

**Agenda for Planning Committee
Tuesday, 22nd August, 2023, 9.30 am**



Members of Planning Committee

Councillors B Bailey, I Barlow, C Brown, A Bruce,
S Chamberlain (Vice-Chair), S Gazzard,
A Hall, J Heath, M Howe, Y Levine,
H Riddell, E Rylance, S Smith, D Wilson,
E Wragg (Chair) and P Arnott

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Venue: Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

Issued: Friday, 11 August 2023

This meeting is being recorded for subsequent publication on the Council's website and will be streamed live to the [East Devon District Council Youtube Channel](#)

[Speaking on planning applications](#)

In order to speak on an application being considered by the Planning 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 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.

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 revised running order for the applications being considered by the Committee and the speakers' list will be posted on the council's website (agenda item 1 – speakers' list) on the Friday before the meeting. 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 Tuesday *** up until 12 noon on Friday *** by leaving a message on 01395 517525 or emailing 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 or by phoning 01395 517525. A member of the Democratic Services Team will contact you if your request to speak has been successful.

1 **Speakers' list and revised running order for the applications**

Speakers' list removed.

2 **Minutes of the previous meeting** (Pages 5 - 13)

Minutes of the Planning Committee meetings held on 18 July and 28 July 2023.

3 **Apologies**

4 **Declarations of interest**

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 **Matters of urgency**

Information on [matters of urgency](#) is available online

6 **Confidential/exempt item(s)**

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.

7 **Planning appeal statistics** (Pages 14 - 23)

Update from the Development Manager

Applications for Determination

8 **23/1124/MFUL (Major) YARTY** (Pages 24 - 79)

Pound Road BESS, land north east of Axminster National Grid Substation, Pound Road, Hawkchurch.

9 **23/0624/FUL (Minor) NEWTON POPPLEFORD & HARPFORD** (Pages 80 - 94)

Luscombes, Back Lane, Newton Poppleford, EX10 0EZ.

Note: Only Members attending the site inspection will be able to take part in discussions and vote for this planning application.

- 10 **23/0538/FUL (Minor) EXMOUTH LITTLEHAM** (Pages 95 - 117)
Chestnuts, 65 Salterton Road, Exmouth, EX8 2EJ.
- 11 **23/0078/FUL (Minor) EXMOUTH LITTLEHAM** (Pages 118 - 128)
2 Turner Avenue, Exmouth, EX8 2LF.
- 12 **23/0092/FUL (Minor) OTTERY ST MARY** (Pages 129 - 151)
Changing Rooms, Strawberry Lane, Salston, Ottery St Mary, EX11 1RG.
- 13 **23/1115/FUL (Minor) HONITON ST MICHAELS** (Pages 152 - 160)
24 Cherry Close, Honiton, EX14 2XT.
- 14 **23/1102/LDO Revised boundary for the adopted Local Development Order for District Heating Networks** (Pages 161 - 201)
The report seeks a resolution for the Council to adopt a revised boundary for the Local Development Order (LDO) for District Heating (DH) Networks in East Devon's West End.

AFTERNOON SESSION - the applications below will not be considered before 2pm

- 15 **22/2838/MOUT (Major) WOODBURY & LYMPSTONE (PLANNING APPLICATION WITHDRAWN)** (Pages 202 - 242)
Land to south Broadway, Woodbury.
(PLANNING APPLICATION WITHDRAWN ON 18/08/2023 AND WILL NOT BE CONSIDERED AT THE MEETING)
- 16 **22/0975/MFUL (Major) BROADCLYST** (Pages 243 - 291)
Land adjacent Old Tithebarn Lane, Clyst Honiton.
- 17 **23/0976/VAR (Major) BROADCLYST** (Pages 292 - 301)
Land to the east of Anning Road/Tithebarn Way, Redhayes, Exeter.
- 18 **23/1079/OUT (Minor) WOODBURY & LYMPSTONE** (Pages 302 - 321)
Land north east of Grange Close, Lympstone, EX8 5LD.
- 19 **23/0928/FUL (Minor) DUNKESWELL & OTTERHEAD (PLANNING APPLICATION WITHDRAWN)** (Pages 322 - 348)

Mohuns Ottery, Luppitt, EX14 4TS.

(PLANNING APPLICATION WITHDRAWN ON 14/08/2023 AND WILL NOT BE CONSIDERED AT THE MEETING)

20 **23/0446/FUL (Minor) WOODBURY & LYMPSTONE** (Pages 349 - 357)

Coombe Park Farm, Woodbury Salterton, EX5 1PZ.

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 Chair 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 the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 18 July 2023****Attendance list at end of document**

The meeting started at 10.02 am and ended at 4.50 pm. The meeting was adjourned at 1.35 pm and reconvened at 2.15 pm.

In the absence of the Chair, Councillor Eileen Wragg, the Committee agreed to Councillor Sarah Chamberlain being the Chair and to Councillor Mike Howe being Vice Chair for this meeting.

18 Minutes of the previous meeting

The minutes of the Planning Committee held on 13 June and 20 June 2023 were confirmed as true records.

19 Declarations of interest

Minute 23. 19/1798/MOUT (Major) WHIMPLE & ROCKBEARE.

Councillor Henry Riddell, Affects and prejudicial Non-registerable Interest, Employer owns land that forms part of one of the other Cranbrook expansion areas that has previously received a resolution to grant planning permission.

Minute 26. 23/1124/MFUL (Major) YARTY.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Ian Barlow, Steve Gazzard, Anne Hall, John Heath, Henry Riddell, Simon Smith advised of lobbying in respect of this application.

Minute 27. 22/2410/RES (Minor) WOODBURY & LYMPSTONE.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Ian Barlow, Steve Gazzard, Anne Hall, John Heath, Henry Riddell, Simon Smith advised of lobbying in respect of this application.

20 Planning appeal statistics

The Committee noted the planning appeals report setting out the appeals lodged, decided and in progress.

The Development Manager updated Members on two appeals that were currently in progress as public inquiries. The first appeal related to application 22/2216/MFUL – Pound Road BESS, land north east of Axminster National Grid Substation, Pound Road, Hawkchurch and the second related to application 22/0990/MFUL – land at Marsh Green Farm, Marsh Green. The Development Manager also updated Members on a further potential public inquiry that had been lodged by Churchill Retirement Living (reference 22/2120/MFUL – Jewson Ltd., Fore Street, Exmouth). Members noted that the council was currently awaiting a decision from the Planning Inspectorate as to whether this appeal would be dealt with by way of Public Inquiry.

Finally, the Development Manager drew Members attention to an appeal decision in respect of planning application 22/1138/OUT and asked them to bear in mind the Inspector's decision to dismiss the appeal on the basis that the proposal was not in a sustainable location as it was away from services and was not safe for walking pedestrians when considering applications in the future.

21 **Confidential/exempt item(s)**

There was one confidential item recorded at minute 23.

22 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

that under Section 100(A)(4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt and private information (as set out against the Part B agenda item), is likely to be disclosed and on balance the public interest is in discussing the items in private session (Part B).

23 **Verbal update regarding Planning Appeals to Members**

The Planning Solicitor provided Members with legal advice in respect to the Pound Road BESS and Marsh Green planning appeals.

24 **23/0235/FUL (Minor) BUDLEIGH & RALEIGH**

Applicant:

Naomi & Katie Crocker.

Location:

Land east of East Budleigh Road, Budleigh Salterton, EX9 6HE.

Proposal:

Construction of two dwellings and associated access.

RESOLVED:

Approved contrary to officer recommendation.

Members considered that the bulk and scale of the roofscape of each dwelling would not be detrimental to the character and appearance to the street scene and surrounding area.

25 **19/1798/MOUT (Major) WHIMPLE & ROCKBEARE**

Applicant:

Mr T Stuart.

Location:

Land west of Gribble Lane, Rockbeare.

Proposal:

Outline application for the construction of up to 180 dwellings and associated infrastructure, with all matters reserved apart from access.

RESOLVED:

1. The appropriate assessment as set out in appendix 2 of the report be adopted.
2. Approved subject to a Section 106 Agreement with conditions as per officer's recommendation with an addition to Condition 6 regarding the volume of replacement ponds and an additional condition in relation to the use of domestic garages to be provided on the site.

26 **23/0400/FUL (Minor) DUNKESWELL & OTTERHEAD**

Applicant:

Exdon Limited.

Location:

Land south of Pump Field Close, Dunkeswell, EX14 4XX.

Proposal:

Construction of two dwellings.

RESOLVED:

Approved subject to conditions as per officer's recommendation.

27 **22/2582/FUL (Minor) SEATON**

Applicant:

Mr Justin Werb.

Location:

Barnards (land adjoining) Harepath Hill, Seaton, EX12 2TF.

Proposal:

Erection of one dwelling and associated works.

RESOLVED:

1. The appropriate assessment be adopted.
2. Refused as per officer's recommendation.

28 **23/1124/MFUL (Major) YARTY**

Applicant:

c/o Agent.

Location:

Pound Road BESS, land north of Axminster National Grid Substation, Pound Road, Hawkchurch.

Proposal:

Installation of a battery energy storage system with associated infrastructure and works.

RESOLVED:

Deferred for further information to be requested from the Fire Authority about the fire safety measures.

29 **22/2410/RES (Minor) WOODBURY & LYMPSTONE**

Applicant:

Mr & Mrs C Fayers.

Location:

Land south of Underhill Close, Lympstone.

Proposal:

Application for approval of reserved matters (appearance, landscaping, layout and scale) for the construction of a predominantly single storey dwelling following outline application 20/0933/OUT (pursuant to the grant of outline planning permission appeal reference APP/U1105/W/21/3282445).

RESOLVED:

Approved subject to conditions as per officer's recommendation.

30 **23/0310/FUL (Minor) WOODBURY & LYMPSTONE**

Applicant:

Mr Nalin Chouhan.

Location:

The Post Office, Broadway, Woodbury, EX5 1NY.

Proposal:

Erection of attached dwelling.

RESOLVED:

Approved subject to conditions as per officer's recommendation.

Attendance List

Councillors present (for some of all the meeting)

B Bailey
I Barlow
C Brown
A Bruce (left the meeting after application 19/1798/MOUT)
S Chamberlain (Vice-Chair)
S Gazzard
A Hall
J Heath
M Howe
Y Levine
H Riddell
S Smith

Councillors also present (for some or all the meeting)

D Mackinder
T Olive

Officers in attendance:

Wendy Ormsby, Development Manager
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer
Thea Billeter, Cranbrook New Community Manager
Jeremy Ebdon, Principal Planning Officer (East)

Councillor apologies:

F Caygill
E Rylance
D Wilson
E Wragg

Chairman

Date:

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Planning Committee held at Otter Room & Clyst Room on 28 July 2023

Attendance list at end of document

The meeting started at 10.05 am and ended at 1.30 pm. The meeting was adjourned at 12.00 pm and reconvened at 12.16 pm.

31 Elect a Chair and Vice Chair for the meeting

Following apologies received from the usual Chair, Councillor Eileen Wragg and Vice Chair, Councillor Sarah Chamberlain the Committee agreed that Councillor Mike Howe be Chair and Councillor Colin Brown be Vice Chair for this meeting.

32 Declarations of interest

Minute 38. 23/0459/CPE (Minor) COLY VALLEY.
Councillor Colin Brown, Directly relates Non-registerable Interest, Relative of the applicant.

33 Confidential/exempt item(s)

There was one confidential item recorded at minute 41.

34 22/2533/MOUT (Major) WEST HILL & AYLESBEARE

Applicant:

Morrish Homes & Messrs Compton, Stephenson, Olliff & Sanders.

Location:

Land north of Oak Road, West Hill, EX11 1SJ.

Proposal:

Outline application for the erection of 23 dwellings with all matters reserved save for formation of vehicular and pedestrian access.

RESOLVED:

1. The Appropriate Assessment to adopted.
2. That the Secretary of State be advised that had the planning authority been able to determine the planning application then this would have resulted in a refusal for the reasons stated within the report.
3. That officers notify the Secretary of State that there is a preference for the appeal to be dealt with by way of a public hearing rather than by way of written representations.

35 23/0116/FUL (Major) YARTY

Applicant:

Mrs Ann Bartlett.

Location:

Land at Parricks Lane, Hawkchurch, EX13 5XB.

Proposal:

Change of use of agricultural land and buildings to private equestrian use, construction of a menage and construction of a replacement for building 2 (retrospective). Building 1 to be used as a feed store and shelter for visiting vets, farriers etc. Building 2 to be used as a hay barn and building 3 to be used as a field shelter.

RESOLVED:

Approved with conditions as per officer's recommendation subject to conditions outlined in the officer's report and two additional conditions to remove the menage if it is no longer needed for equestrian purposes and to detail how manure should be dealt with on the site.

36 **23/0624/FUL (Minor) NEWTON POPPLEFORD & HARPFORD**

Applicant:

Mr D Welch.

Location:

Luscombes, Back Lane, Newton Poppleford, EX10 0EZ.

Proposal:

Replacement of five outbuildings associated to one dwelling, with three new outbuildings for workshop/store and stables.

RESOLVED:

Deferred for a site inspection to consider the impact on the AONB.

37 **23/0890/FUL (Minor) SEATON**

Applicant:

Mr Daniel Ledger & Ms Abigail Down.

Location:

29 Poplar Tree Drive, Seaton, EX12 2TW.

Proposal:

Raising of roof, conversion of roof space to habitable space including front and rear dormers and balcony.

RESOLVED:

Refused as per officer's recommendation.

38 **23/0459/CPE (Minor) COLY VALLEY**

Applicant:

Patricia Warrick.

Location:

Gibbons Farm, Wilmington, EX14 9JQ.

Proposal:

Application for a lawful development certificate (CLUED) to establish the lawful use of existing vehicular access and adjacent building for domestic garage and parking of cars.

RESOLVED:

That a certificate of lawful use and development be granted as per officer's recommendation.

39 **23/1124/MFUL (Major) YARTY**

Applicant:

C/O Agent.

Location:

Pound Road BESS, Land north east of Axminster National Grid Substation, Pound Road, Hawkchurch.

Proposal:

The installation of a battery energy storage system with associated infrastructure and works.

The Chair advised that the application would be deferred for consideration to the Planning Committee on 22 August 2023. This was primarily because the consultation response received from the Fire Authority raised some issues that required further clarity and the relevant Fire Officer was not available until next week.

40 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

That under Section 100(A)(4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt and private information (as set out against the Part B agenda item), is likely to be disclosed and on balance the public interest is in discussing the items in private session (Part B).

41 **Verbal update to Members regarding appeal in respect of planning application 22/2216 - Pound Road BESS, land north of Axminster National Grid Substation, Pound Road, Hawkchurch**

The Planning Solicitor provided Members with a verbal update in respect to the Pound Road BESS appeal against the Committee's decision to refuse to grant planning application 22/2216/MFUL.

Attendance List

Councillors present:

B Bailey

I Barlow

C Brown (left the room for application 23/0459/CPE and did not take part in discussions of vote)

M Howe

Y Levine

D Wilson

Councillors also present (for some or all the meeting)

J Bailey
C Burhop
D Mackinder

Officers in attendance:

Wendy Ormsby, Development Manager
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer

Councillor apologies:

A Bruce
F Caygill
S Chamberlain
S Gazzard
A Hall
J Heath
H Riddell
E Rylance
S Smith
E Wragg

Chairman

Date:

**EAST DEVON DISTRICT COUNCIL
LIST OF PLANNING APPEALS LODGED**

Ref: 22/2802/AGR **Date Received** 30.06.2023
Appellant: Mr Justin Lacey
Appeal Site: Land At Woodhouse Fields Lyme Road Uplyme
Proposal: General purpose forestry building
Planning APP/U1105/W/23/3325082
Inspectorate Ref:

Ref: 23/0401/OUT **Date Received** 04.07.2023
Appellant: Philip Jordan
Appeal Site: Exton Lodge Mill Lane Exton EX3 0PJ
Proposal: Outline proposal for a single dwelling with all matters reserved other than access
Planning APP/U1105/W/23/3325280
Inspectorate Ref:

Ref: 23/0665/FUL **Date Received** 05.07.2023
Appellant: Mr Tim Prince
Appeal Site: 42 Springfield Road Exmouth Devon EX8 3JY
Proposal: Conversion of roof space to habitable use to include front flat roof dormer and single storey rear extension with roof terrace.
Planning APP/U1105/D/23/3325341
Inspectorate Ref:

Ref: 22/0781/FUL **Date Received** 14.07.2023
Appellant: Mr Alan Marriott
Appeal Site: Mundys Farm West Down Lane Exmouth EX8 2RH
Proposal: Retention of a replacement shed.
Planning APP/U1105/Y/23/3325946
Inspectorate Ref:

Ref: 23/0402/FUL **Date Received** 21.07.2023
Appellant: Mr K Mooney
Appeal Site: Land Lying To The South Of Rull Barton Rull Lane Whimple
Proposal: Construction of dwelling and associated works
Planning APP/U1105/W/23/3326357
Inspectorate Ref:

Ref: 22/1082/FUL **Date Received** 21.07.2023
Appellant: Pete Gibbins
Appeal Site: Wild Flowers Seaton Road Colyford EX24 6QW
Proposal: Construction of 1 no. dwelling, means of access and associated works
Planning APP/U1105/W/23/3326385
Inspectorate Ref:

Ref: 22/2779/PIP **Date Received** 21.07.2023
Appellant: Mr Tony Bowden
Appeal Site: Land At Down Close Newton Poppleford
Proposal: Permission in principle application for the construction of up to nine no. dwellings (1 no. minimum, 9 no. maximum).
Planning Inspectorate Ref: APP/U1105/W/23/3326363

Ref: 22/2485/FUL **Date Received** 24.07.2023
Appellant: Mr and Mrs Browne
Appeal Site: Stables And Sand School Adj Willowmead Toby Lane Woodbury Salterton
Proposal: Change of use from stable to self-build dwelling including associated works and parking.
Planning Inspectorate Ref: APP/U1105/W/23/3326441

Ref: 22/2353/FUL **Date Received** 25.07.2023
Appellant: Mr & Mrs J Taylor - Bashford
Appeal Site: Land Adjoining 12 The Copse Exmouth Devon EX8 4EY
Proposal: Erection of a two storey 3-bed detached dwelling.
Planning Inspectorate Ref: APP/U1105/W/23/3326573

**EAST DEVON DISTRICT COUNCIL
LIST OF PLANNING APPEALS DECIDED**

Ref: 22/0481/FUL **Appeal Ref:** 22/00046/HH
Appellant: Mr & Mrs McDermott
Appeal Site: Marwood House Offwell Honiton EX14 9RW
Proposal: Construction of a single storey detached granny annex with associated decking.
Decision: **Appeal Dismissed** **Date:** 20.07.2023
Procedure: Written representations
Remarks: Delegated refusal, countryside protection, landscape and sustainability reasons upheld (EDLP Strategies 3, 7 & 46 and Policy TC2).
BVPI 204: **Yes**
Planning APP/U1105/D/22/3306390
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

App.No: 22/0120/FUL
Appeal Ref: APP/U1105/W/22/3305821
Appellant: Mr & Mrs Charles Isaac
Address: 3 Trefusis Place Exmouth EX8 2AR
Proposal; Loft conversion to a habitable use, Changes to external elevation finishes with alteration to fenestration, Replacement of existing conservatory with a garden room and alterations to Garden Annex with front extension and relocation of front door.
Start Date: 28 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 7 March 2023
Statement Due Date: 4 April 2023

App.No: 22/0058/FUL
Appeal Ref: APP/U1105/W/22/3305830
Appellant: Sophie, Harriet and Oliver Persey
Address: Pitmans Farm Dulford Cullompton EX15 2ED
Proposal; Proposed demolition of existing buildings; construction of residential dwelling and detached garage; installation of solar photovoltaic array; landscaping; and associated works.
Start Date: 28 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 7 March 2023
Statement Due Date: 4 April 2023

App.No: 21/3275/FUL
Appeal Ref: APP/U1105/W/22/3306620
Appellant: Mr & Mrs Jenny & Richard Wiggins
Address: 5 Fairfield Road Exmouth EX8 2BL
Proposal; First floor extension to an existing dwelling as well as altering the external appearance to form a modern dwelling and a new detached single storey garage of matching materials, and conversion of existing garage and a rear extension with alteration to fenestration.
Start Date: 1 March 2023
Procedure:
Written reps.
Questionnaire Due Date: 8 March 2023
Statement Due Date: 5 April 2023

App.No: 22/0912/FUL
Appeal Ref: APP/U1105/D/22/3307801
Appellant: Mr John Lomax
Address: The Workshop Longmeadow Road Lympstone EX8 5LF
Proposal; Addition of first floor with alteration to fenestration.
Start Date: 20 April 2023
Procedure:
Householder
Questionnaire Due Date: 27 April 2023

App.No: 22/2216/MFUL
Appeal Ref: APP/U1105/W/23/3319803
Appellant: Enso Green Holdings B Limited
Address: Pound Road BESS Land North East Of Axminster National
Grid Substation Pound Road Hawkchurch
Proposal; Installation of a battery energy storage system with
associated infrastructure and works.
Start Date: 9 May 2023
Procedure:
Inquiry
Questionnaire Due Date: 16 May 2023
Statement Due Date: 13 June 2023
Inquiry Date: 5 September 2023

App.No: 23/F0056
Appeal Ref: APP/U1105/C/23/3320164
Appellant: Donovan George Galling
Address: The Workshops Deer Park Farm Buckerell Honiton
Proposal; Appeal against an enforcement notice served in respect of
the change of use from workshop to gymnasium, without
planning permission.
Start Date: 10 May 2023
Procedure:
Written Reps.
Questionnaire Due Date: 24 May 2023
Statement Due Date: 21 June 2023

App.No: 22/0990/MFUL
Appeal Ref: APP/U1105/W/23/3320714
Appellant: Mr Phil Cookson (Low Carbon Alliance)
Address: Land At Marsh Green Farm Marsh Green EX5 2EU
Proposal; Construction and operation of a ground mounted solar farm and associated landscaping and ecological habitat, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment and associated development; temporary change of use of land for construction compound (off site)
Start Date: 17 May 2023
Procedure: Inquiry
Questionnaire Due Date: 24 May 2023
Statement Due Date: 21 June 2023
Inquiry Date: 12 September 2023

App.No: 22/1836/FUL
Appeal Ref: APP/U1105/D/23/3319877
Appellant: Mr Joe Priday
Address: Hux Shard Church Hill Exeter Devon EX4 9JJ
Proposal; Erection of annexe
Start Date: 14 June 2023
Procedure: Householder
Questionnaire Due Date: 21 June 2023

App.No: 22/2126/FUL
Appeal Ref: APP/U1105/W/23/3318928
Appellant: Mr Josh Baker
Address: Annexe At Huxham View (Church Hill Cottage) Pinhoe Exeter EX4 9JJ
Proposal; Change of use from redundant annexe to C3 dwelling house.
Start Date: 19 June 2023
Procedure: Written Reps.
Questionnaire Due Date: 26 June 2023
Statement Due Date: 24 July 2023

App.No: 22/2031/RES
Appeal Ref: APP/U1105/W/23/3316374
Appellant: Mr and Mrs Thomas
Address: 29 Winters Lane Ottery St Mary EX11 1AR
Proposal; Application for approval of reserved matters (layout, scale and appearance) for the erection of a new dwelling following approval of outline application ref. 21/1692/OUT.
Start Date: 20 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 27 June 2023
Statement Due Date: 25 July 2023

App.No: 22/2389/PIP
Appeal Ref: APP/U1105/W/23/3315470
Appellant: Mr Luke Drakes
Address: 1 Colliton Cross Broadhembury Honiton EX14 3LQ
Proposal; Permission in principle for a two storey 4-bed dwelling and garage on amenity land
Start Date: 21 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 28 June 2023
Statement Due Date: 26 July 2023

App.No: 21/F0248
Appeal Ref: APP/U1105/C/23/3322437
Appellant: Helen Dawn Cutler, Mr Tom Horridge & Mrs Amy Horridge
Address: Land north east of Clyst William Cross , Plymtree, EX15 2LG
Proposal; Appeal against an enforcement notice served in respect of -

- i) Operational development consisting of the siting of a shipping container for use as an agricultural machinery store together with a storage shed and the creation of an entrance onto the highway and hardstanding, without planning permission, and;
- ii) Change of use of part of the land to residential use by the stationing of a touring caravan for residential occupation together with a solar array and other domestic paraphernalia associated with the residential use of the land, without planning permission.

Start Date: 21 June 2023

Procedure:
Written Reps.

Questionnaire Due Date:

05 July 2023

Statement Due Date:

02 August 2023

App.No: 22/1600/FUL
Appeal Ref: APP/U1105/W/23/3314033
Appellant: Mr G Braddick
Address: Land Adjacent To Hamlet House Nags Head Road Gittisham
Proposal; Extension of an existing commercial building on the land north of Hamlet House

Start Date: 26 June 2023

Procedure:
Written Reps.

Questionnaire Due Date:

3 July 2023

Statement Due Date:

31 July 2023

App.No: 22/0173/FUL
Appeal Ref: APP/U1105/W/23/3315663
Appellant: Ms Susan Wakley-Stoyle
Address: Brake View Rockbeare Hill Rockbeare EX5 2EZ
Proposal; Erection of a replacement two storey 4-bed detached dwelling.
Start Date: 26 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 3 July 2023
Statement Due Date: 31 July 2023

App.No: 22/0261/FUL
Appeal Ref: APP/U1105/W/23/3318815
Appellant: Mark Howarth
Address: Heatherdale Cooks Lane Axminster EX13 5SQ
Proposal; Change of use of building for annexe and holiday accommodation purposes.
Start Date: 27 June 2023
Procedure:
Written Reps.
Questionnaire Due Date: 4 July 2023
Statement Due Date: 1 August 2023

App.No: 22/0767/FUL
Appeal Ref: APP/U1105/D/23/3324450
Appellant: Mr Anthony Whale
Address: 5 Meadow View Longmeadow Road Lypstone EX8 5LH
Proposal; Demolition of the front garden wall and construction of a paved hard standing driveway (retrospective)
Start Date: 21 July 2023
Procedure:
Householder
Questionnaire Due Date: 28 July 2023

App.No: 22/2120/MFUL
Appeal Ref: APP/U1105/W/23/3324701
Appellant: Churchill Retirement Living
Address: Jewson Ltd Fore Street Exmouth EX8 1HX
Proposal; Redevelopment for 54 retirement living apartments and 6 retirement living cottages, including communal facilities, access, car parking and landscaping and 178sqm of commercial use (Class E)

Start Date: 25 July 2023
Procedure:
Inquiry

Questionnaire Due Date: 1 August 2023
Statement Due Date: 29 August 2023
Inquiry Date: 14 November 2023

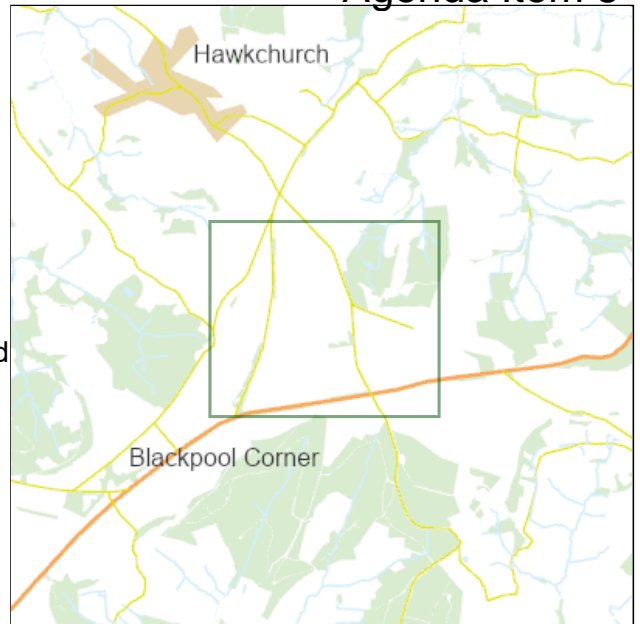
Ward Yarty

Reference 23/1124/MFUL

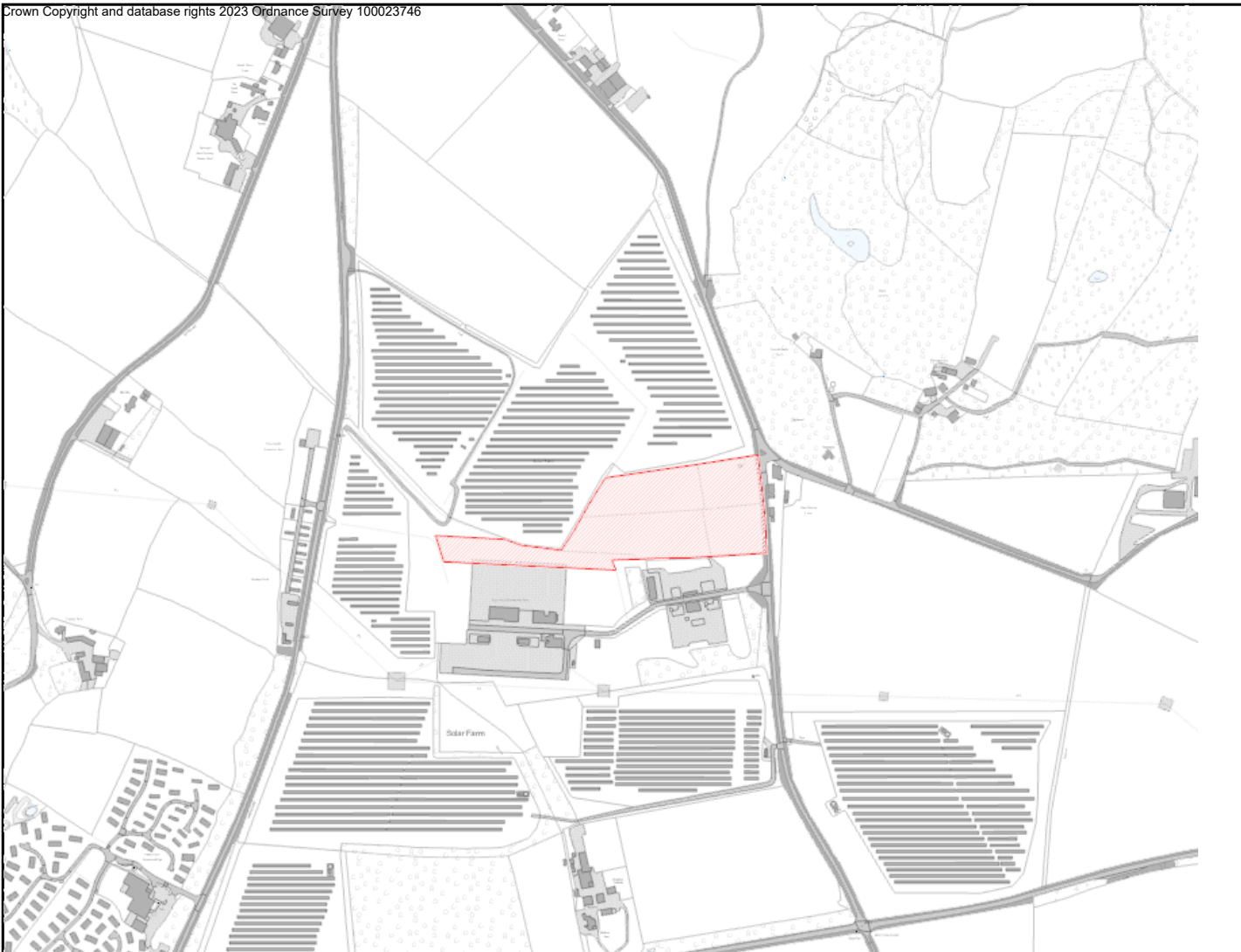
Applicant C/o Agent

Location Pound Road Bess Land North East Of Axminster National Grid Substation Pound Road Hawkchurch

Proposal The installation of a battery energy storage system with associated infrastructure and works.



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023
Yarty (Hawkchurch)	23/1124/MFUL	Target Date: 24.08.2023
Applicant:	C/o Agent	
Location:	Pound Road Bess Land North East Of Axminster National Grid Substation	
Proposal:	The installation of a battery energy storage system with associated infrastructure and works.	

RECOMMENDATION: Approval with conditions

The above planning application was considered at Planning Committee on 18 July 2023. The application was deferred to allow further consultation with Devon and Somerset Fire and Rescue Service (DSFRS), in particular to ask how they would deal with a fire at the application site.

The response from DSFRS , received on 27/7/2023 is as follows:

This letter offers comment on the Safety Management Plan that the applicant has included under the above consultation which is a 'Second Go' application of 22/2216/MFUL.

Furthermore, this letter addresses specific issues that have been raised, including those made in a Rule 6 Party's Statement of Case under application 22/2216/MFUL. East Devon District Council Planning Authority (EDDC) have requested that Devon and Somerset Fire and Rescue Service (DSFRS) provide comments in relation to Issue 2 and Issue 3 of the Rule 6 Party's Statement of Case.

Safety Management Plan

Planning Application 23/1124/MFUL introduces a Safety Management Plan (SMP) that has been prepared for the applicant by Abbott Risk Consulting Limited.

The aim of the SMP is to 'define the safety strategy, requirements, and processes necessary to meet agreed safety objectives and to set a level of safety performance that the system is to be measured against.'

To meet these aims, the document specifies that a strategy to reduce risk to as low as reasonably possible (ALARP) will be employed and that a primary objective of the project will be to comply with all applicable legal requirements and relevant emerging good practice.

In terms of strategy implementation, the SMP goes onto state that a 'layered protection approach' will be provided and lists some of the mitigation requirements that can be employed to reduce fire risk, such as remote monitoring, container segregation and suppression systems.

Unfortunately, the level of detail provided in the document is limited and as such DSFRS is not able to provide much in the way of constructive commentary. The explanation provided in the SMP, in that detail cannot be provided until suppliers, contractors and specific equipment is selected, partially justifies the limited detail but there are also issues on which the document could have provided more detail. For example, there is limited or no commentary on deflagration prevention and venting, space separation between units, emergency access and firefighting water supplies. The SMP refers to a System Requirement Document (SRD), where it is presumed these matters will be discussed in more detail. However, it is not specified when or whether consultation on the SRD will be offered to stakeholders, or indeed what stakeholders may contribute. Similarly, the SMP mentions a BESS Safety Working Group (SWG) that will be responsible for the oversight of BESS safety management. However, once again there is no detail regarding who will form the SWG and by what mechanisms they will review and oversee the safety management of the project.

Therefore, it is DSFRS' opinion that the aims initially set out by the SMP have not been fully met. Nevertheless, DSFRS does view the applicant's commitment, as stated in the SMP, to comply with applicable legal requirements and good practice positively.

It should also be highlighted that the applicant did approach DSFRS for advice regarding the SMP in May 2023. In this matter, unfortunately circumstances beyond the control of the applicant prevented DSFRS from being able to respond to this request in a timely manner. Nonetheless, such requests for advice are also viewed positively and it is hoped that future liaison on this matter will be possible in the near term.

Rule 6 Party's Statement of Case

Issue 2 - Environment Harm/Risk and Impact on Hydrology

The appeal proposal does not appear to contain information addressing the prevention and mitigation of fire or of a thermal runaway event.

This has been partially addressed under application 23/1124/MFUL, with the inclusion of a Safety Management Plan. Commentary on this document has been provided above and does not require repeating. DSFRS views the introduction of the document as a positive step, opening the potential for further clarification of what risk reduction and mitigation strategies will be employed to prevent any fire related incidents.

Regarding the potential for contamination of the local hydrological environment due to firefighting water runoff, DSFRS have a limited ability to prevent contamination resulting from operational activities with the use of spill kits and deployable bunds.

In terms of more general prevention strategies to prevent contamination, DSFRS

have, as with similar previous applications, recommended that consultation occur with the Environment Agency.

Issue 3 - Hazardous Substance Consent

DSFRS is not the Competent Authority (CA) and therefore has no responsibilities in terms of the enforcement of COMAH Regulations. Having no influence or involvement in the issuing of Hazardous Substance Consent (HSC), DSFRS has no comments to make under this Issue and suggests that requests for comments should be directed to the appropriate CA, namely the Health and Safety Executive (HSE) and the Environment Agency (EA).

Water Supplies for Firefighting

It is understood that the Planning Committee has requested details as to how DSFRS would deal with a fire incident at the site in the absence of no fire hydrant or water storage facilities being provided.

It is important to stress that firefighting tactics are very much dependent on the incident at hand and subject to dynamic assessment of conditions and risks throughout the incident. Therefore, it is impossible to put a figure on how many appliances would be required for a specific incident, or how much water would be required.

As it currently stands, the nearest DSFRS station to the proposed site is Axminster which has a Medium Rescue Pump (MRP). Attendance would likely be supported by neighbouring stations such as Chard, Honiton, Colyton and Seaton.

A water carrier could also be mobilised as part of the pre-determined attendance. DSFRS has six water carriers (carrying up to 9000 litres each), with the nearest being deployed at Danes Castle (Exeter), Bridgwater and Yeovil. Mobilisation of all appliances will depend on availability and crewing resources.

Such a deployment, as described above, would enable DSFRS to instigate 'defensive' firefighting tactics for a limited duration in order to prevent fire spread from the unit of origin to neighbouring units until crews can connect into any available local fire hydrants.

In the absence of fire hydrants being available, DSFRS has two High Volume Pump appliances positioned at Clyst St George (Exeter) and Wellington. These appliances have the capability to pump water at high volume with enough hose to reach a water source (hydrant or open source) 3km away from incident. It should be noted that these two appliances are provided for National Resilience and therefore cannot form part of a first response. It should also be borne in mind that they can take some time to be deployed and then to set up.

Firefighter and Fire Service Vehicular Access, along with the provision of water for firefighting, is covered by the Building Regulations 2010. Practical guidance on how to meet the Building Regulations, in terms of fire safety, is provided in Approved Document B (ADB).

ADB advises that most buildings require a fire hydrant to be within 90m. If piped water is not available, alternative sources of water supply are acceptable. This is usually provided with a static water tank with a minimum capacity of 45,000 litres.

DSFRS recognises that the Building Regulations do not apply to BESS infrastructure due to the limited occupancy of such structures, and that there are no mandatory requirements to provide access and facilities. However, the practical advice offered in ADB, and the functional requirements of the Building Regulations should be seen as an acknowledgement that without the provision of such access and facilities, including water supply, the ability of the Fire Service to carry out its duties is made much more challenging.

Although the Building Regulations are not applicable, the National Fire Chiefs Council (NFCC) has released guidance produced with the aim of facilitating a safe and effective response, by the Fire Service, to a fire or vapour cloud release involving a BESS installation in excess of 1MW in size.

Under that guidance, the following has been advised in relation to site access and water supplies.

Site Access

Suitable facilities for safely accessing and egressing the site should be provided. Designs should be developed in close liaison with the local FRS as specific requirements may apply due to variations in vehicles and equipment.

This should include:

- o At least 2 separate access points to the site to account for opposite wind conditions/direction to allow approach towards a vapour cloud.*
- o Roads/hard standing capable of accommodating fire service vehicles in all weather conditions. As such there should be no extremes of grade.*
- o A perimeter road or roads with passing places suitable for fire service vehicles.*
- o Road networks on sites must enable unobstructed access to all areas of the facility.*
- o Turning circles, passing places etc size to be advised by FRS depending on fleet.*

Access between BESS units and unit spacing

A standard minimum spacing between units of 6 metres is suggested unless suitable design features can be introduced to reduce that spacing. If reducing distances, a clear evidence based, case for the reduction should be shown.

Water Supplies

Water supplies will depend on the size of the installation. In the majority of cases, initial firefighting intervention will focus on defensive firefighting measures to prevent fire spread to adjacent containers. As a result, proposals for water supplies on site should be developed following liaison with the local fire and rescue service taking into account the likely flow rates required to achieve tactical priorities. This should

also take account of the ability of/anticipated time for the fire and rescue service to bring larger volumes of water to site (for example through the provision of High Volume Pumps).

As a minimum, it is recommended that hydrant supplies for boundary cooling purposes should be located close to BESS containers (but considering safe access in the event of a fire) and should be capable of delivering no less than 1,900 litres per minute for at least 2 hours. Fire and rescue services may wish to increase this requirement dependant on location and their ability to bring supplementary supplies to site in a timely fashion.

Consideration should be given, within the site design, to the management of water run-off (e.g. drainage systems, interceptors, bunded lagoons etc).

Officers then asked DSFRS if the above comments amounted to an objection to the application.

On 4/7/2023 DSFRS responded as follows:

Despite the lack of detail on several issues, we are not objecting at this stage.

This decision has been made after considering the requirements under Condition 4 - particularly the requirement to develop and agree a detailed Battery Safety Management Plan with Local Authority and DSFRS.

Analysis

Notwithstanding the confirmation of 'no objection' from DSFRS Officers have given consideration to matters raised which could influence the site layout, which is a planning consideration. The key issues being the number of sites accesses, provision of a perimeter road, turning within the site for a fire engine and access to water. It is noted that the Guidance Note referenced in the DSFRS has no statutory status and the guidance needs to be considered in the context of each site and the particulars of the development.

The applicant has provided a response note to address the matters raised in the DSFRS comments and this is attached as an Appendix to the addendum.

The key matters addressed are as follows:

Site access

One of the main reasons for having a secondary access is to mitigate for unfavourable wind directions which could make an access unusable if fire or smoke plumes were blown across it, discussions with an officer from DSFRS have indicated

that the need for a second access can depend on prevailing wind directions and the scale of the development.

In this case the applicant has now demonstrated that the prevailing wind directions in the area are favourable, blowing away from the access, indicating it is unlikely that use of the proposed site access would be compromised.

Having regard to the scale of development and the evidence of prevailing winds directions provision of a single access point is considered to be acceptable.

It is also demonstrated that the access roads are wide enough – the minimum width required is 3.7m, the proposed roads are 4.5m.

Turning of service/emergency vehicles within the site

The response note includes plans which show the tracking of a fire engine within the internal roads and also show how a turning head could be accommodated at the site entrance to ensure vehicles and enter and exit in forward gear if needed.

Separation distance of the battery units

The 6m distance referenced in the guidance document is based on older technology and where there are no other measures in place to suppress fire. Full details of fire suppression technology to be included within each battery unit will be included as part of the Battery Safety Management Plan required under proposed condition 4 and this will need to demonstrate adequate fire suppression measures for the proposed spacing of the battery units. On this basis the proposed spacing of the battery units is considered to be acceptable.

Water storage

The plans now show how an above surface water tank could be situated within the site with capacity to hold sufficient water to exceed the specified requirement of water. The need for and actual size of any tank would be agreed as part of the Battery Safety Management Plan however the amended plan shows that a large tank can easily be accommodated within the site without affecting the landscape impacts of the development

Conclusion

Having reviewed the comments from the DSFRS and the additional information provided by the applicant officers remain satisfied that the health and safety matters of the development in so far as they relate to land use planning matters are satisfactory.

The recommendation remains that planning permission be granted subject to the conditions set out in the main report.

PLANNING APPLICATION REF. 23/1124/MFUL**POUND ROAD BESS****DSFRS RESPONSE**

The following note is prepared to address points raised by Devon and Somerset Fire and Rescue Service (DSFRS) in relation to a proposed Battery Energy Storage System (BESS) on Land North East Of Axminster National Grid Substation, Pound Road, Hawkchurch (East Devon District Council (EDDC) Planning Ref. 23/1124/MFUL).

We wish for the below to be read in conjunction with the BESS Safety Note issued to EDDC on the 24th July 2023.

Safety Management Plan

It is acknowledged by the fire service that a layered protection approach will be provided as part of a detailed battery safety management plan (BSMP), this will detail in full the mitigation requirements that can be employed to reduce fire risk, such as remote monitoring, container segregation along with detailed detection and suppression systems.

The fire service on the 27th July have also confirmed that although specific mitigation detail is not provided at this time, the detail being secured through a planning condition for a BSMP is acceptable and raise no objections on this basis.

Planning Requirements

The National Planning Policy Framework (NPPF) (2021) paragraph 188 is clear that the focus of planning decisions should be whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). It further states that planning decisions should assume that these regimes will operate effectively.

Legislative compliance, specifically safety, for BESS is demonstrated by compliance with the UK Health and Safety at Work Act (HSAWA) 1974 and the appropriate underlying legislation that is enacted through the HSAWA. The BESS will therefore be designed to meet relevant industry standards and legal requirements.

The battery safety measures identified by the fire service will be presented to EDDC as part of the detailed BSMP as proposed in the officer's report (Condition 4), this is to ensure that the safety measure requirements reflect the chosen battery chemistry in line with the Safety Integrity Level requirements.

The Local Planning Authority will consult with the Health and Safety Executive and the Devon and Somerset Fire and Rescue Service before approving the BSMP. This approach has been previously accepted by the Council in the following recent planning decisions for BESS developments in East Devon:

- 22/2546/MFUL - Land At Blackhill Quarry Woodbury EX5 1HD (Approved 13 July 2023). Condition 4.
- 22/0693/FUL - Axe View Solar Farm Wadbrook EX13 7AS (Approved 23 March 2023). Condition 4.

National Fire Chiefs Council Guidance (November 2022)

Reference has been made by the fire service to the latest guidance from the National Fire Chiefs Council (NFCC). Within the guidance it is clear that the NFCC do not seek to provide full specification or opinion on the entirety of a BESS system design, it is also explicit that every BESS installation will be different and fire and rescue services should not limit themselves to the content of this guidance (our emphasis).

We therefore wish to address the points raised in relation to site access and water supplies on a site-specific basis. It should however be noted that the final details will be subject to the detailed BSMP secured through Condition 4 and in liaison with the fire service.

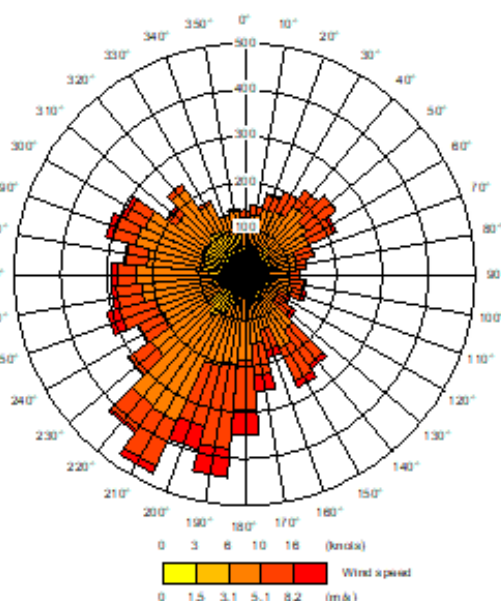
Site Access

A number of points have been raised by the fire service in relation to site access, we wish to address these points in turn.

Point 1: At least 2 separate access points to the site to account for opposite wind conditions/direction to allow approach towards a vapour cloud.

Access to the site is taken from the east from Pound Road. Permanent access is not possible from other parts of the site given its location to other existing infrastructure. Given the scale of the site (under 2ha of developed area) a secondary access is unnecessary. In the alternative, a maintenance corridor has been provided between the BESS and the existing field boundary which can be accessed by a fire service vehicle if required.

From a review of the Met Office opensource data, the nearest wind data for the site is Dunkswell Airfield north of Honiton, this data indicates that the most frequent winds in this area are from south/southwest, so do not predominately come from the west and are therefore unlikely to conflict with the access arrangements to the east.



Source: Met Office opensource data

Point 2: Roads/hard standing capable of accommodating fire service vehicles in all weather conditions. As such there should be no extremes of grade.

The proposed road network within the site is a tarmac track which is approximately 4.5m wide. Tracking of a fire service vehicle within the site has been undertaken in Appendix 1 (Drawing Ref. SP03), which shows that vehicles are able to be accommodated within the internal access road network.

Point 3: A perimeter road or roads with passing places suitable for fire service vehicles.

The network of roads within the BESS and the proposed turning place between the access from Pound Road and BESS compound provides adequate passing passes suitable for fire service vehicles.

Point 4: Road networks on sites must enable unobstructed access to all areas of the facility.

The road networks within the BESS have been designed to ensure ease of access to the BESS containers and associated infrastructure for operational maintenance purposes, so are not obstructed.

Point 5: Turning circles, passing places etc size to be advised by FRS depending on fleet.

Appendix 1 includes a plan (Drawing Ref. SP02) which identifies where a turning area is able to be positioned within the site, if necessary.

Water Supplies

The use of water to fight a Li-ion fire is not necessarily the best option. Li-ion by its nature will self-ignite once the water is removed. BESS systems on the market are therefore fitted with automated detection and bespoke suppression systems. Such details are chosen following battery chemistry selection and will be outlined within the detailed Battery Safety Management Plan (BSMP).

Such fire provisions could be accommodated within the design if required, the location for a water tank with a capacity of 450,000 litres have been shown on the plans in Appendix 1. It should be noted that the capacity of this tank is 222,000 litres more than that specified by the NFCC guidance (1,900 litres a minute for at least 2 hours, which equates to 228,000 litres).

Conclusion

National policy is clear that the focus of planning decisions should be whether proposed development is an acceptable use of land, and that a robust health and safety regime is already in place with appropriate provisions to ensure that BESS at all scales can be operated safely in a range of environments.

Planning decisions made both at national and local level are clear that such provisions around BESS safety can be secured by planning condition. EDDC have already proposed a planning condition for a detailed BSMP in line with previous decisions made both at national and local level.

The applicant and EDDC will consult with the Health and Safety Executive and the Devon Fire and Rescue Service before approving the BSMP to ensure they provide the required detail and safety provisions.

APPENDIX 1 – FIRE SERVICE VEHICLE TRACKING PLANS

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
ORIGINAL PLOT SIZE

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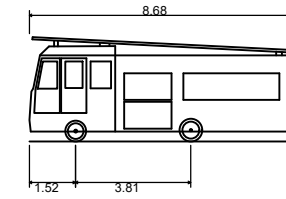


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NOTES:

 Water tank
 Capacity: 450,000 Liters
 Diameter: 13.82m
 Height: 3.02m

 Lay-by area



DB32 Fire Appliance
 Overall Length 8.680m
 Overall Width 2.180m
 Overall Body Height 3.452m
 Min Body Ground Clearance 0.337m
 Max Track Width 2.121m
 Lock to lock time 6.00s
 Kerb to Kerb Turning Radius 7.910m

Rev	Date	Details	Drawn by	Checked by	Approved by
-	-	-	-	-	-

Bristol
 Cambridge
 London
 Oxford
 Welwyn Garden City



25 King Street
 Bristol
 BS1 4PB
 0117 925 9400
www.tpa.uk.com

CLIENT:

ENSO GREEN HOLDINGS B LIMITED

PROJECT:

POUND ROAD BESS

TITLE:

Swept Path Analysis Of A Fire Appliance Using Site Access

STATUS:

INFORMATION

SCALE: 1:250	DATE: 09.08.23	DRAWN: KVT	CHECKED: RR	APPROVED: JD
JOB NO: 2203-080		DRAWING NO: SP02		REVISION: -



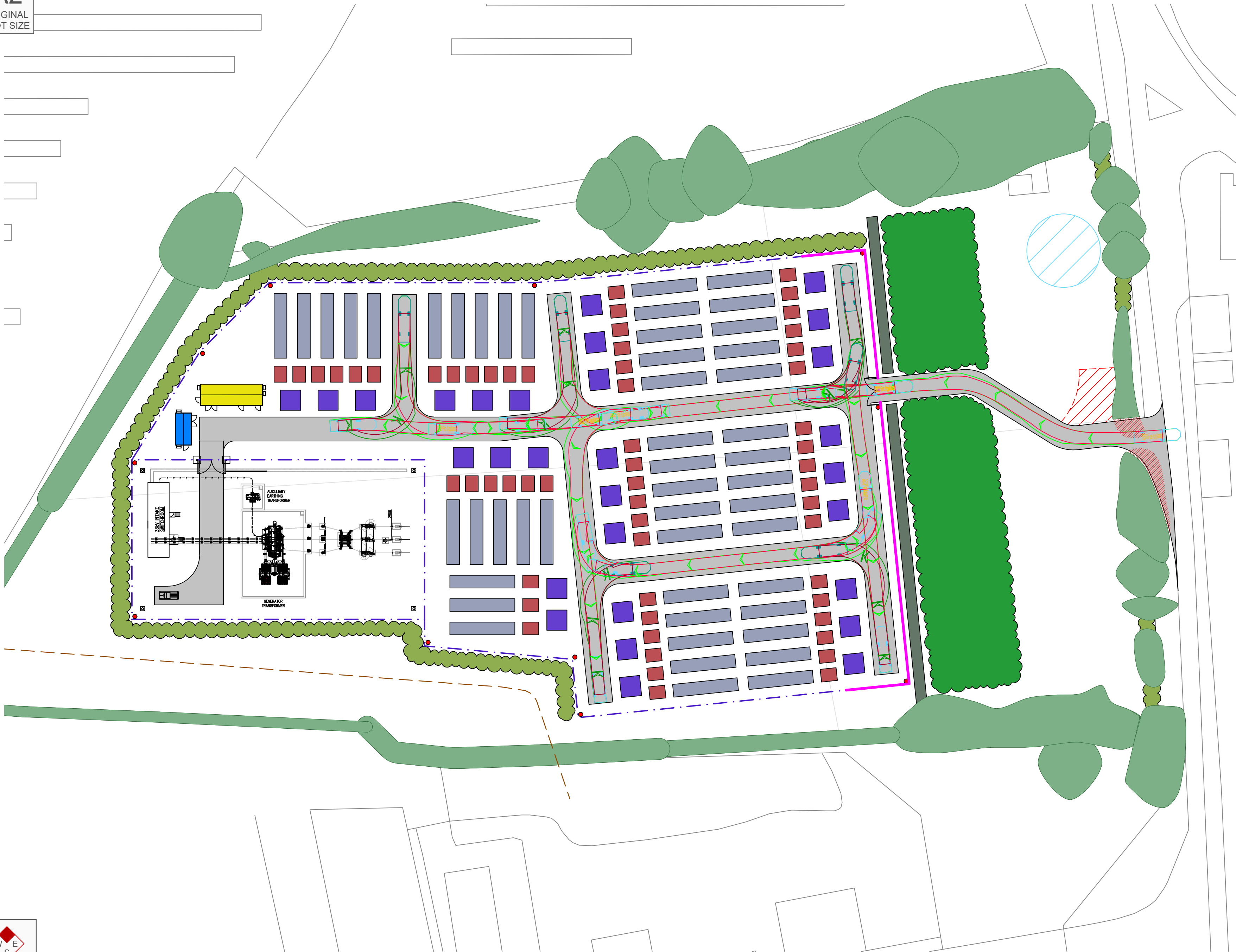
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ORIGINAL PLOT SIZE

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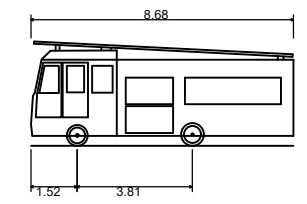


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Bristol
 Cambridge
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25 King Street
 Bristol
 BS1 4PB
 0117 925 9400

www.tpa.uk.com

CLIENT:
ENSO GREEN HOLDINGS B LIMITED

PROJECT:
POUND ROAD BESS

TITLE:
Swept Path Analysis Of A Fire Appliance Within BESS

STATUS:
INFORMATION

SCALE: 1:500	DATE: 09.08.23	DRAWN: KVT	CHECKED: RR	APPROVED: JD
JOB NO: 2203-080	DRAWING NO: SP03	REVISION: -		



INDICATIVE

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		Committee Date: 18.07.2023
Yarty (Hawkchurch)	23/1124/MFUL	Target Date: 24.08.2023
Applicant:	C/o Agent	
Location:	Pound Road Bess Land North East Of Axminster National Grid Substation	
Proposal:	The installation of a battery energy storage system with associated infrastructure and works.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is being considered by the Planning Committee because the recommendation is contrary to the views of the Ward Member.

This application is a re-submission of the proposal refused permission under application 22/2216/MFUL, which is now subject of a planning appeal by way of a Public Inquiry. The application includes additional supporting information that attempts to address the lack of evidence cited in the previous reasons for refusal.

The application seeks permission for a Battery Energy Storage System (BESS) and associated equipment (substations, inverters etc.) in a field adjacent to a solar farm and electricity distribution site. The site is located in the open countryside but is considered to meet the definition of ‘low carbon technology’ as defined in the Local Plan. As such it is acceptable in principle under Strategy 39 (Renewable and Low Carbon Energy Projects) subject to other considerations.

The development would include a number of different plant and equipment being installed in a rural area. However, this would be sited in and near an existing solar farm, has good existing landscaping/screening and therefore the effect on the character and appearance of the area (which has no landscape designations) would be limited.

The site would use grade 3a (Best Most Versatile) agricultural land although the usefulness of the land for meaningful agricultural production is considered to be limited due to its size, shape and lack of association with other fields in agricultural production. The loss of BMV land is considered to be outweighed by the benefits of the proposal which are the contribution the installation would

make to towards reduction in greenhouse gas emissions, grid balancing capabilities and the associated projected savings in energy production costs for consumers.

There are a number of objections to the scheme including matters regarding safe operations of the site but it is considered that the proposal is acceptable and that many of these concerns are either regulated by other regimes or can be addressed through appropriate planning conditions.

CONSULTATIONS

Local Consultations

Yarty - Cllr Duncan Mackinder

I am unable to support this application for many reasons, primarily:

1 significant risks to the local environment, local population and first responders in the event that a malfunction caused thermal runaway leading to fire or explosion.

2 the industrial nature of such sites is not in keeping with the adjacent rural and unspoilt landscape

3 the impact of noise from necessary cooling systems on local residents, visitors and wildlife in the surrounding area

4 BESS increase the carbon emissions associated with the electricity supply so are not truly green.

5 BESS generally store energy for a matter of hours not the longer periods required to enable our power infrastructure to accept renewably generated power at times it can be most efficiently generated and supply power at times when it is most in demand.

I do not think that BESS make much sense as part of a low-carbon power infrastructure in general, and in particular make even less sense in remote, rural locations with high environmental, ecological and amenity value.

I therefore recommend this application be REJECTED.

Hawkchurch Parish/Town Council

June 2023

It is the decision of Hawkchurch Parish Council to OBJECT to this application and respectfully request that it is refused at determination for the reasons set out below:

Environmental pollution and community health and safety

We believe there is a risk of major accident, with resulting significant risks to the local population, impact on water supplies, and risk of pollution of rivers and farmland.

The risks to the population in the event of a fire, possible explosion, and release of toxic fumes, cannot be overstated. Multiple properties in the vicinity are not on mains supply and take their water from bore holes or springs. In addition, this area drains via the Blackwater River into the River Axe. We are seriously concerned about the environmental contamination risk in the event of a fire and alarmed by the risk to local residents who are dependent on natural water sources.

The most common deployment of energy storage installations is industrial lithium batteries. These make up more than 90% of the UK's storage capacity. On 7th September 2022, a Private Members Bill was introduced by Dame Maria Miller (Con) to the House which highlights the safety issues surrounding large scale Lithium-ion battery installations and calls for them to be categorized as hazardous.

This would bring the HSE controls of hazardous substances into play for all such installations. Some argue that developers are responsible for doing the proper assessments as part of the planning application and demonstrate whether the proposal should be classified under COMAH or not.

There are several well documented safety risks with large-scale lithium-ion battery storage:

- If charging or temperature controls fail, or if they get damaged, lithium-ion batteries are susceptible to a process called thermal runaway – essentially a fire that generates its own oxygen supply so cannot be put out by suppressants, water etc as it can re-ignite itself. The accepted way to deal with a lithium-ion battery fire is to cool it with water and allow it to burn out completely. With large-scale installations cooling is essential to prevent spread to other battery containers.
- When water is mixed with either the electrolyte or gases emitted because of the chemical reaction taking place as thermal runaway progresses, toxic compounds are generated, including hydrofluoric acid – one of the most corrosive acids. Very large volumes of water are needed as the thermal runaway reaction can take several days to exhaust the chemical supply
- Toxic gases are released because of the fire and can lead to explosion –there have been instances where firefighters have been killed or seriously injured.

In the context of Hawkchurch, these issues are exacerbated due to the location and geology:

The site is located on an aquifer which supplies bore holes, springs and drinking wells to many properties in the Parish. Unless there is a requirement for a vast storage tank for wastewater from firefighting, toxic water would penetrate contaminate water supplies, potentially spreading some distance via the greensand. **This would be catastrophic for residents in the Parish.**

The sheer volume of water needed to cool batteries while they burn out is a key issue, both from the perspective of containment of contaminated firewater runoff and in relation to the availability of supply.

The volume of water required to adequately cool BESS in the event of thermal runaway is vast. The Liverpool BESS fire was cooled for 59 hours predominantly by two fire engines and with the use of a high-volume pump). The recently published guidance from the UK Fire Chiefs indicates that a flow rate of at least 1900 litres per minute is required. They deem that at least 2 hours supply should be immediately available as a minimum and that minimum is dependent on how quickly the fire service could deploy high-volume pumps. Note that it took more than six hours to extinguish the Liverpool fire and that cooling has to continue once the fire is extinguished as lithium-ion battery fires are known to re-ignite. In Australia, the report of the Victoria fire showed that **900,000 litres of contaminated firewater runoff** were removed and disposed of after the event.

The water supply network in Hawkchurch is fragile and we have regular mains failures. There is no point of access to water supplies specified in the proposals and no storage facilities indicated in the plans.

Another factor is the time it would take to deploy the fire service to Hawkchurch. The nearest fire service is 20 minutes away and the nearest one is a co-responder station with volunteer firefighters. Fire could well have spread beyond a single container before firefighters arrive, making the situation more dangerous. Multiple fire engines and a high-volume pump were deployed to the Liverpool fire and arrived five minutes after they were called. That level of immediate support is hard to imagine here.

As a result, we are seriously concerned about any proposed installation of industrial-scale battery storage solutions that includes lithium-ion batteries or any other chemical battery that represents a hazard to human health or extensive environmental contamination in the event of a major accident.

We understand there may be a temptation to expect technical aspects of such developments to be resolved at a later stage, but we note that experts advise that fire services should be engaged much earlier with such hazardous proposals.

The volumes of firewater involved are vast and the consequences of these should be considered as part of the planning process because of the impact that including suitable containment or separation would have on:

- the scale of the development and groundworks.
- the impact of the development locally.
- the likelihood of being able to return the site to agricultural use in the future.

Furthermore, the Fire Chief's guidance contains recommendations for spacing and clearance from surrounding vegetation around the storage containers that are in no way adequate in any version of the proposals. In addition, they recommend more than one access point, a perimeter road and space for fire fighting vehicles, none of which is evident and may prove difficult to achieve on this site.

Environment Agency Guidance requires places where residents access natural water supplies through boreholes or springs should be treated as Source Protection Zones. There is no mention of any SPZs in any of the documentation.

Environment Agency Guidance requires contaminated firewater to be contained or separated and subsequently safely disposed of. Again, there is no provision for such contingency in any of the plans and as explained above the volumes would be vast. Note that the contaminated land officer's indication of containment volume would not be adequate for containment of contaminated run-off from a thermal runaway event.

Risks from BESS fires are real and need to be dealt with accordingly. A letter from HSE NI, submitted to the planning inspectorate examination of the Sunnica Energy Farm application, shows that they consider the risks of fire and explosion to be real:

'An explosion from a single BESS container can cause an overpressure resulting in the partial demolition of a house up to 45 meters away. A hydrogen fluoride plume generated by a fire can cause serious injury up to 45 meters away.'

'A BESS with the capability of 21.3 MWH, using the work by Larsson et al. (2017), a fire involving all batteries would produce 4.26 tonnes of hydrofluoric acid and 469 tonnes of POF3. If a fire generates other hazardous substances, the threshold for COMAH and HSC could be exceeded using the aggregation rule.'

Bear in mind that the likely fire service response will be very slow compared with the Liverpool incident. Hawkchurch is remote and even the most local volunteer fire service would take 20 minutes to arrive. The fire service was on site in Liverpool within 5 minutes. Given the potential explosion hazard, we question the proposed siting of this installation so close to the distribution substation. There are no thermal barriers or other protective measures included in the proposal.

Residents views

As part of our Neighbourhood Planning work, we have consulted with the Parish regarding the position of the Parish Council in relation to battery energy storage schemes. We had a response rate of more than 50% from households in the parish, of which **85% regard Lithium-ion battery storage on this scale as unsafe.** Furthermore **85% of households also felt that such installations were industrial in nature and should only be permitted with strong controls on safety and impact.** We ask you to take note of this and the fact that we have been bombarded with planning applications for industrial 'renewable' energy applications over the last few years, including multiple revisions and requests for supplementary comments. Not surprisingly residents are becoming fed up with having to repeatedly make an objection and it is causing planning blight for some residents. Please take account of the overwhelming and strong feeling there is that was demonstrated by the survey results and attendance at Parish meetings.

We urge you to take seriously the possibility of a foreseeable event which is likely to be harmful to both people and the environment. **This is not a suitable site for such**

a development, especially if the battery type is lithium-ion, in which case it would be grossly negligent to permit it. It is worth noting a comment made by Deputy Fire Safety Commissioner of the London Fire Brigade, Charlie Pugsley, in discussions about BESS fire safety that:

'If we know some things could fail catastrophically or it could have those effects,' he said, "it's going to be a difficult day if one of us is standing there in court saying we knew about it, but we didn't do anything.'

We also note that Defra have published legally binding principles which include:

- The prevention principle means that government policy should aim to prevent environmental harm.
- The rectification at source principle means that any environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later.
- The precautionary principle states that where there are threats of serious or irreversible environmental damage, a lack of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

All these point to the need not to take the issue of large-scale battery storage lightly. Given Grenfell as an example of how it is incumbent on authorities to assess risk themselves and take appropriate action, rather than go with the flow, it would be negligent of all of us not to ensure that any battery storage schemes are developed without the appropriate level of containment in the event of a major accident. In this case we believe the River Axe catchment area and the health of residents who draw water from the natural supplies in Hawkchurch would be at risk in the event of a battery fire at this site.

Siting of the proposal and alternatives

The guidance that goes alongside the National Planning Policy Framework states:

“There are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and, **critically, the potential impacts on the local environment, including from cumulative impacts. The views of local communities likely to be affected should be listened to.**”

“...protecting local amenity is an important consideration which should be given proper weight in planning decisions.”

“Cumulative landscape impacts and cumulative visual impacts are best considered separately. The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape.

Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views. Cumulative visual impacts may arise where two or more of the same types of renewable energy development will be visible from the same point or will be visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts.”

The Planning Committee recently refused permission for a similar development in the immediate vicinity and agreed that there would be a cumulative impact.

The developer should be asked to consider other sites – there is no evidence that they have done so adequately.

Renewal energy and low carbon developments

We recognise the need for energy storage to support the national strategy. We believe EDDC should be considering what the district can do to encourage good development. By encouraging storage, and where possible generation, to be co-located with heavy consumers (be it industry, residential, hospital etc) it would make certain that the benefit is within the district and is much more likely to be supporting renewable energy (which energy arbitrage does not!).

We do not believe this proposal constitutes a renewable energy or low carbon development. It is not directly connected to the adjacent PV solar farms. It is likely that it will store more energy from fossil fuel sources than either wind or solar sources. The source of stored energy may be from plants in the UK or, via interconnectors, from other countries. The batteries would draw power at times of low demand (usually at night) and sell it back to the grid at times of peak demand through price arbitrage or balancing contracts. Only 2/3 of the power stored is likely to be returned to the grid due to degradation, AC and DC loss. Power can only be stored for a matter of hours, not days or months. The batteries are likely to have to be replaced within 10 years leading to issues with recycling. At present there are unclear routes for recycling lithium-ion batteries from grid scale storage, making them unsustainable. Battery storage units have been shown to have a high carbon footprint.

Scotland’s centre of expertise connecting climate change research and policy (climatexchange.org.uk) states:

“To provide some context, it is important to note that battery storage is not of itself ‘green’ in any way: it uses substantial quantities of materials, and around 15% of the energy imported is wasted as heat.”

The EDDC Planning Committee determined that a previous proposal for this site (planning application 22/2216/MFUL) was not considered to be a renewable or low carbon energy project as there was no evidence that it would be used to store energy from low carbon sources and therefore represented inappropriate development in the countryside. There is similarly no evidence to support this application as a renewable or low carbon project.

Visual, landscape and amenity impact

We agree with the EDDC landscape officer in his assessment of the proposals: 'The site will have a major adverse impact on the site itself introducing incongruous industrial infrastructure into an undeveloped field in open countryside'.

We feel that there will be a significant and unacceptable impact on the character of the landscape as screening will take many years to establish and we know from the visibility of extensive local solar farms that in winter the screening is wholly inadequate. Solar farms are one thing, industrial containers are totally unacceptable and out of place - there are 48 very large shipping containers in addition to the cooling and electrical systems for each container. Please stop and think about what that really looks like.

The application is contrary to Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) and EN14 (Control of Pollution) of the East Devon Local Plan. It is also contrary to the guidance on the interpretation of renewable energy developments with respect to cumulative impact. We also believe that the applicant should have consulted both with HSE and EA in relation to the risks associated with the possible loss of control of operations (COMAH/ SEVESO legislation).

It is the decision of Hawkchurch Parish Council that we continue to object to this application and respectfully request that it is refused at determination.

**Hawkchurch Parish Council
June 202**

Technical Consultations

EDDC Landscape Architect
1 INTRODUCTION

This report forms the EDDC's landscape response to the full application for the above site.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 REVIEW OF SUBMITTED DETAILS

Landscape and Visual Appraisal

The assessment is the same as submitted with the previous application (22/2216/MFUL) and does not reflect subsequent changes to the site layout including the omission of the previously proposed 4m high earth bund. The description of the proposed works and associated effects should be amended to reflect the current site layout.

Preliminary Site Layout (dwg. no. AR-01-L16 rev. 4)

The revised layout is generally acceptable but a minimum 2m width access corridor should be provided between the face of the proposed hedgebank on the eastern edge of the battery compound and the adjacent acoustic fence, to allow light to the western face of the hedgebank and provide an adequate maintenance corridor between it and the acoustic fence.

The extent of woodland planting to the frontage of the site is limited by requirements for underground attenuation in the northeast corner of the site. However to the south of the site access road the proposed width of woodland planting should be extended to within 3m of the existing roadside hedgebank.

The proposed woodland mix should be amended to include a mix of tree species such as birch, holly, crab apple, oak supplied as both transplants and featherds.

Soft landscape proposal (dwg.no. BLA 146-01 revision D)

The layout should be amended to reflect comments above regarding the width between the proposed acoustic fence and hedgebank and increased area of woodland.

Reference is made on the drawing to Devon Hedge Group hedgebank detail 'Hedge Creation 1'. For the avoidance of doubt the actual detail proposed should be submitted as part of the application.

The planting notes should be expanded to cover, soil depths and quality, weed clearance, mulching, tree pits and staking and means of protection during establishment period.

A method statement for the construction of the hedgebank should be provided by condition should the application be approved.

Drainage strategy (dwg. no. D100 revision P2)

The layout shown on the drainage strategy is based on the previous site layout and should be amended to reflect the change in the site access road alignment shown on the preliminary site layout plan as this may affect the layout of the attenuation crates.

Consideration should be given to changing the internal access roads from tarmac to bound gravel surface which would be more in keeping and increase site permeability.

A further increase in site permeability could be achieved by raising the container units slightly above finished ground level, with shallow attenuation pits beneath and providing an open ditch between the proposed acoustic fence and Devon hedgebank.

The above measures could help to reduce the volume of attenuation crates required as well as providing additional bio-diversity benefit.
Battery Fence and Gate Details dwg. no. AR—P10

The gates are shown as up to 6m wide. As the access road is only 4m wide the gate width should be amended to match.

Acoustic fence

A detail for the acoustic fence including colour finishes is required. This could be provided by condition.

CONCLUSIONS & RECOMMENDATIONS

3.1 Acceptability of proposals

The application will have an adverse impact on the site itself introducing incongruous industrial infrastructure into an undeveloped field in open countryside and altering the topography, notwithstanding the existing electricity and renewable infrastructure to the south, west and north. The visual impact will be greatest during construction and at completion of installation works. However, views into the site are limited and development would not be visible in long views across the landscape. Whilst there would be some harm initially to local landscape character and the appearance of the area in close views from Pound Road, these are capable of mitigation in the medium term with appropriate site design and planting.

There are some issues with the submitted details as noted at section 2 above which should be resolved prior to determination or, where noted, by condition should the application be approved.

3.2 Conditions

Should the application be approved the following conditions should be imposed:

1) No development work shall commence on site until the following information has been submitted to and approved by the LPA:

a) Soft landscape specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.

b) Tree pit and tree staking/ guying details.

c) Method statement for creation and maintenance of species rich grassland and wetland habitats.

d) Details of proposed colour finishes to fencing and housings for inverters, storage units and batteries, including relevant BS/ RAL reference.

e) Details of proposed under and over ground cable routes together with method statements for taking underground cables through any hedgebanks.

f) Construction details for proposed hardstandings, trackways and associated kerbing and edgings.

g) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- schedules of volumes for each material.
- expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
- identification of person responsible for supervising soil management.

h) A phasing plan for construction. This should identify the early construction and planting of Devon hedgebanks to ensure that turves from site excavations are available for construction of the banks themselves and to enable associated planting to establish as soon as possible.

i) Method statement for construction of Devon hedgebanks including construction detail, details of proposed specialist sub-contractor demonstrating relevant experience experienced in traditional hedgebank construction, method of turf cutting and placement, supply and compaction of soil fill.

2) Notwithstanding the landscape details submitted, no site works shall begin until a site specific Landscape and Ecology Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of landscape elements and bio-diversity measures.

The Plan shall set out the landscape and ecological aims and objectives for the site along with the specific management objectives for each landscape/ ecological component, and the associated maintenance works required on an Annual and Occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided.

The plan shall include an as-existing condition survey for each length of hedge, identifying its position on the Hedgelink hedge management cycle, any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range, cutting height and frequency.

The Plan shall cover a period of not less than 30 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan for the duration of the operational phase of the development.

3) No site works shall begin until a detailed decommissioning plan has been submitted for reinstatement of the site at the termination of the consent period or in the event that the proposed development ceases to operate prior to that. The plan should cover the removal of all site infrastructure and identify any areas of new habitat creation/ planting to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

4) The works shall be carried out in accordance with the approved details. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) of the East Devon Local Plan.

EDDC Trees

It is noted that it appears that arboricultural impact assessment accompanying the new proposal, which includes a tree survey, tree constraint plan and tree protection plan is the same as for the previous application though for a slightly amended scheme. The new scheme is considered an improvement on the previous from a tree perspective and no concerns are raised. I therefore have no objection. However if consent is granted, an up to date tree protection plan will be required.

The following condition should be put in place to ensure the retained trees are afforded protection during construction.

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), an up to date scheme for the protection of the retained trees, hedges and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the

subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

g) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

Contaminated Land Officer

I recommend approval with the following condition:

A containment mitigation scheme must be in place in order to minimise the risks in the event of a battery leak or thermal runaway event taking place on the site. The

secondary containment must be impermeable to the specific chemicals contained within the batteries. The minimum volume of the secondary contaminant should be at least equivalent to the capacity of the batteries plus 10% and have no opening used to drain the system. The containment mitigation scheme should be submitted to, and approved in writing by, the LPA. The scheme shall be implemented as approved.

DCC Flood Risk SuDS Consultation

Recommendation:

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:

The applicant have previously submitted the same application under Planning Permission 22/2216/MFUL.

The applicant have submitted Pound Road Battery Energy Storage System Land North East of Axminster National Grid Substation, Pound Road, Hawkchurch (Report Ref. 22-0428, Rev. 02, dated August 2022) together with a covering letter dated 27th February 2023 to address the comments that we made under Planning Permission 22/2216/MFUL.

Infiltration testing have been carried out and an infiltration rate of 1.9×10^{-5} m/s (0.070m/hr) was used in sizing the soakaway for an impermeable area of 0.680ha (0.533ha for the substation and battery storage facilities and 30% of 0.488ha of graveled areas). It was mentioned in Section 2.9 of the report that a deeper trial pit of 2.7m was excavated and no groundwater was encountered.

We are pleased to see that infiltration testing has been undertaken on site and that an infiltration based solution is proposed. However in the absence of groundwater monitoring, we would require an alternative attenuation based strategy to be put forward in case the results of the monitoring indicate that there is water within the required 1m of unsaturated zone between the base of the soakaway and the maximum winter groundwater level. The alternative strategy should have a feasible discharge receptor.

The covering letter mentioned that there is a drainage ditch located along the site eastern boundary which provide an alternative suitable point for surface water to be discharged. The applicant shall therefore provide a plan showing the connection to the ditch together with the calculation to identify the attenuation storage required to enable us to approve this planning application.

Yours faithfully
Hock Lee
Flood and Coastal Risk SuDS Engineer

DCC Highway Authority

Comment Date: Fri 30 Jun 2023

Observations:

I have visited the site in question and reviewed the planning documents.

Solar farms and battery energy storage systems tend to produce limited trip generation once in use due to the nature of the works and minimal maintenance required.

Therefore to assist in the time-limited construction period, I recommend the provision of a Construction and Environment Management Plan, (CEMP), to help mitigate the effects upon the local highway network.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. 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.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Officer authorised to sign on behalf of the County Council
30 June 2023

Annex A – Additional advice

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of ‘best and most versatile’ agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on Gov.uk website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying *Good Practice Guide for Handling Soils in Mineral Workings*.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on Gov.uk. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

Annex A – Additional advice

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be

incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's Biodiversity Metric 4.0 may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the Small Sites Metric may be used. This is a simplified version of Biodiversity Metric 4.0 and is designed for use where certain criteria are met.

Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside Biodiversity Metric 4.0 and is available as a beta test version.

Green Infrastructure

Natural England's Green Infrastructure Framework provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI) . GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the 15 Green Infrastructure Principles. The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be

considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Annex A – Additional advice

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

Other Representations

57 letters of objection –

- EDDC Planning Committee determined that 22/2216/MFUL was not renewable or low carbon as there was no evidence that it would be used to store energy from low carbon sources.
- It is an industrial development on a greenfield site.
- Should not be positioned so close to recently approve BESS at Wyld Meadow Farm nearby in Dorset which was approved recently.
- Draw EDDC attention to the 2010 Equality Act, section 149 Public Sector Equality Duty.
- No assessment of cumulative effect with solar farms.
- It would damage the extremely rural and beautiful landscape.
- It is purely for trading for profit taking advantage of variable prices for electricity.
- It will not benefit anyone locally.
- It is not a green development as energy to be stored in the BESS is not necessarily from renewable generation.
- The batteries are not green due to the materials required to make them require some of the most environmentally destructive extraction and processing methods.
- Should a fire break out there is a risk of water pollution.
- The fire service is not a statutory consultee which means no safety review of the site.
- There are springs in the area used for private water supplies.
- The site drains into the River Axe catchment, which is an SAC and SSSI.
- Other sites have caught fire, burned for 3 days and took 3 swimming pools' worth of water to extinguish.

- No details of battery type or capacity.
- Ecological report does not acknowledge the importance of the area for bats.
- There is grey long-eared bat maternity roost less than 2km north of the site. Hawkchurch is only one of eight confirmed maternity roosts nationally.
- Natural England has recognized the importance of the area as land 500m north of the site has been entered into a Higher Tier Countryside Stewardship agreement in recognition of the species rich meadows and rare species.
- NPPF requires that all development shows biodiversity net gain.
- Farmland should be used for growing food; food security. Site is majority grade 3a agricultural land.
- There is a preservation order on the hedge line screening the substation which would be removed.
- National Grid has major plans for expansion of the sub-station. A fire could also affect the substation and cut power in the south-west and destroy the village.
- Contravenes Strategy 7 of the Local Plan due to its location.
- Contravenes Strategy 39 of the Local Plan as the energy store is not necessarily from renewables.
- It is said due the risk of fire/explosion the site needs 4m high bunded walls and embankments, to act as a sound barrier, as well as a 6.5m tall substation, higher than a two-storey dwelling.
- They should pay business rates.
- Will adversely affect the views from the Monarch's Way.
- Local Plans are not properly coordinated.
- Hazardous Substances Regulations are being ignored.

Devon CPRE additional comments:

- Lack of explanation why there would be 57 inverters and 29 transformers.
- There are no details of the batteries.
- The applicant should provide the storage capacity of the proposal before a decision is made. It is estimated at 180MWh.
- It would store, not generate energy and is thus not a renewable energy scheme.
- It is not stated why the site was chosen. It is not necessary to use a greenfield site.
- Neither the PS or DAS describe the safety issue of the proposal.
- Experience from around the world show that BESS installations are a major risk to the local community and environment due to the storage of high density chemical energy.
- Thermal runaway events can be explosive and spread and are difficult to bring under control.
- There are not copious amounts of water available nearby to deal with a fire.
- The design should be made with guidance from the fire service.
- The applicant needs to apply to EDDC for Hazardous Substances Consent and until that is done EDDC should not consider the planning application.
- Cumulative impact with other BESS proposals on the landscape.
- Decommissioning details not provided.

PLANNING HISTORY

Reference	Description	Decision	Date
22/2216/MFUL	Installation of a battery energy storage system with associated infrastructure and works.	Refusal and appeal lodged, to be heard by Public Inquiry	03.03.2023

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 39 (Renewable and Low Carbon Energy Projects)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN18 (Maintenance of Water Quality and Quantity)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

E4 (Rural Diversification)

E5 (Small Scale Economic Development in Rural Areas)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Site Location and Description

The site lies immediately north and adjacent to the Electricity Distribution Site on Pound Road in Hawkchurch and measures 2.6 hectares in area. The western and northern boundaries abut an existing solar farm while the eastern boundary is formed by Pound Road itself. Unlike the adjacent solar farm which has a public right of way running through it there is no public access to this site.

The Pound Road boundary is comprised of mature hedge with varying depths and heights, including some mature trees in its length. The site itself is pasture land with little vegetation within it but the other boundaries also feature hedges and trees of similar character.

The site does not lie within any designated areas. The Dorset AONB is located approximately 660m to the south of the site and also 2km to the north.

There are three listed buildings within the 1km study area, with High Stonebarrow Grade II listed building located approximately 620 m east. Lambert's Castle: an Iron Age hillfort 425 m west of Nash Farm, with a bowl barrow, and the sites of a post-medieval fair and a telegraph station Scheduled Monument is located approximately 1.8 km east of the Site.

The development

The main components of the proposal comprise:

- The battery energy storage system comprises a series of linked batteries housed in shipping containers (or similar structures in appearance). The battery containers measure 12.2 m (L) x 2.4 m (W) x 2.9 m (H). Safety systems and firefighting systems, including automatic shut off and temperature monitoring of battery units, are built into the containers.
- Adjacent to the batteries are inverters (3 m (L) x 2.4 m (W) x 2.9 m (H)), transformers (4.1 m (L) x 4.1 m (W) x 2.2 m (H)), cooling systems and other electrical plant and equipment required. These will typically be housed within (or externally on) containers. The transformer will be fenced.
- Adjacent to the battery containers are a series of containers and electrical infrastructure, linking the batteries to the proposed on-site 132kV substation compound which has a maximum height of approximately 6.5 m, these include a switch room measuring 11.7 m (L) x 4 m (W) x 3.9 m (H) and control room measuring 6 m (L) x 3 m (W) x 3.9 m (H). The buildings and electrical infrastructure comprise the plant and equipment necessary to export the electricity stored onsite to the electricity network.

- A 2.4 m high metal weld mesh security-fenced encloses the battery compound and its associated plan. A 4m high acoustic fence along the eastern side of the compound but set inside (west of) the existing roadside hedge (40m away) and inside of the proposed tree planting area;
- Security and monitoring CCTV/infra-red cameras mounted on up to 3 m high posts along the internal perimeter of the Site;
- Underground cabling to connect the battery, associated containers and electrical equipment to the proposed on-site 132kV substation are included within the proposals;
- Underground cabling to link the proposed 132kV substation to the existing Axminster National Grid Substation form part of the application;
- Site access from the public highway off Pound Road running through the Site, together with the required access improvement works and visibility splays, are included within the site and proposals;
- Landscaping, planting, minor earthworks, biodiversity enhancements and surface water attenuation measures are included in the scheme having been designed as part of the proposals.

Background

The current application is a re-submission of planning application ref 22/2216/MFUL for the same development, which was refusal planning permission for the following reasons:

1. The proposal is not considered to be a renewable or low carbon energy project as there is no evidence that it would be used to store energy from low carbon sources and therefore represents inappropriate development in the countryside. Furthermore it would have a harmful impact on the landscape character and quality of the area when considered in combination with other installations in the locality and would therefore be contrary to Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013 - 2031.
2. There is insufficient information on the quality of the agricultural land upon which the proposal would be located to determine whether it would lead to a loss of best and most versatile agricultural land and if so whether there is an overriding need for the development, sufficient land of a lower grade is available that could accommodate the development or the benefits of the development justify the loss of the high grade agricultural land. As a result the development is considered to be contrary to policy EN13 (Development on High Quality Agricultural Land) of the East Devon Local Plan 2013 - 2031.
3. There is insufficient information on the health and safety measures that would be put in place to control battery leakages and fire that could arise in the

event of a failure at the site and as a result it is considered that the development could lead to a significant health and safety risk to residents that would be contrary to policy EN14 (Control of Pollution) of the East Devon Local Plan 2013 -2031.

The current application includes additional information with regard to the matter of whether or not the development stores low carbon energy and how in general battery storage contributes to the goals of lowering carbon emissions. Further information on agricultural land classification is provided and a Safety Management Plan has been provided.

In considering the current application it is relevant for Members to consider if information is now available that satisfies some or all of the previous reasons for refusal and should it be considered that only some of the reasons for refusal are now satisfied whether the harm arising from any remaining issues when put into the planning balance still outweighs the benefits of the development.

ANALYSIS

The principle of development

There is no made Neighbourhood Plan for Hawkchurch despite the parish being designated as a neighbourhood area in April 2015. The relevant development plan for determining the application therefore is the EDDC Local Plan.

Strategy 7 does not permit development outside of Built-Up Area Boundaries unless permitted by some other policy in the LP. One such policy is Strategy 39 and this permits such developments in the open countryside subject to criteria.

Strategy 39 of the Local Plan 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.

The Council has previously accepted (application 17/2318/FUL for a BESS at Hill Barton Business Park was approved at the Planning Committee of 4 January 2018) that such installations are 'low carbon energy' projects as this is defined in the Local

Plan as including technologies 'that can help reduce emissions (compared to conventional use of fossil fuels)'. In simple terms, such energy storage facilities can be used to store energy from the grid when renewable generation (not necessarily from the solar farm at the site) is in excess of demand. Prices during this time will be lower (supply exceeding demand) and can be used later when prices are higher, which typically is when renewable generation is low. The power fed back to the grid will reduce the amount of non-renewable generation required during such times and in this way is considered to reduce emissions that otherwise would have been generated. The comments of the objectors regarding emissions generated to make the BESS equipment is noted but are not specified as a consideration in Strategy 39. Of course, anything which is manufactured will likely generate emissions but this will be offset in due course by the savings in emissions a BESS (or for that matter solar panels or wind turbines) facilitates. As the electricity grid becomes greener (as it has over the last two decades) this payback period becomes even shorter. The same can never be said of fossil fuel derived energy.

The previous application (22/2216/MFUL) was refused by the Planning Committee for the following reason:

"The proposal is not considered to be a renewable or low carbon energy project as there is no evidence that it would be used to store energy from low carbon sources and therefore represents inappropriate development in the countryside. Furthermore it would have a harmful impact on the landscape character and quality of the area when considered in combination with other installations in the locality and would therefore be contrary to Strategy 7 (Development in the Countryside), Strategy 39 (Renewable and Low Carbon Energy Projects) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013 - 2031."

The applicant has since provided evidence in relation to this matter. The following extracts are relevant:

"1.6 Battery storage is a form of storage that is currently available technology today. Battery storage schemes can be either co-located alongside intermittent renewable generation such as solar PV or wind on the same site and sharing the same grid connection; or located on a standalone basis on a separate site but still helping to balance both the supply and demand and power quality requirements of the power grid where renewable generators are connected to the same grid system. In co-location schemes battery storage can be used locally by storing excess generation from its adjacent solar PV farm or wind farm or both during periods of low demand and exporting this energy to the grid during peak demand periods. Or, if the batteries have capacity during a windy night when there is no solar generation but lots of wind power and relatively little demand, they can be charged from the grid to meet peak demand the following morning. In either case the peak use would be less reliant on fossil fuel generators coming online to meet short term demand, something which causes significant carbon emissions. For standalone battery storage, such as the proposed Axminster scheme this can also be used to store excess generation from solar PV farm or wind farm or both that are connected on the same grid system. This would occur, for example when power prices lower, or even become negative, as more solar PV or wind generates electricity on the power grid in response to periods

of more natural resource, a sunny or a windy day where supply starts to become higher than electricity demand.”

“1.7 A standalone battery storage unit sharing the same power grid as intermittent renewables such as solar PV or wind would physically also be able to capture the excess renewables generation via these power price signals and then export it back to the grid during periods of peak demand. Therefore, standalone battery storage schemes help the UK transition to Net Zero emissions. Battery storage also ensures that the simultaneous power quality requirements of the power grid are also met. For example, even when energy supply and demand balancing is met, the grid also requires that it is balanced from a power quality perspective including such requirements as the grid being required to stay within specific frequency and voltage bands. Battery storage helps to provide energy balancing but also helps to deliver power quality services such as frequency response necessary for the power grid. This need for balancing and power quality is amplified as the UK aims to transition to net zero emissions by 2050, or earlier, and more and more solar PV and wind farms are connected to power grids and historic balancing and power quality services previously from large thermal generators, such as gas and coal retire from service as part of the energy transition.”

“1.8 Currently, excess solar PV and wind in conventional power grids necessitate either curtailment of excess energy – by disconnecting renewable generators from the grid and/ or storage of this excess energy to be used later during times of peak demand. In Great Britain, qualified renewable generators are paid to be disconnected from the grid by National Grid to keep the supply and demand of electricity balanced in the grid when there is an excess of wind or solar compared to demand.”

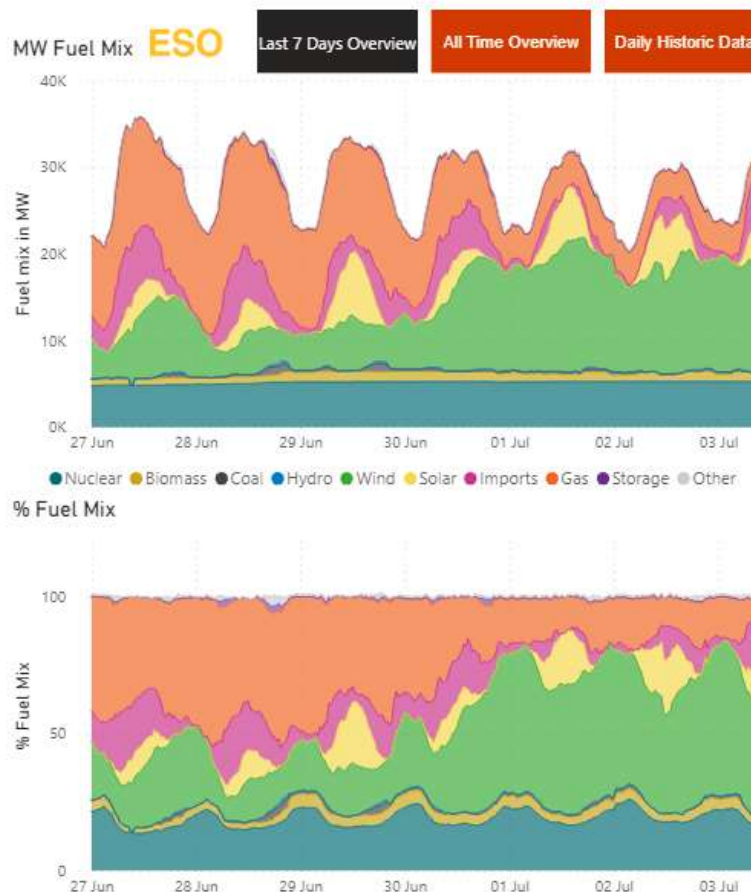
“1.9 Currently, excess solar PV and wind in conventional power grids necessitate either curtailment of excess energy – by disconnecting renewable generators from the grid and/ or storage of this excess energy to be used later during times of peak demand. In Great Britain, qualified renewable generators are paid to be disconnected from the grid by National Grid to keep the supply and demand of electricity balanced in the grid when there is an excess of wind or solar compared to demand.”

“1.10 Therefore, various forms of storage and flexibility provision are required in power grid systems. Battery storage is a common and growing choice among them. The battery storage development pipeline is now around over c 24GW in the GB system awaiting construction or with planning applications submitted according to The Government’s Department for Business, Energy and Industrial Strategy (BEIS) Renewable Energy Planning Database (January 2023 - [Renewable Energy Planning Database: quarterly extract - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/renewable-energy-planning-database)). Energy storage, including battery storage, helps to avoid curtailment and therefore increases the production of green energy; and the consumption of it. This is good as the UK is faced with an expected increase in electricity consumption, for example in charging EV cars in transportation and with increasing use of heat pumps in the heating sector.”

“1.14 In the US, Ken-Ichi Hino, Director of Energy at National Grid Renewables, says: “Storage enables further renewable generation, both from an operational and

reliability perspective. It's also a key piece of our utility customers' ongoing evolution and transition to renewables. We see significant opportunity for pairing energy storage with our solar projects moving forward."

In addition to this evidence one can easily refer to the National Grid Electricity Supply Operator website [ESO Data Portal: Historic GB Generation Mix - Dataset](https://www.nationalgrideso.com) [National Grid Electricity System Operator \(nationalgrideso.com\)](https://www.nationalgrideso.com) and obtain historic data on the generation mix in Great Britain. The following graphic shows that for the week between 27 June and 3 July 2023 there was at all times, including during the night, some form of renewable generation supplying the national grid with power. This amount obviously is variable but the graphic tells us that at most times there will be renewable power in the grid and available to charge the BESS. Clearly the deployment of a BESS installation on the grid allows excess renewable generation to be stored and so by definition a BESS system is one which can help reduce emissions and therefore falls into the forms of development permissible under Strategy 39.



The principle of development is therefore considered to be acceptable.

Landscape and visual impacts

While the site would see a significant and adverse change in its character and appearance, these effects would not be experienced beyond the site itself. Any effects that area apparent will diminish over time as landscaping becomes established to compliment the already existing mature boundary screening. Over 10

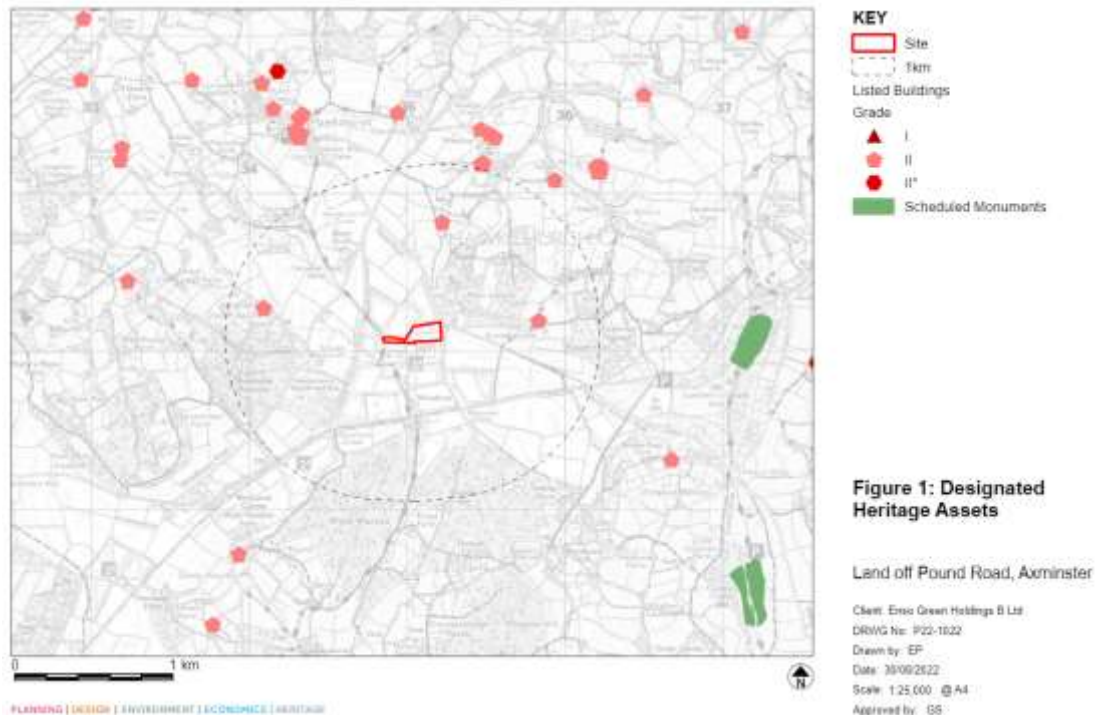
years there would be minor beneficial effect on existing trees and hedgerows. It is unlikely that there would be impacts on the Dorset AONB.

The landscape officer's comments regarding suggested changes to the proposed landscaping scheme are noted. The provision of at least 2m separation between the acoustic fence and the proposed new hedgerow to its east can easily be achieved and secured with an appropriate condition. Likewise the proposed species mix for the proposed woodland planting can be improved with a suitable condition. The extent of the proposed woodland planting can be increased on the southern side of the access road and the applicant has indicated a willingness to accede to the landscape officer's request generally via the use of appropriate conditions.

Objectors have referred to a need to assess alternative sites but cite no source for making this suggestion. There is no specific wording in S39 or its supporting text that requires assessment of alternative sites.

S39 does give a requirement to 'take appropriate steps in considering the options in relation to the location, scale and design for firstly avoiding harm'. Installations of the kind dealt with under S39 necessarily require, or at least favour, locations close to an appropriate point on the national grid where a suitable connection can be made. This is such a location (being immediately adjacent to the large electricity distribution station). Alternative locations would require an alternative willing landowner, a longer, less efficient, costly and potentially harmful means of connection (it has to be built, creating its own impacts).

The following figure show the site in proximity to heritage assets in the area. It shows that moving the site either north, east or west brings it closer to a number of heritage assets. Taking is south takes into the Dorset AONB (where incidentally a BESS was consented this summer within an existing solar farm (DCC reference P/FUL/2022/02658)).



While there is no obvious consideration of the alternative sites spelled out in such terms in the planning application, the applicant's supporting information clearly illustrates a knowledge of the constraints in the area through its technical reports which has led to the selection of the proposed site. There needs to be a proximity to the grid connection in this area. To site the development further east could bring it into conflict with heritage assets identified in the heritage impact assessment (including listed buildings and the Schedule Ancient Monument at Lambert's Castle) and the Dorset AONB. Bringing it further north would place it closer to even more listed buildings and closer to the Dorset AONB and Monarch's Way PROW. Bringing it further south would bring it very close to the Dorset AONB which is only around 500m away. Moving east brings it nearer to some other listed buildings. Hawkchurch itself lies to the north-east of the site, the source of most of the objections. It is highly probable that any such exercise would lead to the selection of the application site or one in the immediate vicinity. Therefore it is considered that appropriate analysis and steps has been undertaken in considering the options in relation to location, scale and design, for avoiding harm. There co-location of BESS installations on or near to renewable energy generation is not uncommon and there are advantages to taking this approach in respect of visual impacts; locating the BESS in this area to access the grid connection but remote from the existing solar and distribution infrastructure would of course spread the visual impacts over a wider area.

Subject to suitable conditions to further improve the landscaping mitigation the development is considered acceptable in respect of landscape and visual effects.

Trees

The supporting arboricultural impact assessment demonstrates that there would be minimal impact on trees and hedgerows. Some further information is required

however to confirm how specific trees and root protection areas will be protected during development. A suitably worded condition is suggested to address this.

Fire Safety and Pollution

Most of the objectors have raised concerns about these two matters.

One of the reasons for the refusal of application 22/2216/MFUL reads:

“There is insufficient information on the health and safety measures that would be put in place to control battery leakages and fire that could arise in the event of a failure at the site and as a result it is considered that the development could lead to a significant health and safety risk to residents that would be contrary to policy EN14 (Control of Pollution) of the East Devon Local Plan 2013 -2031.”

The applicant has provided a BESS Safety Management Plan to try an address this matter. The Plan envisages safety control measures including the following:

1. Appropriate battery chemistry selection - balancing energy density requirements against available volume and operating parameters. The preferred option under consideration being Lithium Titanate Oxide (LTO) which is in use in the public transport sector and in use on Underground and Overground Rail systems.
2. Cell level control – consideration of the use of battery technology incorporating Current Interrupt Devices (CID) and Positive Thermal Coefficient (PTC) protection, enabling the cell to disconnect from the battery in the event of cell failure.
3. Implementation in the design of an approved Battery Management System (BMS).
4. Implementation in the design of an Independent Protection System (IPS) and electronic Safety Supervisor Systems.
5. 24/7 Remote Monitoring and Control and automated shut-down.
6. Segregation of Containers.
7. Quench and suppression systems fitted to containers.
8. Site Security and Monitoring

In terms of Emergency Plan, the Plan states that “Emergency Plans will be developed in an iterative manner in parallel to technical safety requirements. This will ensure that the BESS design and Emergency Plans are properly integrated (e.g., that BESS layout ensures access for first responders) and that appropriate information can be provided to first responders (e.g., the type and meaning of external indication on containers) to include in their planning activities.”

A recent (5 December 2022) appeal decision in Mid Devon (APP/Y1138/W/22/3293104) against a refusal of planning permission for a combined solar farm and BESS facility considered the matter of safety (paragraphs 140 – 147 of the appeal decision letter). These paragraphs are copied below for reference:

The safety of the proposed BESS

140. *The issue of the safety of the proposed BESS was never a matter which was of concern to the Council in its planning considerations. For that reason it was not a reason for refusal even before the authority changed its stance.*

141. *The safety of the BESS was raised by CPRE in its evidence as a major source of concern [83, 84]. It became clear from that the evidence and from answers in cross-examination the CPRE's concern was founded on opposition to battery storage systems in general, which they consider to be a risk to local communities and to the environment generally, and was only related to this proposal to a limited extent. CPRE acknowledged at the Inquiry that their approach is not supported by policy or guidance at any level.*

142. *The appellant submitted extensive evidence on this matter, including that from an expert in the field, who explained the benefits and operation of BESS systems [64]. The rationale for a BESS system is to provide flexibility for the grid, storing off-peak energy and deploying it during peaks. Co-location with the solar farm is sensible in terms of economies of scale and minimising land take. The convincing evidence, supported by numerous policy references, was that BESS is a critical element in reaching a secure low carbon energy situation. This position is wholly in line with national policy.*

143. *CPRE was particularly concerned with the safety of such a system, and pointed in particular to two instances of catastrophic failure of such systems [84]. However the appellant correctly pointed out that these events, one of which was in the UK, were some time ago, and gave uncontested evidence to the effect that BESS technology and safety measures had moved on since those events [65]. Perhaps most tellingly, it is clear that national policy and guidance supporting that technology was produced subsequently – no doubt in full awareness of the incidents. This was accepted by CPRE.*

144. *From the evidence it is clear that this is not untested technology and although the detail of the systems is doubtless still evolving, there is very little to suggest that there is a substantial risk of thermal runaway leading to explosion or fire.*

145. *There was criticism from CPRE that no detail of the BESS has been fixed at this stage and the chemistry of the batteries has not yet been decided [80-82]. However in the context of evolving technology, this is not an unreasonable approach, and the proposal considered at the Inquiry is for solar panels to generate up to 49.9MW and a battery storage facility. It is reasonable that the final choice of technology will be fixed later.*

146. *Underlying all these matters is the fact that other regimes operate in this field to regulate the safe operation of such installations. National policy is clear that the focus of planning decisions should be on whether a proposal is an acceptable use of land, rather than the control of processes where these are subject to separate regimes. Planning decisions should assume that these regimes will operate effectively.*

147. *For the above reasons there is nothing in relation to the safety of the BESS which should weigh against the proposal in the planning balance.*

As can be seen in paragraph 144 that the Inspector considered that there was very little to suggest that there is a substantial risk of thermal runaway leading to explosion or fire. Nor was it considered problematic that the detail of the BESS was not fixed or their chemistry decided (paragraph 145). The Inspector finally states that National Policy is clear that the planning system operates to determine acceptable uses of land only rather than control of processes where these are subject to separate regimes. Planning decisions should assume that these regimes will operate effectively.

The Devon CPRE suggests that Hazardous Substances Consent is required but as it has noted itself, the type and chemistry of battery is not yet fixed (which the Inspector found acceptable above) and so this cannot be confirmed.

Noting the above considerations of the Inspector, the decision did though include a condition (24) as follows:

*Development of the battery storage compound shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP must prescribe for measures to facility safety during the construction, operation and decommissioning of the battery storage facility, including the transport of new, used and replacement battery cells both to and from the authorised development. The Local Planning Authority must consult with the Health and Safety Executive and the Devon Fire and Rescue Service before approving the BSMP. The BSMP must be implemented as approved.
Reason: To ensure that the battery storage compound is constructed and operated in a safe manner.*

The Devon & Somerset Fire and Rescue Service has been consulted on the latest planning application. At the time of writing this report no response has yet been received. Members will be updated at the meeting if a fresh response is received but the response received in relation to application 22/2216/MFUL (which is substantially the same in relation to this matter) was as follows:

“Thank you for your consultation regarding the above, dated and received by Devon and Somerset Fire and Rescue Service (the Service) on 3 March 2023.”

“Whilst the Service is not a statutory consultee in relation to this project, we welcome opportunities to work and engage with developers to ensure projects are delivered safely and that operators meet the statutory responsibilities that we enforce.”

“The Service recognises that Battery Energy Storage Sites (BESS) pose specific hazards in the event of fire that are still not fully understood or researched. As a result, regulations, enforcement and best practice to mitigate the risk from BESS is still in development.”

“The Fire Service’s own powers of enforcement under the Regulatory Reform (Fire Safety) Order 2005 require the Responsible Person to carry out and regularly review fire risk assessments to protect relevant persons by identifying fire risks and

removing or reducing them to as low as possible. It also requires the Responsible Person to mitigate against those fire risks that remain.”

“Having reviewed the documentation issued in support of this application, the Service notes that there is limited detail regarding the risk reduction and mitigation strategies to be employed for this development. Therefore, based on the information currently available, the Service is unable to make any further comment.”

“It is the expectation of the Service that information detailing the risk reduction strategies and the protective measures to be employed on the site should be submitted in a Fire Safety Management Plan (FSMP) covering the construction, operation and decommissioning phases of the development.”

“Once a FSMP has been prepared, the Service would be more than happy to comment on the details submitted.”

While a BESS Safety Management Plan has already been submitted it is considered expedient to apply this condition again as we do not yet have the consultation response from the Devon & Somerset Fire and Rescue Service. Members will be advised at the meeting if this or an alternative condition is necessary at the Planning Committee meeting.

In relation to application 22/2216/MFUL, both the EA and NE raised no objections to the proposals. In relation to this current application NE has simply provided the Council with its standard generic advice and does not appear to want to comment in detail. Any updated response in relation to this matter on the current application from the EA before the planning committee meeting will be reported at the meeting.

EDDC’s Environmental Health team has recommended a condition for details of sufficient containment (in the event of malfunction) to be agreed and installed which is considered reasonable.

It is not considered that there are any grounds to resist planning permission on these grounds and members are reminded that other regimes operate in this field to regulate the safe operation of such installations. Acting as the local planning authority the Council should only concern itself with land use in this matter and should be able to rely on other regulatory systems to manage processes taking place on it.

Highways

DCC has not objected to the development. No conditions are suggested but given the rural nature of the roads and the amount of equipment involved, conditions are suggested to proper management during construction, which would be a limited period, and provision of the access as planned.

Biodiversity

The main habitats of interest on the site are the hedgerows, the fields themselves being mostly laid to grass. The Preliminary Ecological Appraisal accompanying the application makes various recommendations for mitigation. In short these include:

- Protection of hedgerows during construction;
- Controlled lighting to minimise lighting on site and reduce effects on bats;
- Inspection of hedgerows/trees for birds prior to any works to them. Such works to be completed between September and February if possible;
- Erecting a perimeter fence to create a protection zone prior to construction for dormice

A suitable condition can be used to secure this mitigation and also the proposed works to bring about gains in biodiversity.

Noise

There is a dwelling immediately opposite the proposed entrance to the site (New House Farm) and also another a few meters further on (Tanglewood). There are a limited number of other properties further away.

A noise impact assessment is included with the application. It identifies that it would give rise to rating sound levels that are just above the measure background sound level in the area during the daytime and night-time, thus giving rise to a 'low impact to adverse impact'.

The assessment also identifies that no significant change in ambient sound level at the identified receptor locations will be engendered as a result of the proposed development in its proposed and assessed form and that the amenity of residential receptors and operational use of the nearest non-residential receptors will not be compromised.

Consequently, the assessment demonstrates that the Proposed Development will give rise to noise impacts that would be within the range of NOEL and NOAEL of the NPPG England guidance.

For ease of reference, the definition of No Observed Adverse Effect Level in PPG Noise is reproduced below:

"Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life."

This would conform to British Standard and National Planning Policy requirements, provided that the plant is constructed and operated in accordance with the acoustic assumptions of the report.

Mitigation is proposed in section 5.1.4 of the assessment. The Inverter units require that the sound levels are reduced to those presented in Table 6. This could be achieved by using low-noise plant, by an acoustic enclosure or by the manufacturer providing mitigation by insulating the units and including attenuated louvres.

Furthermore, a 4-metre high, noise barrier has been included on the east side of the site, to provide screening between the Battery Units and the nearest noise-sensitive receptors. The noise barrier should be solid, continuous, sealed at all interfaces and have a surface density in the order of 20kg/m², or provide a minimum sound reduction performance of 20-25 dB. Final details of mitigation should be agreed and secured by way of an appropriate condition as set out in the recommendation.

Agricultural Land Quality

The Best and Most Versatile Agricultural Land (BMV) is classed as grade 1 - 3a. The previous application did not provide any evidence on the exact grading and following objections the following reason for refusal therefore was formed as follows:

“There is insufficient information on the quality of the agricultural land upon which the proposal would be located to determine whether it would lead to a loss of best and most versatile agricultural land and if so whether there is an overriding need for the development, sufficient land of a lower grade is available that could accommodate the development or the benefits of the development justify the loss of the high grade agricultural land. As a result the development is considered to be contrary to policy EN13 (Development on High Quality Agricultural Land) of the East Devon Local Plan 2013 - 2031.”

The site has since been surveyed. The conclusion of this assessment is that much of the site is Grade 3a agricultural land. Best Most Versatile agricultural land falls into categories 1, 2 and 3a. While it is BMV land it falls into the lower category of BMV land. It does note that the site is enclosed on most sides by solar or electricity infrastructure and forms a modest parcel of irregular shaped land not linked with other productive fields. Consequently the assessment suggests it is of limited use for intensive agricultural production involving ploughing, seed drilling or harvesting. Aerial photography of the site from 1999, 2010, 2014/15, 2017 and 2020 show no signs of cultivation but use as pasture.

Drainage

The site is in Flood Zone 1 and presents no risks in that respect. Drainage proposals are outlined in the Flood Risk Assessment but Devon County Council as the Lead Local Flood Authority has objected. It required further calculations to identify the attenuation storage required and also a plan showing the connection to the ditch located along the eastern boundary of the site which provides an alternative suitable point for surface water to be discharged. It is considered that this can be secured via a suitable planning condition although a request for this information from the agent in advance of the planning committee has been made. Members will be updated if we receive further information and DCC's response.

Other matters

There are no listed buildings within sight of the proposed development and no other heritage concerns with the proposal.

CONCLUSION

The proposal is for a battery storage scheme and associated infrastructure. The proposed location for the development is in the open-countryside and adjacent to an existing solar farm and electricity distribution development. The site has no landscape designations.

The development meets the definition of 'low-carbon energy projects' as defined in the Local Plan and is therefore permissible in principle in a rural location. The development will assist in maximising benefits from existing renewable energy schemes by providing a means of storing excess power that is generated from renewable sources at times when otherwise such generation would be curtailed (i.e. switching off wind turbines). It would also enable (along with other storage schemes nationally) the deployment of more renewables as part of the energy mix, which would further reduce the carbon footprint of the economy, a key Government objective.

The location of the site provides good screening with limited views of the proposed equipment. Further landscaping is conditioned to mitigate what limited visual impacts there are. The site represents an industrial development in its character and appearance which is at odds with its rural location, although this rural location is somewhat industrialised in its appearance already. However these changes will be mitigated to an acceptable degree with suitable landscaping and the effects will be localised to the site itself.

The development will use the best and most versatile agricultural land (grade 3a).

The risk of pollution from the construction and operation of the installation is minimal and any residual risks can be minimised by engineering solutions.

Risks of fires and resulting pollution events are regulated by other legislative regimes and the planning system must operate on the assumption that these are effective. The Planning system only regulates land use.

The site is of modest biodiversity interest but the proposal offers some modest enhancements through planting and management of existing hedgerows.

Equally there are no impacts on heritage assets associated with the development.

The site is mostly comprised of grade 3a agricultural land. However it is considered that the usefulness of the field for meaningful food production is limited by its size, configuration and lack of association with other land used for cultivation. More importantly it is considered that there is an overriding need for the development and the benefits of the development justify the loss of the BMV land. These benefits include the very necessary grid balancing services the installation would provide to the national grid, the ability to reduce the need for more carbon intensive power generation in the move towards a Net Zero economy and the associated projected reductions in costs of power to UK consumers (the UK government estimating technologies such as

and including BESS installations could save up to £10 billion a year by 2050 - [British energy security strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/british-energy-security-strategy)).

On balance, the proposal is considered to be acceptable. 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 visual impact upon the landscape interests identified above is considered to be limited, it is considered appropriate to use such a condition to remove the proposal when there is no longer a requirement for the installation.

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

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. 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, 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 to 2031.)

4. Development of the battery storage compound shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP must prescribe for measures to facility safety during the construction, operation and decommissioning of the battery storage facility, including the transport of new, used and replacement battery cells both to and from the authorised development. The Local Planning Authority must consult with the Health and Safety Executive and the Devon Fire and Rescue Service before approving the BSMP. The BSMP must be implemented as approved.

(Reason - To minimise risks of accidents which could be harmful to the public and the environment in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) and policy EN14 (Control of Pollution) of the East Devon Local Plan 2-13 - 2033).

5. Details of chemical containment must be submitted to, and approved in writing by, the Local Planning Authority, prior to the first installation of the battery plant on site. The containment must be impermeable to the specific chemicals within the batteries. Such containment as approved shall be provided for the duration of the presence of the batteries on site. Should a new type of battery be installed on site during the life of the development the same details shall be submitted for approval again the Local Planning Authority in the same manner. (Reason - To ensure the facility minimises risks of pollution from escaping chemicals in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013 -2031).

6. The development shall proceed in accordance with the detailed scheme of ecological mitigation and enhancement measures detailed in the recommendations of the submitted documentation (below):

- Preliminary Ecological Appraisal, Pound Road BESS, August 2022 (Report reference WOR-2901.2)

- Biodiversity Net Gain Plan, Pound Road BESS, September 2022 (Report reference WOR-2901.2)

(Reason: In the interests of biodiversity in the area and to ensure that enhancements forming part of the proposal are approved and implemented, in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2033.)

7. No development must commence until a Noise Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the recommendations set out in the Noise Impact Assessment (dated 7 September 2022). The approved scheme must be implemented as approved for the life of the development.
(Reason: In the interests of the amenity of occupants of nearby dwellings in accordance with policies D1 (Design and Local Distinctiveness) and (EN14 (Control of Pollution) of the East Devon Local Plan.)
8. No external lighting shall be installed on site until the details of the lighting, columns, including their number, type and locations, the intensity of illumination and predicted lighting contours and the details of when the lighting would be operational have been first submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure the lighting remains off at all times unless necessary for access, service and maintenance. Any external lighting that is installed shall accord with the details so approved.
(Reason: In the interests of the character and appearance of the area and to minimise the effect on bats in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2033.)
9. Within 40 years and six months following completion of construction of the development hereby permitted, within 12 months of the cessation of operational use, or within six months following a permanent cessation of construction works prior to the battery facility coming into operational use, whichever is the sooner, the batteries, transformer units, inverters, all associated structures and fencing approved shall be dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than twenty-eight working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme and timescale, the details of which shall be first submitted to and approved in writing by the Local Planning Authority no later than six months following the cessation of power production. (Note: for the purposes of this condition, a permanent cessation shall be taken as a period of at least 24 months where no development has been carried out to any substantial extent anywhere on the site).
(Reason - To ensure the achievement of satisfactory site restoration in accordance with Strategy 39 (Renewable and Low Carbon Energy Projects) of the East Devon Local Plan 2013 to 2031.)
10. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.
(Reason: To protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the East

Devon Local Plan 2013 - 2031 and the guidance contained with the National Planning Policy Framework.)

11. Notwithstanding the details on the plans hereby approved, no development work shall commence on site until the following information has been submitted to and approved by the LPA:

1)

a) Soft landscape specification covering soil quality and depth; soil preparation; planting and sowing; mulching; means of plant support and protection during establishment period and 5 year maintenance schedule.

b) Tree pit and tree staking/ guying details.

c) Method statement for creation and maintenance of species rich grassland and wetland habitats.

d) Details of proposed colour finishes to fencing and housings for inverters, storage units and batteries, including relevant BS/ RAL reference.

e) Details of proposed under and over ground cable routes together with method statements for taking underground cables through any hedgebanks.

f) Construction details for proposed hardstandings, trackways and associated kerbing and edgings.

g) A soil resources plan prepared in accordance with Construction Code of Practice for the Sustainable use of Soils on Construction Sites - DEFRA September 2009, which should include:

- a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- schedules of volumes for each material.
- expected after-use for each soil whether topsoil to be used on site, used or sold off site, or subsoil to be retained for landscape areas, used as structural fill or for topsoil manufacture.
- identification of person responsible for supervising soil management.

h) A phasing plan for construction. This should identify the early construction and planting of Devon hedgebanks to ensure that turves from site excavations are available for construction of the banks themselves and to enable associated planting to establish as soon as possible.

i) Method statement for construction of Devon hedgebanks including construction detail, details of proposed specialist sub-contractor demonstrating relevant experience experienced in traditional hedgebank construction, method of turf cutting and placement, supply and compaction of soil fill.

2)

Notwithstanding the landscape details submitted, no site works shall begin until a site specific Landscape and Ecology Management and Maintenance Plan has been submitted to and approved in writing with the Local Planning Authority. This shall set out responsibilities for maintenance within the site and cover the construction, establishment, management and ongoing maintenance of landscape elements and bio-diversity measures.

The Plan shall set out the landscape and ecological aims and objectives for the site along with the specific management objectives for each landscape/ ecological component, and the associated maintenance works required on an Annual and Occasional basis. Details of inspection, monitoring and reporting arrangements shall also be provided.

The plan shall include an as-existing condition survey for each length of hedge, identifying its position on the Hedgeline hedge management cycle, any initial works required to bring to good condition, such as gapping up, removal of invasive species etc. and requirements for cutting including intended height range, cutting height and frequency.

The Plan shall cover a period of not less than 30 years following the substantial completion of the development and shall be reviewed every 5 years and updated to reflect changes in site conditions and management prescriptions in order to meet the stated aims and objectives.

Management, maintenance inspection and monitoring shall be carried out in accordance with the approved plan for the duration of the operational phase of the development.

3) No site works shall begin until a detailed decommissioning plan has been submitted for reinstatement of the site at the termination of the consent period or in the event that the proposed development ceases to operate prior to that. The plan should cover the removal of all site infrastructure and identify any areas of new habitat creation/ planting to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

4) The works shall be carried out in accordance with the approved details. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the reasonable satisfaction of the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and

Local Distinctiveness), Policy D2 (Landscape Requirements) of the East Devon Local Plan 2013 - 2033.)

12. (a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), an up to date scheme for the protection of the retained trees, hedges and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.
- (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
- (c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- (d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
- (e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- (f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
- (g) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

Plans relating to this application:

AR-01-L-16 REV 04	Proposed Site Plan	23.05.23
AR-01-P01	Location Plan	23.05.23
AR-01-P03	Other Plans	23.05.23
AR-01-P04 REV 01	Other Plans	23.05.23
AR-01-P05	Other Plans	23.05.23
AR-01-P06	Proposed Elevation	23.05.23
AR-01-P07	Other Plans	23.05.23
AR-01-P08	Proposed Elevation	23.05.23
AR-01-P09	Proposed Elevation	23.05.23
AR-01-P10	Proposed Elevation	23.05.23
AR-01-P11	Other Plans	23.05.23
BLA146-01 REV D	Other Plans	23.05.23

List of Background Papers

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

Ward Newton Poppleford And Harpford

Reference 23/0624/FUL

Applicant Mr D Welch

Location Luscombes Back Lane Newton Poppleford Sidmouth EX10 0EZ

Proposal Replacement of 5no outbuildings associated to one dwelling, with 3no new outbuildings for workshop/store and stables.



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023	
Newton Poppleford And Harpford (Newton Poppleford And Harpford)	23/0624/FUL	Target	Date:
		17.05.2023	
Applicant:	Mr D Welch		
Location:	Luscombes Back Lane Newton Poppleford		
Proposal:	Replacement of 5no outbuildings associated to one dwelling, with 3no new outbuildings for workshop/store and stables.		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Committee owing to a difference of opinion between officers and the ward member.

Luscombes is a detached dwelling set within a large sloping plot, around 0.2 hectares in area, located on the northern side of Back Lane just outside of the Built-up Area Boundary of Newton Poppleford as defined in the adopted Villages Plan and made Neighbourhood Plan. The area is within the designated East Devon Area of Outstanding Natural Beauty (AONB).

The application proposal involves the removal of five ancillary structures positioned close to the rear boundary, on the most elevated part of the site, and the construction of three replacement outbuildings in the form of two workshop/storage buildings and a further building housing 2no stables. The scheme also includes the laying out of a concrete yard within the north eastern corner of the site and the continuation of an existing driveway that extends alongside the eastern boundary to create vehicular access to the proposed workshop/storage buildings.

It is accepted that the increase in aggregate floor area (approximately 80%) and volume of building, when compared with the existing outbuildings, that would result from the development would not be insignificant. However, it is considered that the extent of the additional impact upon the AONB that would result, taking that already created by the present structures into account, would not be unduly harmful to its rural landscape character or landscape or scenic beauty or to the amenities of neighbouring residents.

The development would be viewed from the main point of public vantage locally, namely the nearby playing field, in the context of the ribbon of properties along Back Lane of which Luscombes forms part. It would be visible against a backdrop of rising land, hedges and trees and would avoid both breaking the skyline and, owing to the generous plot size, appearing as an overdevelopment of the site.

Moreover, it is considered that the similarity of the proposed built forms and intended use of the same palette of wall and roof finishes (timber effect walls with metal roof sheeting, subject to details to be agreed) for all three buildings would be acceptable.

It is not agreed that the proposal would be in conflict with the various local and neighbourhood plan policies referred to by the parish council, ward member and interested third parties or that the various recommended grounds for opposing it could be readily substantiated in the event of an appeal. The overall balance of considerations is considered to weigh in favour of the development.

CONSULTATIONS

Local Consultations

Parish/Town Council

This application was discussed by Council at an Extraordinary Meeting on Tuesday, 18th April. Whilst Council acknowledges that the applicant has responded to objections to the previous application 22/2424/FUL (withdrawn) by reducing the height of the buildings, proposing two buildings where there was originally one and making changes to the materials to be used. However, on review this application remains substantially the same as the earlier application and there are fundamental issues that the applicant cannot alter:

1. This property is in an Area of Outstanding Natural Beauty
2. The property is situated in the countryside outside the village Built Up Area Boundary.
3. The property is on a sloping site highly visible from many parts of the village.
4. The land is Grade 1 Agricultural land.
5. The height of the buildings will be visible against the skyline and the aspect will be further compromised by the removal of existing, mature tree*.

This application contravenes a number of NPHPC Neighbourhood Plan policies ' namely: HQD1, H3, EP1, EP6, EP7 and TH1 for exactly the same reasons as were stated in Council's response to application 22/2424/FUL. The application also contravenes Strategy 7 and Policy EN13 of the East Devon Local Plan.

To allow this substantial development would result in the permanent loss of over 400 square metres of protected East Devon AONB. Council does not believe that the applicant has provided any mitigation for this or proved the 'exceptional need' required to justify such a loss. The proposed development is inappropriate in size, location and setting. On that basis Council voted by majority to object to this application.

* We note that the application form states that no trees are to be removed which is patently incorrect as the plans indicate the removal of 5 trees and their replacement with new trees which will take some years to reach maturity.

Newton Poppleford and Harpford - Cllr Chris Burhop

This application replaces 22/2424/FUL which was withdrawn by the applicant following significant objections from neighbours, the Parish Council and myself.

I note the change in design from one huge building to several smaller buildings. I am pleased that the original metal cladding design has been replaced with a timber clad proposal. However the proposed roof is stated to be in metal cladding which would be unacceptable under policy HQD1.

However the proposed principle structures appear to be located once again at the highest point on the plot, towering over the existing house and surroundings from the steeply sloping site. The change in height from the original application appears to be a mere 5cm, an almost insignificant reduction.

In contrast to the applicant's design and access statement (2.0 planning policies) I honestly cannot agree that the concerns raised in the original application have been addressed. In particular (NHP EP1) this does not "give great weight to the conservation and enhancement of the natural environment", "not... degrade the visual quality... of the rural landscape", "...appear dominant when viewed against skylines or significant lines or groups of large mature trees" (the applicant's location is directly in front of a prominent row of poplar trees which forms the skyline of the locale), "maintain and where appropriate extend tree cover" (despite not stated in the formal application form (presumably in error) the application actually calls for the removal of mature trees to facilitate building, to be replaced with newly planted trees. This cannot comply with this policy).

Furthermore I can only see the proposed increased facility of the site from this application leading to an adverse effect on the levels and frequency of noise in the area, in contrast to policy EP6.

The site is classed on EDDC's own register as being within the classification of best and most versatile agricultural land.

This application does not conserve or enhance the AONB.

There is a suspicion that this application has at least a semblance of an industrial workshop complex given the applicant's trade within the fishing industry and history of vehicular and storage access to the site. If this application is approved there must be an absolute condition that no outbuildings can be used for any form of trade or works.

The applicant is blessed with living in a beautiful location, in a prominent position on the edge of the village in the AONB. With that comes responsibilities to preserving the environment that they are custodian of. In my opinion the location is totally unsuited to the location and scale of buildings proposed, nor the nature of the expected storage.

Unfortunately, in my opinion, this latest submission fails to address the key issues identified in the previous application. I remain convinced that the application is flawed in respect of both the EDDC local plan and the Newton Poppleford neighbourhood plan.

Technical Consultations

None.

Other Representations

Two representations of objection have been received.

Summary of Grounds of Objection

1. Contravenes Local Plan (LP) Strategy 7 and Policy EN13; no over-riding need has been shown for non-agricultural or forestry development.
2. Doesn't meet requirements for development within the AONB, in the countryside outside of the Built-Up Area Boundary and within Grade 1 agricultural land.
3. Permission would set a dangerous precedent for future similar applications.
4. No exceptional need demonstrated to justify irreversible loss of AONB land.
5. No exceptions are made in either the LP or the NHP for private gyms, trailer parks, boat parks, classic car restoration, household tools & storage, lawn mowers, horses or car parking.
6. Equestrian use (i.e. stables and hay storage) is specifically not supported by NHP policy EP1 h) which requires developments within the ED AONB to "avoid causing damage from leisure use (e.g. equestrian)."
7. The land could be used for agriculture in the future; therefore irrelevant that it is not so used at present. Existing temporary buildings could be removed to return the land to agricultural use but proposed permanent development could not.
8. New buildings would not be subservient to the main dwelling.
9. Contravenes NHP policy EP1 f) as the height of the new buildings will be visible against the tree line, preventing a 'soft edge' to the ED AONB, especially as this site is on a hill and the existing screening trees will be removed.
10. No reasonable justification for the height of the new buildings
11. The development site is far too big with approx. 400 sq. m. of AONB permanently lost to buildings and hardstandings.
12. Removal of trees contrary to NHP policies TH1 3a), 3b) and 3d), EP1 a), b), e) g) and EP7 a),
13. Replacement tree planting will not provide effective screening or the same ecological benefit for many years, possibly decades.
14. Application contravenes NHP policies EP1 a), b) and c); the proximity of the new buildings to ancient hedges will adversely affect the environment, habitats and wildlife.
15. Applicant's lifestyle choices, resulting in storage and space issues, are not a valid justification for sacrificing AONB or Grade 1 agricultural land.
16. Night time light from the roof lights could affect bats.

PLANNING HISTORY

Reference	Description	Decision	Date
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22/2424/FUL	Erection of workshop/store and stable	Withdrawn	17.03.2023
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

Made Newton Poppleford and Harpford Neighbourhood Plan 2020-2031 Policies

EP1 (Conservation and enhancement of the East Devon AONB and Natural Environment)

EP2 (Minimising damage to existing properties)

EP4 (Surface Water Run-off)

EP6 (Local Amenity)

HQD1 (Maintain the built character of our parish through High Quality Design)

TH1 (Trees and Hedgerows)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

Luscombes is a detached two storey dwelling that occupies a sizeable plot, approximately 0.22 hectares in area, located on the northern side of Back Lane to the north of Newton Poppleford village centre.

It is located at the western end of a ribbon of six residential properties and almost opposite the Newton Poppleford Playing Field.

The site occupies a hillside position and therefore slopes down relatively steeply from north to south with the dwelling itself positioned nearer to the road frontage, albeit still comparatively elevated above the level of the highway.

A group of five ancillary single storey outbuildings to the rear occupies the highest part of the site close to its northern boundary, which is defined by an established hedge. An access driveway extends alongside the eastern site boundary with the neighbouring property Applegarth and connects these buildings with the principal dwelling.

The whole area forms part of the designated East Devon Area of Outstanding Natural Beauty (AONB).

Proposed Development

The application proposal involves the removal of all five outbuildings and the construction of two workshop/storage buildings (of different sizes) and a further building incorporating two stables.

The submitted details show the two proposed workshop/storage buildings to be positioned adjacent to one another alongside the rear site boundary. Both would be of identical gabled form, design and appearance, featuring vertical 'timber like' cladding with shallow pitched roofs finished with metal sheeting.

The larger building would measure 10.5 metres squared whilst the smaller building would measure 10.5 metres by 5.4 metres. Both would have roof eaves and ridge heights of 3.1 metres and 4.5 metres respectively.

The stables, which would be positioned to the south of the workshop/storage buildings, would exhibit a matching built form and external wall and roof finishes. However, it would be oriented at right angles to them and of smaller scale, measuring 7.7 metres in length by a depth of 4.8 metres (excluding a front roof overhang) with roof eaves and ridge heights of 2.1 metres and 3 metres respectively.

The workshop/storage buildings would be used for a variety of storage purposes ancillary to the use and occupation of the property, currently proposed to include storage for a boat and brake trailer and associated safety equipment and other miscellaneous items, two ride-on lawn mowers and, as and when required, a pick-up truck, 2no trailers and a car.

The larger building would also incorporate floor space for the carrying out of restoration work on classic cars (on a hobby basis only) while the smaller building would also house a gym.

It is proposed to remove five young trees to enable the extension of the existing driveway so as to serve the buildings and lay a concrete yard within the north eastern corner of the site. Mitigation in the form of compensatory tree planting is proposed to the south of the extended driveway with the objective of it in time screening the two proposed replacement workshop/storage buildings.

The application is a revised submission following the withdrawal of a previous scheme - subject of application ref. 22/2424/FUL - relating to the construction of a considerably larger single workshop/storage building and separate stables on the same part of the site. The decision to withdraw the application was made in the light of advice as to a likely officer recommendation to refuse on the basis of the excessive scale, and lack of subservience, of the workshop/storage building in relation to the main dwelling as well as its inappropriate design and appearance, principally on account of the intention to use metal wall sheeting; these objections being accentuated by both the elevated nature of the siting of the buildings and the absence of any robust justification for the scale of the workshop/office building, in particular.

Considerations/Assessment

The proposal falls to be considered having regard to the following material considerations that are discussed in turn.

Principle of Development

There is no objection to the fundamental principle of the replacement of ancillary domestic outbuildings.

There is therefore a need to consider the proposal against the more detailed contextual issues set out below.

Design/Appearance and Impact upon AONB

The main material detailed consideration in the assessment of the proposal once again relates to the impact of the proposed development upon the rural landscape character and appearance and landscape and scenic beauty of the designated AONB.

Comparison has been drawn, within the applicant's agents' design and access statement, between the footprint areas and heights of the buildings proposed under application 22/2424/FUL, those proposed under the current application and the existing outbuildings that are to be replaced.

These show the proposed aggregate footprint areas of the two proposed workshop/storage buildings to have been reduced by around 64 square metres (from 221 sq. m. to 157 sq. m.) from the single building proposed under application 22/2424/FUL. This equates to an approximate reduction of 29% in footprint area.

Moreover, although these would still result in an increase of around 85 sq. m. when compared against the aggregate footprint area of the five existing outbuildings (106 sq. m.) to be replaced, representing an approximate 80% increase, the original proposals - submitted under application 22/2424/FUL - envisaged the single building incorporating an area in excess of double this area that would have extended across the plot right up to its eastern boundary with Applegarth. The current proposals would therefore involve more than 20% less floor space overall than before.

Furthermore, neither workshop/storage building would exceed the height of the tallest of the existing outbuildings on the site, which measures 4.6 metres.

It is also considered that the intended use of 'timber like' cladding (the precise detail of which could be secured by condition in the event of a grant of permission; indeed, a natural timber finish would be most appropriate) would represent an improvement, in visual terms, over the metal wall sheeting proposed for the larger single building under application 22/2424/FUL on the basis that this would present a more agricultural, and less commercial, appearance that would be more in keeping with the largely agricultural character of the surrounding countryside to the north of Back Lane.

In addition, it is also contended that the consolidation of the floor space and volume of the existing outbuildings, all of which are of a variety of sizes, forms and appearances, into a smaller number of buildings of similar form and appearance to one another would also improve, to some extent, the appearance of this part of the application site, notwithstanding the appreciable increase in the total overall footprint and volume of building that is still being proposed.

Indeed, when viewed from the main - and, it is considered, only significant - point of public vantage that is available of the site, namely the nearby playing field, it is thought that the overall visual impression that would be created would not be entirely dissimilar to the cumulative impact arising from the existing buildings. From the views available from the playing field, these are spread across the site from west to east and it is not anticipated that the visual effect of the proposed replacement buildings would be so markedly different to the cumulative impact arising from the existing cluster of buildings as to result in materially greater harm to the character or appearance of the area, even allowing for their greater aggregate volume and the overall heights of the two workshop/storage buildings.

Although cumulatively continuing to lack the subservience of the present structures in relation to the main dwelling, it is thought that the combination of the disaggregation of the previously proposed workshop/storage building into two smaller buildings (whose aggregate footprint area would be smaller than before), an improved palette of external finishes that would be more in keeping with the rural setting of the site, the view that the site is sufficiently large in area to accommodate the development without the scheme amounting to overdevelopment of the site and the intention to undertake screen planting represent material factors weighing in favour of this revised proposal.

Whilst the comments made by the parish council, ward member and interested third parties are duly acknowledged, the following points are also drawn to Members' attention.

The fact that the site is within the AONB is not, of itself, reason to withhold a grant of planning permission. Although it is recognised that such areas carry the highest status of protection in relation to the conservation and enhancement of their landscape and scenic beauty within relevant guidance set out in the National Planning Policy Framework (NPPF), this does not equate to a moratorium on development within them. It remains necessary to consider proposals on their individual merits and, in this case, having regard to the balance of the material considerations set out above, it is not thought that the development would result in a

level of harm to the landscape or scenic beauty of this part of the AONB that would justify refusal on such grounds.

The development would be viewed from limited points of public vantage amidst a group of buildings in the form of the ribbon of development of which Luscombes forms part. It is not accepted that it would be visible from 'many' parts of the village as has been claimed. Furthermore, whilst recognising that it would occupy the most elevated part of the site, it is highlighted that, as now, the development would be viewed against the backdrop of a hedge and mature trees beyond, in relation which it is not thought that it would appear unduly dominant to the extent that harm to the rural landscape character or landscape or scenic beauty of the AONB would result.

Furthermore, although the site is located just outside of the Built-up Area Boundary (BuAB) of the village as defined in the adopted Villages Plan and made Neighbourhood Plan, and therefore in policy terms forms part of the countryside beyond it, this does not itself preclude the principle of ancillary development in relation to existing dwellings such as that to which the application relates. Again, it is necessary to consider such proposals on their individual merits.

The design, siting and scale of the buildings is considered to be acceptable in terms of its appearance and impact on the landscape character of this part of the AONB.

Loss of Agricultural Land

Although the site is technically within an area of land that is classified as Grade 1 agricultural land according to the Agricultural Land Classification map, there are two points to highlight. First, as well as the other residential properties within the ribbon of development of which Luscombes is part, this classification also washes over properties in Lark Rise and Hazel Close to the south of Back Lane that are within the BuAB. Secondly, the application site forms part of the land associated with Luscombes and is not agricultural land. The proposed development would not therefore result in any loss of best and most versatile agricultural land as implied by the objection or, therefore, conflict with Local Plan Policy EN13 (Development on High Quality Agricultural Land) which seeks to protect such land.

Furthermore, it is not considered that an argument that the site, which forms part of the applicant's private land holding and is even arguably part of the recognisable curtilage attached to Luscombes, could revert to agricultural use at some future stage would justify opposing the principle of ancillary development.

Indeed, in terms of the intended uses for the buildings, it has been advised that these would be solely ancillary to the use and enjoyment of the dwelling as such and, on this occasion, it is accepted that sufficiently robust justification for the size and scale of development proposed has been provided. As such, it is not thought that an 'exceptional need' for the development needs to be demonstrated in this case.

A condition is recommended to require that the development be used for no other than ancillary purposes and any future proposals to use it for any other purposes would trigger a requirement for a further application to remove this condition or seek a change of use, both of which would be considered on their respective merits.

Impact on Neighbour Amenity

Subject to control being exercised over the uses for the replacement buildings, there are not considered to be any grounds upon which the proposals could reasonably be resisted on the grounds of any substantive adverse impact upon the living conditions of the occupiers of the neighbouring property Applegarth through being unduly physically overbearing, dominating or intrusive or as a result of any impacts arising from their use solely for purposes ancillary to the occupation of the main dwelling.

Furthermore, with the repositioning of the development further from the site boundary with this property from that previously shown under application 22/2424/FUL, it is thought that this argument would be strengthened.

Highways

In view of the nature of the intended uses for the proposed buildings it is not considered that the proposed development would give rise to any adverse effects in relation to traffic generation on the local highway network or highway safety conditions.

Drainage

The application advises that no foul drainage would be generated by the proposed development and that surface water drainage would be discharged via soakaways. This is considered to be acceptable.

Impact upon Heritage Assets

There are no designated or non-designated heritage assets either within, or in the vicinity of, the application site. As such, the proposal would not result in any impact upon heritage significance.

Trees

The inaccuracy of the information set out within the application in regard to the intended felling of trees is acknowledged, as is the likely timescale for the proposed compensatory tree screening to mature in order to take effect.

However, it is not considered that the specimens proposed for removal provide significant value to the general amenity of the area, either individually or cumulatively, that would justify formal protection in the form of a tree preservation order.

As such, and given that the site does not occupy a conservation area location, there would be no control over their removal, regardless of the outcome of the application.

Conclusion

Although the submitted proposals, including the extension to the existing driveway and additional hardstanding area, would increase the presence of built development within the application site, it is considered that the level of impact or harm to its character or appearance or that of the wider AONB would be insignificant and as such the impacts are acceptable.

Paragraph 176 of the NPPF requires that great weight be given to the conservation and enhancement of landscape and scenic beauty in defined designated areas, including AONBs, which have the highest status of protection in relation to these objectives. Paragraph 177 expands upon this to require that the scale and extent of development should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas

In this case, and having regard to the balance of the various material considerations set out above, it is thought that these objectives would be met and, therefore, the proposed development is considered to be in conformity with the various policies within the made Newton Poppleford Neighbourhood Plan that have been cited.

However, the need to ensure that the uses of the buildings remain ancillary to the use and enjoyment of the main dwelling as such, and not for any unrelated commercial purpose, is duly recognised. A condition is therefore recommended to restrict the permitted uses accordingly. Further conditions are also recommended to secure the submission of details of materials and the proposed tree planting 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. No development above foundation level shall take place until 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 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 the materials are sympathetic to the character and appearance of the area, which forms part of the designated East Devon Area of Outstanding Natural Beauty, in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and Policies EP1 (Conservation and enhancement of the East Devon AONB and Natural Environment) and HQD1 (Maintain the built character of our parish through High Quality Design) of the made Newton Poppleford and Harpford Neighbourhood Plan 2020-2031.)

4. The development hereby approved shall be used solely in conjunction with, and for purposes ancillary to, the use and occupation of the dwelling known as Luscombes, Back Lane, Newton Poppleford EX10 0EZ.
(Reason - A commercial use could cause undue noise to adjoining occupiers and detract from the character of the surrounding area, which forms part of the designated East Devon Area of Outstanding Natural Beauty, contrary to Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)
5. No development above foundation level shall take place until details as to the size(s) and species of the tree planting shown on drawing no. 8277-07 have been submitted to and approved in writing by the Local Planning Authority. The approved tree planting shall be carried out in the first planting season after commencement of the development, unless any alternative phasing of the planting is agreed in writing by the Local Planning Authority, and shall thereafter be maintained for a period of 5 years. Any trees 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 - In the interests of amenity and to preserve and enhance the character and appearance of the area, which forms part of the designated East Devon Area of Outstanding Natural Beauty, in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031 and Policies EP1 (Conservation and enhancement of the East Devon AONB and Natural Environment) and HQD1 (Maintain the built character of our parish through High Quality Design) of the made Newton Poppleford and Harpford Neighbourhood Plan 2020-2031.)
6. Notwithstanding the submitted details, no development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.
(Reason: The details are required prior to commencement to ensure that they fit efficiently within the site layout, protect water quality and minimise flood risk in accordance with Policy EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan 2013-2031 and guidance contained with the National Planning Policy Framework (2021).)
7. All existing buildings/structures shown on the approved plans to be replaced shall be demolished and removed from the site prior to the first use of any of the replacement buildings hereby permitted.
(Reason - In the interests of the character and appearance of the area, which forms part of the designated East Devon Area of Outstanding Natural Beauty, in accordance with Strategy 46 (Landscape Conservation and Enhancement and

AONBs) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031 and Policies EP1 (Conservation and enhancement of the East Devon AONB and Natural Environment) and HQD1 (Maintain the built character of our parish through High Quality Design) of the made Newton Poppleford and Harpford Neighbourhood Plan 2020-2031.)

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

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:

8277-04: stable	Proposed Plans	Combined	22.03.23
8277-07	Proposed Site Plan		21.03.23
8277-08	Proposed Plans	Combined	21.03.23
8277-LP	Location Plan		21.03.23

List of Background Papers

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

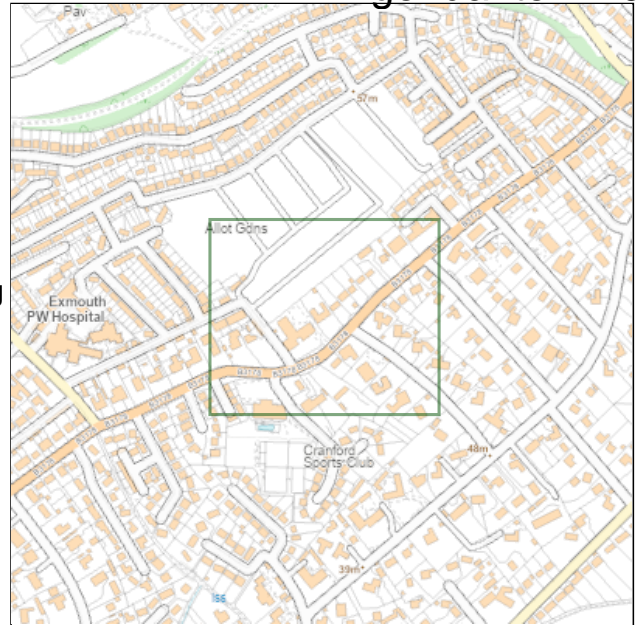
Ward Exmouth Littleham

Reference 23/0538/FUL

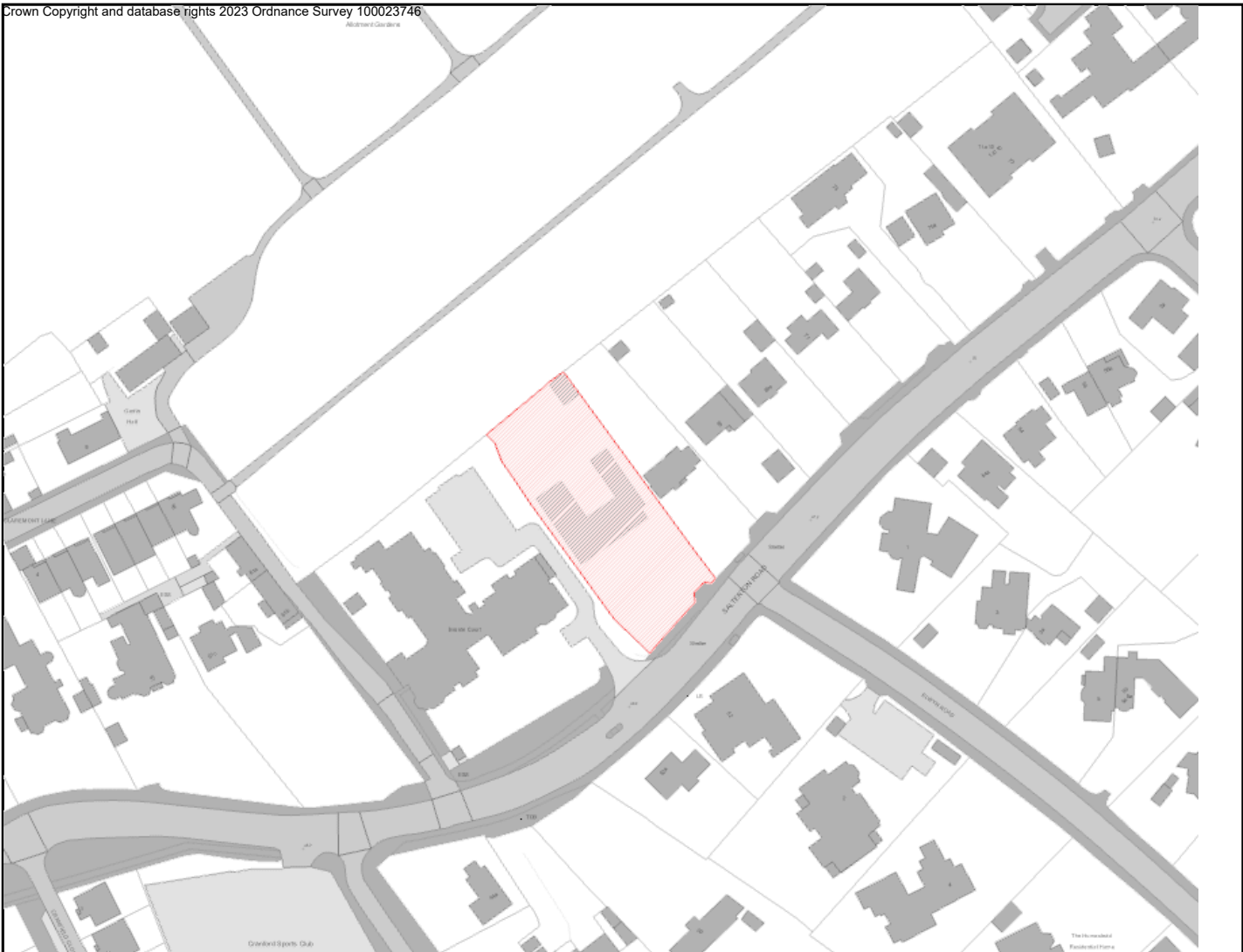
Applicant Mr David Crocker

Location Chestnuts 65 Salterton Road Exmouth EX8 2EJ

Proposal Construction of ground floor and first floor extensions to create an additional 10 additional HMO bedrooms, creation of new vehicular access onto Salterton Road and provision of parking to the front of the site.



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023
Exmouth Littleham (Exmouth)	23/0538/FUL	Target Date: 05.05.2023
Applicant:	Mr David Crocker	
Location:	Chestnuts 65 Salterton Road	
Proposal:	Construction of ground floor and first floor extensions to create an additional 10 additional HMO bedrooms, creation of new vehicular access onto Salterton Road and provision of parking to the front of the site.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application seeks planning permission for the construction of single storey and first floor extensions to the rear of an existing 14 bed House in Multiple Occupation. It is before Planning Committee because the officer recommendation differs from that of the ward councillor. The site has an extant planning permission for the demolition of the existing building and the construction of 9 apartments with a new vehicular access onto Salterton Road and the provision of parking and bin stores.

This brownfield site occupies a sustainable location within the built-up area boundary of Exmouth where the principle of expansion of the existing HMO is considered to be acceptable. The existing building is attractive and makes a positive contribution to the character and appearance of the area and the design, size and scale of the proposed extensions are considered to be appropriate for the building and the site with little impact on the character and appearance of the area.

Whilst the proposed first floor extension would have a degree of impact on the amenities of the occupiers of surrounding properties as a result of its increase in height, bulk and massing, the impacts are not significant enough to sustain refusal on the grounds of it being unduly over bearing, over dominant or through loss of privacy. Privacy issues have been designed out of the scheme through windows on side elevations with restricted views out.

In the absence of any significant harm to the character and appearance of the area, the residential amenities of the occupiers of surrounding properties, highway safety and ecology, it is considered that on balance, the proposed development is acceptable and would comply with both the strategic and

development management policies contained within the East Devon Local Plan and the policies contained within the Exmouth Neighbourhood Plan.

Accordingly the application is recommended for approval.

CONSULTATIONS

Local Consultations

Exmouth Littleham - Cllr Anne Hall

Having seen the revised plans moving the two storey element from the East wing to the West wing this seems to have lessened the impact considerably on the neighbours to the East.

I however would like to have a condition added that the car parking surface be permeable (not tarmac) to prevent excess surface water run off especially due to the fact there's not a highway gully within 250 metres of the site.

Exmouth Littleham - Cllr Nick Hookway

Dear Planning Team,

As a Consultee, I wish to object to the above application.

I consider this to be an overdevelopment of the site which will lead to neighbouring properties suffering a loss of privacy by being overlooked.

Yours sincerely,

Nick Hookway,

Exmouth Littleham Ward member.

Chair of the Placemaking in Exmouth Town and Seafront group (PETS).

Portfolio Holder for Culture, Sport, Leisure and Tourism

East Devon District Council.

Cllr Brian Bailey 4/8/2023

My view on Chestnuts Salterton road Exmouth is at the moment the same as the town council However I reserve my opinion until the planning committee Where more information may be available .

Parish/Town Council

Meeting 05.06.23

Objection sustained; the amended plans did not mitigate previous concerns that the application for a total of 24 HMO bedrooms was considered to be over development of the site. It was noted that County Highways has not responded despite concerns about the impact on the Highway and local bus services.

Parish/Town Council

Meeting 27.03.23

Objection, members felt that the proposal was overdevelopment of the site and concerned about the impact of on the highway.

Technical Consultations

County Highway Authority

Observations:

I have visited the site in question and reviewed the planning documents.

The design and access statements mentions 27 parking spaces, however I can only establish 22 from the proposed plans, however the geometry and layout of these 22 spaces does allow for off-carriageway turning. The existing permitted vehicular access will be utilised.

There has been 1 slight collision in our 5 year rolling period of recorded collisions currently 2017-2021, with the junction of Elywyn Road opposite this development and no directly associated collisions with the access of 65 Salterton Road. Guidance has been refreshed since the recommendation of refusal application in 2005, whereby the modern technology of motor vehicles and better performing road surfaces means differing traffic flows are now considered acceptable, in accordance with Manual for Streets 1 and 2.

However, acceptable parking numbers is a policy for East Devon District Council (EDDC) to administer. Exmouth, does have a range of local services and facilities, together with sustainable travel options of the bus, train and Exe-Valley trail. I would encourage the provision of secure cycle storage to compliment this use and help mitigate trip generation from this development.

I would also recommend the provision of a Construction and Environment Management Plan (CEMP), to help mitigate the effect of construction upon the local highway network.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. 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.

2. No development shall take place until details of secure cycle/scooter storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

REASON: To promote sustainable travel in accordance with the East Devon Local Plan 2013-2031.

Officer authorised to
sign on behalf of the County Council 11 July 2023

Police Architectural Liaison Officer - Kris Calderhead

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this revised application.

Could I respectfully request that the following planning condition is considered should the application progress:

- Condition: The main communal entrance does not have a tradesperson or timed-release mechanisms for mail delivery or utility readings.

Reason: They have been proven to cause of anti-social behaviour and unlawful access to communal developments.

Mailboxes should be located within an 'airlock' access-controlled entrance hall / lobby, whereby access can be gained by a postal worker through the outer door only, thus negating casual intrusion. From the plans it appears that the design lends itself to such arrangement if not already in place.

As an alternative, 'through-the-wall' mail delivery into secure internal letterboxes or external letterboxes (certificated to TS009) should be used.

The communal door must have an effective access control and door entry system to prevent casual intrusion to semi-private / private space and not allow visitors beyond the public realm without permission.

- Additionally, if not already in place it is recommended that a detailed Management Plan is devised detailing arrangements for cleaning, internal and external maintenance, tenant behaviour, security etc. to ensure an appropriate level of control and amenity at the property.

Private Sector Housing (EDDC)

Ensure adequate kitchen amenities and extraction as per page 9 of the East Devon District Council Amenity Standards 2019. Ensure a new HMO application is made on completion for an increase of numbers and change in floor plan by contacting Private Sector Housing, East Devon District Council. Email Address: pshousing@eastdevon.gov.uk

Other Representations

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

- Noise and smells from bin store
- Over development of the site
- Highway safety and parking issues
- Lack of privacy of HMO rooms
- Overshadowing and loss light
- Questions over the Inspector's appeal decision

PLANNING HISTORY

Reference	Description	Decision	Date
21/0103/FUL	Demolition of existing buildings and construction of 9 no. apartments with associated parking, cycle and bin stores and creation of new vehicular access onto Salterton Road.	Refusal – allowed at appeal	03.03.2022
20/2679/FUL	Change of use of 1st floor apartment to 4 no. HMO bedrooms (Retrospective application)	Approval - standard time limit	18.01.2021

20/0311/MFUL	Demolition of existing 10 unit house in multiple occupation and erection of a 9 unit apartment block and 1 no. detached dwelling with associated parking, cycle and bin stores together with two new accesses onto Salterton Road	Withdrawn	24.08.2020
08/3034/COU	Change of use of ground floor from residential care home to house in multiple occupation comprising 10no. units of residential accommodation	Approval with conditions	22.12.2008
08/0055/MFUL	Demolition of existing nursing home and erection of ten 2 bedroom residential units with associated access & parking	Refusal	24.10.2008
07/0392/MOUT	Demolish existing rest home and erect 12 two-bedroom flats	Refusal	01.06.2007
05/3285/MOUT	Demolition of existing building and erection of 14 flats	Refusal	27.02.2006

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 6 (Development within Built-up Area Boundaries)

Strategy 22 (Development at Exmouth)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN21 (River and Coastal Flooding)

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)

Exmouth Neighbourhood Plan (Made)

Policy EB2- Design

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description:

The site refers to 65 Salterton Road, a large detached two storey early 20th century property that has been extended in the 1980's and 1990's to include two single storey rear projecting elements. The property is currently in use as a 14 bedroom House in Multiple Occupation and benefits from a large landscaped front garden with parking and retaining wall to the front boundary. The HMO sits on a large site with associated rear amenity space and front car park for multiple vehicles. On the ground floor the property consists of 10 no. HMO bedrooms with communal laundry, dining, lounge, hall, and kitchen facilities. On the first floor are a further 4 HMO bedrooms all using a shared bathroom, and an existing kitchen lounge.

The east of the site is adjoined by a large detached property and its rear garden and to the west is a large McCarthy and Stone retirement home. To the rear of the site is a large area of allotments. The site is located within in built-up area boundary and within the Avenues area of Exmouth and is not the subject of any landscape or townscape designations.

Planning History:

The most recent planning history for this site relates to an application (ref 21/0103/FUL) for the demolition of existing buildings and construction of 9 no. apartments with associated parking, cycle and bin stores and creation of new vehicular access onto Salterton Road. This application was allowed on appeal (ref APP/U1105/W/22/3303990) on the 17th January 2023 and is therefore extant and capable of implementation.

Whilst each planning application must be determined on its own merits, this report will draw upon the Inspector's conclusions in respect of the impacts on character and appearance, residential amenity and highway safety where relevant to this current application.

Proposed Development:

Planning permission is sought for a single storey and two storey extension at the rear of the building to create further 10 rooms for the HMO. The proposal includes the demolition of an existing single storey extension containing two bedrooms on the north eastern side and its replacement with a larger single storey extension that would provide an additional six bedrooms at ground floor. It also includes the construction of a first floor extension over an existing single storey element of the building on the south west side which would provide an additional 6 rooms at first floor level. The extensions would have a hipped roof design and would be constructed from materials to match the existing building.

The proposal includes the creation of a new vehicular access to the south of the existing access onto Salterton Road leading to a parking area for 22 vehicles, a bin and cycle store.

Issues and Assessment:

The main issues to consider in determining this application are in terms of:
The policy context and principle of development

- Character and Appearance
- Residential Amenity
- Highway Safety and Parking
- Ecological Impact
- Habitat Regulations Assessment
- Arboricultural Impact
- Surface Water Run-Off

Policy Context:

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 formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined and carry full weight. The Exmouth Neighbourhood Plan (NP) has been 'made' and also carries full weight.

ANALYSIS

Principle:

The site is located within the built-up area boundary of Exmouth in a highly sustainable location where the principle of residential development in location terms is considered to be acceptable under the provisions of Strategies 6 (Development within Built-Up Area Boundaries) and 22 (Development at Exmouth) of the East Devon Local Plan subject to compliance with other policies within the East Devon Local Plan.

Character and Appearance:

Policy D1 (Design and Local Distinctiveness) of the Local Plan states that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed and ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Policy EB2 of the NP states that new development should be mindful of surrounding building styles and ensure a high level of design as exemplified in the Avenues Design Statement (2005).

The site is situated in the Avenues area of Exmouth where the predominant type and style of development is characterised by large detached properties set well back from the road in spacious landscaped grounds. The existing building is an attractive and substantial two storey early 20th century building that has been extended through the construction of two single storey wings which gives the building its 'U' shaped footprint. It is understood that the building was formerly in use as a nursing home and now in use as a 14 bedroom House in Multiple Occupation.

The proposed extensions are to be constructed at the rear of the building which would have a very limited impact on its character and appearance or the wider streetscene. The first floor extension on the site's south western side would be visible above the single storey element at the front of the building however owing to its position set well back from the road and behind the building line of the existing building, it isn't considered that it would have any significant impact on the character and appearance of the building or the wider area.

The proposal includes the provision of additional parking spaces and a bin store at the front of the site which would result in a degree of impact on the visual amenity of the site. In the previous appeal, the Inspector considered the impact of parking and bin storage and concluded:

I observed that the existing car parking and bin storage area to the front of the property is clearly visible from the highway, as is the case with a number of parking areas to the fronts of properties along Salterton Road. The proposal would result in the number of carparking spaces to the front increasing. However, I note that the proposed carparking area would utilise a grasscrete surface, incorporate landscaping to the frontage, and also a reduced ground level. While vehicle parking in this area would still be clearly visible, I find that the measures in combination would help limit the visual impact of the car parking, with the resulting car parking area not appearing any more prominent or unduly intrusive than the existing arrangement, thus maintaining the character of the area.

This proposal also includes grasscrete surfacing of the parking spaces, additional landscaping to the site frontage and lowering the ground levels which would help to limit the visual impact of the parking area on the character of the area as considered by the Inspector. On balance, it is considered that the proposal is acceptable in design terms and would comply with the provisions of policies D1 and EB2 of the Local Plan and Exmouth Neighbourhood Plan.

Residential Amenity:

Policy D1 of the Local Plan requires that proposals do not adversely affect the residential amenities of the occupiers of existing properties. It should first be noted that amended plans have been received following concerns from officers about the impact the proposed first floor extension would have had on the occupiers of no 67. As originally submitted, the first floor extension was proposed on the north eastern side of the site but this has now been moved to the south western side of the site.

The proposed development would have its most significant impact on the properties either side of the site, no 67 Salterton Road to the north east and Bronte Court to the south west. The impact on the residential amenities of the occupiers of these properties will be considered as follows:

67 Salterton Road:

No 67 has a large rear garden which runs parallel to the site boundary. At present the existing building projects close to the boundary with no 67 but with its single storey rear wings does not impact significantly on the property or the garden.

A replacement single storey extension would be constructed running parallel to the garden boundary of no 67. It would extend further back into the site by 2.0 metres but would be constructed further away from the boundary such that it isn't considered that the extension would have a significant impact in terms of its physical impact, through loss of light or overlooking. The replacement extension would be 1.0 metre higher than the existing extension however its single storey form coupled with its hipped roof design whereby the roof would slope away from the boundary would ensure no significant harm to amenity. The hipped roof of the extension would also prevent any views out from first floor windows over the first floor extension ensuring no loss of privacy or overlooking.

It should be noted that the proposed extension would have far less of an impact than the extant apartment scheme that was allowed on appeal where the Inspector stated:

The majority of the proposed development would be sited slightly further away from the boundary than the existing, with the rear section projecting into the rear garden in single storey form, increasing in height further away from the boundary with 67. Both the single storey and 2 storey building forms feature hipped roofs. In combination between the varying heights of differing parts of the building, and hipped roofs, the design solution successfully limits the bulk and massing of the proposed development when viewed from 67. Therefore, even if existing planting were to be removed along the boundary with 67, the proposed development would not appear over dominant or overbearing and given the location of proposed windows, would not result in any significant additional overlooking.

Bronte Court:

Bronte Court is a sheltered development located to the south west of the application site which has its side elevation with ground, first and second floor windows facing

towards the site. The windows ground, first and second floor windows are understood to be secondary living room windows and kitchen windows to the apartments on the north eastern side of the building. The site opens up to the rear with a shared car parking area with apartments facing over with rear balconies.

In respect of the appeal scheme the Inspector concluded:

Bronte Court is located to the southwest of the appeal site and is a large 3 storey development of apartments. I observed that the side elevation of Bronte Court facing the appeal site features windows at ground, first and second floor levels. The closest side elevation of Bronte Court to the appeal site is separated from the appeal site by an access road leading to a parking area, and a brick wall and mature planted boundary.

Although the footprint of the proposed development is further away from the boundary than the existing building, the proposal will result in a 2.5 storey element facing the flank wall of Bronte Court. This flank wall of Bronte Court is stated to be approximately 10.5 metres from the proposed development at its nearest point.

Despite the appeal site ground level being elevated above the ground level of Bronte Court, the eaves height of the proposed development would be similar to that adjacent at Bronte Court, with the steep pitch roof reducing the bulk of this element of the proposed development. Combined with the distance from the boundary, overall distance to Bronte Court, and retention of existing boundary vegetation, I find that the proposal would not appear over-bearing or over-dominant from the neighbouring apartments. Furthermore, due to the spatial relationship, distance, eaves heights and roof design there would be no significant impact on light.

I am aware that amendments have been made during the application process to the design of the proposal in response to concerns raised regarding privacy by third parties. The position, and use, of high-level windows and obscure glazing and a balcony privacy screen to the south-west elevation would prevent any direct overlooking of windows within Bronte Court. These can be secured through an appropriately worded condition. The proposal would not therefore result in any significant overlooking or impact on neighbouring occupiers' privacy.

The proposed first floor extension would have a hipped roof design, parts of which would exceed the height of the approved apartment block by 2.2 metres. Whilst this would be the case, the hipped roof form of the extension would ensure that the additional height would result in no significantly greater physical impact on the occupiers of Bronte Court by virtue of its roof sloping away from the boundary. Furthermore, the proposed extension continues to incorporate the previous bay window design which restricts views towards Bronte Court which would prevent any overlooking or loss of privacy.

The proposal would extend no closer to the boundary with Bronte Court and would retain the existing boundary vegetation in the same manner as the apartment scheme such that it is considered that this scheme would not adversely affect the amenities of the occupiers of Bronte Court to a degree that would justify refusal of the application.

Given the proximity of the site to neighbouring residential units, there remains the potential for an impact on living conditions during the construction phase and therefore it is considered necessary and reasonable to secure the submission of a Construction and Environmental Management Plan (CEMP) through planning condition to ensure the living conditions of neighbouring and future occupiers are protected from any associated noise, air, water and light pollution.

The proposal would comply with the provisions of policy D1- Design and Local Distinctiveness of the Local Plan.

Highway Safety:

Local Plan policy TC7- Adequacy of Road Network and Site Access of the Local Plan states 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.

In the same manner as the appeal scheme, the proposal would introduce a new vehicular access to the south of the existing entrance onto the B3178, Salterton Road. In the previous appeal decision, the Inspector considered the impacts on highway safety and concluded:

While I note local concerns relating to the access and accidents in the vicinity of the appeal site, the County Highway Officer has not raised any objection to the proposal. The proposed access would be to the south of the existing entrance, and although I observed Salterton Road is a busy highway, vehicle speeds were not high and sufficient visibility splays are proposed. While I acknowledge that what I saw was only a snapshot in time, it accords with the Highway Officer's findings. Furthermore, a condition can be imposed requiring the existing access to be stopped up, given its proximity to the proposed new access. On the evidence before me, I see no reason to disagree with the County Highway Officer in this matter.

Whilst this proposal is for an additional 10 bedrooms, it isn't considered that the traffic impacts from this development would be significantly different to that generated by the appeal scheme. Members should note that the County Highway Authority continue to raise no concerns with this proposal on highway safety grounds such that it isn't considered that an objection could reasonably be sustained.

Local Plan policy TC9 (Parking Provision in New Developments) of the Local Plan states that spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide 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.

The Inspector considered parking provision in the previous appeal noting that:

Concerns have also been raised in relation to the parking provision proposed. Given the location of the appeal site close to facilities, services and public transport modes, the number of parking spaces provided, acknowledging the lack of a dedicated disabled space, is appropriate given the scale of development and policy

requirements. I note the sizes of the spaces and the potential manoeuvring difficulties highlighted by third parties. No objections have been raised by the County Highway Officer and while I note the lack of on-site turning area, and restricted manoeuvring space, particularly in relation to parking space 10, I have no evidence before me to indicate that this would lead to any wider highway safety concerns given the visibility splays and character of traffic movements on the highway.

Policy TC9 of the Local Plan does not set a target for developments of this nature however 10 additional car parking spaces are to be provided which totals one additional car parking space for each new HMO room. The development would provide a total of 22 car parking spaces across the site which given the location of the site and its accessibility to services and facilities and public transport in the town, coupled with the nature of the occupation of the building whereby not all occupiers are likely to have a private vehicle, it is considered that the parking arrangement shown is appropriate for the development.

Ecological Impact:

Policy EN5- Wildlife Habitats and Features of the Local Plan states wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

The previous application for re-development of this site which proposed demolition of the existing buildings on the site was accompanied by two phase 2 emergence surveys to determine whether bats are present. No bats were recorded emerging from the identified features and only occasional passes by common pipistrelle (*Pipistrellus pipistrellus*) and serotine (*Eptesicus serotinus*) bats were noted. No evidence of nesting birds was noted during the survey and no further survey work was required regarding birds.

The ecological surveys were originally undertaken in August 2021 and these have not been updated as part of this application. An updated note has however been provided by the original ecologist who has advised that a further walkover survey has been conducted and that no significant changes were recorded and no detrimental impacts are predicted. The original surveys recorded low bat activity and no roosting bats. The proposed development impacts on existing extensions that were identified as having little potential for bats and had no evidence of use. As such it is considered unlikely that bats would have adopted these areas in the intervening period and the findings of the original Phase 1 & 2 Bat & Besting Bird Survey are considered valid.

This has been discussed with the Council's ecologist who has advised that on the balance of risk/proportionality based on the results of the updated survey and that given the proposed works are only affecting the areas identified with limited suitability i.e., extensions to the existing building, the findings of the early ecological reports can be accepted in this instance. This is subject to conditions which require

the development to be carried out in accordance with the mitigation measures and recommendations within the report which include the provision of bat/bird/insect features and the precautionary removal of roofs

On balance, on the basis that there is an extant planning permission on this site for the complete demolition of the buildings and that this proposal is for extensions to the existing building where the previous bat emergence surveys found no evidence of bats or bat roosting, it is considered that subject to the imposition of conditions which require the development to be carried out in accordance with the mitigation measures and recommendations, that the Council would continue to fulfil its legal duties in relation to protected species where it isn't considered that there would be any adverse ecological impacts from the development. The application would therefore comply with policy EN5 of the Local Plan.

Habitat Regulations Assessment:

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47 (Nature Conservation and Geology) of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per additional HMO room which has been secured as part of this application.

Arboricultural Impact:

Local Plan policy D3- Trees and Development sites states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees.

A Horse Chestnut tree in the north western corner of the site is the subject of a Tree Preservation Order and the impact of development on this tree has previously been considered. The proposed extensions to the existing building would not result in any significant impact to the tree having regards to its distance from the development and it's above and below ground constraints. It is however considered necessary to

impose a condition that requires the submission of a tree protection plan and arboricultural method statement to ensure that the tree is adequately protected during construction. Subject to this condition, it is considered that the proposal complies with the provisions of policy D3 of the Local Plan.

Flood Risk and Surface Water Run-off:

Local Plan policy EN22- Surface Run-Off Implications of New Development states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.
5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

Policy EN6 of the Exmouth Neighbourhood Plan states that development proposals must incorporate Sustainable Urban Drainage Systems (SuDS) and a management plan for future maintenance of the drainage system, unless it can be demonstrated that they are inappropriate. New drainage systems must be effective in allowing for surface water management on site and improvement of water quality.

The site does not fall within a flood zone and so the proposed development is not considered to be at risk from flooding. Surface water run-off from the development is proposed to be disposed of by way of existing ground soakaways. A condition is proposed to agree the details of the surface water management.

Planning Balance and Conclusions:

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

The site has an extant planning permission for the demolition of the existing building and the construction of 9 apartments with a new vehicular access onto Salterton Road and the provision of parking and bin stores. This scheme allowed on appeal would have a far greater impact on the street scene and on neighbour amenity than the development proposed which is complimentary to the existing use of the site.

This brownfield site occupies a sustainable location within the built-up area boundary of Exmouth where the principle of expansion of the existing HMO is considered to be acceptable. The existing building is attractive and makes a positive contribution to the character and appearance of the area and the design, size and scale of the

proposed extensions are considered to be appropriate for the building and the site with little impact on the character and appearance of the area.

Whilst the proposed first floor extension would have a degree of impact on the amenities of the occupiers of surrounding properties as a result of its increase in height, bulk and massing, it isn't considered that an objection could be sustained on the grounds of it being unduly over bearing, over dominant or through loss of privacy which has been designed out of the scheme through windows on side elevations with restricted views out.

In the absence of any significant harm to the character and appearance of the area, the residential amenities of the occupiers of surrounding properties, highway safety and ecology, it is considered that on balance, the proposed development is acceptable and would comply with both the strategic and development management policies contained within the East Devon Local Plan and the policies contained within the Exmouth Neighbourhood Plan.

Accordingly the application is recommended for approval.

RECOMMENDATION

Approve subject to the following conditions:

Time Limit:

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).

Approved Plans:

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.)

Materials:

3. Notwithstanding the submitted details, no development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have 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 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.)

Hard landscaping:

4. Prior to commencement of any hard landscaping works, a hard landscaping scheme to include samples and finishes of the materials to be used in the construction of the hard surfaces shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also give details of any proposed walls, fences and other boundary treatment including details of materials and finishes. The development shall thereafter 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 Policies D1- Design and Local Distinctiveness of the Adopted and emerging East Devon Local Plan.)

Soft Landscaping:

5. No landscaping shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to identify trees and hedges to be retained and 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 New East Devon Local Plan 2013-2031.)

Levels:

6. The development hereby approved shall be carried out in accordance with the ridge heights, finished floor levels and ground levels as shown on drawing no 8601-09A.

(Reason: In the interests of the character and appearance of the area and the residential amenities of adjoining occupiers in accordance with Policy D1 – Design and Local Distinctiveness of the Adopted New East Devon Local Plan 2013-2031.)

Access and Parking:

7. In accordance with the details shown on drawing no 8601-09A visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays shall provide intervisibility between any points on the X and Y axes at a height of 0.6 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 70 metres in a northerly direction and 70 metres in a southerly direction.

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

8. Prior to first occupation of the development hereby approved, the existing vehicular access shall be stopped up in accordance with the details shown on drawing no 8601-09A.

(Reason - To avoid a proliferation of vehicular accesses onto the highway in accordance with policy TC7- Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031).

9. Notwithstanding the submitted details, and prior to first occupation of the development hereby approved, the bin and cycle store shall be provided in accordance with details of the design, materials and finishes that shall have first been submitted to and approved in writing by the local planning authority. The bin stores and cycle stores shall thereafter be constructed in accordance with the agreed details prior to occupation of the new HMO units hereby permitted and remain in perpetuity for their intended use.

(To ensure adequate provision of bin and bike storage on the site in accordance with policy TC9- Parking Provision in New Development of the East Devon Local Plan 2013-2031).

10. No part of the development hereby approved shall be occupied until the access and parking shown on drawing no 8601-09A have been provided and shall be retained thereafter.

(Reason: To ensure that the adequate parking is provided for future occupiers of the development in the interests of highway safety 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).

Construction Management Plan:

11. Prior to commencement of development on any part of the site the Planning Authority shall have received and agreed in writing a Construction Management Plan (CMP) which shall include the following information:

(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.

The development shall thereafter be carried out in accordance with these details.

(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 and in the interests of highway safety in accordance with policies D1 (Design and Distinctiveness) and EN14- Control of Pollution and TC7- Adequacy of Road Network and Site Access of the adopted East Devon Local Plan 2013 - 2031.)

CEMP:

12. A Construction and Environment Management Plan shall 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, 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 Distinctiveness and EN14- Control of Pollution of the adopted East Devon Local Plan 2013 - 2031.)

Tree Protection:

13. Prior to the commencement of any development on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably

qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site 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, D2- Landscape Requirements and D3- Trees on Development Sites of the East Devon Local Plan 2013-2031).

Surface Water Drainage:

14. Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 45% for climate change.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to any development above slab or ground level or creation of any new hardsurface, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 45% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 45% allowance for climate change" conditions.

The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually retained and maintained thereafter.

(Reason : In the interests of adapting to climate change and managing flood risk, and in order to accord with the provisions of policy EN22- Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031).

Ecology:

15. The development hereby approved shall be carried out in accordance with the recommendations and site enhancement measures contained within the 'phase 1 & 2 bat and nesting bird survey' report prepared by Devon and Cornwall Ecology dated June (updated August) 2021, and the enhancement measures be maintained and retained for the lifetime of the development.

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

Statement on Human Rights and Equalities Issues:

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Plans relating to this application:

8601-09 A :	Sections	27.07.23
proposed site		

8601-06 C	Proposed Site Plan	27.07.23
8601-02 F	Proposed Floor Plans	19.05.23
8601-04 D	Proposed Elevation	19.05.23
8601-LP	Location Plan	10.03.23

List of Background Papers

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

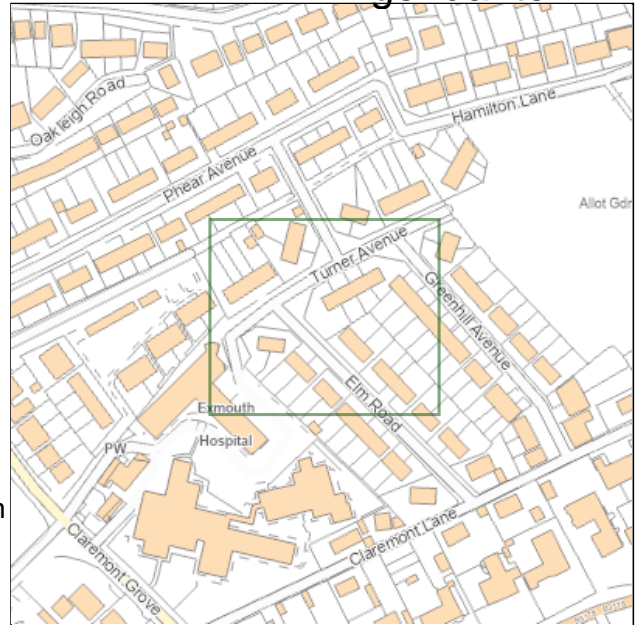
Ward Exmouth Littleham

Reference 23/0078/FUL

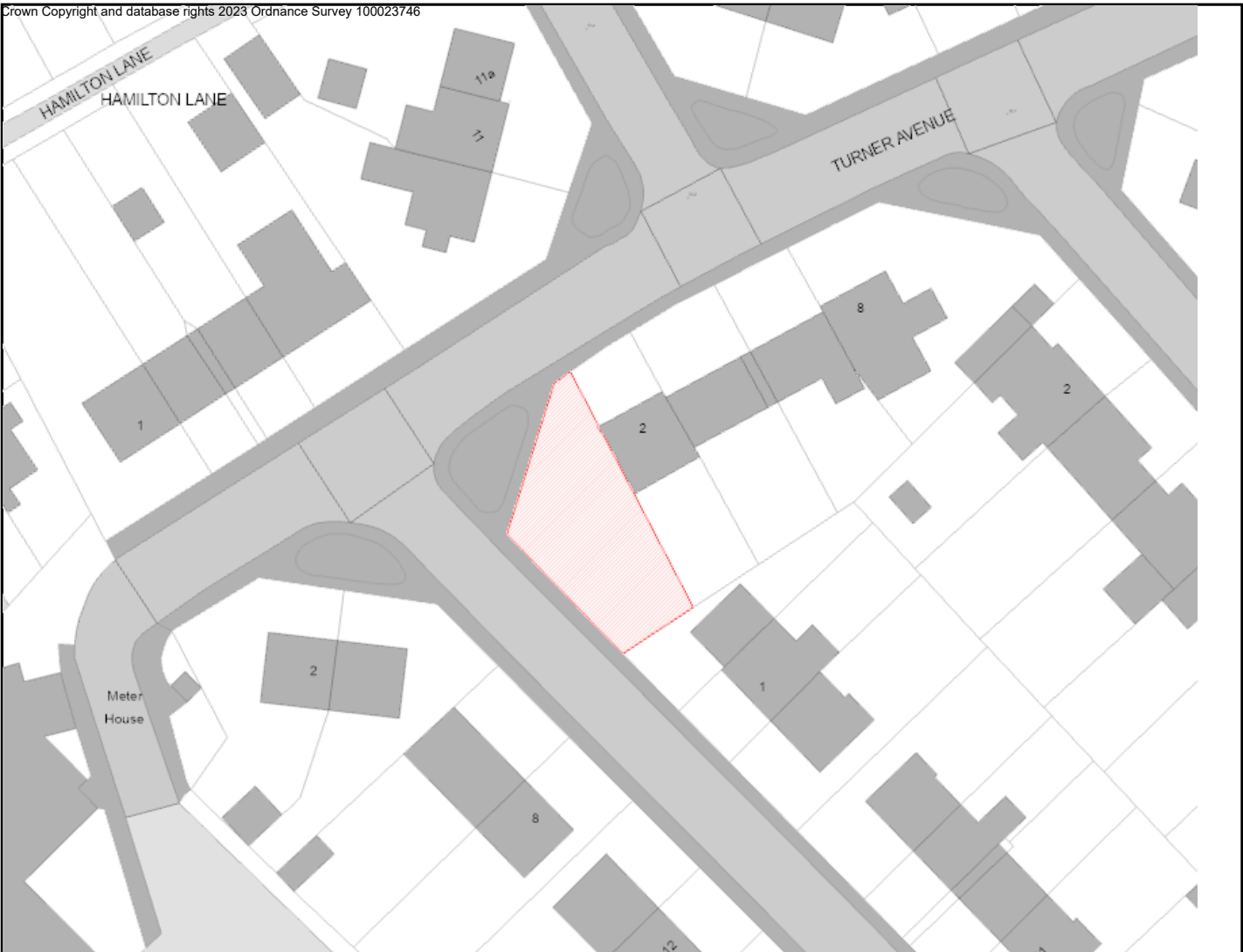
Applicant Iain McNeill

Location 2 Turner Avenue Exmouth Devon EX8 2LF

Proposal Construction of new attached dwelling in garden of existing house



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023
Exmouth Littleham (Exmouth)	23/0078/FUL	Target Date: 05.04.2023
Applicant:	Iain McNeill	
Location:	2 Turner Avenue Exmouth	
Proposal:	Construction of new attached dwelling in garden of existing house	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members of the Planning Committee because officer recommendation differs to that of the ward members.

Planning permission is sought for the construction of an attached two storey, three bedroom dwelling to the side of 2 Turner Avenue.

Planning permission for an attached dwelling on this site has previously been granted in 2011 and whilst this permission has now lapsed, it is considered that the site can accommodate the proposed dwelling without detracting from the character and appearance of this area of Exmouth and that there are no sustainable planning objections to this development.

In the absence of a five year housing land supply, it is considered that the benefits to be derived from a new dwelling in this sustainable location, outweigh the limited harm that would arise to the residential amenities of the occupiers of no 1A Elm Road and the secondary lounge window that would be affected. In the absence of any harm to the character and appearance of the area and highway safety, it is considered that planning permission should be granted for this development.

The proposal would accord with policies within the East Devon Local Plan and the Exmouth Neighbourhood Plan and the application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Exmouth Littleham - Cllr Nick Hookway

I have the following comments about amended application 23/0078/FUL.

1. Comments relating to previous, historic, applications are now irrelevant and do not apply to this current application.
2. At number 1A Elm Road, the side window facing north-west will still be overlooked. Therefore, the resident of 1A Elm Road will be overlooked with subsequent loss of privacy. This issue applies particularly to the two bedroom windows which are at the rear of the proposed development.
3. The fact that the land slopes from Turner Avenue towards Elm Road increases the harm caused by the issues of overlooking with the subsequent loss of privacy.

Therefore, my objection to this application still remains.

Exmouth Littleham - Cllr Nick Hookway

I am objecting to this application due to concerns caused by adjoining properties being overlooked, this will lead to a lack of privacy.

I also have concerns over the proposed design and would question if such a design would blend in within the neighbourhood.

The loss of green space is to be regretted and is a further example of overdevelopment in this area.

Exmouth Littleham - Cllr Chris Wright

As the application currently stands having visited the site I would object to it in its current form for the reasons I shall list below.

The application states there are no near neighbours to the site, however since the previous application, which I note was approved in 2011 there is a property at No. 1A Elm Road which is extremely close to the application site.

The inclusion of a first floor window will result in a loss of privacy having a direct view into ground floor windows to the rear of the application site. I would suggest the removal of the window or obscure glazing.

On viewing the property from Elm Road the development appears higher than adjoining properties, and with the site somewhat smaller than I had envisaged from the plans will I believe result in significant overshadowing and loss of privacy to No. 1 Elm Road.

The overlooking of the adjoining property is I believe a material consideration to be addressed.

The removal of the conifer hedge, a feature of the street scene in the locality should be kept to a minimum.

Due to the limitations on space any planting and screening should not in itself cause any loss of light to adjoining properties.

The application in its current form could be considered an overdevelopment of this particular site.

Should the application be approved, due to the site being within a quiet residential area a condition limiting working hours on site, noise and dust mitigation be included.

Cllr C Wright

Parish/Town Council

Meeting 17.07.23

No objection to the amended plans.

Parish/Town Council

No objection

Due to a software update the planning applications were not available to view by the Planning Committee members at the time of their scheduled meeting. As a result this response represents the opinion of members of Exmouth Town Council Planning Committee agreed via co-ordinated telephone and email consultation process and will be ratified at the next appropriate meeting of the council.

Technical Consultations

None

Other Representations

1 letter of objection has been received at the time of writing this report raising concerns which can be summarised as:

- Overlooking and loss of privacy
- Loss of outlook
- Overshadowing
- Noise and disturbance during construction

PLANNING HISTORY

Reference	Description	Decision	Date
08/0411/FUL	Construction of dwelling	Approval with conditions	24.03.2011

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Exmouth Neighbourhood Plan (Made)

Policy EB2- Design

Government Planning Documents
NPPF (National Planning Policy Framework 2021)
Government Planning Documents
National Planning Practice Guidance

Site Location and Description

No 2 Turner Avenue is a two storey end of terrace dwelling located within a wholly residential area to the east of Exmouth town centre. It is at the south-western end of a terrace of 4 dwellings that front Turner Avenue, between its junctions with Elm Road and Greenhill Avenue. The two properties at the end of the terrace are slightly larger than those in between, with gabled roofs and slightly projecting front and rear buildings lines. The two at the end are rendered, whereas the two in the middle have bricked ground floors and rendered first floors.

Access into No 2 is via a pathway off Turner Avenue, and the property has a high conifer hedge around its junction with Elm Road, set behind a low brick wall.

The site is located within the built-up area boundary of Exmouth and is not the subject of any landscape or townscape designations.

Planning History:

Planning permission was granted in 24.03.2011 (ref 08/0411/FUL) for an extension of no 2 at the side to create a new three bedroom dwelling. This planning permission has expired as the development did not commence within the three year timeframe. Whilst not a planning permission for this site, it is also pertinent to note that planning permission was granted in 16.01.2013 (ref 12/2539/FUL) for an attached dwelling at no 1 Elm Road which borders the application site's south eastern boundary. At the time this planning permission was granted, the planning permission for an attached dwelling to no 2 Turner Avenue remained extant and capable of implementation.

Proposed Development:

Planning permission is sought for the construction of an attached two storey, three bedroom dwelling to the side of 2 Turner Avenue. The extension would run sideways towards Elm Road, with its front and rear building lines set in from those of the gabled front and rear walls of the existing dwelling. The ridge height of the dwelling would be the same as that of the middle two and would present a gabled end to Elm Road.

The new dwelling would have a brick ground floor, with render above, matching the middle pair of the terrace. It would be provided with two car parking spaces at the south-eastern end of the plot, accessed off Elm Road. The applicant has stated that he intends to remove the existing conifer boundary hedge surrounding the property and replace it with a new native hedgerow.

Issues and Assessment:

The main issues to consider in determining this application are in terms of:

- The principle of development
- The impact on the character and appearance of the area
- The impact on residential amenity
- Parking and Highway Safety
- Habitat Mitigation

ANALYSIS

Principle:

The site is located within the built-up area boundary in a sustainable location where the principle of development is considered to be acceptable in location terms under the provisions of Strategy 6- Development within Built-Up Area Boundaries of the East Devon Local Plan. At the time of writing this report, it is also acknowledged that the Council cannot demonstrate having a 5 year housing land supply. The site is considered to be in a sustainable location with good access to services and facilities by a variety of modes of transport.

Character and Appearance:

Policy D1- Design and Local Distinctiveness of the Local Plan requires that proposals:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context

Policy EB2 of the Exmouth Neighbourhood Plan requires that new development should be mindful of surrounding building styles and ensure a high level of design.

The Council has previously accepted an attached dwelling on this site through grant of the 08/0411/FUL permission. Officers consider that the land at the side of No 2 Turner Avenue remains capable of accommodating a new dwelling in the form of an extension to the existing dwelling. The size, style and overall design of the proposed extension would be in keeping with the existing terrace and whilst the basic symmetry of the existing terrace of 4 units would be lost, it is felt that this would not undermine the prevailing character and appearance of this particular area to any major degree or result in any significant visual harm.

The brick and rendered form of the extension would be appropriate in this location and whilst the removal of the conifer hedge would expose the site to views around the junction, the extension would not look uncomfortable in those views.

Subject to a condition that requires the submission of materials for the external surfaces of the dwelling and the submission of a detailed landscaping plan, it is considered that the proposal complies with the provisions of policies D1 of the Local Plan and EB2 of the Exmouth Neighbourhood Plan.

Residential Amenity:

Since the grant of the 08/0411/FUL permission, there has been a change in circumstances where an attached dwelling (no 1A Elm Road) has been constructed to the side of no 1 Elm Road which abuts the south eastern corner of the site. This planning permission was not in place at the time the planning permission was granted for an attached dwelling to no 2 Turner Avenue. However at the time the permission for 1A Elm Road was granted, it should be noted that the 08/0411/FUL permission was extant and capable of implementation. As such the relationship between the approved dwelling at 2 Turner Avenue and no 1A was considered to be acceptable. It is noted that the current occupiers of no 1A were not the owners at the time the permission was granted.

Concerns have been raised by the occupiers of no 1A Elm Road in respect of the impact the proposed dwelling would have on the residential amenities of the occupiers of this property which has a secondary ground floor lounge window facing towards the application site. In particular the concerns relate to overlooking and loss of privacy from first floor bedroom and to a lesser extent ground floor windows on the south eastern elevation (rear) of the proposed dwelling. Whilst these concerns are noted and it is accepted that the first floor windows would face towards the ground floor window of no 1A Elm Road and would therefore result in a degree of harm in terms of overlooking and loss of privacy, this was a relationship that was considered to be acceptable when the attached dwelling at no 1A was originally granted planning permission and therefore it would be difficult to sustain an objection on these grounds despite the unneighbourly relationship between the two. It is also noted that there is already a close relationship between properties in this area where first floor windows from properties on Turner Avenue face towards the rear garden of no 1A.

Whilst the impact on the occupiers of no 1A is acknowledged, the window that would be affected is a narrow secondary lounge window and therefore the weight to be attributed to privacy is lessened over that of a primary window. This coupled with the

fact that the window is positioned behind a boundary fence, where outlook is limited, on balance isn't considered that the proposal would give rise to significant harm to amenity to sustain an objection. Furthermore, it should be noted that the applicant could at any time choose to erect a fence or a wall on the rear boundary up-to 2.0 metres in height without planning permission which as a result of the difference in levels between the site and no 1A would be positioned in front of the secondary lounge window and prevent any sense of outlook from it.

On balance, whilst the concerns of the occupiers of no 1A are noted, it isn't considered that an objection could reasonably be sustained to the impact of the development on outlook, loss of privacy or loss of light to a secondary lounge window. It is however considered necessary and reasonable to remove permitted development rights for extensions and outbuildings which if uncontrolled could have an adverse impact owing to the limited size of the plot.

Highway Safety and Parking:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states 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.

Policy TC9 - Parking Provision in New Development of the Local Plan states that spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide 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.

The proposal would create two off-road car parking spaces with a vehicular access onto Elm Road, a residential road with low vehicle speeds in an arrangement similar to that of other properties in the area.

The proposals would not result in any significant increase in traffic generation onto Elm Road that would give rise to any significant highway safety concerns. The proposal would comply with the provisions of policies TC7 and TC9 of the Local Plan.

Habitat Regulations Assessment:

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist

accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47- Nature Conservation and Geology of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.62 per dwelling which has been secured as part of this application.

CONCLUSIONS:

Planning permission for an attached dwelling on this site has previously been accepted and whilst this permission has now lapsed, it is considered that the site can accommodate the proposed dwelling without detracting from the character and appearance of this area of Exmouth and that there are no sustainable planning objections to this development. In the absence of a five year housing land supply, it is considered that the benefits to be derived from a new dwelling in this sustainable location, outweigh the limited harm that would arise to the residential amenities of the occupiers of no 1A Elm Road and the secondary lounge window that would be affected. In the absence of any harm to the character and appearance of the area and highway safety, it is considered that planning permission should be granted for this development.

RECOMMENDATION

APPROVAL with 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. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have 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 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. There shall be no obstruction to visibility greater than 600mm above adjoining road level, forward of a line drawn 2.4m back and parallel to the nearside carriageway edge over the entire site frontage to Elm Road. Such visibility shall

be fully provided before works commence on the erection of the dwelling hereby permitted and shall thereafter be maintained at all times.

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

5. No development above foundation level 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 any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping 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.)

6. In accordance with the details shown on drawing no 103 REV B, the two car parking spaces shall be provided prior to first occupation of the dwelling hereby approved and retained in perpetuity for that use. The access and parking space shall be hardened, surfaced (not loose stone or gravel), drained and maintained thereafter to the satisfaction of the Local Planning Authority.

(Reason – To prevent surface water, mud and other debris being carried onto the public highway and to ensure adequate car parking is made for the development in accordance with policies TC7- Adequacy of Road Network and Site Access and TC9- Parking Provision in New Development of the Adopted East Devon Local Plan 2013-2031).

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule Part 1 Classes A, and E for the enlargement, improvement or other alterations to the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.

(Reason - The space available would not permit such additions with detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted New East Devon Local Plan 2013-2031.)

Statement on Human Rights and Equalities Issues:

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Plans relating to this application:

103 Rev B	Proposed Site Plan	04.07.23
108 Rev A: Site/Roof Plan	Proposed Combined Plans	04.07.23
106 Rev A	Proposed Floor Plans	04.07.23
105 Rev B	Proposed Elevation	04.07.23
101	Location Plan	08.02.23
100	Location Plan	16.01.23

List of Background Papers

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

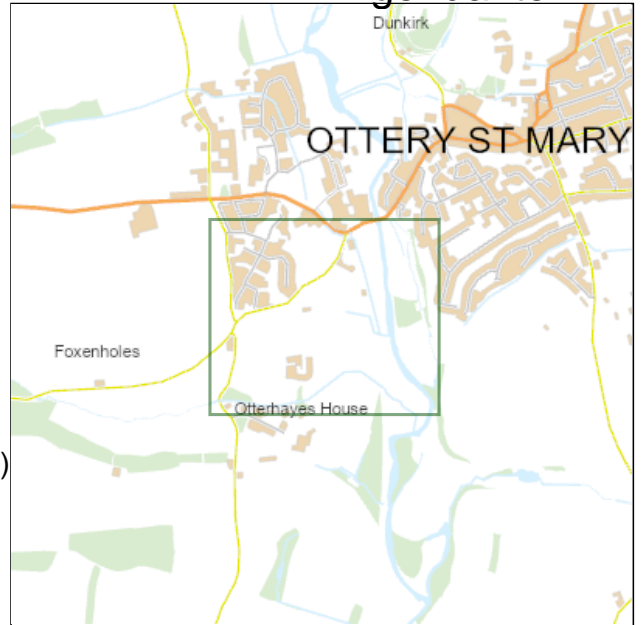
Ward Ottery St Mary

Reference 23/0092/FUL

Applicant Mrs Kerry Kennell

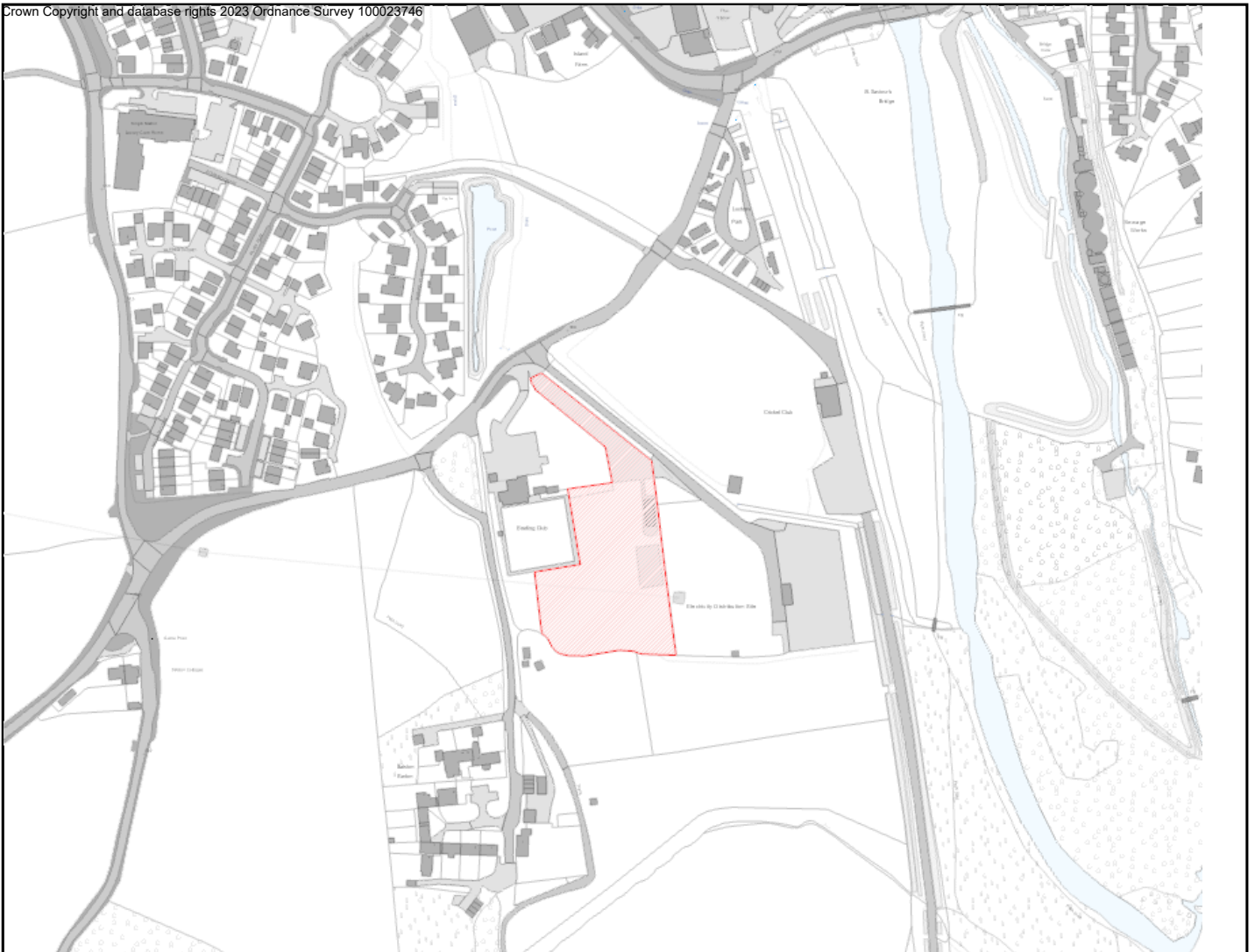
Location Changing Rooms Strawberry Lane Salston
Ottery St Mary EX11 1RG

Proposal Construction of a multi-use games area (MUGA)
with pavilion extension, additional parking and
landscaping.



RECOMMENDATION: Approval with conditions

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		Committee Date: 22.08.2023	
Ottery St Mary (Ottery St Mary)	23/0092/FUL	Target	Date:
		07.04.2023	
Applicant:	Mrs Kerry Kennell		
Location:	Changing Rooms Strawberry Lane Salston		
Proposal:	Construction of a multi-use games area (MUGA) with pavilion extensions, additional parking and landscaping.		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Committee owing to a difference of opinion between officers and the commenting ward member.

The scheme, which is submitted by Ottery St. Mary Town Council, relates to the upgrading of the existing recreation field, pavilion and car parking area located off Strawberry Lane on the south western edge of the town between the cricket and bowling club premises to the north east and south west respectively. The field also houses a terrain used by the Ottery St. Mary Petanque Club.

The scheme mainly comprises the provision of a Multi-Use Games Area (MUGA) and perimeter fencing and floodlighting. Further elements comprise works to improve the drainage and usability of the remainder of the field, the provision of additional parking spaces alongside the formation of emergency vehicle and pedestrian and maintenance access roads, two extensions to the pavilion to provide improved changing facilities to facilitate the anticipated increase in the use of the site, the creation of a surface water attenuation pond to accommodate compensatory flood storage for the areas within the site that would be occupied by the pavilion extensions, landscaping and biodiversity enhancement of the site and the installation of ball stop netting alongside part of the boundary with the neighbouring bowling green.

The site is located within flood zones 2 and 3 and forms part of the functional flood plain.

It is also defined in the adopted Local Plan as a Recreation Area within which the upgrading and enhancement of facilities is mainly facilitated by the provisions of Local Plan Policies RC2 and RC6, as well, on a more general level, by guidance set out within the National Planning Policy Framework (NPPF).

Aside from acceptance of the proposals in principle, and acknowledgment of the enhancement of the town's sport/leisure offer that it would enable, it is considered that the balance of assessment of the various detailed contextual issues weighs in favour of the scheme.

It has been clarified by the applicants' agent that a basement level store referred to within the submitted design and access statement but not on any plans - which might otherwise be vulnerable to flood risk - does not form part of the proposals. Furthermore, there are not thought to be any sustainable grounds upon which to resist the scheme having regard to its impact upon the character and appearance of the site or surrounding area, the living conditions of nearby residents, the level of parking provision proposed, flood risk, drainage or ecology grounds or in relation to the level of storage provision on site or any other grounds upon which third party concerns have been raised.

Approval is therefore recommended subject to conditions to address various detailed matters, ensure that the various infrastructure elements are delivered in a timely manner and to control hours of operation of the floodlighting.

CONSULTATIONS

Local Consultations

Parish/Town Council (Original consultation comments)

A representative from the Bowling Club spoke about their concerns regarding the application. Amended plans will be submitted by the Council but before these are submitted a meeting will take place on site to discuss between the Council and the Bowling Club.

Parish/Town Council (Further consultation comments)

The Town Council made no further comments.

Ottery St Mary - Cllr Peter Faithfull

I am writing in relation to planning number 23/0092/FUL, MUGA and extension to the Pavilion in Strawberry Lane. This application is in my ward and my preliminary view, based on the information presently available is that it should be refused.

Although I am in support of the basic principle of a MUGA on this site, I do not support what has been presented to planning. I consider that the proposed MUGA and extension are overdeveloping the site. The proposed road access to the extra parking spaces is only single track, leaving nowhere for the cars and other vehicles to pass. There is also no separate space for pedestrians. I am also concerned about the sharp 90 degree turn in the track at the end of the MUGA, as many domestic vehicles are space wagons and pick-up trucks with crew cabs, which are not likely to manoeuvre around the turn in the track. On many weekends we already have cars parking along all the grass verges due to children's football on the Kings School playing field. All the proposed parking spaces are likely to be needed on busy weekends.

I would suggest that the MUGA should be reduced to a single pitch rather than a double pitch, to give adequate room for vehicle access to the remains parts of the site.

I also do not support the proposal to remove the store room, as there will still be a need to maintain the grounds. The users of the grounds should be able to maintain their sections themselves and have appropriate storage facilities for this.

On the plans the MUGA is marked as only a netball court. As the name suggests, a multi-use games area is, by design, intended for a multitude of sports, not just one. I would expect the pitch to be designed for other sports, not just netball. Typical sports would include tennis, five-a-side football and basket ball

On a technical matter, I would prefer that the scale presented on the plans have metres or 2 metres along with 10 metre so that we can use the scales when checking any details.

These are my views, based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

Further to my comments earlier, I would like to expand my views.

On the application form, under the subject of vehicle parking, the applicant has stated that there are 27 motor vehicle parking spaces and no cycle spaces. This is incorrect. There are presently 28 parking spaces, two of which are for disabled users and 6 cycle spaces. The cycle spaces are located in the south-west corner of the parking area and can clearly be seen on Google satellite images in the form of concrete cycle parking blocks. On the proposed development plans the applicant has put forward 39 motor vehicle spaces and no cycle spaces, contrary to what is stated in the application form.

Under the subject of flood risk, the applicant has stated that there are no water courses within 20m of the proposal. As the whole site is proposed to be developed in some way, I would suggest that there are two streams within 20m of this development; one 15 m from the entrance and running parallel to the northern section of the site. The second is along the southern boundary. As stated in the flood risk assessment, the site is flood zone 3 under Fluvial Flood Risk. The applicant has proposed to have a basement storeroom in a recognised flood risk area. No details of the storeroom are given in any of the plans and how access can be achieved. The present storeroom is used for the storage of ground maintenance equipment, including a brush cutter and a ride-on mower. There is no indication on any plans as to how the ride-on mower should be placed into the storeroom, nor how any equipment will be protected in the very high likelihood of flooding. I am also concerned about the relationship between the basement storeroom and the septic tank and sewers as neither are shown on any plans. I am aware of flooding to the approximate level of the second step, which would have flooded out the proposed basement store, if it existed. I therefore cannot support such a proposal.

Over all I feel this present planning application is disappointing, particularly when the body behind this application has members who are also on the Ottery St Mary Town Council Planning Committee.

These are my views based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

Technical Consultations

Environment Agency (Original consultation comments)

Environment Agency position

We object to this application at the current time because it is unclear whether the proposed development would adversely affect the functionality of the floodplain. Failure to safeguard its functionality could result in an increase in flood risk which is contrary to the policy aims of the National Planning Policy Framework. This is not to say that the principle of the development sought is unacceptable.

The reasons for this position are provided below.

Reasons - Flood Risk

The site lies within Flood Zone 3, which is land defined by the planning practice guidance (PPG) as having a high probability of flooding. We consider that the construction of the development as proposed will inevitably require both the importing of construction materials to form the features sought and a surplus of topsoil/subsoil, for example by the act of stripping of the land to create the MUGA pitches and car park, and the creation of the pond feature. There is a risk that this will result in a reduction in functionality could occur, which has not been adequately recognised/addressed in the applicant's flood risk assessment (FRA). It is important that sufficient information is submitted to demonstrate that there will be no loss of floodplain storage or conveyance as a result of the development.

Overcoming our objection

We advise the applicant to provide details of existing and proposed ground levels, including landscaping, so that a fully considered determination can be made of the impact of the development upon the floodplain.

Given the above, it would appear inevitable that arisings will have to be relocated outside of the floodplain to avoid a loss of functionality occurring.

If the additional information is unable to demonstrate that the proposed development will not increase flood risk elsewhere, we are likely to maintain our objection to the application. Production of a revised FRA will not in itself result in the removal of an objection.

Advice to the LPA

We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Environment Agency (Further consultation comments)

Thank you for re-consulting us on this application.

Environment Agency position

We have reviewed the revised Flood Risk Assessment (FRA) and are able to remove our previously held objection subject to the inclusion of a condition on any permission granted which requires additional details on the management of landscaped material. Suggested wording for this condition and the reason for our position is provided below.

Condition - Management of landscaped material

No development approved by this permission shall be commenced until such time that details of where any excess subsoil and/or topsoil, will be landscaped have been submitted to and approved in writing by the planning authority. The footprint of the MUGA pitch shall be no higher in level than its pre-development level.

Reason: To ensure the functionality of the floodplain is not compromised by the development.

Reason

We have reviewed the revised flood risk assessment (FRA) ref. CWC233 dated March 2023. As previously highlighted, the site lies within Flood Zone 3 which is land defined by the planning practice guidance (PPG) as having a 'high' probability of flooding. A loss of its storage capacity could result as a consequence of the proposal. As such, it is necessary for there to be an element of control to minimise this risk. We note that page 29 of the revised FRA states that for the MUGA pitch 'Earthworks - The intention is to reuse some topsoil on site to restore any damaged or excavated areas, but any surplus volume will be taken off site.' and 'excess subsoil is to be disposed of off-site'. We would support the principle of such and advise this position also be adopted regarding creation of the proposed pond. In light of this, we advise the condition be applied should your authority grant permission to control how and where any soils not taken off site would be managed, and to ensure the MUGA pitch is not constructed at a higher level than existing.

Sports England (Original consultation comments)

Thank you for consulting Sport England on the construction of a multi-use games area (MUGA), with pavilion extension, additional parking and landscaping.

Sport England assesses this type of application in light of the National Planning Policy Framework (NPPF) and against its own planning objectives, which are Protect - To protect the right opportunities in the right places; Enhance - To enhance opportunities through better use of existing provision; Provide - To provide new opportunities to meet the needs of current and future generations. Further information on the objectives and Sport England's wider planning guidance can be found on its website

The proposed provision of a MUGA is supported by Sport England along with pavilion extension. The mini football pitch and cricket shown on the proposed masterplan is a little misleading. Also, for clarity Sport England published a 10 year Strategy in 2021 'Uniting The Movement' <https://www.sportengland.org/about-us/uniting-movement>

The Football Foundation (FF) advise that:

1. The Devon County FA have confirmed that according to the 2015 East Devon Playing Pitch Strategy, there is a distinct lack of dedicated youth mini soccer pitches in Ottery St Mary. So the FF welcome a new grass pitch being provided. The FF have no comment on the need or design of the proposed MUGA as this would have minimal football use.

2. The recommended size for a Mini Soccer pitch is: 55m x 37m and with the required 3m safety run-off areas this would mean a total size of 61m x 43m. It is not clear if the proposed pitch is the right size, a plan with all dimensions noted should be provided. The FF recommend the following for the design and construction:

Design - A qualified and suitably experienced sports turf consultant, agronomist, soil scientist or land drainage engineer must be employed to carry out a feasibility study, design and specification of the Natural Turf Pitches.

Construction -The construction of Natural Turf Pitches should be project managed and/or signed off by the same registered agronomist or sports turf consultant that produced the design. The pitches should be constructed by a specialist pitch contractor and not a general civil engineering contractor.

Quality - Pitches should pass a Performance Quality Standard (PQS) assessment to a 'Good' standard for football as defined by the Grounds Management Association (GMA) Pitch Grading Framework before they are used. The assessment should be carried out, by the site owner/operator/maintainer via the Football Foundation's PitchPower app.

The on-going quality of the pitch/es should then be tracked using the PitchPower app twice a year. Please follow this link to PitchPower <https://footballfoundation.org.uk/pitchpower/how-it-works>

Maintenance - In order to keep the quality of the pitches, an appropriate maintenance programme is agreed in-line with the design consultant recommendations. A 12-month defect period which includes contractor led/priced maintenance should be included within the construction contract.

Site maintenance staff/volunteer's qualifications - it is highly recommended that any individual involved with the maintenance of a site should become qualified through a recognised training provider such as the GMA, please follow this link to the courses available online - <https://www.thegma.org.uk/learning/training> Any individual groundsman could also sign up to the Groundskeeping Community: <https://footballfoundation.hivelearning.com/join>

It should be noted that suitable signs, fencing and safety equipment should be provided for the new pond area in order to ensure player safety.

It is not clear what the Cricket radius marking is for, should this be for rounders of low level baseball due to the design / layout?

As the proposed pitch is a mini soccer / youth size pitch, there is no formal requirement for compliant changings. The FF advise that any provision is suitable from a welfare position and that players and spectator should be kept separate. Design consideration advice can be found via this link: <https://footballfoundation.org.uk/changing-pavilion-design-key-considerations> It would appear that there is no separation of the WC facilities and this would be a concern. The kitchen and social space in the store area would be recommended to be retained to allow the site the ability to generate a revenue line to help ensure sustainability.

3. The FF would not wish to raise any objection if the pitch size and welfare points are taken on board and implemented for the project, but at present the detail does accord with the FF and FAs recommendations.

The LTA advise in relation to a proposed MUGA at Strawberry Lane, given there are dedicated tennis facilities already within Ottery St Mary the LTA wouldn't see a huge demand for tennis at this site and appreciate netball will take priority. With that in mind the LTA support the plans to offer some form of tennis provision as part of this development and happy to engage with the operator to support in the future to maximise tennis activity.

The ECB advise that no impact on the cricket pitch and Ottery St Mary CC are in discussions with the applicant vis-vis potential use of the upgraded facility. The ECB is supportive.

We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Sports England (Further consultation comments)

Thanks for the re-consultation. As previously stated "the proposed provision of a MUGA is supported by Sport England along with pavilion extension".

Sport England would hope that comments below dated 28th February have been taken on board? Sport England note changes on the proposed masterplan of the site.

That said the Football Foundation (FF) advise that their previous comments from 28th February is still to be addressed by the applicant. Therefore, our response would still include those questions which we raised previously.

The recommended size for a Mini Soccer pitch is: 55m x 37m and with the required 3m safety run-off areas this would mean a total size of 61m x 43m. It is not clear if the proposed pitch is the right size, a plan with all dimensions noted should be provided. The FF recommend the following for the design and construction:

Design - A qualified and suitably experienced sports turf consultant, agronomist, soil scientist or land drainage engineer must be employed to carry out a feasibility study, design and specification of the Natural Turf Pitches.

Construction -The construction of Natural Turf Pitches should be project managed and/or signed off by the same registered agronomist or sports turf consultant that

produced the design. The pitches should be constructed by a specialist pitch contractor and not a general civil engineering contractor.

Quality - Pitches should pass a Performance Quality Standard (PQS) assessment to a 'Good' standard for football as defined by the Grounds Management Association (GMA) Pitch Grading Framework before they are used. The assessment should be carried out, by the site owner/operator/maintainer via the Football Foundation's PitchPower app. The on-going quality of the pitch/es should then be tracked using the PitchPower app twice a year. Please follow this link to PitchPower <https://footballfoundation.org.uk/pitchpower/how-it-works>

Maintenance - In order to keep the quality of the pitches, an appropriate maintenance programme is agreed in-line with the design consultant recommendations. A 12-month defect period which includes contractor led/priced maintenance should be included within the construction contract.

Site maintenance staff/volunteer's qualifications - it is highly recommended that any individual involved with the maintenance of a site should become qualified through a recognised training provider such as the GMA, please follow this link to the courses available online - <https://www.thegma.org.uk/learning/training> Any individual groundsman could also sign up to the Groundskeeping Community: <https://footballfoundation.hivelearning.com/join>

It should be noted that suitable signs, fencing and safety equipment should be provided for the new pond area in order to ensure player safety.

It is not clear what the Cricket radius marking is for, should this be for rounders of low level baseball due to the design / layout?

As the proposed pitch is a mini soccer / youth size pitch, there is no formal requirement for compliant changings. The FF advise that any provision is suitable from a welfare position and that players and spectator should be kept separate. Design consideration advice can be found via this link: <https://footballfoundation.org.uk/changing-pavilion-design-key-considerations> It would appear that there is no separation of the WC facilities and this would be a concern. The kitchen and social space in the store area would be recommended to be retained to allow the site the ability to generate a revenue line to help ensure sustainability.

The FF would not wish to raise any objection if the pitch size and welfare points are taken on board and implemented for the project, but at present the detail does accord with the FF and FAs recommendations.

We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Sports England (Further consultation comments)

Sport England raise no concern to the proposal, however the applicant's submitted plans seemed to include 'soccer'. We have a comment below from the Football Foundation (FF):

Essentially, if there is no intention for football (Soccer) to happen on the site then the Football Foundation don't have anything to comment. However, due to football

previously being mentioned to use the site, The FF would ask the applicant that if football markings and as such, formal football, were to commence that the Devon FA to be consulted over any pitch construction and/or use of the site.

I trust this clarifies the position.

Environmental Health

The floodlights used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.

Reason: To comply with Policy EN15 for the avoidance of light pollution.

Other Representations

One representation of objection, two representations of support and two 'neutral' representations have been received from interested third parties. These include representations made on behalf of Ottery St. Mary Bowling Club and Ottery St. Mary Petanque Club.

Summary of Grounds of Objection

1. Lack of need for the development/ no evidence of claimed shortfall in grass and all-weather facilities and demand for netball facilities.
2. Section 106 funding would be better spent improving existing facilities throughout the town which already have infrastructure to cope and would not affect local wildlife or neighbours.
3. Threat to privacy and amenity of neighbours and detrimental impact upon quality of life through noise and light pollution and traffic congestion, which will also affect biodiversity.
4. Contradicts 2005 refusal of application for band practice building and car park.
5. Impact of increased traffic volume on an already narrow country lane will be significant with increased risk of accidents; cars will park on Strawberry Lane, causing more pollution, noise and danger.
6. No indication as to how traffic flow within the site would be managed in practice.
7. The site will not be monitored, and therefore a security risk; the proposed remote keypad access would not be sufficient.
8. No details as to who would operate and monitor the site, provide security and respond to complaints.
9. Query the energy and environmental costs of the floodlights; would they be switched on/off by those with remote access?

Summary of Grounds of Support

1. An outside facility that, with floodlighting, can be used all year round for training and matches.
2. Costs of hiring indoor venues as an alternative are expensive.
3. Opportunity to introduce new sports to the area.
4. Pond and wetland area will help fight climate change, through carbon storage and prevention of flooding, as well as help the declining wildlife population and enrich lives of visitors, allowing a connection with nature that would improve health and well-being in a different way.
5. The town badly needs such facilities.

6. The site is sufficiently far from dwellings that it will not create a disturbance but is close to the town centre and within easy pedestrian reach of many.
7. The land has little alternative uses due to the flood plain.
8. Development accords with the extant Neighbourhood Plan.

Summary of 'Neutral' representations

1. Improvement to petanque terrain must include the installation of an engineered drainage system to mitigate waterlogging.
2. Impact of hedge and tree planting on use of terrain from leaves, clippings and shade as well as space for players and spectators.
3. Potential conflict between trees and access to the overspill parking.
4. Car/pedestrian interaction may be a safety hazard for petanque players.
5. When distributing top soil across the rest of the site a minimum 5 metre strip must be left clear from the terrain and the overspill car park areas to avoid mud/clay getting on to the petanque terrain.
6. The surface of the Strawberry Lane access splay to the site needs to be improved.
7. The MUGA and additional training facilities will significantly increase use by pedestrians so consideration should be given to also improving this section of Strawberry Lane.
8. Planting of heavy standard trees risks air flow to the bowling green, shading and leaf drop.
9. Concern re. access to drainage system and damage to pipework that may occur during building works.
10. There should be no damage to the boundary hedge during the course of excavation for the foundations of the floodlights.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 24 (Development at Ottery St Mary)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

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

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

RC2 (New Open Space, Sports Facilities and Parks)

RC6 (Local Community Facilities)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies

NP1 (Development in the Countryside)

NP2 (Sensitive, High Quality Design)

NP7 (Flood Defences)

NP8 (Protection of Local Wildlife Sites and Features of Ecological Value)

NP17 (Community Facilities of Value)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

The site, which is approximately 0.75 hectares in area, predominantly comprises an open recreation area, presently mainly laid to grass, together with a single storey pavilion and vehicle parking area located off of Strawberry Lane just beyond the south western edge of the built-up area of the town.

The facility, which is owned and managed by Ottery St. Mary Town Council, is positioned alongside the premises of the town's Bowling Club, with which it shares a vehicular access off Strawberry Lane. To its north east, and beyond an access road to an electricity sub-station site, is the Ottery St. Mary Cricket Club.

A petanque terrain used by Ottery St. Mary Petanque Club, incorporating four flanking floodlighting columns, is positioned to the south of the pavilion, close to the eastern site boundary. The Club has use of the pavilion during play.

The site is wholly within flood zone 2 with all but a small area alongside part of the boundary with the bowling club also within flood zone 3.

It is designated as a Recreation Area on the Inset Map for Ottery St. Mary that forms part of the adopted Local Plan. It is also listed as a Community Facility of Value within the made Ottery St. Mary and West Hill Neighbourhood Plan.

Proposed Development

Following a period of liaison between the town council and various sports clubs in the area, a strategic development proposal has been drawn up for a more extensive use of the pavilion, which is comparatively modern, and grassed area, which has been considered unfit for 'formal' sports use owing to land drainage and turf problems.

It is considered that both are underused at present and that the potential exists for the facilities to accommodate a much wider range of activities than at present and improve their value to the wider community. Moreover, 'Section 106' funding, from the nearby housing development (to the north of Strawberry Lane), is in place with which to realise this.

The proposal incorporates the following elements:

1. The laying out of an 'all weather' multi-use games area (MUGA), measuring 35.2 metres by 34.6 metres (1260 square metres) and containing two playing areas, for netball, basketball, tennis and walking football, together with the installation of 5 metre high perimeter pro-mesh panel fencing and floodlighting. The latter would comprise 4no 8 metre high columns, one at each corner, with a pair of lights on each column. A retractable ball-stop net divider would allow the court to be divided into two smaller courts.
2. The laying out, upgrading and improvement of the majority of the remaining open grassed area to the south as a multi-use area for informal recreation, including cricket and football coaching.
3. The provision/laying out of additional access/overspill parking spaces, on reinforced turf, along the southern side of the proposed MUGA together with an access track for emergency vehicles and pedestrians and for maintenance purposes.
4. The construction of two identically-sized extensions at either end of the existing pavilion to provide enlarged changing facilities, enable greater numbers of users of the facilities to be accommodated and facilitate scope for division of space to allow for provision of separate disabled and junior facilities. The extensions would both measure 6 metres in length by a depth of 5.7 metres and take the form of a straightforward continuation of the existing building, which has roof eaves and ridge heights of 2.1 metres and 3.5 metres respectively. Externally, these additions would be finished to match those present on the existing building.
5. The creation of a pond/wetland feature to the south of the petanque terrain. Around 260 square metres in surface area, it is considered to have the potential, as an 'attenuation basin', to hold approximately 200 cubic metres of water. It has therefore been incorporated within the proposals to mitigate/compensate for the loss of flood plain storage capacity resulting from the proposed pavilion extensions (total 68.4 square metres). Management of existing surface water on the site is also proposed through the installation of a new lateral pipe system with attenuation capacity via temporary water storage in a permeable fill drainage layer under the proposed MUGA.

6. Landscaping improvements, principally through tree planting and wild flower seeding in the site margins.
7. The installation of 4.8 metre high mesh ball-stop netting along the length of the part of the northern site boundary of the multi-use informal recreation area with the adjacent bowling green.

It is intended that the MUGA would be made available for use daily from 9am (10am on Sundays) up to 10pm, excluding 'key holidays', albeit that this maximum level of use could be reduced depending upon the demand for the facility along with other factors such as competition, pricing, marketing and promotion.

The proposals as originally submitted included the laying out of a football pitch to the south of the proposed MUGA. However, this element of the scheme has subsequently been removed in the light of Sport England's original consultation comments and is intended to be used as the multi-use area for informal recreation referred to above.

Considerations/Assessment

The proposal falls to be considered having regard to the following material issues that are discussed in turn.

Principle of Development

The application site is located outside of the Built-up Area Boundary of Ottery St. Mary as defined in the Local Plan and, as such, forms part of the 'countryside' to which the provisions of Local Plan Strategy 7 (Development in the Countryside) apply.

These only permit development where it is in accordance with a specific Local or Neighbourhood Plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities, including land form, settlement patterns and important natural and man-made features and public views that contribute to local landscape character.

However, as stated above, the site occupies land that is identified in the Local Plan as a Recreation Area where the provisions of Policy RC2 (New Open Space, Sports Facilities and Parks) are relevant. Among other things, these allow proposals for the upgrading or enhancement of existing facilities provided that certain criteria are met, as follows:

1. They do not unduly affect the character and appearance of the area and the visual and physical amenities enjoyed by adjoining residential areas.
2. They are accessible by public transport, bicycle and on foot.
3. Appropriate car and cycle parking is provided.
4. The proposed road access to the site provides for safe exit and entry and the local road network can safely accommodate the extra traffic the proposal would generate.
5. The facilities are located without detriment to the best and most versatile agricultural land, nature conservation interest and the conservation of areas of landscape, scientific, archaeological or historic interest.

These are also largely reflected in the provisions of Policy RC6 (Local Community Facilities) with the addition of a criterion that proposals are well related to the built form of the settlement and close to existing development.

Subject to the contextual issues set out within these, which are discussed in greater detail in the next sections of the report, it is considered that the broad principle of the development would be acceptable.

Indeed, this is reinforced by guidance set out in the National Planning Policy Framework (NPPF) that states that planning decisions should plan positively for the provision and use of community facilities, including open space and sports venues, to enhance community sustainability and the residential environment (paragraph 93) and emphasises the importance of access to opportunities for sport and physical activity for community health and well-being (paragraph 98).

These are, above all, significant as an element of the social objectives to the achievement of sustainable development to which paragraph 8 refers insofar as they set out the need for the planning system to provide accessible services and open spaces that support health as a means of bolstering strong, vibrant and healthy communities as a whole.

The development in this case would enhance the sporting and recreational facility offer within the town and, as a matter of principle, be consistent with the Local Plan designation of the site and associated land as a Recreation Area. It would also be consistent with the provisions of Neighbourhood Plan Policy NP17 (Community Facilities of Value) insofar as it would clearly not result in either the loss of or significant harm to the recreation field.

Impact upon Character and Appearance of Area

Aside from Strategy 7 referred to above, the provisions of Local Plan Policy D1 (Design and Local Distinctiveness), which is of generic application to all development proposals, require, among various criteria, that schemes respect the area's key characteristics and special qualities and relate well to its context whilst avoiding any adverse effects upon important landscape characteristics or ecological features or trees worthy of retention.

The context in this case is a defined Recreation Area within which there is a reasonable expectation that development proposals for the enhancement of existing facilities would be likely to come forward.

As such, although the scheme would clearly add to the level and extent of operational development already present on the site, when balanced against the designation and the provisions of Policy RC2 set out above it is not thought that the proposals would detract from the character or appearance of the site itself nor that of the surrounding area, even when its location within the countryside is taken into account.

Indeed, it is considered in any event that only the introduction of the proposed MUGA would itself represent the most visually significant element of the scheme, with much of the remaining development being low level, when assessed against the

level of impact upon character and appearance arising from the existing driveway, parking area, pavilion and fencing.

It is also recognised that the wider site context is defined by the close presence of an electricity pylon to the immediate east of the site along with the bowling and cricket clubs and their respective playing areas. The location of the development alongside these other sporting facilities is therefore considered appropriate from a visual perspective.

The proposed extensions to the pavilion would be in keeping with the existing building which is, and would largely remain, modest in scale and height. It is not thought therefore that this element of the proposals would be unduly detrimental to the character or appearance of the site.

The potential for impact from light overspill from the proposed floodlighting would be mitigated through the use of Backlight Control optics rather than standard floodlighting. A lux plan submitted with the application demonstrates that the lighting impacts, with the mitigation applied, would not be significant and levels of illumination predicted on the site boundaries are considered to be within specified technical limits at no more than 0.5 lux.

No objection has been raised to the proposed floodlighting by the Council's Environmental Health team on the grounds of excessive light overspill or light pollution.

The site, being a recreation area, does not comprise part of any best and most versatile (BMV) agricultural land. Furthermore, it is not itself an area, or forms part of an area, that is the subject of any nature conservation or landscape designation or area of any scientific, archaeological or historic interest. The proposal therefore meets with this criterion of Policy RC2.

Impact upon Neighbour Amenity

It is anticipated that the introduction of the proposed MUGA and the upgrading of the existing open recreation area and pavilion would be likely to give rise to additional noise and activity within the site. However, although there are residential properties to the north on the opposite side of Strawberry Lane, there would be a separation distance of in excess of 100 metres between the MUGA and the nearest of these.

Taken in the overall planning balance, therefore, it is not thought that the development would result in material harm to the living conditions enjoyed by nearby residents. Again, no objection to the proposals on such grounds have been raised by the Council's Environmental Health team.

Furthermore, no element of the scheme itself would physically or visually impact any residents in a manner that would be harmful to the existing levels of amenity that they currently enjoy.

Highways/Access/Parking

No consultation comments have, at the time of writing, been received from the County Highway Authority (CHA).

In any event, the level of parking provision in developments is invariably a matter to which the CHA delegates responsibility to the Local Planning Authority to assess, in so doing requesting that its own parking standards be applied.

In relation to this particular type of development, the Local Plan is largely silent on the matter of the number of parking spaces required.

The site currently provides a total of 28 vehicle parking spaces, including 2no disabled spaces, and 6 cycle parking spaces. The scheme site layout proposals show 30 spaces within the existing parking area and a further 10 spaces along the southern side of the proposed MUGA that would be accessed via the proposed emergency vehicle access track.

Taken together with the inability to park vehicles outside the site in Strawberry Lane owing to its narrow width, which would mitigate any risk of 'overspill' parking on the highway arising from the use of the proposed facilities, it is not considered that there are substantive grounds upon which to contend that the development would provide an inadequate level of parking for users of the site.

Equally, the existing entrance to the site which (being shared with those of the accesses to the bowling club and electricity sub-station to the south west and north east respectively) is of considerable width and has the benefit of a good level of visibility, both from and of vehicles emerging from the site, in both directions.

It should also be acknowledged, notwithstanding the level of use and associated vehicle movements that are currently generated by the recreation area and petanque terrain, that the existing parking capacity on the site is already quite considerable. Moreover, although the potential for vehicle conflict owing to the single lane nature of the access road within the car park (if all spaces were to be occupied) is recognised, the potential already exists for this scenario to occur. It is not anticipated therefore that the proposed additional parking spaces and/or

As such, when balanced against the various other factors set out in the report and the alternative scenario where there is no investment or improvement in the facility and it continues to be an under-used resource of limited community benefit, it is not considered that this potential constraint should be regarded as weighing against acceptance of the proposals.

Equally, the same argument is considered to apply in relation to the relative shortcomings of the location of the site in terms of its ready accessibility by public transport and on foot, given the lack of access via footway along Strawberry Lane).

However, a condition is recommended to secure the provision of cycle parking facilities to at least partially offset the likely car-borne nature of the trips that are likely to otherwise be generated by the enhanced recreation/sporting provision made by the scheme.

Taking these factors in combination, therefore, whilst also recognising the it is considered that the overall balance weighs in favour of the proposals when access

and parking issues are considered 'in the round' alongside the other material considerations.

Flood Risk

A revised flood risk assessment (FRA) has been submitted in the light of objections originally raised to the proposals by the Environment Agency (EA) on the grounds of inadequate information having been provided to demonstrate that there would be no loss of functionality of the flood plain in terms of loss of flood plain storage or conveyance and, therefore, that there would be no increase in flood risk as a result.

This position was taken on the basis of concern that the development would require both the importation of construction materials to form it and a surplus of topsoil/subsoil; for example, through the stripping of the land to create the MUGA, extended parking area and pond. Details of proposed ground levels relative to the existing, along with landscaping, were requested so that the effect of the proposals upon the flood plain could be properly considered.

The modified FRA advises that, whilst some topsoil would be re-used on site to restore any damaged or excavated areas, any surplus would be taken and disposed of offsite.

Subject to a recommended condition requiring the submission of details as to where any excess subsoil and/or topsoil would be used for landscaping purposes and the level of the proposed MUGA to be no higher than the existing site level, the EA now raises no objections.

Although the site occupies land that is within flood zones 2 and 3, the existing and proposed development falls within the category of 'water compatible development' which is acceptable within such areas in line with the flood risk vulnerability classification.

Owing to a degree of ambiguity between the details set out within the submitted design and access statement and those shown on the plans, clarification has been sought as to whether the scheme is intended to incorporate a basement level store beneath the pavilion.

In response, it has been confirmed that this is not an element of the current proposals owing to the risk of flooding to which such a facility would be exposed. It has also been advised that storage of sports-related equipment would be housed in a store within the pavilion and/or within part of the floor space of one of the proposed extensions to it. However, this would be subject to the requirements of users of the MUGA being established at the detailed consultation and design stage.

This aside, it is also confirmed that it would not be intended that maintenance equipment be kept at the site.

Although this does leave a degree of uncertainty as to exactly what storage requirements may need to be addressed, as well as how this may be achieved, it is not considered that it is an issue in itself that can reasonable be attributed weight against the proposed development when assessed in the overall planning balance.

Drainage

Foul drainage from the existing pavilion is currently discharged via a septic tank and soakaway system. However, there is an acknowledgment that it may require upgrading. It is therefore advised that this is to be assessed at the detailed design stage.

The FRA advises that management of surface water drainage would be achieved through a combination of the measures to which reference was made earlier in the report; namely the installation of a new lateral pipe system with attenuation capacity, via temporary water storage in a permeable fill drainage layer beneath the proposed MUGA; the use of the proposed pond/wetland feature to take flows transferred from the petanque terrain before a controlled discharge to an adjacent ditch, and improvements to the existing grassed playing field area to reduce the waterlogging that is currently experienced.

However, a condition is recommended requiring the submission of further details of these intended means of dealing with both foul and surface water drainage for approval.

Ecology

The proposals include a range of measures to improve biodiversity on the site. These principally comprise, in addition to the tree planting, wild flower seeding and pond and wetland margin referred to above:

1. The planting of a native species-rich hedge alongside the eastern site boundary.
2. The use of Backlight Control optics (as referred to above), rather than standard floodlighting, to reduce light spill outside of the MUGA.
3. The provision of two bat boxes on mature trees around the site to provide potential roosting opportunities for bats.
4. The installation of an integrated swift brick or sparrow terrace on the east elevation of the pavilion, or either extension, to provide nesting opportunities for birds.

Reference is made within the supporting information that accompanies the application to additional lighting to the car park adjacent to the pavilion. However, no details of this have been provided. It is therefore recommended that a condition be added to any permission granted requiring the submission of details for approval in the interests of the character and appearance of the area.

Conclusion

It is considered that the balance of the various material considerations set out above weighs in favour of the proposals. Whilst the concerns and issues raised by the ward member, third party objector and the Bowling and Petanque Clubs are acknowledged, it is not thought that these are sufficient to outweigh the factors in favour of the scheme, not least the enhancement of the sporting facilities that it would provide for the town.

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. No development above foundation level 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 all areas to be grassed and hard surfaced. 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 any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping 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 - 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.)
4. The floodlighting hereby approved shall not be switched on outside of the hours of 9.00am - 10.00pm on any day.
(Reason - To prevent unrestricted use of the floodlighting in the interests of limiting light pollution and to protect the amenities of the occupiers of nearby residential properties and the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)
5. No part of the development hereby permitted shall be brought into use until the ambulance access, pedestrian and maintenance access and additional access/overspill parking spaces shown on the Proposal Masterplan (drawing ref. Ottery St. Mary TC Planning Issue_Rev. C) have been laid out and surfaced in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. These shall thereafter be used solely for their respective purposes in perpetuity.
(Reason - In the interests of ensuring the appropriate access and parking provision is made within the site in accordance with Policy TC9 (Parking Provision in New Development) of the adopted East Devon Local Plan 2013-2031.)
6. No development shall take place until details as to how and where any excess subsoil and/or topsoil will be incorporated into the landscaping of the site have

been submitted to, and approved in writing by, the Local Planning Authority. Development/landscaping shall be carried out in accordance with the approved details.

(Reason - In the interests of ensuring that the functionality of the flood plain is not compromised by the development in accordance with Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2021).)

7. The level of the playing surface of the Multi-Use Games Area hereby permitted shall be no higher than that of the existing level of the ground on which it is to be laid out.

(Reason - In the interests of ensuring that the functionality of the flood plain is not compromised by the development in accordance with Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 and guidance as set out in the National Planning Policy Framework (2021).)

8. The development hereby permitted shall be carried out in accordance with the measures for the enhancement of biodiversity on the site set out in paragraph 3.1.6 (Environmental Impact Assessment) of the Design and Access Statement (ref.: OSM_SLMUGA_DAS_1-23) prepared by Hemstock Design Ltd. These measures shall be carried out prior to first use of any part of the development and shall thereafter be maintained as approved.

(Reason - In the interests of enhancing biodiversity in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013-2031.)

9. No development shall take place until details of the means of disposal of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

(Reason - In the interests of avoiding pollution of the environment and/or flooding in accordance with the requirements of Policies EN14 (Control of Pollution), EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan 2013-2031.)

10. No development above foundation level shall take place until details of any external lighting (excluding the proposed floodlights) of any part of the site have 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 enable the Local Planning Authority to consider lighting details in the interests of 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.)

11. No part of the development hereby permitted shall be brought into use until provision has been made within the site for facilities for the parking of cycles in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. These facilities shall thereafter be retained as such and made available for use in perpetuity.

(Reason – In the interests of promoting non-car means of travel to and from the site in accordance with Policy TC4 (Footpaths, Bridleways and Cycleways) of the adopted East Devon Local Plan 2013-2031.)

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

NOTE FOR APPLICANT

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:

	Location Plan		10.02.23
200	Proposed Plans	Combined	10.02.23
Proposed Masterplan	Other Plans		09.05.23
Cricket Ball Stop	Other Plans		09.05.23
Llghting spec	Other Plans		09.05.23
Fence Lighting Elevation	Other Plans		09.05.23

Mast Drawing

Other Plans

09.05.23

List of Background Papers

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

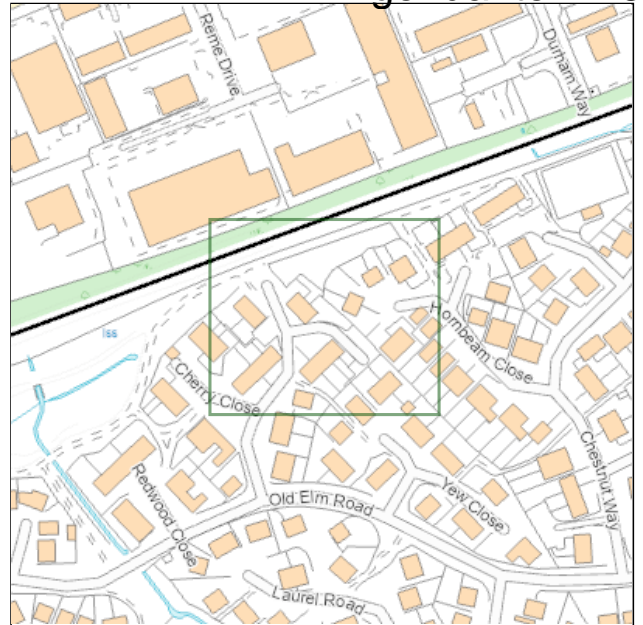
Ward Honiton St Michaels

Reference 23/1115/FUL

Applicant Antony Paul

Location 24 Cherry Close Honiton Devon EX14 2XT

Proposal Construction of a new dwelling.



RECOMMENDATION: Refusal

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		Committee Date: 22.08.2023
Honiton St Michaels (Honiton)	23/1115/FUL	Target Date: 18.07.2023
Applicant:	Antony Paul	
Location:	24 Cherry Close Honiton EX14 2XT	
Proposal:	Construction of a new dwelling.	

RECOMMENDATION: REFUSE

EXECUTIVE SUMMARY

This application is before Committee as the officer recommendation is contrary to the view of a Ward Member.

The application relates to a proposed detached, two-storey dwelling on an area of the garden of 24 Cherry Close, which is located near the end of a cul-de-sac in a housing estate in Honiton.

The erection of a dwelling at this site is acceptable in principle as it is within the Built-Up Area Boundary of the town. The dwelling would, however, be a narrow, detached two storey building, extending across the full width of the narrowest end of its plot such that it would appear cramped within it. The scale and form of the dwelling would be at odds with the surrounding pattern of development, given that this is characterised by semi-detached and terraced dwellings and occasional bungalows (with larger footprints), which have garden areas to the front and rear. Honiton Town Council raise an objection that the proposal is overdevelopment with a harmful impact on the character of the area.

Due to the proximity, scale and orientation of the proposed dwelling relative to a neighbouring dwelling at 25 Hornbeam Close, the proposed dwelling would result in harm to the amenity of that neighbouring dwelling, due to being overbearing and having a harmful impact on the daylight reaching its rear garden and conservatory.

There is limited on street parking available in the area near the site and in accordance with guidance in Policy TC9 of the Local Plan the new two bedroomed dwelling should be provided with two off street parking spaces. Only one space is to be provided for it, however, and through the development parking at the host dwelling, 24 Cherry Close (which also has 2 bedrooms), would be reduced to one space, such that both dwellings would have inadequate parking space.

A tree is present within the site and in the absence of a tree survey indicating otherwise, the development would entail the removal or a risk to this tree and a consequent loss of high quality trees in the area.

The proposal therefore conflicts with Strategies 6 and Policies D1, D3 and TC9 of the East Devon Local Plan and as such the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

Members OBJECT to the proposed development for the following reasons:

- o The proposal would result in overdevelopment of the site.
- o The proposal would result in the loss of green open space on the estate.
- o The proposal would adversely impact on the character of the area and the street scene.

For 2, Against 2, Abstentions 0.

As the vote was tied, the Chair had the casting vote and voted to object to the application

Honiton St Michaels - Cllr Violet Bonetta

I support this application. The proposed design fits well into the local street scene and takes into account the privacy of surrounding properties. The dwelling will provide much needed housing to the local area.

Technical Consultations

None have been received.

Other Representations

One representation has been received from a neighbour raising the following concerns:

- Harmful impact on light reaching the neighbouring property
- Overlooking

PLANNING HISTORY

<u>Reference</u>	<u>Description</u>	<u>Decision</u>	<u>Date</u>
78/C1395	Residential Development	Approve with conditions	27/3/1979
82/P0323	Residential Development phase Iii	Approval with conditions	2/3/1983
84/P1854	20 Bungalows. 38 Houses. 43 Garages. (Phase 3)	Approval with conditions	9/4/1985

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 23 (Development at Honiton)

Strategy 28 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

RC1 (Retention of Land for sport and Recreation)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Neighbourhood Plan

None available for Honiton

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site lies within a housing estate within the Built up Area Boundary of Honiton, Approximately 1.7 km to the southwest of the town centre. The rear garden to 24 Cherry Close extends to the rear and side of that property (i.e. to its northeast and southeast) and the application site is the part of the garden which lies to the southeast. The site is on level ground and is approximately triangular in shape, with its southwestern side curving inwards into the site where it bounds Cherry Close. The site is currently grassed with a mature tree on its northeastern side, close to the boundary of the plot.

The wider context of the site includes residential properties in moderately dense layout around a network of unclassified cul-de-sac roads. Most of the dwellings are 2-storey, many of the dwellings are attached, some are terraced and there are occasional detached dwellings which are bungalows. The dwellings each have front and rear gardens.

Neighbouring dwellings immediately adjacent to the site include the applicant's dwelling to the northwest (24 Cherry Tree close), which is located at the southeastern end of a small terrace, and 25 Hornbeam Close to the northeast, which is one of a pair of semi-detached dwellings. A timber fence divides the plot of 25 Hornbeam Close from the site. Additional neighbouring dwellings lie on far side of roads or gardens, the closest being 25 Cherry Close to the south of the site and on the opposite side of Cherry Close. There is a communal parking area to the immediate southeast of the site.

A designated open space lies to the north of the site. This is slightly separated from it by the rear gardens of surrounding dwellings. There is a mature tree within the site close to the boundary with 25 Hornbeam Close.

Proposal

The proposal is the construction of a small, 2-storey, detached dwelling, which would be set towards the southeastern end of its plot with a small garden area on its northwestern side. It would be aligned parallel to Cherry Close and in the same alignment as 25 Cherry Close on the opposite side of the road to the south, and its front door would face southeast. It would have 2 bedrooms and one off-road parking space, through reducing the amount of off road parking spaces available to the existing dwelling at 24 Cherry Close by 1. The new dwelling would have external space for bin storage and cycle parking. The external walls of the dwelling would be brick, it would have upvc glazing and doors and the roof would be tiled.

ANALYSIS

The main issues for consideration include the principle of the development, its visual impact and impacts on amenity, trees, highway safety and parking.

The development plan is the starting point for decision-making although it is acknowledged that due to the current lack of a five year housing supply in the district, the presumption in favour of sustainable development will apply in this assessment, in accordance with paragraph 11 d of the NPPF.

Principle

Strategy 23 encourages the building of new homes within the Built Up Area Boundary of Honiton. The erection of a dwelling at this site is also acceptable in principle in accordance with LP Strategy 6 (Development within Built-up Area Boundaries).

Visual Impact

The design and materials of the building are generally in keeping with the appearance of surrounding buildings, however the building would be a narrow detached building, unlike any of the surrounding buildings, thus its scale would be at odds with the character and appearance of the buildings in the surrounding area. The building would extend close to the southeastern boundary of its plot and very close to its northeastern and southwestern plot boundaries such that it would appear cramped within its plot, whereas surrounding properties tend to be flanked by gardens to the front and rear. As a result of the above characteristics the building would appear at odds with the pattern of surrounding pattern of development. The proposal would therefore conflict with the requirements of LP Strategy 6 (Development within Built Up Area Boundaries) and Policy D1 (Design and Local Distinctiveness).

Amenity

The proposed dwelling would not be directly faced by the windows of nearby neighbouring dwellings therefore it would not affect the outlook of neighbouring dwellings. The outlook of the proposed dwelling is similarly considered to be acceptable. Given that it would have a small garden and that there is designated open

space nearby in the surrounding area, it is considered that the proposed dwelling would have adequate access to open space. The proposed dwelling would not, however, comply with the nationally described space standard in terms of its gross internal area, the area and width of its single bedroom and the area of its double bedroom. For example the minimum gross internal floor area as recommended in the Nationally Described Space Standards is 70 sq m for a 2 bed 3 person house; this proposal is for a 2 bed dwelling with an internal floor area of 51sqm. Whilst the standard is guidance only, having not been adopted into any policy in the East Devon Local Plan, comparison with the standard provides an indication that the proposed dwelling is likely to provide a poor level of amenity for future occupiers in relation to internal space.

The northeastern façade of the proposed dwelling would be located alongside and parallel to the boundary with 25 Hornbeam Close and very close to it, being only approximately 0.3m away from it and the boundary between the properties is not parallel with the southwestern side façade of 25 Hornbeam close, but is slightly angled in towards the rear garden of that property. The proposed dwelling would also extend slightly to the northwest of the nearest part of the dwelling at 25 Hornbeam close, and taking into account all the above it is considered that the dwelling would have an overbearing impact on that property. The proposed dwelling would also impact on the direct sunlight reaching the conservatory, rear garden and patio of no 25, given that it would lie south-southwest of it.

It is not considered that the proposed dwelling would overlook the rear garden of the host dwelling (24 Cherry Close) or 25 Hornbeam Close as the first floor window facing towards the rear gardens of those properties would be obscure glazed. The angle between the first floor windows of 25 Cherry Close (located to the south of the site) and a first floor bedroom window of the proposed dwelling is oblique, therefore no harmful overlooking is considered likely to arise between those windows. Whilst the first floor bedroom window on the southeast façade of the proposed dwelling could view the front garden of 23 Hornbeam Close this garden is already visible from Hornbeam Close. The potential view from this window towards the rear garden of 25 Cherry Close is likely to cause only minimal additional overlooking, as that garden is already overlooked from the rear windows of the attached neighbouring dwelling, 26 Cherry Close.

To summarise, the amenity of the proposed dwelling is likely to be poor as it would not provide adequate internal space for occupiers. Whilst the dwelling would be unlikely to cause harmful overlooking it would have an overbearing impact on 25 Hornbeam close and in the absence of information indicating otherwise (such as a daylight/sunlight assessment) it is also considered that it would reduce the sunlight reaching the conservatory and garden area of that property to a harmful degree.

Trees

The development is likely to entail the removal of a tree which is present within the plot near its northeastern boundary, or to present a risk of harm to it. No tree survey has been supplied to indicate the quality of the tree or to justify its removal. In the absence of this information the proposal is considered to conflict with LP Policy D3 (Trees and Development Sites) which requires that there be no loss in the quality of trees as a result of development

Travel and Highway Safety

The proposed dwelling is located within convenient reach of public transport services and the other services and facilities which a resident is likely to require access to. The proposal is therefore considered to be in a sustainable location which supports the use of transport modes other than a private motor vehicle. No details are provided to indicate that the proposed cycle storage would be under cover, through a condition could be imposed to require details of an appropriate bicycle store. It is not considered that the proposed single dwelling would significantly add to traffic using the local highway network. A new access is proposed to serve the dwelling, leading on to Cherry Close. Whilst there would not be space for a vehicle to turn within the site, no objection has been received from the Local Highway Authority in relation to the access arrangement and given the likely low speed of vehicles travelling on the highway adjacent to the site it is not considered that any risk to highway safety would arise. Overall it is considered that the proposal would meet the requirements of LP Policy TC2 (Accessibility of New Development) and TC7 (Adequacy of Road Network and Site Access).

Parking

In accordance with the guidance contained in LP Policy TC9 (Parking Provision in New Development) 2 parking spaces should be provided for a 2 bedroom home, however only 1 parking space would be provided for the proposed 2 bedroomed dwelling. In addition, the proposal would remove one of the existing parking spaces of 24 Cherry Close. Given that the unclassified roads in the vicinity of the site are not wide, such that on street parking is limited within the area, it is considered that there is a need for off road parking to be provided in accordance with the guidance in LP Policy TC9 in this case. Therefore it is considered that the proposal does not accord with Policy TC9.

Other issues

The Parish Council consider that the proposed dwelling would affect green open space however it would not affect the designated open space to the north of the application site which is separated from it by neighbouring gardens. Although the proposal involves development in an undeveloped garden, this area is currently bounded on 3 sides by a tall timber fence, so its contribution to green open space within the surrounding area is considered to be negligible.

CONCLUSION

Whilst a new dwelling would represent a minor contribution to housing supply, as indicated by the Ward Member, the proposed dwelling would be detrimental to the surrounding area due to its form and siting, its lack of adequate parking and it would also have a harmful impact on the amenity of a neighbouring property in relation to being overbearing and impacting on the daylight reaching that property. In the absence of information indicating otherwise it would also have a potentially harmful impact on an existing tree. The dwelling due to its small size would also fail to offer adequate amenity for future occupiers. Whilst the development plan is the starting point for decision-making, due to the current lack of a five year housing supply in the district, the presumption in favour of sustainable development applies in the consideration of this proposal (in accordance with paragraph 11 d of the NPPF). For

the reasons described above, the proposal is not considered to represent sustainable development.

RECOMMENDATION

REFUSE for the following reasons

1. The proposed detached narrow dwelling would take up much of the width of the narrower end of its plot and would be sited in an area of mostly attached dwellings and larger bungalows, which have gardens to the front and rear. As a result and having regard to its unusually narrow design, its appearance would be out of keeping with the character of the surrounding area and it would have a harmful impact on the street scene, in conflict with the requirements of Strategy 6 (Development within Built-Up Area Boundaries) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.
2. The proposed dwelling is sited close to, and south-southwest of the neighbouring dwelling at 25 Hornbeam Close, and due to this siting, together with the scale of the dwelling, it would have an overbearing impact on 25 Hornbeam Close. In addition, in the absence of information demonstrating otherwise, it would have a harmful impact on the daylight reaching 25 Hornbeam Close. Due to these adverse impacts on amenity the proposal would conflict with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.
3. The proposed 2 bedroom dwelling would be sited in an area with limited on street parking available and would only have one off street parking space. The proposed development would also remove a parking space from 24 Cherry Close (which also has two bedrooms) leaving only one remaining off street parking space for that dwelling. The proposal therefore provides inadequate parking space in relation to both 24 Cherry Close and the proposed dwelling such that it conflicts with the guidance set out in Policy TC9 (Parking Provision in New Development) of the East Devon Local Plan.
4. In the absence of a tree survey the development would compromise the health of a tree or require its removal, resulting in the net loss in the quality of trees within the area, contrary to the requirements of Policy D3 (Trees and Development Sites) of the East Devon Local Plan).
5. The proposed development would fail to provide satisfactory living conditions for the future occupiers with regards to internal living space and as such would fail to comply with Policy D1 of the East Devon Local Plan and Paragraph 130(f) of the NPPF (2021) which requires that developments provide a high standard of amenity for its future users

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

3789/01	Proposed Elevation	23.05.23
3789/02	Proposed Combined Plans	23.05.23
3789/03	Proposed Site Plan	23.05.23
amended	Location Plan	28.07.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Report to: Planning Committee



Date of Meeting 22nd August 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

District Heating Local Development Order

Report summary:

The report seeks a resolution for the Council to adopt a revised boundary for the Local Development Order (LDO) for District Heating (DH) Networks in East Devon's West End.

Planning Committee approved the Adoption of the LDO on 15th July 2020.

The revised boundary extends the LDO south of Exeter airport from the A30 to the A3052. A formal consultation has been undertaken in accordance with The Town & Country Planning (Development Management Procedure Order) (England) 2015. Amendments have been made to the draft revised LDO following the consultation.

The LDO sets out the permitted development and defines the restrictive terms which limit the scope of the development and the conditions which need to be met. The adopted LDO is attached in Appendix 1. The proposed revised LDO is attached in Appendix 2.

The purpose of the LDO is to grant permitted development rights for underground pipes and cables and some minor above ground works. The Statement of Reasons (with addendum) accompanies the Order and is attached in Appendix 3.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Committee approve the adoption of the revised boundary for the District Heating Local Development Order.

Reason for recommendation:

Through the adopted LDO the Council supports the delivery of the District Heating Network in East Devon in accordance with the aims and objectives set out in East Devon Local Plan East Devon Council Plan 2020 – 2040 to achieve carbon neutrality by 2040.

The LDO reduces the regulatory processes and delays associated with the submission of planning applications and facilitates faster implementation of the District Heating networks.

The proposed revised boundary will grant planning consent for pipes to be laid from the A30 to the Hill Barton Industrial Estate.

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Culture

Equalities impact Low Impact

Climate change Medium Impact

Decentralised heating systems result in significantly lower carbon emissions than conventional heating systems, helping to achieve sustainable development and resulting in a positive impact on climate change.

Risk: Low Risk; The proposed LDO is a low risk proposal. The delivery of the Order will comply with the Town & Country Planning (Development Management Procedure Order) (England) 2015

Links to background information Planning Committee 15th July 2020 [Cabinet 6th March 2019](#)
[East Devon Local Plan 2013-2031](#) [National Planning Policy Framework](#) [The Town & Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) [The Town & Country Planning \(Environmental Impact Assessment\) Regulations 2017](#)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1. Introduction

- 1.1. The District Heating Local Development Order gives permitted development rights for the installation for high pressure hot water pipes and ancillary equipment as listed in the Order, subject to the limitations and conditions set out in the Order. The LDO provides certainty to developers, reduces the regulatory process and facilitates faster development.
- 1.2. The heat network is a system of heat distribution which takes heat from energy centres and supplies it to individual buildings. The district heating (DH) networks are an essential part of East Devon's plan to facilitate more sustainable forms of energy consumption. The benefits of the DH networks grow as the networks increase in size and they provide a unique opportunity for large scale distribution of energy from renewable and recovered heat sources.

- 1.3. Currently the heat networks are connected via the energy centres to mains gas. The aim is for the two energy centres to be supplied by a more sustainable heat source by using heat recovery from the waste incineration at Hill Barton Industrial Estate. The proposed revised boundary of the LDO will grant permitted development for pipes and ancillary equipment to be installed, connecting the energy centres to an Energy from Waste plant at Hill Barton.

2. Background

- 2.1. The Town and Country Planning Act 1990, Section 61, permits Local Planning Authorities (LPA's) to make Local Development Orders granting planning permission for development in their area. The Town & Country Planning (Development Management Procedure Order) (England) 2015 sets out the procedure that must be undertaken for the preparation and adoption of an LDO.
- 2.2. LPA's can make an LDO to extend permitted development rights or grant planning permission, for specific development proposals or classes of development within a particular area.
- 2.3. Under the legislation Local Planning Authorities may amend, extend or revoke LDO's.
- 2.4. Statutory undertakers for gas, electrical or water utilities currently benefit from nationally prescribed permitted development rights. This enables them to install and maintain apparatus necessary for the operation of those utilities without the requirement to obtain planning permission. The providers of district heat networks do not benefit from such permitted development rights. The District Heating LDO grants rights similar to that of statutory undertakers.
- 2.5. The district heating networks serve housing in Cranbrook, Monkerton and Pinhoe as well as commercial buildings at Skypark and Science Park. The Skypark energy centre also provides a private wire to the Lidl distribution centre.

3. Details of the order

- 3.1. In accordance with the provisions set out in The Town & Country Planning (Development Management Procedure Order) 2015 a Statement of Reasons accompanies the LDO. This is provided in Appendix 3.
- 3.2. The LDO removes the need for developers to apply for planning permission for the installation of pipes, cables and wires, heat exchange equipment and ancillary engineering works, provided the development complies with the limitations and conditions set out in the Order.
- 3.3. The development rights permitted under the Order would allow any DH provider to undertake the specified works. The Order is not directed to a specific energy supplier.
- 3.4. To ensure that the development is acceptable in planning terms the LDO defines a set of limitations to restrict the development which is permitted under the order. The order also specifies a list of conditions which must be met. Any development outside of these limitations or which does not comply with the list of conditions would not be deemed as permitted development by the order.

- 3.5. The LDO as drafted would exclude any development within the curtilage of any Listed Building or Locally Listed Structure or affecting a Scheduled Ancient Monument. It would also exclude any above ground development within 50 metres of a Listed Building or Locally Listed Structure or a Scheduled Ancient Monument.
- 3.6. Development which constitutes EIA development as defined by Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (EIA) Regulations 2017 is specifically excluded by the restrictive terms of the Order.
- 3.7. The restrictive terms of the order would mean that any works to trees or hedgerows would require written approval by the LPA prior to undertaking the works and that any landscaped areas affected by the development are either reinstated to their previous condition or to a specification agreed in writing by the LPA.
- 3.8. The proposed Order would grant permitted development rights similar to some of the permitted development rights enjoyed by statutory undertakers for other utilities. The Order does not give consent for rights under other legislation to install apparatus or equipment and it remains the responsibility of the developer/landowner to comply with all other legislation.
- 3.9. In the event that written approval is required from the LPA to comply with a condition the developer will need to submit all the relevant information and appropriate fee. The fee is not set by the Order. The LPA will set the appropriate fee to cover the administration and processing of the condition compliance.
- 3.10. The duration of the LDO is defined within the draft Order as 15 years from the date of adoption. The Council can revoke, amend or extend the Order at any time.

4. Expansion of the LDO boundary

- 4.1. The current adopted LDO is attached in Appendix 1. The proposed revised LDO is attached in Appendix 2.
- 4.2. East Devon District Council (EDDC) currently has two district heating networks. The development of district heating networks is part of EDDC's strategy to deliver large scale zero carbon development. The system is operated by energy substations, currently connected to the national gas main. It was always expected that the district heating systems would support decarbonisation. Initially the system was anticipated to be served by a biomass boiler, however it became evident that technology had not matured sufficiently to provide a reliable and commercially deliverable solution. A project is now being undertaken to heat the networks using heat recovery from a forthcoming Energy from Waste plant, situated in the Hill Barton Industrial estate. The connection of the district heat networks to the Energy from Waste plant will result in decarbonisation of the networks.
- 4.3. The LDO boundary is proposed to be extended across an area reaching from the Hill Barton Industrial Estate to the A30. It will enable permitted development rights for the pipes to be installed from the Energy from Waste plant to the energy substations at Skypark and Science Park, subject to the limitations and conditions set out in the order.

- 4.4. The LDO does not grant consent for the Energy from Waste plant. The plant currently under construction has been granted consent by Devon County Council, as Minerals and Waste Planning Authority. Any additional Energy from Waste plants will require planning permission and is a separate matter to be considered outside of the remit of the LDO.
- 4.5. The proposed revised boundary for the district heating LDO will support the roll out of decentralised heating systems in East Devon, assist the delivery of a key aim of East Devon Council Plan 2021 – 2023 to achieve carbon neutrality by 2040. Decentralised heating systems can provide significant carbon emission reduction compared to conventional heating systems and can therefore aid the transition to a low carbon economy.
- 4.6. The LDO accords with the Council’s Vision set out in the East Devon Local Plan 2013-2031. The full list of policies which the LDO supports is detailed in the Statement of Reasons (Appendix 2). It will also help deliver on key objectives with the Council Plan including to;
- Deliver a coherent strategy towards carbon neutral development.
 - Support infrastructure and commercial projects, preparing Local Development Orders to speed up delivery of projects in the Exeter and East Devon Enterprise Zone.
- 4.7. The LDO is seen as an effective tool for simplifying and speeding up the planning process. It is a proactive approach to planning which provides certainty and clarity to developers and landowners and supports the objectives of Exeter and East Devon Enterprise Zone. This LDO supports the decarbonisation of the existing district heating networks that serve Cranbrook, Sky Park, Mosshayne and Science Park, through supporting the development of an interconnector to offtake heat from the Energy from Waste plants on the Hill Barton site. The LDO could also facilitate the expansion of the existing district heating network to serve development in the vicinity.

5. Consultation

- 5.1. The consultation on the proposed revised boundary for the District Heating LDO took place from 25th May – 5th July 2023.
- 5.2. A summary of all comments received is attached in Appendix 4, along with a response to the issues raised.
- 5.3. The Environment Agency have noted a concern regarding development close to or within the landfill site at Hill Barton. They have recommended a condition to ensure adequate risk assessment and remediation is undertaken. An appropriate condition has been added to the LDO to cover the area referred to.
- 5.4. National Highways have noted the need for compliance with New Roads and Street Works Act (NRSWA) 1991. The LDO does not override other legislation and does not enable the developer to bypass the need to enter into legal agreements with National Highways where they are the landowner. No further action required.

- 5.5. The Historic Environment Team are satisfied with the archaeological condition set out in the LDO and the proposed revised archaeological constraints map.
- 5.6. The Environment Agency raise no concerns in respect to flooding and it is considered that the installation of district heating infrastructure under the LDO will not increase flood risk to the area.
- 5.7. Support for the proposed revised boundary has been received by Cranbrook Town Council.
- 5.8. Objection to the proposed revised boundary has been received by Farringdon Parish Council and a number of residents within Farringdon parish.
- 5.9. A large number of the representations were concerned about the overall impacts currently experienced from Hill Barton Industrial Estate and concern that these impacts may be increased as a result of the proposed extension to the LDO. The LDO only relates to the installation of pipes and ancillary equipment for the district heat networks and no other development at Hill Barton Business Park.
- 5.10. Concern has been raised regarding the Energy from Waste (EfW) plant proposed at Hill Barton. The plant currently under construction has been granted consent by Devon County Council, as Minerals and Waste Planning Authority. Any additional Energy from Waste plants will require planning permission and is a separate matter to be considered outside of the remit of the LDO. The LDO does not include buildings, (such as the EfW plant). Above ground development permitted by the LDO has to be no higher than 1m above ground level and no greater than 2.5metres cubed in external volume.
- 5.11. As with most development the LDO will result in some short-term disturbance whilst pipes are installed. The majority of pipes will be installed away from residential properties and are not expected to cause significant disruption during installation. Once installed there will be no adverse impacts to nearby properties. The ground surface will be returned to its previous condition and they will not affect the future agricultural use of the land. Once completed the development permitted under the LDO will not result in an increase in noise, smell, dust or the use of roads around Farringdon, nor be detrimental to the welfare of horses grazing the land.
- 5.12. The LDO gives permitted development rights over the land, it is not relevant who the landowners are. The current boundary of the LDO covers thousands of private residences. It does not affect their rights as landowners and does not give rights to developers to undertake works without the landowner's consent. There is no justified planning reason why specific dwellings should be excluded from the LDO boundary.
- 5.13. Currently the Skypark energy Centre is heated by mains gas. The aspiration is that the supply will switch to low carbon or carbon neutral energy supply as soon as a feasible option is available. The revised boundary to the LDO will facilitate the provision of infrastructure to enable lower carbon or zero carbon opportunities to be brought forward in the future.
- 5.14. The LDO has been screened in accordance with the Habitats Regulations and development built out under it is not likely to result in a significant effect upon European protected sites. An Appropriate Assessment is therefore not required to be undertaken.

5.15. The LDO has been screened in accordance with the Town and Country Planning (Environmental Impact Regulations) 2017 and the development is not considered likely to result in significant effects. A limitation on the LDO restricts development which constitutes EIA development as defined by Regulation 2(1) of the EIA Regulations 2017.

6. Alternative options

6.1. The alternative is to not amend the boundary of the adopted LDO and require the developers to apply for planning consent for all development outside the current boundary. This approach would impact development with added costs and time delays and may affect the viability of enabling a low carbon or zero carbon heat source to be obtained for the district heat networks.

7. Conclusion

7.1. East Devon District Council aims to reduce carbon emissions as part of tackling climate change. In accordance with the Council's Vision as set out in the Local Plan the proposed amended LDO will help to facilitate the change to a low carbon economy and support the Council's desire to become zero carbon.

7.2. The LDO controls the permitted development though its limitations and conditions to ensure there is no adverse impacts from the development on the amenity of the surrounding area. The regulations allow the LDO to be revoked or amended at any time should the Council change its policies or views on decentralised heating systems.

7.3. If the revised boundary to the LDO is Adopted, the Secretary of State will be notified in accordance with The Town & Country Planning (Development Management Procedure Order) (England) 2015.

Financial implications:

There are no financial issues raised within the report.

Legal implications:

The power to make an LDO is discretionary and the LDO must be adopted for it to take effect. The power to adopt an LDO has been delegated to the planning committee following amendments to the Council's constitution at the Council meeting of the 24 June 2020. Once adopted the LDO will grant deemed planning permission for the specified development or specified classes of development within a defined area.

APPENDIX 1

Adopted LDO



East Devon District Council

LOCAL DEVELOPMENT ORDER

District Heating Networks

Date of Adoption:
15th July 2020

Local Development Order - District Heating Networks

In pursuance of the powers of the Town & Country Planning Act 1990 (as amended), East Devon District Council hereby gives notice that planning permission has been approved for the carrying out of the development referred to below, subject to compliance with the conditions listed.

1) Description

This Local Development Order (LDO) grants Permitted Development rights for District Heating transmission and distribution networks for development such as the installation of pipes, cables and wires, heat exchange equipment, street furniture, and ancillary engineering works within defined areas of land in East Devon as shown on the attached Map 1, subject to the limitations and conditions set out in the LDO.

The permitted development rights granted by this LDO are in addition to permitted development rights granted nationally.

2) Permitted development

Development comprising the installation, alteration or replacement of District Heating transmission and distribution networks and ancillary works over, on or under land.

3) Development not permitted

Development is not permitted by this Order where:

- a) any above ground cabinets, buildings, structures or enclosures would be greater than 1 metre in height above ground level; or
- b) any above ground cabinets, buildings, structures or enclosures would be greater than 2.5 cubic metres in external volume; or
- c) any pipework installed above ground and outside any enclosure is greater than 2 metres in length; or
- d) the installation would be on a Listed Building or a Locally Listed Structure or within the curtilage thereof; or
- e) the installation would be on a site or building designated as a Scheduled Ancient Monument: or

- f) any above-ground development would be within 50 metres of the curtilage of a Listed Building, Locally Listed Structure or Scheduled Ancient Monument; or
- g) the installation would be within 8 metres of a main river as designated on the Environment Agency's Main River map; or
- h) any above-ground development would be sited within Flood zones 2 or 3; or
- i) the installation constitutes EIA development as defined by Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or as subsequently defined; or
- j) the installation comprises development that is restricted by a condition of a planning consent implemented on the land; or
- k) the installation would be outside the area identified on the LDO map.

4) Conditions

The above development is permitted subject to all of the following conditions:-

- a) The installation should be, so far as practicable, sited and designed to minimise its effect on the appearance of the area;
- b) There shall be no lopping, topping, root reduction or removal of trees or hedgerows to accommodate the installation unless previously agreed in writing by the LPA;
- c) Areas of trees or landscaping affected by the installation shall be reinstated to their condition prior to commencement of the works or to a specification agreed in writing by the LPA;
- d) Any above ground apparatus or enclosures shall be removed as soon as reasonably practicable after they are no longer required for the purpose of the network and the land restored to its condition before the development took place.
- e) Within 10 working days of completion of any works data shall be provided to the local planning authority providing the date of completion and a map showing the geographical position of the completed works.
- f) No works will be undertaken within the areas of archaeological sensitivity, as identified in Map 2, without consulting with the Devon County Historic Environment Team, as archaeological advisors to the Local Planning Authority, to agree the scope and implementation of any archaeological mitigation that may be required by the proposed works. The programme of archaeological work will be undertaken in accordance with a written scheme

of investigation which will need to be submitted to and approved in writing by the Local Planning Authority prior to works commencing.

5) Expiry

Subject to any subsequent decision by the Local Planning Authority relating to its withdrawal, modification or extension, this Order shall expire after 15 years of the date of its adoption.

6) Other Statutory Requirements

Whilst the LDO grants planning permission for certain types of development as described in this Order, it does not grant consent that may be required under other legislation. It will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to.

Failure to comply with relevant statutory requirements could result in any development being unlawful and may result in appropriate enforcement action being taken by the council and/or other agencies. It is the responsibility of the developer/landowner to be in accordance with all relevant legislation.

7) Written Approval

Any application for written approval pursuant to conditions (b), (c) and (f) shall be made in writing to the local planning authority and must be accompanied by;

- i) a written description of the proposed development; and
- ii) a plan indicating the location of the site in relation to neighbouring properties; and
- iii) a plan or plans and any relevant documents showing the existing condition of site and full details of the proposed works; and
- iv) the developers contact details; and
- v) the appropriate fee.

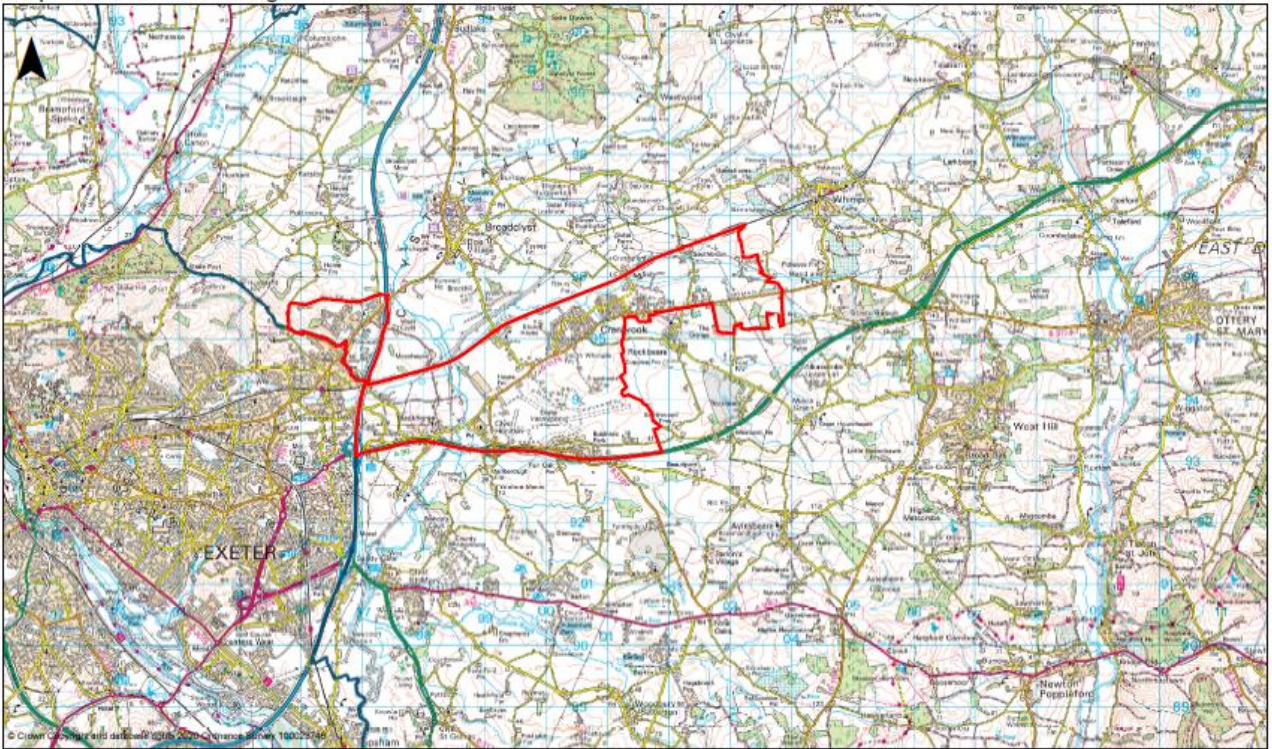
Where written approval is required the development must not begin before written approval is issued by the Local Planning Authority.

The development must be carried out in complete accordance with the details approved.

DATE OF ADOPTION : 15TH July 2020

East Devon District Council
LOCAL DEVELOPMENT ORDER

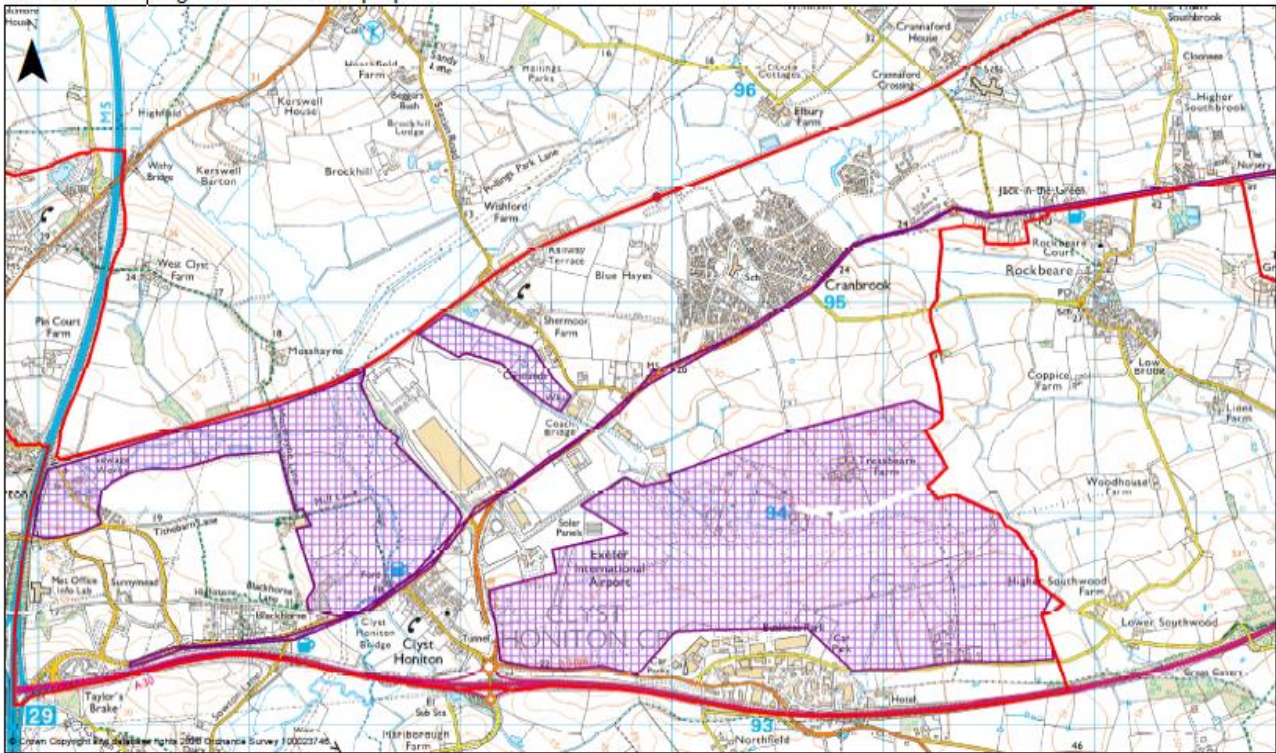
Map 1 LDO District Heating



Map Tile: SY0194SW Full Reference: SY01449 94380



MAP 2 Archaeological Constraints - purple



Map Tile: SX9994NE Full Reference: SX99850 94631



APPENDIX 2

Amended LDO

DRAFT



East Devon District Council

LOCAL DEVELOPMENT ORDER

District Heating Networks

DRAFT

Date of Adoption:

Local Development Order - District Heating Networks

In pursuance of the powers of the Town & Country Planning Act 1990 (as amended), East Devon District Council hereby gives notice that planning permission has been approved for the carrying out of the development referred to below, subject to compliance with the conditions listed.

1) Description

This Local Development Order (LDO) grants Permitted Development rights for District Heating transmission and distribution networks for development such as the installation of pipes, cables and wires, heat exchange equipment, street furniture, and ancillary engineering works within defined areas of land in East Devon as shown on the attached Map 1, subject to the limitations and conditions set out in the LDO.

The permitted development rights granted by this LDO are in addition to permitted development rights granted nationally.

2) Permitted development

Development comprising the installation, alteration or replacement of District Heating transmission and distribution networks and ancillary works over, on or under land.

3) Development not permitted

Development is not permitted by this Order where:

- a) any above ground cabinets, buildings, structures or enclosures would be greater than 1 metre in height above ground level; or
- b) any above ground cabinets, buildings, structures or enclosures would be greater than 2.5 cubic metres in external volume; or
- c) any pipework installed above ground and outside any enclosure is greater than 2 metres in length; or
- d) the installation would be on a Listed Building or a Locally Listed Structure or within the curtilage thereof; or
- e) the installation would be on a site or building designated as a Scheduled Ancient Monument: or

- f) any above-ground development would be within 50 metres of the curtilage of a Listed Building, Locally Listed Structure or Scheduled Ancient Monument; or
- g) the installation would be within 8 metres of a main river as designated on the Environment Agency's Main River map; or
- h) any above-ground development would be sited within Flood zones 2 or 3; or
- i) the installation constitutes EIA development as defined by Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or as subsequently defined; or
- j) the installation comprises development that is restricted by a condition of a planning consent implemented on the land; or
- k) the installation would be outside the area identified on the LDO map.

4) Conditions

The above development is permitted subject to all of the following conditions:-

- a) The installation should be, so far as practicable, sited and designed to minimise its effect on the appearance of the area;
- b) There shall be no lopping, topping, root reduction or removal of trees or hedgerows to accommodate the installation unless previously agreed in writing by the LPA;
- c) Areas of trees or landscaping affected by the installation shall be reinstated to their condition prior to commencement of the works or to a specification agreed in writing by the LPA;
- d) Any above ground apparatus or enclosures shall be removed as soon as reasonably practicable after they are no longer required for the purpose of the network and the land restored to its condition before the development took place.
- e) Within 10 working days of completion of any works data shall be provided to the local planning authority providing the date of completion and a map showing the geographical position of the completed works.
- f) No works will be undertaken within the areas of archaeological sensitivity, as identified in Maps 2 & 3, without prior consultation with the Devon County Historic Environment Team, as archaeological advisors to the Local Planning Authority, to agree the scope and implementation of any archaeological mitigation that may be required by the proposed works. The programme of

archaeological work will be undertaken in accordance with a written scheme of investigation which will need to be submitted to and approved in writing by the Local Planning Authority prior to works commencing.

- g) No development approved by this Local Development Order within the active or historic landfill, or within 5 metres of the active or historic landfill at 'Hill Barton' shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5) Expiry

Subject to any subsequent decision by the Local Planning Authority relating to its withdrawal, modification or extension, this Order shall expire after 15 years of the date of its adoption.

6) Other Statutory Requirements

Whilst the LDO grants planning permission for certain types of development as described in this Order, it does not grant consent that may be required under other legislation. It will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to.

Failure to comply with relevant statutory requirements could result in any development being unlawful and may result in appropriate enforcement action being taken by the council and/or other agencies. It is the responsibility of the developer/landowner to be in accordance with all relevant legislation.

7) Written Approval

Any application for written approval pursuant to conditions (b), (c) and (f) shall be made in writing to the local planning authority and must be accompanied by;

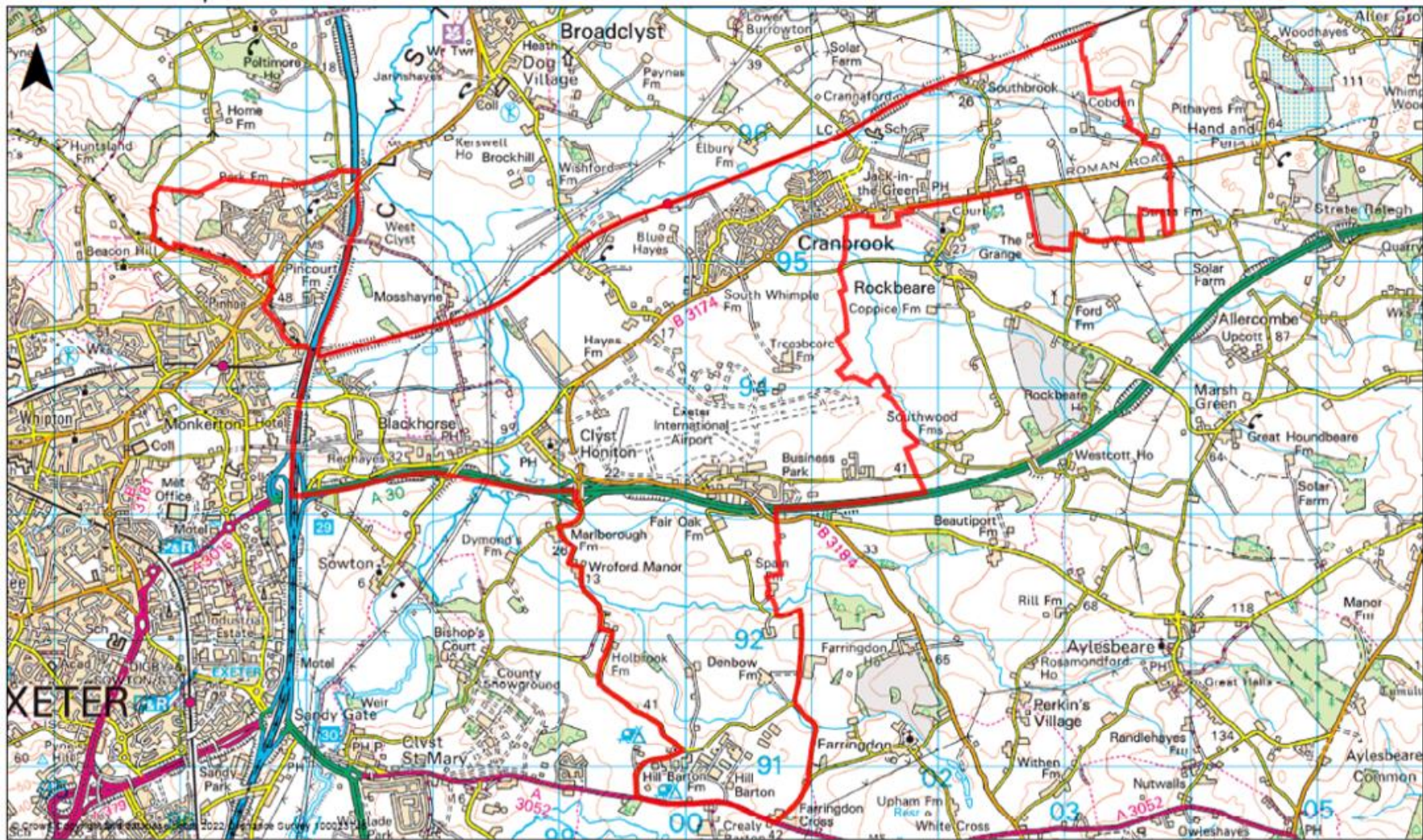
- i) a written description of the proposed development; and
- ii) a plan indicating the location of the site in relation to neighbouring properties; and
- iii) a plan or plans and any relevant documents showing the existing condition of site and full details of the proposed works; and
- iv) the developers contact details; and
- v) the appropriate fee.

Where written approval is required the development must not begin before written approval is issued by the Local Planning Authority.

The development must be carried out in complete accordance with the details approved.

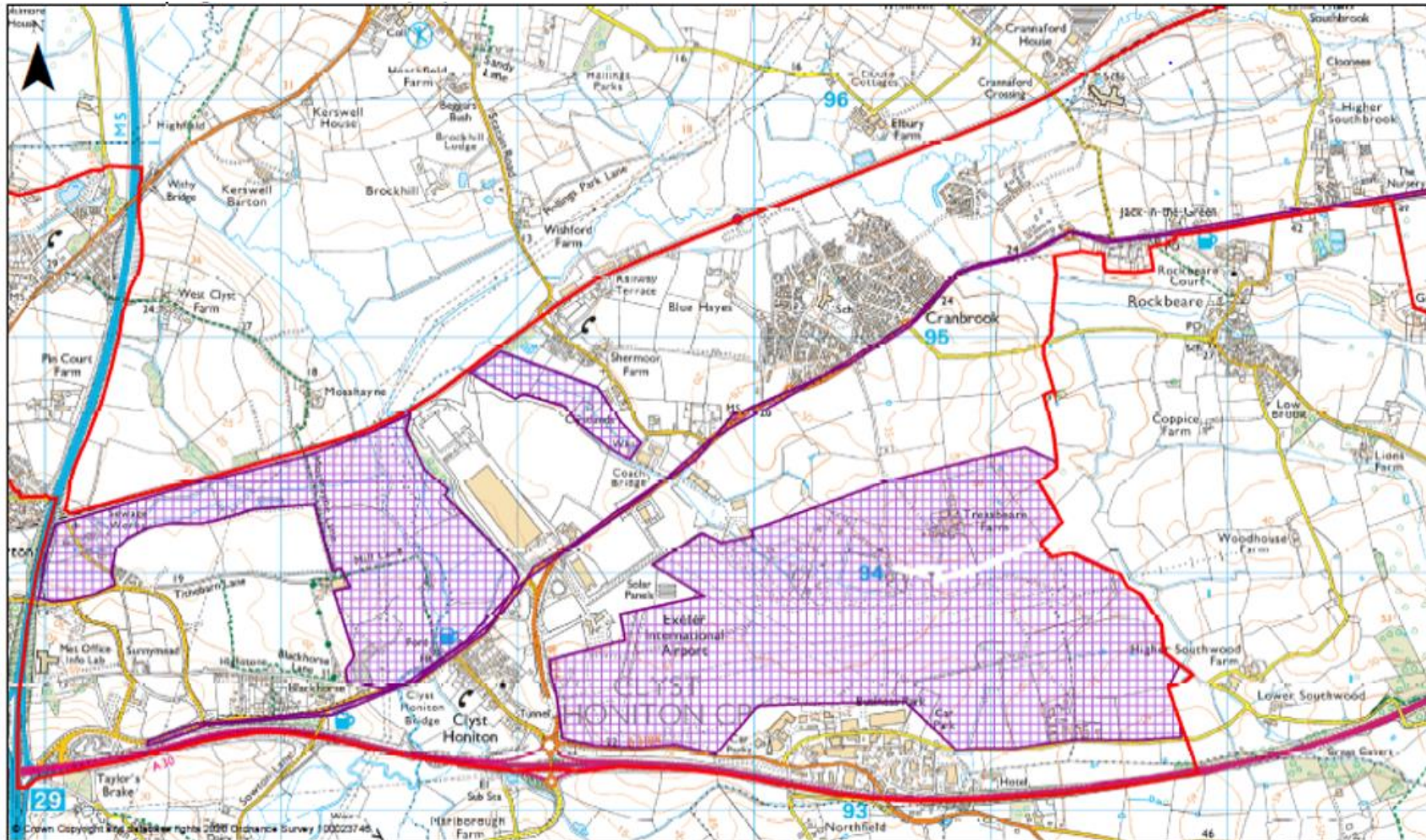
DATE OF ADOPTION :

Map 1 LDO Revised Boundary



East Devon District Council
LOCAL DEVELOPMENT ORDER

Map 2 Archaeological constraints – purple hatching

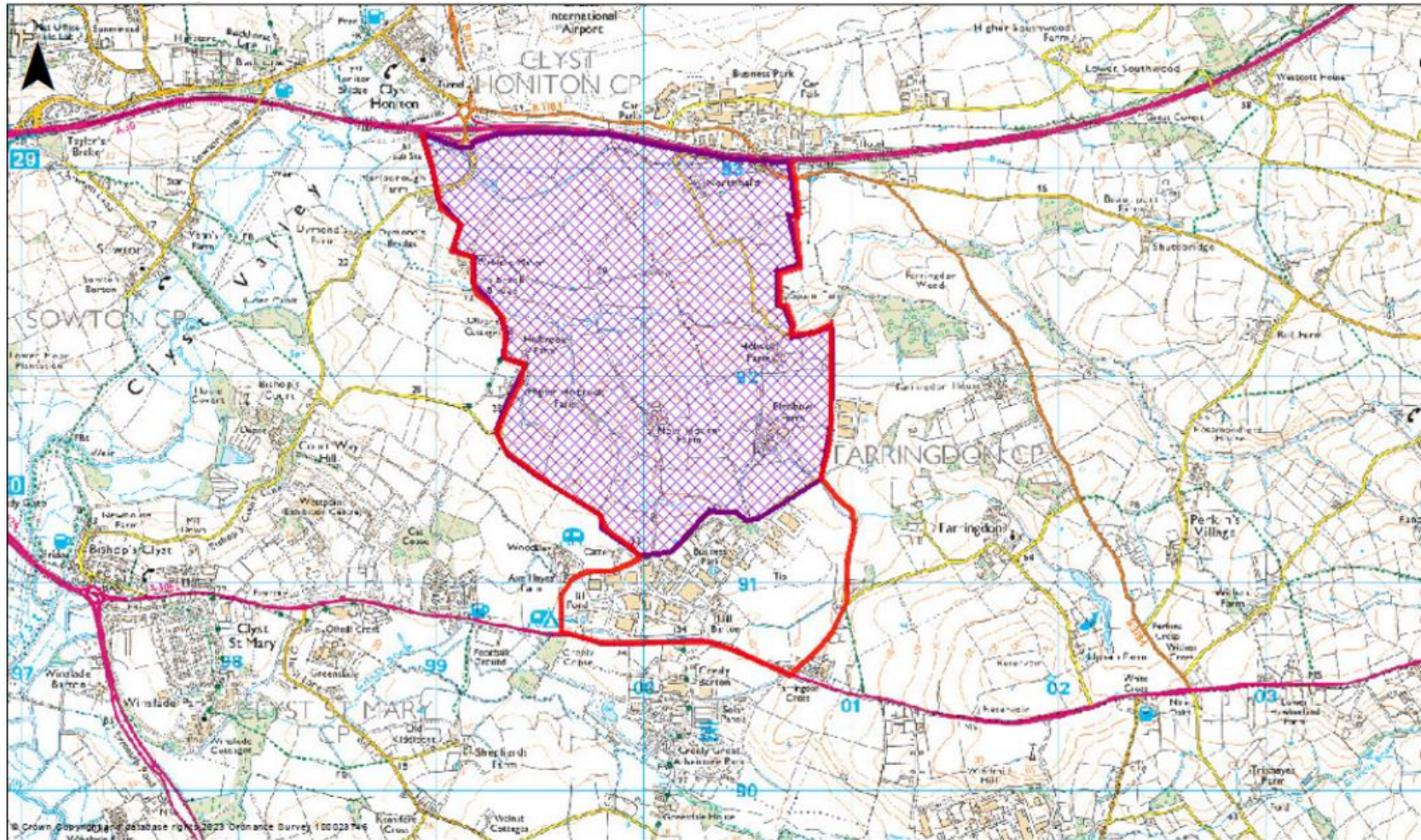


Map Tile: SX9994NE Full Reference: SX99850 94631



East Devon District Council
LOCAL DEVELOPMENT ORDER

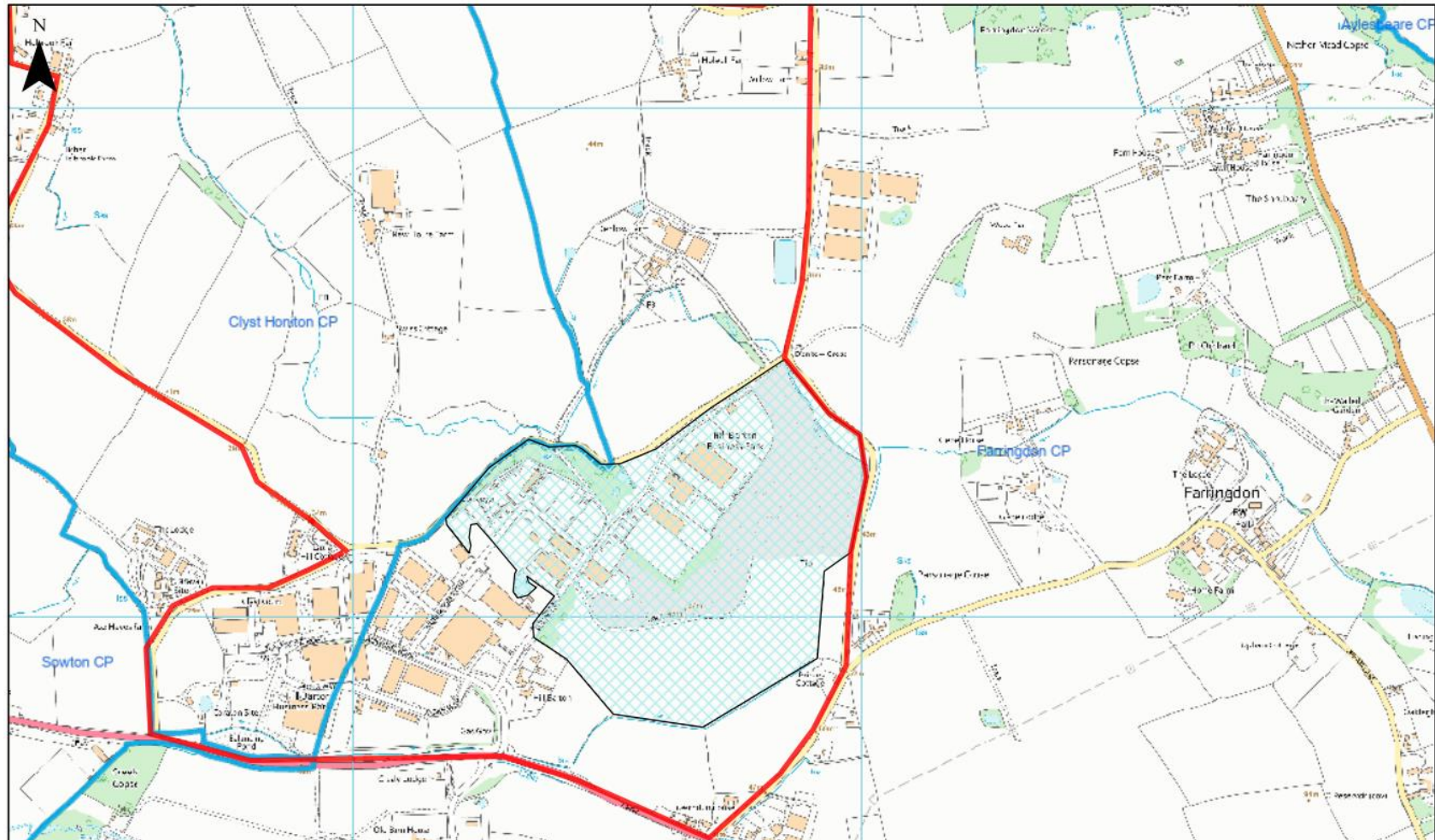
Map 3 Archaeological constraints – purple hatching



Map Tile: SY0091NW Full Reference: SY00360 91770



Map 4 Landfill areas –blue hatching



APPENDIX 3

Statement of Reasons



East Devon District Council

LOCAL DEVELOPMENT ORDER

District Heat Networks

Statement of Reasons

District Heating LDO

Statement of Reasons

1. Legislation

1.1. This document satisfies the requirements of Article 38(1) and (2) of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO).

Article 38(1) states that where a Local Planning Authority proposes to make a Local Development Order (LDO) they shall first prepare:

- a) a draft order; and
- b) a statement for their reasons for making the order.

Article 38(2) states that the 'statement of reasons' shall contain:

- a) a description of the development which the order would permit; and
- b) a plan or statement identifying the land to which the order would relate.

2. Background

2.1. The district heating network is a distribution system of insulated underground pipes carrying hot water that takes heat from an energy centre and delivers it to individual properties and non-domestic buildings to provide heating and hot water. The district heating network removes the need for individual boilers or electric heaters in each building or dwelling.

2.2. East Devon's West End has district heating networks which are to be served by Skypark Energy Centre and Monkerton Energy Centre.

2.3. The Order sets out a range of limitations to which the LDO applies and identifies the timeframe of the LDO. The development which is permitted under the Order is subject to a list of planning conditions identified in the Order.

3. Description of Development Permitted by this Local Development Order

3.1. The Local Development Order grants planning permission for the development of a District Heating Network (DHN) comprising of pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works within defined areas of land in East Devon and shown on the attached map 1, subject to the conditions set out.

4. Justification for creating this Local Development Order

4.1. The principal aim for creating the LDO is to encourage and facilitate the implementation of district heating network by providing a simplified approach to

planning which reduces the regulatory processes and delays associated with the submission of planning applications.

- 4.2. The LDO will assist the delivery of a key aim of East Devon Council Plan 2020 – 2040 to achieve carbon neutrality by 2040. Addressing climate change is a key priority for the Council.
- 4.3. East Devon District Council aims to reduce carbon emissions as part of tackling climate change. In accordance with the Council's Vision as set out in the Local Plan the LDO will help to facilitate the change to a low carbon economy and support the Council's desire to become zero carbon.
- 4.4. Technology permitting, it is hoped that the DHN will also provide an opportunity to explore renewable and recovered heat sources in the future.
- 4.5. Without the LDO being put in place planning permission would be required for the laying of underground pipes and cables and minor above ground works. These are considered to be uncontroversial developments. The costs of processing such applications is not fully covered by the fees and hence there would be a financial saving to the council. The applications have to be registered, advertised, processed and determined and it is considered that officer time is best directed to other objectives.

5. **Statement of policies that the LDO would implement**

- 1.1. The LDO is consistent with the aims and objectives of local and national planning policy.
- 1.2. Mitigating and adapting to climate change, including moving to a low carbon economy, forms part of one of the three core objectives of the National Planning Policy Framework (NPPF) in achieving sustainable development. At paragraph 148, the NPPF establishes that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. Paragraph 151 of the NPPF goes on to encourage the identification of opportunities for developments to draw their energy supply from decentralised, renewable or low carbon energy supply systems to help increase the use and supply of renewable and low carbon energy and heat.
- 1.3. The LDO accords with and assists the implementation of East Devon District Council Local Plan 2013-2031 as follows:

Strategy 3 - Sustainable Development

The objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following

issues and their inter-relationships are taken fully into account when considering development:

b) Prudent natural resource use - which includes minimising fossil fuel use therefore reducing carbon dioxide emissions. It also includes minimising resource consumption, reusing materials and recycling. Renewable energy development will be encouraged... .

Strategy 11 - Integrated Transport and Infrastructure Provision at East Devon's West End

Coordinated infrastructure provision will be required to cover Low carbon heat and power supply.

Strategy 12 - Development at Cranbrook

The town will be built to distinctive high quality design standards incorporating the best in environmentally friendly technology. The existing district heating system will provide for the combined heat and power needs of the town (part 6).

Strategy 13 - Development North of Blackhorse/Redhayes

The mixed use development will be low or carbon zero development with onsite and/or community power generation. The energy infrastructure will include a heat and energy network to achieve low and zero carbon development (part 4a).

Strategy 14 - Development of an Urban Extension at Pinhoe

The proposals will be built to distinctive high quality design standards incorporating the best in environmentally friendly technology including the reduction of carbon emissions through measures such as micro-generated technology and decentralised energy systems.

Strategy 39 – Renewable and low carbon energy projects

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.

Strategy 40 – Decentralised energy networks

Decentralised Energy Networks will be developed and brought forward. New development (either new build or conversion) with a floor space of at least

1,000m² or comprising ten or more dwellings should, where viable, connect to any existing, or proposed, Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

6. Lifetime

6.1. This LDO takes effect on the date it is adopted by the Council.

6.2. Subject to any subsequent decision by the Local Planning Authority relating to its withdrawal, modification or extension, this Order shall expire after 15 years of the date of its adoption.

6.3. Once the LDO expires the local planning authority will have three options available;

- extend the LDO under the same limitations and conditions;
- provide the LDO and modified the limitations and conditions; or
- revoke the LDO and return to the established planning system.

6.4. Any development which has commenced (as defined by Section 56 of the Town and Country Planning Act 1990) under the provision of the LDO will be allowed to be completed within a reasonable time period, in accordance with the terms and conditions of the LDO.

7. Monitoring

7.1. The implementation and uptake LDO will be monitored through the data gathered under condition (e) which requires the date of commencement and the geographical position of the development to be submitted to the local planning authority.

District Heating LDO

Statement of Reasons Addendum – May 2023

8. Extension to area covered by LDO

- 8.1. It is proposed to extend the boundary of the adopted Local Development Order (LDO) for District Heat Networks.
- 8.2. East Devon District Council (EDDC) has two district heating networks. The development of the district heating networks is part of EDDC's strategy to deliver large scale zero carbon development. The system is operated by the energy centre which is currently connected to the national gas main. It was always expected that the system would support decarbonisation. Initially the system was anticipated to be served by a biomass boiler, however it became evident that technology had not matured sufficiently to provide a reliable and commercially deliverable solution. A project is now being undertaken to heat the networks using heat recovery from a forthcoming Energy from Waste plant, situated in the Hill Barton Industrial estate. The connection of the district heat networks to the Energy from Waste plant will result in decarbonisation of the networks.
- 8.3. The LDO boundary is to be extended across an area reaching from the Hill Barton Industrial Estate to the A30. It will enable permitted development rights for the high pressure hot water pipes to be installed from the Energy from Waste plant to the energy substations at Skypark and Science Park subject to the limitations and conditions set out in the order.

9. Justification for the extension to the Local Development Order area

- 9.1. The justification for the original area applies to the proposed extended area:
- 9.1.1. The principal aim for creating the LDO is to encourage and facilitate the implementation of district heating network by providing a simplified approach to planning which reduces the regulatory processes and delays associated with the submission of planning applications.
- 9.1.2. The LDO will assist the delivery of a key aim of East Devon Council Plan 2020 – 2040 to achieve carbon neutrality by 2040. Addressing climate change is a key priority for the Council.
- 9.1.3. East Devon District Council aims to reduce carbon emissions as part of tackling climate change. In accordance with the Council's Vision as set out in the Local Plan the LDO will help to facilitate the change to a low carbon economy and support the Council's desire to become zero carbon.

10. Lifetime

10.1. The amendment of the LDO takes effect on the date it is adopted by the Council.

10.2. Subject to any subsequent decision by the Local Planning Authority relating to its withdrawal, modification or extension, the LDO shall expire after 15 years of the date of its adoption, 15th July 2020.

Appendix 4

Consultation responses

DH LDO Consultation response summary

No	Name / Organisation	Comments received	Consideration
1	Environment Agency	<p>We have no objections to the granting of this Local Development Order with a revised boundary for district heating networks, subject to the inclusion of restrictions to development in flood zones 2 and 3 and main rivers (as proposed) and the inclusion of a condition relating to contaminated land. The suggested wording for this condition and the reason for this position is provided below.</p> <p>Condition – Contaminated Land No development within the active or historic landfill, or within 5 metres of the active or historic landfill at 'Hill Barton' approved by this Local Development Order shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:</p> <ol style="list-style-type: none"> 1. A preliminary risk assessment which has identified: <ul style="list-style-type: none"> · all previous uses · potential contaminants associated with those uses · a conceptual model of the site indicating sources, pathways and receptors · potentially unacceptable risks arising from contamination at the site 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site. 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. <p>Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.</p> <p>Reason - To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.</p> <p>Reason – Flood Risk The alteration to the red line boundary of the Local Development Order (LDO) does not alter our position with regards to flood risk and impact to main rivers. Section 3 of the draft LDO restricts development where it would be located within 8 metres of a main river or where any above ground development would be sited within flood zones 2 and 3. We maintain our support for this approach.</p> <p>Reason – Contaminated Land</p>	<p>The recommended Condition is to be added to the LDO – to affect only the areas specified in the condition.</p>

DH LDO Consultation response summary

		<p>The extension of the red line boundary leads to the inclusion of part of the current and historic landfill sites at Hill Barton. These sites inherently pose risks regarding contaminated land and the potential impact to sensitive receptors. As such, we recommend the above condition to be placed on the Order to ensure that sufficient assessment is undertaken prior to the commencement of any development within the landfill and historic landfill and within 5meters of the boundary of the landfill and historic landfill. Alternatively, you may consider it more effective to add an additional point to Section 3 that any development within, and within 5metres of the Hill Barton current and historic landfill is not permitted.</p>	
2	Devon & Cornwall Police	<p>I have no objection or comments at this stage.</p>	
3	National Highways	<p>In accordance with NRSWA, National Highways require that any apparatus placed in our highway is undertaken by a Statutory body such as a Local Authority commissioning the works, or a Statutory undertaker. Should the LDO seek to licence a non-statutory organisation, National Highways will look to secure, in advance, relevant and full funding to cover the potential future requirement of removing the apparatus and reinstatement of the highway in the event that this should be necessary.</p> <p>Therefore, whilst we have no objection in principle to the revised boundary of the LDO, we wish to bring the following requirements to your attention:</p> <p>Should anything associated to this Order require the placement of apparatus or other assets in land owned by National Highways that is not highway this will require the applicant to enter into the appropriate legal agreements for which provision will be subject, but not limited to, National Highways design, relevant audits, installation and maintenance requirements that may define conditions that conflict with the LDO (e.g. height of above-ground apparatus and other assets). All costs associated with the drawing up of the necessary legal agreements must be borne by the applicant.</p> <p>Should anything associated to this Order require the placement of apparatus or other assets in highway maintained by National Highways, the planning authority is strongly recommended to consider the following constraints to ensure the objectives of any proposals can be efficiently achieved at a later date:</p> <ul style="list-style-type: none"> • The requirements of the New Roads and Street Works Act (NRSWA) 1991 will apply to the placement and maintenance of any apparatus in highway. • National Highways will seek to exhaust all means to ensure that any apparatus is placed by a statutory undertaker or authority with powers for the placing of such apparatus as defined by NRSWA 1991. • Where apparatus is to be placed and maintained in a highway defined as 'protected', a consent is required under section 61 of NRSWA and National Highways retains the right to refuse consent where it is believed that a reasonable alternative exists. The determination of a reasonable alternative route will be based on the consideration of the long-term risk of apparatus existing within the protected street (e.g. maintenance and/or faults causing damage to the highway, traffic disruption) and not simply any additional re-routing installation costs incurred. National Highways has the power to apply conditions to any such consent and to charge an upfront and annual fee to administer the consent. • It should be expected that the provision of any consents and licences would only be considered for apparatus being placed across the highway (laterally, not along it) and only where no other apparatus route exists which would need to be evidenced. • Apparatus proposals will be subject to extensive design checks and scrutiny to ensure all risks associated to the apparatus, including any arising from future maintenance and faults including repairs, are mitigated in the design which may incur additional design, construction and maintenance costs. 	<p>The LDO does not override other legislation and does not enable the developer to bypass the need to enter into legal agreements with the landowner.</p> <p>The requirements of the New Roads and Street Works Act (NRSWA) 1991 will still apply and National Highways will still retain their right to refuse consent.</p>

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		<ul style="list-style-type: none"> Where apparatus is proposed to be installed by an organisation that is not defined as a statutory undertaker or authority with powers for the placing of such apparatus, a licence under section 50 of NRSWA 1991 will be required and we strongly recommend that particular regard is given by the planning authority to the full contents of Schedule 3 of NRSWA 1991 especially the limited right of appeal should National Highways reject an application. It should be expected that due to the nature of the proposal and type of apparatus, National Highways would seek to receive a licence application from the organisation with overarching responsibility for the apparatus as owner (i.e. the organisation commissioning works) and not the contractor responsible only for its installation. If a proposal is approved, the licence may be subject to a bond to secure funds for the costs of abandoning and/or removing the apparatus in the event that the licence holder cannot fulfil their future responsibilities to remove it. The licence applicant would be required to demonstrate how information about the existence of the apparatus would be recorded and shared to those with an interest on request (i.e. other organisations with a need to identify existing apparatus in the highway prior to undertaking their own works) for the full period of time that any apparatus exists in situ. National Highways have the power to apply conditions to any such licence and to charge an upfront and annual fee to administer the licence. 	
4	DCC Historic Environment	The Historic Environment Team concurs with the proposed wording of the archaeological condition as set out as condition 4(f) within the Local development Order and has no additional comments to make on this planning application.	
5	Cranbrook Town Council	<p>The Committee considered an application for the revised boundary for the adopted Local Development Order (LDO) for District Heating Networks under application number 20/0530/LDO District Heating System Clyst Honiton.</p> <p>The change proposed represented a wider geographical area to include the Hill Barton development and would enable a greener heat solution for the town and wider area served by district heating.</p> <p>Following discussion, it was resolved to support application 23/1102/LDO.</p>	
6	Farringdon Parish Council	<p>We are concerned to see that EDDC seek to extend the LDO for Cranbrook's heating at the expense of parts of Farringdon.</p> <p>Farringdon Parish Council is concerned that if this is to proceed the residents in the Denbow part of Farringdon should be excluded from any LDO map so they are protected from having to battle to protect their rights against Stuart Partners. EDDC would leave the residents having to defend themselves on another front were this to be the case.</p> <p>As a PC we have over many years received complaints about noise, smells, dust and the use of the roads around Farringdon arising from the business at Hill Barton Business Park. The most recent travesty is the time that it is taken for the removal of an unlawful lorry park which the lack of prompt decision making both at EDDC and the Inspectorate at Bristol have left residents dismayed that agricultural land continues to be used as a lorry park contrary to its correct and lawful planning use and contrary to the Local plan which specifically restricts expansion at Hill Barton.</p> <p>The disregard of the landowner to the requirements set down by an enforcement notice (which appeal by Stuart Partners was dismissed) only adds to the concerns of residents that any allowance made for access across Farringdon for the purposes of the District Heating Network will once more leave the residents of</p>	<p>The LDO is a consent granted by the Local Planning Authority. Stuart Partners are not the applicants, there are no applicants as it is not relevant to the planning permission who undertakes development under the LDO.</p> <p>The LDO does not give rights to developers to undertake works without the landowner's consent.</p> <p>The development permitted under the LDO will not result in an increase in noise, smell, dust and the use of roads around Farringdon. There may be some temporary disturbance during the installation of the pipes in terms of dust, noise and traffic.</p> <p>The LDO only relates to the installation of pipes for the district heat networks and no other development at Hill Barton Business Park.</p>

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		<p>this Parish exposed to the whims of businesses who have no regard for those who make their home in this village.</p> <p>If EDDC are still minded to proceed with the EfW plant and link up to the District Heating Network for Cranbrooks benefit then please exclude land at Denbow as residents there are requesting and ensure that there is no further expansion of the EfW plants at Hill Barton and Cranbrook meets its own needs from a purpose built plant built adjacent to their town.</p>	<p>The LDO does not include buildings, such as the EfW plant. Above ground development permitted by the LDO has to be no higher than 1m above ground level and no greater than 2.5 meters cubed in external volume.</p> <p>The LDO does not override the rights of the resident landowners at Denbow.</p>
7	Rep	<p>As a resident at Denbow House in Farringdon, I must object to the extension and revision of the LDO map as currently proposed.</p> <p>It seems highly unacceptable that this plan proposes to cover privately owned land. Indeed, the involvement of Stuart and Partners in providing energy from waste is not a matter that should involve private landowners in Farringdon at all.</p> <p>If EDDC intend to proceed this must be because of lack of good decision making and foresight. There are many more suitable sites closer to Cranbrook for further biomass production.</p> <p>Denbow has nothing to do with Cranbrook nor with Stuart and Partners. There is no reason why the Denbow part of Farringdon cannot be excluded from the proposed changes to the map.</p> <p>If you grant this without protecting and exempting land at Denbow for the private residences and land therein then you leave four private dwellings open to exploitation in the future.</p> <p>The proposed LDO map should therefore exclude the land which is referred to as Denbow Farms as we are part of that marked area.</p>	<p>The LDO gives permitted development rights over the land, it is not relevant who the landowners are.</p> <p>Stuart and Partners are not applicants and have no involvement on the LDO – there are no applicants as the LDO is undertaken by the Council.</p> <p>The LDO does not permit biomass production.</p> <p>The current boundary of the LDO covers thousands of private residences. It does not affect their rights as landowners. There is no justified planning reason why the four dwellings at Denbow should be excluded from the proposed additional area. There is nothing in the LDO which forces landowners to have pipes installed on their land. Once installed there would be no adverse impact from owning land adjoining the pipes.</p>
8	Rep	<p>Firstly is the concern of expanding a heat network process that is well documented to deliver high carbon heat which is contrary to the East Devon Plan to achieve carbon neutrality by 2040. I would encourage the Council to seek supporting evidence to ensure that compliance to achieving 'zero' carbon is realistic before any acceptance of this application. Furthermore, I understand that the additional utility need still pertains to the original new town planning permission at Cranbrook despite a large compulsory purchase of land by the same company in 2020. It seems non-sensical to apply for use of land (outlined in the application) that is so far removed from that area. There are no formal planning applications for extensive housing in Farringdon at present. A further concern is that the land adjacent to Princes Cross towards the A3052 does water log quickly in heavy rain during winter. There is photographic evidence of this which may cause an issue with above ground structures etc. However, the land is proven to lend itself to successful farming and delivers a good crop yield in the summer as at present. I'm mindful of recent pressure from the EDDC planning department to create another large scale development of housing and are being offered substantial land by prominent landowners but shouldn't this decision be based on a clear 'need' basis? The recent public consultation that was well advertised and documented preferred sites for thousand of new houses around Farringdon concluded with little enthusiasm and very little public support in Exeter.</p> <p>(Firstly, as they are no formal planning applications for housing here as yet and a recent initial consultation process for additional housing needs met with very little enthusiasm and public support, I can't understand why land is not currently being sought nearer Cranbrook where the new town is still being built. I understand there is still a utility need under LDO for that ongoing housing development, despite a large compulsory purchase of land by the same Company in 2020. The other concern is that the land adjacent to Princes Cross towards the A3052 does water log easily being prone to flooding in heavy rain during winter which perhaps the applicant isn't aware</p>	<p>Currently East Devon's heat networks are connected to mains gas however the aim is to move to a reduced carbon solution, hence the proposed additional land to be included in the LDO which would enable pipes to be installed from the Skypark energy Centre to an energy from waste plant at Hill Barton Business Park.</p> <p>Pipes installed under the LDO will cause minimal disturbance to the agricultural processes of the land. There will be no increased risk to flooding and the Environment Agency support the approach taken to flood risk in the LDO.</p> <p>The LDO does not grant consent for housing.</p>

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		<p>of. There is photographic evidence of this which may cause an issue with above ground structures. I gather it's due to a combination of the soil constitute and a very high water table in this area which seems to have worsened significantly over time. If such a large scale development of housing is eventually needed in this locality as outlined on the plans and is supported by a clear need and local demand by the public, then it would make sense to consider this particular application at that time)</p>	
9	Rep	<p>Please be advised of our objection to the extension and revision of the LDO map as currently proposed. We do not accept that this should cover privately owned land nor any land which affects any residents at Farringdon by including them in the amended Map.</p> <p>The involvement of Stuart Partners in providing an Energy from Waste (EfW) plant is not a matter that should involve private landowners in Farringdon. It should not involve Farringdon at all.</p> <p>The EON plant is designated to provide for Cranbrook and there is extensive land where another EfW plant could be situated. If this is the future for Exeter's energy supply and is seen as lucrative then there will no doubt be investors who want to work with this and which the plant, then can naturally be used for the local residents it is intended for.</p> <p>The people of Farringdon appear to be considered the fall guys due to the lack of foresight on the part of EDDC. It is evident that a biomass boiler was intended to supply Cranbrook. If that has not worked for EDDC then it must not be for Farringdon residents to have to be responsible and be left to have to protect their rights because EDDC then decide to use the EfW plant provided by Stuart Partners.</p> <p>If EDDC intend to proceed, then Stuart Partners own land between Hill Barton and the A30 where the EfW can link to Cranbrook. It should not be something that affects residents here. There is no reason why the Denbow part of Farringdon cannot be excluded from the proposed changes to the Map. By including our part of Farringdon EDDC leaves us open to having to stand up and protect our area.</p> <p>The residents of Farringdon have ongoing issues with Hill Barton and EDDC by adding in parts of Farringdon to the LDO land means we would have a further layer of issues which we do not want to have to address at any time now or in the future.</p> <p>It is of no comfort that our ownership rights for our land are protected. If you grant this without protecting and exempting land at Denbow for the private residences and land therein then you leave us exposed to exploitation with applications for wayleave which we do not want to have to deal with. We moved here for a peaceful and tranquil life. The landowners seek to profit by EDDC's inability to support the heating needs of Cranbrook and at the expense of Farringdon residents. Please do not leave us to have to deal with these issues and ensure that our land and those of other residents at Denbow, being part of Farringdon, are protected from this.</p> <p>The proposed LDO map should therefore exclude the land as marked on the attached maps. Denbow Farm belongs to Stuart Partners so is excluded from the attached maps.</p> <p>Please listen to our concerns and ensure EDDC acts to protect the Denbow residents in Farringdon.</p>	<p>Within the existing and proposed LDO boundary East Devon District Council only owns a small area of land within Cranbrook Town Centre, Devon County Council own a number of parcels of land including the Skypark and Science Park. The remainder of the land is within private ownership.</p> <p>The LDO does not include the EfW plant.</p> <p>It is not considered that the development permitted under the LDO will affect the rights of the residents of Farringdon.</p> <p>There is no material planning reason why the LDO should exclude the properties of Denbow. The landowners will retain their rights to enter/not enter into easements to allow development on their land.</p> <p>The development permitted under the LDO is not considered to increase any adverse impacts from Hill Barton Business Park to nearby residents.</p> <p>The LDO covers a large area of land with thousands of properties. It is not considered that the LDO will result in exploitation of residents.</p>
10	Rep	<p>By extending the LDO as proposed, EDDC are yet again putting Farringdon under the 'development spotlight' with regard to the future spectre of mass unwarrented development which will irrecoverably destroy our beautiful and natural habitat along with precious acres of good viable farmland. The existing LDO, as adopted in July 2020, was seemingly adequate for purpose at the time, with Cranbrook well established and the Tithebarn development on the horizon.</p> <p>This amendment, even though the 'justification' for it points to supplying energy to Tithebarn and Cranbrook via the Science Park and Skypark Energy Plants, whilst maybe true, appears to be an opportunistic play by EDDC to ring-fence Farringdon in the process. It potentially lays the foundations for supplying energy to EDDC's so-called 'preferred option' new development, within the additional area marked in the proposed draft amendment (Draft Location Plan and Draft Map 3).</p>	<p>The LDO covers areas on Clyst Honiton, Cranbrook and Broadclyst as well as Farringdon.</p> <p>The proposed additional area would permit pipes to be installed from Hill Barton Business Park to the Skypark Energy Centre to facilitate a move away from mains gas for the district heating networks. Farringdon has not been ringfenced and only a section to the west of Farringdon is included in the proposed area. A wide area from Hill Barton up to the A30 is included in the</p>

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		<p>It appears to be a stealth / backdoor move, most likely orchestrated by the landowner and Brooke Energy, for financial reasons, but willingly accepted by EDDC as an 'easy option' to help bail Cranbrook and Titebarn out of an energy crisis due to the apparent inefficiency of the existing energy plants. The latter is either a result of poor future-proof planning, a failure on the part of the energy provider(s) to meet planned demand or it's a combination of both.</p> <p>Even though the pipe work will be underground, regardless of the 'conditions' imposed, those living within the area marked will endure nothing but further and increased disruption, noise and pollution from the works machinery, something that they are already enduring with increasing frequency from the Hill Barton site. Indeed, the proposed designated area includes the privately owned land at Denbow which will be another concern for those residents.</p> <p>For the reasons given above, please maintain the current adopted LDO and look to increasing the efficiency of the existing energy plants; or develop a further appropriate energy plant(s) on Skypark and / or at the Science Park, i.e. much closer to where the energy is required, with minimal disruption to residents and rural land and still within the bounds of the existing LDO.</p>	<p>proposals, enabling various options to be considered for the route.</p> <p>Disruption during construction will be time limited.</p> <p>The Energy from waste plant does not form part of the LDO.</p>
11	Rep	<p>We object to the extension and revision of the LDO map for as currently proposed; we do not accept that this should cover privately owned land.</p> <p>The involvement of Stuart & Partners in providing an Energy from Waste (EfW) is not a matter that should involve private landowners in Farringdon. The EON plant, in our view, is designated to provide for Cranbrook and there is extensive land where another EfW plant could be situated closer to that location. If this is the future for Exeter's energy supply and seen as lucrative then there will no doubt be investors who want to work with this and which the plant then can naturally, and more appropriately, be used for the residents it is intended for.</p> <p>To us, it feels as if Farringdon residents are the 'fall guys' for lack of foresight on the part of EDDC. It is evident that the biomass boiler was intended to supply Cranbrook. If that has not worked for EDDC then it must not be for Farringdon residents to have to be responsible and be left to have to protect their rights because EDDC decide to use the EfW provided by Stuart & Partners.</p> <p>If EDDC intend to proceed, Stuart & Partners own land between Hill Barton and the A30 where the EfW could link to Cranbrook. We do not think that this is something that should affect Farringdon residents. There is no reason why the Denbow part of Farringdon cannot be excluded from the proposed changes to the map. By including our part of Farringdon EDDC leaves us open to having to stand up and protect our area ourselves.</p> <p>The residents of Farringdon have ongoing issues with Hill Barton and EDDC add this means we would have a further layer of issues which we do not want to have to address at any time now or in the future.</p> <p>It is of no comfort that our ownership rights for our land are protected. If you grant this without protecting and exempting land at Denbow for the private residences and land therein then you leave us exposed to exploitation with applications for wayleave which we do not want to have to deal with. We have an equestrian property and we specifically came here for peace and quiet and of our horses to be able to have a life free from the kind of stress and noises that will no doubt emanate from this proposal. Horses are feeble creatures and small stresses can have a disproportionate negative effect on their disposition and any unwelcome activity is likely to reduce that quite considerably if it affects his performance. It is our view that the landowners seek to profit by EDDC's</p>	<p>The majority of the land within the existing area is privately owned and all of the land in the proposed additional area is privately owned.</p> <p>Stuart & Partners have no involvement in the LDO. The EfW does not form part of the LDO.</p> <p>The LDO will not affect the rights of landowners with Farringdon or the other Parish's.</p> <p>There is considered to be no adverse impacts upon the residents of Denbow other than some possible short term disturbance during the installation of pipes. There is therefore no material planning reason to exclude specific properties from the proposed additional area. The landowners will retain their right to not enter into easements allowing the installation of pipes on their land.</p> <p>The development permitted under the LDO is not considered to be detrimental to the welfare of horses grazing the land. Pipes will only be installed in agreement with the landowners so they would need to take appropriate measures regarding grazing of horses on the land during the installation of the pipes.</p> <p>The LDO is not considered to be of detriment to the residents of Farringdon or the other Parish's.</p>

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		inability to support the heating needs of Cranbrook but at the expense of Farringdon residents. This is not right and should not be so. We need protection from this.	
12	Rep	<p>We object strongly to the extension and revision of the LDO map as proposed.</p> <p>We do not accept that this should cover privately owned land.</p> <p>The proposed LDO map should exclude the land which is referred to as Denbow farms as we are part of that marked area.</p> <p>The involvement of Stuart & Partners in providing an Energy from Waste is not a matter that should involve us, we are already plagued by noise and smells from the industrial estate and this will be yet another intrusion.</p>	As already stated the majority of land in the existing and proposed area is privately owned however the LDO does not override the ownership rights of the landowners.
13	Rep	<p>I object to this 'Revised boundary for the Adopted Local Development Order (LDO) for District Heating Networks under application number 20/0530/LDO'.</p> <p>EDDC should not grant this application because it would serve to oversimplify the approach to planning (potentially accelerating inappropriate applications) and reduce regulatory processes/oversight.</p> <p>Context: District Heating Networks have come under fierce criticism for the following significant issues:</p> <ol style="list-style-type: none"> 1. Exceptionally high heating and power costs for residential customers. 2. Poor reliability and long periods with no service whatsoever for all customers including persons identified as being vulnerable/elderly. 3. Significant highways/traffic disruption including excess noise, dust and heavy haulage. 4. Creation of a monopoly with zero competition and complete reliance on a single District Heating and power provider. <p>Specifically EDDC planning policy currently contravenes the Equalities Act 2010 as the Council's active promotion of District Heating Networks can be said to be 'discriminatory'. The Act protects people against discrimination, harassment or victimisation in employment, and as users of private and public services based on nine protected characteristics which notably include age, disability, pregnancy and maternity. These four are the groups most likely to suffer discrimination in respect of negative impacts from District Heating Networks being imposed upon them by the local authority.</p> <p>I urge the planning team to recommend against approving this planning application and furthermore I urge EDDC to undertake a thorough review of the entire policy approach towards District Heating Networks.</p>	<p>The LDO has already been adopted for a large area to the north of the A30, the proposals put forward are to extend the boundary for the installation of infrastructure. The LDO does not control the heat networks, it does not control costs, reliability or creation of monopoly with heating supply.</p> <p>Disturbance will be limited to the locality of development and will be temporary during installation periods only.</p> <p>As with other planning consents the LDO does not override regulatory processes.</p> <p>Simplified planning is supported at national level through the NPPF and locally through the designations of the Enterprise Zone.</p> <p>The LDO is not considered to contravene the Equalities Act 2010.</p>

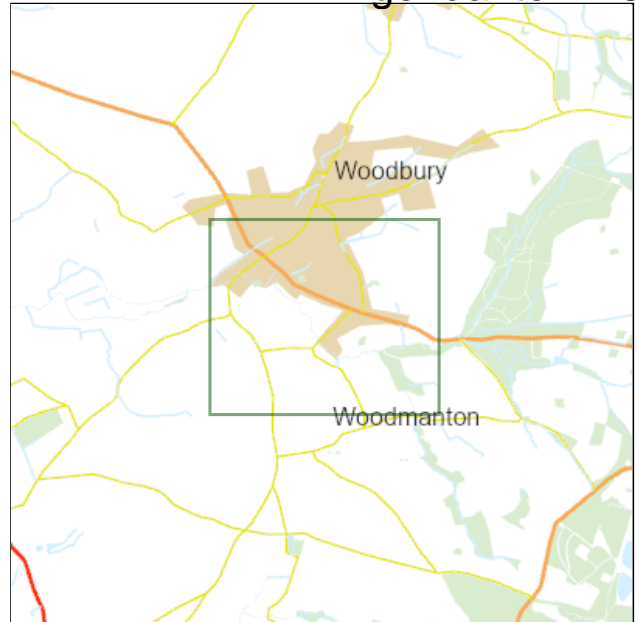
Ward Woodbury And Lympstone

Reference 22/2838/MOUT

Applicant Hayes Grange LLP

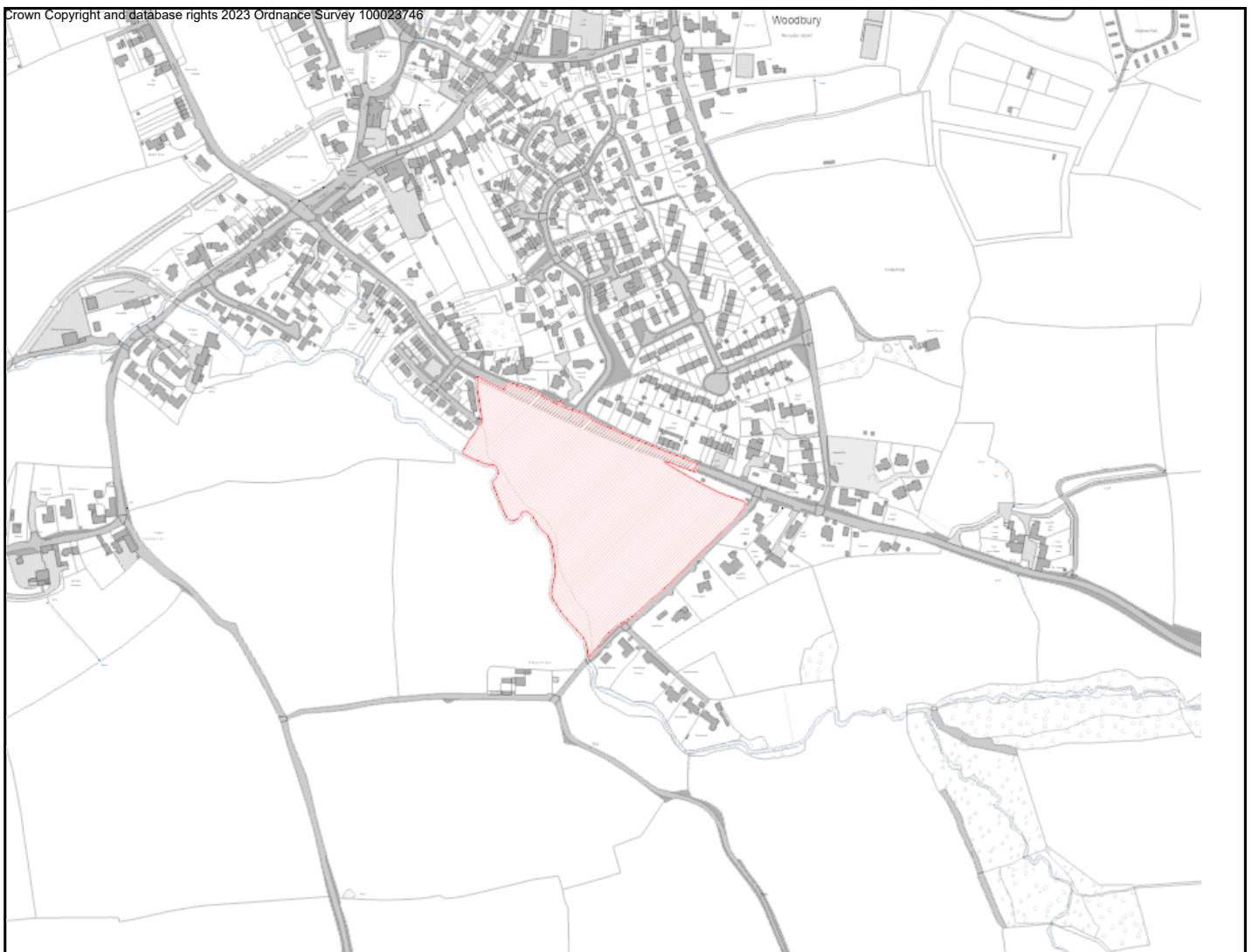
Location Land To South Broadway Woodbury

Proposal Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access)



RECOMMENDATION:

- 1. Adopt the appropriate assessment forming part of the report**
- 2. Approve subject to a legal agreement and conditions**



		Committee Date: 22.08.2023
Woodbury And Lymptone (Woodbury)	22/2838/MOUT	Target Date: 12.04.2023
Applicant:	Hayes Grange LLP	
Location:	Land To South Broadway	
Proposal:	Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access)	

RECOMMENDATION:

- 1. Adopt the appropriate assessment forming part of the report**
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EXECUTIVE SUMMARY

This application is before Members as it represents a departure from the adopted Development Plan and objections have been raised by Ward Members and the Parish Council.

The site is located adjoining the built up area boundary for Woodbury, as identified in the Villages Plan, to its eastern boundary and is currently gently sloping agricultural land in the countryside to the south of the main arterial road through the village known as Broadway.

The application is made in outline and includes details for consideration of means of access only and proposes the construction of up to 70 dwellings) on a site area of 2.4ha. The application is accompanied by an indicative layout which seeks to establish the quantum of development proposed can be achieved. It is important to note that the illustrative site layout plan submitted with this application indicates a layout that would not be supported at the reserved matters stage, which has been communicated to the applicant's agent, this is with particular reference to parking which is remote from the houses and cramped into unpleasant backland parking courts often with no clear route from the car park to the house. These matters can be addressed prior to submission of a reserved matters application where layout, scale and appearance (as well as landscaping) is to be considered in detail.

A single point of vehicular access is proposed onto Broadway through the removal of approximately 30 metres of hedgerow and a mature tree, County Highways are in agreement with the Transport Assessment submitted with the application and consider the access to be safe and suitable. Even though some impact upon the local highway network will result, this would not be considered by the Highway Authority to be severe enough to justify refusal of planning permission.

Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the Landscape Architect considers that the proposal could be considered acceptable in principle for housing development in terms of landscape and visual impact.

Matters of flood risk, ecology, archaeology, drainage and disturbance during the construction period can be adequately addressed through conditions.

The application is therefore recommended for approval subject to securing the appropriate obligations, including 25% affordable housing, on site open space with LEAP, wildlife corridors and habitat mitigation payment secured through a Section 106 Agreement.

Given the current need for housing in the district and the lack of a 5 year housing land supply engaging the tilted balance in favour of sustainable development, the lack of significant constraints to development, sustainable location of the site and provision of 25% affordable housing, it is considered that the principle of development can, on balance, be supported.

CONSULTATIONS

Local Consultations

Parish/Town Council

Woodbury Parish Council does not support this application.

The primary role of the Villages Plan is to set boundaries (known as built-up area boundaries) around villages, which will help determine where new development, especially new housing, will typically be allowed to be built.

Outside these boundaries opportunities for development will be far more restricted, which will effectively control the outward expansion of villages into the surrounding countryside. The Villages Plan will sit alongside the adopted East Devon Local Plan and together they will guide and manage development across the district.

This development is adjacent to the BUAB of Woodbury. As a development within the countryside then the expectation is a minimum of 50% affordable housing.

Transport and Planning and Heritage statements have several inaccuracies. The section on community consultations mentions the existing residents' concerns but does little to address the inadequate footpaths, lighting and traffic issues. The applicants own consultant's report highlights that in excess of 1350 vehicles exceed 35mph per day. The consultation also raises the issue of inadequate and unsafe walking and cycling routes from this development particularly for people with restricted mobility and parents with prams.

The concerns expressed of crossing the B3179 has been little more than a very minor upgrade of that that already exists.

The East Devon Local Plan states that 'development in open countryside outside defined boundaries will be resisted, unless on the merits of the particular case, there is a proven need it will meet a community need'. Traffic calming, footpaths and affordable housing would be a proven case. The case for traffic calming is within the Bellamy Transport Statement that shows the speed of traffic along Broadway. Woodbury in particular is much less catered for in public transport services than the Transport Statement implies when Parish figures are quoted rather than specifically Woodbury figures. The implication is that the new development will generate less car movements than would be the reality adding to the traffic issues on Broadway. These points all lead to the recommendation that this application is not supported.

Woodbury And Lympstone - Cllr Geoff Jung
22/2838/MOUT

I have viewed the documents for outline planning permission 22/2838/MOUT for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) on land to South Broadway Woodbury. This Application is on a site that has come forward as a proposed site for the new emerging East Devon Local Plan. Although it is recommended by officers to be included in the new local plan, I do not consider the application is appropriate that this is brought forward as this time.

It is claimed by the applicant that the Local Authority cannot demonstrate a 5-year land supply, which may have been the case prior to the Government announcement that the 'Housing Number Algorithm' will not be mandatory from 22.12.2022.

Although this key strategy requirement has been removed, no replacement strategy or policy has replaced it, and therefore at this time it is not clear what the Local Authority housing numbers are required to be built each year, and therefore it may be shown that the local Authority can shortly demonstrate a five-year land supply.

It is also the case that as the Local Authority has successfully taken the new Local Plan to the first Public Consultation stage, there is a possibility according to the government consultation papers that the requirement may be reduced to only 4 years for Authorities working on a new Local Plan and completed their first public consultation. Therefore, it may be shown that the Authority can claim an up-to-date plan, and a five year land supply.

Therefore, I cannot support this Application as this time. However, I reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

Technical Consultations

Conservation

On the basis of the information provided through the application, the works as proposed would result in no harm to the contribution the setting makes to the significance of the Grade II heritage assets; Rosemary Cottage and Bixley Haven sited to the north-west of the site, in addition to the historic and architectural interest of the adjacent Woodbury Conservation Area. In this respect conservation do not wish to offer any comments. Case Officer to assess.

DCC Flood Risk SuDS Consultation

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins. Confirmation from a geotechnical engineer that based on the geology found at the site, there is no risk of infiltrated water re-emerging downslope and impacting on the properties.

(b) A detailed drainage design based upon the approved Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref. E06077/0001_FRA, Rev. V4, dated 07th March 2023) and the results of the information submitted in relation to (a) above

(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(e) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

The applicant have revised Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref. E06077/0001_FRA, Rev. V4, dated 07th March 2023).

The applicant have not carried out any infiltration testing for the site. The applicant therefore proposed both an infiltration and attenuation options to manage the surface water runoff.

The proposed development site impermeable area is 1.166ha and the derived greenfield runoff rate is 2.4l/s.

For the infiltration option, it is proposed that the smaller north western sector will drain to a large below ground soakaway located within an area of open space and the larger south eastern sector to an above ground infiltration basin located to the south of the site.

For the attenuation option, the north western sector will drain to below ground attenuation crates with controlled discharge of 0.7l/s to the Gill Brook. The south eastern area will drain to an above ground attenuation basin located to the south of the site via a flow control to Qbar of 1.65l/s (as shown in Drawing Indicative Drainage strategy Plan Attenuation Option (Drawing No. 0002, Rev. P02, dated 09th January 2023).

The controlled discharge of 0.7l/s for the north western sector has resulted in a really small orifice size which is prone to blockages. The applicant shall refine the design during detailed design.

Hock Lee
Flood and Coastal Risk SuDS Engineer

DCC Historic Environment Officer

Application No. 22/2838/MOUT

Land To South Broadway Woodbury - Outline application for the construction of up to 70 residential units including open space, affordable housing, and offsite highway works (all matters reserved except for access) amended plans: Historic Environment

My ref: ARCH/DM/ED/38283b

I refer to the above application and your recent re-consultation. The Historic Environment Team has no additional comment to make to those already made, namely:

The proposed development occupies a large area in a landscape where little in the way of formal archaeological investigations have been undertaken but where in the wider landscape prehistoric and Romano-British activity is recorded in the county Historic Environment Record. The application area lies on west facing land sloping

down to a small water course and would have been an attractive site for early settlement. As such, groundworks for the construction of the proposed development have the potential to expose and destroy previously unrecorded archaeological and artefactual deposits associated with prehistoric and Romano-British activity in this landscape. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, 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 shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as 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 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with (i) and archaeological geophysical survey followed - if required - by (ii) the excavation of a series of evaluative trenches to investigate any anomalies identified and 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 can 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, and the finds and archive deposited in accordance with relevant national and local guidelines.

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/>.

Stephen Reed

Senior Historic Environment Officer

Housing Strategy/Enabling Officer - Cassandra Harrison
SUPPORT

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to be sought. The applicant is proposing to provide 25% affordable housing which equates to 18 units and this is acceptable.

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership. For the proposed 18 units, this would amount to 12 rented units and 6 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - will be determined at Reserved Matters stage. However I expect the applicant to engage with the housing team early on to ensure a mix that meets local housing needs. A parish level housing needs survey is currently being undertaken in Woodbury during August 2023. All affordable units should also meet M4(2) standards.

Parking - the design and access statement states there is only 1 parking space for 2 bedroom apartments, however there are 2 parking spaces for 2 bedroom houses. If some of the affordable units are going to be 2 bedroom apartments, they would need 2 parking spaces. However, I would also want to see some 2 bedroom houses as affordable, I would not want to see all the affordable housing as flats. There also needs to be suitable provision for visitor parking to avoid overflow parking in neighbouring streets.

Council Plan 2021 - 2023 - East Devon District Council wants to increase access to social and affordable homes and this is one of the Council's highest priorities. This application will provide 18 affordable homes, so will help us to meet this priority.

Environment Agency

Thank you for re-consulting us on this application.

Environment Agency position

We have reviewed the additional information submitted in support of this application and advise that our previous response still stands. This response is copied below:

"We have no objections to this planning application provided that conditions are included within any permission granted to secure the implementation of the submitted Flood Risk Assessment (FRA) and flood resilience measures.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

The suggested wording for our recommended condition and associated advice on flood risk is set out below.

Condition - Implementation of the FRA

The development shall be carried out in accordance with the submitted flood risk assessment (ref 10/01/23, E06077/FRA, Clarkebond) and the following mitigation measures it details:

- o There shall be an 8m no build corridor between the top of the riverbank and the new development as demonstrated in drawings 'indicative drainage strategy plans' (Appendix C 3 - shown as 8m bank offset) and section 5.5 of the flood risk assessment.

The mitigation measures shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

Condition - Flood Resilience

No development approved by this planning permission shall commence until such time as a scheme to ensure the development is flood resilient, by demonstrating that finished floor levels are above the design flood level, has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and its future users in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

Advice - Flood Risk

We have reviewed the submitted FRA and consider that this contains sufficient information to satisfy us at this stage that the proposed development could be acceptable in principle. Nevertheless, the applicant will need to provide further information in due course to ensure that the proposed development can go ahead without posing an unacceptable flood risk to the new residential properties. We consider that the above-mentioned conditions will be sufficient to ensure that no development takes place within 8m of the top of the riverbank and that the development itself will be appropriately resilient to flooding over its lifetime.

We note that some of the maps available in 'EA Data and Correspondence' in appendix F3 seem to have been inverted. The data itself that has been used in the main document is still relevant and seemingly correct but these should be updated when discharging the above conditions.

Advice to applicant - Pollution Prevention

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and a CEMP should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:
Pollution prevention for businesses - GOV.UK (www.gov.uk)

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations."

Please contact us again if you require any further advice.

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the outline application for the above site and is an updated response following submission of additional information by the applicant.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 SITE DESCRIPTION AND CONTEXT

2.1 Site description

The site comprises a single, roughly wedge-shaped arable field extending to 2.4ha immediately to the south of Broadway and west of an unnamed country lane. The topography is slightly undulating, with a westerly aspect, sloping down to a watercourse, with gradients ranging from 1:20 higher up to 1:10 lower down. There is an overall level difference of 14m from the top eastern most corner to the southwest corner. A tree lined water course forms the southwestern site boundary. The site is bounded by native hedgebanks adjacent to the road boundaries to the north and southeast. The western boundary abuts the recent Meadow View Close housing development. Site trees are limited to those along the watercourse and a single early-mature lime within the northern boundary hedgerow.

A well-used public footpath (Woodbury footpath 3) runs from Broadway at the northwestern end of the site along the watercourse to the minor lane in the southeast corner. The footpath alignment shown on the definitive map does not reflect the natural desire line which is clearly evident on site as a worn path following the edge of the watercourse. There are long views from the higher parts of the site over the Exe Estuary to the Haldon ridge in which the water in the estuary is visible. The wooded ridge of Woodbury Common which marks the boundary of the East Devon AONB is clearly visible to the east. Woodbury footpath 3 affords clear views over the site. There are views over the site from the frontage with Broadway. A clear view of the eastern half is obtained from the field gate in the southern corner off the minor lane to the southeast. There are also a couple of gateway views from which most of the site is visible from the minor lane to the southwest near Bridge Pitt Farm (150m) and Tedstone Lane (350m) to the west.

The site is directly overlooked by houses fronting the north side of Broadway and to a lesser extent by houses along the lane adjacent to the southeast boundary. The latter are detached in large plots and have principal views that look away from the

site. It has not been possible to identify the site in publically accessible views from the edge of the AONB.

2.2 Local landscape character

The site lies within East Devon landscape character type 3B: Lower rolling farmed and settled slopes key features of which relevant to the site are:

- Gently rolling landform, sloping up from valley floor. Numerous shallow valleys contain small streams. Red sandstone geology apparent in cuttings and soils in west of study area.
- Many hedgerow trees, copses and streamside tree rows. Oak and ash predominate, and there are small blocks of woodland.
- Predominantly pastoral farmland, often with a wooded appearance. Variable sized fields with wide, low hedged boundaries and a mostly irregular pattern, reflecting different phases of enclosure.
- Semi-natural habitats include streams and ditches, grassland, woodland and trees.
- Numerous historic landscape features including farmsteads, lanes, villages and churches.
- Settled, with various settlement sizes, building ages, patterns and styles. Various building materials, including stone, cob, whitewash/ render, slate, thatch and tile.
- Winding, often narrow sunken lanes, with tall earthbanks.
- A relatively enclosed and sheltered landscape. Some parts of the LCT feel well settled, whilst others feel exceptionally remote, with very little traffic.
- Views tend to occur across valleys, rather than from within them. Higher land in other LCTs forms the backdrop to views.
- Often strong colours within the landscape, influenced by underlying geology, season and choice of crops.

Relevant management guidelines for this LCT are given as:

- Manage field patterns, by repairing degraded hedgerows, promoting traditional hedgerow management, and also retaining/ planting hedgerow trees. Replace lost ash trees with alternative species.
- Manage traditional orchards, supporting restoration where possible.
- The location and form of any settlement expansion to be sensitive to existing road patterns and settlement form. For example, avoid ribbon development on the edges of nucleated villages.
- Retain distinctive entrances to villages and consider how village approaches and entrances could be enhanced.
- Choose building materials which fit with the existing palette, taking particular care if considering bright or reflective surfaces.
- Consider settlements within their wider landscape settings. Ensure that appropriate measures to soften the settlement edge, and to integrate development into the landscape, are incorporated into any settlement expansion plans. Screening should enhance landscape character, for example through using fruit trees in traditional orchard areas, and avoiding stark lines of planting which do not respect the existing landscape pattern.
- Create stronger habitat links, particularly between woodland areas through additional woodland and hedgerow planting.
- Consider the role of this LCT in wider views. It is often seen from above, so any developments spread over a large area (such as solar farms) are likely to be very apparent.

The site generally conforms to the landscape character description and is in good condition and despite its proximity to Woodbury it retains a rural character particularly along the watercourse.

2.3 Planning Policy

There are no specific planning policies relating to the site. The site lies outside of the BUAB as identified in the current local plan but is allocated for residential development within the draft new local plan. The East Devon AONB boundary lies approximately 600m to the east of the site.

2.4 Landscape and visual impact

Development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but sensitivity is reduced by the presence of existing modern residential development to the northeast and west. Gradients are sufficiently gentle not to entail major terracing of the site. The location of the proposed access will result in the loss of the only notable tree on the boundary with Broadway, an early-mature stage lime, and the removal of most of the existing roadside hedge. Although the hedge will be transplanted or replaced further back from the site boundary, the proposed highway works will lead to a substantial change in character along Broadway, creating a much wider highway corridor and changing its character from semi-rural to urban.

The development is considered unlikely to adversely impact the setting of the East Devon AONB. There are numerous sensitive visual receptors likely to be effected by the development, particularly residents to the north side of Broadway opposite the site and users of the public footpath running through it. Walkers, cyclists and motorists along Broadway would also be impacted.

For existing residents to the north of Broadway, and travellers along it, the proposed development will have a high adverse visual impact introducing prominent built form to the south side of the road which will block or substantially alter an expansive and attractive long-range view over the Exe Estuary to the Haldon Ridge.

Users of the public footpath across the site will experience a loss of openness and tranquillity and encroachment of built form over the whole length of the path that will be hard to mitigate for and consideration should be given to what additional public access could be offered in compensation. There are limited visual receptors to the south and southwest of the site and where views are obtained they are limited to a few field gateways or are generally heavily filtered by intervening trees and hedgerow. Where views from these directions are obtained they are generally seen in the context of the urban fabric of the town to the north and west and lower density residential development to the east.

Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.

3 REVIEW OF SUBMITTED LAYOUT & ASSOCIATED DETAILS

Layout and density

The indicative site layout is set back from Broadway with houses mostly orientated with their sides or backs to it. This is contrary to good practice guidance, such as given in Building for a Healthy Life, which recommends active street frontages. Such an arrangement has been used in the recent development of Meadow View Close to the northwest of the site where it fronts Broadway and should be continued through to the application site.

A 5m or so ecological buffer shown on the landscape plan and sections along the northern boundary between the development and Broadway does not appear to be supported by the submitted ecological survey which notes that the existing boundary hedge is of limited biodiversity value, and recommends only that light sources are set back at least 5m from it. This space could be more usefully used within the overall layout.

The proposed straight line of 4-bedroom units to the southern edge of the development appears incongruous in relation to the meandering water course and creates a narrow pinch-point between them where the footpath runs that would be overly dominated by built form. They also back on to the river limiting natural surveillance opportunities over this section of the river edge.

The design of parking courts, particularly the largest one to the northwest of the site access road, lacks opportunities for planting. The generous provision of trees shown in the site illustrations in adjacent rear gardens could not be relied upon to provide screening and softening of the development, as they would be prone to removal by residents. Sufficient provision should be made for planting within the parking courts themselves and other communal areas which can be managed in perpetuity through an agreed management plan.

New hedgebank

The proposed hedgebank detail, dwg. no. LHC-00-XX-DR-L-92.01 rev P1 is generally acceptable but a 1m wildflower verge should be provided between the face of the hedge and adjacent roadside footway in order to accommodate summer out-growth without excessive cutting back of the hedge.

Backfill for the bank should be specified as sub-soil. The detail should be amended accordingly.

4 CONCLUSION & RECOMMENDATIONS

4.1 Acceptability of proposals

The development will inevitably have a significant impact on the character of the site itself and Broadway. Visual impacts on adjacent Broadway residents and users of the public footpath through it will also be significant. Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the site could be considered acceptable in principle for housing development in terms of landscape and visual impact, although the proposal for 70 units appears excessive given the nature of the site and rural edge location.

Should the application be approved any condition discharge/reserved matters application should consider points raised at sections 2 and 3 above.

EDDC Trees

The indicative site plan shows a reasonable buffer zone within public open space, around the perimeter of the site. This allows for the long-term retention of, and management of the boundary trees and hedges.

The proposed highway access will require removal of a section of hedgerow from the sites northern boundary. However this does not appear to be the original Devon hedge bank and there is adequate space for compensation planting elsewhere on site.

The above principles relating to the development footprint and spatial arrangement, around the boundary tree and hedgerow features, should be carried across to the reserved matters application on this site.

Based on the above no objection is raised to the proposed outline application on arboricultural grounds.

Any reserved matters application should be supported by an arboricultural method statement and tree protection plan, detailing how the sites trees and hedges will be protected during all works on site.

In addition, any soft landscaping plans and landscape management plans submitted as part of a reserved matters application should be included details of all post planting tree management, to ensure new tree survival to the point of being independent within the landscape, and that the landscape management plan includes the ongoing proactive management of the existing tree population. However as this is a broad area of expertise, I will leave the details of landscaping and landscape management plans to the District's Landscape Architect to comment on, we can provide additional tree specific information as required.

Draft tree protection condition:

Prior to the commencement of any works on site (including any ground works, site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures.

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required 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 D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

Environmental Health

I recommend that the following documents are submitted with the full planning application

A Construction and Environment Management Plan (CEMP) 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. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. 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 and 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.

A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with Policy EN15 for the avoidance of light pollution.

DCC Historic Environment Officer

I refer to the above application. The proposed development occupies a large area in a landscape where little in the way of formal archaeological investigations have been undertaken but where in the wider landscape prehistoric and Romano-British activity is recorded in the county Historic Environment Record. The application area lies on west facing land sloping down to a small water course and would have been an attractive site for early settlement. As such, groundworks for the construction of the proposed development have the potential to expose and destroy previously unrecorded archaeological and artefactual deposits associated with prehistoric and Romano-British activity in this landscape. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, 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 shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as 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 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with (i) and archaeological geophysical survey followed - if required - by (ii) the excavation of a series of

evaluative trenches to investigate any anomalies identified and 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 can 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, and the finds and archive deposited in accordance with relevant national and local guidelines.

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/>.

County Highway Authority

I have visited the site and reviewed the Transport Statement, Design and Access Statement and indicative site layout of this project.

The parcel in question has been accessed as amenable within the latest emerging local plan. The site currently has permitted agricultural use with two existing accesses. Therefore the provision of 70 houses would present some level of trip generation intensification upon the local network.

However the access proposed would be just the one, for vehicles, which therefore represents a highway safety gain, with less interaction of opposing traffic. Additionally the access junction will be improved with a right turn box for traffic entering the site, whilst also retaining the right turn lane for Fulford Way. The site frontage will also see the benefit of a footway to adjoin to the tactile crossing, as well as a separate footway access path. The trip generation would be mitigated with secured cycle storage, Travel Plan contributions and the local bus service of Woodbury.

The visibility splay for the site access to be provided has been designed bespoke to the actual speeds of Broadway through a speed survey.

Therefore in summary the County Highway Authority (CHA) has no objections to this MOUT application. We may have further comments or conditions upon the receipt of the reserved matters application should it come forth, I will therefore reserve comment upon the internal layout until such time.

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

Other Representations

39 representations have been received as a result of this application raising the following concerns:

- The amenities of Woodbury cannot support such a large development;
- Woodbury has witnessed a large level of housing growth over recent years;
- The site is outside the village boundary;
- Poor transport links;
- School is too small;
- Doctor's is too small;
- A pavement is needed on this side of the road
- Traffic speeds are too great;
- Need for pedestrian island to cross the road;
- Woodbury needs a neighbourhood plan;
- Poor drainage and sewerage system in the village;
- Loss of green fields;
- Loss of wildlife habitats;
- Impact on heritage assets

PLANNING HISTORY

23/0103/PREAPP – Resident development

POLICIES

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

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 34 (District Wide Affordable Housing Provision Targets)

D1 (Design and Local Distinctiveness)

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)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site lies on the edge of the settlement of Wodbury to the south of 'The Broadway' which is the main arterial route into the village, it lies outside of the recognised built up area boundary.

The site comprises a single, roughly wedge-shaped arable field extending to 2.4ha immediately to the south of Broadway and west of an unnamed country lane.

The topography is slightly undulating, with a westerly aspect, sloping down to a watercourse, with gradients ranging from 1:20 higher up to 1:10 lower down. There is an overall level difference of 14m from the top eastern most corner to the southwest corner. A tree lined water course forms the southwestern site boundary. The site is bounded by native hedgebanks adjacent to the road boundaries to the north and southeast. The western boundary abuts the recent Meadow View Close housing development. Site trees are limited to those along the watercourse and a single early-mature lime within the northern boundary hedgerow.

A well-used public footpath (Woodbury footpath 3) runs from Broadway at the northwestern end of the site along the watercourse to the minor lane in the southeast corner. The footpath alignment shown on the definitive map does not reflect the natural desire line which is clearly evident on site as a worn path following the edge of the watercourse.

Proposed Development

The planning application is in outline for the erection of up to 70 new dwellings. Details of the means of access are the only matter for consideration at this stage. All other matters (layout, scale, appearance and landscaping) are reserved for future consideration.

The application includes an indicative layout for the 70 units, 18 of which (25.7%) would be affordable houses therefore 52 would be open market.

The proposal is being put before the Council on the basis that the site would be a logical extension to Woodbury given the existing/surrounding development, and it

would provide additional housing within the district. The site has been put forward as a potential site for inclusion in the new Local Plan, but the applicants expressed the view that, given the need for housing, and the nature of the site in relation to existing development, it could be brought forward ahead of the new Local Plan.

Planning Considerations

The main considerations in the determination of this application relate to:

- The principle of the proposed development;
- Affordable housing;
- Agricultural land classification;
- Impact on highway safety;
- Residential amenity;
- Landscape and visual impact;
- Ecology and habitats;
- Flood risk and drainage;
- Heritage impacts;
- Planning obligations;
- Planning balance and conclusion.

Principle of Development

The site lies outside of the built up area boundary for Woodbury under the currently adopted Local Plan (as defined by the Villages Plan) and as such is considered to lie in the countryside. Under the emerging Local Plan which seeks to find additional land for housing growth, the site is currently being included and consulted upon as one which could support an acceptable extension of Woodbury however this document carries no weight at present. The proposal has been advertised as a departure from the Development Plan.

The Council's position on policies of housing restraint (i.e built up area boundaries) has recently changed as the Local Planning Authority can no longer demonstrate a 5 year land supply of housing. The Council's latest Housing Monitoring Report ending 31st March 2022 went before Strategic Planning Committee on the 4th October 2022 where the report put before members stated the following;

"This report provides a summary of house building monitoring information to the year ending 31 March 2022. It had been noted in the previous Housing Monitoring Update that the housing land supply position was declining and that action was needed to address this position. In the meantime the annual requirement figure has gone up from 918 homes per year to 946 homes per year as a result of changes to the affordability ratio which is a key input into the government's standard method for calculating housing need. The increased need figure combined with a declining supply position means that a 5 year housing land supply can no longer be demonstrated. The report advises Members of the implications of this and what actions are and should be taken to address this position."

Under government policy if an authority cannot demonstrate a 5 year housing land supply then the presumption in favour of sustainable development will apply as set out in paragraph 11d of the National Planning Policy Framework. This states:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Development constraint policies, such as Strategy 7 (Development in the Countryside) that applied built-up area boundaries to settlements can no longer carry significant weight. Proposals for residential development that are outside of these areas and that are not compliant with the spatial strategy of the Local Plan should be approved unless points (i) and (ii) above apply. In this case (i) the protected areas referred to includes AONB's, SSSI's, designated heritage assets and areas at risk of flooding among others.

i) above does not apply in this case and so we must determine whether point (ii) is satisfied.

It should be noted that paragraph 14 of the National Planning Policy Framework states that where the presumption in favour applies ".....the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits....", where among other things a neighbourhood plan has been made in the last 2 years. There is currently no Neighbourhood Plan for Woodbury so there is no additional protection in this case.

It is clear that Woodbury is a sustainable location for housing development where there is good infrastructure and services (including convenience shop, doctors surgery, church, village hall, primary school, hairdressers, public house etc...) together with transport links to larger settlements including Exmouth and Exeter. It is proposed to retain a built up area boundary for Woodbury in the emerging Local Plan, albeit widened from the current boundary to allow for housing growth through allocations, and plan positively to deliver housing development in sustainable locations around the village. The location and sustainability considerations weigh heavily in favour of the application.

The site represents a logical extension of the built form of the village adjacent to the main road in the village from the Exmouth/Woodbury common direction, though it is currently a green field in use for agricultural purposes, therefore it is for this report to consider the impact on the landscape and whether any other impacts would outweigh the benefits of the proposal. The benefits and impacts of the proposal will be balanced at the end of the report and a conclusion made.

Affordable housing

The application in its heads of terms indicates that the proposal would provide 25% affordable housing which is the provision that the current Local Plan seeks on sites within built up area boundaries, usually sites outside the boundaries would need to provide 50% affordable housing. However, as the current built up area boundaries have been blurred through the lack of a 5 year land supply, it is considered that 25% would be an acceptable provision at this moment in time.

The Housing Enabling Officer has the following comments to make:

Percentage of Affordable Housing - under current policy Strategy 34, a requirement for 50% affordable housing would be required. However, given the lack of a 5 year land supply and out of date policies, a pragmatic approach is being taken with sites adjacent to an existing built up area boundary and the level of affordable housing to be sought. The applicant is proposing to provide 25% affordable housing which equates to 18 units and this is acceptable.

Tenure - Strategy 34 sets a target of 70% for rented accommodation (social or affordable rent) and 30% for affordable home ownership. For the proposed 18 units, this would amount to 12 rented units and 6 units for affordable home ownership. The rented units should be provided as Social Rent as this is more affordable to local incomes in East Devon.

Housing Mix - will be determined at Reserved Matters stage. However I expect the applicant to engage with the housing team early on to ensure a mix that meets local housing needs. A parish level housing needs survey is currently being undertaken in Woodbury during August 2023. All affordable units should also meet M4(2) standards.

Accordingly, the provision, tenure and price caps would all need to be secured through an appropriately worded legal agreement so that the proposal is acceptable under Strategy 34 of the EDDC Local Plan.

Agricultural land classification

The site is currently an agricultural field, and where the loss of agricultural land is proposed an assessment must be made as to whether it is the best and most versatile agricultural land (Grades 1, 2 and 3a). Policy EN13 of the EDDC Local Plan and advice contained in the NPPF suggest that agricultural land falling in Grade 1, 2 or 3a should not be lost where there are sufficient areas of lower grade land available or the benefits of development justify the loss of the high quality land.

The entire site constitutes grade 3 agricultural land which is not the highest grade land but one where an on-site survey would be needed to determine whether it is 3a or 3b. No such survey has been submitted with this application and so a cautious approach is to consider that the site could be Grade 3a, which does fall within the category of best and most versatile agricultural land. The field is currently farmed but is constrained by housing developments on 3 sides and a water course on the other side and therefore is not connected to other similar grades of land which reduces its agricultural viability and value.

Whilst it is considered that the loss of 2.4 hectares of the agricultural land is regrettable, where it is not physically connected to land of a similar quality or higher quality (as in this instance) and as there are large amounts of other land in the locality of higher quality, it is considered that the loss would not significantly harm agricultural interests or the national food supply. Nevertheless the loss of this agricultural land weighs negatively in the planning balance.

Highway Impact and Access

The proposal for 70 homes would be accessed by a new adopted roadway through what is presently a roadside verge and mature hedgerow to an agricultural field. The existing hedgerow would be translocated south to accommodate sufficient visibility splays and a footway adjacent to the road to enable access to a new pedestrian island that would facilitate access to services on the opposite side of a busy road including primary school and doctors surgery. Once the access road has entered the site in a southerly direction, adoptable standard roads are shown in the indicative Masterplan that lead out to all of the proposed units. The existing public footpath which runs along the southern boundary of the site in an informal manner (unmade path within the field) is likely to be diverted, but is proposed to enter and leave the land in the same positions at the east and west of the site. No comments have been received from Devon County Footpaths Officer regarding this element of the proposal, however, it will be matter for the reserved matters application to provide the exact layout of the wider site and pathway.

In terms of the access and the development's impact on the wider road network where it generates additional vehicular traffic onto the B3179, known locally as Broadway, which is a B class road which runs through the settlement of Woodbury between Exmouth/Woodbury Common and the Clyst St George roundabout at its junction with the A376, the Highway Authority have considered the scheme in detail and the additional details that have been provided by the applicant's agent. The County Council as Highway Authority recommend approval of the scheme with specific conditions applied to ensure safe visibility at the access and timely provision of well-designed roadways.

The development will inevitably generate additional vehicular activity on local roads. This traffic will accumulate at pinch points with the new traffic being generated by other recent development in the village and further afield. The Highway Authority are satisfied that the new junction of the access will not suffer undue congestion at peak flows and has appropriate visibility that can be controlled and maintained together with a new dedicated right turn lane into the site from a westerly direction. They specifically do not consider there will be a significant denigration of highway safety. For these reasons the proposals are considered to accord with Policy TC7.

In terms of wider accessibility, Policy TC2 and the NPPF seek residential development that is located in positions where there are viable alternatives to the private car allowing pedestrian, cycle and public transport access to jobs, services and amenities. The application site is accessible to a range of services including bus services, shops, schools, medical services and jobs (predominantly in further afield settlements by bus). There are suitable and safe walking routes into the village centre. In short, the

site is considered to be accessible and future residents would have viable and attractive sustainable alternatives to using the private car.

In conclusion, the proposals are considered to be in an accessible location with suitable and safe access. Vehicular traffic would enter an, at times, busy local road network, but these trips would naturally dissipate onto alternative routes that are safe and appropriate. There are viable alternatives to the use of the car with pedestrian and cycle links as well as walkable bus stops with regular services in the locality. The submitted Transport Assessment and the Residential Travel Plan are considered acceptable by Devon County highway Authority and the overall the scheme considered to accord with Policies TC2 and TC7 of the EDDC Local Plan and the guidance in the NPPF.

Residential amenity

The proposals are in outline and do not include detailed plans for the housing proposed. An indicative masterplan shows a layout of housing arranged following the contours of the sloping ground from north down to the south. The houses are set in from the boundaries of the site due to the fact that the hedgerows are to be retained and there is a need for wildlife corridors to be maintained adjacent to them.

It is considered that at the number of homes being proposed, the land can accommodate the built development without resulting in undersized gardens, cramped building arrangements or a development that is dominated by parking. However, it is important to note that the illustrative site layout plan submitted with this application indicates a layout that would not be supported at the reserved matters stage, this has been communicated to the applicant's agent, this is with particular reference to parking which is remote from the houses and cramped into unpleasant backland parking courts often with no clear route from the car park to the house. These matters can be addressed prior to submission of a reserved matters application where layout, scale and appearance (as well as landscaping) is to be considered in detail.

Similarly, the impact on those already living adjacent to the site need not result in overlooking, enclosure or loss of light with plenty of room for new homes to be situated well away from the boundary. The impact of development is lessened further as the ground falls away to the south meaning that any new houses will be situated on lower ground than the existing houses on Broadway.

For these reasons the proposals are considered to be acceptable in terms of residential amenity and accord with Policy D1 of the EDDC Local Plan together with advice contained in the NPPF.

Landscape and Visual Impact

The application site is currently a pleasant green field, sloping gently down as it leaves the edge of Woodbury. Development of the site as proposed would result in the loss of an open and relatively prominent field to built-form but sensitivity is reduced by the presence of existing modern residential development to the northeast and west. Gradients are sufficiently gentle not to entail major terracing of the site. The location of the proposed access would result in the loss of the only notable tree on the boundary

with Broadway, an early-mature stage lime, and the removal of most of the existing roadside hedge. Although the hedge will be transplanted or replaced further back from the site boundary, the proposed highway works will lead to a substantial change in character along Broadway, creating a much wider highway corridor and changing its character from semi-rural to urban.

Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.

The Council's Landscape Architect concludes by stating:

'Generally the landscape and visual impacts of the proposals are likely to be limited to the site and immediate surrounds, and while the change in character along Broadway and the visual impact on Broadway residents and travellers and users of footpath 3 would be significant adverse, subject to appropriate density and sensitive design, development could be accommodated without wider significant adverse impact to the host landscape character.'

The development will inevitably have a significant impact on the character of the site itself and Broadway. Visual impacts on adjacent Broadway residents and users of the public footpath through it will also be significant. Within the wider setting, the landscape and visual effects are limited due to topography and vegetation cover and where views are likely to be obtained the development would be seen against the backdrop of the existing settlement on rising ground to the north. As such the site could be considered acceptable in principle for housing development in terms of landscape and visual impact, although the proposal for 70 units appears excessive given the nature of the site and rural edge location'.

The applicant's agent has been given the opportunity to justify the quantum of development proposed on site which they have done by justifying the following:

- *All the units would meet National Space Standards so the units are not artificially small. The garden sizes and back to back distances are all generous.*
- *Taken as a whole the scheme density is extremely low (19 dpha). Even with all the open space, circulation etc excluded, density is 37dpha. Nearby schemes at Webbers Meadow are 44 dpha and 36 dpha at Meadow View Close so the scheme is not of character – quite the opposite given the amount of open space.*

They have also commented that parking and circulation space would be a matter to be addressed in detail at the reserved matters stage.

Accordingly, the proposal is considered to be acceptable/can be made to be acceptable with suitable mitigation planting to be considered at the reserved matters stage.

Ecology and Habitats

A preliminary ecological appraisal, consisting of an extended UK Habitat Classification survey was undertaken on 6 July 2021 by Richard Green Ecology Ltd. An updated habitat condition assessment was undertaken on 12 October 2022, and hazel dormouse, cirl bunting, bat activity transect and static surveys were subsequently undertaken from October 2022 through to June 2023.

The proposal would result in the loss of approximately 3.26 ha of arable cropland and 0.08 ha of neutral grassland. The loss of these habitats is not considered to result in a significant ecological impact.

At least nine species of bat have been recorded foraging and commuting over the site during manual and static bat detector survey, including Annex II (Habitats Directive 1992) species barbastelle, greater horseshoe and lesser horseshoe bats. Given the diversity of bat species and the presence of rarer species, the site is overall considered to be of County value to foraging and commuting bats (Wray et al., 2010)

Two dormouse nests and one partially constructed nest were found in survey tubes on the eastern boundary hedgerow, meaning that dormouse presence is assumed in all boundary hedgerows. The site is considered to be of local ecological value for dormice.

The loss of 30 m of species-poor hedgerow for access into the site is considered likely to result in a minor adverse ecological impact at the site level. Translocation of short lengths of the northern species-poor hedgerow are proposed. The lengths affected are unconfirmed, however, translocation would involve movement by up to 2 metres, considered to cause a negligible adverse ecological impact. The hedgerow removal and translocation could result in the killing or injury of dormice and would result in the loss of dormouse nesting and foraging habitat. The proposed hedgerow removal and translocation will therefore require a European protected species licence (EPSL) from Natural England. One can only apply for an EPSL once planning approval has been granted and any conditions pertaining to protected species, which are capable of being discharged, have been discharged.

Outline mitigation and ecological enhancement measures include

- the provision of ecological buffers to avoid the illumination of hedgerows,
- ecological supervision of hedgerow removal and translocation,
- sensitive timing of works to avoid harm to nesting birds and dormice,
- a lighting plan, including lux contours across the site, will be required. Lighting design should be in accordance with 'Bats and artificial lighting in the UK' (BCT and ILP 2018) to minimise light spill and potential negative effects upon foraging and commuting bats.
- provision of dormouse nest boxes,
- reptile hibernacula,
- bat and bird boxes,
- creation of habitats detailed within the biodiversity unit calculation, and
- Payment of a standard Habitat Mitigation Contribution per house would also be payable to 'deliver' mitigation for recreational impacts on the nearby SPAs.

A Landscape and Ecological Management Plan (LEMP) should be produced, detailing the planting specifications and the ongoing management of the proposed and retained habitats.

The applicant's ecology consultant has calculated that this range of mitigation measures provides a BNG (biodiversity net gain) score as follows:

Overall, the proposal would result in a gain of 3.43 habitat units (a 31.98 % net gain), and a gain of 4.67 hedgerow units (48.31 % net gain). Assuming the proposed mitigation and enhancement measures are undertaken, and that relevant management and lighting plans are implemented, the overall effect on ecological receptors is expected to be slightly beneficial.

Due to there being no loss of habitat for bats, a bat license from Natural England will not be required for this application and as such the derogation tests for bats is not necessary in this instance. However the test is required for dormice as a European Protected Species licence will be required due to the loss of hedgerow.

The proposed development would require a European Protected Species Licence from Natural England.

In these circumstances the Local Planning Authority has a statutory duty under Regulation 3(4) to have regards to the requirements of the Habitats Directive in the exercise of its functions when dealing with cases where a European Protected Species may be affected.

The species protection provisions of the Habitats Directive, as implemented by the Habitats Regulations, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would otherwise lead to an offence under provisions protecting species in the Habitats Regulations: The Woolley court judgment makes it clear that the Local Planning Authority must apply these same three tests when determining a planning application and that failing to do so will be in breach of the Habitats Regulations.

The three tests are:

1. the activity must be for imperative reasons of overriding public interest or for public health and safety;

In this case it is considered that the imperative reasons of overriding public interest are as follows:

- The proposal would use a site for residential purposes in a sustainable location.
- The development would make a positive contribution towards the Council's 5 year housing land supply

- The development would secure a 25% affordable provision

2. there must be no satisfactory alternative;

In this case the hedgerow providing the dormice habitat is required to be lost to provide a safe and suitable access to the site where there are no other suitable alternatives. Other locations in the field could be used to provide access, but these would also require the removal of hedgerows. The amount of hedgerow to be lost is limited to 30 metres of the entire 2.4ha site.

3. favourable conservation status of the species must be maintained.

To mitigate for the loss of a small section of hedgerow there are a number of measures proposed to retain the species on site such as:

- the provision of ecological buffers to avoid the illumination of hedgerows,
- ecological supervision of hedgerow removal and translocation,
- sensitive timing of works to avoid harm to nesting birds and dormice,
- provision of dormouse nest boxes

As such there would only be a limited loss of habitat provision as a result of the development, it is considered that the application does demonstrate that favourable conservation status of dormice bats would be maintained.

Having regard for the above assessment, it is considered that the three tests can be met and that Natural England are likely to grant an EPS licence.

Accordingly, as a package of protection and biodiversity enhancement, the site during and following development will benefit from a net gain and the measures are suitable mitigation. These measures are encapsulated in the Ecological Impact Assessment dated July 2023 and submitted with the application.

Habitats Regulation Assessment

The nature of this application and its location close to the Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and a financial contribution will be secured through an appropriately worded legal agreement. On this basis, and as the joint authorities

are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

For these reasons the proposals are considered to accord with Policy EN5 of the EDDC Local Plan, the NPPF and the stipulations of the Habitat Regulations.

Flooding and drainage

The site lies in Flood Zone 1 and is therefore not prone to flooding. Residential development is 'more vulnerable' to flooding, but is directed to Flood Zone 1 in national guidance and the development as proposed is considered appropriate. There is a ditch down the eastern side of the site which has been confirmed to be of no substantive flood risk to the site.

The submitted indicative masterplan shows a drainage attenuation pond in the south east corner of the site together with either infiltration for the north west corner or drainage into the Gil Brook, which is generally the preferred SUDS method of holding water being drained and attenuated before leaving a development.

A detailed drainage methodology would be required as part of a reserved matters submission that will inevitably follow the layout design of the site.

Devon County Flood Risk department originally objected to the proposal stating the following:

'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'.

On submission of additional information, DCC Flood Risk Team have removed their objection subject to conditions to secure a detailed design of drainage scheme to be submitted at the reserved matters stage with the following comments to make:

The applicant has not carried out any infiltration testing for the site. The applicant therefore proposed both an infiltration and attenuation options to manage the surface water runoff.

For the infiltration option, it is proposed that the smaller north western sector will drain to a large below ground soakaway located within an area of open space and the larger south eastern sector to an above ground infiltration basin located to the south of the site.

For the attenuation option, the north western sector will drain to below ground attenuation crates with controlled discharge of 0.7l/s to the Gill Brook. The south eastern area will drain to an above ground attenuation basin located to the south of the site via a flow control to Qbar of 1.65l/s (as shown in Drawing Indicative Drainage

strategy Plan Attenuation Option (Drawing No. 0002, Rev. P02, dated 09th January 2023).

The controlled discharge of 0.7l/s for the north western sector has resulted in a really small orifice size which is prone to blockages. The applicant shall refine the design during detailed design.

The proposal is therefore considered acceptable, subject to conditions to provide a detailed design strategy at the reserved matters stage, in relation to Policy EN22 of the EDDC Local Plan.

Heritage Impact

As well as the policies of the Development Plan, the Planning Authority must give special consideration to the significance of any Listed Buildings or Conservation Areas affected by this development as required by Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Woodbury Conservation Areas lies in close proximity to the site. There are 2no. Grade II Listed Buildings Rosemary Cottage and Bixley Haven sited to the north-west of the site.

The Council's Conservation Officer has the following comments to make:

On the basis of the information provided through the application, the works as proposed would result in no harm to the contribution the setting makes to the significance of the Grade II heritage assets; Rosemary Cottage and Bixley Haven sited to the north-west of the site, in addition to the historic and architectural interest of the adjacent Woodbury Conservation Area. In this respect conservation do not wish to offer any comments

For these reasons the proposals do not harm designated and undesignated heritage assets for which special consideration has been given. The proposal is therefore considered to be acceptable in relation to the aforementioned parts of the Act, Policies EN9 and EN10 of the EDDC Local Plan and advice contained in the NPPF.

Planning obligations

The report has already discussed the 25% onsite affordable housing requirement and the habitat mitigation payments which would need to be secured through the prior signing of a legal agreement, however, there are other items that are required to be secured through the legal agreement, namely:

Bat corridors

The ecology report indicates that there should be unlit corridors for bats of 5 metres adjacent to the existing hedgerows which bound the site to the north and east

Openspace

Strategy 43 of the Local Plan requires development of a certain size to provide and/or contribute towards on-site open space provision and maintenance. The adopted Planning Obligations Supplementary Planning Document is clear that for developments of this scale the requirement would be to provide amenity open space as part of the development which is shown on the indicative layout plan, however provision of an onsite locally equipped area for play (LEAP) and funding for equipment is also required.

The Planning Balance and Conclusion

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

In this scheme, weight is attached to the offer of 18 affordable housing units that will provide social sustainability benefits. Similar importance is attached to the potential 70 new homes where the 5 year housing land supply cannot be given full weight at this point in time.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e Strategies 6 and 7.

The economic benefits of building, furnishing and living in 70 new homes and the filter down effect this would have on the local and regional economy weigh in favour of the proposal.

The development would be accessible by a range of transport means to Woodbury's amenities and facilities without the need to resort to the private car, together with transport links to further afield settlements. Although the local road network would receive additional pressure, the impact is not considered severe and there are no objections from the County Highway Authority. This also weighs in favour of the proposal.

There is not a significant adverse impact on local residential amenity and an acceptable impact on the local and wider rural landscape and the setting of the village. Although there will be an inevitable erosion of the countryside with the new housing being built, the Landscape Officer's assessment does not consider the visual impact to be significantly adverse in light of the current policy position. A similar conclusion is drawn on local heritage assets where special consideration has been given and whose significance would not be harmed.

Ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. There would be retention of the primary hedgerows around the site save for some loss of the translocated roadside hedge with minimal tree or hedge removal overall.

The development could result in the loss of Grade 3a agricultural land and this weighs negatively in the planning balance.

The development is outside of the floodplain with a site that can be drained by sustainable means.

The proposals offer an appropriate package of mitigating measures to offset the impact that the new housing would have on local infrastructure through payment of CIL.

It is considered that there are substantial social and economic benefits to development at Broadway. The affordable housing, the open market housing and the benefit to the local economy should be given great weight. The environmental impacts are limited, the most significant being the erosion of countryside on the edge of Woodbury and possible loss of BMV agricultural land. However, given the current policy position, and given that the impact is not so harmful in light of the comments from the Landscape Officer, the environmental impact is not so adverse that it outweighs the substantial housing offer being tabled.

On balance the proposals are considered to represent sustainable development in the light of the guidance in the National Planning Policy Framework and the up to date policies of the Development Plan.

RECOMMENDATION

- 1. Adopt the appropriate assessment**
- 2. APPROVE subject to a legal agreement securing the following matters:**
 - **Habitat mitigation contribution of £367.62 per residential unit.**
 - **25% affordable housing to be 12 rented units and 6 units for affordable home ownership**
 - **Management company to maintain common areas on site.**
 - **Securing of funding and equipment to for a LEAP**
 - **Wildlife corridors to be kept free from light spill**

APPROVE subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the development comes forward in a timely manner).

2. Approval of the details of the layout, scale and appearance of the building (s) and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

3. 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.)

4. All future reserved matters applications submitted pursuant to condition 2 of this permission shall be accompanied by a Construction and Environment Management Plan that 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. The plan shall also consider construction vehicle routing and delivery arrangements. Construction working hours and all site deliveries 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.)

5. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

6. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with diagram BTC22056 P-01 P2 contained in the transport assessment where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 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 43.0 metres in both directions.

(REASON: To provide adequate visibility from and of emerging vehicles in accordance with Policy TA7 of the adopted East Devon Local Plan).

7. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365, groundwater monitoring results in line with our DCC groundwater monitoring policy and evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins. Confirmation from a geotechnical engineer that based on the geology found at the site, there is no risk of infiltrated water re-emerging downslope and impacting on the properties.

(b) A detailed drainage design based upon the approved Land South of Broadway, Woodbury Flood Risk Assessment & Drainage Strategy (Report Ref. E06077/0001_FRA, Rev. V4, dated 07th March 2023) and the results of the information submitted in relation to (a) above

(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(e) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

8. The development shall be carried out in accordance with the submitted flood risk assessment (ref 10/01/23, E06077/FRA, Clarkebond) and the following mitigation measures it details:

There shall be an 8m no build corridor between the top of the riverbank and the new development as demonstrated in drawings 'indicative drainage strategy plans' (Appendix C 3 - shown as 8m bank offset) and section 5.5 of the flood risk assessment.

The mitigation measures shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

9. No development approved by this planning permission shall commence until such time as a scheme to ensure the development is flood resilient, by demonstrating that finished floor levels are above the design flood level, has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented prior to occupation and retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and its future users in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan.

10. Prior to the commencement of any works on site (including any ground works, site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.

The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required 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 D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

11. A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.
Reason: To comply with Policy EN15 for the avoidance of light pollution.

12. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as 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 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

13. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.

Reason

To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

14. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - A) The main road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The main road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the main road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the main road and cul-de-sac have been provided and erected.

(Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with Policies TA7 (Adequacy of Road Network and Site Access) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan.)

15. No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 30 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:
- Extent, ownership and responsibilities for management and maintenance.
 - A description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management.
 - Landscape and ecological aims and objectives for the site.
 - Condition survey of existing trees, hedgerow and other habitat to be retained as a baseline for future monitoring and to inform any initial works required to address defects/ issues identified and bring them into good condition.
 - Detailed maintenance works schedules covering regular cyclical work and less regular/occasional works in relation to:
 - Existing trees, woodland and hedgerows.
 - New trees, woodland areas, hedges/ hedgebanks and scrub planting areas.
 - Grass and wildflower areas.
 - Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - Boundary structures, drainage swales, water bodies and other infrastructure/facilities.
 - Arrangements for Inspection and monitoring of the site and maintenance practices.
 - Arrangements for periodic review of the plan.
- Management, maintenance and monitoring shall be carried out in accordance with the approved plan.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

16. 1) No development work shall commence on site until the following information has been submitted and approved:

- a) A full set of hard landscape details for proposed walls, hedgebanks, fencing, retaining structures, pavings and edgings, site furniture and signage.
- b) Details of locations, heights and specifications of proposed free standing and wall mounted external lighting including means of control and intended hours of operation.

External lighting shall be designed to minimise light-spill and adverse impact on dark skies/ bat foraging and commuting in accordance with Institute of Lighting Professionals (ILP) guidance notes GN01 2011 - Guidance notes for the reduction of obtrusive light and GN 08/18 - Bats and Artificial Lighting in the UK.

- c) A site levels plan at 1:250 scale or greater indicating existing and proposed levels and showing the extent of earthworks and any retaining walls. This shall be accompanied by at least 3 sections through the site at scale of 1:200 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings.

- d) Surface water drainage scheme incorporating appropriate SuDS features. Details should include proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc and provision of water butts to private rear gardens to collect roof rain water.

- e) A full set of soft landscape details including:

- i) Planting plan(s) showing locations, species and number of new tree and shrub/ herbaceous planting, type and extent of new amenity/ species rich grass areas and existing vegetation to be retained and removed.

- ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

- iii) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.

- iv) Tree pit and tree staking/ guying details including details for extended soil volume under paving where necessary for trees within/ adjacent to hard paving.

- f) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

- i) A soil resources plan prepared in accordance with Construction Code of Practice for the

Sustainable Use of Soils on Construction Sites - DEFRA September 2009, which should include:

- a plan showing topsoil and subsoil types based on trial pitting and laboratory analysis, and the areas to be stripped and left in-situ.
- methods for stripping, stockpiling, re-spreading and ameliorating the soils.
- location of soil stockpiles and content (e.g. Topsoil type A, subsoil type B).
- schedules of volumes for each material.

The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use.

Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Strategy 5 (Environment), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

17. Development shall proceed in accordance with Sections 4 (Assessment, recommendations and mitigation) and 5 (Biodiversity net gain) detailed in the Ecological Impact Assessment dated July 2023 undertaken by Richard Green Ecology.

(Reason: To ensure that the mitigation measures are in place to safeguard the biodiversity and protected species displaced by the development in accordance with Policy EN5 (Wildlife Habitats and Features).

NOTE FOR APPLICANT

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:

DR UD 01.01 P6	Location Plan	11.01.23
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List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

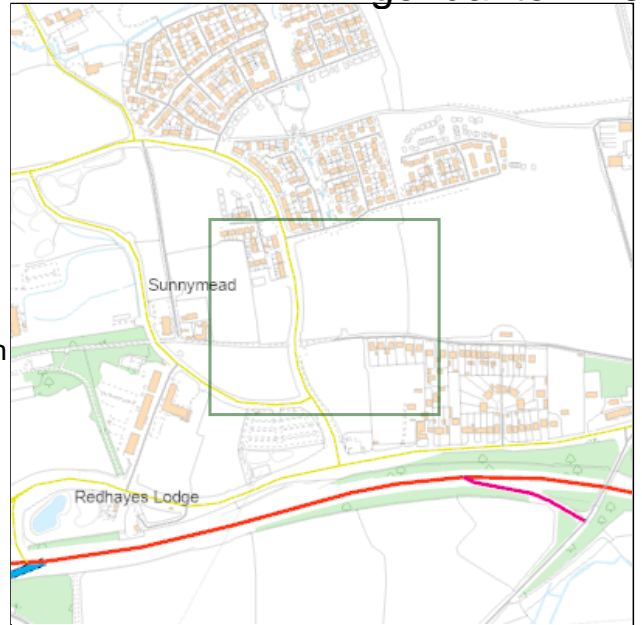
Ward Broadclyst

Reference 22/0975/MFUL

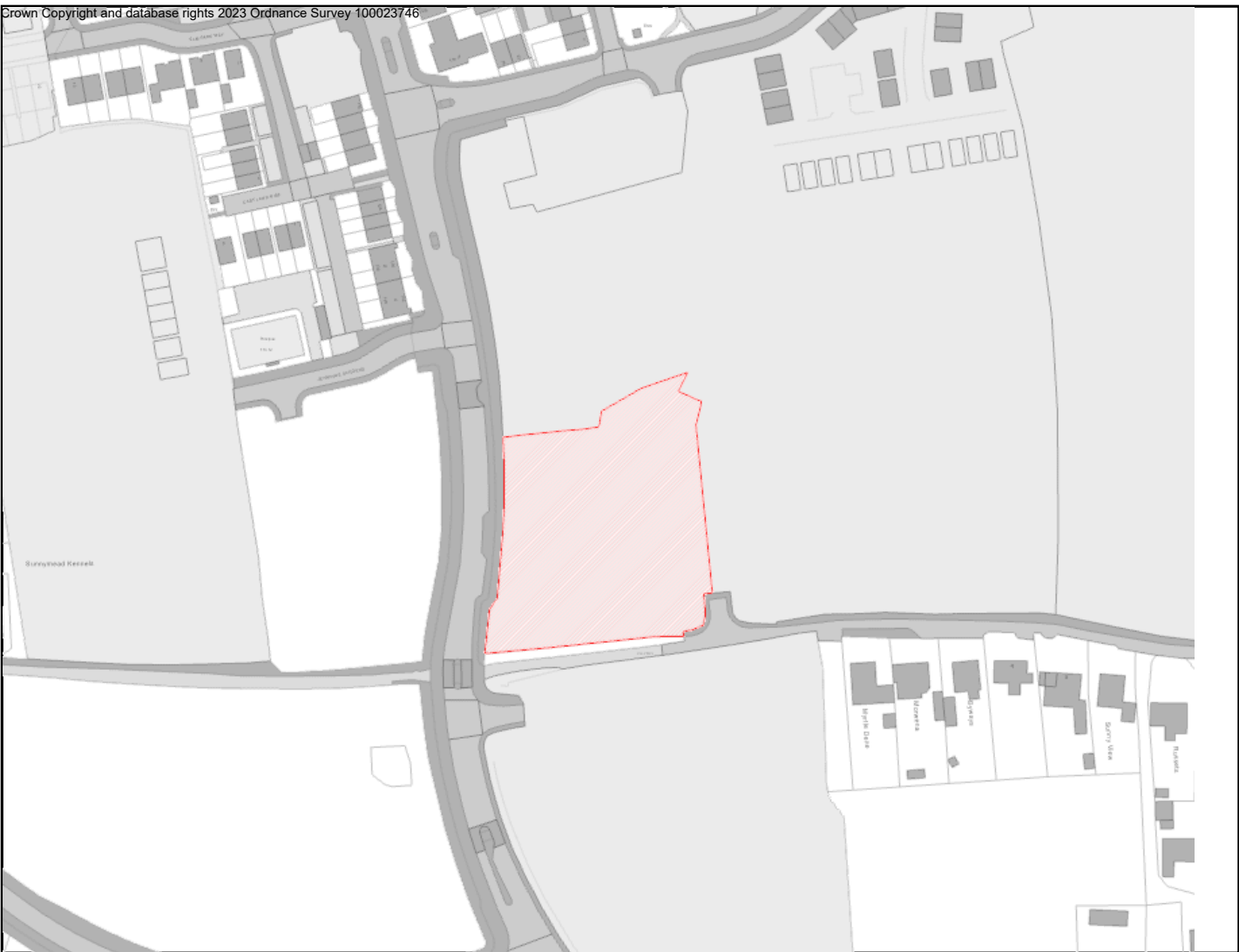
Applicant Eagle One MMIII Limited

Location Land Adjacent Old Tithebarn Lane Clyst Honiton

Proposal Construction of four commercial, business and service units (Class E) and nine dwellings with associated access, parking and infrastructure



RECOMMENDATION:
 a) **ADOPT** the Appropriate Assessment as set out in Appendix A.
 b) **REFUSE** the application.



		Committee Date: 22.08.2023
Broadclyst (Broadclyst)	22/0975/MFUL	Target Date: 09.08.2022
Applicant:	Eagle One MMill Limited	
Location:	Land Adjacent Old Titheburn Lane Clyst Honiton	
Proposal:	Construction of four commercial, business and service units (Class E) and nine dwellings with associated access, parking and infrastructure.	

RECOMMENDATION

- a) **ADOPT** the Appropriate Assessment as set out in Appendix A.
- b) **REFUSE** the application.

EXECUTIVE SUMMARY

This application is before members today because the recommendation to refuse permission is contrary to the views of Broadclyst Parish Council.

The proposal seeks full planning permission for 4 commercial units (Use Class E) and 9 residential dwellings (Use Class C3) and associated car parking, access and landscaping. The proposal would include a vehicular access from the approved local centre to the north and pedestrian and cyclist access from both the approved pedestrian and cycle path to the east and Titheburn Way.

The proposed dwellings would each include two bedrooms with rear gardens and car parking. The dwellings would be provided with PV Panels and EV charging points and would be connected to the District Heating Network. The proposed commercial buildings would include four units across two buildings and would include car parking, 8 EV charging points and bin and bike storage.

The site is allocated within the wider Titheburn Green development with 1500+ dwellings, a local centre, employment provision, allotments, play and open space previously approved. The site is well connected via public transport and active travel routes to Exeter and Exeter Airport and employment opportunities at the Science Park, Logistics Park and Skypark. The site is considered to be in a sustainable location where by mixed used development is supported by Strategies 9 and 13 of the East Devon Local Plan.

Officers have no concerns with the principle of development in land use terms and the application is considered to be acceptable in relation to neighbour

amenity, waste, archaeology, soils, biodiversity, trees, sustainability and the impact on the wider transport network is acceptable. However, officers have concerns with the amenity of future residents due to the internal size of dwellings, the proposed layout and appearance of the development and the levels of car parking provided. The proposed layout fails to suitably address the approved pedestrian/cycle path to the east of the site and fails to provide suitable surveillance to the approved adjacent sports pitches. The levels of car parking proposed is excessive and has not been justified which results in a car dominated development that promotes car use rather than sustainable modes of transport which is not supported by Strategies 5B and 11 and Policies D1 and D2.

The application site is in Flood Zone 1 where there is a low risk of flooding. DCC Flood Risk have objected to the application and require additional information to demonstrate that all aspects of the proposed surface water drainage management system have been considered and require details of the exceedance pathways and overland flow routes. Whilst the applicant submitted an Exceedance Plan, a drainage strategy has not been agreed and further information to address all concerns raised by DCC has not been submitted.

In accordance with the Affordable Housing SPD, there is no requirement for on-site affordable housing provision, however a financial contribution for each dwelling totalling £112,032 is required. This contribution would be secured via a S106 agreement however the contribution was not included in a draft heads of terms. As such, the lack of a legal mechanism to secure these contributions means that the proposal would fail to be in accordance with Strategies 34 and 50 and the Affordable Housing SPD.

In relation to protected European Wildlife sites, the Council concludes that there would be no adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC provided the mitigation measures are secured via S106 agreement. Natural England was consulted on the Appropriate Assessment (See Appendix A) and agrees with the conclusion.

In weighing up the proposed benefits and harm of the development, it is acknowledged that the proposed development would provide 4 commercial units and 9 residential dwellings within the wider Tithebarn Green area thereby providing employment opportunities and residential dwellings in a sustainable location that is allocated for major development. The commercial space could complement the local centre and would provide employment and social opportunities for local residents. The residential dwellings are given significant weight especially as the LPA cannot demonstrate a 5 Year Land Supply.

However, the internal sizes of dwellings would fail to provide a high standard of amenity for future users and it is considered that the layout and appearance of the development and level of commercial car parking is not considered to be acceptable and the proposal fails to promote sustainable travel. The proposal has also failed to demonstrate that it is acceptable in terms of surface water drainage and flood risk and contributions for affordable housing to support the developments delivery have not been secured. Therefore, it is considered that

on balance the harm of the proposal in this instance would fail to significantly and demonstrably outweigh the benefits of the proposed development.

Therefore, the proposal would fail to comply with the NPPF and Local Development Plan and is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council – 25 July 2022

Thank you for consulting Broadclyst Parish Council.

Contrary to the claim made in the application, there has been no consultation with Broadclyst Parish Council as part of the pre-app; the applicant is most welcome to come and present the proposals, but this has not taken place.

We understood the original proposal was for commercial units on the ground floor with (affordable) housing above, however the application shows the different uses in different areas of the plot. The proposed layout includes a mixed access road and shared space to the rear of the commercial units and front of the residential units.

Council feels that this will not work in practice and has concerns for a) the safety of residents and b) the impact on occupants of commercial space, presuming deliveries / usage is restricted due to its proximity to residential properties. The Council therefore cannot support the proposed current layout for mixed use on this site.

Parish/Town Council – 18 July 2023

Thank you for consulting Broadclyst Parish Council.

At the full council meeting on the 17th of July 2023, the council discussed this planning application and supports this planning application with a majority vote.

The council takes note of the revised layout for the nine dwellings, making them safer for residents.

The council also noted the electric vehicle charging points for residents and commercial properties and cycle storage which are in support of the following policies:

- Policy DC4 Residential Storage.
- Policy T3 Parking Provision.

Technical Consultations

Exeter & Devon Airport - Airfield Operations + Safeguarding – 19 May 2022

I acknowledge receipt of the above planning application for the proposed development at the above location.

This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

In terms of the Air Navigation Order, it is an offence to endanger an aircraft or its occupants by any means. In view of this I have included, as attachments, some safeguarding notes which all developers and contractors must abide by during construction and commissioning.

These include: Airport Operators Association (AOA) Advice notes:
Lighting near Aerodromes.
Cranes and other Construction Issues.
Renewable Energy and Impact on Aviation

Accordingly, Exeter Airport have no safeguarding objections to this development provided that all safeguarding criteria are met, as stipulated in the AOA Advice Notes, and there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

Exeter & Devon Airport - Airfield Operations + Safeguarding - 17 July 2023

The amendments to this proposal have been examined from an Aerodrome Safeguarding aspect and do not appear to conflict with safeguarding criteria.

Accordingly, Exeter Airport have no safeguarding objections to this development provided there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter Airport.

Contaminated Land Officer – 13 May 2022

I have considered the application and do not anticipate any concerns in relation to contaminated land.

Contaminated Land Officer – 25 July 2023

As per previous comments.

Environmental Health – 13 May 2022

I recommend approval with conditions:

1. A Construction and Environment Management Plan (CEMP) 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. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. 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 and 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.

2. The minimum required acoustic performance requirements for the residential properties FAÇADEs including glazing and ventilation units is as detailed:
 - The minimum single figure weighted sound reduction figure for East & West façades Bedrooms is R_w 37 dB and other habitable rooms R_w 32 dB. The minimum ventilator performance is Bedrooms - $D_{n,ew}$ 35 dB and other habitable rooms is $D_{n,ew}$ 32 dB
 - The minimum single figure weighted sound reduction figure for North & South façades is R_w 32 dB & $D_{n,ew}$ 32 dB
3. The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'

Reason: To protect the amenity of future local residents from noise.

4. A lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with Policy EN15 for the avoidance of light pollution.

Environmental Health – 25 July 2023

As per previous comments.

EDDC Recycling & Waste Contract Manager – 16 May 2022

No comments from Recycling & Waste on this one.

DCC Flood Risk SuDS Consultation – 17 June 2022

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) which requires all developments to mitigate against flood risk and utilise sustainable drainage systems, where feasible and practical. 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:

The runoff rate should be based on the proposed impermeable area of 0.32 ha only. The 10% increase for urban creep should be applied to the area used for attenuation calculation only.

Underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground SuDS components should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground components can be used in combination where development area is limited.

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

We would be happy to provide a further response if additional information is submitted to the local planning authority.

DCC Flood Risk SuDS Consultation – 19 July 2023

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:

The applicant did not submit any updated information related to the drainage strategy of the proposed development to enable us to comment on.

Our previous consultation response FRM/ED/0975/2022, dated 17th June 2022 remains valid and to be addressed by the applicant.

DCC Flood Risk SuDS Consultation – 9 August 2023

I do not think they have addressed all the concern raised as per our consultation response on the 17th June 2022 and hence we will need to maintain our objection.

Housing Strategy/Enabling Officer - Cassandra Harrison – 20 July 2023

Our adopted Local Plan policy on affordable housing requires contributions to be sought from all sites for between 6-9 dwellings in the designated rural areas. As the application

falls within a rural area it will need to make a financial contribution, which will be secured in a section 106 agreement. The application has not made provision for this so I object to the application. If the application wants to make the application policy compliant, they would need to make provision for a financial contribution of £112,032.

National Highways – 25 May 2022

Council's Reference: 22/0975/MFUL
National Highways Ref: 94988

Referring to the notification of a planning application referenced above, for the construction of four commercial, business and service units (Class E) and nine detached dwellings with associated access, parking and infrastructure, at land adjacent to Old Tithbarn Lane, Clyst Honiton, Devon, notice is hereby given that National Highways' formal recommendation is that we:

a) offer no objection (see reasons at Annex A);

Highways Act 1980 Section 175B is/is not relevant to this application.¹
This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

¹ Where relevant, further information will be provided within Annex A.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

Annex A National Highways recommended No Objections

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Highways England was renamed National Highways in August 2021. Prior to April 2015 the organisation was known as the Highways Agency. National Highways is a government owned company responsible for operating, maintaining and improving the SRN.

Statement of Reasons

The application seeks permission for the construction of four commercial, business and service units (1,117 sqm of Class E floorspace) and nine detached dwellings with associated access, parking and infrastructure, at land adjacent to Old Tithbarn Lane, Clyst Honiton, Devon. The 0.53ha site is located approximately 250m north of the A30 trunk road and 650m north east of M5 Junction 29.

The site forms phase 10 of the consented Tithebarn Green/Redhayes development comprising up to 930 houses, employment area, park and ride facility, local centre, health and fitness centre, creche and open space, approved under outline permission 12/1291/MOUT. It is understood that the deadline for submission of reserved matters has now expired, so a full application is being made.

Impact on Strategic Road Network

Traffic Impact

We are satisfied that the traffic impact of the development was assessed at outline stage. As such we consider that the development is unlikely to result in an unacceptable impact on highway safety, as defined by NPPF.

Noise

Owing to the proximity of the development site to the strategic road network the developer must ensure that adequate noise mitigation measures are delivered to ensure there will be no adverse impact on the proposed development, with specific relation to the residential properties.

For outdoor amenity space to be enjoyed as intended, noise levels should conform to desirable thresholds specified in British Standard BS8233:2014 which states that 'it is desirable that the external noise level does not exceed 50dB LAeq, with an upper guideline value of 55dB LAeq. The World Health Organisation (WHO) Environmental Noise Guidelines, which are congruent with BS 8233:2014, set out that 'To protect the majority of people from being seriously annoyed during the daytime, it is recommended that the sound pressure level on balconies, terraces, and outdoor living areas should not exceed 55dB LAeq for a steady continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor noise level should not exceed 50dB LAeq.'

Paragraph 7.5 of the supporting Acoustic Design Statement states that 'Noise levels across much of the site are such that occupants should retain the option to keep windows closed in order to maintain appropriate internal noise levels'. Paragraph 7.6 states that noise levels in some amenity areas will be 'above the aspirational design range'. As such future residents are likely to be exposed to noise levels in excess of those set out in BS 8233:2014 and WHO Environmental Noise Guidelines.

Should a development propose any exceedance of the levels set out in BS 8233:2014 and WHO, the justification for such should be clearly evidenced including why the recommended levels cannot be achieved and how the 'desirability' of the development offsets any likely adverse noise impact upon the residential properties. As the responsibility for determination of the application rests with the Local Planning Authority we strongly advise the Authority satisfies itself that the development will deliver measures which adequately mitigate noise to levels as set out in British Standard BS8233:2014 and WHO guidelines. Any noise fences, screening and other structures must be erected on the developer's land, and far enough within the developer's land to enable maintenance to take

place without encroachment onto highway land, in line with Annex A of DfT Circular 02/2013.

National Highways will not be held liable for any adverse noise impact arising from the operation of the strategic road network should the development fail to deliver measures which adequately mitigate noise to levels as set out in British Standard BS8233:2014 and WHO guidelines.

Recommendation

National Highways has no objection to application 22/0975/MFUL, subject to the provision of adequate acoustic mitigation to the satisfaction of the Local Planning Authority.

National Highways – 17 July 2023

Thank you for consulting National Highways on proposed amendments to the above application.

We were originally consulted on application 22/0975/MFUL in May 2022 and offered no objections as set out in our response dated 25 May 2022.

Based on the submitted documents the revisions primarily relate to layout, design, materials and landscaping. We are satisfied these amendments are unlikely to result in an adverse impact on the safe operation of the strategic road network and on this basis continue to recommend no objections to application 22/0975/MFUL, as amended.

EDDC Trees – 26 July 2023

No arb concerns.

Natural England – 25 July 2023

Thank you for your consultation on the above dated 13 July 2023 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of the Exe Estuary Special Protection Area (SPA)/Ramsar, East Devon Heaths SPA and East Devon Pebblebed Heaths Special Area of Conservation (SAC).

Please be advised that, on the basis of the mitigation outlined in the Appropriate Assessment being secured, Natural England concurs with your authority's conclusion that

the proposed development will not have an adverse effect on the integrity of Exe Estuary SPA/Ramsar, East Devon Heaths SPA and East Devon Pebblebed Heaths SAC.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Protected Species

Natural England has produced standing advice¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

If you have any queries relating to the advice in this letter please contact me via neil.sherwood@naturalengland.org.uk.

Should the proposal change, please consult us again.

Natural England – 28 July 2023

The AA associated with this application was reviewed and our response was that we agreed with its conclusions.

Police Crime Prevention Officer – 19 May 2022

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application. Whilst I have no objection to the scheme, I would like to make the following comments and recommendations for your consideration. For ease, I have annotated the plan below.

- Ensure there is a boundary that doesn't allow vehicle access to the POS
- Ensure access to the side of units is restricted. Such spaces are somewhat concealed and could attract misuse. If left open they could also create 'desire lines' which would not promote use of safe, designated routes
- This path should be lit in accordance with BS 5489:2020 to promote safe use
- Consider moving gates to private gardens closer to the front building line in order to reduce the recessed space and thus increase surveillance opportunities
- If parking space is for the sole use of the commercial units, clear rule setting and demarcation e.g. change in tarmac colour etc. should be in place to differentiate it from the public realm.

Further Recommendations

- It is recommended that each commercial unit has a monitored intruder alarm installed or at least the infrastructure to enable the prospective occupier to easily install such an alarm. For police response, the system must comply with the

requirements of the Security Systems policy, which can be found at www.securedbydesign.com under the 'Group Initiatives' tab.

- CCTV should be considered for the commercial units or at least the infrastructure to enable the prospective occupier to easily install CCTV. Systems should have a clear Passport for Compliance Document, including an Operational Requirement. It is recommended that an accredited NSI or SSAIB is used. Further advice can be given if required.
- All external doors and accessible windows are advised to be tested and certificated to an appropriate nationally recognised security standard, suitable for their use in a domestic or commercial setting.

DCC Historic Environment Officer – 25 May 2022

I refer to your consultation on the above planning application.

I do not object or have any recommendations for archaeological mitigation.

The submitted archaeological assessment (Appendix 14.1: Exeter Archaeology, May 2011) is out of date, and the Submitted Geophysical Surveys (Appendix 14.2: Stratascan, Nov 2011 and Appendix 14.3: Stratascan, Jan 2012) do not relate to the application area. One is on the west side of the M5 and the other is north of Tithebarn Lane (the Pinn Brook Enclosure site).

However, various reports on archaeological survey, evaluation and excavation in and around the proposal area have been published and are publicly available. The application area itself has been the subject of geophysical survey (Wessex Archaeology, 2015) and archaeological evaluation (Cotswold Archaeology, 2016). I have checked the relevant survey reports and although some undated archaeological features were identified in the area I do not believe that they are of such extent or significance to warrant further archaeological evaluation or mitigation work. The existing reports are sufficient record.

I therefore do not object to the proposal or have further comments to make. I will be happy to discuss this further with you or the applicant if needed.

DCC Historic Environment Officer – 9 August 2023

I refer to your consultation on the above planning application.

The proposal is in an area that has already had archaeological evaluation and targeted excavation of prehistoric archaeology. No further archaeological mitigation is, in my opinion, required.

The applicant has submitted archaeological evaluation results that are not relevant to the application area. I attach the relevant report (Cotswold Archaeology, 2016, for Eagle One). The results of archaeological mitigation, following on from the evaluation, have also been published in the Proceedings of the Devon Archaeological Society (Vol.77, 2019).

Other Representations

No neighbour responses have been received.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)
Strategy 3 (Sustainable Development)
Strategy 5 (Environment)
Strategy 5B (Sustainable Transport)
Strategy 9 (Major Development at East Devon's West End)
Strategy 10 (Green Infrastructure in East Devon's West End)
Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End)
Strategy 13 (Development North of Blackhorse/Redhayes)
Strategy 31 (Future Job and Employment Land Provision)
Strategy 34 (District Wide Affordable Housing Provision Targets)
Strategy 37 (Community Safety)
Strategy 38 (Sustainable Design and Construction)
Strategy 40 (Decentralised Energy Networks)
Strategy 43 (Open Space Standards)
Strategy 47 (Nature Conservation and Geology)
Strategy 48 (Local Distinctiveness in the Built Environment)
Strategy 49 (The Historic Environment)
Strategy 50 (Infrastructure Delivery)
H2 (Range and Mix of New Housing Development)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D3 (Trees and Development Sites)
TC2 (Accessibility of New Development)
TC4 (Footpaths, Bridleways and Cycleways)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)
TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)
EN5 (Wildlife Habitats and Features)
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)
EN13 (Development on High Quality Agricultural Land)
EN14 (Control of Pollution)
EN16 (Contaminated Land)
EN22 (Surface Run-Off Implications of New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)
National Planning Practice Guidance

Broadclyst Neighbourhood Plan (adopted 12 July 2023)

Policy DC4 Residential Storage
Policy T3 Parking Provision
Policy H5 New Housing in Broadclyst Parish

OFFICER REPORT

SITE LOCATION

The application site is located adjacent to Tithebarn Way within the Broadclyst Parish of East Devon. The site comprises of a 0.53ha parcel of land which is broadly rectangular in shape and is bounded by Tithebarn Way to the west and Blackhorse Lane to the south. The land levels of the application site falls from the south towards the northeast corner.

The application site is not located within a Conservation Area and the nearest Conservation Area (Sowton) is approximately 0.7km south east of the site. The site is approximately 0.9km from the Grade II Listed Milestone at SX987937 and 1km from the Grade II* and Grade II Listed Buildings at the Church of St Michael, Clyst Honiton. There are no TPO protected trees on or around the site.

The site is located within 10km of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SPA.

The application site is part of the wider Tithebarn Green development for approximately 1500 homes, employment provision, local centre, sports pitches and associated infrastructure. The applications at Redhayes (ref. 12/1291/MOUT and 19/0995/MFUL) and Mosshayne (ref. 17/1019/MOUT) alongside other applications have granted approval for 1,513 homes (613 Redhayes and 900 Mosshayne) within this area plus a further 150 dwellings at the Science Park (ref. 18/2799/MOUT).

PLANNING HISTORY

The site has the following relevant planning history:

- 12/1291/MOUT | Development of the site to provide up to 930 dwellings, a new link road, employment area (B1a Use Class), park and ride facility, local centre/square, health and fitness centre, creche, public and private open space and car and cycle parking, together with landscaping and associated servicing (all matters reserved except points of access) | APPROVAL WITH CONDITIONS (29 November 2013) [NOTE: Cross-boundary application with Exeter City Council]

Other relevant planning applications include:

- 17/1019/MOUT | Demolition of existing buildings and development of the site to provide up to 900 dwellings and a primary school with car and cycle park, public and private open space, together with landscaping and associated servicing (all matters reserved) | APPROVAL WITH CONDITIONS (16 November 2017) [Mosshayne]
- 19/0995/MFUL | Erection of 33 dwellings and associated works | APPROVAL WITH CONDITIONS (26 May 2020)
- 21/0936/MRES | Reserved matters application (access, appearance, landscaping, layout, scale) pursuant to the outline planning permission ref: 12/1291/MOUT (Phases 7 and 9) for the construction of a local centre, play area (NEAP) and multi-

use games area with associated public square, parking, access road and landscaping; the partial discharge of conditions 2, 3, 4, 5, 7 and 19 of outline planning permission 12/1291/MOUT relating to phases 7 and 9. | APPROVED (23 July 2021)

- 21/1016/MRES | Reserved matters application (access, appearance, landscaping, layout, scale) pursuant to the outline planning permission ref: 12/1291/MOUT for the creation of 2 sports pitches including pedestrian and cycle access, landscaping and associated works, together with the partial discharge of conditions 2, 4, 5, 17 and 19 of outline planning permission 12/1291/MOUT relating to phase 11 | APPROVED (15 May 2023)

APPLICATION

The application seeks full planning permission for the construction of four commercial, business and service units (Use Class E) and nine dwellings (Use Class C3) with associated access, landscaping, parking and infrastructure.

The application proposes 1,117 sqm of Class E floor space across 2 no. two storey buildings (Unit A & B and Unit C & D) and 9 no. two storey dwellings. The proposal would include a shared central access road, car parking spaces for both residential and commercial units, bin and bike storage and pedestrian and cycle access to Tithebarn Way and to the approved pedestrian and cycle path to the east.

The application has been revised during the planning process as the LPA raised concerns with the overall layout and design, levels of car parking, occupant amenity and wellbeing and landscaping proposals. The application has been determined based on the revised plans submitted.

ASSESSMENT

A) PRINCIPLE OF DEVELOPMENT

The Local Planning Authority (LPA) is unable to demonstrate a 5 Year Land Supply (4.68 years as of October 2022) meaning that paragraph 11(d) of the NPPF is therefore engaged and currently applicable to planning decision making within East Devon. For applications relating to housing development, this means that the presumption in favour of sustainable development applies and permission should be granted for sustainable development unless:

- I. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
- II. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Strategy 1 (Spatial Strategy for Development in East Devon) of the adopted Local Plan (2016) sets out the planned provision (including existing commitments) will be made in East Devon for: 1. A minimum of 17,100 new homes in the 2013 to 2031 period; and 2. Development on around 150 hectares of land for employment purposes.

Strategy 9 (Major Development at East Devon's West End) of the adopted Local Plan (2016) states that high quality development with associated infrastructure, built within a high quality landscape setting, will be provided in East Devon's West End. High quality walking and cycling connections; enhanced bus and rail services, and improved highway provision will be integral to the overall development within the West End of East Devon the following schemes will be provided:

- 1) Cranbrook - Major new East Devon market town;
- 2) Pinhoe - Mixed use, residential led development;
- 3) North of Blackhorse/Redhayes (Tithebarn Green/Mosshayne) - residential development;
- 4) Skypark - Substantial high quality business park;
- 5) Exeter Science Park - Research/technology employment site;
- 6) Exeter International Airport - Provision to be made for airport-related employment uses within operational site area.
- 7) Multi-modal Interchange - Facility for interchange of goods and distribution centre; and
- 8) Exeter Airport Business Park - Middle range business park providing for medium to smaller business uses.

Strategy 13 (Development North of Blackhorse/Redhayes Land North of Blackhorse/Redhayes (Tithebarn Green/Mosshayne)) of the adopted Local Plan (2016) shown on the proposals map is allocated for mixed use development. The mixed use development will be designed to form a 'village' community, and it will be built to reflect an agreed distinctive architectural character and will be low or carbon zero development with onsite and/or community power generation. The development will also be designed to ensure high quality links for walking and cycling and quality public transport to other nearby employment sites and into the City. The scheme will comprise of:

- 1) New Homes - 1,500 new homes, including affordable homes, will be required to be high quality with good access to services and facilities. Some of the homes should be designed to appeal to and potentially restricted to occupancy by workers at the Science Park.
- 2) Neighbourhood Centre - A new neighbourhood centre will provide a focal point for services and community facilities.
- 3) Social and Community Facilities - A range of social and community facilities will be needed to meet key needs of all age groups that will live North of Blackhorse and in the existing nearby communities.
- 4) Infrastructure: a) Energy Infrastructure - to include a heat and energy network to achieve low and zero carbon development. b) Contributions to meet educational requirements and transport provision - including Tithebarn Green road link.
- 5) Employment Provision - on site employment provision will form part of the overall development.

Strategy 31 (Future Job and Employment Land Provision) of the adopted Local Plan (2016) states that in order to secure local job provision we will promote mixed use developments and provision of employment uses close to where people live. Appropriate, sustainable,

mixed use schemes of all scales incorporating housing and employment will be encouraged across the district.

The application site is allocated within the West End of East Devon in which Strategies 1 and 2 support the delivery of over 10,500 homes and major employment development in this area. This is further supported by Strategies 9 and 13 which sets out that Tithebarn Green along with Mosshayne is allocated for a mixed use development and will accommodate 1,500 new homes, a neighbourhood centre, community facilities, employment provision and infrastructure.

The application site is allocated for a mixed use development within the adopted Local Plan and Strategy 31 supports mixed use developments meaning that the principle of residential dwellings and employment provision in this location is supported in planning policy terms subject to the satisfactory resolution of all relevant matters.

Application 12/1291/MOUT across East Devon and Exeter was approved for a mixed use development including 930 dwellings (580 within East Devon), employment land, local centre and associated infrastructure. Under this outline planning permission, the application site was Phase 10 on the approved phasing plan and designated for leisure uses falling within Use Classes D1 or D2. With changes to the Use Classes Order, Classes D1 and D2 have now been broadly incorporated into Class E (Commercial, Business and Service) which also includes a range of other uses. The time limit for reserved matters under the outline application has lapsed and in any case the permitted housing numbers have been met necessitating the need for a stand-alone planning application.

RESIDENTIAL

The application proposes 9 residential dwellings within the eastern part of the site. The proposed dwellings would each include 2 bedrooms, private gardens and car parking. The application site is within the wider Redhayes development with the local centre and residential uses approved to the north, offices approved to the south and sport pitches approved to the east.

As noted above, previous planning applications across the Tithebarn Green and Mosshayne developments has resulted in the approval of 1,513 dwellings. The proposed development would result in an additional 9 dwellings within this area which would bring the total number of approved dwellings up to 1,522. This would be higher than number set out in Local Plan Strategy 13 and therefore a key issue is whether the number of additional dwellings would be a significant or material breach of policy.

An additional 9 dwellings within this site would bring the total number of dwellings to 1,522 which would result in a small increase in the overall number of dwellings allocated (1,500) however the percentage increase would be less than 2%. Given that residential development in this area is supported, the Council is unable to demonstrate a 5 Year Land Supply and Strategy 2 supports up to 10,563 dwellings in the West End, the proposal is not considered to be a significant or material breach of Strategy 13 subject to the proposal being in accordance with remaining requirements of Strategy 13. The proposal whilst resulting in more dwellings than set out in Strategy 13 is not considered to be so significant to result in a reason for refusal. The Local Plan also supports residential development in sustainable locations of which is this considered to be due to links to Exeter and

employment opportunities. As the overall site is both allocated and consented for residential development, the principle of housing on this site is considered to be acceptable in the balance of considerations.

Furthermore, the application is located next to Tithebarn Way, public transport routes and walking and cycling infrastructure with links to Exeter and Exeter Science Park as well as the Logistics and Sky Park which is supported by Strategy 13. The proposed dwellings would have good access to services and employment which is also supported by Strategy 13. The site is overall considered to be located in an area which can support development of this scale.

COMMERICAL

The application proposes 1,117 sqm of commercial space (Use Class E; commercial, business and service) across two buildings fronting Tithebarn Way. The proposed buildings would include four separate commercial units in total, would be two storeys in height and would include rear car parking, cycle parking and waste storage.

The application site is allocated within the West End of East Devon whereby Strategies 1 and 2 support the delivery of over 10,500 homes and major employment developments in this area. As noted above and under application 12/1291/MOUT, the application site was designated for leisure uses falling within Use Classes D1 or D2. The proposed development would be for Class E uses which covers retail, food and drink, professional services, some leisure uses and more. As Use Classes D1 and D2 were broadly incorporated in Class E (other than Schools, Cinemas, Halls etc.), the proposed use of the buildings would be broadly consistent with those uses previously approved here and the provision of Class E uses would be supported in principle in this location.

Strategy 13 supports employment uses as part of the wider development, supports the development of a neighbourhood centre and supports the provision of homes close to jobs and other facilities and services. The proposed development would be located approximately 60m south of the approved local centre, would be within walking distance of over 1500 homes and would provide for jobs and services that support the local economy. The overall scale of the development would be compatible with the wider area and the proposal could help support the everyday requirements of local people thereby reducing travel to other neighbouring centres. The proposal would provide additional Class E services to the wider development and would help to support a balanced community. The proposed units would benefit from the flexibility of Class E and would make a useful contribution to local facilities and employment opportunities. The proposal is overall considered to be compatible with Strategy 13.

Overall, the principle of a mixed use development in this location is considered to be acceptable and supported by Strategy 9, 13 and 31. The proposal would provide 9 additional dwellings within an area earmarked for major housing development and would provide 1,117 sqm of commercial space which would support the local economy, provide services for local people and would be within walking distance of over 1500 homes. The proposal is supported in land use terms subject to the satisfactory resolution of all planning matters set out below.

B) MIX AND BALANCE OF DWELLINGS

Policy H2 (Range and Mix of New Housing Development) of the adopted Local Plan (2016) states that planning permission will not be granted for new residential development which provides for 15 dwellings or more, or is situated on a site of 0.5 ha or larger, unless it contains a mix of dwelling sizes or comprises predominantly, or totally, of smaller dwellings. However where site characteristics, including in respect of landscape prominence and character, clearly indicate an alternative scale is appropriate there will be flexibility in scale. To ensure a variety of housing provision, where possible, developers will be encouraged to make at least 10% of plots available for sale to small builders or individuals or groups who wish to custom build their own homes.

The application site is approximately 0.53ha which means that an assessment in accordance with Policy H2 is required, albeit the commercial development is included in this land take. Policy H2 supports a mix of dwellings within development or supports developments which contains smaller dwellings. The proposal development includes 9 no. two bedroom dwellings located on the east of the application site. The provision of two bedroom dwellings is considered to comply with the requirement for smaller dwellings as set out in Policy H2 and therefore the proposal is considered to be acceptable.

C) AFFORDABLE HOUSING PROVISION

Strategy 34 (District Wide Affordable Housing Provision Targets) of the adopted Local Plan (2016) states that affordable housing will be required on residential developments in East Devon. Within the areas defined a target of 25% of the dwellings shall be affordable. The major strategic West End development sites to which policy will apply are a) Cranbrook, b) adjacent to Pinhoe and c) North of Blackhorse. An affordable housing policy provision target of 70% social or affordable rent accommodation and 30% intermediate or other affordable housing is sought.

The Affordable Housing Supplementary Planning Document (SPD) (Adopted 25 November 2020) states that for residential developments of between 6 and 9 dwellings in locations such as this, no affordable housing on-site is required however a financial contribution towards off-site affordable housing is required for each dwelling.

The proposed development would include 9 dwellings meaning that on-site affordable housing is not required, however a financial contribution is required for each dwelling. A total contribution of £112,032 is required in order to comply with Strategy 34 and the SPD. The financial contribution would be secured via a S106 legal agreement however at this stage no information has been submitted regarding this should an approval be forthcoming. A draft heads of terms/planning obligations statement was submitted as part of the Planning Statement, however affordable housing contributions were not included. This has resulted in an objection from the Housing Enabling Officer of which the applicant has been made aware of however in the absence of a legal agreement, the LPA has not be able to secure these contributions which are necessary to support the delivery of development and mitigate any adverse impacts.

As such, the lack of a legal mechanism to secure these contributions should form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide

Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing SPD (November 2020).

D) DESIGN, SCALE AND LAYOUT

Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) (July 2021) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Development should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and development that is not well designed should be refused.

Strategy 48 (Local Distinctiveness in the Built Environment) of the adopted Local Plan (2016) states that local distinctiveness and the importance of local design standards in the development process will be of critical importance to ensure that East Devon's towns and villages retain their intrinsic physical built qualities. Where towns or villages are or have been despoiled we will seek to have qualities reinstated through good design. Use of local materials and local forms and styles will be essential to this distinctiveness.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) states that in order to ensure that new development, including the refurbishment of existing buildings to include renewable energy, is of a high quality design and locally distinctive, a formal Design and Access Statement should accompany applications setting out the design principles to be adopted should accompany proposals for new development. Proposals should have regard to Village and Design Statements and other local policy proposals, including Neighbourhood Plans, whether adopted as Supplementary Planning Guidance or promoted through other means.

Proposals will only be permitted where they:

- 1) Respect the key characteristics and special qualities of the area in which the development is proposed.
- 2) Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
- 3) Do not adversely affect:
 - a) The distinctive historic or architectural character of the area.
 - b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.
 - c) Important landscape characteristics, prominent topographical features and important ecological features.
 - d) Trees worthy of retention.
 - e) The amenity of occupiers of adjoining residential properties.
 - f) The amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.
- 4) Have due regard for important aspects of detail and quality and should incorporate:

- a) Secure and attractive layouts with safe and convenient access for the whole community, including disabled users.
 - b) Measures to create a safe environment for the community and reduce the potential for crime.
 - c) Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
 - d) Necessary and appropriate street lighting and furniture and, subject to negotiation with developers, public art integral to the design.
 - e) Features that maintain good levels of daylight and sunlight into and between buildings to minimise the need for powered lighting.
 - f) Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.
- 5) Incorporate measures to reduce carbon emissions and minimise the risks associated with climate change. Measures to secure management of waste in accordance with the waste hierarchy (reduce, reuse, recycle, recovery, disposal) should also feature in proposals during the construction and operational phases.
- 6) Green Infrastructure and open spaces should be designed and located in a way that will minimise any potential security concerns for users.
- 7) Mitigate potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction.

Policy D2 (Landscape Requirement) of the adopted Core Strategy (2016) states that landscape schemes should meet all of the following criteria:

- 1) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
- 2) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- 3) Measures to ensure safe and convenient public access for all should be incorporated.
- 4) Measures to ensure routine maintenance and long term management should be included.
- 5) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- 6) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

The proposed development would include the construction of 9 residential dwellings (Class C3) and 4 commercial units (Class E) over two buildings. The proposed dwellings would be 2 storeys in height with a pitched roof, front canopy and projecting brick bands as well as including PV panels and EV Charging Points. The proposed dwellings would comprise of four pairs of semi-detached dwellings and one detached dwelling, finished in red and blue

brick with slate effect cement tiles, uPVC windows and doors and a rendered panel. The proposed commercial building would be two storeys in height with a pitched roof and the northern building (Unit C/D) would feature a central two storey recessed element. The commercial buildings would be finished in brick and the roof and first floor would be finished in standing seam and cladding. The buildings would include brick banding, GRP window boxing detailing and windows and doors would be aluminium and uPVC. The buildings would also include reflective spandrel panels and glass canopies.

LAYOUT

The proposed layout would include two character areas, one residential area to the east and the commercial area to the west. The residential area would contain 9 dwellings, car parking, shared access road and landscaping. The commercial area would contain 2 commercial buildings, car parking, bin and bike storage, open space and landscaping.

The residential area would include 9 dwellings positioned with the rear elevations and gardens facing one another with dwellings 1 to 4 facing south and dwellings 5 to 9 facing north. The dwellings would be positioned between the shared access road in the middle of the site and the approved pedestrian/cycle path to the east of the site. The inclusion of pedestrian and cycle links to this path adjacent to dwelling 1 and dwelling 9 is supported and improves the permeability of the site. The proposed dwellings would include front gardens/landscaping, rear gardens and rear access points with landscaping to the west and east. The proposal also includes public open space to the south of dwellings 1-4 and an area of planting/grass to the north of the access road, however these spaces are considered to be a missed opportunity. The northern area of space is disconnected and poorly relates to residential dwellings or the land to the north. The southern area would be predominately meadow grass and does not include any benches or street furniture to optimise the use of the space however details of these could be secured via a condition.

The layout originally submitted showed the dwellings fronting the central road however officers raised concerns that the proposal would fail to address the approved cycle path. This resulted in an amended layout however this does not overcome the concerns raised. As shown on the revised plans, the front doors of the proposed dwellings would face north and south and therefore would fail to address the pedestrian/cycle path to the east. It is noted that dwellings 1 and 9 would include side facing windows but these are limited in scale and effect and some of these windows are obscured glass which does not provide sufficient surveillance to the path or adjacent sports pitches. Whilst detailing has been included on the side elevations which provides some visual interest, the proposal would fail to front the pedestrian/cycle path and fails to create an active frontage to the public realm and natural surveillance over adjacent publicly accessible spaces, both the pedestrian/cycle path and consented sports pitches. This is not considered to be acceptable, results in a closed off development which is not supported and is contrary to Policy D1.

The commercial area would include two buildings positioned along Tithebarn Way with car parking to rear. The buildings would front Tithebarn Way with the main pedestrian access points from Tithebarn Way which helps to promote an active frontage. The commercial buildings, especially Unit B fails to step down in height along Tithebarn Way to address the land level changes. Whilst this results in a change in height from Unit B to Unit C, this does not significantly harm the appearance of the development. Additional access points and level access to both buildings is provided from Tithebarn Way and via rear of the buildings.

A shared pedestrian and cycle path would be located between the buildings from Tithebarn Way to the shared access road which is supported to improve permeability. The southern building would be located approximately 5.5m from Blackhorse Lane and the northern building would be located approximately 3m south of the site to the north. These distances are considered acceptable to provide a sufficient buffer to the north and south. The proposal would include landscaping and tree planting around the commercial buildings. The Designing Out Crime Officer and the LPA raised concerns with the location and potential use of the proposed public open spaces and raised concerns that spaces around the commercial buildings are concealed and could attract misuse. At the time of writing, revised plans which address these concerns have not been submitted, however these spaces are not overly large and could benefit from some natural surveillance from pedestrians and cyclists on Tithebarn Way. Improved planting proposals could also be secured via a planning condition

The proposed layout includes a shared central access road with residential car parking broadly to the east of the road and a number of commercial car parking areas located to the west. The proposal would also include a turning circle for refuse vehicles towards the south of the site. The residential car parking is considered to be broadly acceptable, although it would benefit from alternative materials, additional trees and landscaping to break up its appearance. In respect of the commercial units, the proposal would include tandem car parking for Unit B of which officers do not support as it creates conflicts between vehicles and may reduce the accessibility and use of these spaces. The applicant had agreed to remove the space north of the disabled space to reduce conflicts but at the time of writing, no such revised plans have been submitted and the other spaces remain as tandem. The LPA has raised concerns with the level of car parking proposed (see below for further information) and raised concerns that the level of car parking results in a poor-quality and car dominated layout. Car parking and hardstanding at present would cover around one third of the site which is an inefficient use of land especially as the site is in a sustainable location where development is supported. Furthermore, the car parking areas, footpaths and drives would all be black tarmac despite the varying colours used in the External Works Plan. This is not considered to provide any visual interest and fails to break up the hardstanding and is not in accordance with Policy T3 of the Broadclyst Neighbourhood Plan which suggests that development should minimise the visual impact of parking. The use of alternative materials to improve the appearance of the development would have been preferable here. Officers have recommended a number of options of the applicant including reducing the number of spaces, using communal car parking, increasing landscaping and amending the layout to reduce its impact. At the time of writing, revised plans which address these concerns have not been submitted.

The application proposes to include bin and bike stores for the commercial buildings. The bin storage areas are located at prominent locations within the car parking areas. The bike storage stands are located to the rear of commercial buildings and on the shared path. The design of both stores especially the bike stores are rather basic and could be improved to include green roofs and/or insect houses. Notwithstanding the details provided, improved stores could be secured via a condition. In accordance with Policy DC4 of the Broadclyst Neighbourhood Plan, residential dwellings would include bin and bike storage within rear gardens with further details to be secured via a condition.

SCALE AND DESIGN

The proposed development would include two storey residential dwellings and commercial buildings. Across the wider Tithebarn Green, buildings are a mix of one, two and three storeys meaning that the proposal would reflect the scale of the wider area.

The proposed house types with similar materials have previously been approved within this area and are considered to be acceptable in terms of scale, internal layout, design and materials. As noted above, dwellings 1 and 9 fail to suitably address the pedestrian/cycle path and dwellings fronting this path would have been more suitable in these locations. The dwellings would include front canopies, rendered panel and brick detailing which would add some visual interest. Further details of external materials would be secured via a condition.

The proposed commercial buildings reflect the design, scale and materials of the approved mixed use development to the north. Whilst concerns were raised in relation to the bulk and mass of the roof scape, the use of spandrel panels and use of dark materials, the overall appearance is acceptable on balance. The commercial buildings feature brick banding, window detailing and a mix of materials which would add visual interest to the development and wider area.

The proposed development would include a limited palette of ground materials, limited to black tarmac and natural paving slabs. This would fail to add interest to the development and fail to deliver the high quality landscaping and appearance that is expected at this site in accordance with Policies D1 and D2.

WIDER IMPACT

The proposal in terms of its impact on the surrounding area is considered to be acceptable. The site would be visible within the local area and from the Clyst Valley Regional Park however, the site is allocated for development of this scale and has received outline planning permission previously. The proposal would be visible in the surrounding area and glimpses of the development could be viewed from the Killerton Estate, Ashclyst Forest and other viewpoints in the surrounding area however the proposal in context with surrounding development is not considered alone to harm the character and appearance of the landscape. Given the distance to conservation areas and listed buildings, the proposed development is not considered to result in harm to designated heritage assets. It is also noted that the proposed impact of the development on the wider landscape and historical environment was considered under the previously approved outline application. Therefore the proposal is considered to be acceptable in this instance.

In summary, the overall layout and appearance of the proposed development is not considered to be acceptable in this instance and the proposal is not considered to comply with Section 12 of the NPPF and Policies D1 and D2 of the adopted Local Plan.

E) AMENITY OF NEIGHBOURING PROPERTIES/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF (July 2021) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for existing users.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) 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 adopted Core Strategy (2016) 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 and 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 groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.
6. Pollution of sites of wildlife value, especially European designated sites or species.
7. Odour

The application proposes residential dwellings as well as commercial development. The proposed development is acceptable in land use terms and overall scale of the development as noted above would be acceptable.

The proposed development would be located approximately 40m from neighbouring properties on Blackhorse Lane. The proposed location, orientation, separation distance and overall scale of the development is not considered to result in significant harm to these neighbouring properties in terms of overbearing or overshadowing impacts. The proposed outlook from the dwellings would be towards the north and south and would be screened by boundary trees and hedging and therefore would not result in any harmful increases in overlooking or loss of privacy. The proposed outlook from commercial buildings would be towards the east and west and is not considered to increase opportunities for overlooking to these neighbouring properties.

The proposed development would be located approximately 75m south of dwellings approved at Phase 8 (Land South of Mosshayne; ref. 19/0995/MFUL). This is considered to be a sufficient separation distance to ensure the proposed development does not have any significant impacts on the approved dwellings. The proposed outlook is not considered to increase opportunities for overlooking to these neighbouring properties as the proposal would not result in any direct overlooking to these dwellings.

In terms of Environmental Health, the proposal was supported by a Noise Assessment which outlined that adverse noise impacts from the commercial units to neighbouring residential units are not expected and outlined the measures incorporated to achieve suitable internal noise levels within the proposed residential dwellings. The application was reviewed by the District Council's Environmental Health Team who recommended approval subject to conditions in relation to a CEMP, acoustic performance requirements, noise levels and lighting if an approval was forthcoming.

The proposal is therefore considered to comply with Policy D1 and EN14 and is acceptable subject to conditions.

F) SAFETY AND THE AMENITY OF FUTURE OCCUPIERS/USERS

Section 12 (Achieving Well-Designed Places) of the NPPF (July 2021) outlines that planning policies and decisions should ensure that development create places with a high standard of amenity for future users.

Paragraph 130 of the NPPF (July 2021) states that planning policies and decisions should ensure that developments...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Strategy 37 (Community Safety) of the adopted Local Plan (2016) states that through the East and Mid Devon Community Safety Partnership the Council will work to reduce crime and the fear of crime in the District. The Council will encourage new development that has been designed to minimise potential for criminal activity and incorporates the principles of 'Secured by Design' and will support development proposals aimed specifically at improving community safety.

Policy D1 (Design and Local Distinctiveness) of the adopted Core Strategy (2016) states that proposals will only be permitted where they do not adversely affect the amenity of occupants of proposed future residential properties, with respect to access to open space, storage space for bins and bicycles and prams and other uses; these considerations can be especially important in respect of proposals for conversions into flats.

Policy EN14 (Control of Pollution) of the adopted Core Strategy (2016) 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 and 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 groundwater protection areas.
 - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.
6. Pollution of sites of wildlife value, especially European designated sites or species.
7. Odour

The Nationally Described Space Standards (NDSS) are not adopted planning policy within the Development Plan but are nevertheless a useful guide. Policy D1 seeks to ensure that development does not adversely affect the living conditions of occupants of proposed future residential properties and that development includes features that maintain good levels of daylight and sunlight into buildings. These requirements accord with the P.130 (f) of the NPPF's requirement for a high standard of amenity for existing and future occupiers. As a guide, a two bedroom, four person, two storey dwelling should be a minimum of 79m² with 2m² of storage. The proposed dwellings would be between 69m² and 73m². The proposed dwellings are significantly below (6m² and 10m²) the space standards which is not considered to be acceptable and therefore the proposed dwellings are not considered to offer adequate amenity for future residents with regard to internal space. It is acknowledged, that these dwellings have previously been approved by the LPA in 2020 however it is considered that poor quality development should not set a precedent for allowing further poor quality development. The proposal would therefore conflict with Policy D1, which amongst other things, seeks to ensure that development does not adversely

affect the amenity of future occupants and paragraph 130(f) of the NPPF which requires that developments provide a high standard of amenity for its users.

The proposed dwellings would have front and rear facing windows and doors and the proposed outlook would be towards the north and south providing views towards boundary trees and the mixed use area and public open space. The back to back distance between the properties would be 21m which is considered to be acceptable and boundary treatments would also help to screen outlook at ground level. The proposed dwellings would be acceptable in terms of sunlight/daylight, natural ventilation and outlook.

In addition, dwellings 1-4 would also be M4(2) complaint which exceeds local plan policy requirements under Strategy 36.

In terms of safety, it is noted that the Designing Out Crime Officer has made a number of recommendations regarding safety such as restricting side access', moving side gates closer to front building lines, installing alarms and CCTV and differentiating car parking. The applicant submitted revised plans with an amended layout which removed the side access points to dwellings. No further information has been provided regarding CCTV, alarms and as noted above limited ground materials are provided.

The Noise Assessment submitted with the application set out that acceptable noise levels can be achieved both internally and externally. Concerns have been raised regarding noise from Tithebarn Way and noise from aircraft movements which cannot be controlled by the development however mitigation has been provided in terms of glazing specification and overall design. National Highways also raised concerns with noise from the strategic road network and outlined that future residents are likely to be exposed to noise levels in excess of those set out in BS 8233:2014 and WHO Environmental Noise Guidelines. National Highways recommended that the developer ensures that adequate noise mitigation measures are delivered to ensure there is will be no adverse impact on future occupiers and overall raised no objections subject to the provision of adequate acoustic mitigation to the satisfaction of the Local Planning Authority. The application was reviewed by the District Council's Environmental Health Team who recommended approval subject to conditions in relation to a CEMP, acoustic performance requirements, noise levels and lighting if an approval was forthcoming.

The proposed development is therefore considered to be unacceptable and fails to comply with Policy D1 and Paragraph 130(f) of the NPPF (July 2021).

G) OPEN SPACE PROVISION

Strategy 43 (Open Space Standards) of the adopted Local Plan (2016) states that developments proposing net new dwellings will be expected to provide for open space on-site where there is a demonstrable need for such open space in the vicinity. Developments will be assessed against existing provision in the parish in which they are proposed. Where existing provision of specific typologies exceeds quantity standards, on-site provision will only be required where the existing open space typology is of poor quality or is in some other manner deficient such as not matching up to the accessibility standard. Developments will be expected to provide open space on-site through a Section 106 Agreement in line with the following thresholds:

- 9 dwellings or less will not be required to provide any specific open space typologies onsite, however developers may choose to make such provision.
- 10 - 49 dwellings will be required to provide amenity open space on-site.
- 50 - 199 dwellings will be required to provide amenity open space, and children's and youth play space on-site.
- 200+ dwellings will be required to provide for all open space typologies on-site.

The application would include 9 residential dwellings meaning that no formal public open space is required by Strategy 43. However in this case the proposal would include two small pockets of public open space near to the northern boundary and near to the southern boundary alongside tree planting and landscaping. Opportunities to enhance these spaces and the addition of benches etc. have been missed as noted above. The provision and maintenance/management arrangements for on-site communal open space would be secured via a S106 agreement in the event of any approval. It is considered that benches and street furniture could be secured via a condition.

Therefore, the proposal is considered to be acceptable in accordance with Strategy 43.

H) TRANSPORT, ACCESS, MOVEMENT AND WASTE

Strategy 5B (Sustainable Transport) of the adopted Local Plan (2016) states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End) of the adopted Local Plan (2016) states that we will promote high quality and integrated transport provision at East Devon's West End where, working with partner organisations, we will secure a provision based on a hierarchy of; 1. Walking 2. Cycling 3. Frequent and high quality Public Transport provision (given priority over other road users) 4. Private motor vehicles. Though transport solutions will take into account site specific needs of a development to secure the most suitable form of sustainable transport provision. Coordinated infrastructure provision will be required to cover: 1. Low carbon heat and power supply; 2. waste management facilities and waste water treatment; 3. Highest quality data service infrastructure provision, especially broadband connections; 4. Health and education provision.

Policy TC2 (Accessibility of New Development) of the adopted Core Strategy (2016) states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car. Where proposals are likely to attract large numbers of visitors they must be accessible by public transport available to all sectors of the community. Development involving the creation of public open space, car parking area, highways and other areas to which the public have access, must provide adequate provision for persons with reduced mobility.

Policy TC4 (Footpaths, Bridleways and Cycleways) of the adopted Core Strategy (2016) states that development proposals will be required to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal. Footways and routes for pedestrians and cyclists within and through new development schemes will be encouraged. These measures may include both shared and exclusive surfaces to provide safe, convenient and attractive routes, and must be designed to take account of the needs of persons with restricted mobility. Wherever possible the opportunity should be taken to join, upgrade and extend existing or proposed networks. Development which would result in the loss, or reduce the convenience or attractiveness of an existing or proposed footpath, cycleway or bridleway, will not be permitted unless an acceptable alternative route is provided.

Policy TC7 (Adequacy of Road Network and Site Access) of the adopted Core Strategy (2016) states 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. Where new development requires off-site highway improvements any planning permission granted will be subject to a planning obligation requiring these works to be carried out either by the developer, or through an agreement with the Highway Authority to ensure that: 1. The required highway improvements are included in, and, will be constructed as an integral part of the development or are part of a programmed improvement scheme to be undertaken by the Highway Authority. In the case of programmed schemes the planning permission will be subject to a condition delaying its implementation until the highway improvements have been carried out, unless otherwise agreed by the Highway Authority.. 2. The applicant is in a position to secure the implementation of the required highway improvements.

Policy TC9 (Parking Provision in New Development) of the adopted Core Strategy (2016) states that spaces will need to be provided for parking of cars and bicycles in new developments. As a guide 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. In town centres where there is access to public car parks and/or on-street parking lower levels of parking and in exceptional cases where there are also very good public transport links, car parking spaces may not be deemed necessary. All small scale and large scale major developments should include charging points for electric cars.

Policy TC12 (Aerodrome Safeguarded Areas and Public Safety Zones) of the adopted Core Strategy (2016) states that the outer boundary of the aerodrome safeguarded areas and the Public Safety Zones for Exeter International Airport are shown on the Proposals Map. Within these areas planning permission will not be granted for development that would prejudice the safe operation of protected aerodromes or give rise to public safety concerns. Planning permission will not be granted for developments in the vicinity of an airport (or that could impact on safe operation of aeroplanes) that would compromise air safety by creating physical obstructions that could interfere with flight paths or navigational aids. Permission will not be granted for developments that will unduly prejudice future development or expansion programmes or potential at Exeter airport.

PUBLIC AND ACTIVE TRANSPORT

The site is located adjacent to Tithebarn Way and with local bus services every 30 minutes to Exminster via Exeter City Centre and Marsh Barton and every hour to Monkerton, Pinhoe and Exeter Airport. There are also services every 10 minutes to Exeter City Centre and Exeter Airport and every 20 minutes to Cranbrook from stops on Honiton Road which is 400m from the site. The site is located approximately 1.4km from Pinhoe Train Station and 2.9km from Cranbrook Train Station with hourly services to Exeter St David's and London Waterloo. Furthermore, the site is located around 200m from the Park and Change located at the Science Park. The site is accessible by public transport which could help to reduce journeys made by private vehicle in accordance with Strategy 5B and 11.

The site is located within walking distance of the proposed local centre, NEAP and sports pitches. The site would also be within walking distance of the park and change, Minerva Country Park, Exeter Science Park, Blackhorse Lane as well as any future development within Redhayes/Mosshayne. Furthermore, the Met Office, Sowton Industrial Estate, Logistics Park and the Skypark would all be under a 30 minute walk which allows future residents to access employment or leisure without driving and in accordance with Strategy 5B and 11.

In terms of cycling, the site is directly north of Blackhorse Lane and west of a proposed cycle path within the Redhayes Development. The site is within a 30 minute cycle of Exeter City Centre, Royal Devon and Exeter Hospital and Cranbrook Town Centre. The proposed commercial units are provided with 12 cycle storage spaces located to the north and south of the buildings. As noted above they are not in highly visible locations might may limit their use. The proposed dwellings are provided with external cycle stores in accordance with Policy TC9 with further details subject to conditions.

ACCESS AND ROAD LAYOUT

The proposed shared road would act as an extension of the approved local centre road and would divide the site into eastern and western parcels with car parking located on either side of the road. The road would be shared between pedestrians, cyclists and vehicles within the site with a transition point included in the north east of the site where the road would tie into the approved mixed use road. The location of the road and inclusion of car parking either side as noted above, results in a large proportion of the site being for car parking and hardstanding which is not supported. Whilst no comments have been provided by DCC Highways, the road layout in principle is considered to be acceptable with buildings and structures set back to allow for visibility and safety. The proposed development would be serviced via the central vehicular route and swept paths have been provided to demonstrate the turning of a refuse vehicle.

The proposal would also include pedestrian and cycle links to Tithebarn Way, Blackhorse Lane and to the adjacent ped/cycle link. These are considered important for permeability and would be in suitable locations for future users and residents.

CAR PARKING

The proposed development would include a total of 53 car parking spaces of which 18 are for residential uses and 35 are for commercial uses. Of these spaces, 16 would have EV charging points and 4 are disabled.

Policy TC9 states that "as a guide at least 2 car parking spaces per home with two or more bedrooms" should be provided and Strategy 11 prioritises walking and cycling over private vehicles. Given the public and active transport links, the LPA requested a reduction in the number of car parking spaces for residential dwellings from 18 spaces to 14-16 spaces as the policy is a guide and does not set a minimum or maximum level. Despite the LPA requesting this to allow for an improved layout, this has not been achieved and therefore the opportunity to reduce car parking levels and promote walking and cycling in accordance with Strategy 11 has been missed. Whilst the policy wording states "as a guide", it is not considered reasonable to refuse the application on this basis. Therefore whilst the opportunity has been missed, the LPA accepts the level of car parking proposed for residential dwellings. All residential dwellings would require an EV charging point where possible and further details of these can be secured via a condition.

Following on, the number of car parking spaces for the commercial units is seen as excessive and not justified. Whilst the LPA does not have a specific policy for car parking for commercial buildings, Strategy 5B promotes sustainable modes of travel and transport and Strategy 11 prioritises walking and cycling over private vehicles and in any case the number of car parking spaces must be justified to reduce the impact of the development and to ensure car parking is integrated to the development in accordance with Policy D2.

The site is being developed speculatively and the levels of car parking required by end users is not known at this stage. The level of car parking required has been assessed as part of the submitted Transport Assessment which sets out that the peak staff parking accumulation is expected to be 27 vehicles. However this is only for two hours of the day and the average number across the day is only 20 vehicles. Whilst this does not include visitors, visitors could travel by public or active transport, could be accommodated on site and it is also noted that there are approximately 14 unallocated car parking spaces adjacent to the site on Tithebarn Way and other car parking may be available within the wider area. This means that that the level of car parking proposed at this stage is not justified and is considered to be an overprovision which does not accord with Strategies 5B and 11 which seeks to reduce travel by private car.

The LPA acknowledges that car parking is required for this development but has raised concerns with car parking levels with the applicant on a number of occasions from October 2022 to July 2023. Officers have expressed willing to allow 28 spaces as a compromise to allow for some flexibility and to allow for an improved layout to be submitted. This would allow for the peak of car parking and for visitors throughout the day to use the car park if required. The applicant has been unwilling to remove car parking spaces and raised viability concerns with the LPA's compromise. The applicant has not provided any evidence relating to viability and given the speculative nature of the development, the end user and car parking demands are unknown. Given the conclusions of the Transport Assessment, the LPA believes that the level of car parking is not justified and is not acceptable. The LPA considers that given the site would be located in close proximity to over 1500 homes, is adjacent to public transport routes and is located next to active travel routes, the proposed level of car parking for the commercial units is not in accordance with Strategy 11. Furthermore, as noted above, the excess provision of car parking is detrimental to the character and appearance of the scheme. The proposed level of car parking shown at present would encourage more people to drive to the site and would therefore fail to comply with Strategy 11 which attempts to reduce travel by private car. It is therefore considered that the level of car parking proposed is not supported.

It is noted that the LPA has approved an office development (ref. 21/3148/MOUT) for up to 6000 sqm of floor space to the south of the site by the same applicant with a similar ratio of car parking to floor space, however this ratio was agreed with Devon County Council and the context of the applications differ. The Transport Assessment to support that application was undertaken by the same consultant and does not reach the same conclusion as that for this application, demonstrating that the context is different. The office development is seeking to attract larger businesses whereas the commercial development under this application is smaller in scale and could be occupied by local residents who could walk/cycle. The site is also a mixed used development whereby the balance between the creation of an attractive living and working environment is important for the wellbeing of future residents.

Overall the level of car parking is not justified and not supported and it is considered that the scheme could better promote the role of sustainable travel through a reduction in parking on site.

IMPACT ON ROAD NETWORK

The Transport Assessment that accompanied the outline application (12/1291/MOUT) included the proposed site as part of the wider outline consent and considered that subject to the mitigation measures, the impact on the local highway was acceptable. The outline application included both residential and commercial uses and accounted for development on this site. National Highways consider that the development is unlikely to result in an adverse impact on the safe operation of the strategic road network. Whilst no comments have been received by Devon County Council Highways, the proposal is not considered to harm the surrounding road network.

IMPACT ON THE AIRPORT

The airport have been consulted on the application and have no safeguarding objections provided that construction complies with the AOA Advice Notes.

Overall, whilst the site is considered to be in a sustainable location and is not considered to result in harm to the surrounding road network, the level of car parking provided results in a development that fails to accord with Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End) of the local plan which seeks to prioritise walking and cycling over private cars.

I) TERMS OF TREES, GREEN INFRASTRUCTURE AND LANDSCAPING

Strategy 10 (Green Infrastructure in East Devon's West End) of the adopted Local Plan (2016) states that we will ensure that the Green Infrastructure Strategy for East Devon's West End dovetails with comparable work being undertaken in Exeter to provide a green framework within which strategic development occurs. All development proposals of the West End will individually and collectively contribute to the implementation and long-term management of green infrastructure initiatives through appropriate contributions and/or on site provision, and Green Infrastructure initiatives should feature in all developments. Where the likelihood of significant effects on European wildlife sites cannot be ruled out from developments in the West End, the Council will undertake an appropriate assessment

of impacts and will only support and approve proposals where it can be demonstrated that adverse effects on site integrity can be prevented.

Policy D2 (Landscape Requirement) of the adopted Core Strategy (2016) states that landscape schemes should meet all of the following criteria:

- a) Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
- b) Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
- c) Measures to ensure safe and convenient public access for all should be incorporated.
- d) Measures to ensure routine maintenance and long term management should be included.
- e) Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
- f) The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

Policy D3 (Trees and Development Sites) of the adopted Core Strategy (2016) states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

The application was accompanied by detailed hard and soft landscaping plans and the site is home to existing trees and hedgerows along the southern boundary. The proposed development would include on-plot landscaping within front gardens and in-between car parking spaces and landscaping in open space and around the commercial buildings. The proposal would include new tree and shrub planting as well as areas of amenity grass and blueblossom planting. Concerns have been raised regarding the poor quality of hard surfacing materials and the poor quality of soft landscaping throughout the development. In particular, the use of tarmac fails to create an attractive development and the use of gravel is questioned adjacent to car parking and does not maximise biodiversity gains. It is also noted that car parking could be broken up further with landscaping especially spaces for dwellings 1 to 5 which is only broken up by one tree.

The application was reviewed by EDDC Landscaping and concerns raised with the over domination of parking, poorly related public open space, poor relationship with the cycle path and parcel to the north, treatment of Tithebarn Way frontage, poor amounts of tree planting. EDDC Landscaping also raised concerns with the specified tree supply sizes as

these are too small and must be increased in size to 14-16cm girth. The applicant submitted revised plans however these fail to overcome all concerns. It is considered that a revised hard and soft landscaping scheme could be secured via a suitably worded condition.

In summary, the proposal as currently proposed is considered to be unacceptable in terms of trees and landscaping, however should planning be granted these issues could be overcome through the use of planning conditions.

J) SUSTAINABILITY AND CLIMATE CHANGE

Strategy 3 (Sustainable Development) of the adopted Local Plan (2016) states that sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that the following issues and their inter-relationships are taken fully into account when considering development:

- a. Conserving and Enhancing the Environment
- b. Prudent natural resource use
- c. Promoting social wellbeing
- d. Encouraging sustainable economic development
- e. Taking a long term view of our actions.

Strategy 5 (Environment) of the adopted Local Plan (2016) states that all development proposals will contribute to the delivery of sustainable development, ensure conservation and enhancement of natural historic and built environmental assets, promote ecosystem services and green infrastructure and geodiversity. Open spaces and areas of biodiversity importance and interest (including internationally, nationally and locally designated sites and also areas otherwise of value) will be protected from damage, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged through a combination of measures. New development will incorporate open space and high quality landscaping to provide attractive and desirable natural and built environments for new occupants and wildlife.

Strategy 38 (Sustainable Design and Construction) of the adopted Local Plan (2016) states that encouragement is given for proposals for new development and for refurbishment of, conversion or extensions to, existing buildings to demonstrate through a Design and Access Statement how:

- a) Sustainable design and construction methods will be incorporated, specifically, through the re-use of material derived from excavation and demolition, use of renewable energy technology, landform, layout, building orientation, massing, use of local materials and landscaping;
- b) The development will be resilient to the impacts of climate change;
- c) Potential adverse impacts, such as noise, smell, dust, arising from developments, both during and after construction, are to be mitigated.
- d) Biodiversity improvements are to be incorporated. This could include measures such as integrated bat and owl boxes, native planting or green roofs.

Due to their scale, developments in the West End and developments over 4 ha or 200 dwellings elsewhere in East Devon should achieve levels of sustainability in

advance of those set out nationally. The Council will wish to see homes built to Code for Sustainable Homes Level 4 and this will be a material consideration.

Strategy 40 (Decentralised Energy Networks) of the adopted Local Plan (2016) states that decentralised Energy Networks will be developed and brought forward. New development (either new build or conversion) with a floor space of at least 1,000m² or comprising ten or more dwellings should, where viable, connect to any existing, or proposed, Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

The site is located adjacent to Tithebarn Way and with local bus services available and the site is also located 1.4km from Pinhoe Train Station and 2.9km from Cranbrook Train Station. Furthermore, the site is located around 200m from the Park and Change. The site is located within walking distance of the proposed local centre, NEAP and sports pitches as well as Minerva Country Park, Exeter Science Park and Blackhorse Lane. Furthermore, there are employment opportunities within a 30 minute walk which allows future residents to access employment in accordance with Strategy 5B and 11.

The commercial buildings would be expected to comply with BREEAM of at least 'Very Good'. Limited information has been provided at this stage however this can be conditioned in accordance with Strategy 38.

It is expected that residential dwellings would be connected to the District Heating Network as noted within the submitted Planning Statement and could be secured via a S106 legal agreement. Whilst not included within the Planning Statement, the LPA would expect the commercial buildings to be connected to the District Heating Network unless it can be demonstrated that the connection is not viable. As no information regarding viability has been submitted, the LPA would expect a connection to the DNH to be secured via a condition to comply with Strategy 40.

The residential dwellings would include PV panels on south facing roofs. This is supported in principle subject to further details which can be secured via a condition.

It is considered that waste will be generated during the construction phase which would be controlled through the CEMP to be secured via a condition and waste generated during the operational phase would be controlled via a Site Waste Management Plan. Both commercial and residential uses would be provided with dedicated areas for waste storage to encourage recycling. These are in suitable locations and would allow for easy access to collection points. The EDDC Recycling & Waste Contract Manager raised no concerns with the application.

In summary, the proposal is considered to be acceptable in terms of sustainability and climate change.

K) LAND CONTAMINATION

Policy EN16 (Contaminated Land) of the adopted Core Strategy (2016) states that where it is anticipated that contamination may be present on or near to a development site, a contaminated land assessment will be required. The assessment must be agreed with the

Council and must: a) Identify and characterise the contamination; b) Identify the risks; and c) Identify remediation and/or mitigation measures. Where identified as necessary, the agreed measures must be taken to remediate the site prior to or during the development. Development on or in close proximity to active or former waste sites will only be permitted where it can be demonstrated that there will be no harm to future occupiers of the site from leachate or landfill gas or other waste arisings.

The proposed development is sensitive to contamination but is situated on land not thought to have been subject to a potentially contaminating land use. It is not considered that the proposal would result in harm in relation to land contamination. Furthermore, land contamination was reviewed during the outline planning application which covers the site. The District Council's Land Contamination Officer raised no concerns with the proposal.

In light of the above, the proposal is considered to comply with Policy EN16.

L) SOILS AND AGRICULTURE

Paragraph 174 of The NPPF requires that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In addition, the planning system should contribute to and enhance the natural and local environment, including protecting and enhancing soils.

Policy EN13 of the adopted Local Plan aims to protect from development the higher quality agricultural land unless there is an overriding need for the development and there is insufficient lower grade land available (or has environmental value) or the benefits of the development justify the loss of the high quality agricultural land.

The land is a mix of Grade 2 and 3a although it should be noted that the site is allocated for development in the Local Plan and has previously received outline planning permission. On this basis, a mixed use development proposal on the site would not prevent the loss of this agricultural land which was assessed previously and considered to be acceptable when balanced against all the other planning considerations. However, the soils on the site could be recovered and handled correctly to minimise the loss of soil resource. The NPPF also requires that decisions should protect and enhance soils. It is therefore recommended that any permission forthcoming should require a scheme of soil recovery and handling.

M) DRAINAGE AND FLOOD RISK

Policy EN22 (Surface Run-Off Implications of New Development) of the adopted Core Strategy (2016) states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.

3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.
5. Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate.

The application was supported by a Flood Risk Assessment. The site is currently vacant green field and does not include any water courses. The site, in Flood Zone 1, is not at risk of flooding from rivers and seas. In relation to surface water run-off, there is additional allowance made for climate change - originally at 20%, more recently at 40% and during 2022 increased to 45% within East Devon. For this application, the 40% allowance has been used not the 45% which is not supported.

Surface water would be conveyed by a below ground drainage network to a point of discharge into the proposed on-site attenuation features. Storm water drainage will be attenuated in these features and flows off site will discharge to the storm water sewer network. The proposal would not include any above ground drainage infrastructure which also provides benefits for biodiversity and general amenity.

The application was reviewed by DCC Flood Risk, as the Lead Local Flood Authority who object to the application and require additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. DCC Flood risk also are not supportive of the use of underground systems and require details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system. The applicant submitted an Exceedance Plan however the overall drainage strategy has not been agreed meaning the plan cannot be approved. The applicant failed to submit any further information to address the other concerns raised by DCC Flood Risk and therefore the development cannot be supported in this instance.

The Environment Agency were consulted on the application however no comments were received.

Therefore, the application has failed to provide sufficient information in relation to flood risk and drainage meaning that the proposal would fail to comply with Strategy 5 and Policy EN22 of the adopted Local Plan.

N) ARCHAEOLOGY

Strategy 49 (The Historic Environment) of the adopted Local Plan (2016) states that the physical and cultural heritage of the district, including archaeological assets and historic landscape character, will be conserved and enhanced and the contribution that historic places make to the economic and social well-being of the population will be recognised, evaluated and promoted. We will work with our partners and local communities to produce or update conservation area appraisals and conservation area management plans.

Policy EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance) of the adopted Local Plan (2016) states that when considering development proposals which affect sites that are considered to potentially have remains of archaeological importance, the District Council will not grant planning permission until an appropriate desk based assessment and, where necessary, a field assessment has been undertaken.

The application was supported by an archaeological assessment however this was considered to be out of date. Given the sites allocation and previous application (12/1291/MOUT), various reports on archaeological survey, evaluation and excavation in and around the proposal area have been published and are publicly available. The application area itself has been the subject of geophysical survey (Wessex Archaeology, 2015) and archaeological evaluation (Cotswold Archaeology, 2016). DCC Archaeology has reviewed the relevant survey reports and did not recommend any further archaeological evaluation or mitigation work as the existing reports are sufficient. Therefore, the proposal is considered to be acceptable in terms of archaeology.

O) NATURE CONSERVATION AND BIODIVERSITY

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that all development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Development proposals that would cause a direct or indirect adverse effect upon internationally and nationally designated sites will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less or no harm.
- b) The public benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats.
- c) Prevention, mitigation and compensation measures are provided.
- d) In respect of Internationally designated sites, the integrity of the site will be maintained.

Strategy 47 (Nature Conservation and Geology) of the adopted Local Plan (2016) states that where development or the occupants of development could lead to adverse biodiversity impacts due to recreational or other disturbance, we will require mitigation measures and contributions to allow for measures to be taken to offset adverse impacts and to create new habitats. All residential development schemes within a straight line 10 kilometres distance of any part of the SAC and/or SAC designated areas of the Exe Estuary or Pebblebed Heaths will be required to provide mitigation. Off-site provision in the form of SANGS should aim for a target level of provision of around 8 hectares of open space provision for every net new 1,000 residents accommodated through development. At a residential density averaged at 2.2 persons per each new home built this will equate to around 176 SqM of SANGS space per each net extra dwelling.

Policy EN5 (Wildlife Habitats and Features) of the adopted Core Strategy (2016) states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process. Where development is permitted on such sites mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

The application was supported by an Ecology Appraisal by Devon Wildlife Consultants. The site forms part of a wider area which is currently in construction for the mixed use area and comprises a network of ditches and spoil heaps. The findings are summarised by species below:

Badgers - No setts or signs of activity were recorded but it is likely that badger forage in the wider area. Mitigation to avoid trapping badgers in open excavations required.

Bats - No trees or buildings present to support a roost. The site has limited value to bats but hedgerows will be used for foraging/commuting. The south hedge bank will provide commuting habitat. Design should limit light spill to southern hedgerow/trees and the installation of bat boxes recommended.

Birds - The southern hedge bank is considered suitable to support nesting and foraging birds. Installation of bird boxes and increased planting recommended.

Dormice - They have been recorded in the wider area. The southern hedge does provide some potential for habitat although this is limited. The hedge would be enhanced through the landscape planting which will enhance the habitat.

Great Crested Newts - The site is located within a Devon Great Crested Newt Consultation Zone but there are no ponds on site.

Reptiles - The southern hedge bank represents potential foraging and commuting habitat. Low numbers of slowworm *Anguis fragilis* and common lizard *Zootoca vivipara* recorded in the wider Tithebarn Green site. The hedge would be enhanced through the landscape planting which will enhance this habitat.

Overall and number of mitigation and enhancement measures are proposed:

- o The southern hedgerow to be enhanced through native planting and additional planting across the site.
- o Grassland areas to be a native seed mix to be secured through the landscaping scheme.
- o Bird and bat boxes to be installed.
- o Grass cuttings and brash shall be left in piles beneath the vegetation on the eastern boundary.

In summary, the proposed mitigation and enhancement measures represent a reasonable biodiversity gain.

HABITAT MITIGATION

The site is located within 10km of the East Devon Pebblebed Heaths SAC and SPA together with the Exe Estuary SPA and Ramsar sites. During the operational phase, the development is likely to increase recreational pressures on these European sites which will likely have both direct and indirect significant effects when considered alone or in combination. This therefore requires the authority to undertake an Appropriate Assessment (AA) in accordance with the Conservation of Habitats and Species Regulations 2017. This has been undertaken which also concludes that the proposed development, as it is within 10km, is likely to have significant effects on the interest features of these European sites. The joint approach for mitigation by the relevant local authorities relies on a mechanism by which developers can make contributions to mitigation measures delivered by the South East Devon Habitat Regulations Partnership. The mitigation contribution would be secured through a S106, currently at £367.62 per dwelling.

Natural England were consulted on the AA and have advised that on the basis of the appropriate financial contributions being secured to the South-east Devon European Sites Mitigation Strategy, they would concur with this authorities conclusion in the AA that the proposed development will not have an adverse effect on the integrity of the European Sites. It is for the LPA to adopt the AA and accordingly there is a further recommendation on this at the end of the report.

P) PLANNING OBLIGATIONS

Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) states that the Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts. The failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

As set out throughout this report, the following obligations are sought for this development via a S106 legal agreement:

1. Habitat Mitigation Contribution of £367.62 per dwelling (£3,308.58 in total). 50% would be payable before commencement and the remaining 50% would be payable prior to occupation of dwelling 4.
2. Connection to the District Heating Network for commercial buildings and residential dwellings.
3. Provision and maintenance/management arrangements for on-site communal open space.

4. Affordable Housing Contribution of £12,448 per dwelling (£112,032 in total). 50% would be payable before commencement and the remaining 50% would be payable prior to occupation of dwelling 4.

Section 9.0 of the submitted Planning Statement outlines CIL and other planning obligations which includes a contribution towards non-infrastructure mitigation under the Habitat Regulations, a connection to the District Heating Network for residential dwellings and maintenance/management arrangements for on-site open space.

The above planning statement makes no reference to Affordable Housing Contributions and in the absence of a legal agreement, the LPA has not been able to secure these contributions which are necessary to support the delivery of development and mitigate any adverse impacts. This has resulted in an objection from the Housing Enabling Officer and as such, the lack of a legal mechanism to secure these contributions should also form a reason for refusal as the proposal would fail to be in accordance with Strategy 34 (District Wide Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing Supplementary Planning Document (November 2020). It is considered that a connection to the DNH for commercial buildings could be secured via a suitably worded condition.

PLANNING BALANCE AND CONCLUSION

The proposed development would provide 4 commercial units and 9 residential dwellings within the wider Tithebarn Green area thereby providing employment opportunities and residential dwellings in a sustainable location that is allocated for development. The benefits of the commercial space is given significant weight especially as it would complement the local centre, would provide employment and social opportunities and is close to where people live. It is also acknowledged that housing is in demand across the district and the LPA cannot demonstrate a 5 Year Land Supply. However, local plan policies promote well designed, sustainable developments and the NPPF (2021) states that development that is not well designed should be refused. The benefits of residential development are also given significant weight however it is acknowledged that 9 additional dwellings would not overcome the district's housing need.

However, the proposed development would fail to provide satisfactory living conditions for the future occupiers with regard to internal space and it is also recognised throughout this report that the layout and appearance of the development and level of car parking is not considered to be high quality and acceptable and the proposal fails to promote sustainable travel. The proposal has also failed to demonstrate that it is acceptable in terms of surface water drainage and flood risk and contributions for affordable housing to support the development's delivery has not been secured. Therefore, it is considered that on balance the harm of the proposal in this instance would fail to significantly and demonstrably outweigh the benefits of the proposed development.

Therefore, the proposal would fail to comply with the NPPF and Local Development Plan and is recommended for refusal.

RECOMMENDATION

a) ADOPT the Appropriate Assessment as set out in Appendix A

b) REFUSE the application for the following reasons:

1. The proposed development has failed to provide sufficient information in relation to flood risk and surface water drainage and has failed to demonstrate that all aspects of the proposed surface water drainage management system have been considered. The proposed underground systems are not considered to be sustainable and details of the exceedance pathways and overland flow routes have not been provided. The proposed development would therefore fail to comply with Strategy 5 and Policy EN22 of the adopted Local Plan 2013 to 2031.
2. Having regard to the over provision and dominance of car parking and hard surfacing within the site, the overall layout and appearance of the development fails to provide a high quality development as required by Policy D1 of the East Devon Local Plan. Furthermore, the proposed residential dwellings fail to suitably address and provide surveillance to the approved adjacent pedestrian and cycle path. The proposal therefore would fail to create a safe, attractive and well-designed development and would fail to comply with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013 to 2031 as well as Section 12 of the NPPF (2021).
3. The proposed development fails to promote sustainable modes of travel and transport and emphasises private car usage over sustainable means of travel. The proposed development would include an excessive number of car parking spaces which would fail to be justified in line with the submitted Transport Assessment and results in a car dominated development. The proposal has therefore failed to promote and secure sustainable modes of travel and transport and limit future car use. The proposal is therefore contrary to Strategy 3, 5B and 11 of the adopted Local Plan (2016) and Section 9 of the NPPF (2021).
4. The proposed development would fail to provide satisfactory living conditions for the future occupiers with regards to internal living space. The proposed dwellings would result in poor living conditions for future occupiers and would fail to comply with Policy D1 of the East Devon Local Plan and Paragraph 130(f) of the NPPF (2021) which requires that developments provide a high standard of amenity for its future users.
5. In the absence of a legal mechanism to its delivery, the proposal fails to provide financial contributions for Affordable Housing. As such the proposal is contrary to Strategy 34 (District Wide Affordable Housing Provision Targets) and Strategy 50 (Infrastructure Delivery) of the adopted Local Plan (2016) and the East Devon Affordable Housing SPD (November 2020).

NOTE FOR APPLICANT

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.

Plans relating to this application:

1400: Enclosure Details	Other Plans	11.07.23
1402; Enclosure Details	Other Plans	11.07.23
1111 Rev F: Materials Plan	Other Plans	11.07.23
1114 Rev C: Enclosures Plan	Other Plans	11.07.23
1115 Rev C: External Works and Landscaping Plan	Other Plans	11.07.23
1116 Rev C: Waste Collection Plan	Other Plans	11.07.23
1150 Rev B: Street	Sections	11.07.23
1160 Rev C: Street Scenes	Other Plans	11.07.23
1161 Rev C: Street Scenes	Other Plans	11.07.23
856/01 Rev F: Planting Plan	Other Plans	11.07.23
1301 I : unit C1 semi detached	Proposed Elevation	02.08.23
1100 Q : planning	Layout	02.08.23

1401 A : enclosures details brick wall	Other Plans	02.08.23
1300 G : unit C1 semi detached	Proposed Floor Plans	02.08.23
1302 C : unit C1 semi detached	Proposed Elevation	02.08.23
1303 B : unit C1 detached	Proposed Floor Plans	02.08.23
1304 B : unit C1 detached	Proposed Elevation	02.08.23
1310 D : unit C2	Proposed Floor Plans	02.08.23
1311 D : unit C2	Proposed Elevation	02.08.23
1312 B : unit C2	Proposed Elevation	02.08.23
1200 G : units A+B	Proposed Floor Plans	02.08.23
1201 D : units A+B	Proposed Elevation	02.08.23
1210 H : units C+D	Proposed Floor Plans	02.08.23
1211 E : units C+D	Proposed Elevation	02.08.23
1220 C : cycle shelter	Proposed Combined Plans	02.08.23
1230 B : bin storage	Proposed Elevation	02.08.23
1000 C	Location Plan	04.05.22

List of Background Papers

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

Appropriate Assessment		
The Conservation of Habitats and Species Regulations 2017, Section (63)		
Application Reference	22/0975/MFUL	
Brief description of proposal	Construction of four commercial, business and service units (Class E) and nine detached dwellings with associated access, parking and infrastructure.	
Location	Land Adjacent Old Tithebarn Lane, Clyst Honiton	
Site is:	<p>Within 10km of the Exe Estuary SPA site alone (UK9010081)</p> <p>Within 10km of the East Devon Heaths SPA (UK9010121)</p> <p>Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602)</p> <p>Within 10km of the Exe Estuary Ramsar (UK 542)</p> <p>(See Appendix 1 for list of interest features of the SPA/SAC)</p>	
Step 1		
Screening for Likely Significant Effect on the proposed development on land to the east of Langaton Lane, Exeter Science park, Clyst Honiton		
Risk Assessment		
<p>Could the Qualifying Features of the European site be affected by the proposal?</p> <p>Consider both construction and operational stages.</p>	<p>Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features.</p>	
Conclusion of Screening		
<p>Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?</p>	<p>East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA.</p> <p>See evidence documents on impact of development on SPA/SAC at: East Devon District Council - http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf</p> <p>An Appropriate Assessment of the plan or proposal is necessary.</p>	
Local Authority Officer	Liam Fisher	Date: 13 July 2023
Step 2		
Appropriate Assessment		
<p>NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.</p>		
In-combination Effects		

<p>Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.</p>	<p>Additional housing or tourist accommodation within 10km of the SPA/SAC will add to the existing issues of damage and disturbance arising from recreational use.</p> <p>East Devon has an emerging New Local Plan to 2040 which is currently in preparation. This has recently been out to consultation under Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012 and while further housing is proposed across the District it is considered too early to understand the final distribution of the housing and it's relatively proximity and therefore access to the environments.</p> <p>The Teignbridge emerging Local Plan 2040 completed three Reg. 18 consultations between 2018 and 2021 and has begun Regulation 19 consultation in January 2023. This Plan proposes to deliver approximately 12,489 houses in the plan period 2020 - 2040.</p> <p>The Exeter Plan looks to deliver to 14,300 homes over the 20 year period to 2040. This Plan completed a Regulation 18 consultation in December 2022.</p>	
<p>Mitigation of in-combination effects.</p>	<p>The Joint Approach sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership.</p> <p>Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second at South West Exeter has been partially opened to attract recreational use away from the Exe Estuary and Dawlish Warren and Pebblebed Heaths.</p>	
<p>Assessment of Impacts with Mitigation Measures</p>		
<p>Mitigation measures included in the proposal.</p>	<p>The Joint Approach standard mitigation contribution required for non-infrastructure: Residential units £367.62 per house x 9 dwellings = £3,308.58</p>	
<p>Are the proposed mitigation measures sufficient to overcome the likely significant effects?</p>	<p>Yes - the Joint Approach contribution offered is considered to be sufficient in conjunction with CIL contributions.</p>	
<p>Conclusion</p>		
<p>List of mitigation measures and safeguards</p>	<p>Total Joint Approach contribution of £3,308.58 will be secured through the S106 for this site and CIL contributions.</p>	
<p>The Integrity Test</p>	<p>Adverse impacts on features necessary to maintain the integrity of the Exe Estuary SPA, Exe Estuary Ramsar Site, East Devon Pebblebed Heaths SAC and the East Devon Heaths SPA can be ruled out.</p>	
<p>Conclusion of Appropriate Assessment</p>	<p>East Devon District Council concludes that there would be NO adverse effect on the integrity of the Exe Estuary SPA/Ramsar site and the East Devon Pebblebed Heaths SPA and SAC provided the mitigation measures are secured as above.</p>	
<p>Local Authority Officer</p>	<p>Liam Fisher</p>	<p>Date: 13 July 2023</p>
<p>21 day consultation to be sent to Natural England Hub on completion of this form.</p>		

Appendix 1. List of interest features:

Exe Estuary SPA

Annex 1 Species that are a primary reason for selection of this site (under the Birds Directive):

Aggregation of non-breeding birds: Avocet *Recurvirostra avosetta*

Aggregation of non-breeding birds: Grey Plover *Pluvialis squatarola*

Migratory species that are a primary reason for selection of this site

Aggregation of non-breeding birds: Dunlin *Calidris alpina alpina*

Aggregation of non-breeding birds: Black-tailed Godwit *Limosa limosa islandica*

Aggregation of non-breeding birds: Brent Goose (dark-bellied) *Branta bernicla bernicla*

Wintering populations of Slavonian Grebe *Podiceps auritus*

Wintering populations of Oystercatcher *Haematopus ostralegus*

Waterfowl Assemblage

>20,000 waterfowl over winter

Habitats which are not notified for their specific habitat interest (under the relevant designation), but because they support notified species.

Sheltered muddy shores (including estuarine muds; intertidal boulder and cobble scars; and seagrass beds)

Saltmarsh NVC communities: SM6 *Spartina anglica* saltmarsh

SPA Conservation Objectives

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

The extent and distribution of the habitats of the qualifying features

The structure and function of the habitats of the qualifying features

The supporting processes on which the habitats of the qualifying features rely

The population of each of the qualifying features, and,

The distribution of the qualifying features within the site.

Dawlish Warren SAC

Annex I habitats that are a primary reason for selection of this site (under the Habitats Directive):

Annex I habitat: Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes').

(Strandline, embryo and mobile dunes.)

SD1 *Rumex crispus-Glaucium flavum* shingle community

SD2 *Cakile maritima-Honkenya peploides* strandline community

SD6 *Ammophila arenaria* mobile dune community

SD7 *Ammophila arenaria-Festuca rubra* semi-fixed dune community

Annex I habitat: Fixed dunes with herbaceous vegetation ('grey dunes').

SD8 *Festuca rubra-Galium verum* fixed dune grassland

SD12 *Carex arenaria-Festuca ovina-Agrostis capillaris* dune grassland

SD19 *Phleum arenarium-Arenaria serpyllifolia* dune annual community

Annex I habitat: Humid dune slacks.

SD15 *Salix repens-Calliargon cuspidatum* dune-slack community

SD16 *Salix repens-Holcus lanatus* dune slack community

SD17 *Potentilla anserina-Carex nigra* dune-slack community

Habitats Directive Annex II species that are a primary reason for selection of this site:

Petalwort (*Petalophyllum ralfsii*)

SAC Conservation Objectives

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

List of interest features:

East Devon Heaths SPA:

A224 *Caprimulgus europaeus*; European nightjar (Breeding) 83 pairs (2.4% of GB population 1992)

A302 *Sylvia undata*; Dartford warbler (Breeding) 128 pairs (6.8% of GB Population in 1994)

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

East Devon Pebblebed Heaths SAC:

This is the largest block of lowland heathland in Devon. The site includes extensive areas of dry heath and wet heath associated with various other mire communities. The wet element occupies the lower-lying areas and includes good examples of cross-leaved heath – bog-moss (*Erica tetralix* – *Sphagnum compactum*) wet heath. The dry heaths are characterised by the presence of heather *Calluna vulgaris*, bell heather *Erica cinerea*, western gorse *Ulex gallii*, bristle bent *Agrostis curtisii*, purple moor-grass *Molinia caerulea*, cross-leaved heath *E. tetralix* and tormentil *Potentilla erecta*. The presence of plants such as cross-leaved heath illustrates the more oceanic nature of these heathlands, as this species is typical of wet heath in the more continental parts of the UK. Populations of southern damselfly *Coenagrion mercuriale* occur in wet flushes within the site.

Qualifying habitats: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

**H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath
H4030. European dry heaths**

Qualifying species: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

S1044. *Coenagrion mercuriale*; Southern damselfly

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats

- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Exe Estuary SPA

Qualifying Features:

A007 Podiceps auritus; Slavonian grebe (Non-breeding)

A046a Branta bernicla bernicla; Dark-bellied brent goose (Non-breeding)

A130 Haematopus ostralegus; Eurasian oystercatcher (Non-breeding)

A132 Recurvirostra avosetta; Pied avocet (Non-breeding)

A141 Pluvialis squatarola; Grey plover (Non-breeding)

A149 Calidris alpina alpina; Dunlin (Non-breeding)

A156 Limosa limosa islandica; Black-tailed godwit (Non-breeding)

Waterbird assemblage

Objectives:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Exe Estuary Ramsar

Principal Features (updated 1999)

The estuary includes shallow offshore waters, extensive mud and sand flats, and limited areas of saltmarsh. The site boundary also embraces part of Exeter Canal; Exminster Marshes – a complex of marshes and damp pasture towards the head of the estuary; and Dawlish Warren - an extensive recurved sand-dune system which has developed across the mouth of the estuary.

Average peak counts of wintering water birds regularly exceed 20,000 individuals (23,268*), including internationally important numbers* of *Branta bernicla bernicla* (2,343). Species wintering in nationally important numbers* include *Podiceps auritus*, *Haematopus ostralegus*, *Recurvirostra avosetta* (311), *Pluvialis squatarola*, *Calidris alpina* and *Limosa limosa* (594).

Because of its relatively mild climate and sheltered location, the site assumes even greater importance as a refuge during spells of severe weather. Nationally important numbers of *Charadrius hiaticula* and *Tringa nebularia* occur on passage. Parts of the site are managed as nature reserves by the Royal Society for the Protection of Birds and by the local authority. (1a,3a,3b,3c)

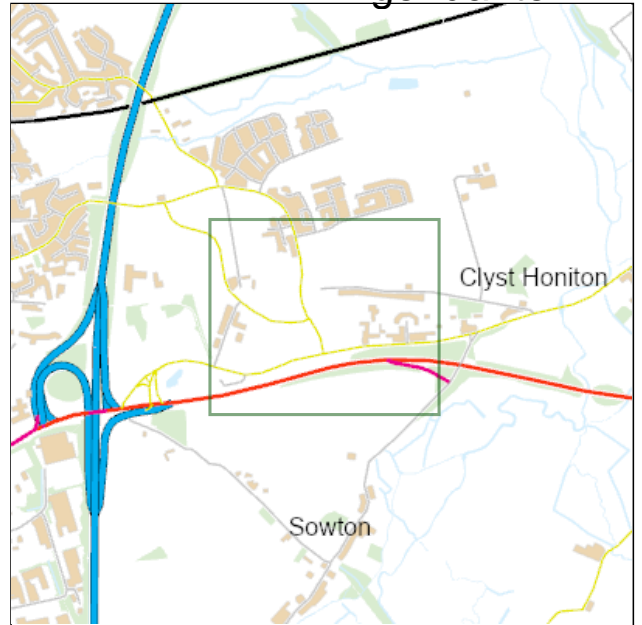
Ward Broadclyst

Reference 23/0976/VAR

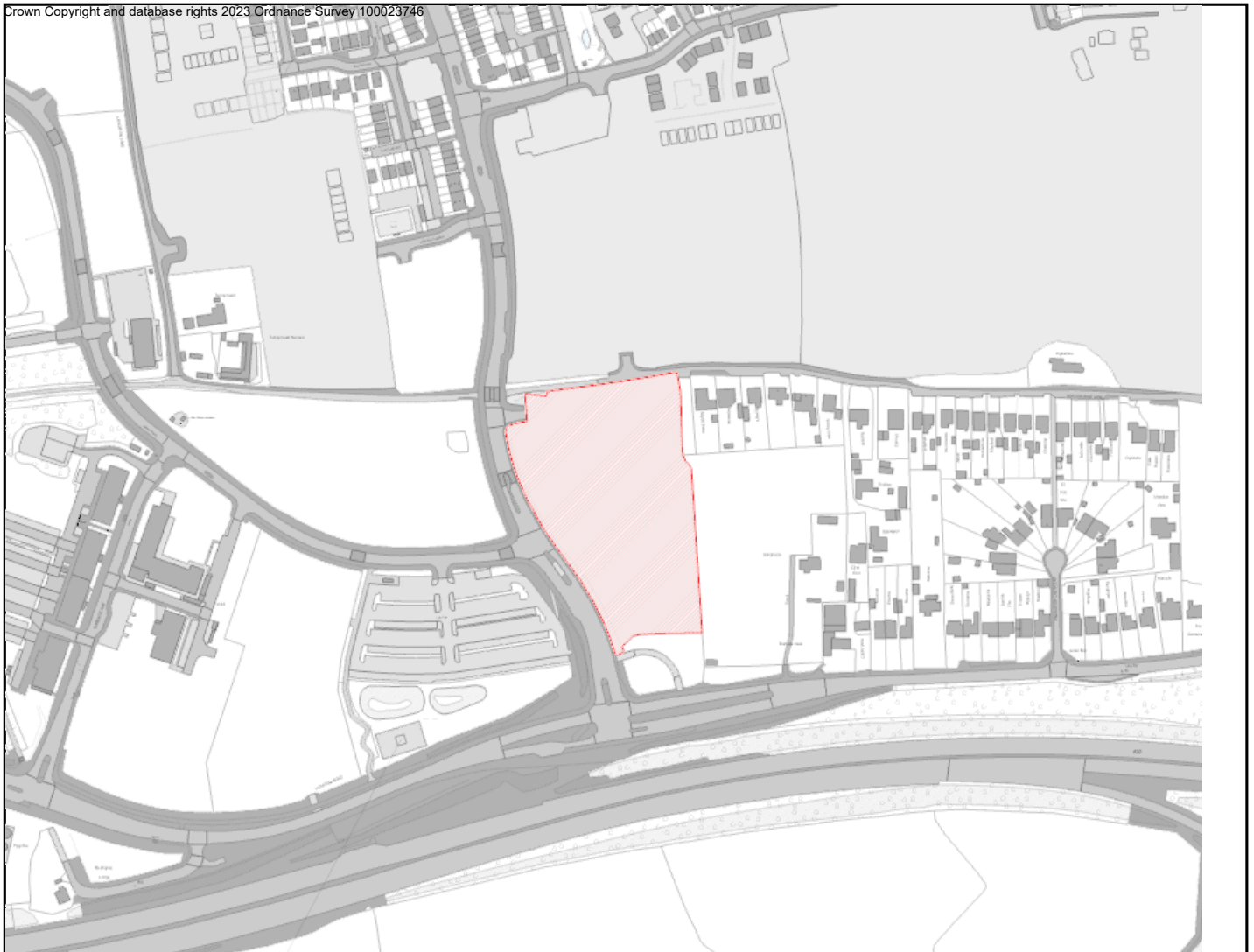
Applicant Eagle One MMIII Ltd

Location Land To The East Of Anning Road/ Tithebarn Way Redhayes Exeter

Proposal Variation of condition 22 (requiring the development to connect to the Decentralised Energy Network) of planning permission 21/3148/MOUT (up-to 6000 sqm of office development) to allow flexibility for alternative heating options to be considered.



RECOMMENDATION: Refusal



		Committee Date: 22.08.2023
Broadclyst (Broadclyst)	23/0976/VAR	Target Date: 02.08.2023
Applicant:	Eagle One MMill Ltd	
Location:	Land To The East Of Anning Road/ Tithebarn Way Redhayes	
Proposal:	Variation of condition 22 (requiring the development to connect to the Decentralised Energy Network) of planning permission 21/3148/MOUT (up-to 6000 sqm of office development) to allow flexibility for alternative heating options to be considered.	

RECOMMENDATION: REFUSAL

EXECUTIVE SUMMARY

This planning application is before members of the Planning Committee because officer recommendation differs from that of Broadclyst Parish Council.

Planning permission is sought under Section 73 of the Town and Country Planning Act to vary the wording of condition 22 of planning permission 21/3148/MOUT for upto 6000sqm of office development, to allow greater flexibility for alternative heating options to be considered in favour of a connection to the District Heating Network for the approved office development.

The strategic approach set out within Strategy 40 of the Local Plan is very clear in that new developments with a floor space of at least 1000 sqm will be expected to connect to an existing DHN unless it has been demonstrated that it is unviable to do so. The Science Park is served by the Monkerton District Heating Network and so there is a connection available for the office development and no information has been submitted to demonstrate that the viability of the development would be affected as a result of the network connection.

In the absence of this information, the proposal is considered to undermine the strategic approach set out within the Local Plan and that advocated by national planning policy such that officers are unable to support the proposed variation of condition 22 of the 21/3148/MOUT permission. The application is therefore recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

Thank you for consulting Broadclyst Parish Council.

The council are in support of the variation of condition 22 to allow flexibility for alternative heating options to be considered.

Technical Consultations

None

Other Representations

1 letter of objection has been received raising concerns about the proposal's conflict with Strategy 40 of the Local Plan.

PLANNING HISTORY

Reference	Description	Decision	Date
21/3148/MOUT	Outline application for up to 6,000 sqm GIA (6,350 sqm GEA) of office development with associated infrastructure (all matters reserved except access)	Approval with conditions	23.03.2023

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 5B (Sustainable Transport)

Strategy 9 (Major Development at East Devon's West End)

Strategy 10 (Green Infrastructure in East Devon's West End)

Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End)

Strategy 13 (Development North of Blackhorse/Redhayes)

Strategy 31 (Future Job and Employment Land Provision)

Strategy 37 (Community Safety)

Strategy 38 (Sustainable Design and Construction)

Strategy 40 (Decentralised Energy Networks)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Government Planning Documents

National Planning Practice Guidance

Site Location and Description

The site comprises a corner plot extending to 1.4Ha situated at Blackhorse on the eastern side of the junction of Tithebarn Way with Honiton Road. The site is situated on a low ridgeline at an altitude of approximately 35m AOD. Beyond the site the ridgeline rises gently to a high point of 45m to the northwest and falls away to the east northeast, east and southeast. The site itself has been previously graded to create a level platform raised by some 2m above existing road level at its south western corner.

The eastern boundary comprises a mature leylandii hedge line which is somewhat overgrown. The northern boundary comprises a native hedge bank in moderate-poor condition. The southern and western boundaries are fenced. There are a few broadleaved trees in the north east corner of the site and a small copse situated just beyond the southeast corner. Otherwise there are no landscape features within the site and land cover comprises rough grassland.

The land to the east comprises a medium sized field with existing housing beyond. To the west, beyond Tithebarn way, is the recently constructed park and change site and Exeter Science Park is situated to the north east. A strategic cycle commuter route runs adjacent to the northern site boundary. Beyond this lies the Tithebarn Green development which has planning approval for sports fields and a pending application for mixed use development.

The A30 runs 150m to the south and M5 700m to the west. Sowton village and conservation area are situated 700m to the south.

The site lies within landscape character type 3B - Lower rolling farmed and settled valley slopes as defined in the East Devon Landscape Character Assessment 2019 but, as indicated above, the immediate landscape context is in a state of flux and heavily influenced by existing road, power and communications infrastructure and existing and planned development.

There is no public access within the site but the western boundary follows the edge of the footway to Tithebarn Way.

Views from the site to the east and west are constrained by landform and/ or vegetation cover but there are extensive views to the south towards the Pebble Bed Heaths and East Devon AONB and more distant views to the northwest to the Blackdown Hills AONB.

There are no landscape or conservation designations within or in close proximity to the site. Sowton Conservation Area is some 700m to the south.

Planning History:

Outline planning permission was recently granted under planning reference 21/3148/MOUT for up to 6,000 sqm GIA (6,350 sqm GEA) of office development with associated infrastructure (all matters reserved except access). The planning permission was granted subject to a condition (22) which states:

The development hereby approved shall be connected to the Decentralised Energy Network in the locality. The buildings shall be constructed so that the internal systems for space and water heating are connected to the decentralised energy network prior to their first occupation for their permitted use.

(Reason: In the interests of sustainable development in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Network) of the adopted East Devon Local Plan 2013-2031).

Proposed Development:

Planning permission is sought under Section 73 of the Town and Country Planning Act to vary the wording of condition 22 to allow greater flexibility for alternative heating options to be considered in favour of a connection to the District Heating Network for the approved office development.

The applicant is proposing that the condition is amended to the following:

The buildings comprised in the development hereby approved shall either be connected to:

(a) the Decentralised Energy Network in the locality, with the buildings constructed so that the internal systems for space and water heating are connected to the Decentralised Energy Network; or

(b) an alternative heating solution which has a lower carbon footprint than the Decentralised Energy Network details of which shall first be submitted to and approved by the Council prior to their first occupation for their permitted use

Issues and Assessment:

The principle of development for offices has previously been accepted on this site under planning permission 21/3148/MOUT which remains extant and within the timescales for the submission of reserved matters such that no objections can be sustained to the principle of development. The proposal remains the same as that previously approved which has already been assessed in terms of the impact on the character and appearance of the area, the residential amenities of the occupiers of surrounding properties, highway safety and parking, archaeology, the ecological and arboricultural impacts and drainage and surface water run-off and considered to be acceptable in these respects.

As such the only issue to consider in the determination of this application is in terms of whether the proposal to allow the approved office development to connect to an alternative means of heating as an alternative to the District Heating Network has been robustly justified.

ANALYSIS

National Planning Policy:

The golden thread running through the National Planning Policy Framework is sustainable development. Paragraph 7 states 'the purpose of the planning system is to contribute to the achievement of sustainable development'. The environmental objective includes mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 155 of the NPPF states to increase the use and supply of renewable and low carbon energy and heat, plans should

(c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 157 of the NPPF states that in determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.*

Broadclyst Neighbourhood Plan:

Since the planning permission for offices was granted, the Broadclyst Neighbourhood Plan has been to referendum and therefore now carries significant weight. The support for this application from Broadclyst Parish Council is noted however there are no policies within the NP which expressly relate to proposals connecting to existing district heating networks in the Science Park. There is however a general thrust within the NP for new developments to contribute towards moving towards a low carbon future in mitigating and adapting to climate change.

Policy DC1- Energy Efficient New Buildings of the NP states that all new development that ensures a "fabric first" approach to reducing carbon emissions will be supported.*

**Fabric first' means 'maximising the performance of the components and materials that make up the building fabric before considering the use of mechanical or electrical building services systems. Consideration should also be given to modern methods of construction'.*

East Devon Local Plan:

Strategy 40- Decentralised Energy Networks of the Local Plan is clear that new development of 1,000 sqm or more should, where viable, connect to any existing or proposed Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

Members will be aware that the wider Science Park is connected to the Monkerton district heating network, which provides it with heating and hot water and therefore an existing network is available for connection for the approved office development. The clear strategic approach for major development in the Science Park within the Local Plan is to ensure that new developments connect to the DCN as set out within paragraph 17.25 of the pre-amble to the policy. Officers consider that no robust evidence or information has been provided with the application to demonstrate that a DNO connection is not available (it is) or that it would be unviable to connect the offices to the existing district heating network. Therefore the proposal is considered to be in conflict with Strategy 40 of the Local Plan.

The applicant's request to vary condition 22 to allow for an alternative heating solution with a lower carbon footprint than the DCN is noted, however it is understood that EDDC are currently leading on a project which is shortly to move to procurement, in order to provide an interconnector pipe from existing and forthcoming consented Energy from waste plants at Hill Barton Business Park. This project would effectively decarbonise both the Cranbrook and Monkerton networks and thus further improve the carbon footprint of the DCN.

The applicant has made reference to a planning permission 22/0856/MRES for a hotel on the Science Park which was approved by the Council without the need to connect to the District Heating Network. Whilst each planning application must be determined on its own merits, Members are advised that the hotel approval is different to the Section 73 application being considered. It is understood that the Section 106 agreement for the Science Park required reasonable endeavours to be used to connect to a DH network but that it did facilitate alternative provision as a departure from Strategy 40 of the Local Plan.

In the case of the approved hotel, Members should note that it was designed to fulfil the developers very clear and specific objective of being the UK's first net zero carbon hotel and their desire to do something different architecturally to that which we have seen before. This manifested itself in a scheme which put together a very specific package of design and technical details (e.g. the building has a large amount of vertical PV cladding) and which ultimately led to the Council accepting that connection to the DH network would not be something to insist upon in this particular instance - however that conclusion was only reached after challenging the applicants on this point and asking for further robust justification.

Officers have not been advised of an end user for the office development and having only approved an outline planning permission on the site, have not been presented with any formal design approach which might be considered to be ground breaking in any way so as to justify not connecting to the network. The hotel approval at the Science Park is therefore very different in terms of the detail of the scheme and what

it would deliver as an alternative to the District Heating Network connection to this Section 73 application.

CONCLUSION:

The strategic approach set out within Strategy 40 of the Local Plan is very clear in that new developments with a floor space of at least 1000 sqm will be expected to connect to an existing DHN unless it has been demonstrated that it is unviable to do so. The Science Park is served by the Monkerton District Heating Network and so there is a connection available for the office development and no information has been submitted to demonstrate that the viability of the development would be affected as a result of the network connection. In the absence of this information, the proposal is considered to undermine the strategic approach set out within the Local Plan such that officers are unable to support the proposed variation of condition 22 of the 21/3148/MOUT permission. The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE for the following reason:

1. In the opinion of the Local Planning Authority, insufficient evidence has been submitted to demonstrate that connection to the district heating network in the locality of the application site would render the development unviable. The application is therefore considered to be contrary to the provisions of paragraph 157 of the National Planning Policy Framework and Strategy 40- Decentralised Energy Networks of the East Devon Local Plan (2013-2031).

List of Background Papers

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

Statement on Human Rights and Equalities Issues:

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations

between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Ward Woodbury And Lymptone

Reference 23/1079/OUT

Applicant The Trustees (Strawberry Hill Holdings)

Location Land North East Of Grange Close Lymptone
Devon EX8 5LD

Proposal Outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale and landscaping reserved for future consideration)



RECOMMENDATION: Approval with conditions



		Committee Date: 22.08.2023
Woodbury And Lympstone (Lympstone)	23/1079/OUT	Target Date: 17.07.2023
Applicant:	The Trustees (Strawberry Hill Holdings)	
Location:	Land North East Of Grange Close	
Proposal:	Outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale and landscaping reserved for future consideration)	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members of the Planning Committee because the view of officers differs from that of the ward members and because it is a departure from the East Devon Local Plan and the made Lympstone Neighbourhood Plan.

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development, the majority of which is outside of a BUAB, the site is considered to be in a sustainable location on the northern edge of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development and ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. Local concern in relation to flood risk is acknowledged however a condition that requires the submission of a surface water drainage scheme and management plan that

includes evidence of calculations to achieve a runoff rate as close to greenfield conditions as possible would be sufficient to ensure that the proposal does not increase flood risk elsewhere The proposal would introduce a dwelling without any sense of visual incursion into the countryside and would result in no significant visual harm to the character and appearance of the area from public viewpoints outside of the site.

In the absence of a five year housing land supply, it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, it is recommended that the application is approved.

CONSULTATIONS

Local Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/1079/OUT

I have viewed the further documents for the planning application for 23/1079/OUT for an outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale, and landscaping reserved for future consideration) at land North East of Grange Close Lympstone.

The further documents do not alter my previous view which is I cannot support the application as it is outside the present BUAB. However, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
23/1079/OUT

I have viewed the planning application for 23/1079/OUT for an outline application with all matters reserved for proposed new dwelling (matters of access, appearance, layout, scale, and landscaping reserved for future consideration) at land North East of Grange Close Lympstone.

According to one of the letters of objection the access is proposed along a private drive owned by a third party. However, the ownership of the access drive is not a planning matter but a legal issue between the various parties.

The site is beyond the BUAB boundary for the village of Lympstone and therefore this development would be considered in the open countryside. I therefore cannot support this application; however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Woodbury And Lympstone - Cllr Geoff Jung
2/8/23

Thank you for your report and recommendation which unfortunately I still cannot support. Therefore I wish to continue my objection

Parish/Town Council

Recommendation: Object

Lympstone Parish Council object to this planning application due to the following reasons:

- ' The proposed new build will have a concerningly large impact for flooding issues affecting surrounding properties.
- ' Access to the site is unsuitable.
- ' The ecology impact is negative and hugely detrimental for wildlife.

Technical Consultations

South West Water

While I can appreciate the concerns that you have raised and your own history in the area, we have taken a look at the proposal under reference 23/1079/OUT on the East Devon planning portal and have no concerns or comments to add.

The sewers in the area are suitably sized to accommodate an additional dwelling, and the proposal to dispose of surface water via SUDS/Soakaway meets the first criteria of the surface water hierarchy. Should these prove unviable, there are dedicated surface water sewers in the area that could also handle the additional load.

If there is a historic risk of flooding due to issues with land drainage or the proximity of the river that have not been addressed by the agent or applicant, these concerns would need to be raised with both the council and the EA.

EDDC Trees:

In principle I have no objection to the proposal. However it should be noted that it appears that one A category Oak (T10), located centrally within the site has been removed which had been highlighted as a significant constraint in the Initial Tree Constraint Appraisal provided by Advanced Arboriculture (Nov 2021). The Tree Constraints Plan provided by PHA (May 2023) does not show this tree. Due to removal of the Oak, I recommend that a Tree Preservation Order be made on the remaining trees on site. The main tree constraints appear to be on the eastern boundary and in theory there now appears to be room for the proposal. The design should be based on the principles of BS5837:2012 including appropriate landscape planting to ensure long-term tree cover.

I recommend the following condition be put in place to ensure the retained trees are afforded protection during construction.

- a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full arboricultural survey based on BS5837:2012 is required including Tree Constraints Plan, a Tree Protection Plan and Arboricultural Method Statement including site monitoring and supervision shall be provided for the protection of the retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in

writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme. Details of method of construction of any hard surfaces (i.e access, drainage) in the vicinity of trees shall also be provided.

b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

g) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation. A detailed landscaping scheme shall be provided showing suitable replacement planting for the removal of the Oak to ensure long-term tree cover.

(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

Other Representations

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

- Flood risk to downstream properties
- Access unsuitable
- Impacts on wildlife
- Outside BUAB
- Contrary to Neighbourhood Plan
- Previous refusals on the site
- Impacts during construction
- Unsafe and unsuitable vehicular access
- Damage to private driveway
- Out of character
- No access for emergency vehicles

PLANNING HISTORY

Reference	Description	Decision	Date
98/P0223	Erection Of Single Dwelling	Refusal	23.04.1998

POLICIES

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

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

EN22 (Surface Run-Off Implications of New Development)

Strategy 5B (Sustainable Transport)

Lympstone Neighbourhood Plan (Made)

Policies??

Government Planning Documents

NPPF (National Planning Policy Framework 2021)
National Planning Practice Guidance

Site Location and Description:

The site refers to land to the north east of Grange Close, an undeveloped paddock extending to approximately 03. ha in area which is accessed off a private drive off Grange Close. The site is bordered by residential properties on its south western boundary and agricultural land to the north, east and north west. The majority of the site is located in the open countryside, outside of the built-up area boundary of Lympstone as defined by the East Devon Local Plan and the 'made' Lympstone Neighbourhood Plan. A small portion of the south west of the site does however fall within the BUAB as defined by the Lympstone Neighbourhood Plan. The site is not the subject of any national or local landscape designations and falls within an area designated as flood zone 1 (at lowest risk of flooding).

Planning History:

Whilst not related to this application site, it is notable that planning permission has recently been granted under planning permission (ref 21/2317/VAR) for a proposed new dwelling and car port on land adjacent to 21 Strawberry Hill. This site was outside of the built-up area boundary of Lympstone and is located to the north west of the application site.

Proposed Development:

Outline planning permission is sought for the construction of a single detached dwelling on the site. Planning permission is sought for the principle of development only, with matters relating to access, appearance, layout, scale and landscaping reserved for future consideration. Indicative drawings have been provided with the application which show how the site could be developed, with a dwelling positioned towards the south eastern corner of the site with an extended access driveway and parking area constructed off the existing driveway and access into the site. Indicative plans also suggest that the development would be served by a soakaway and a package treatment plant.

Issues and Assessment:

The main issues to consider in determining this application are in terms of the following:

- The Policy Position
- The principle of development
- Five Year Housing Land Supply
- Sustainability/ Accessibility
- Character and Appearance

- Residential Amenity
- Highway Safety
- Ecological Impact
- Habitat Regulations Assessment
- Arboricultural Impact
- Surface Water and Foul Drainage

ANALYSIS

The Policy Position:

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 formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined. The Lypstone Neighbourhood Plan (NP) has been 'made' and forms part of the Development Plan.

Principle of Development:

In planning terms the majority of the site is located outside of the built-up area boundary of Lypstone as defined by the East Devon Local Plan and the Lypstone Neighbourhood Plan where development is only permitted under the provisions of Strategy 7- Development in the Countryside 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.

As there are no policies within the Local Plan or the Lypstone Neighbourhood Plan which would support a proposal for the construction of a new dwelling in this countryside location and it isn't being put forward to meet an identified proven agricultural, forestry or horticultural need, the application has been advertised as a departure.

Planning law states that Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Five Year Housing Land Supply:

The Council is required under the NPPF to maintain a 5 year housing land supply. Annual monitoring of the housing supply position revealed that as of September 2022, the Council is unable to demonstrate a 5 year housing land supply position with supply standing at 4.68 years.

The consequences of not having a 5 year housing land supply means that the presumption in favour of sustainable development in the NPPF applies and that planning permission should be granted unless:

(i) the application of policies in the NPPF that protect areas or assets of particular importance such as AONB's, SSSI's, Heritage Coast, Heritage Assets, areas at risk of flooding or coastal change etc. provides a clear reason for refusing the development proposed ; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

As such the fact that the site is located in the countryside and outside of a BUAB as defined by the East Devon Local Plan cannot reasonably be a reason to refuse planning permission and the main test in determining this application relates to whether the adverse impacts of granting planning permission for the proposed dwelling would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Sustainability/ Accessibility:

Strategy 5B - Sustainable Transport of the Local Plan states that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. Development will need to be of a form, incorporate proposals for and be at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.

This is echoed in policy TC2 Accessibility of New Development of the Local Plan which states that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.

The site is located on the northern edge of the settlement and is considered to be well related to existing dwellings, facilities and services within the village.. Whilst the site is located outside of the BUAB of Lympstone, it does immediately adjoin its northern boundary where it would be possible to safely access the wide range of services and facilities and public transport links available within the village on foot or by cycling and thus reducing any over reliance on the use of the private car.

The application site is considered to be well related to the village and therefore accords with the provisions of Strategy 5B and policy TC2 of the Local Plan.

Character and Appearance:

Strategy 7- Development in the Countryside of the Local Plan states that development will only be permitted where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Policy D1- Design and Local Distinctiveness of the Local Plan states that proposals will only be permitted where they respect the key characteristics and special qualities

of the area in which the development is proposed and where the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

Whilst the site is currently an undeveloped paddock and therefore residential development within it would lead to an encroachment into the countryside, its visual impact is considered to be limited. The site is closely related to the settlement with neighbouring dwellings on Grange Close to the south and west bordering the site. Whilst detailed designs of the dwelling are reserved for future consideration, the indicative site plan clearly demonstrates that the site is of a sufficient size and configuration that could accommodate a detached dwelling with access and driveway in a scale and manner that would be in keeping with the existing urban grain and pattern of development.

Furthermore, the site itself is very self-contained and screened by existing vegetation and trees which would minimise any longer distance views from outside of the site particularly from the north east along the A376 where there may be glimpsed views of the site. In the event that glimpsed views are possible, the proposal development would still be read against the back drop of the village edge. Furthermore, the proposal seeks to position the dwelling in the lowest southern corner of the site which would help to ensure that there is no significant feeling of any visual intrusion into the rural landscape.

The detailed design of the development is reserved for future consideration where further assessment relating to the scale, footprint, form and design of the dwelling can be considered. However in principle, it is considered that the site is capable of accommodating a dwelling would resulting in any significant harm to the countryside or the rural landscape character and appearance of the area.

Residential Amenity:

The application site is bordered on its south western side by properties 10 and 12 Grange Close and their residential gardens. The introduction of a dwelling and a residential use to the site beyond that of its existing use as a paddock would therefore result in a degree of impact on the amenities of the occupiers of these properties in the form of residential activity and vehicles accessing the site. Of particular note is the fact that the existing access and driveway to the site runs parallel to the side elevation of no 10 Grange Close which occupies a lower position behind a low height brick wall.

Whilst matters of appearance, layout and scale are reserved for future consideration, it is considered that the site is of a sufficient size in principle to accommodate a detached dwelling without resulting in any significant harm or impacts to the amenities of no's 10 and 12 Grange Close. Careful consideration would have to be given to the siting of a dwelling on the site, it's outlook and position of windows to avoid any loss of privacy, however subject to it being carefully designed, it is considered that a detached dwelling on the site would not give rise to any significant amenity harm given the nature of well vegetated hedge and tree boundary to the south east.

Highway Safety:

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states 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.

Policy TC9- Parking Provision in New Development of the Local Plan states that Spaces will need to be provided for Parking of cars and bicycles in new developments. As a guide 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.

Whilst the matter of access is reserved for future consideration, in assessing the principle of development, some consideration still needs to be given to how the proposed development would be accessed.

The application site benefits from an existing hard surfaced access which is in turn accessed by the adopted highway that terminates at the turning head in Grange Close to the south east of the private drive. As a development for a single dwelling, it isn't considered that the proposal would generate a significant amount of vehicle movements to and from the site that would give rise to any highway safety concerns. The route to the site is through a quiet residential cul-de-sac where vehicle speeds would be low and the access and visibility onto Birch Road and Strawberry Hill are considered to be acceptable in terms of visibility onto the wider public highway network such that it is not considered an objection could reasonably be sustained on highway safety grounds. The proposal would comply with the provisions of policy TC7 of the Local Plan.

The indicative site plan clearly demonstrates that there is sufficient space within the site to make provision for two car parking spaces, a driveway and turning area such that the proposal would comply with the provisions of policy TC9 of the Local Plan.

Ecological Impact:

Policy EN5- Wildlife Habitats and Features of the Local Plan states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

The application is accompanied by an Ecological Impact Assessment undertaken by Ecologic Consultants which provides the results of the Preliminary Ecological Appraisal, protected species surveys for bats, reptiles, Cirl Buntings and Dormice) to assess the likely impacts of the proposed development on legally protected species.

The report concludes that the site has potential for/supports:

- Amphibians - the scrub and hedgebanks provide suitable terrestrial habitat for common amphibian species;
- Badger -the site may be used for foraging and dispersal;
- Bats: Feeding & dispersal: the site will provide feeding and dispersal habitat for bat species; Roosting: eight trees on the site included potential bat roosting features (PRF).
- Birds - the habitats on site will provide nesting and foraging opportunities for bird specs;
- Hedgehog - the site is likely to provide foraging and dispersal habitat for hedgehog;
- Reptiles - the site supports a 'low' population of slow worm
- Invertebrates - the site will provide habitat for invertebrates.

The key ecological impacts from the development are reported as being:

- Removal of an extent of dense and scattered scrub habitat for the construction of the dwelling, associated infrastructure and garden;
- Removal of habitat for amphibians, badger, bats, birds, hedgehog and reptiles; and,
- Construction and post-construction occupation of the site, and external lighting, will further negatively impact upon species using the site, retained habitats/boundary vegetation and areas beyond the site.

A number of mitigation and compensation measures have been put forward by the ecologist which includes:

Precautions required to allow removal of scrub and hedgebank vegetation, to be informed by a Construction Ecological Management Plan (CEMP), including:

- Reptiles: A reptile translocation program will be required prior to works, relocating reptiles (& amphibians) into a protected wildlife area;
- Birds: avoidance of vegetation removal during the bird nesting season, or following nesting bird check/s;
- Protection of retained boundary hedgebanks, habitats and trees;
- Removal of the Schedule 9 invasive botanical species variegated yellow archangel) on site by experienced professionals; and,
- A sensitive lighting plan, including the avoidance of artificial lighting on retained mature trees, hedgebanks and hedgerow, any proposed landscaped habitats, and any areas beyond the site

From a site visit it would appear as though a degree of site clearance and vegetation removal has already taken place and it isn't clear to what extent this may have affected legally protected species identified as being present or suitable habitats on the site.

To mitigate the impacts of the development, the ecologist puts forward a number of compensation measures which include:

- Habitat creation: Development scheme to include wildlife habitats, potentially including on and/or off-site hedgerow, scrub, native woodland, orchard and/or wildflower meadow.
- Landscape plan to include planting consisting of native species of local provenance, which in combination are to provide suitable habitat and wildlife corridors for badger, birds, reptiles, amphibians, invertebrates and bats;
- One of each inbuilt bat, bird and invertebrate provision to be incorporated into the proposed development, at a ratio of one of each provision type per building;
- Creation of habitat piles, consisting of logs, brash and/or grass cuttings within relatively undisturbed area/s of the site
- Future management of retained and created habitats on and/or off-site, to be informed by a Landscape Ecological Management Plan (LEMP).

Without mitigation, the proposed development does represent a negative ecological impact through the removal of habitat for amphibians, badger, bats, birds, hedgehog and reptiles. However subject to conditions that require the submission of a Construction Ecological Management Plan (CEMP) as part of any forthcoming reserved matters application which prescribes a precautionary approach to further site clearance, the submission of a reptile translocation programme into an identified protected wildlife area and a sensitive lighting plan and the submission of a Landscape Ecological Management Plan (LEMP) which secures the future management of retained and newly created habitats for the site, it is considered that the impacts on habitats and protected species can be appropriately managed and mitigated and a positive biodiversity impact can be achieved.

Habitat Regulations Assessment:

The site is located in close proximity to the Exe Estuary and the East Devon Pebble bed Heaths Special Protection Areas (SPA's) which provide an important recreational resource for the local community. However, these are sensitive environments which are important to nature conservation and are subject to European wildlife site designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47 (Nature Conservation and Geology) of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.67 per dwelling which has been secured as part of this application.

Arboricultural Impact:

Policy D3 - Trees and Development Sites of the Local Plan states that permission will only be granted for development, where appropriate tree retention and/or planting is proposed in conjunction with the proposed nearby construction. The council will seek to ensure, subject to detailed design considerations, that there is no net loss in the quality of trees or hedgerows resulting from an approved development. The development should deliver a harmonious and sustainable relationship between structures and trees. The recommendations of British Standard 5837:2012 (or the current revision) will be taken fully into account in addressing development proposals.

Whilst the layout of the site is reserved for future consideration, the application is accompanied by a tree constraints plan which has been used to inform the illustrative site plan that has been provided. The Arboricultural Report identifies that the most significant trees on site comprise oak trees. There is also a group of sycamore stems (G1), mixed species (A1) and mixed hedge (H1) towards the south-west of the site.

The application has been considered by the Council's Tree Officers who have advised that in principle there are no objections to the proposal. However it should be noted that it appears that one A category Oak (T10), located centrally within the site has been removed which had been highlighted as a significant constraint in the Initial Tree Constraint Appraisal provided by Advanced Arboriculture (Nov 2021). The Tree Constraints Plan provided does not show this tree and whilst its removal from the site is disappointing, the tree was not the subject of a Tree Preservation Order (TPO) such that the Council would not have been able to prevent its removal. Due to removal of the Oak, the tree officer has recommend that a TPO is made on the remaining trees on site.

Following removal of the Oak tree, the main tree constraints are on the eastern boundary where the tree officer has advised that there now appears to be room for the proposal.

It is considered necessary and reasonable to impose a condition which requires any reserved matters application to be accompanied by a Tree Constraints Plan and an Arboricultural Impact Assessment and Method Statement to demonstrate that the dwelling could be constructed in a manner that does not adversely affect the health and well-being of retained trees and hedgerows on site along with tree protection measures which would have to be in place prior to any development taking place on the site. In the absence of any objections from the Council's Tree Officer, it is considered that in principle a dwelling could be constructed on this site which could have a harmonious relationship with trees on the site in accordance with the requirements of policy D3 of the Local Plan.

Surface Water and Foul Drainage:

Policy EN22-Surface Run-Off Implications of New Development of the Local Plan states that planning permission for new development will require that:

1. The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.

2. Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development.
3. Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures.
4. A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications.

Policy 14 of the LNP states that development should not increase flood risk. The use of sustainable urban drainage schemes and permeable surfaces for parking areas and other hard landscaping will be supported. Where appropriate, design and access statements should include a flood risk statement.

The application site is located within an area designated as flood zone 1 (low probability of flooding) however land immediately to the south east does fall within an area designated as flood zones 2 and 3 on account of fluvial flooding from a water course known as Harefield Stream. It is accepted that the site urbanisation would lead to an increase in impermeable areas over its current greenfield use as a paddock. A surface water drainage strategy has not been submitted a part of the application although it is suggested that surface water would be disposed of by soakaways.

South West Water have considered the nature of the objections received on flood risk grounds and have advised that the sewers in the area are suitably sized to accommodate an additional dwelling, and the proposal to dispose of surface water via SUDS/Soakaway meets the first criteria of the surface water hierarchy. Should these prove unviable, there are dedicated surface water sewers in the area that could also handle the additional load.

There is no objection in principle to the use of SUDs as a means of disposal of surface water which follows the SUDs hierarchy but it is recommended that a condition is imposed which requires the submission of a detailed surface water drainage and management plan to ensure that surface water will be adequately disposed via ground infiltration at a rate which mimics that of the greenfield infiltration rate and does not lead to increase flooding elsewhere in accordance with the provisions of policy EN22- Surface Run-Off Implications of the Local Plan.

Policy EN19 - Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems of the Local Plan states that new development will not be permitted unless a suitable foul sewage treatment system of adequate capacity and design is available or will be provided in time to serve the development.

Development where private sewage treatment systems are proposed will not be permitted unless ground conditions are satisfactory and the plot is of sufficient size to provide an adequate subsoil drainage system or an alternative treatment system.

Foul drainage is proposed to be via the existing mains in the road via a sewage pump solution. It is understood that the foul drainage would connect with the main sewer at the east end of Birch Road rather than in Grange Close. This would accord with the provisions of policy EN19 of the Local Plan.

Planning Balance and Conclusions:

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

Whilst the proposal represents a departure from policy contained within the East Devon Local Plan and the Lympstone Neighbourhood Plan by proposing residential development, the majority of which is located outside of a Built Up Area Boundary, the site is considered to be in a sustainable location on the northern edge of the village where there would be safe and easy access to the wide variety of services and facilities and public transport on offer within Lympstone.

Without a 5 year housing land supply there is diminished countryside protection from the relevant parts of Local Plan policies i.e. Strategies 6 and 7 and the tilted balance in favour of sustainable development must be applied.. The proposed dwelling would make a modest contribution towards housing land supply and would result in no harm to highway safety or residential amenity having regards to the nature and scale of the development and the ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations. Additional planting and habitat creation would make a positive contribution towards biodiversity net gain. Local concern in relation to flood risk is acknowledged however a condition that requires the submission of a surface water drainage scheme and management plan that includes evidence of calculations to achieve a runoff rate as close to greenfield conditions as possible would be sufficient to ensure that the proposal does not increase flood risk elsewhere The proposal would introduce a dwelling without any sense of visual incursion into the countryside and would result in no significant visual harm to the character and appearance of the area from public viewpoints outside of the site.

The proposed development is located outside of the BUAB however the principle of a residential dwelling on this site raises no wider harm or planning concerns. In the absence of a five year housing land supply, it is considered that this proposal would represent a sustainable form of development, where there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, it is recommended that the application is approved.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
3. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have 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 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.
 - a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a full arboricultural survey based on BS5837:2012 to include a Tree Constraints Plan, a Tree Protection Plan and Arboricultural Method Statement including site monitoring and supervision shall be provided for the protection of the retained trees, hedges and shrubs growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme. Details of method of construction of any hard surfaces (i.e access, drainage) in the vicinity of trees shall also be provided.
 - b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - c) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - d) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such

installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

e) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

f) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

g) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation. A detailed landscaping scheme shall be provided showing suitable replacement planting for the removal of the Oak to ensure long-term tree cover.

(Reason – A pre-commencement condition is required to ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

5. Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 45% for climate change.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to any development above slab or ground level or creation of any new hardsurface, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 45% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 45% allowance for climate change" conditions.

The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually retained and maintained thereafter.

(Reason : In the interests of adapting to climate change and managing flood risk, and in order to accord with the provisions of policy EN22- Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031).

6. Any forthcoming reserved matters application shall be accompanied by a Construction Ecological Management Plan (CEMP) in accordance with the principles and mitigation measures contained within Section 5 (Assessment of Impacts) and the recommendations contained with Section 6 (Recommendations) of the Ecological Impact Assessment prepared by Ecologic (ref 211009 rev02). The development shall thereafter be carried out in accordance with the approved details. (Reason: To ensure a precautionary approach to site clearance and to ensure that the impacts on habitats and protected species can be appropriately managed and mitigated and that appropriate ecological mitigation measures are in place in the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

7. Any forthcoming reserved matters application for layout and or landscaping shall be accompanied by a Landscape Ecological Management Plan (LEMP) for a minimum period of 20 years in accordance with the principles and mitigation measures contained within Section 5 (Assessment of Impacts) and the recommendations contained with Section 6 of the Ecological Impact Assessment prepared by Ecologic (ref 211009 rev02). The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the proposed buildings with the exception of planting which shall be completed no later than the first planting season following first use. Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason: To ensure the future management of retained and newly created habitats for the site and that a positive biodiversity impact can be achieved in the interests of ecology and biodiversity in accordance with policy EN5- Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031).

8. Any reserved matters application shall be accompanied by details of existing and proposed ground and finished floor levels in relation to a fixed datum point. Development shall only proceed in accordance with the agreed details. (Reason - To preserve and enhance the character and appearance of the area in accordance with policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

9. Any landscaping scheme approved as part of a reserved matters application 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 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 East Devon Local Plan 2013-2031.)

10. The development hereby approved shall not be occupied until details of the foul drainage system to serve the development have been submitted to and agreed in writing by the Local Planning Authority and implemented in full. The foul drainage system shall be retained and maintained as such for the lifetime of the development. (Reason: In the interest of pollution control and flood risk management)

Statement on Human Rights and Equalities Issues:

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Plans relating to this application:

T.01	Location Plan	18.05.23
initial tree constraints appraisal	Other Plans	18.05.23
211009 REV02	Ecological Assessment	18.05.23

List of Background Papers

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

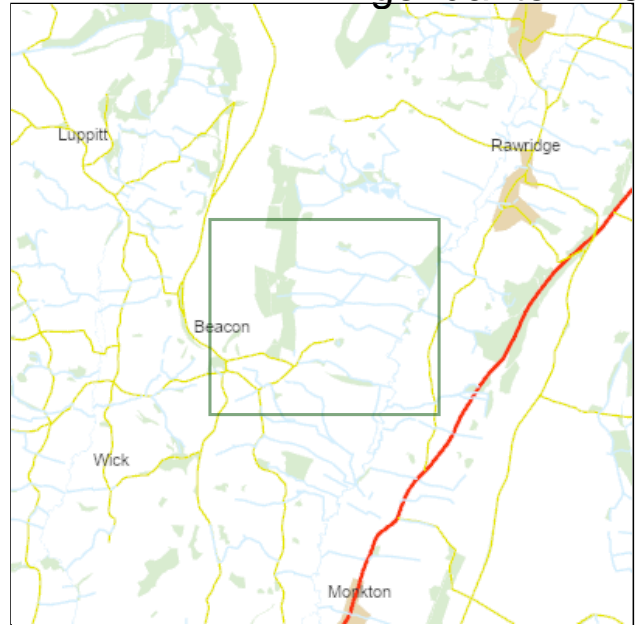
Ward Dunkeswell And Otterhead

Reference 23/0928/FUL

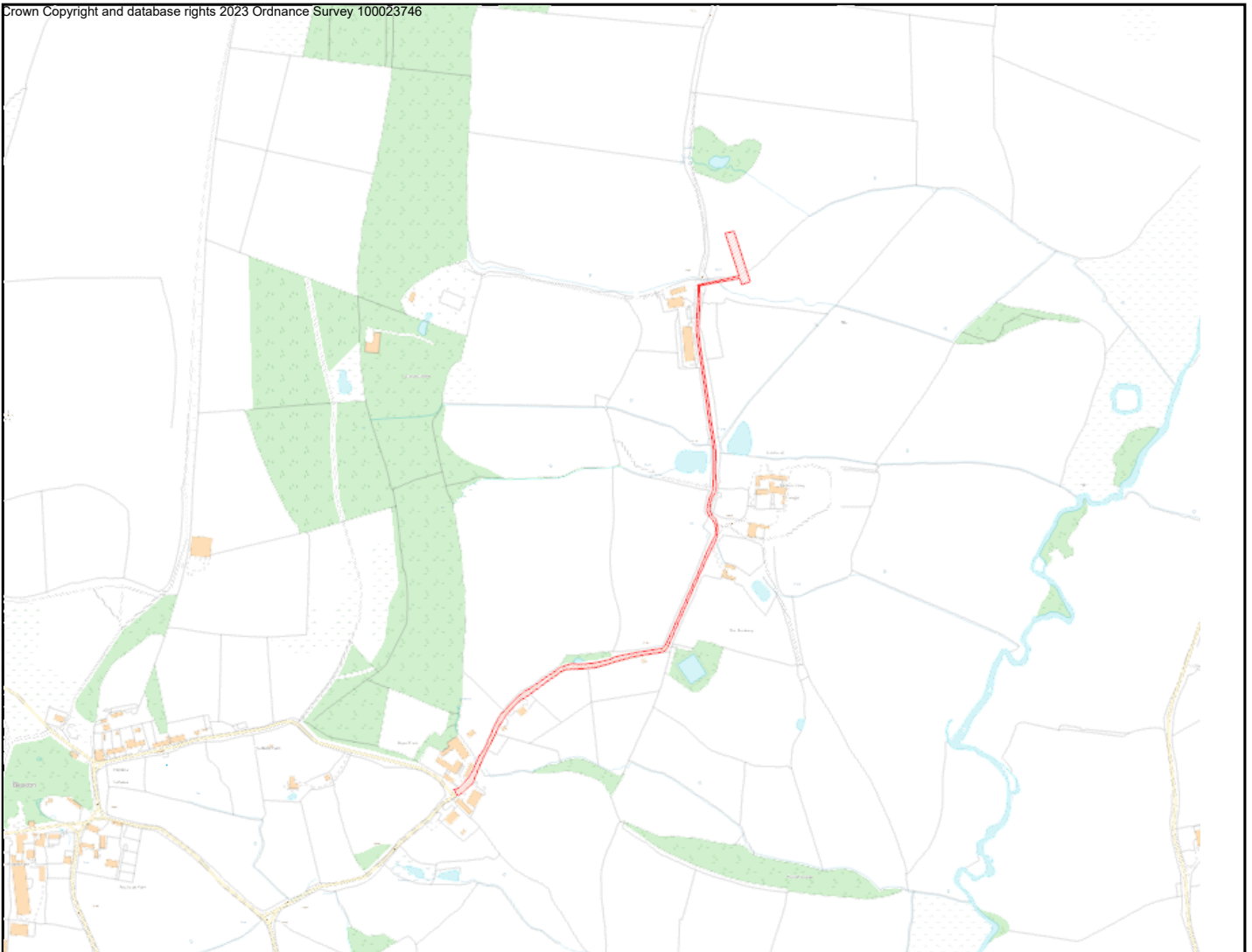
Applicant Mr & Mrs P Dart

Location Mohuns Ottery Luppitt Devon EX14 4TS

Proposal Livestock and general-purpose agricultural building with removal of hedgerow section



RECOMMENDATION: Refusal



		Committee Date: 22.08.2023
Dunkeswell And Otterhead (Luppitt)	23/0928/FUL	Target Date: 22.06.2023
Applicant:	Mr & Mrs P Dart	
Location:	Mohuns Ottery Luppitt	
Proposal:	Livestock and general-purpose agricultural building with removal of hedgerow section	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Committee as the officer recommendation is contrary to the view of a ward member and it is also noted that the Parish council support the application.

The proposal relates to an agricultural building which would be sited in the countryside and within the Blackdown Hills AONB, alongside a public bridleway. A group of grade II and II* Listed Buildings lie approximately 251 m to the south of the site, within the same landholding. The site is located within an area described in the East Devon Landscape Character Assessment as being of exceptional overall quality and which is visible from a number of public viewpoints.

The proposed building would be long, occupying an area of 22m x 92.6m, and it would cut obliquely across sloping ground, such that cut and fill ground engineering works would be required to create a level site for it. It would be set apart from the existing group of agricultural buildings on the farm and it would be sited across 2 fields, breaching an historic hedgerow and entailing the removal of a 35 m section of it. Landscape screening works are proposed which include new hedge planting.

Whilst the erection of the agricultural building is acceptable in principle and notwithstanding the landscaping offered to mitigate the impacts of the development, it is considered that the agricultural building and associated works would fail to conserve and enhance the special qualities of the AONB landscape. This is because the building would be a large, isolated building introduced into a high quality landscape and its siting would cut across a hedgerow landscape feature, disrupting the historic field pattern, as would the proposed landscape planting. The proposal is considered to have a significant adverse landscape

impact. It would also affect the attractiveness of the adjacent public bridleway. The proposal is therefore considered to be contrary to 'made' Luppitt Neighbourhood Plan Policies Policy NE1, ND2 and ND6 and Local Plan Strategy 46, and Policies D2, D7 and TC4.

In the absence of information demonstrating otherwise, the proposal would also result in a negative impact on biodiversity, due the removal of a section of hedge, and on nationally designated Sites of Special Scientific Interest, due to potential air pollution impacts.

Whilst a planning condition could address potential archaeological interests it is considered that the proposed landscape impact cannot be acceptably mitigated.

As such the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

Luppitt Parish Council is always keen to support traditional farming but did have concerns about the size of the building being proposed. A meeting was arranged with the applicants on site to address these concerns. As a result, the Parish Council is now satisfied that the size of the building is necessary to meet husbandry requirements. The Parish Council recognises the effort that has been made to align with the Luppitt Neighbourhood Plan (policy ND6) and the planning application details a landscaping plan to screen the building effectively from eastern/north-eastern visibility across the valley. Luppitt Parish Council feels that the screening proposal should be a firm condition of any planning permission granted. The applicants have assured the Parish Council that this will be carried out. With this assurance, the Parish Council supports this planning application.

Dunkeswell And Otterhead - Cllr David Key

I have no objection and so support.

Technical Consultations

Conservation

23/0928/FUL

Mohuns Ottery, Luppitt, Devon, EX14 4TS

Livestock and general-purpose agricultural building with removal of hedgerow section.

The site proposed for the agricultural building is located north of Mohuns Ottery a Grade II Farmhouse, which was completely rebuilt in 1868 after the old manor house burnt down. Constructed in local stone and flint rubble with Beerstone ashlar quoins and detail; stone rubble stacks topped with C20 brick (replacing former Beerstone ashlar chimneys) slate roof.

In setting the farmhouse forms part of a wider stead, including a Grade II* gatehouse and attached garden wall to the south, approx. 230 acres of surrounding land, and more recent agricultural structures to the north-west of the historic group.

In character the wider landscape surrounding Mohuns Ottery, is undulating in appearance with parcels of agricultural land clearly defined by mature hedgerows to the north, west and east of the principle dwelling.

Proposed works

The works as proposed are to introduce a livestock and general purpose agricultural building to the north-east of Mohuns Ottery.

The potential harm to the heritage assets as a result of the proposed development works, has been balanced against para. 206 of the NPPF21 as discussed in the assessment of harm which forms part of this report.

Assessment of harm

The proposed agricultural building as a portal frame structure measuring 22m x 92.6m is large in form sited north of the Grade II farmhouse and east of a public right of way.

Orientated on a north - south axis the overall mass and scale of the proposed structure will not be appreciated in views from the historic group, its visual appearance as part of the wider setting will be further screened through an existing hedgerow to the south and introduction of native tree hedgerows to the north, east and west of structure.

In summary the introduction of an agricultural building to the scale proposed would continue to preserve the contribution this agricultural setting makes to the historic group of listed buildings identified as Mohuns. Satisfying para. 206 of NPPF21.

Recommend approval

SLG

09.06.2023

DCC Historic Environment Officer

My ref: ARCH/DM/ED/38523a

I refer to the above application. The proposed development has a large footprint, involving not just the foundations for the building but cut-and-fill of the hillslope to create a level area, and it lies in an area of archaeological potential some 150m to the south-east of a prehistoric or Romano-British ditched enclosure identified through aerial photography. Given the proximity to the application area there is the potential that groundworks for the construction of the proposed development may expose and destroy archaeological and artefactual deposits associated with the recorded prehistoric/Romano-British activity in the vicinity. The impact of development upon the archaeological resource should therefore be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out

a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, 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 shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as 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 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be brought into its intended use until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, 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 can 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, and the finds and archive deposited in accordance with relevant national and local guidelines.

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/>.

Yours sincerely,
Stephen Reed, Senior Historic Environment Officer

EDDC Landscape Architect

1 INTRODUCTION

This report forms the EDDC's landscape response to the full application for the above site.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 LOCATION, SUMMARY PROPOSALS, SITE DESCRIPTION AND CONTEXT

2.1 Site description and context

The application site lies on the lower slopes of the upper Otter Valley with a moderately steeply sloping northeasterly aspect. The majority of the proposed barn is set within a small triangular field bounded by hedgebanks to its southeastern and northeastern sides. The western boundary of the field comprises a post and wire mesh fence. A small copse is situated in the northern corner of the field. Mohuns Ottery is situated 300m to the south beyond a mature tree belt. A group of three modern agricultural buildings are situated 100m to the northwest. The southern end of the proposed barn breaches the southeastern hedgebank and associated drainage ditch of the triangular field extending up to 18m into the adjacent field. A breach has recently been formed in the hedgebank where the proposed barn is intended to be situated.

Surrounding landscape is agricultural with a mix of medium sized fields of post medieval origin with arable and improved grassland on the lower slopes and

permanent grassland above, within an irregular matrix of hedgebanks with trees and scattered copses, rising to woodland on the scarp slopes. The River Otter follows a meandering, tree lined course 600m from the eastern site boundary. The landscape is generally in good condition and of high scenic quality with few modern detractors present.

There is no public access within the site but Luppitt bridleway 25 runs along the western boundary of the triangular field and affords attractive open views over the site and across the Otter Valley.

The site affords extensive views across and up the Otter Valley. There are clear views to the site from numerous locations on the far side of the valley particularly along the Monkton-Rawridge road and from the steeper roads rising up the eastern valley side to the A303. A number of scattered dwellings on the eastern valley side have views to the site.

There is presently no intervisibility between the site and Mohuns Ottery due to the intervening tree belt but opposite the site it is noted that this comprises predominantly of ash trees which are showing signs of ash die bank which if they succumb fully could result in a clear sightline between the two.

2.5 Surrounding landscape character

The site lies within East Devon Landscape Character Type (LCT) 3B - Lower rolling farmed and settled slopes. Key characteristics for this LCT relevant to the site are:

Gently rolling landform, sloping up from valley floor. Numerous shallow valleys contain small streams.

Many hedgerow trees, copses and streamside tree rows. Oak and ash predominate, and there are small blocks of woodland.

Predominantly pastoral farmland, often with a wooded appearance. Variable sized fields with wide, low hedged boundaries and a mostly irregular pattern, reflecting different phases of enclosure.

Semi-natural habitats include streams and ditches, grassland, woodland and trees. Numerous historic landscape features including farmsteads, lanes, villages and churches.

Settled, with various settlement sizes, building ages, patterns and styles. Various building materials, including stone, cob, whitewash/ render, slate, thatch and tile.

Winding, often narrow sunken lanes, with tall earth banks.

A relatively enclosed and sheltered landscape. Some parts of the LCT feel well settled, whilst others feel exceptionally remote, with very little traffic.

Views tend to occur across valleys, rather from within them. Higher land in other LCTs forms the backdrop to views.

Often strong colours within the landscape, influenced by underlying geology, season and choice of crops.

2.6 Local landscape character of the site

The local landscape character generally fits the LCT descriptions but is more open and remote in feel with a high sense of tranquillity.

The surrounding landscape retains a good proportion of historic field boundaries and trees and the overall quality is noted in the East Devon Landscape Character Assessment as exceptional.



Figure 1 - View from Luppitt bridleway 25 looking northeast across the site in the foreground and Otter Valley

2.7 Landscape, Conservation and planning designations

The site lies in the Blackdown Hills AONB. Paragraph 176 of the NPPF states that AONBs, along with National Parks, have the highest status of protection in relation to conservation and enhancement of landscape and scenic quality and that the scale and extent of development in these areas should be restricted.

Mohuns Ottery is grade II/ II* listed.

3.0 RELEVANT NATIONAL, REGIONAL AND LOCAL LANDSCAPE RELATED POLICY

The following landscape policies and guidelines are considered relevant to the application:

3.1 National Planning Policy Framework 2018

176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important

considerations in these areas, and should be given great weight in National Parks. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

177. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) 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;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

3.2 East Devon Local Plan 2013-2031

Strategy 3 - Sustainable Development

The objective of ensuring sustainable development is central to our thinking. We interpret sustainable development in East Devon to mean that [inter-alia] the following issues and their inter-relationships are taken fully into account when considering development:

- a) Conserving and Enhancing the Environment - which includes ensuring development is undertaken in a way that minimises harm and enhances biodiversity and the quality and character of the landscape.
- b) Prudent natural resource use - which includes minimising fossil fuel use therefore reducing carbon dioxide emissions. It also includes minimising resource consumption, reusing materials and recycling. Renewable energy development will be encouraged
- c) Promoting social wellbeing - which includes providing facilities to meet people's needs such as health care, affordable housing, recreation space and village halls.

Strategy 7 - Development in the Countryside

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.

Strategy 46 - Landscape Conservation and Enhancement and AONBs

Development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty.

Development will only be permitted where it:

1. conserves and enhances the landscape character of the area;
2. does not undermine landscape quality; and
3. is appropriate to the economic, social and well-being of the area.

D1 Design and Local Distinctiveness

Proposals will only be permitted where they:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.
3. Do not adversely affect inter alia:
 - Important landscape characteristics, prominent topographical features and important ecological features.
 - Trees worthy of retention.
4. Have due regard for important aspects of detail and quality and should incorporate inter alia:
 - Use of appropriate building materials and techniques respecting local tradition and vernacular styles as well as, where possible, contributing to low embodied energy and CO2 reduction.
 - Appropriate 'greening' measures relating to landscaping and planting, open space provision and permeability of hard surfaces.

D2 Landscape Requirements

Landscape schemes should meet all of the following criteria:

1. Existing landscape features should be recorded in a detailed site survey, in accordance with the principles of BS 5837:2012 'Trees in Relation to Construction' (or current version)
2. Existing features of landscape or nature conservation value should be incorporated into the landscaping proposals and where their removal is unavoidable provision for suitable replacement should be made elsewhere on the site. This should be in addition to the requirement for new landscaping proposals. Where appropriate, existing habitat should be improved and where possible new areas of nature conservation value should be created.
4. Measures to ensure routine maintenance and long term management should be included.

5. Provision for the planting of trees, hedgerows, including the replacement of those of amenity value which have to be removed for safety or other reasons, shrub planting and other soft landscaping.
6. The layout and design of roads, parking, footpaths and boundary treatments should make a positive contribution to the street scene and the integration of the development with its surroundings and setting.

D7 - Agricultural Buildings and Development

New agricultural buildings and/or buildings intended for intensive agricultural activities that could give rise to adverse amenity, landscape, environmental or other impacts will be permitted where there is a genuine agricultural need for the development and the following criteria are met:

1. It is well integrated with its surroundings and closely related to existing buildings, being of appropriate location, scale, design and materials so as not to harm the character, biodiversity and landscape of the rural area particularly within the AONB.
2. It will not be detrimental to the amenity of nearby residents on grounds of smell, noise or fly nuisance.
4. It has been established that there are no other suitable buildings on the holding or in the vicinity which could meet the reasonable need.
5. It will not lead to an unacceptable increase in traffic on the local highway network
6. All clean roof and surface waters will be drained separately from foul drainage and foul drainage will not discharge to any watercourse in order to prevent pollution of the water environment.

Proposals for the development of new large scale buildings for livestock or for other use that could have polluting impacts should be accompanied by a Waste Management Plan.

3.3 Blackdown Hills AONB Management Plan

The Blackdown Hills AONB draft management plan 2019-2024 sets out a number of policies aimed at protecting landscape character and quality within the AONB amongst which, of particular relevance to the application are:

Objective FLM - To support farming and forestry practices that conserve and enhance the special qualities of the AONB and deliver a range of ecosystem services.

Policy PD2 - All necessary development affecting the AONB will conserve and enhance natural beauty and special qualities by:

Respecting landscape character, settlement patterns and local character of the built environment.

Being sensitively sited and of appropriate scale.

Seeking to protect and enhance natural features and biodiversity.

4 REVIEW OF SUBMITTED INFORMATION

4.1 Issues with submitted information

4.1.1 Landscape and Visual Appraisal

Not provided. Given the scale of the proposal and sensitivity of the landscape and visual receptors an LVA should have been submitted.

4.1.2 Layout and landscape details

The proposed building is open sided to its west elevation. The other elevations have precast concrete lower walls with vertical boarding above.

No details of drainage are provided with the application. Given the sensitivity of the site and proximity to the River Otter, proposals for surface water drainage and foul run off as part of a waste management plan should be provided prior to determination in accordance with policy D7 item 6.

An appropriate ecological appraisal should have been provided particularly as the proposal entails the loss of a section of existing hedgebank and the proposed building has potential to disrupt bat commuting and foraging routes.

Details of required underground and overground services should be provided. Details of proposed internal and external lighting and expected timings of operation, means of control and measures for prevention of light spill should also be provided.

4.2 Landscape and visual effects of proposed development

The surrounding landscape is in good condition and of high value as recognised by its AONB status. This together with the open character, and high scenic quality of the landscape and lack of modern development make it highly sensitive to change of the type proposed.

The proposed barn measures 100x23x6m high and has an area 250% larger than the existing barn to the southwest and is twice as long and is situated away from other buildings. The placement of such a large, linear structure such that it breaches an historic curving hedgebank on an open valley side is strongly at odds with local landscape character. Due to its size and the alignment of the building not following the valley contours, a significant amount of earthwork is required in order to create a level platform that does not reflect the gently rolling landform. The placement of the building through the breach in the hedgebank would disrupt the historic field pattern. The proposed pre-cast concrete lower walls will be a conspicuous feature in views from the east.

The proposed Devon hedgebank adjacent to the bridleway, if carefully constructed in accordance with Devon Hedge Group recommendations (Appendix A), could be considered to enhance the landscape although it would also limit views across the valley for bridleway users. The proposed hedgebank and associated planting to the eastern side of the building does not reflect the existing field pattern, and while in

time it could help to screen the building in views from across the valley, it would itself be a poor fit in the landscape.

The mitigation is wholly dependent on the successful establishment of screen planting which cannot be taken for granted and would in any case take some years to mature.

Principle visual receptors (people effected by visual change arising from the proposal) are:

Users of Luppitt bridleway. The development would be particularly evident during the construction phase. Construction of the proposed hedgebank along the boundary with the bridleway is likely to partially limit views of the barn from it, particularly once planting has established, although the southern end would be visible where it breaches the hedgebank.

Users, particularly walkers and cyclists, on the lane running along the east side of the valley between Monkton and Rawridge. These users will have a mix of open and partially filtered views of the site through a number of gateway openings and over the top of the roadside hedgebank particularly in winter when there are no leaves and hedges have been cut.

Walkers descending Pound Lane have occasional views across the valley directly towards the site where the proposed shed would be clearly visible.

Residents of a number of scattered dwellings on the east side of the valley.

The proposal is likely to give rise to moderate to high adverse visual impact on these receptors particularly given the scale, location and setting.



Figure 2 - Approximate location and scale of proposed building



Figure 3- View southwest over site from Luppitt bridleway 25



Figure 4 - View from Pound Lane looking southwest over site

Mohuns Ottery is unlikely to be directly affected by the development but in some views from across the valley the development would be seen in conjunction with it, impacting on the appreciation of its historic isolated setting.

5 CONCLUSIONS & RECOMMENDATIONS

5.1 Acceptability of proposals

The proposed shed would be an isolated structure, out of scale with its surroundings and any other buildings in the vicinity and its siting fits poorly with local landscape character. On the basis of the details submitted the scheme is considered likely to give rise to substantial landscape and visual impacts on local landscape character, the special qualities of the AONB and key visual receptors. As such it should be considered in conflict with National/ Local Plan policies NPPF para 176, Local Plan strategy 7 and 47, and policies D1, D2 and D7 part 1) and Blackdowns AONB management Plan policy PD2 and should be refused. If other factors weigh in the planning balance the LPA should prepare an appropriate assessment in accordance with NPPF para. 177.

5.2 Landscape conditions

Notwithstanding the above advice in the event that approval is granted, the following conditions should be imposed:

1) No development work shall commence on site until the following information has been submitted and approved:

a) Landscape plan(s) showing locations, species and number of new native tree and hedgerow planting,

b) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

c) details of proposed Devon Hedgebanks which should be constructed and planted in accordance with recommendations of the Devon Hedge Group (refer Appendix A)

d) Tree pit and tree staking/ guying details.

e) Planting notes covering:

Tree and hedgerow planting; mulching and means of plant support and protection during establishment period and 5 year maintenance schedule.

Soil quality, depth and preparation for seeding of earth embankments, proposed seed mix and application rates and timings.

f) 30 year hedgerow management plan for existing and proposed hedgerows/ hedgebanks

2) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

3) The works shall be executed in accordance with the approved drawings and details and shall be completed no later than the first planting/ sowing season following first use of the store.

4) Any new planting or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced with plants of similar size and species to the satisfaction of the LPA.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Strategy 3 (Sustainable Development), Policy D1 (Design and Local Distinctiveness), Policy D2 (Landscape Requirements) and Policy D3 (Trees in relation to development) of the East Devon Local Plan. The landscaping scheme is required to be approved before development starts to ensure that it properly integrates into the development from an early stage.)

EDDC Chris Hariades CMLI
Landscape and Green Infrastructure Officer

Natural England

1/08/23

Thank you for your consultation on the above dated 24 July 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Insufficient information provided

There is insufficient information to enable Natural England to provide a substantive response to this consultation as required under the Town and Country Planning (Development Management Procedure) (England) Order 2015. Please provide the information listed below and re-consult Natural England. Please note that you are required to provide a further 21 day consultation period, once this information is received by Natural England, for us to respond.

Natural England is not able to assess this case as there is insufficient information provided in relation to air quality impacts.

Manure stores, slurry lagoons and livestock sheds are a major source of emissions of ammonia which is directly toxic to vegetation and especially to lower plants (mosses, liverworts and lichens). Ammonia is also a major contributor to the deposition of nitrogen, which reduces habitat biodiversity by promoting the growth of a relatively small number of the more vigorous plant species which then out-compete the other species present.

Our Impact Risk Zones (SSSI Impact Risk Zones layer within Statutory Land Based Designations on Magic Map available at: <http://magic.defra.gov.uk/>) have identified that interest features of designated sites

o Hense Moor Site of Special Scientific Interest (SSSI)

- o Hense Moor Meadows Site of Special Scientific Interest (SSSI)
- o Southey & Gotleigh Moors Site of Special Scientific Interest (SSSI)

may be sensitive to impacts from aerial pollutants, such as those emitted from this proposed development. The consultation documents provided do not include any assessment of air quality impacts.

In order for us to advise on this case an initial screening for air quality impacts should be completed. This is required even if the stock numbers are remaining the same or decreasing. Simple screening tools are available via the internet, the relevant regulator or consultants. The results of screening should inform the need for any further, more detailed assessment which may be required to fully assess the impacts of the proposal. Natural England would be happy to advise on the results of the screening opinion and any further steps required.

Please be aware that Natural England now applies a 1% of ammonia Critical Level significance screening threshold alone and in combination including permissions from all sectors (this should also include recent permissions not yet included in the Air Pollution Information System NH₃ background data). Natural England's approach to screening for air quality impacts differs from that of the Environment Agency (see Annex B)

Prior to re-consulting, please ensure a suitable air quality screening assessment is provided. If using the Simple Calculation of Atmospheric Impact Limits (SCAIL) model: <http://www.scail.ceh.ac.uk/> **please ensure the applicant has enclosed the final input file (PDF format), the outputs for the model and the results (CSV format), with the details of the application.**

For guidance on how to do this in the free online SCAIL, please see the attached annex.

Natural England has not considered any other matters at this stage. We will provide advice on all relevant matters upon receipt of this information.

Should the applicant wish to explore options for avoiding or mitigating effects on the natural environment with Natural England, we recommend that they use our Discretionary Advice Service.

Defra have launched a Slurry Investment Scheme and Grant (SIG) which will allow pig, dairy and beef farmers producing slurry to access funding to contribute towards improving their slurry storage. This is a step by government to reduce nutrient pollution from agriculture. The infrastructure allowed under the grant will be subject to conditions and safeguards and underpinned by existing regulations. The degree of impact on the natural environment should be considered on a case-by-case basis, but in principle, Natural England support this scheme and expect that most projects will reduce nutrient pollution through better slurry management. You may want to confirm with the applicant if the proposal is subject to the SIG scheme. Defra have produced information about the SIG scheme which may aid your decision-making on this application.

Protected Landscapes - Blackdown Hills Area of Outstanding Natural Beauty (AONB)

The proposed development is for a site within or close to a nationally designated landscape namely Blackdown Hills 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 176 and 177 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 177 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.

Priority Habitats and Species

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on Gov.uk.

Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here:

<https://www.buglife.org.uk/resources/habitat-hub/brownfield-hub/>

Please send further correspondence to consultations@naturalengland.org.uk quoting our reference 443296.

Other Representations

None received.

PLANNING HISTORY

Reference	Description	Decision	Date
02/A0022	Agricultural Notification/Determination – Erection of hay and straw storage barn	Approval with conditions	12/11/2002
12/1318/FUL	Construction of livestock building	Approval with conditions	16/08/12
12/2143/FUL	Construction of livestock building	Approval with conditions	23/11/12

The site of application 12/2143/FUL lies to the southwest of the site of the application subject to this report. The applicant's agent has confirmed that the development permitted through that permission has not been implemented.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)

Strategy 7 Development in the Countryside

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

D7 (Agricultural Buildings and Development)

EN5 (Wildlife Habitats and Features)

EN6 (Nationally and Locally Important Archaeological Sites)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Neighbourhood Plans (NP)

Luppitt Neighbourhood Plan (made)

Relevant Policies:

Policy NE1 – Protecting and Enhancing the Rural Landscape

Policy NE2 – Protecting and Enhancing Natural Habitats

Policy ND2 - Materials, Design and Siting

Policy ND6 - Farm Buildings

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Other Documents

Blackdown Hills AONB Management Plan 2019 - 2024

Site Location and Description

The site is in the countryside and within the Blackdown Hills Area of Outstanding National Beauty (AONB). The site is roughly rectangular in shape and straddles 2 fields by breaching a hedgerow and its associated drainage ditch at its southern end. The land within and around the site slopes down to the east and is currently in agricultural use. The 2 fields have hedges along most of their boundaries and appear to have been in arable and grazing use in recent years. The rectangular site is not aligned with the contour of the surrounding land but instead cuts across the contour of the slope, at an oblique angle to the slope. Luppitt Bridleway 25 lies approximately 25 m to the west of the site, running north-south along an existing track. A group of listed buildings including the Grade II listed Mohuns Ottery Farmhouse and a Grade II* listed gatehouse and attached garden wall lie approximately 251m to the south. To the west and southwest of the site, on the other side of the bridlepath/track, lie 3 no. agricultural buildings which are within the ownership of the applicant.

There are no dwellings near to the development site other than those within the applicant's ownership. The site lies within an airfield safeguarding area and an SSSI Impact risk zone.

Proposal

The new owners of Mohuns Ottery have taken back land, which was previously let out, in order to manage their own farming business which includes rearing beef cattle to their finishing weights. Supporting information states that the small number of modern buildings at the farm do not have the capacity to service the land holding and the livestock, machinery and fodder involved. It is pointed out that the farm is split by a public right of way, which severs it into two blocks and that whilst the smaller of the two blocks is served by the existing modern buildings within that block, a larger 170 acre block to the east has no buildings on it. To assist with the management of cattle using the larger eastern block of land the applicants have identified a need to erect a building there. It is stated that this would avoid the need for cattle to cross and re-cross the right of way, avoiding issues relating to the health and safety of livestock and the public and supporting bio-security, including in relation to bovine TB. The building would be 22m x 92.6 m in area, with its north, east and south elevations partly enclosed. As part of the proposal a section of hedgerow would be removed and a landscape scheme has been submitted to mitigate the impact of the development and enhance the character of the area.

ANALYSIS

The main issues for consideration are the principle of development, visual impact and impacts on archaeology, heritage, the right of way, ecological interests and travel and highway safety.

Principle

Development in the countryside is resisted through LP Strategy 7- Development in the Countryside, except where it is specifically supported by other planning policy. In this case LP Policy D7 - Agricultural Buildings and Development, supports agricultural development in principle, provided that there is a genuine agricultural need for it. The proposed building is clearly designed for agriculture and its large scale allows for a livestock area, a slurry store and a hay store to be located in close proximity to each other and under the same roof, as shown on the submitted floor plan. The practicalities of using such a building for rearing cattle are understood and it is therefore accepted that a large building may be needed at the farm and that the existing smaller buildings at the site may not be suitable. There is therefore no reason to doubt that there is a genuine need for the building at the farm. The further criteria of LP Policy D7 and other relevant policies which must be met by the proposal are discussed under the headings below.

Visual Impact

The application site is within the AONB. Paragraph 176 of the National Planning Policy Framework states that:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads ⁵⁹. The scale and extent of development within all these designated areas should be

limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

The Landscape Officer has considered the proposal and advises that the surrounding landscape is of high scenic quality and highly sensitive to change. Due to the location of the site on an open valley side within a gently rolling landform, the proposed isolated, large building, which would entail significant earthworks in order to site it on level ground, is considered to be strongly at odds with the landscape character.

Unfortunately, there is some imprecision and contradiction in the submitted plans relating to the proposed landform and landscaping as listed below:

- the section widths shown on plan 0100 revision C (Proposed Site Layout) do not match the section widths illustrated on the section drawing 0220 revision E (Proposed Sections);
- plan 0100 revision C is not consistent with the locations of proposed hedgerows shown on Landscape Plan SM1 or the section drawing 022 revision E;
- plan 0100 revision C does not precisely show the location of proposed hedgerows, described in the annotation within the cut and fill areas;
- Plan 0100 revision C does not show any ground engineering works at the north-western end of the proposed building, though these are likely to be required, given the degree of cut illustrated in section on drawing 0220 revision E

Notwithstanding these issues with plans the proposal has been considered together with all the landscaping proposed. The Landscape Officer notes that the proposed building would breach an historic hedgebank, which would be at odds with the landscape character and would disrupt the existing historic field pattern. He also suggests that the precast concrete lower walls of the building would be conspicuous in views from the east. An adverse impact on the setting of Mohuns Ottery in views from across the valley has also been identified. Whilst he considers that a new hedgebank adjacent to the bridleway could provide landscape enhancement, he notes that it would also limit the views from that bridleway and that in conjunction with the other proposed planting, it would not reflect the existing field pattern or complement the existing landscape. He also warns that landscaping offered as mitigation would take some time to mature.

Taking into account the Landscape Officer's advice, it is considered that the proposal would have a moderate to high adverse visual impact on the local landscape character and special qualities of the AONB, such that it would not accord with both National and Local Plan Policies which require that development conserves and enhances the ANOB's character and appearance. In particular, the proposal would conflict with the requirements of the following NP Policies: NE1 - Protecting and Enhancing the Rural Landscape, NE2 - Protecting and Enhancing Natural Habitats, ND2 - Materials Design and Siting and ND6 - Farm Buildings (which requires farm buildings to be sited within or on the edge of existing groups of farm buildings wherever possible, or otherwise within the contours of the landscape and where it can be effectively screened). The proposal would also conflict with LP Strategy 46 - Landscape Conservation and Enhancement and AONBs and LP Policies D2 - Landscape Requirements and D7 - Agricultural Buildings and Developments.

It is unclear why a different location on the landholding, avoiding some of the harms identified above, has not been proposed for the building. Information supporting the proposal indicates that in choosing the site the applicant seeks to avoid health and safety issues arising between livestock and users of the bridlepath and to avoid bio-hazard risk in relation to livestock. It is, however, difficult to understand this reasoning given that within the surrounding countryside it is commonplace for rights of way to cross agricultural land containing livestock and that methods are available to separate the public from livestock temporarily crossing or re-crossing public rights of way.

In the case that the application were to be approved the application it is recommended that conditions be imposed to mitigate the impact of external lighting and to secure appropriate landscaping, both to mitigate the visual impact of the proposal on the landscape and to enhance it, in accordance with the requirements of the strategies and policies listed above.

Archaeology

The County Archaeologist has considered the proposal and advises that the site lies in an area of archaeological potential and that the proposed groundworks could expose and destroy archaeological and artefactual deposits associated with the recorded prehistoric/Romano-British activity in the vicinity. He recommends that in order to mitigate the impact of the development on archaeological interests a written scheme of investigation (WSI) setting out a programme of works should be provided in support of the application. Such a scheme has not been submitted and agreed to date so in the case that the application is to be approved, it is recommended that a standard archaeological condition be imposed to require a WSI to be submitted prior to the commencement of any development, with a restriction on the commencement of development until this is agreed and a programme of archaeological work has been secured. With such a condition in place the proposal would accord with the requirements of LP Policy EN7 - Proposals Affecting Sites which may be potentially of Archaeological Importance.

Heritage

The Conservation officer has considered the proposal and notes that due to its location north of the historic building group and its north-south orientation, the overall mass and scale of the proposed building will not be appreciated in views from the historic building group and that an existing hedgerow to the south of the site together with proposed hedgerow planting would provide screening. Overall it is considered that the proposal would preserve the contribution the agricultural setting makes to the historic group of listed buildings. It is therefore considered that the proposal satisfies the requirements of LP Policy EN9 – Development Affecting a Designated Heritage Asset.

Rights of Way

LP Policy TC4 - Footpaths Bridleways and Cycleways states that development which would result in the loss, or reduce the convenience or attractiveness of an existing or proposed footpath, cycleway or bridleway, will not be permitted unless an acceptable alternative route is provided. The proposed building would not block Luppit Bridleway 25 and although some farm traffic would use that bridleway it is not considered that this is likely to be of a greater volume than could otherwise arise at the farm in relation

to its existing agricultural use. The convenience of using the bridleway is therefore unlikely to be affected by the proposal. The proposed building is likely to be visible from the bridleway in the short and medium term because the proposed new hedge planting would take time to establish. Notwithstanding the proposed new planting, the building would in any case be visible from the bridleway through an access gap to the southwest of the building, in the long term. There are currently attractive views from the bridleway over the application site and across the Otter Valley. Given this, and that if the proposed building is erected it would be seen as a large solitary building, cutting through an existing hedgeline and not aligned along the natural land contours, but cutting slightly into them (with associated earthworks), it is considered that the proposal would harm the attractiveness of part of Luppit Bridleway 25. As no alternative route for the bridleway is offered the proposal is therefore not considered to meet the requirements of LP Policy TC4 - Footpaths Bridleways and Cycleways, as referred to above.

Ecological Interests

The proposed building and associated ground engineering works are located within 2 adjoining fields which the applicant states have been subject to chemical input and mechanical operations, such that they are unlikely to have ecological value. Whether or not that is the case the proposal involves the removal of a 35m long section of native hedge between the 2 fields and such a hedgerow would provide wildlife habitat and potentially support protected species. A biodiversity survey should have been submitted with the application, providing a professional assessment of the likely impacts of the development and describing any precautionary measures necessary to protect wildlife during the works and any measures required to provide appropriate mitigation and/or compensation. At a site visit undertaken during the course of the determination it was discovered that the section of hedge has already been removed. Any potential harm to ecological interests that might have been identified through a survey have therefore, unfortunately, already occurred. New native hedge planting is described in the proposal which is longer than the section of hedge removed, though such hedge planting will take time to establish and it is not known if it would adequately compensate for the hedge habitat which has been removed. It is therefore not possible to conclude that the proposal would meet the requirements of LP Policy EN5 - Wildlife Habitats and Features or NP Policy NE2 – Protecting and Enhancing Natural Habitats.

The site lies within a Site of Scientific Interest Impact Zone and due to the size of the proposed livestock building Natural England have been consulted on the proposal in relation to potential air pollution impacts. Natural England's response is that inadequate information has been supplied in relation to potential air quality impacts on interest features of the following designated sites, which could arise from the proposal:

- Hense Moor Site of Special Scientific Interest (SSSI)
- Hense Moor Meadows Site of Special Scientific Interest (SSSI)
- Southey & Gotleigh Moors Site of Special Scientific Interest (SSSI).

In their response they provide guidance as to the information required. Given this response from Natural England it is considered that the impact of the proposal on the designated sites listed above is unknown and that the proposal would potentially cause harm to them, in conflict with the requirements of LP Strategy 47 (Nature

Conservation and Geology) and NP Policy NE2 – Protecting and Enhancing Natural Habitats.

Travel and Highway Safety

No changes are proposed to the access to the highway so it is not considered that the proposal would represent a risk to highway safety. The site is already in agricultural use, which could allow for a variety of agricultural activities to take place there so it is therefore not considered that the proposal would generate a significantly different need to travel than could already arise. No objection has been received from the Local Highway Authority. The proposal is therefore considered to meet the requirements of LP Policy TC2 - Accessibility of New Development and TC7 - Adequacy of Road Network and Site access.

Other issues

The proposal lies within an airport safeguarding area where consultation with Exeter Airport is required in relation to any proposal. The consultation is underway and no comment has been received at the time of writing this report, however the consultation period remains open to 15/8/23. Any response received will be reported to the committee.

CONCLUSION

The proposed agricultural building would support the expansion of an agricultural enterprise, with associated economic benefits, and it is acceptable in principle. The development would not conflict with archaeological interests potentially present at the site provided a suitable condition is imposed to secure an acceptable archaeological investigation.

The proposal would be likely to have an impact on biodiversity and would potentially impact on nationally designated sites however no biodiversity survey or information relating to air quality impacts has been submitted with the application therefore the impact of the proposal on biodiversity and nationally designated sites is unknown.

The proposal would have a moderate to high adverse visual impact on the local landscape character and special qualities of the AONB which would conflict with National, Local and Neighbourhood Plan Policies. It would also impact on the attractiveness of a public right of way. Overall, it is considered that the adverse landscape impact and other adverse impacts are not outweighed by the economic benefit, such that the proposal does not represent sustainable development.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed agricultural building would be sited within the countryside and within the Blackdowns Area of Outstanding Natural Beauty (AONB) which has the highest status of protection in relation to its landscape and scenic beauty. The site is visible from several public viewpoints including the adjacent Luppit Bridleway 25. The building would not closely relate to existing buildings and

its scale and orientation across the contour of the site necessitates significant ground engineering works. The building would breach a historic hedgerow and the length of the building would lie across it, almost perpendicular to the line of the hedge, disrupting the historic field pattern. The proposed landscaping fails to reflect the existing field pattern, would offer no mitigation in the short to medium term and would limit the existing views across a valley from Luppit Bridleway 25. The development would therefore fail to integrate with its surroundings or conserve and enhance the character and appearance of the AONB and it would harm the attractiveness of a public right of way, in conflict with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and policies D7 (Agricultural Buildings and Development), D2 (Landscape Schemes) and Policy TC4 Footpaths Bridleways and Cycleways of the East Devon Local Plan, policies NE1 (Protecting and Enhancing the Rural Landscape), NE2 (Protecting and Enhancing Natural Habitats), ND2 (Materials Design and Siting) and ND6 (Farm Buildings) of the Luppit Neighbourhood Plan and paragraphs 100, 174 and 176 of the National Planning Policy Framework.

2. The proposal necessitates the removal of a 35m length of historic hedgerow in order to site the building and in the absence of a biodiversity survey, the proposal does not demonstrate that harmful impacts on biodiversity relating to the removal of that section of hedgerow would be adequately compensated. In addition, the proposal relates to the keeping of livestock and associated slurry storage and in the absence of information demonstrating otherwise, the proposal could have a harmful impact on SSSIs in relation to the air quality impacts. The proposal therefore conflicts with Strategy 47 (Nature Conservation and Geology) and Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan, Policy NE2 (Protecting and Enhancing Natural Habitats) of the Luppit Neighbourhood Plan and paragraphs 174, 176 and 180 of the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

SM1 R	Location Plan	15.06.23
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0100 Rev C: Proposed	Layout	15.06.23
0220 Rev E: Proposed	Sections	15.06.23
0210 A	Proposed Elevation	27.04.23
SM1	Proposed Site Plan	27.04.23
0221 A : proposed	Sections	27.04.23
0200 A	Proposed Floor Plans	27.04.23

List of Background Papers

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

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Ward Woodbury And Lymptone

Reference 23/0446/FUL

Applicant Mr Pete Clutton-Brock

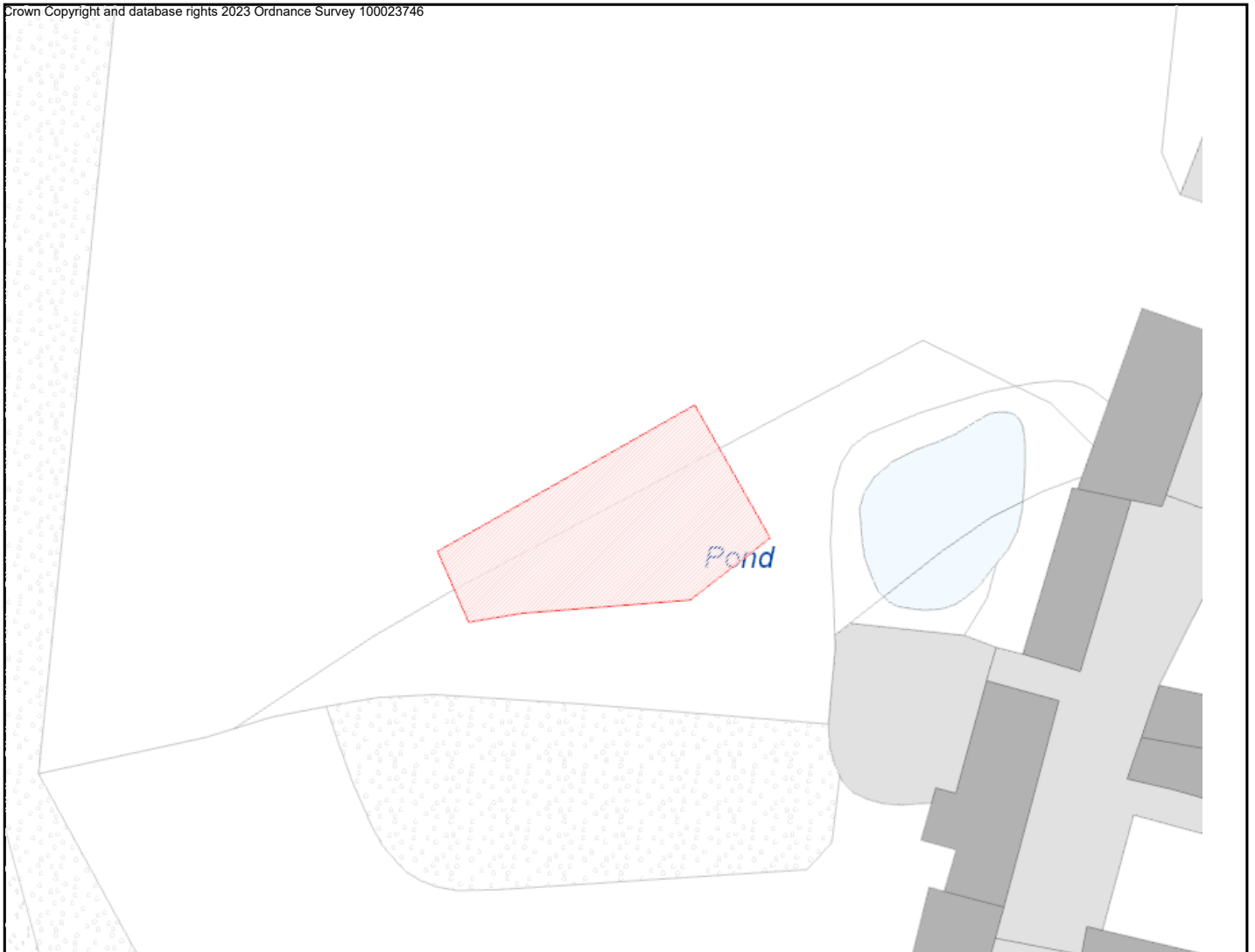
Location Coombe Park Farm Woodbury Salterton Devon
EX5 1PZ

Proposal Proposed erection of a glamping pod



RECOMMENDATION: Approval with conditions

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		Committee Date: 22.08.2023
Woodbury And Lympstone (Woodbury)	23/0446/FUL	Target Date: 28.04.2023
Applicant:	Mr Pete Clutton-Brock	
Location:	Coombe Park Farm Woodbury Salterton	
Proposal:	Proposed erection of a glamping pod	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The proposal is for the siting of a contemporary style glamping pod approx 20m from the farm buildings at Coombe Park farm; the pod is set on ground lower than the farm buildings adjacent to a tree copse. It will not be visible from any public view points. Vehicular access will be via the farm access with pedestrian access only from the farm yard to the pod.

The site is within the open countryside but otherwise has no designations.

Policy E4 of the Local Plan supports rural diversification such as this subject to meeting a number of criteria. The proposal development meets all of the necessary criteria and is therefore is fully in accordance with Policy E4 and Strategy 7 of the Development Plan.

As such it is recommended that planning permission is granted subject to conditions set out below.

CONSULTATIONS

Local Consultations

Technical Consultations

Woodbury And Lympstone - Cllr Geoff Jung
23/0446/FUL

I have viewed the documents for 23/0446/FUL for the proposed erection of a glamping pod for Coombe Park Farm Woodbury Salterton

The documents describe this as glamping facilities for two people and is intended to diversify the use of the farm. However, it is in very remote location using a grassy farm track to the site for tractor type vehicles from the main farm buildings. The main access will be on foot through existing and new paths through the farm. Although this is a very small development it is in the open countryside and a substantial distance to facilities. Therefore, I cannot support, however, I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Parish/Town Council

Woodbury Parish Council does not support this application.

The development is in open countryside which is against the policy of East Devon Local Plan and Village Plan Policy.

Parish/Town Council

Woodbury Parish Council does not support this application.

The development is in open countryside which is against the policy of East Devon Local Plan and Village Plan Policy.

Woodbury And Lympstone - Cllr Geoff Jung

23/0446/FUL

I have viewed the further documents for the planning permission 23/0446/FUL for the proposed erection of a glamping pod at Coombe Park Farm Woodbury Salterton. The further documents show that the location is closer to the existing buildings rather in an isolated field. Although it is claimed that this proposal is to benefit farm diversification, I feel on balance this development in the open countryside is not appropriate.

I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

2/8/23 – Cllr Geoff Jung

Thank you for your report and recommendation which unfortunately I'm unable to agree to

Woodbury and Lympstone - Cllr Ben Ingham – 2/8/23

I recommend approval for this application

Other Representations

None received

PLANNING HISTORY

Reference	Description	Decision	Date
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

E4 (Rural Diversification)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Relevant Planning History

The site has no relevant planning history.

ANALYSIS

Site Location and Description

The application has been amended since first submitted. The repositioned location (following discussion on the original site) is in a small wooded area circa 20m west of the existing farm buildings. The position of the site is approximately 10m lower than the aforementioned agricultural buildings.

The site is accessed through the farms' yard area, which itself has access to the public highway to the south.

The wider farm is approximately 6.6 hectares in area (16.4 acres).

The site is in open countryside but has no statutory designation constraints.

Proposed Development

The planning application seeks permission for the erection and operation of a glamping pod (holiday accommodation).

The structure proposed would be 5m in diameter, and approximately 5.5 m high (plus base). It would have the shape of an acorn, with panels forming the walls (being wooden and glazed). To manage the topographic differences from east to west (there being a lowering in ground height) the pod is to be positioned on a

purpose built plinth (finished with timber shingles). This plinth will provide storage and plant for the facility and is to be on a pile foundation.

Principle of Development:

As the site is in open countryside, the proposal needs to be considered against Strategy 7 of the East Devon Local Plan. It reads:

"Development in the Countryside

The countryside is defined as all those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. 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."

The proposal, on an existing farm (rural business) could potentially accord with Policy E4 of the East Devon Local Plan.

In this instance the position of the pod would respect the land form of the area, as well as traditional field boundaries and areas of importance for nature, and the pod itself would not be visible from publicly accessible vantage points.

Policy E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities) of the East Devon Local Plan is not applicable in this instance as the proposed site is in open countryside and does not propose the conversion or use of an existing building.

Having regard to the above the key issue to consider is whether or not the proposal accords with Policy E4; in which case the principle of the development would accord with the Development Plan.

Consideration against Policy E4 - Rural Diversification

Proposals to diversify and expand upon the range of traditional agricultural related economic activities undertaken in rural areas will be permitted where a proposal meets the following criteria in full:

1. *The proposal is complementary to, or compatible with, the agricultural operations in the rural area or on a farm and is operated as part of an overall holding.*

The position of the pod, 20m distant from existing agricultural building, with intervening trees and shrubs is considered suitably distant to allow for both uses to co-exist.

2. The character, scale and location of a proposal are compatible with its landscape setting and any area of nature conservation importance.

The setting of the pod, lower than the more prominent agricultural buildings to the east, and against a back drop of trees, together with the use of wood for material finish, will ensure the scheme assimilates well with its surrounds.

3. The proposal would not use the best and most versatile agricultural land.

The position of the pod, in a small section of immature copse, and not on identified agricultural fields, would ensure the principle agricultural business could continue unfettered. There would be no material loss of agricultural land.

4. The likely amount of traffic generated by the proposal could be accommodated on the local highway network without harming road safety and without adverse visual impact upon the surrounding countryside.

The Highway Authority has not sought to comment on this proposal, and with there being a single holiday pod, the increase in traffic to and from the site is considered negligible in terms of effects on the safety of the wider highway network.

In this instance, it is proposed an EV Charging Point be provided prior to first occupation of the glamping pod to ensure accordance with Policy TC9 of the East Devon Local Plan (such infrastructure required for small scale developments).

5. Any new building (and associated parking and other structures/storage) does not detract from the historic environment is modest in scale and is sited in or adjacent to an existing group of buildings and is of a compatible design and will blend into the landscape in terms of design, siting and materials.

In terms of the visual aesthetics, the proposal is such that it is modest in scale and is sited suitably close to the existing group of buildings. It is screened from public views by topography and vegetation. It is an unusual contemporary design using natural materials. Overall it is considered to be of a compatible design and will blend into the landscape in terms of design, siting and materials.

6 The proposal would not cause noise, air or water pollution or flooding nor harm the amenity of local residents.

There are no nearby buildings except the farm buildings. Foul drainage will be managed through use of a package treatment plant which is considered to be acceptable

7. All new agricultural and agricultural related buildings within 1 kilometre of sighting of barn owls or signs of their activity with a ridge height of 3 metres or more shall

make suitable provision for the nesting of barn owls, whether or not they have been observed at the site."

A planning condition can be applied requiring provision to be made for nesting of barn owls

It is concluded that the proposal accords with Policy E4 of the East Devon Local Plan.

Planning Balance

Strategy 7 of the Local Plan restricts development in the countryside unless it is specifically supported by other policies within the Plan. Policy E4 allows rural diversification provided the development meets the criteria set out in the policy. It has been demonstrated above that the proposed development accords fully with Policy E4 and as such the development is in accordance with the Development Plan.

Planning law requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 11 of the NPPF states that development proposal that accord with an up to date development plan should be approved without delay.

As such it is recommended that planning permission be granted subject to planning conditions as set out below.

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. The unit of accommodation hereby approved shall be occupied only for purposes as a holiday let unit. When in use as a holiday let the following restrictions shall apply -
 - (i) shall not be occupied as a person's sole, or main place of residence;
 - (ii) the owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation and of their main home addresses,

and shall make this information available at all reasonable times to the local planning authority.

(Reason - To reflect the permission sought and as an independent use would be inappropriate due to the limited private amenity space, and close relationship with the host dwelling in accordance with Policies D1 - Design and Local Distinctiveness and Strategy 7 - Development in the Countryside of the Adopted East Devon Local Plan 2013-2031)

4. Prior to the occupation of the holiday unit hereby approved, an electric vehicle (EV) charging point shall be provided within 50m of the site, and such EV charging point shall thereafter be retained in perpetuity.
(Reason - To ensure that adequate charging facilities are available for guests, and to accord with Strategy 3 of the East Devon Local Plan).
5. Prior to commencement of development details of existing and proposal ground levels including internal finished floor levels shall have been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.
(Reason) In the interests of visual amenity.
6. Prior to its installation and prior to occupation of the development hereby approved, full details of the proposed package treatment plant shall be submitted to and approved in writing by the Local Planning Authority. The approved package treatment plant shall be installed in accordance with approved details prior to the development being brought into use and shall be retained and maintained for the lifetime of the development.
(Reason – To prevent pollution of the environment)

NOTE FOR APPLICANT

Informative: Confirmation - CIL Liability

This Informative confirms that this development may liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

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.

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has

been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation

Plans relating to this application:

004_B	Location Plan	06.07.23
005_B (500_2)	Proposed Site Plan	06.07.23
025_A Site elevation	Other Plans	06.07.23
021	Proposed Elevation	03.03.23
022	Proposed Elevation	03.03.23
022	Proposed Elevation	17.04.23
010	Proposed Floor Plans	17.04.23
021	Proposed Elevation	17.04.23

List of Background Papers

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