distinctiveness
- EDDC Policy D2 - Landscape Requirements
- EDDC Policy D3 - Trees and Development Sites

Further comments 23.11.2017:

The following previously raised comments have not yet been addressed:

- None of the provided sections show the existing ground levels (please show red dashed line on sections and elevations to indicate existing levels). The changes to the site's topography need to be clearly indicated as they could impact upon the existing on-site vegetation.
- Drainage proposals - The scheme proposes the use of green roofs and underground storage tanks with re-use of water for irrigation during summer times. Although the use of green roofs is welcomed, their extent is minimal. The use of underground storage tanks should not be considered SuDS and only delivers water retention benefits, whilst other SuDS features such as attenuation ponds deliver additional wildlife, amenity and water quality benefits. These measures should be explored further considering the greenfield and landscape sensitive nature of the site. The inclusion of wetland habitats would also accord with the guidelines set out in the landscape character assessments (which can be found here: <http://eastdevon.gov.uk/planning/planning-policy/environment-and-green-infrastructure/landscape/>) and DCC's Landscape character assessment (which can be found here: <http://map.devon.gov.uk/DCCViewer/>)

Comments on the additional & revised information:

- The revised GA shows an improved landscape proposal however the following items still require addressing:
  - o As raised above the provision of SuDS should be considered and integrated within the landscape.
  - o The following proposed species are not suited to the local ground conditions:
    - a) Sea buckthorn (does not like acidic soils)



b) For the establishment of the wildflower meadow a clear understanding is needed about the soil's nutrients level (nutrient rich soils are not suitable to wildflower meadow establishment)

o Landscape proposals to be revised to take account of tree officer comments and to clearly define the area(s) for the planting of 47 additional trees (on top of the 17 currently proposed) as proposed within the arboricultural report and their management objectives.

o Further detail on the soft landscape (e.g. detailed planting plan, plant specification, tree pit and hedge planting detail, hard landscape materials detailed specification and landscape management plan) is needed, but this could be conditioned

- Details of reed bed area are needed to understand how this area will integrate into the wider landscape and how it will impact on the site's landform.

Although the principle of development is acceptable, the current scheme will have to be revised to become acceptable in landscape design terms and to ensure it complies with the following EDDC policies:

- EDDC Strategy 46 - Landscape Conservation and Enhancement and AONBs
- EDDC Policy D1 - Design and Local Distinctiveness
- EDDC Policy D2 - Landscape Requirements
- EDDC Policy D3 - Trees and Development Sites

### Conservation

17.07.2017

This application has been the subject of pre-application discussions under 16/0072/PREAPP. River Cottage (Park Farm) has been running for over 10 years now and the project and concept has moved on from the original beginnings, filming the TV series, instigating the Cookery School, Training Programme including Apprentices, and other linked operations. With approximately 15 -18,000+ visitors per year and total staff numbers of 60-70 on site (full & part time), the challenge is to ensure the continued growth of the project in balanced way. There is currently an approval for visitor accommodation on site under 13/1369/FUL for 11no. rooms, not yet built, but hopefully to be completed following any forthcoming approval of this application, to avoid disruption of the facilities and business currently operating on site.

As discussed on site and at pre-application stage, the chosen location to the west of the original farm group appears to be the most suitable option for additional accommodation over and above that already approved. The main concerns are the amount and extent of the proposed accommodation, in particular the size of the courtyard, the overall height and relationship to the existing farm group, the need for subservience in terms of the layout and function. Clearly this needs to address the needs of the new operations, but should not impact on the historic significance of the original farmhouse, and wider farmgroup and setting. Since this is effectively a new 'courtyard', it will need to be representative of the rural character and appearance of the traditional buildings on site and those more recent contemporary structures.

Although at a slightly higher ground level, tucked into the corner of the field and in conjunction with the existing hedging and trees this should help to minimise the impact on the setting of the farmhouse and wider farm group.

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The proposals include 16no. bedrooms, living space, entrance, covered walkway/verandah, event space and chef school/kitchen and associated services (plant, toilets, waste, food storage etc). This comprises the various functions in linear form to create the grouping around a courtyard, not dissimilar to a farm group arrangement.

Site Plan: the draft proposals showed the new 'courtyard' staying within the line of the original farm buildings. There is concern that this has now been extended westwards and outside of the farm envelope. The overall development must be subservient in form and appearance, see further comments below;

Landscape plan: Sarah Foque (Landscape Architect) to comment. However, of particular concern from the setting point of view will be the introduction of formal paths including materials and formal tree planting;

Ground floor plan: the functions are generally described as above, but the footprint has increased in size from the draft plans and a reduction in size should be considered;

First floor: bedroom accommodation to north block;

Roof plan: the overall roofscape to the south 'functions' block has been altered since pre-application stage and the plan now also includes the location for PV's and flues. The finish will be a mixture of dark pre-patinated zinc and a green roof comprising wildflowers and grass. There is concern that the form and shape of the 'south' block has now moved away from its original agricultural appearance and this needs further consideration. There is also still some concern over the location and prominence of the chimney (hot smoker), see below;

South elevation: the roofline has been inverted on the frontage and this feels less comfortable than the previous draft plan and in conjunction with other new buildings on the site. The hot smoker is less prominent than previously noted, presumably as the roof pitches have been altered, but it would be useful to have more detail of this feature or how it could be minimised. However, the separate 'bread oven' chimney is prominent over the various ridge lines. I am not opposed to the verandah, but wonder if this should be reduced in depth to give a less domestic appearance and more of the agricultural appearance of the verandah to the current chef school in the existing courtyard and the open nature of the original cart shed;

East elevation: again the roofscape to the south block has been altered and in conjunction with the flues and chimneys seems less agricultural in overall appearance. The bread oven chimney protrudes above the ridge lines of the south block and again it would be useful to have more detail of this feature or how it could be minimised.

North elevation: this is similar to the draft proposals and will be the least visible of all the elevations;

West elevation: comments relating to roofing and chimneys (now including 'cold smoker' as before). The north (accommodation) block has increased in height and is substantially more dominant within the landscape;

Court North elevation: comments relating to roofing and chimneys (now including 'cold smoker' as before. This elevation shows the planters to the Kitchen garden in the courtyard which appear to be brick? Please clarify and if so this seems rather alien in terms of the other materials within the scheme eg. timber, metal, stone;

Court South elevation: no comments;

Site section: this shows that the scheme is considerably more prominent than the submitted draft proposals and therefore far less subservient.

Sections: no specific comments, but these clearly demonstrate the increased size/height;

Conclusion: the scheme appears to have lost some of its agricultural feel despite the slatted boarding, glazing and fewer openings, and the use of materials. The changes to the roofscape and increased dimensions have produced more dominant structures rather than the original mix of repeating low level roof planes (pitched roofs) which helped to break down the overall space when viewed in the landscape. The aspects particularly relating to the roof and chimneys needs to be addressed.

Heritage Statement: the information submitted still provides little information on the significance of the heritage asset Park Farm and in particular the wider setting. Although there is reference to the relevant paragraphs 128, and 132-134 of the NPPF in the submitted Planning Statement, this should be fully addressed and documented to accompany the application and an assessment and consideration given to the setting of the heritage assets and the likely impact of the proposed works. In particular, the extent of the changes to the setting with the increase in the number of structures, facilities, access etc and how these sit comfortably within this rural valley and the impact or level of harm afforded to the heritage assets.

#### PROVISIONAL RECOMMENDATION - PROPOSAL

ACCEPTABLE in principle, but some concerns over the relationship to the original courtyard in terms of subservience, roofscape and prominence of 'chimneys'

Further comments 5.10.2017:

Amended plans and additional information received 7th September 2017:

The comments below relate to the revised scheme and additional information submitted for the proposed guesthouse, cookery school, events space and informal lounge space at River Cottage:

Site Plan: the new 'courtyard' is now within the line of the original farm buildings and is therefore contained within the farm envelope. The overall development is now more subservient in form and appearance;

Landscape plan: Sarah Foque (Landscape Architect) to comment;

Ground floor plan: the footprint has been reduced in size and reconfigured;

First floor: no further comments, see roof below;

Roof plan: the revised design has addressed the previous concerns relating to the form of the roof and is now a mixture of more traditional pitched roof slopes and green roofs. The zones for flues and pv's are now less prominent and the hot smoker has been removed. It is also noted that the materials to the main roof are now proposed to be oxidised copper;

South elevation: the revised design has addressed the previous concerns and is less complex and more in keeping with the agricultural setting;

East elevation: this is now a more traditional elevation(s) and the bread oven removed;

North elevation: no comments;

West elevation: the revised design has addressed the previous concerns and is less complex and more in keeping with the agricultural setting;

Court North elevation: the revised design has addressed the previous concerns and is less complex and more in keeping with the agricultural setting;

Court South elevation: no comments;

Site section: The overall development is now more subservient in form and appearance;

Sections: no comments, but clearly show the scheme to now be less dominant;

Conclusion: the scheme is now much improved and the re-introduction of the pitched roofs, coupled with the loss of the chimneys etc welcomed;

Heritage Statement: coupled with the other Statements on Visual Impact and Design, this is considered to be sufficient for the purposes of this application.

#### PROVISIONAL RECOMMENDATION - PROPOSAL

ACCEPTABLE in principle, subject to conditions relating to samples, materials etc.

#### DCC Flood Risk SuDS Consultation

24 July 2017

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

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The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's Sustainable

Drainage Design Guidance, which can be found at the following address:  
<https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

Further comments 9 November 2017:

At this stage, I am unable to withdraw our objection, but would be happy to provide a further substantive response when the applicant has formally submitted the additional information requested below to the Local Planning Authority.

Observations:

Although a strategy is proposed within the submitted Civil and Structural Planning Report (ref: 3122RPT, Rev 4, dated 05/09/17) insufficient information has been provided for me to confirm the suitability of the proposed surface water strategy. We are supportive of the proposed measures however given this is a full application, full details of the drainage are required at this stage.

As per our guidance the general information required for Full, Reserved Matters, or Discharge of Conditions Planning Applications for us to determine their acceptability are:

- Calculations of the current surface water runoff rates and volumes for the site;
- Calculations of the proposed surface water runoff rates and volumes for the site;
- Calculations of the surface water attenuation storage volume required for the 1 in 100 (+40% allowance for climate change) year rainfall event;
- Calculations of the long term storage volume required to store the additional volume of surface water runoff caused by any increase in the site's impermeable area;
- Evidence that the site has an agreed point of discharge;
- Evidence that the hierarchy of drainage solutions has been followed, providing robust explanations as to the viability or otherwise of:
  1. Discharge into the ground (infiltration);
  2. Discharge to a surface water body (with written permission from the riparian owner);
  3. Discharge to a surface water sewer, highway drain, or other drainage system (with written permission from South West Water Ltd., Devon County Council Highways, or the riparian owner, respectively);
  4. Discharge to a combined sewer (with written permission from the riparian owner).

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Infiltration testing results at the location and depth of each proposed infiltration system;  
Groundwater monitoring over a 12 month period, taking account of seasonal variations, to demonstrate that the base of any infiltration component is at least 1 metre above the maximum anticipated groundwater level;

- Evidence that the capacity of any receiving watercourse is sufficient to receive concentrated flows from the site;
- Detailed explanations and plans of flood risk mitigation measures;
- Technical summary of the proposed surface water drainage management system;
- Detailed plans of the proposed surface water drainage management system, demonstrating that it fits within the proposed site layout, and is practical and sustainable;
- Residual risk assessment to account for a failure of any part of the proposed surface water drainage management system;
- Detailed exceedance route plans to demonstrate that there is no residual risk of property flooding during events in excess of the return period for which the surface water drainage management system is designed;
- Detailed operation and maintenance plan and timetable for the proposed surface water drainage management system over the entire lifetime of the development;
- Details of the proposed community signage and engagement activities for each component of the proposed surface water drainage management system.

#### Other Representations

7 letters of support received that can be summarised as follows:

- ) Since operating at Park Farm the business has supported numerous local businesses and employed countless local people.
- ) As someone who has provided accommodation to a considerable number of their customers our business has benefitted and the new proposals are supported.
- ) Why the agricultural style however. New architecture has enhanced other rural sites. AONB groups approach seemingly at odds with paragraphs 60, 63 and 65 of NPPF.
- ) To say the scheme is without context is unfair, the architect has achieved context through the palette of materials proposed for the scheme: timber cladding, profiled zinc sheet, metal rainwater goods and galvanised metal panelling to name just a few that make up numerous agricultural buildings in the surrounding area.
- ) It would make a pleasant change if there was a bias towards good architecture in the countryside that showed a sense of place in ways other than emulating a barn.

- ) The accommodation and facilities proposed will be a valued extension to what already is a thriving business and place of opportunity for local people. Not only as a point of attraction to tourists but also its fringe benefits to the local community.
- ) With investment and commitment to providing world class experiences, River Cottage really has put East Devon on the map
- ) By providing accommodation at Park Farm it will not only encourage more people to come and visit our area but also stay longer. I am sure with such changes in infrastructure planned, there will be considerable investment into advertising and marketing of these new facilities. This can only have a positive effect for our local attractions, tourist hotspots, food and drink producers and rural economy as a whole.
- ) River Cottage has brought a great deal to Axminster and the surrounding area, with employment opportunities for local people and increasing numbers of visitors to the area. This in turn supports other local attractions, businesses, restaurants and accommodation providers.
- ) River Cottage has a large following & not only attracts guests from around the UK but also internationally.
- ) I don't see any major draw backs from this project going ahead.
- ) (Sir Oliver Letwin) The business plays an important role in promoting the West Country, and in particular, the contribution of Devon and Dorset to Taste of the West. This is significant both for our local economy directly (because of the national standing of River Cottage) and for the image of the South West, which has consequences for tourism and related industries.

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 28 (Sustaining and Diversifying Rural Enterprises)

Strategy 29 (Promoting Opportunities for Young People)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 38 (Sustainable Design and Construction)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

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Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D6 (Locations without Access to Natural Gas)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN14 (Control of Pollution)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

E4 (Rural Diversification)

E5 (Small Scale Economic Development in Rural Areas)

E7 (Extensions to Existing Employment Sites)

E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities)

E20 (Provision of Visitor Attractions)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

National Planning Policy Framework

### **Site Location and Description**

Park Farm occupies an isolated rural location within an Area of Outstanding Natural Beauty to the southeast of Axminster. The Main farm house and related buildings are set in the valley bottom and the surrounding land slopes steeply up to the east to Trinity Hill Road, from which the site is accessed. At the top of the site adjacent to the road



is a car park area there is a storage barn/visitor centre and a wind turbine, a track leads down to the farm buildings.

The original farmhouse and traditional buildings which form the farmyard to its rear (north) are grade II listed. The house has been the subject of significant and recent restoration. There are also a collection of single storey temporary timber buildings within this yard. The proposal site lies to the immediate southeast of the re-built previously fire damaged barn which has an attached chefs' school constructed in a more contemporary nature than the other buildings on site.

The main farmhouse and curtilage outbuildings are utilised as part of a rural activities centre by the River Cottage enterprise.

### **Relevant Planning History**

Planning permission was originally granted in 2006 (06/0800/FUL and 06/0803/LBC) for 'Conversion of farm buildings into a rural courses centre, construction of two replacement buildings to use as rural courses centre/farm office, repair cart shed, extension and alteration to farmhouse and construct agricultural/livestock building including new access and car parking'

This application has been implemented and the cookery school has been running from the site for some time now.

Since the 2006 approval there have been numerous applications including those for polytunnels and a wind turbine. In 2011 application 11/1751/FUL was submitted for 'Construction of building to provide agricultural storage, visitor area, site entry and security control office'. This application, which was approved and has been constructed, sought alternative farm office and storage accommodation to that approved under the earlier 2006 application.

Following a fire in February 2012, an application was made and approved for the temporary siting of a marquee building to be used to house the course events due to fire damage to the threshing barn (12/0908/FUL). Planning permission and listed building consent relating to the reinstatement of the threshing barn (and extension of it) and the conversion of the cart shed (12/1415/FUL & 12/1416/LBC) have previously been approved. A new events building was also granted permission to be erected on the southern elevation of the threshing barn in 2012.

In 2013 planning permission was granted for an accommodation building including 11 boarding rooms for people attending the chef school, apprentice scheme and rural events. In 2016 permission was also granted to retain a bus shelter that had been erected in the car park (to shuttle clients down to the farm).

### **Proposal**

The application seeks to extend the existing approved use of the site as a rural courses centre. Permission has already been granted for a cookery school, event space and associated buildings related to the business.

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The new proposals will provide an event space, cookery facilities and on-site accommodation spread over 980m<sup>2</sup> of floor space. It will provide 16 guest rooms (in addition to the 11 already consented on site). The cookery/dining buildings are single-storey while the accommodation block is two-storey and vary in scale and design.

The arrangement is designed to appear as hybrid interpretation of the existing farmyard cluster and its Jacobean kitchen gardens. The development is designed in a rectangular plan, aligned to and of similar scale and proportion to the existing farm. The new buildings are positioned approximately 31 metres from the existing farmhouse complex at its nearest point. The intervening land would be landscaped into a semi-formal garden area featuring a gravel pathway lit by 'warm-white' LED lighting. Planting would include Willow, Birch/White Willow/ Field Maple trees, edible hedge planting such as Damson, Plum, Sloe, Crab Apple etc. A few timber benches are provided.

Two linked buildings define a yard area which will house kitchen gardens and outdoor cooking facilities, creating a sheltered external space for visitors, catching the evening sun and views to the south-west.

The design and appearance has been altered since originally being submitted, taking account of consultation responses. The buildings have a been arranged so that the cookery/dining building is designed to appear as a series of three typical dual pitched farm buildings aligned in a row. While all the buildings have a modern appearance and design features, across the yard lies the accommodation block which is a more overtly modern building, with 'saw-tooth' window design/plan-form.

The construction will require ground levels to be raised by a maximum of 2.6m on the south-west facing (downhill) side. The ground floor levels will be set at 126.2 AOD, which equates approximately to the first floor level of the farmhouse (which is set at a lower level naturally).

In terms of appearance, the buildings will use a similar palette of materials. They will be constructed with a Douglas fir (or equivalent) timber frame, untreated larch boarding butted vertically on the external walls and also larch fins in places. Windows and doors will be black timber/aluminium composite units.

The suggested roof material of the cookery/dining building is a red/brown copper material, using a black metal roof trim.

Although not shown in some visuals, the roof plan show room for solar panels on some of the roof slopes.

## **ANALYSIS**

The key issues for consideration relate to the principle of development, landscape and visual impact, habitats impact, impact upon heritage assets and traffic and transport matters.

## Principle

The NPPF states, at paragraph 116, that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- ) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- ) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- ) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

However, the National Planning Practice Guidance states that whether a development in these areas should be treated as a major development, to which the above applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. In this case, while a large series of buildings which falls into the major category of applications, the type of development is an expansion of an existing rural enterprise in proportion with the scale of existing development on the site. While the scale of the building could not be said to be small, in comparison with the scale of the existing buildings on site, it is considered to be major by application type only. Therefore there is no conflict with paragraph 116 of the NPPF.

Strategy 7 of the East Devon Local Plan 2013 to 2031 restricts development in the countryside unless otherwise permitted by another policy in the Plan, subject to landscape, amenity and environmental qualities are maintained.

Paragraph 28 of the NPPF states that planning policies should support economic growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. Plans should 'support the sustainable growth and expansion of all types of business and enterprise in rural areas...through...well designed buildings.' Plans should 'support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.'

Strategy 28 states that the Plan will provide for developments that will help sustain and diversify agricultural rural enterprises and add value to rural produce.

Strategy 29 states that support will be provided for initiatives that promote enhanced opportunities for access to further education for young people.

Strategy 33 offers support for high quality tourism in East Devon that promotes year-round industry that is responsive to changing visitor demands.

Whilst there is this general support in the local plan for business and tourism uses, there is no specific policy that supports a proposal of this type within the countryside. For example, whilst policy E5 supports the small scale expansion of existing rural businesses, when on a greenfield site this should be well located to a village and its

surroundings which this site is not. In light of this, the application has been advertised as a departure.

Despite the lack of planning policy support in the Local Plan for this development on this site, consideration needs to be given to whether there are other material considerations that support the proposal.

The business has grown over the last 10 years and has developed into a centre of excellence for specialist cooking, sustainability, ethical animal husbandry and education of young chefs. It currently hosts around 19,000 visitors a year and offers enthusiast cookery courses, accredited professional apprenticeship places, dining events, festivals, weddings and corporate events. Despite its success, its 'more than profit' ethos means that River Cottage HQ is run predominantly as an educational facility with farm and garden run as part of the educational and environmental commitment.

The development already permitted does not fulfil the demand for what is offered hence the proposal for further development.

It is suggested by the applicant that the proposals will require 22 extra professional, skilled staff and semi-skilled staff, part and full-time staff including a general manager.

There is a high demand for courses at weekends outside of normal working hours, with request to stay on site in order to maximise learning time. The proposals seek to address that demand.

The accommodation will primarily be used by people attending courses, events or apprentices and other guests associated with the River Cottage business such as corporate bookings or weddings. It is not obligatory to stay on-site in order to attend the courses, however it will give attendees an option to stay the night before and/or after a course. The development will also allow attendees to bring a spouse or partner with them who is not attending a course. The accommodation will be available all year round.

This weighs in favour of the proposal.

#### Local employment

During the last year the business employed 92 people on a full/part time and temporary basis; the equivalent of 43 full time employees.

As well as direct employment the development has the potential to generate increased local employment through the supply chain. The business makes over 70% of its purchases from suppliers based in the South West, reflecting one of its core principles of sourcing from the local area where possible. Local expenditure in this manner equates to over £600,000 and is forecast to rise to £1 million over the next 5 years, as a result of the new development.

Although the accommodation provided on-site may take away visitors from other local accommodation providers not everyone will want to stay on-site and this benefit is

therefore expected to continue. At least one local accommodation provider has written a letter in support of the application making this exact point. The proposal would align well with Strategy 28 and the economic dimension of sustainable development in the NPPF.

This also weights in favour of the proposal.

#### Education

The business has a partnership with Cornwall College, offering City and Guilds professional level 2 and 3 accreditations for River Cottage apprenticeships. It can provide training to approximately 60 learners plus the new development would allow it to grow this number and provide accommodation to the apprentices in need. The apprenticeship is unique in that the business finds employment for the young people either with River Cottage or with likeminded businesses in the surrounding area. In addition to the normal college training its students gain hands on experience learning about organic farming, sustainability, waste and environmental issues.

In 2016/17 it hosted 33 apprentices in total (22 level 2 and 11 level 3). The proposed development will allow the business to accommodate another intake of this size as the new Cookery School will be still be available for enthusiast cookery courses. It has 2 days a week dedicated to teaching apprentices, some of the apprentices travel fairly long distances to come for their teaching days. It can be difficult for them to get to site if they cannot drive with the site not being on any public transport routes. Having on-site accommodation will allow the option to offer the apprentices overnight accommodation to halve their journey times. This will also enable us to widen the geographical net and take on more apprentices from further afield.

While the offer of educational courses and training is of course not limited to the local area, undoubtedly it opens up further opportunities for young local people to obtain specialist training which will lead to skilled employment, potentially locally. The proposals are clearly in line with Strategy 39 in this respect and fulfil the social dimension of sustainable development in the NPPF.

This also weights in favour of the proposal.

#### Tourism

Anecdotal evidence gained from the clients indicates that in addition to many of the visitors to the site being from outside of the area they will venture further afield to visit local sites of interest such as the Jurassic Coast. Clearly there will be some element of linked trips that will be beneficial to other local tourist related businesses. The business is diverse and robust enough to have a year-round offer. The River Cottage brand undoubtedly has good national exposure and is a significant draw for the reputation of the area as a tourism and leisure destination. The proposals are consequently considered to align well with Strategy 33.

This weights in favour of the proposal.

It is considered that the general support in the Strategies in the Local Plan, coupled with the significant economic and tourism benefits from the proposal provide significant material considerations in support of the proposal. These are considered to provide justification for a departure from Local Plan policies, subject to there being no other harm caused by the proposal.

### Visual Impact, Landscape and Trees

The site is located in the bottom of a valley in the AONB. There are not many public vantage points that include views of the site but there are occasional glimpses possible along a lane west of the site on the opposite side of the valley.

The design approach and site layout have followed pre-application discussions and is considered to be the most appropriate in terms of protecting the visual amenity of the AONB and setting of the main listed farmhouse, whilst proposing a design of buildings that are of quality in their own right. It is considered that this has been successfully achieved.

Following consultation responses, the applicant has submitted a short (1 page) Visual Impact Assessment, has confirmed ground levels and amended the design of the proposals.

While expressing in principle support for the proposals, the landscape officer expressed some concerns regarding the supporting information used to justify the proposal. However, since that time additional plans have been received which go a significant way to addressing the concerns raised, for instance including sections which indicate clearly the degree of engineering required to accommodate the buildings on site. These plans are considered to show a very well designed form of development, with a suitable pallet of materials that can be successfully integrated into the site and its surroundings.

In terms of the effect on trees, the proposal will result in the loss of some existing trees although replacements are proposed. The Tree Officer now considers the proposals acceptable although there is some doubt over the type/standard of replacement trees to be used. This is a matter that can be agreed at a later date however through the use of an appropriate condition.

### Protected Species and Habitats

The Local Planning Authority has a duty under Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010 ("2010 Regulations"). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "have regard to the Habitats Directive in the exercise of its functions". Regulation 61 (1) of the Habitats Regulations states the following:

*"A competent Authority, before deciding to be undertake, a give any consent, permission or other authorisation for, a plan or project which:*  
*a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives”.*

The first stage (screening) of Habitats Regulations Assessment is to identify the likely impacts (if any) upon a European site or a project or plan, either alone or in combination with other projects or plans, and consider whether these impacts are likely to be significant.

Natural England has identified that a Habitat Regulations Assessment is required to assess impacts on European protected sites downstream of the site, including The River Axe SAC. The assessment also includes the Park Farm Meadows SSSI in the catchment directly below the site and the River Axe itself is also designated as a SSSI in its own right. Park Farm Meadows SSSI is nearest to the site and most likely to be affected by the development.

The screening element of the Habitats Regulations Assessment has been undertaken by Officers, this details likely impacts and concludes that there is unlikely to be a significant effect of the protected areas. This Assessment is summarised as follows:

#### Appropriate Assessment

There are effectively four stages to the assessment. Stage 1 is the assessment of the likelihood of a plan or project having a significant effect on a European site or its features. This is the trigger for the need for an Appropriate Assessment as set out in Regulation 61(1). The Appropriate Assessment (Stage 2) is the detailed consideration of the potential effects of the plan or project in relation to the conservation objectives for the European Site to determine if there is likely to be an adverse effect on the integrity of the site (i.e. an effect that would compromise the site meeting its conservation objectives). Providing it can be demonstrated that with appropriate mitigation measures, the plan or project would not give rise to an adverse effect on the integrity of a European site, the plan or project can proceed.

Where, however, this cannot be demonstrated or there is uncertainty, the Assessment would then need to consider if there were any other alternatives to the plan or project (Stage 3) that would not give rise to adverse effects on integrity of the European site. If there are no alternatives, Stage 4 would then, consider if there are any imperative reasons of overriding public interest and whether there were any compensatory measures that might be required.

A '*likely significant effect*' is any effect that may reasonably be predicted as a consequence of a plan or project that may affect the conservation objectives of the features for which the site was designated, but excluding trivial or inconsequential effects. Permanent reductions in habitat area or species populations are likely to be significant unless they are very small scale.

Stage 1, the 'test of significance' needs to consider the following:

- a. What potential hazards are likely to affect the interest features? Are the interest features potentially exposed to the hazard?

- b. Is the potential scale or magnitude of any effect likely to be significant alone or in combination with other projects or plans?

The proposed development is looked at in isolation and in combination with plans or projects within the vicinity of the European Site that have the likelihood for a significant effect.

For the purpose of completeness, projects where planning applications had been submitted or which have been consented but not built but with the potential to affect the identified European sites are considered. A Nationally Significant Infrastructure Project (NSIP) that has submitted a Preliminary Environmental Information Report (PEIR) for consultation has also been considered. As such, for this assessment, the list of in combination plans and projects identified includes:

- a. Cloakham Lawns – 400 dwellings and employment land
- b. Axminster Urban Extension (Strategy 20 East Devon Local Plan 2013 to 2031) – approximately 650 dwellings, 8 hectares employment land, primary school.

Natural England had initially raised concerns in relation to the proposal because the development will discharge into a watercourse within the river axe catchment via a package treatment plant. Therefore this development has the potential to affect the SAC/SSSI through impacts on water quality, and hence the notified species, within the river.

The SAC is currently failing to meet its conservation objective targets due to high Phosphate (P) levels. There are potential effects from the additional contribution which waste water from the proposed development could make to Phosphate (P) levels in the SAC/SSSI, in combination with existing discharges and the proposed new housing at Axminster.

The development is not directly connected with or necessary to the management of the European site for nature conservation. A Test of Likely Significant Effects therefore needs to be carried out as a first stage assessment.

A desk study and suite of ecological surveys were undertaken in 2017 by Tor Ecology Limited (t/a Tor Ecology) at the site known as the New Farmyard site, River Cottage, Axminster.

Surveys undertaken by Tor Ecology in 2017 at the site included targeted surveys for UK BAP Priority Habitats (NVC surveys), bat activity (automated surveys), Great Crested Newt *Triturus cristatus* (eDNA analysis), reptiles and breeding birds. The results of the surveys are within the Tor Ecology Report.

The River Axe SAC also is comprised of other components. The site in question includes the Park Farm Meadows SSSI in the catchment directly below the site and the River Axe itself is also designated as a SSSI in its own right. Park Farm Meadows SSSI is nearest to the site and most likely to be affected by the development.



The identified ways in which the Qualifying Features of the European site could be affected by the proposal are –

1. *Increase of phosphates into the River Axe SAC*
2. *Excessive weed/algal growth resulting in changes to water chemistry*
3. *1 & 2 combined can be potentially damaging to the designated features of the SAC.*

Uncontrolled discharge into the River Axe catchment could result in increased levels of phosphates within the SAC. This in turn could lead to chemical changes in the water which could result in excessive weed/algal growth which will result in changes to water chemistry. This could have negative impacts in the designated features of the SAC i.e. the floating vegetation often dominated by water-crowfoot and faunal species i.e. Sea lamprey, Brook lamprey and Bullhead which could result in damage to the integrity of this European site.

The proposal requires a new sewage treatment system which will replace the existing system. It has been designed by WCI Sewage Treatment Ltd. And permitted by the Environment Agency (permit number SW/EPRFB3893RX/001 issued 16/01/2017). The permit does not come into effect until 1/02/2019 and will replace permit No. 203733.

The new sewage treatment system design is based on package treatment plant and reed bed. The plant will be made by a leading manufacturer (WPL, KEE or similar) and the reed beds will be designed using the BRE Good Building Guide Reed Beds GBG 42 Part 2. The system will treat 32.75m<sup>3</sup> a day to the EA permitted treatment standard of 20 BOD (Biochemical Oxygen Demand), 30 TSS Ammoniacal nitrogen.

1. *Increase of phosphates into the River Axe SAC*

Temporary impacts –

It is proposed that the site will be subject to enabling works to drain the area of wetland where the new building will be sited. No additional discharge will be created as a result of this as the ground water already drains into the field drains that are part of the River Axe catchment.

Standard pollution prevention will be implemented during the construction phase to mitigate any impacts due to spillages.

Operational impacts –

The proposals include the installation of a sewage treatment plant. The sewage treatment plant manufacturers assume an influent level based on 8-10mg/l of Phosphates (urine, faeces, washing machine and dishwasher usage) as Phosphorus P. Plants such as the WPL HiPAF system (this treatment plant or similar will be used) remove 50% of Phosphates through its process (4-5mg/l P) and then more in sedimentation through the reed beds. Any greater reduction involves dosing. Washing machine powder can contain as much as 30% Phosphates and River Cottage has no laundry on site.

From where the effluent, from the proposed sewage treatment plant, enters the EA permitted discharge point on the watercourse to where it enters the River Axe SAC is approximately 2 miles.

The flow from the plant per day is 32,750l/ day or 0.38 l/s.

This discharge from the water treatment plant will contribute some phosphates to the catchment of the watercourse which discharges to the River Axe (boundary of the SAC). However, the overall level of phosphates would be less than half of the acceptable level for a watercourse of this nature.

## *2. Excessive weed/algal growth resulting in changes to water chemistry*

The proposals above will mitigate any impacts associated with excessive weed/algal growth by ensuring no significant additional phosphates enter the SAC.

## *3. 1 & 2 combined can be potentially damaging to the designated features of the SAC.*

The proposals above will mitigate any impacts associated with points 1 & 2 ensuring there are no negative impacts to the integrity of the SAC.

### Summary of Appropriate Assessment:

It is considered that with these measures in place there is unlikely to be a significant effect on the River Axe SAC (or the River Axe SSSI or the Park Farm Meadows SSSI).

In terms of the effect on protected species at the development site itself, a report by Tor Ecology concludes that the development can proceed subject to a number of avoidance, mitigation and biodiversity enhancement measures and suggests that a Construction and Management Plan (CEMP) and a Landscape Management Plan (LEMP) are necessary. It is considered that these requirements can be secured via appropriate planning conditions, to ensure the development complies with strategy 47 and policy EN5.

### Heritage Assets

The main farmhouse is grade II listed and the development has the potential to significantly affect its setting. As noted earlier in the report, the design approach has been to establish a separate courtyard type development and to use materials that are both natural and reflect perhaps more modern materials used on farms that have been expanded over time (red/brown 'rusty' tones on the roof to reference metal sheeting).

There is significant separation from the original farm and the plans have been re-drawn to bring the east/west extent of the development in parallel with the outward lines of the original farmstead. This ensures a respectful relationship that will, subject to agreeing samples of materials, conserve the setting of the listed building.

## Traffic/transport

The site is already served by a large car park with access onto the highway. There are no concerns with regard to the safety of this access and parking provision is considered to be adequate as it is. The car park sits adjacent to the highway and visitors have to leave their cars at the top of hill and either walk down or take the tractor and trailer ride down the rough track.

The site is clearly remote and in the main will require private motor transport to reach it and so is not considered to be the most sustainable location in this respect. This however is offset in part by following the 'Passivhaus' principles for the accommodation block and other energy saving measures. In addition, a Travel Plan has been prepared with a range of measures designed to reduce single-trip car journeys. It should be recognised that rural enterprise is usually unavoidably in remote areas and the NPPG (paragraph 29) recognises that the solutions to sustainable transport issues will usually vary between urban and rural areas.

## **CONCLUSION**

The development will not adversely affect any European protected sites and the development is subject of an Environment Agency permit which will regulate discharges to the environment.

The proposed development would support a successful and notable business, which will benefit the wider local economy through both the supply chain and by raising the quality of the tourism and business offer of the area. It would also afford educational opportunities for the local population and in so doing has the potential to establish further future economic development. The development has been sensitively and well designed to take account of its setting in an Area of Outstanding Natural Beauty, adjacent to a listed building and also in proximity to several ecologically important sites. There are no significant adverse effects likely to arise from the development.

Therefore, whilst the proposal represents a departure from adopted local plan policy, there are significant economic and tourism benefits from the proposal. Coupled with an excellent design approach, no harm to the AONB, ecology or listed building, and given the suitable access, the proposal is supported.

Given the above, it is recommended that first the Committee endorses the findings of the Habitat Regulations Assessment carried out by Officers, and secondly, that planning permission is granted for the development subject to conditions.

## **RECOMMENDATION**

- 1 That the Habitat Regulations Assessment be adopted and endorsed; and
- 2 That planning permission be APPROVED subject to the following conditions:
  1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Prior to the commencement of the development hereby permitted, details of materials to be used externally shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be built in the materials approved.

(Reason - This is a pre-commencement condition because materials need to be agreed prior to construction, to avoid abortive costs if inappropriate materials are used. To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

3. The units of accommodation hereby approved:
  - (i) shall be occupied for use in connection with the River Cottage cookery school (or as may be renamed);
  - (ii) shall not be occupied as a person's sole, or main place of residence;
  - (iii) the owners/operators shall maintain an up-to-date register of the names of all occupants, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

(Reason - To ensure that the accommodation hereby permitted may not be used as separate dwellings in this open countryside location where new development is restricted in accordance with Strategy 7 - Development in the Countryside of the Adopted New East Devon Local Plan 2016.)

4. The ecological avoidance, mitigation and enhancement measures identified in the Tor Ecology Ecological Appraisal (2/06/2017) shall be fully implemented in accordance with the recommendations of that Appraisal, and written confirmation of the same shall be provided to the Local Planning Authority by a suitably qualified ecologist within two weeks of the final measures being provided. This shall include the provision of a Construction and Environment Management Plan and a Landscape and Ecological Mitigation Plan to the Local Planning Authority as identified in section 6 of the Appraisal.

(Reason - To ensure the development conserves and enhances local biodiversity interests, in accordance with Strategy 47 (Nature Conservation and Geology and Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031.)

5. Development shall proceed in accordance with the Arboricultural Report and Method Statement (October 2017) but notwithstanding the details provided therein, full details of all replacement trees shall have been submitted to, and approved in writing by, the Local Planning Authority, prior to their planting.

(Reason - In the interests of the character and appearance of the development and the wider Area of Outstanding Natural Beauty, in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013 - 2031.)

6. The development shall proceed in accordance with and be operated in conformity with the Entran Ltd. Travel Plan (May 2017).

(Reason - In the interests of sustainable transport objectives, in accordance with Strategy 5B (Sustainable Transport) of the East Devon Local Plan 2013 - 2031).

Plans relating to this application:

P-1518-104 P2 C : LANDSCAPE	Amended Plans	20.12.17
P-1518-103 P2 C : SITE PLAN	Amended Plans	20.12.17
P-1518-201 P2 C : SOUT ELEVATION	Amended Plans	20.12.17
P-1518-202 P2 C : EAST ELEVATION	Amended Plans	20.12.17
P-1518-203 P2 C : NORTH ELEVATIO	Amended Plans	20.12.17
P-1518-204 P2 C : WEST ELEVATION	Amended Plans	20.12.17
P-1518-205 P2 C : NORTH COURT EL	Amended Plans	20.12.17
P-1518-206 P2 C : SOUTH COURT E	Amended Plans	20.12.17
P-1518-251 P2 C : N S SECTION	Amended Plans	20.12.17
P-1518-252 P2 C : SECTION AA	Amended Plans	20.12.17
P-1518-253 P2 C : SECTION BB	Amended Plans	20.12.17
P-1518-254 P2 C : SECTION CC	Amended Plans	20.12.17
SW VIEW - 700	Amended Plans	20.12.17

3122-1016 Surface water drainage	Other Plans	20.12.17
1518- Reed bed information	Other Plans	20.12.17
25M109 : WCI SEWAGE TREATMENT	General Correspondence	01.06.17
25M097 : SEWAGE TREATMENT	General Correspondence	01.06.17
TOR ECOLOGY	Ecological Assessment	05.06.17
ENTRAN	Travel Plan	15.06.17
1518-001 P1 : FARM SITE BOUNDARY	Layout	19.06.17
P-1518-113 P2 B : ROOF	Amended Plans	07.11.17
P-1518-112 P2 B : 1ST FLOOR	Amended Plans	07.11.17
P-1518-111 P2 B : GROUND FLOOR	Amended Plans	07.11.17
P-1518-100 P2 B : LOCATION PLAN	Amended Plans	07.11.17
ARBORICULTU RAL REPORT	Amended Plans	07.11.17

List of Background Papers

Application file, consultations and policy documents referred to in the report.