

Agenda for Planning Committee Monday, 24th April, 2023, 2.00 pm

Members of Planning Committee

Councillors E Wragg (Chair), S Chamberlain (Vice-Chair), K Bloxham, C Brown, A Colman, O Davey, B De Saram, S Gazzard, M Howe, D Key, R Lawrence, G Pook, G Pratt, E Rylance, P Skinner and T Woodward

Venue: Otter Room/Clyst Room, Blackdown House, Honiton

Contact: Wendy Harris, Democratic Services Officer
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(or group number 01395 517546)

Issued: Friday, 14 April 2023



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[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, 18 April 2023 up until 12 noon on Friday, 21 April 2023 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 only contact you if your request to speak has been successful.

1 **Speakers' list and running order for the applications** (Page 4)

2 **Minutes of the previous meeting** (Pages 5 - 12)

Minutes of the Planning Committee meeting held on 28 March 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 13 - 18)

Update from the Development Manager

Applications for Determination

8 **22/1954/MOUT (Major) EXMOUTH LITTLEHAM** (Pages 19 - 54)

Douglas Gardens, Douglas Avenue, Exmouth.

9 **22/0783/MFUL (Major) WHIMPLE & ROCKBEARE** (Pages 55 - 130)

Land east of Rutton Farm, Rull Lane, Whimple, EX5 2NX.

10 **22/1761/FUL (Minor) WOODBURY & LYMPSTONE** (Pages 131 - 152)

Land at Venmore Barn, Woodbury, EX5 1LD.

11 **22/1279/FUL (Minor) BUDLEIGH & RALEIGH** (Pages 153 - 165)

Land at Frogmore Road, East Budleigh.

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

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

[Decision making and equalities](#)

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

Agenda item 8 - Application number: 22/1954/MOUT (Major) Pages 19-54
Ward: Exmouth Littleham Address: Douglas Gardens, Douglas Avenue, Exmouth
Ward Members: Councillor Nick Hookway / Councillor Chris Wright
Committee Ward Member: Councillor Bruce De Saram

Objectors	Simon Davidson on behalf of The Avenues Residents Association (TARA)
	Jane Harris
	Zoe Harris
	Robert Smith
	Michael Keep Tel: 01395 275 523
Exmouth Town Council	Councillor Brian Bailey
Agent	Iestyn John Tel: 07901 334 674
Ward Member	Councillor Nick Hookway

Agenda item 9 - Application number: 22/0783/MFUL (Major) Pages 55-130
Ward: Whimble & Rockbeare Address: Land east of Rutton Farm, Rull Lane, Whimble, EX5 2NX
Committee Ward Member: Councillor Richard Lawrence

Objectors	Andrew Bratt
	Neil Bollen
	Jonathan Boles Tel: 07444 090 128
	Nigel Richards
Supporter	Keith Hoskin
	Carey Ehrenburg
Applicant	George Wilyman

Agenda item 10 - Application number: 22/1761/FUL (Minor) Pages 131-152
Ward: Woodbury & Lymptone Address: Land at Venmore Barn, Woodbury, EX5 1LD
Ward Member: Councillor Geoff Jung / Councillor Ben Ingham

Agent	Amy Roberts
Ward Member	Councillor Ben Ingham Councillor Geoff Jung

Agenda item 11 - Application number: 22/1279/FUL (Minor) Pages 153-165
Ward: Budleigh & Raleigh Address: Land at Frogmore Road, East Budleigh
Ward Member: Councillor Alan Dent / Councillor Tom Wright / Councillor Paul Jarvis

Ward Member	Councillor Tom Wright
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EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Planning Committee held at Council Chamber, Blackdown House, Honiton on 28 March 2023

Attendance list at end of document

Due to technical issues the meeting started at the later time of 10.40 am. The meeting adjourned at 1.43 pm and reconvened at 2.10pm and ended at 4.36 pm

104 Minutes of the previous meeting

The minutes of the Planning Committee held on 31 February 2023 were confirmed as a true record.

105 Declarations of interest

Minute 107. 22/2157/FUL (Minor) EXMOUTH TOWN.

Councillor Mike Howe, Affects Non-registerable Interest, Received various emails from an objector and neighbours about the committee process.

Minute 107. 22/2157/FUL (Minor) EXMOUTH TOWN.

Councillor Olly Davey, Affects Non-registerable Interest, Exmouth Town Councillor and Ward Member.

Minute 107. 22/2157/FUL (Minor) EXMOUTH TOWN.

Councillor Steve Gazzard, Affects Non-registerable Interest, Exmouth Town Councillor.

Minute 107. 22/2157/FUL (Minor) EXMOUTH TOWN.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Eileen Wragg, Kim Bloxham, Colin Brown, Olly Davey, Bruce De Saram, Steve Gazzard, Mike Howe, Geoff Pratt, Philip Skinner and Tony Woodward advised lobbying emails in respect of this application.

Minute 108. 22/1954/MOUT (Major) EXMOUTH LITTLEHAM.

Councillor Steve Gazzard, Affects Non-registerable Interest, Exmouth Town Councillor.

Minute 108. 22/1954/MOUT (Major) EXMOUTH LITTLEHAM.

Councillor Bruce De Saram, Affects Non-registerable Interest, Ward Member and had attended a consultancy zoom meeting in respect of this application.

Minute 108. 22/1954/MOUT (Major) EXMOUTH LITTLEHAM.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Eileen Wragg, Kim Bloxham, Mike Howe, Geoff Pratt, Philip Skinner and Tony Woodward advised lobbying emails in respect of this application.

Minute 108. 22/1954/MOUT (Major) EXMOUTH LITTLEHAM.

In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillor Olly Davey advised he had met with objectors and had attended a presentation about this application.

Minute 109. 22/0783/MFUL (Major) WHIMPLE & ROCKBEARE.

Councillor Olly Davey, Other Registerable Interest, Member of the Devon Wildlife Trust.

Minute 109. 22/0783/MFUL (Major) WHIMPLE & ROCKBEARE.
Councillor Richard Lawrence, Affects Non-registerable Interest, Ward Member.

Minute 109. 22/0783/MFUL (Major) WHIMPLE & ROCKBEARE.
Councillor Sarah Chamberlain, Directly relates Non-registerable Interest, known to the applicant.

Minute 109. 22/0783/MFUL (Major) WHIMPLE & ROCKBEARE.
In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Eileen Wragg, Kim Bloxham, Bruce De Saram, Steve Gazzard, Geoff Pratt, Philip Skinner and Tony Woodward advised lobbying emails in respect of this application.

Minute 110. 22/2653/VAR (Minor) FENITON.
Councillor Philip Skinner, Affects Non-registerable Interest, received an email from the Ward Member about the planning application.

Minute 111. 22/1315/FUL (Minor) SIDMOUTH RURAL.
Councillors Bruce De Saram and Colin Brown, Affects Non-registerable Interest, attended a pre-application panel meeting involving this application.

Minute 111. 22/1315/FUL (Minor) SIDMOUTH RURAL.
Councillor Olly Davey, Affects Non-registerable Interest, Received an email in respect of this application.

Minute 111. 22/1315/FUL (Minor) SIDMOUTH RURAL.
In accordance with the code of good practice for Councillors and Officers dealing with planning matters as set out in the constitution Councillors Philip Skinner and Tony Woodward advised lobbying emails in respect of this application.

Minute 113. 22/0686/MFUL (Minor) BROADCLYST.
Councillor Philip Skinner, Affects and prejudicial Non-registerable Interest, known to the applicant.

Minute 113. 22/1886/FUL (Minor) CLYST VALLEY.
Councillor Mike Howe, Affects Non-registerable Interest, As Ward Member had spoken with residents and although he was known to the applicant he advised he remained open minded.

Minute 116. 22/2824/OUT (Minor) WHIMPLE & ROCKBEARE.
Councillor Richard Lawrence, Affects Non-registerable Interest, Ward Member.

Minute 116. 22/2824/OUT (Minor) WHIMPLE & ROCKBEARE.
Councillor Richard Lawrence, Affects and prejudicial Non-registerable Interest, well known to applicant and his wife.

Non-Committee Members

Minute 111. 22/1315/FUL (Minor) SIDMOUTH RURAL.
Councillor Nick Hookway, Affects Non-registerable Interest, attended a pre-application panel meeting involving this application.

Minute 114. 22/2316/FUL (Minor) OTTERY ST MARY.
Councillor Peter Faithfull, Affects Non-registerable Interest, known to the applicant.

106 **Planning appeal statistics**

The Committee noted the planning appeals statistics report and members' attention was drawn to the three appeals relating to two planning applications and an enforcement notice for the retention of a cement silo, water silo, site office and additional concrete area at Stopgate Farm, Yarcombe.

All three appeals were dismissed and the enforcement notice upheld as the Inspector determined that the access arrangements were harmful to highway safety and the development was harmful to the landscape and scenic beauty to the Area of Outstanding Natural Beauty.

107 **22/2157/FUL (Minor) EXMOUTH TOWN**

Applicant:

Mr & Mrs M Lee.

Location:

30 Camperdown Terrace, Exmouth, EX8 1EH.

Proposal:

Single storey rear extension, single storey side extension with alteration to fenestration, first floor rear balcony.

RESOLVED:

Approved as per officer's recommendation but with condition 4 amended to read as follows:

Prior to the first use of the balcony hereby approved obscure glazed screens to a height of 1.8m as measured from the finished floor level of the balcony and extending along the complete depth of the sides of the balcony as shown on drawing No 1646-03 Revision B received on the 3 October 2022 shall be installed. A 1.2m high glazed screen shall also be erected along the north/north-east extent of the balcony. The glazed screens shall remain at the same height and in the same positions in perpetuity.

(Reason – To prevent the use of the wider flat roof area and to protect the privacy of neighbouring properties in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 – 2031.)

108 **22/1954/MOUT (Major) EXMOUTH LITTLEHAM**

Applicant:

Littleham 2010 Ltd., c/o Bell-Cornwell.

Location:

Douglas Gardens, Douglas Avenue, Exmouth.

Proposal:

Outline application, with all matter except access reserved, for up to 44 residential units including demolition of 76 Douglas Avenue, open space provision, drainage and the creation of a linking pedestrian access.

RESOLVED:

Deferred for a site inspection to consider the landscape impact, highways safety and drainage matters. DCC Highways and South West Water to be invited to the site inspection and the following meeting.

109 **22/0783/MFUL (Major) WHIMPLE & ROCKBEARE**

Applicant:

Aura Power Developments Ltd.

Location:

Land east of Rutton Farm, Rull Lane, Whimble, EX5 2NX.

Proposal:

Construction and operation of a ground mounted solar farm with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development.

RESOLVED:

Deferred for a site inspection to consider the landscape impacts.

110 **22/2653/VAR (Minor) FENITON**

Applicant:

Raymond Borkowski.

Location:

Sunningdale, Buckerell, Honiton, EX14 3ER.

Proposal:

Variation of Condition 2 (approved plans) of planning permission 21/0039/FUL (replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space) to allow revisions to internal layout.

Officer updated that the description has been amended as follows:

Variation of Condition No. 2 (Approved plans) of planning permission 21/0039/FUL (Replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space) to allow revisions to position, height, external appearance and internal layout of approved replacement dwelling - part retrospective.

RESOLVED:

Approved as per officer's recommendation but with the addition of a further condition: Condition 5 of the original planning permission requiring the garage to be ancillary to be repeated.

111 **22/1315/FUL (Minor) SIDMOUTH RURAL**

Applicant:

Mr Malcolm Burrough.

Location:

Thorn Park Family Gold Centre, Salcombe Regis, EX10 0JH.

Proposal:

Construction of tithe barn to be used as multi-functional building for events and weddings, including hard standing for removeable stage.

RESOLVED:

Approved as per officer's recommendation subject to the following additional/amended conditions:

1. The external frame of the tithe barn hereby approved shall be constructed in timber **and the roof finished in timber shingles** unless agreed otherwise in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Strategy 46 - Landscape Conservation and AONB's and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

2. Prior to use of the building hereby approved, details of any external lighting required in connection for the hosting of weddings and events shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. **No further lighting shall be installed unless approved in writing by the Local Planning Authority.**

(Reason - To minimise the impacts of light pollution on the East Devon Area of Outstanding Natural Beauty in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs of the East Devon Local Plan 2013-2031.)

3. **Any use including weddings or events held within the building hereby approved shall only be operated in conjunction with, and ancillary to, the operation of Thorn Park Family Golf Centre.**

Reason: To reflect what is being applied for and to ensure that the Local Planning Authority retains control over the use of the building as other uses may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside and Policy E5 - Small Scale Economic Development of the East Devon Local Plan 2013-2031.

112 **22/0686/MFUL (Minor) BROADCLYST**

Applicant:

Mr Troy Stuart.

Location:

Hill Barton Business Park, Sidmouth Road, Clyst St Mary.

Proposal:

Change of use of land for the purposes of parking, associated with the existing operations at Hill Barton Business Park for a temporary period of 3 years (retrospective application).

RESOLVED:

Refused as per the officers recommendation

113 **22/1886/FUL (Minor) CLYST VALLEY**

Applicant:

Mr A Cork.

Location:

Unit 60D, Stock Exe Ltd., Newcourt Barton, Clyst Road, Topsham, EX3 0DB

Proposal:

Change of use of land from agricultural to a B8 storage yard, to include the erection of a building and siting of three containers, for the extension of an existing yard area used in conjunction with a builders merchants.

RESOLVED:

Approved contrary to officer's recommendation.

Members considered that it was in compliance with Strategy 7 of the adopted East Devon Local Plan, would not cause any significant harm in landscape terms and would not present a flood risk. Delegated authority was granted to the Assistant Director – Strategic Planning and Development Management to approve in consultation with the chair and ward member subject to appropriate conditions including those to control the use of the site, the height of external storage, landscaping, drainage etc.

114 **22/2316/FUL (Minor) OTTERY ST MARY**

Applicant:

Mr M Burgess.

Location:

Devon Mushroom Farm, Alfington Road, Alfington, Ottery St Mary, EX11 1FE.

Proposal:

Change of use of agricultural buildings to five Class B8 (storage and distribution) units and two Class E(g) (light industry) units including provision of 11 parking spaces (part retrospective).

RESOLVED:

Approved as per officer's recommendation.

115 **22/2166/FUL (Minor) WEST HILL & AYLESBEARE**

Applicant:

Mr & Mrs G Vooght.

Location:

The Oaks, Aylesbeare, EX5 2DE.

Proposal:

Completion of an outdoor menage and the surfacing of the existing driveway utilising an existing vehicular access.

Officer updated that the description has been amended as follows:

Provision of an outdoor menage and the surfacing of the existing driveway utilising an existing vehicular access. (Part retrospective).

RESOLVED:

Approved as per officer's recommendation.

116 22/2824/OUT (Minor) WHIMPLE & ROCKBEARE

Applicant:

Mr Cyril Emmett.

Location:

The Littlefield, land south of Hazel Grove, Rockbeare.

Proposal:

Outline application for the construction of up to four dwellings (all matters reserved except for access).

RESOLVED:

1. The appropriate assessment forming part of the report be adopted.
2. Approved as per the officer recommendation subject to the additional condition:

The reserved matters application for layout shall include a detailed scheme of foul and surface water drainage for approval by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details, which shall be installed prior to the first occupation of the development hereby approved, and shall thereafter be maintained and retained for the lifetime of the development.

(Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 (Surface Water Run-Off Implications of New Development) of the East Devon Local Plan 2013 to 2031 and paragraph 103 of the NPPF.)

117 22/2549/OUT (Minor) WOODBURY & LYMPSTONE

Applicant:

Mr Vernon Bristow.

Location:

Marandor, Exmouth Road, Exton, EX3 0PZ.

Proposal:

Outline application with some matters reserved (access, layout and scale) for the erection of two storey detached dwelling with associated parking, garage and south-west facing garden.

RESOLVED:

Approved as the officer's recommendation subject to the additional condition:

Details of the internal floorplans of the dwelling and garage hereby approved shall be submitted to and agreed in writing by the Local Planning Authority with the application for reserved matters of appearance. Development shall take place in accordance with the approved details.

(Reason: To secure adequate levels of residential amenity for future and existing residents in accordance with Policy D1 (Design and local distinctiveness) of the East Devon Local Plan 2013 to 2031.)

Attendance List

Councillors present:

E Wragg (Chair)

S Chamberlain (Vice-Chair) left the Chamber for application 22/0783/MFUL and did not take part in discussions or vote

K Bloxham

C Brown

O Davey

B De Saram

S Gazzard

M Howe

D Key

R Lawrence left the meeting after application 22/2316/FUL and was present for application 22/2824/OUT

G Pratt

E Rylance

P Skinner left the Chamber for application 22/0686/MFUL and did not take part in discussions or vote

T Woodward

Councillors also present (for some or all the meeting)

J Bailey

P Faithfull

N Hookway

G Jung

J Loudoun

Officers in attendance:

Ed Freeman, Assistant Director Planning Strategy and Development Management

Wendy Ormsby, Development Manager

Anita Williams, Interim Director of Governance and Licensing and Monitoring Officer

Shirley Shaw, Interim Head of Legal Services and Deputy Monitoring Officer

Councillor apologies:

A Colman

G Pook

Chairman

Date:

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

Ref: 22/0261/FUL **Date Received** 17.03.2023
Appellant: Mark Howarth
Appeal Site: Heatherdale Cooks Lane Axminster EX13 5SQ
Proposal: Change of use of building for annexe and holiday accommodation purposes.
Planning APP/U1105/W/23/3318815
Inspectorate Ref:

Ref: 22/2126/FUL **Date Received** 22.03.2023
Appellant: Mr Josh Baker
Appeal Site: Annexe At Huxham View (Church Hill Cottage) Pinhoe Exeter EX4 9JJ
Proposal: Change of use from redundant annexe to C3 dwelling house.
Planning
Inspectorate Ref:

Ref: 22/2216/MFUL **Date Received** 03.04.2023
Appellant: Enso Green Holdings B Limited
Appeal Site: 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.
Planning APP/U1105/W/23/3319803
Inspectorate Ref:

Ref: 22/1836/FUL **Date Received** 04.04.2023
Appellant: Mr Joe Priday
Appeal Site: Hux Shard Church Hill Exeter Devon EX4 9JJ
Proposal: Erection of annexe
Planning
Inspectorate Ref:

Ref: 22/1622/FUL **Date Received** 05.04.2023
Appellant: Mr Mark And Mrs Lisa Clouter
Appeal Site: Kings Arms Farm Nags Head Road Gittisham Devon EX14 3AP
Proposal: Construction of a two storey 18-unit residential home for vulnerable people.
Planning
Inspectorate Ref:

East Devon District Council List of Appeals in Progress

App.No: 21/F0364
Appeal Ref: APP/U1105/C/22/3295011
Appellant: Stuart Partners Ltd
Address: Land at Hill Barton, Sidmouth Road, Clyst St Mary, EX5 1DR
Proposal; Appeal against enforcement notice served in respect of the change of use of the land from agriculture to a mixed use of agriculture and commercial parking area used by lorries, commercial vehicles, cars, plant and machinery and the siting of skips and shipping containers.
Start Date: 29 March 2022
Procedure: Written Reps.
Questionnaire Due Date: 12 April 2022
Statement Due Date: 10 May 2022

App.No: 22/0721/FUL
Appeal Ref: APP/U1105/D/22/3309277
Appellant: Mr Michael Anaman
Address: 16 Windsor Square Exmouth Devon EX8 1JX
Proposal; Removal of garden wall to rear garden, creation of off street parking with electric charging points, replacement of outbuilding, restoration of steps to rear door and associated landscaping.
Start Date: 11 November 2022
Procedure: Householder
Questionnaire Due Date: 18 November 2022

App.No: 22/0961/FUL
Appeal Ref: APP/U1105/W/22/3307458
Appellant: Russell and Helen Hayman
Address: Land West Of 8 Mill Lane Alfington
Proposal; Erection of 2no. two storey 3-bed detached dwellings,
erection of 2no. detached single garages, means of access
and associated works
Start Date: 21 December 2022
Procedure:
Written reps.
Questionnaire Due Date: 28 December 2022
Statement Due Date: 25 January 2023

App.No: 22/1138/OUT
Appeal Ref: APP/U1105/W/22/3305402
Appellant: Mr A Rynn
Address: Land North East Of Clyst William Cross Plymtree
Proposal; Outline application with all matters reserved for the erection of
2no. dwellings.
Start Date: 17 January 2023
Procedure:
Written reps.
Questionnaire Due Date: 24 January 2023
Statement Due Date: 21 February 2023

App.No: 22/1411/FUL
Appeal Ref: APP/U1105/W/22/3310072
Appellant: Lesley and Clive Webb
Address: Hamble Barline Beer Devon EX12 3LR
Proposal; Construction of 1 no. dwelling and associated works
Start Date: 17 January 2023
Procedure:
Written reps.
Questionnaire Due Date: 24 January 2023
Statement Due Date: 21 February 2023

App.No: 22/0738/FUL
Appeal Ref: APP/U1105/W/22/3304034
Appellant: Barry Wright
Address: Meadowbrook Talewater Talaton Exeter EX5 2RS
Proposal; Conversion of roofspace to habitable use to include a side dormer and alterations to fenestration.
Start Date: 30 January 2023
Procedure:
Written reps.
Questionnaire Due Date: 6 February 2023
Statement Due Date: 6 March 2023

App.No: 22/0739/LBC
Appeal Ref: APP/U1105/Y/22/3304033
Appellant: Barry Wright
Address: Meadowbrook Talewater Talaton Exeter EX5 2RS
Proposal; Conversion of roofspace to habitable use to include a side dormer and alterations to fenestration.
Start Date: 30 January 2023
Procedure:
Written reps.
Questionnaire Due Date: 6 February 2023
Statement Due Date: 6 March 2023

App.No: 22/1584/FUL
Appeal Ref: APP/U1105/W/22/3313627
Appellant: Mr James Brennan
Address: Mount Houlditch Farm Toadpit Lane West Hill Devon EX11 1LQ
Proposal; Demolition of two barns and three outbuildings and the construction of a residential annexe ancillary to the main dwelling house, a pool house also ancillary to the main dwelling house and an extension to the house for a home office.
Start Date: 21 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 28 February 2023
Statement Due Date: 28 March 2023

App.No: 22/1854/FUL
Appeal Ref: APP/U1105/D/23/3316821
Appellant: Carpenter
Address: 37 Hill Crescent Honiton EX14 2HY
Proposal; Construction of an attached double garage to front and side elevation.
Start Date: 22 February 2023
Procedure:
Written reps.
Questionnaire Due Date: 29 February 2023

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: 22/0481/FUL
Appeal Ref: APP/U1105/D/22/3306390
Appellant: Mr & Mrs McDermott
Address: Marwood House Offwell Honiton EX14 9RW
Proposal; Construction of a single storey detached granny annex with associated decking.
Start Date: 20 March 2023
Procedure: Householder
Questionnaire Due Date: 27 March 2023

Ward Exmouth Littleham

Reference 22/1954/MOUT

Applicant Littleham 2010 Ltd C/O Bell- Cornwell

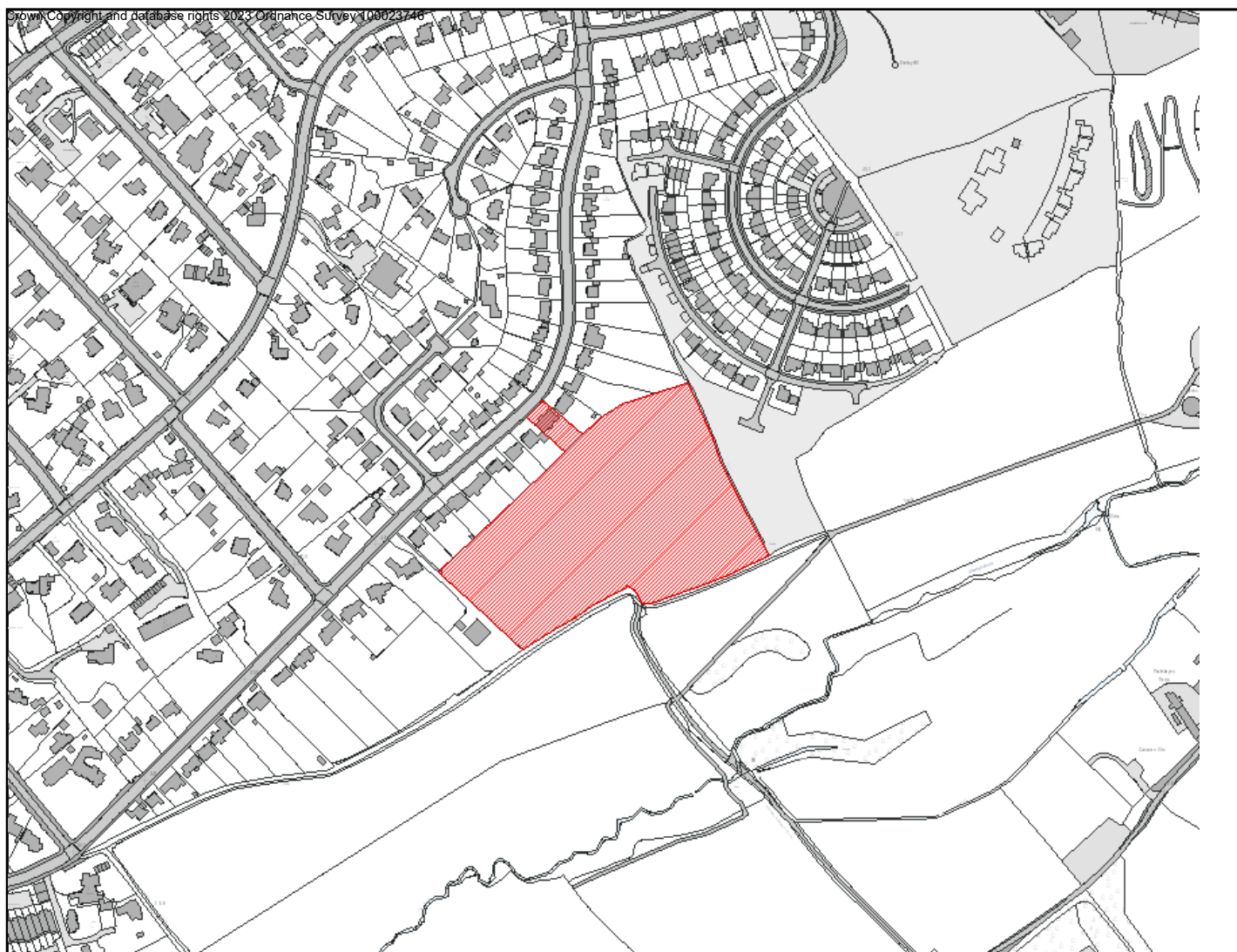
Location Douglas Gardens Douglas Avenue Exmouth

Proposal Outline application, with all matters except access reserved, for up to 44 residential units including demolition of 76 Douglas Avenue, open space provision, drainage and the creation of a linking pedestrian access



RECOMMENDATION:

1. Adopt the appropriate assessment forming part of the report
2. Approve subject to a legal agreement and conditions



		Committee Date: 24.04.2023
Exmouth Littleham (Exmouth)	22/1954/MOUT	Target Date: 20.12.2022
Applicant:	Littleham 2010 Ltd C/O Bell- Cornwell	
Location:	Douglas Gardens Douglas Avenue	
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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 Town Council.

The site is located adjoining the built up area boundary for Exmouth to its eastern boundary and is currently sloping agricultural land in the countryside adjacent to another area of farmland previously approved for housing development known as Plumb Park.

The application is made in outline and includes details for consideration of means of access only and proposes the construction of up to 44 dwellings (net 43 if including the house to be demolished to gain access) on a site area of 2.95ha. The application is accompanied by an indicative layout following some established design/layout principles.

Given the current need for housing in the district, the inclusion of the site in the emerging local plan as a preferred allocation for housing growth, lack of significant constraints to development, highly sustainable location of the site and provision of 25% affordable housing, it is considered that the principle of development can, on balance, be supported.

A single point of vehicular access is proposed through the demolition of 76 Douglas Avenue and County Highways are in agreement with the Transport Assessment submitted with the application and consider access from Douglas

Avenue 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.

The indicative layout for the site shows how the development could integrate into the landscape and has been judged to be an acceptable impact by the Landscape Officer. Any permission could be granted subject to the reserved matters application following the principles established on the indicative Masterplan layout and the Masterplan principles within the submitted Design and Access Statement.

Matters of flood risk, ecology, noise, foul drainage and contamination can be adequately addressed through conditions.

The application is therefore recommended for approval subject to securing the appropriate obligations, including 25% affordable housing, gap funding for the NHS, on site open space and habitat mitigation payment secured through a Section 106 Agreement

CONSULTATIONS

Local Consultations

Exmouth Littleham - Cllr Bruce De Saram – 28th October 2022

Firstly please accept my sincere apologies for submitting my comments quite late in this process. Secondly I point out that I attended the recent Town Council Planning meeting on Monday 24th October where this item was discussed purely as an observer and I made no comments.

I simply listened to what was said. However the feedback I got was that this proposed development is not supported by the local residents who live in Douglas Avenue or the Town Council planning members.

The Planning reasons for refusal which I believe need to be addressed by the EDDC Planning Committee are the Exmouth Neighbourhood Plan Policies EN1 and EN3. I am of the opinion that this proposal goes against these particular policies and so for this reason I am unable to support the proposal as it is currently set out by the applicant.

I acknowledge that the Applicant has put in a great deal of effort and time to change the previous plans which were refused by the Inspector but I still feel that more can and should be done and I will discuss this further should this application come to committee.

I will keep an open mind on this matter and have not in any way predetermined my thoughts. I am still flexible and open to receipt of new information as it become available.

Exmouth Littleham - Cllr Bruce De Saram – 8th March 2023

I have now had the opportunity to read this report and I wish to continue to object to this application for the following reasons:

1. The Council has to work with the current Local Plan and it clearly indicates as the report says that “The site lies outside of the built up area boundary for Exmouth under the currently adopted Local Plan and as such is considered to lie in the countryside”.
2. I believe it is contrary to Policies EN1 and EN3 of the Exmouth Neighbourhood Plan.
3. It is not reasonable to say that “The proposal is being put before the Council on the basis that the site would be a logical infill given the existing/surrounding development”, given that No 76 Douglas Avenue will have to be demolished for this application to proceed.
4. It is unfortunate “that those most affected are the residents of the even numbered houses on Douglas Avenue who back onto the site and the users of the public right of way that goes through the site.”
5. It would have the potential to spoil the AONB within 400 metres as the report indicates “The land in question is overtly rural and the Area of Outstanding Natural Beauty (AONB) begins on the south side of Maer Lane, some 400 metres to the south of the site.”

This is the position I find myself in being unable to agree to this proposal but I note the Councils position around a lack of 5 year land supply which of course is one of the reasons why this application finds favour with the Planning Team. I also witnessed at first hand the strength of feeling about this proposal when it went to the Town Council Planning Committee and so I will now await the final report which is being prepared.

Exmouth Littleham - Cllr Nick Hookway

My objection to this planning application extends to a number of areas.

My first concern is that the proposed development is outside the built up area boundary for Exmouth (BUAB) as defined by the local plan. This means that the case for 44 houses has not been made.

My second area of concern is that of access to the proposed site. For a site of 44 houses to have only one access road might seem to be quite normal, but I am very concerned that this access relies solely upon the demolition of a house on Douglas Ave. Number 76 Douglas Avenue is one of many similar properties at the northern end of Douglas Avenue. It does seem rather perverse though that to build 44 houses you have to demolish another house to gain access. Is this a common practice now? The impact of the demolition of Number 76 Douglas Ave and the subsequent construction and use of a road will have a very significant impact upon the neighbouring properties on Douglas Avenue that will be both immediate and chronic. Such a change will also lead to a fundamental change in the character of the whole area. The proposed access is narrow and steep as the site drops down by some 20 metres. This will lead to a very considerable increase in noise, dust and traffic pollution for the surrounding properties, I'm not just referring to construction traffic but to all the traffic movements that will be generated long term by 44 properties over many years.

My third concern relates quite strongly to my first of access. The proposed site is very steep in my view, this will require terracing on which to build the houses and if one looks at the illustrative site sections diagram terracing this is clearly seen. This will be a significant alteration to the landscape immediately adjacent to an area of outstanding natural beauty. Such a significant alteration will not be in keeping with the Maer valley and the proposed valley park as stated in the Exmouth neighbourhood plan, policy EN3. However what needs to be remembered is that terracing will involve the removal of top soil and the clay underneath, a process which happened during the construction of the nearby Plum Park estate and caused considerable distress due to the volume of dust that was dispersed during construction onto neighbouring properties. Douglas Avenue was also regularly covered in mud, again to the annoyance of residents. Therefore, I would like to see that the CEMP is amended by adding further restrictions to avoid such issues. These are the issues with this application as I understand it. If I am presented with additional information, I reserve the right to amend my opinion.

Parish/Town Council

Meeting 24.10.22

Objection; the application considered to be contrary to the following Neighbourhood Plan policies;

EN1 - BUAB

The proposed site greenfield was outside Exmouth's BUAB and therefore development in the Countryside which would also result in the loss of productive agricultural land. The application would have a serious visual impact on the distinctive landscape.

EN3 ' Maer Valley Park

Concern that the proposal would undermine the proposed Maer Valley Park.

EN5, EN6 ' Impact from additional Surface Water

The applicant has failed to demonstrate that they are able to satisfy policy requirements for surface water run-off to be satisfactorily be mitigated and for its future management.

EN8 ' Appropriate planting ecological approaches to reduce flood risk

The proposal would exacerbate rather than reduce the issue of flooding or potential flooding within the Maer valley from fluvial 'fresh' water flooding via land, sewers and watercourses.

Concern was raised in the context of Strategy 22 ' Development at Exmouth, 5c, about the adequacy of the sewerage system to cope with new development.

Technical Consultations

Police Architectural Liaison Officer - Kris Calderhead

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

Whilst I appreciate that the masterplan is only illustrative at this point, I would like to make the following comments and recommendations for consideration should the application progress.

- o The detailed layout should provide overlooking and active frontages to the new internal streets, pedestrian/cycle routes and public open spaces. The layout should avoid having accessible space to the rear of residential back gardens, as this is generally accepted to assist in preventing crime.
- o Boundary treatments to the front of dwellings are important to create defensible space to prevent conflict between public and private areas and clearly define ownership of space. The use of low-level railings, walls, hedging for example would be appropriate.
- o Treatments for the side and rear boundaries of plots should be adequately secure (min 1.8m height) with access to the rear of properties restricted via lockable gates.
- o Should any existing or new hedgerow be used as new rear garden boundaries, they must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.
- o Defensible space / buffers (i.e. 1m high by 1m deep planting or low-level railings) should also be utilised where private space abuts public space in order to reduce the likelihood of conflict and damage etc.
- o Suitable boundary treatments also need to be considered for any open space and play areas. Such space should be protected from vehicle access and be afforded good natural surveillance opportunities with clear management and maintenance strategies in place.
- o Pedestrian routes throughout the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided as shrubs and trees have a tendency to grow over the path creating pinch points, places of concealment and unnecessary maintenance.
- o Presumably the site be adopted and lit as per normal guidelines (BS 5489). Appropriate lighting for pathways, gates and parking areas must be considered. This will promote the safe use of such areas, reduce the fear of crime and increase surveillance opportunities.
- o Vehicle parking will clearly be through a mixture of solutions although from a crime prevention point of view, parking in locked garages or on a hard standing within the dwelling boundary is preferable. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms.
- o The masterplan does not include any large rear parking courts which is supported. They are discouraged as they provide access to vulnerable rear elevations of dwellings and are often left unlit with little surveillance.

EDDC Trees

In principle no arboricultural concerns subject to appropriate detailed landscaping scheme.

Environmental Health

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.

DCC Flood Risk Management Team 24.10.22

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 submitted calculations indicate that the derived percentage of runoff (PR) (32.50%) for the greenfield site is greater than the PR (21.46%) for the post development. The applicant would need to justify this value as this will affect the Long Term Storage (LTS) required.

The applicant is currently proposed to attenuate the surface water runoff via an attenuation basin location in the south east corner of the site before discharging into South West Water sewer to the east. The applicant should consider the discharge into the minor tributary of the Littleham Brook to the south west in accordance with the drainage hierarchy.

DCC Flood Risk Management Team 15.12.22

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) A detailed drainage design based upon the approved Douglas Gardens, Exmouth Flood Risk Assessment and Drainage Strategy (Report Ref. E06005/0001, Rev. V3, dated 13th September 2022) (the drainage principle only) and CB Response to LLFA Comments Ref. 22/1954/MOUT Technical Note (Report Ref. E06005 - TN001, Rev P1, dated 07th December 2022).

(b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

(e) Evidence there is agreement in principle from the landowner/DCC highways/SWW

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 submitted the CB Response to LLFA Comments Ref. 22/1954/MOUT Technical Note (Report Ref. E06005 - TN001, Rev P1, dated 07th December 2022). The applicant agreed to restrict the discharge rate to 2.2l/s but aim to restrict the flow to the Qbar value of 1.9l/s subject to detailed design space constraints.

Housing Strategy/Enabling Officer - Jo Garfoot

This site sits outside the current built up area boundary for Exmouth but is proposed for allocation in the emerging local plan and is considered favourably. Under current policy a requirement for 50% affordable housing would be sought however given the lack of a 5 year land supply and out of date policies a pragmatic approach is being taken with such sites and the level of affordable housing to be sought. The applicant is proposing to provide 25% affordable housing, 11 units.

Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership. For the proposed 11 units this would amount to 8 rented units and 3 units for affordable home ownership. However this would not meet the requirement in NPPF for 10% of overall homes to be affordable home ownership. The government have introduced through a written ministerial statement and planning policy guidance a new affordable housing tenure called First Homes. First Home should account for 25% of affordable housing provision and is the governments preferred discounted market tenure. First Homes are for eligible first time buyers and are sold with a 30% discount on market price in perpetuity. On initial sale a price cap of £250,000 (after discount) is applied. Eligibility includes an income cap for purchasers and requirement to fund the purchase with a 50% mortgage. EDDC have produced an interim guidance note which confirms our approach to dealing with First Homes. Whilst this guidance and the introduction of First Homes does not supersede

policy within our local plan it is a material consideration in any planning decision and will be weighted accordingly.

If First Homes are to be provided on this site then this will reduce the above percentages sought for rented and other affordable home ownership tenures. For a scheme of 44 units and based upon a 25% provision for affordable housing, 3 units should be for First Homes, 6 for social rent and 2 for shared ownership or other affordable home ownership.

The proposed mix of unit types comprises 1 and 2 bedroom apartments and 2, 3 and 4 bedroom houses. There is not any detail on which units will be for affordable housing. The need in Exmouth for rented accommodation is predominately for 1 and 2 bedrooms although larger family homes are always needed. For affordable home ownership including First Homes 2 and 3 bedroom houses are sought. First Homes are to be sold by the developer and the remainder of the affordable units should be transferred to and managed by a Registered Provider.

EDDC Landscape Architect

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. The impact of this is reduced by the urban character of land to the north and northwest. The site topography is challenging and development would necessitate terracing to form level platforms for buildings and roads with associated grading and retaining structures.

Photographs in the DAS taken from the AONB and coast path to the south and southeast of the site are too small and blurry to reflect the actual viewing experience from these locations. Clearer representative photographs are included in Appendix A below.

There are numerous sensitive visual receptors comprising residents on Douglas Avenue to the northeast and users of public rights of way to the south and south east. The sloping nature of the site and proposed siting of the dwellings will reduce the impact of the development for existing residents allowing views to be retained at least from first floor rooms and at ground level through gaps between buildings.

The proposals have potential to impact on the AONB and the setting of the proposed Littleham/ Maer Valley Park and to mitigate for this long-term management prescriptions would be required for boundary hedgerow in addition to new tree and structure planting within the site.

REVIEW OF SUBMITTED LAYOUT

Layout and density

The proposed density of dwellings is relatively low making it easier to accommodate the site slope and helping to feather built-form in to surrounding countryside.

The access road linking the upper and lower terraces comprises a couple of straight sections linked by relatively tight bends which appears somewhat incongruous and does not relate to site contours.

The road layout could be smoothed to create a more flowing alignment that would also increase the area of open space between it and the stepped footpath indicated to the west.

Due to site gradients there is limited opportunity for useable open play space but the realignment of the access road as noted above would help to create a more level area to the west of it. Rotating the eastern end unit of the second highest terrace by 90 degree would improve natural surveillance over this area. In the absence of a formal play area opportunities for natural play should be provided around the site.

While there is generous provision for tree planting indicated across much of the site, there is a notable absence of street trees. Given the slope of the site, street trees would help considerably to soften and partially screen the development in views from the south particularly for the western half of the site where there is otherwise less opportunity for tree planting. There is potential to accommodate street tree planting in front of houses by minor reconfiguration of the road and footways. As shown the street geometry comprises a 4.8m width carriageway with 1.8m footway to each side. A footway of 3m width to one side of the street with a 0.5m strip to the other side would accommodate tree planting within the 3m footway.

The existing overgrown elm hedgebank to the southeast boundary is very likely to succumb to Dutch elm disease in the short to medium term and require cutting back to ground level. To ensure effective screening of the site from Maer Valley Park when the elm is cut back the hedgebank should be reinforced by a new line of hedge planting with trees to increase the overall width.

Levels

The site gradients present some design challenges. The alignment of roads and housing along contours helps to minimise the impacts of this although inevitably there will be a need for cut platforms and retaining walls.

Dwg. no. LHC00 00 DR0UD-0301 shows existing site sections at four transects across the site. A further set of sections using the same transects should be provided to show how the proposals will sit within the existing slope.

Connectivity

Footpath linkages are indicated to the existing footpath that runs within the site along the southern and western boundaries. There is opportunity to remove the fence between the path and the site making it feel less constrained.

There is a suggested footpath link to the Plum Park to the east. If the scheme was approved this would be a highly desirable link and every effort should be made to achieve it. Provision should be made for improving the existing public footpath within the site by appropriate compacted stone surfacing in a manner that retains its country character.

4 CONCLUSION & RECOMMENDATIONS

4.1 Acceptability of proposals

While the development will inevitably have a significant impact on the site itself, users of the footpath through it and adjacent residents, within the wider setting, the landscape and visual effects are more limited due to the setting against the backdrop of Exmouth. The low housing density proposed is appropriate to the urban edge setting. As such the proposal could be considered acceptable in terms of landscape and visual impact.

Any reserved matters application should consider points raised at section 3 above. Consideration should be given to developer contributions towards the future Maer Valley Park

NHS Local

The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon ICB as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that The East Devon District Council Local Plan 2013 to 2033 (adopted 28th January 2016) states that:

"16.33

The Council will consult with health and social care services on larger planning applications and/or those that could have service provision implications.

Education and Health

16.41

The District Council is not responsible for providing education or health care which are usually the responsibility of the Local Education Authority and the Local Health Authority respectively but financial contributions can be sought from developers where new development will place additional demand on their services. Health care and education will be integrated into large new developments at the planning stage.

16.45

In rural areas health care provision is far more difficult to access with irregular public transport and few, if any, local surgeries or other care....We will retain and continue to use East Devon Local Plan policies as a means to promote the development of new education and health care facilities whilst resisting the loss of existing facilities.

Partnership

19.8

The Council will work with partner organisations responsible for transport provision, education, health....provision of new infrastructure to match demands arising from future population changes and also to address current shortfalls."

The ICB's concern is that the combined surgeries of Imperial Surgery, Haldon House Surgery, Claremont Medical Practice and Rolle Medical Partnership are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 30,891 patients registered between them and this new development will increase the local population by a further 96 persons.

Taking this into account and drawing upon the document "Devon Health Contributions Approach: GP Provision document" which was agreed by NHS England and Devon County Council, the following calculation has been made:

Methodology for Application 22/1954/MOUT

1. Residential development of 44 dwellings
2. This development is in the catchment of Imperial Surgery, Haldon House Surgery, Claremont Medical Practice and Rolle Medical Partnership which have a total capacity for 30,463 patients.
3. The current patient list size is 30,891 which is already over capacity by 429 patients or at 101% of capacity.
4. The increased population from this development = 96
 - a. No of dwellings x Average occupancy rate = population increase
 - b. $44 \times 2.19 = 96$
5. The new GP List size will be 30,987 which is over capacity by 525
 - a. Current GP patient list + Population increase = Expected patient list size
 - b. $30,891 + 96 = 30,987$ (525 over capacity)
 - c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6
6. Additional space required = 7.71m²
 - a. The expected m² per patient, for this size practice = 0.08m²
 - b. Population increase x space requirement per patient = total space (m²) required
 - c. $96 \times 0.08 = 7.71\text{m}^2$
7. Total contribution required = £24,668
 - a. Total space (m²) required x premises cost = final contribution calculation
 - b. $7.71\text{m}^2 \times £3,200 = £24,668$ (£561 per dwelling).

Could you please acknowledge NHS Devon's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future S106 Agreement with the Developers.

We would be grateful if you would contact Leenamari Aantaa-Collier at The Wilkes Partnership (Laantaa-collier@wilkes.co.uk;) who can assist your legal department in relation to the drafting of an adequate obligation which assures that the contribution delivers the mitigation requested.

NHS Royal Devon & Exeter NHS Foundation Trust

Introduction

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the

Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF.

Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

As the attached document demonstrates, Royal Devon University Healthcare NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare.

It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required. The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trusts unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Furthermore, it is important to note that the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide the services and capacity required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

CIL Regulation 122

The Trust considers that the request made is in accordance with Regulation 122:

"(2)A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development."

S 106

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £113,942 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document. Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

County Highway Authority

Addendum 09/02/2023

The applicant has submitted a new Technical note document, explaining that the frontage tactile crossing detail has been omitted from the application plans but will be incorporated as part of the delivered development.

Furthermore, the path of the new access road will be moved over by 9m in comparison to the existing access, therefore, gaining the extra required visibility in the South-West direction.

The Technical note has also highlighted that the service access road will not have any frontage housing upon it, therefore on-street parking upon this section should be reduced, reducing the chances of the bottleneck being backed up.

Therefore I believe this application can now be managed with conditions to produce a Travel Plan and a Tactile crossing across the bell-mouth frontage, along with a Construction and Environment management plan (CEMP) to help mitigate the impact of the development 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;

2. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the Diagram BTC22056-P01-REV_p2 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6m 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 43m.

3. 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 policy TC7 of the East Devon Local Plan 2013-2031.

4. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe in accordance with policy TC7 of the East Devon Local Plan 2013-2031.

5. On-Site Highway Works The on-site highway works including parking shall be constructed and made available for use before any other part of the development commences.

REASON: To ensure that adequate facilities are available for construction traffic in accordance with policy TC7 of the East Devon Local Plan 2013-2031.

6. No part of the development hereby approved shall be commenced until:

A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway

B) The ironwork has been set to base course level and the visibility splays required by this permission laid out

C) The footway tactile crossing on the public highway frontage has been constructed up to base course level

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.

7. 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 spine 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 spine 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 spine 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 spine 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.

This location is relying on an access achieved from the demolition of a house.

Other Representations

69 representations have been received as a result of this application raising the following concerns:

- Scale of development is too big
- The Greenfield site should be protected from development
- Wildlife impact - in particular badgers, butterflies and birds
- Proposal is contrary to the Development Plan and premature
- Undue pressure on local infrastructure
- No affordable homes are being offered
- Maer Valley is a precious local resource
- Access to Douglas Avenue is dangerous with a high existing accident rate
- Traffic will be high, congested and parking limited
- Flood and drainage risks
- Local sewerage infrastructure is at capacity
- Lack of local public consultation
- Noise, air and light pollution
- Same scheme has previously been dismissed at appeal
- Loss of dwelling is harmful
- Objections to the proposed over-55s housing
- Health impact and lack of local NHS facilities
- Loss of privacy
- Noise and disturbance and construction impacts
- Landscape, AONB and visual impact are unacceptable
- No housing need
- Fields have local amenity value

- Footpath impact
- Site will be inaccessible by foot due to its steep gradient

PLANNING HISTORY

Reference	Description	Decision	Date
15/0753/MOUT	Outline application seeking approval for access (matters of layout, scale, appearance and landscaping reserved) for up to 44 dwellings and demolition of 76 Douglas Avenue to create new vehicular access	Non-determination on appeal lodged	10.11.2015

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)
 Strategy 7 (Development in the Countryside)
 Strategy 43 (Open Space Standards)
 Strategy 47 (Nature Conservation and Geology)
 Strategy 5 (Environment)
 Strategy 5B (Sustainable Transport)
 D1 (Design and Local Distinctiveness)
 D2 (Landscape Requirements)
 D3 (Trees and Development Sites)
 EN5 (Wildlife Habitats and Features)
 EN9 (Development Affecting a Designated Heritage Asset)
 EN14 (Control of Pollution)
 EN22 (Surface Run-Off Implications of New Development)
 TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Neighbourhood Plan

Exmouth Neighbourhood Plan (Made) – Policies EB2, EN1, EN3, EN5, EN6, EN8

Site Location and Description

The site is outside the built up boundary defined in the adopted East Devon Local Plan and is unmistakably rural land at the urban fringe of the town. It totals 2.95 hectares of sloping agricultural grazing land on the south eastern edge of Exmouth. The land

is adjacent to the back gardens of the even numbered houses that line Douglas Avenue to the north and directly west of housing development being implemented at Plumb Park. The proposals being considered here have been regularly referred to as Douglas Gardens.

The land slopes down to the south allowing residents of Douglas Avenue excellent views of the Maer Valley and AONB landscape on the opposite, southern side of the valley. The site itself is not inside the AONB, but is a green field in a pleasant situation with a crossfall in height of around 15 metres when travelling from north to south. The outer perimeters of the site are delineated by mature field hedgerows and mature hedgerow trees.

The land is crossed by a public footpath that runs from Douglas Avenue along a small lane before crossing the application site at an angle. On the ground, walkers mainly do not follow the diagonal path and follow a track around the outside of the field. Because the field is so close to residents with unrestricted footpath access, it is popular with dog walkers and others who do not always stay to the established rights of way.

To the south of the site are open farming fields and to the south west gardens and wooded land. As well as the permitted housing development to the north-east at Plumb Park, Douglas Avenue to the north is the southern side of the suburb known as The Avenues. The Avenues is broadly characterised by larger dwellings in larger grounds in a low density arrangement, with a leafy street character.

There are no Conservation Areas in close proximity and the nearest Listed Building is Prathayes House (Grade II) some 400 metres to the east.

Proposed Development

The planning application is in outline for the erection of up to 44 new dwellings with the demolition of No.76 Douglas Avenue (a detached dwelling) to enable vehicular access at a single point. 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 44 units, 11 of which (25%) would be affordable houses therefore 33 would be open market.

The proposal is being put before the Council on the basis that the site would be a logical infill 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;
- 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 Exmouth under the currently adopted Local Plan and as such is considered to lie in the countryside, however, 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 Exmouth.

Furthermore, 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 8 , 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.

Point 9i) 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. The Exmouth Neighbourhood Plan was made over 2 years ago so does not offer additional protection in this case.

It is clear that Exmouth, as the largest town in the District, is the foremost sustainable location for housing development where there is all the infrastructure and services you would expect with a large settlement. It is proposed to retain a built up area boundary for Exmouth 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 town. The location and sustainability considerations weigh heavily in favour of the application.

The site is a logical extension of the built form, however, officers are mindful of a previous application (15/0753/MOUT) that was appealed against failure to determine the application in an appropriate timescale. The application was recommended for approval by officers at a time when the Council could not demonstrate an up to date supply of houses and this was reflected in the officer recommendation, however it was deferred for a site inspection but the applicant appealed for non-determination. By the time the appeal was heard the Local Plan had been adopted and as a result the Council could demonstrate a 5 year housing land supply. The inspector's decision to dismiss the appeal reflected this and concerns about the impact on the landscape. Since we can no longer demonstrate a 5 year housing land supply the current circumstances and policy position are markedly different from those at the time the previous appeal was determined and so little weight can be attributed to that decision. However the issues remain the same and so 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 and the fact that the site is being brought forward as a potential allocation in the emerging Local Plan (the

percentage of on-site provision in the emerging Local Plan has yet to be detailed) it is considered that 25% would be an acceptable provision at this moment in time.

The Council's Housing Enabling Officer comments on the scheme as follows:

Under current policy a requirement for 50% affordable housing would be sought however given the lack of a 5 year land supply and out of date policies a pragmatic approach is being taken with such sites and the level of affordable housing to be sought. The applicant is proposing to provide 25% affordable housing, 11 units.

Strategy 34 sets a target of 70% for rented accommodation and 30% for affordable home ownership. For the proposed 11 units this would amount to 8 rented units and 3 units for affordable home ownership. However this would not meet the requirement in NPPF for 10% of overall homes to be affordable home ownership. The government have introduced through a written ministerial statement and planning policy guidance a new affordable housing tenure called First Homes. First Home should account for 25% of affordable housing provision and is the governments preferred discounted market tenure. First Homes are for eligible first time buyers and are sold with a 30% discount on market price in perpetuity. On initial sale a price cap of £250,000 (after discount) is applied. Eligibility includes an income cap for purchasers and requirement to fund the purchase with a 50% mortgage. EDDC have produced an interim guidance note which confirms our approach to dealing with First Homes. Whilst this guidance and the introduction of First Homes does not supersede policy within our local plan it is a material consideration in any planning decision and will be weighted accordingly.

If First Homes are to be provided on this site then this will reduce the above percentages sought for rented and other affordable home ownership tenures. For a scheme of 44 units and based upon a 25% provision for affordable housing, 3 units should be for First Homes, 6 for social rent and 2 for shared ownership or other affordable home ownership.

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.

Highway Impact and Access

The proposals for 44 homes would be accessed by a new adopted roadway through what is presently No.76 Douglas Avenue and its associated curtilage which is to be demolished in the process. 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 is likely to be diverted, but is proposed to enter and leave the land in the same positions at the north and south of the site. The proposed adopted road network within the site is shown as running up to the Plumb Park development before becoming a pedestrian and cycle link between the two developments.

In terms of the access and the development's impact on the wider road network where it generates additional vehicular traffic onto the surrounding Littleham and Avenue roads, 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 when the Plumb Park development is fully occupied. The Highway Authority are satisfied that the new junction of the access at No.76 and Douglas Avenue will not suffer undue congestion at peak flows and has appropriate visibility that can be controlled and maintained. They specifically do not consider there will be a significant denigration of highway safety. The Highway Authority point out that drivers will have the ability or option to take alternative routes to those routes that are most likely to suffer congestion at peak times such as Littleham Cross. 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. As was found with the Plumb Park development, the application site is very accessible to a range of services including bus services, shops, schools, medical services and jobs. There are suitable and safe walking routes into the town centre and seafront. 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, particularly passing through the Salterton Road junctions, but these trips would naturally dissipate onto alternative routes through the Avenues 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 low density layout of housing arranged following the contours of the sloping ground from north down to the south.

It is considered that at the number of homes being proposed, the land can comfortably accommodate the built development without resulting in undersized gardens or cramped building arrangements. Similarly, the impact on those already living on Douglas Avenue 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 Douglas Avenue.

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 steeply down as it leaves the edge of Exmouth. It is overlooked by the residents of Douglas Avenue who back onto the land and this forms the northwest side of the Maer Valley. The applicant has submitted a Landscape Character and Visual Impact Assessment (LVIA) that analyses the impact of development in detail. The Council's Landscape Officer has reviewed the LVIA and also completed a critique of the proposed development in the light of the landscape and visual impacts.

Both the LVIA and the Landscape Officer have sought to find those people who are most affected by the development. It is clear that those most affected are the residents of the even numbered houses on Douglas Avenue who back onto the site and the users of the public right of way that goes through the site. There are plenty of other viewpoints identified too, for example from Maer Lane and the dwellings thereon, from other permissive rights of way and as far afield as the East Devon Golf Course and the South West Coast Path on the edge of Budleigh Salterton.

The land in question is overtly rural and the Area of Outstanding Natural Beauty (AONB) begins on the south side of Maer Lane, some 400 metres to the south of the site. However, the application site does not have any specific landscape protection. The current character is an open field with mature hedgerow boundaries that are to be largely retained. The resulting development would be houses throughout the site creating a distinct alteration to the character of the land. That said, this is the urban edge of Exmouth where the viewer already sees homes on the rim of the town and the Plumb Park development of well over 300 dwellings has been implemented on land directly adjacent to the northeast.

The sloping nature of the site and proposed siting of the dwellings will reduce the impact of the development for existing residents allowing views to be retained at least from first floor rooms and at ground level through gaps between buildings.

The proposals have potential to impact on the AONB and the setting of the proposed Littleham/Maer Valley Park and to mitigate for this long-term management prescriptions would be required for boundary hedgerow in addition to new tree and structure planting within the site.

The Council's Landscape Architect concludes by stating:

'While the development will inevitably have a significant impact on the site itself, users of the footpath through it and adjacent residents, within the wider setting, the landscape and visual effects are more limited due to the setting against the backdrop of Exmouth. The low housing density proposed is appropriate to the urban edge setting. As such the proposal could be considered acceptable in terms of landscape and visual impact.'

Any reserved matters application should consider points raised at section 3 of my consultation response. Consideration should be given to developer contributions towards the future Maer Valley Park.'

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. Members will be aware that the previous application on site was dismissed in June 2016 because the Inspector concluded that there would be significant landscape harm, however since that time the Plumb Park development has been approved and built out and altered the prevailing character of the area, furthermore, sites on the periphery of the town are needing to be considered in the light of housing forecast numbers and the need to accommodate sustainable growth. This will be taken into consideration when applying the planning balance for the scheme as a whole.

Ecology and Habitats

The application is accompanied by an Extended Phase 1 and Phase 2 Habitat Survey with detailed analysis of the site together with dedicated dormouse, badger and bird surveys. The land has no habitat or species designation, but there are European level sites towards the beach and Exe estuary. The ecologists completing the study of the site have endeavoured to achieve a net gain in biodiversity using a Mitigation and Enhancement Plan as follows:

- Hedgerow and tree planting as part of the landscaping scheme
- Recreation or grassland areas totalling around 0.8 hectares on site
- An open attenuation pond at the bottom of the site
- Maintenance of wildlife corridors through the site
- A lighting plan to protect bats
- Bat and bird nesting boxes on all houses
- An occupier's biodiversity 'Welcome Pack' for every home
- Long term management of the public spaces
- A mitigation payment under a Unilateral Undertaking to compensate recreational impact on the Exe Estuary and Pebblebed Heaths
- A mitigation plan for curlews in the Maer Valley

The grassland has been heavily improved over the years with little inherent floral interest. It has a public right of way passing through which detracts from its attractiveness to wildlife. Natural England have highlighted the importance of fields around Exmouth for foraging curlew who leave the estuary in winter months on high tide, normally settling in quiet, corn stubble fields. The ecologists for the applicant have looked into this, taking into consideration both the synergy with the European sites, ie the estuary, and the importance of the curlew as a protected species.

The proposed mitigating measures in relation to specific ecological resources are as follows:

- The creation of 0.5511 ha of native wildflower meadow grassland (other neutral grassland), 0.1577 ha of native wildflower wet meadow grassland (other neutral grassland) giving a total of 0.7088 ha of wildflower grassland.

- The creation of 0.0784 ha broad-leaved woodland trees as a planting of approximately 128 locally-appropriate native trees and an additional 0.2575 ha of mixed native scrub habitat.
- Minimisation of hedgerow habitat loss to 5 metres.
- Enhancement of existing retained hedgerow habitats through supplementary planting of a mix of native trees and shrubs, including gap filling and closure of basal gaps.
- Creation of 239 metres of additional native hedgerow habitat, including species-rich native hedges with trees on a hedgebank.
- Creation of a 0.0206 ha water feature/attenuation pond and includes the creation of wetland habitat using appropriate native species.
- Provision of a 10m dark bat corridor along identified bat commuting routes within the red line.
- Providing at least one bird nesting and bat roosting opportunity at a rate equivalent to one per dwelling.
- Provision of wildlife-friendly plot boundaries, including permeability to mobile species, such as hedgehogs.
- Provision of off-site enhancements to curlew winter feeding sites within the wider Maer Valley area. This consists largely of hedgerow enhancements to increase protection from disturbance and is subject to a report which will be submitted to EDDC under separate cover.

The applicant's ecology consultant has calculated that this range of mitigation measures provides a BNG (biodiversity net gain) score as follows:

'In metric terms, the BNG uplift that is proposed will yield an increase in Habitat units from a baseline of 5.82 HU to a post-development target of 32.20 HU, with a net increase of 26.38 Habitat Units. Similarly, the hedgerow baseline of 2.6 Hedgerow Units will increase to 6.05 Hedgerow Units, a net increase of 3.46 Hedgerow units over the baseline. This equates to a 453.71 % increase over the baseline for Habitat Units and 133.23% increase for Hedgerow Units.'

Overall, 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 Ecology Mitigation and Enhancement Addendum dated 23rd January 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.

Policy EN3 of the Exmouth Neighbourhood Plan states the following:

Policy EN3: The area of land along Littleham brook extending to Littleham Village and Plumb Park towards the Maer (FIG 11) should be conserved with a view to future designation as a Valley Park. Following completion of Plumb Park development this should function as an excellent green corridor for access to the sea front.

The proposed designation as a valley park is noted and whilst concerns have been raised by the Town Council, the 'non prescriptive boundary' of the park as contained in the Neighbourhood Plan abuts the application site, development of the southern part of the site as indicated on the illustrative masterplan indicates no interference with existing hedgerows and an improvement in terms of ecology and natural grassland areas such that it is considered the integrity of the proposed designation would not be harmed by this application.

Furthermore, the Landscape Architect has suggested the development could contribute towards the Maer Valley Park, however as there is not scheme for recreational improvements or any other proposals drawn up for its designation the securing of monies would be contrary to the Section 106 regulations.

For these reasons the proposals are considered to accord with Policy EN5 of the EDDC Local Plan, Policy EN3 of the Exmouth Neighbourhood 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, 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:

'The applicant is currently proposed to attenuate the surface water runoff via an attenuation basin location in the south east corner of the site before discharging into South West Water sewer to the east. The applicant should consider the discharge into the minor tributary of the Littleham Brook to the south west in accordance with the drainage hierarchy.'

On submission of additional information and the reduction in run off rates from the land, 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.

The proposal is therefore considered acceptable 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.

There are no Conservation Areas in close proximity to the site. The nearest Listed Buildings are Prattshayes and Green Farm around 400 metres or more to the south east. Other heritage assets included in the Historic Environment Assessment are Littleham's church which is Grade II* and other Listed Buildings in Littleham some 1000 metres east.

The applicant's Assessment concludes that whilst some of these buildings are of high and medium significance, their significance is either unchanged, has a minor or negligible impact from the development proposed. Put simply, the nearest listed buildings are a long way from the site and the interrelationship between them is distant. The listed buildings' settings will be almost entirely unchanged and their heritage worth protected. In relation to the impact from this development upon Prattshayes, given that the permission for 350 dwelling on the adjoining site (Plumb Park) was not considered to harm its setting, it would be difficult to conclude that this development causes harm adequate to justify refusal of permission.

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, Policy EN9 of the EDDC Local Plan and advice contained in the NPPF.

Planning obligations

The report has already discussed the 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:

Health

The NHS clinical commissioning group (CCG) have requested a contribution from the development towards a local surgery which is already over capacity, they consider that the development will produce additional residents that will cause the surgery to be further oversubscribed and seek funds to enlarge the surgery. However, whilst it is appreciated that the proposed development would add to the number of people on roll it would not be the only development in the area that would affect numbers of people on roll or to have caused it to be oversubscribed in the first place. The appropriate funding stream for matters such as this is through the CIL process where the surgery would need to bid for funding once it has a project to enlarge the surgery in place.

However, the NHS have submitted a bid for gap funding for the RD&E which has been found to be acceptable by inspectors in the past and was agreed in principle by the Councils Strategic Planning Committee in 2021. The NHS do not provide funding for increase in population until dwellings have been occupied for 1 year, the gap funding, following a recognised methodology, of £1010 per dwelling (£44,437 overall) is sought to provide essential funding to the RD&E for potential patients created by the proposed development.

As things stand some caution must be expressed as to the weight given in respect of East Devon's previously agreed position with the RDUH Foundation Trust funding requests. This is because on the 13 February 2023, the High Court handed down a judgement on a legal challenge brought by the University Hospitals of Leicester NHS Trust in respect of a decision by Harborough District Council not to secure gap funding for health related services.

The Trust challenged this position and lost – principally on the grounds that it had not established that a gap existed. The judgement goes further and is clear in identifying that funding for “services” (which is different to an infrastructure project) could be viewed as a National issue. It recognises that as the CCG funding formula recognises at least in part projected population migration, it can be argued that people moving into an area are already considered within the health funding provision even if not at a local level.

Clearly more work needs to be undertaken within East Devon and between this Council and the RDUH to understand the implications of this decision but as a material consideration in itself, it does act as a caution to the weight that should be given to East Devon's previously agreed approach. However as things stand Members have agreed to support these contributions subject to viability and so if Members are minded to approve this application they are requested to give delegated authority to the Assistant Director to delete the requirement for this contribution in the event that the referred to High Court decision means that it cannot reasonably be required.

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 this will also need to be reflected in the reserved matters should consent be granted.

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 11 affordable housing units that will provide social sustainability benefits. Similar importance is attached to the potential (net) 43 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 44 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 Exmouth's varied 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 town. 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 hedgerow around the site with minimal tree or hedge removal overall (5%).

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 and a contribution to the NHS.

It is considered that there are substantial social and economic benefits to development at Douglas Gardens. 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 Exmouth. 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 3 First Homes, 6 rented and 2 shared ownership**
- **NHS contribution of £44,437 (44x£1,010) to fund the gap of 1 year from when the houses are occupied (subject to this being reasonable in light of the recent high court ruling referred to above).**
- **Management company to maintain common areas on site.**

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. The details to be submitted as part of the reserved matters shall adhere to the key design principles set out within the Design & Access Statement and indicative Masterplan drawing number DR-UD-0104 REV P5 received on 2nd September 2022.

(Reason: To ensure that the development proceeds in accordance with the design principles established at the outline stage in the interests of ensuring a development that is compatible with and appropriate for the area and to accord with Policies D1 (Design and Local Distinctiveness) and EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.)

5. 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.)

6. 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 TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)

7. 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).

8. 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.)

9. 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) A detailed drainage design based upon the approved Douglas Gardens, Exmouth Flood Risk Assessment and Drainage Strategy (Report Ref. E06005/0001, Rev. V3, dated 13th September 2022) (the drainage principle only) and CB Response to LLFA Comments Ref. 22/1954/MOUT Technical Note (Report Ref. E06005 - TN001, Rev P1, dated 07th December 2022).

(b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

(e) Evidence there is agreement in principle from the landowner/DCC highways/SWW

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.

10. The details of the landscaping and layout to be submitted as part of the reserved matters shall include all fences, gates, walls and retaining structures. The development shall be carried out in accordance with the approved details. Thereafter and notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no further fences, gates or walls shall be erected within the curtilage of any dwelling house.
(Reason: In the interests of the character and appearance of the area and to maintain open landscaped areas where necessary to accord with Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) of the East Devon Local Plan.)
11. No development shall take place until a Landscape and Ecology Management Plan (LEMP) for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority which should include the following details:
 - o Extent, ownership and responsibilities for management and maintenance.
 - o A description and evaluation of landscape and ecological features to be created/ managedand any site constraints that might influence management.
 - o Landscape and ecological aims and objectives for the site.
 - o Detailed maintenance works schedules covering regular cyclical work and less regular/occasional works in relation to:
 - o Existing trees, woodland and hedgerows.
 - o New trees, woodland areas, hedges/ hedgebanks and scrub planting areas.
 - o Grass and wildflower areas.
 - o Biodiversity features - hibernaculae, bat/ bird boxes etc.
 - o Boundary structures, drainage swales, water bodies and other infrastructure/facilities.
 - o Arrangements for Inspection and monitoring of the site and maintenance practices.
 - o 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.

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.)

12. 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 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 1:100 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 including proposed profiles, levels and make up of swales and attenuation ponds and locations and construction details of check dams, inlets and outlets etc.
 - e) A full set of soft landscape details including:
 - i) Planting plan(s) showing locations, species and number of new tree, shrub planting, type and extent of new amenity/ species rich grass areas, 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

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.

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.

(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.)

13. Development shall proceed in accordance with the ecological mitigation measures detailed in the Ecology: Mitigation and Enhancement Addendum dated 23rd January 2023 undertaken by Code 7 consulting.

(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-0101 P1	Location Plan	20.09.22
AUGUST 2022	Transport Statement	02.09.22

List of Background Papers

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

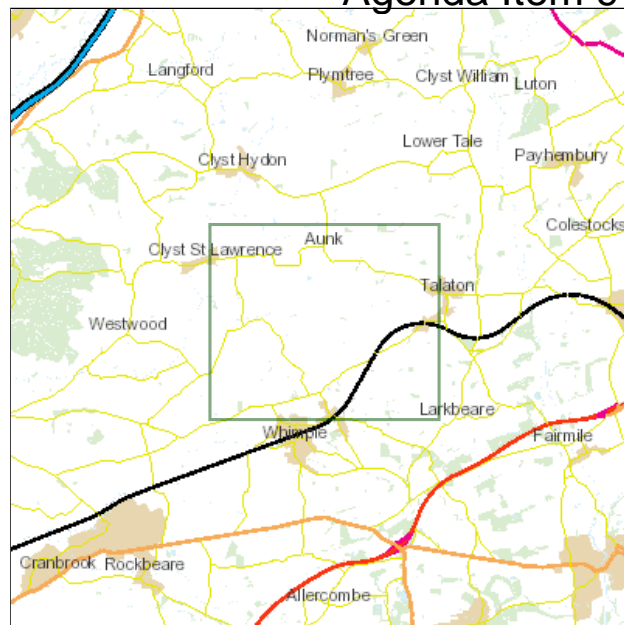
Ward Whimble And Rockbeare

Reference 22/0783/MFUL

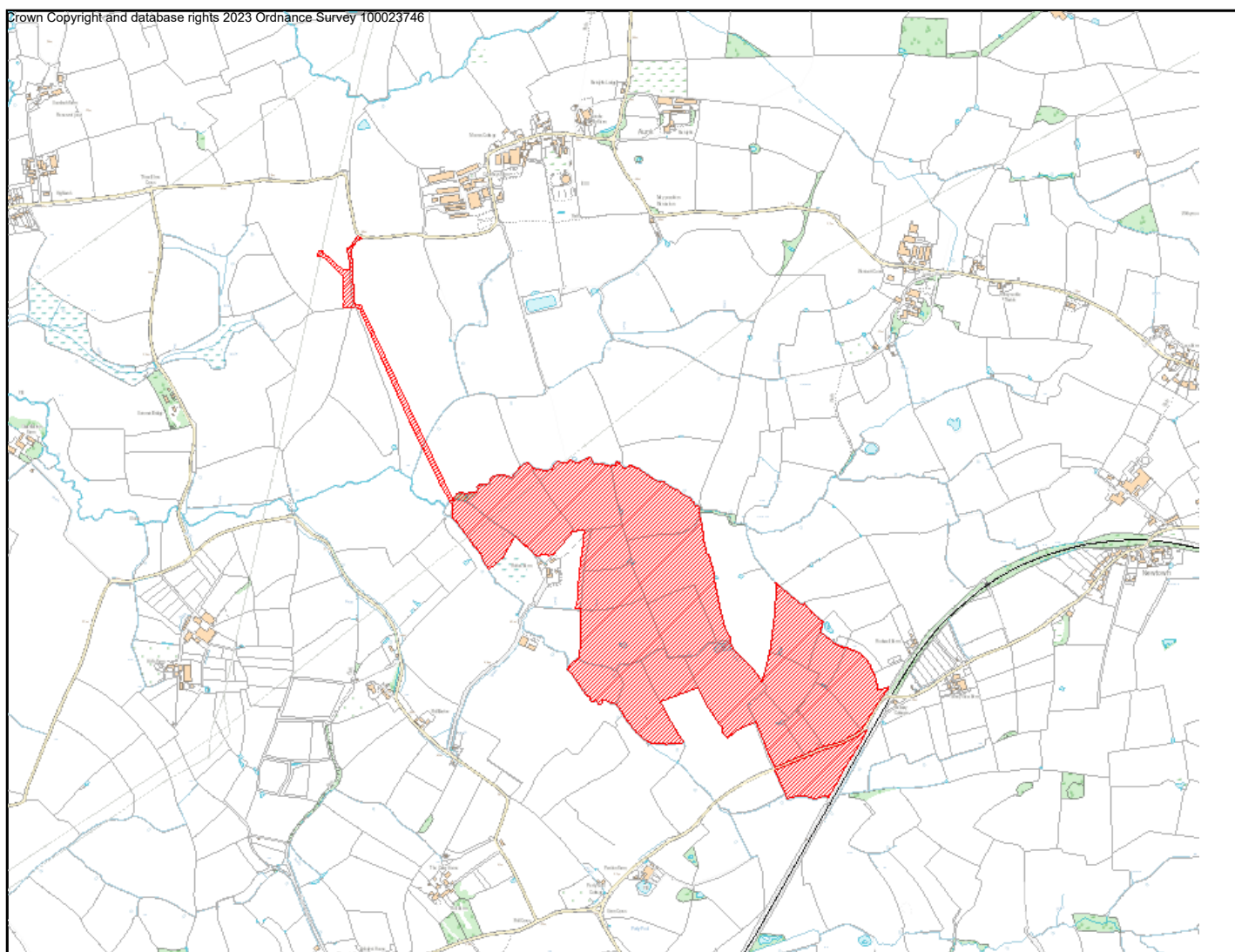
Applicant Aura Power Developments Limited

Location Land East Of Rutton Farm Rull Lane Whimble EX5 2NX

Proposal Construction and operation of a ground mounted solar farm, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development



RECOMMENDATION: Approval with conditions



		Committee Date: 24.04.2023
Whimble And Rockbeare (Whimble)	22/0783/MFUL	Target Date: 08.08.2022
Applicant:	Aura Power Developments Limited	
Location:	Land East Of Rutton Farm Rull Lane	
Proposal:	Construction and operation of a ground mounted solar farm, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Committee as it is a major application, where a view contrary to the officer recommendation has been expressed by the Ward Member and Parish Council.

Planning permission is sought to construct a solar farm of around 58ha in size. The development would comprise of solar arrays, equipment housing, sub-station, fencing, CCTV and ancillary equipment. The application seeks to retain this use for 40 years.

This proposal is one of a number of solar developments which have recently been considered in East Devon. Clearly though, whilst the cumulative impact, if one or more of the other developments was approved/is constructed alongside this application, is for consideration, the key focus of this report is on the impacts from the proposal at Rutton Farm, and the recommendation relates only to that application.

The land which is the subject of this application consists of gently undulating agricultural fields, with hedges forming the boundaries between fields. There is a minor water course running along the northern edge of the proposed solar panels, in addition to some other water features within, or close to, the area of panels. There are trees within the site; some forming part of hedges, and others within fields.

The site was chosen due to the availability of, and an agreed connection to, the grid and due to its accessibility, the agricultural classification of the land, and as the land is not subject to any designations. Also, following an extensive assessment of sites, including attempting to seek brownfield sites, the application site was the most suitable when all factors were considered.

Some fields contain a mixture of grade 3a land and lower quality land. In the past - most recently in the approval of application 21/3120/MFUL - the Council's Planning Committee has been of the view that, it would be impracticable to only develop the 3b areas of a field, but that it is also unreasonable to only allow development on grade 3b land downwards. The same argument is made again, given that the majority of the land within the site is grade 3b or lower.

Furthermore, whilst the presence of solar panels would prevent the land being used for the purpose of crops, they would not prevent the land being used for grazing purposes, so the land would not be completely lost to agriculture should this development take place. The submitted Planning Statement confirms that it is intended to continue using the land for agricultural purposes. It is generally accepted that the installation of solar panels is not detrimental to the agricultural quality of the land. Indeed, Natural England supports this view in its comments to the Council regarding this proposal.

Strategy 39 (Renewable and low Carbon Energy Projects), makes provision for renewable energy projects and lends some support to the scheme. However, that support must be balanced against the impact on the agricultural land, in order to ascertain whether the benefits of the scheme outweigh the temporary and partial loss of the land to agriculture.

The National Planning Policy Framework 2021 (NPPF) is balanced with regard to the issue of using agricultural land for renewable energy, with some paragraphs supporting agriculture and others supporting renewable energy. The NPPF balances the two issues and it is considered that the proposal, which seeks permission for 40 years, would not be considered to harm the quality of the land and would overall comply with the NPPF and LP.

Concerns about the impact of the proposed solar farm on residential amenity have been raised by a number of people residing in the vicinity of the site. However, the proposal site would not immediately adjoin the curtilage boundary of any residential property, and the hedges on the boundary would be enhanced as part of the works.

In terms of the visual impact of the proposal, the existing landscaping, which would be enhanced, is sufficient to ensure that the scheme would not be visually harmful to the area, or users of the public highways and footpaths within the vicinity of the site. From wider views at higher altitudes, it is accepted that it will not be possible to completely screen the development. However, the nature of the proposed layout, and the surrounding landscape, is such that any longer distance views of the development would be in the context of the wider landscape.

It is considered that the site is a sufficient distance from other solar developments, either existing or with extant permissions, in the area to ensure that there would not be a significant cumulative visual impact. In terms of other cumulative impacts, such as highway issues if more than one solar development was being constructed at the same time, it is considered that there would be no significant harm arising from those circumstances.

It is considered that the proposed development would not have a detrimental impact on any listed buildings.

Natural England has confirmed that the site and proposal is acceptable in terms of its impact upon the area and biodiversity. The Council's Ecologist also supports the proposal in this regard.

The proposal is considered acceptable in terms of its impact on archaeology, highway safety, aviation, railways, trees and hedges, and flooding and drainage - although, in some cases, conditions relating to those matters are proposed. The Planning Statement details that a community fund will be donated annually although this is not a material planning consideration.

Given the above factors, which are assessed in full detail in the main report, it is considered that the proposal is acceptable. Therefore, it is recommended that this application is approved.

CONSULTATIONS

Clerk To Whimble Parish Council

Comment Date: Wed 25 May 2022

The Cllrs discussed the pros and the negatives regarding the application for a solar farm within Whimble's boundaries. The main areas of concern are Whimble and the surrounding areas do not become overwhelmed by solar farms and the Area of Outstanding Beauty for East Devon is extended to prevent this from occurring and offers some form of protection. That the area is returned to agricultural land after the 40 years lease. The Parish Council are reassured by the lengths the company have currently gone to ensure that all neighbours are worked with and views heard and asked that this continues. The Community Benefit Fund the Parish Council are pleased to see being offered and would like to look into ways that this can be returned to residents to help with fuel costs. The landscaping and footpaths on the site are also welcomed by the Parish Council. The Parish Council have concerns over the planned access routes to and from site and feels that this needs to be looked into further as an alternative route could be more appropriate. If all of areas of concern can be addressed the Parish Council would not object to the application

Clerk To Whimble Parish Council

Comment Date: Tue 15 Nov 2022

The Parish Council would like to give credit to the development for listening to objections from local residents and changing the development to lower the impact on

nearby properties. The Parish Council stands by its comments in May - The Cllrs discussed the pros and the negatives regarding the application for a solar farm within Whimble's boundaries. The main areas of concern are Whimble and the surrounding areas do not become overwhelmed by solar farms and the Area of Outstanding Beauty for East Devon is extended to prevent this from occurring and offers some form of protection. That the area is returned to agricultural land after the 40 years lease. The Parish Council are reassured by the lengths the company have currently gone to ensure that all neighbours are worked with and views heard and asked that this continues. The Community Benefit Fund the Parish Council are pleased to see being offered and would like to look into ways that this can be returned to residents to help with fuel costs. The landscaping and footpaths on the site are also welcomed by the Parish Council. The Parish Council have concerns over the planned access routes to and from site and feels that this needs to be looked into further as an alternative route could be more appropriate. If all of areas of concern can be addressed the Parish Council would not object to the application.

Clerk To Whimble Parish Council

Comment Date: Tue 24 Jan 2023

The Parish Council are supportive if the changes made are being made due to residents comments.

Clerk To Talaton Parish Council

Comment Date: Wed 01 Jun 2022

Talaton Parish Council objects to proposal 22/0783/MFUL - Land East Of Rutton Farm, Rull Lane, Whimble EX5 2NX, also referred to as "Horton Solar Farm".

The Parish Council recognises the need for improved energy security in the UK, of which solar generation has an important role to play. However, we believe this is best achieved by investing in solar generation on existing buildings and new build, especially where this enables residents to benefit directly from energy generation. We do not believe that this is best achieved by constructing major industrial facilities in the middle of the Devon countryside, destroying its beauty, and removing productive farmland at a time when the world is facing food insecurity due to the conflict in Ukraine.

1. Access of Construction Traffic To The Site.

The proposed route for construction traffic passes through our Parish by the neighbourhoods of Fairmile, Hillside and Newtown and past the major tourist attraction of Escot Wildwood. These roads are narrow, with dog-leg bridges and several properties in Newtown abut the road. The route is often used by cyclists. The applicant's own proposal states there would be 2374 HGV movements over the four month construction period. This would lead to immense disruption and inconvenience to residents of our Parish. We are not aware that the applicant has consulted with local residents on this route or has properly assessed its feasibility bar a "table-top" exercise. There is no information provided on how the 200 construction workers will commute to the site.

It must be recognised and accepted that the transport infrastructure in ours and adjoining Parishes of narrow lanes which are in constant need of repair with existing traffic loads cannot cope with the traffic associated with the construction of, what would be, a major industrial facility in the middle of the Devon countryside. If this proposal is approved we can expect this traffic will cause further damage to our local roads leading, ultimately, to increased costs to the local taxpayer.

2. Loss of Quality Agricultural Land.

Food security is as important as energy security for the UK. If anything, the crisis in Ukraine has emphasised the former rather than the latter. Energy generation can occur in a wide range of environments - food can only be produced on quality farmland. For every acre of farmland that is taken out of production, more food will need to be imported into the UK with the associated transport carbon emissions. The site in question is, according to the applicant's own commissioned agricultural survey, 80.8% Grade 3b land and 13.8% Grade 3a land. Only 5.4% of the land in question is classified as Grade 4 and 5, i.e. Poor or Very Poor. Therefore, this farmland cannot be described as poor and does not meet the Government's energy strategy to support "the effective use of land by encouraging large scale [solar] projects to locate on previously developed, or lower value land". Furthermore, our Parish Council has not received any assurances that the land will be adequately maintained during this period of non-use, should the application be granted, and it will take many years for the farmland to return to its previous productive levels.

3. Scale of Proposal and Impact on Countryside.

This is not a "solar farm" - this is a proposal to construct a major industrial facility in the middle of the Devon countryside covering 58 hectares of which 26 hectares will be covered in 3m high solar panels, with 225 inverters, 16 transformer units, and a dedicated substation, plus access tracks and fencing. The topography of the site and local area means this will be visible from our Parish. The applicants own Landscape and Visual Impact Assessment report confirms this with their "Zone of Theoretical Visibility" covering Rydon, Westcott, Newtown and parts of Talaton and Larkbeare for this development. It is notable that this Landscape report states that the development "where seen the change would be moderate to substantial or substantial and significant and adverse." The viewpoints analysed in the report do not include any of the settlements in our Parish, and the impact on settlements is somewhat disregarded in the report without presenting any evidence. (Paras 286-7.) Whilst the applicant proposes some mitigating actions it would take many years for hedges and trees to reach heights that would provide any mitigation from the "substantial and significant and adverse" changes in views.

4. Lack of Demonstrable Benefit.

The applicant claims this proposal will generate 53 200 MWh of electricity per year and associates a reduction in carbon emissions resulting from this generation. If the applicant wishes to claim an environmental benefit from the proposal they must provide a full lifecycle carbon audit including manufacture, transport and disposal of the solar panels and associated infrastructure; and provide a validated estimate of total energy production over the lifetime of the facility taking into account degradation

of the panels over time and the anticipated climatic conditions over the next forty years. Once that assessment has been done we suspect that the true figure will be far short of the carbon offsetting claims included in the proposal.

Clerk To Talaton Parish Council

Comment Date: Tue 27 Sep 2022

The Parish Council's original comment still stands.

We hope that consideration will be given to the latest points and comments submitted by Mr Mrs Bollen and Mr Mrs Bratt

Clerk To Talaton Parish Council

Comment Date: Mon 09 Jan 2023

A Council meeting was held on 4th January and it was resolved, in respect of the above application, that the `The Council's original comments previously submitted to EDDC still stand (despite the latest amendments to the plans)` Please can these comments be added on the Planning Portal

Adjoining Parish – Clyst St. Lawrence

Comment Date: Mon 06 Jun 2022

As consultees Clyst St Lawrence Parish Meeting objects to the proposal for a solar farm on Land East of Rutton Farm, Rull Lane, Whimple. Objections put forward by parish members are as follows:

- Loss of visual amenity - the proposal will significantly impact on the farming landscape, turning countryside into an industrial landscape - impacting those who not only live and work in the area but also those who may wish to holiday in the countryside.
- Loss of farming land - at a time in which the value of farm land as a means of local and national food production has been highlighted, to lose farmland to solar panels is not in the economic interests of the country. This, particularly in the light of multiple proposals within the immediate area.
- Sustainability - There appears to be no full lifecycle calculation for the total impact of the project from sourcing original materials, manufacturing, transport, impact on land which will have been left to degrade over 40 years and on to decommissioning.
- Impact on local roads - the impact of construction traffic on local single track roads will be significant for commuters as well as those who live and work in the area.
- Wildlife impact - The impact of loss of habitat and the removal of wildlife corridors by the installation of deer fencing is of concern.

Alison Griffiths - Clerk to Clyst St Lawrence Parish Meeting

Whimble And Rockbeare - Cllr Richard Lawrence

Comment Date: Wed 11 May 2022

As Ward Member I object to this application on the basis of the prolonged harm being done to the countryside and the use of perfectly good farmland before looking at suitable alternative sites.

At the present time, with world events contributing to an already serious shortage of food, I consider this development, taking the land out of agriculture for 40 years to be somewhat foolhardy.

We are faced with a number of these proposed solar farms in the area, mostly based on the profitability of the applicants, with the sites being in close proximity to the electricity substation at Broadclyst.

On the subject of financial matters, I have a number of copies of accounts for applicants for other sites and they show little by way of financial stability. I would like this application to come before Committee, but prior to this I would urge some background checks on how the applicant plans to fund the venture, bearing in mind the huge impact it is set to make on our environment.

County Highway Authority

Comment Date: Mon 06 Jun 2022

DETAILS OF APPLICATION: Construction and operation of a ground mounted solar farm, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development

LOCATION: Land East Of Rutton Farm Rull Lane Whimble EX5 2NX

Observations:

Solar farms once in operation tend to produce minimal trip generation due to the operation having a low maintenance requirement once set-up.

I would recommend the provision of a comprehensive Construction and Environment Management Plan (CEMP) to help minimise any impact upon the local highway network during the construction and set-up of the site.

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.

6 June 2022

County Highway Authority

Comment Date: Mon 26 Feb 2023

Addendum 26/02/2023

The CHA has no further comments to add in regards to the re-consultation upon new documents received.

Officer authorised to
sign on behalf of the County Council

EDDC Landscape Architect

Comment Date: Fri 05 Aug 2022

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 SUMMARY DESCRIPTION OF SITE, PROPOSALS AND MEANS OF ACCESS

The application site extends over a single block of 22 fields measuring up to 1.5km long x 0.7km wide with a total fenced developed area of 58Ha.

Proposals comprise the construction of a solar farm and associated infrastructure including 16 transformer units, a spare parts container and new trackway. A separately sited substation is proposed 800m to the northwest of the main site. This sits within a compound measuring 52x27m with a switch-room and control building adjacent.

Security fencing comprises 2m high deer netting on timber posts around the perimeter of the solar farm with double leaf steel access gates and 2m high steel palisade fencing around the substation. There is no indication in the submitted details of security cameras.

Access to the main site is proposed from the Whimble-Talaton road into field 2 with a new access track running northwards up through the site from there. Access to fields 1, 3, 4 and 5 appear to be taken directly from existing field gates off the Whimble-Talaton road. Access to the substation is proposed via an extension of an existing track from the minor county road at Aunk.

Site topography is generally low lying, gently undulating ranging in height from 63m to 40m AOD. There are two low hills rising to approximately 63m AOD, one in the southwest corner of field 5 and the second mid-way along the eastern boundary of field 14.

Fields within the site are a mix of arable and improved pasture generally irregular, medium sized bounded by thick native hedgebanks some 2m high. Some contain numerous mature trees and there is a generally well treed appearance in views looking across the site. Immediately to the north of the site there is a change in character with fields becoming larger, and boundary hedges close cut with fewer trees, giving a more open feel.

A tributary water course of the River Clyst flows westwards along the northern site boundary. There are also a number of small ponds within the site.

A number of high voltage electricity lines on pylons cross the landscape to the north and west of the site. They are relatively prominent from its northern edge but are not especially noticeable elsewhere in the site and overall the landscape retains a remote rural character with a high degree of tranquillity.

There are distant views from the site to higher ground to the south/ southeast in the vicinity of Larkbeare and Rockbeare Quarry and the edge of Ashclyst Forest to the west and Paradise Copse and Clyst St Lawrence to the northwest. Hembury Fort in the Blackdown Hills AONB is just visible from higher ground to the northeast but is 7km distant.

Clyst Hydon footpath 14 runs across the site passing through field parcels 19 and 20 (currently a single field) at the northern end of the site and then following the western site boundary adjacent to field parcels 12, 13, 16 and 17.

Talaton footpath 6 runs to the east of the site from a point on the minor county road immediately adjacent to the site's southeast corner northwards some 300m from the eastern site boundary over a distance of some 625m before heading north eastwards to Westcott.

A minor county road between Whimble and Talaton runs across the southern edge of the site between field 1 to the south and fields 3, 4 and 5 to the north.

The main line Waterloo-Exeter railway runs along the southern boundary of field 1 and affords views over it and towards fields 3, 4 and 5.

There are few residential receptors likely to be affected by the proposals, the principal ones being at Rockwell Farm situated 130m to the east of field 5 and the hamlet of Larkbeare 1.5km to the south. There may also be views of the proposed substation from a few properties on the edge of Whimble.

3 REVIEW OF SUBMITTED LANDSCAPE RELATED DOCUMENTS

3.1 Landscape and Visual Impact Assessment (LVIA)

Methodology – The methodology as set out in appendix B of the LVIA is sound and in accordance with industry standard guidelines.

The methodology notes that where identified effects are not otherwise described as beneficial they should be taken as adverse.

The assessment is predicated on the successful establishment of mitigation comprising new planting and vegetation management and it should be acknowledged that the effectiveness of such measures cannot be guaranteed.

Policy review

The review should have included Local Plan policy T4, the second paragraph of which states - *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.*

Description of development

The proposed development is generally comprehensively described. The 7m height of the substation plant should have been noted.

Landscape baseline

The LVIA study area extends to some 2.5-3km beyond the site boundaries which is appropriate for a scheme of this nature.

The LVIA landscape baseline review considers published landscape character assessments at County and District Level and assesses the local landscape character pertaining to the site.

Visual baseline

Viewpoints used in the LVIA assessment were agreed with EDDC Landscape Officer in advance and are generally representative although the site is partially visible from a number of other locations. These are mostly field gateways adjacent to minor roads.

View point photographs are presented with 90 degree horizontal field of view. This is generally considered acceptable and in accordance with LI technical note 06/19 to represent very wide linear infrastructure but for a number of viewpoints, particularly the longer distance ones such as VP1, VP12 and VP13, the image scale and quality is too small and indistinct to adequately represent the viewing experience. This is illustrated for comparison by the single frame image for VP12 (Appendix A figure 1 below) where the level of detail is considerably greater than illustrated in the equivalent 90 degree panoramic LVIA photograph even when viewed at their intended A1 size.

Sensitivity of Landscape receptors

The LVIA assessment of sensitivity of the host landscape as **medium** (para. 141) seems appropriate.

The effect of the proposals on a suite of key characteristic features based on the published descriptions for the host landscape character type (LCT 3E) is considered in the LVIA as part of the assessment of landscape effects (see below).

Sensitivity of Visual receptors

The LVIA assessment of sensitivity of visual receptors is generally accepted but for rail passengers, in accordance with GLVIA 3, sensitivity should be considered **medium** rather than **high**.

Potential landscape effects

The LVIA notes that the proposals will result in a change to the character of the site and its immediate surroundings. The LVIA also notes that existing landscape features are to be retained and where possible enhanced through positive management of hedgerows and field margins and new tree planting. Ground disturbance would be minimised through the use of mini screw piles to secure solar arrays.

Para 216 of the LVIA indicates that grassland will be established under and around the solar panels as a benefit of the scheme. However, this is likely to be heavily shaded by the panels particularly given the proposed aisle width between rows of 2.1m which is much narrower than similar schemes within the district. Consequently grass establishment and growth is likely to be poor and any grazing potential is likely to be very limited.

At 3m high the proposed panels will be some 500mm higher than those at Paytherden and Sandercroft solar farms and therefore the tops of panels would generally be more noticeable at least initially behind boundary hedgerows and shade effects around them would also be increased.

Mitigation and environmental enhancement

Proposed mitigation identified in the LVIA comprises letting up of hedges by 1m to increase screening of the site, additional tree planting particularly to the eastern boundary of field 5 and the northern boundary of fields 18, 19, 20 and 21. A proposed area of new orchard planting to the west of fields 16 and 17 and a small new pond

would provide new landscape features that could be considered slightly beneficial to landscape fabric but neither would mitigate the visual impacts of the proposed solar farm.

Proposed letting up of hedges while increasing screening, and potentially enhancing landscape character and biodiversity would in some instances close off existing attractive mid/ long distance views.

As part of the identified mitigation the LVIA makes reference to a Landscape and Ecological Management Plan (paras 182-199 and 222) but no such document has been submitted with the application.

In comparison with similar solar farm proposals elsewhere in the District habitat enhancements are limited, particularly considering the scale of this application. The similar sized Ford Oaks Solar scheme currently in planning includes the creation of 19Ha new habitat outside of the fenced solar farm.

Construction effects on landscape fabric

Although it is noted that construction methods will minimise ground disturbance for the installation of the solar panels the LVIA does not consider the likely extent of earthworks associated with the substation site, which could be extensive.

Mention is made in the LVIA of two new hedge-breaks at unspecified locations involving minor hedgerow loss.

It is not clear from the LVIA or submitted information how existing roadside field gates to fields 3, 4 and 5 will be treated and where these are required for site construction purposes what the impact on adjacent hedgerow will be particularly to allow for large delivery vehicles to turn into the site off the highway.

Notwithstanding the above the overall the LVIA assessment of the level of effect on landscape fabric in the construction stage as **moderate to substantial temporary adverse and significant** is accepted.

Operational effects on landscape fabric

The LVIA assessment of the operational effects of the development on the landscape fabric of the site as **moderate to substantial long term adverse and significant** is accepted.

Operational effects on landscape character

Effects on site landscape character are assessed in the LVIA in relation to the characteristics identified for LCT 3E (LVIA paras. 226-261).

- In relation to landform, the assessment of effect as **moderate adverse** is accepted.
- For woodland blocks and orchard planting the LVIA assessment that proposed orchard and tree planting has potential to enhance this landscape characteristic is accepted although the overall scale of effect is likely to be **slight** rather than **slight to moderate** as stated in the LVIA, given the relatively well treed condition of the site presently and limited increase in cover afforded by the proposals.

- In respect of the mixed farmland characteristic the increase in grassland arising from the proposals is assessed in the LVIA to be **moderate beneficial**. However, given the limitations of grass land establishment under solar panels and the fact that the prevailing landscape character is one of mixed farmland, the change to grassland from arable is considered at best to have a **neutral** effect.
- For semi-natural habitats (trees/ hedgerows/ grassland/streams/ditches/ ponds) the LVIA assesses degree of effect to be **moderate to substantial**. The LVIA does not state that this is a beneficial effect. Given that hedgerows are to be allowed to grow up by 1m or so there will be some change in character to field boundaries and also some biodiversity benefit. Positive management of trees and ponds and the creation of an additional small pond will also have some benefit to this landscape characteristic, however, given the existing strong landscape structure within the site, effects on this characteristic are more likely to be **slight beneficial**.
- The LVIA assessment that there will be **no impact** on characteristic settlement patterns is accepted.
- In respect of the highway and PROW network there would be no physical changes except for a short section of Clyst Hydon footpath 14 where the proposed new trackway crosses it and some adverse changes to adjacent gateways. These are likely to be slight to moderate adverse. However there would be substantial changes to some views from them which are considered in the visual assessment section of the LVIA.

At para. 252 the LVIA notes the proposed creation of a permissive path from Clyst Hydon footpath 14 along the northern site boundary between the watercourse and the boundary of field parcels 18 and 19. The LVIA acknowledges the path would be a dead end but states that it is hoped that Devon County Council, who have interests in the proposed development and own land to the east, could create a permissive access to Talaton footpath 6 which would form a valuable link. However, a permissive access is unlikely to be created unless it forms part of the application proposals and in the absence of such an agreement the proposed dead end path would have no appeal.

The LVIA does not assess the magnitude of change or level of effect on the roads and public rights of way characteristic. Changes to gateways and the introduction of solar panels and other uncharacteristic infrastructure is likely to have a **slight-moderate adverse** impact on this characteristic.

- In respect of the remote and rural landscape characteristic the LVIA assessment of effect as **moderate adverse** is accepted.
- For the long views over low hedges characteristic there would be some loss of views from the road to the south and footpaths Clyst Hydon 14 and Talaton 6 due

to increased hedgerow height and the LVIA assessment of the degree of effect for this characteristic as **moderate adverse** is accepted.

- The LVIA assessment of effect on surrounding LCTs, particularly on higher ground to the northwest and southeast as **slight to moderate adverse** is accepted.
- It is accepted that the proposed scheme would have **no impact** on the Blackdown Hills or East Devon AONBs.

Table 1- Comparative summary of effects for landscape receptors as assessed in the LVIA and by EDDC landscape officer

Receptor	Assessor	Sensitivity	Magnitude of change on completion	Magnitude of change after mitigation established	Overall significance of effect
Designated landscape – AONB	LVIA	High	No change	No change	No effect
	EDDC	High	No change	No change	No effect
Landscape fabric (operational stage)	LVIA	Medium	High	High	Moderate-substantial adverse and significant
	EDDC	Medium	High	High	Moderate-substantial adverse and significant
Landscape character – Landform	LVIA	Medium			Moderate adverse
	EDDC	Medium	Medium/ low	Medium/low	Moderate adverse
Landscape character – Woodlands & orchards	LVIA	Medium	Low	Low	Slight-moderate (beneficial?)
	EDDC	Medium	Negligible	Low	Slight beneficial
Landscape character – mixed farmland	LVIA	Medium	Medium	Medium	Moderate beneficial
	EDDC	Medium	Low	Low	Slight neutral
Landscape character – semi-natural habitat	LVIA	Medium	High	High	Moderate to substantial (beneficial?)
	EDDC	Medium	Negligible	Low	Slight beneficial
Landscape character – Settlement patterns	LVIA	Medium	No change	No change	No effect
	EDDC	Medium	No change	No change	No effect

Receptor	Assessor	Sensitivity	Magnitude of change on completion	Magnitude of change after mitigation established	Overall significance of effect
Landscape character – remote and rural	LVIA	Medium			Moderate adverse
	EDDC	Medium	Medium/high	Medium	Moderate adverse
Landscape character – long views	LVIA	Medium			Moderate adverse
	EDDC	Medium	Medium	Medium	Moderate adverse
Landscape character – Highways and PROW	LVIA	Medium	Not assessed		
	EDDC	Medium	Medium/low	Low	Slight-moderate adverse
Landscape character – Surrounding LCTs	LVIA	Medium	Low	Low	Slight to moderate adverse
	EDDC	Medium	Low	Low	Slight to moderate adverse
Host landscape character type (LCT 3E) –	LVIA	Medium			Slight beneficial
	EDDC	Medium	Medium/Low	Low	Slight – moderate adverse

Summarising the impacts on identified individual landscape characteristics and designations para. 334 of the LVIA assesses overall effect of the proposals on landscape character of the area as being **moderate adverse** initially becoming **slight beneficial** after establishment of mitigation. This does not appear to be supported by the findings of the detailed landscape character analysis in the LVIA or this review and the overall effect on landscape character following establishment of mitigation is more likely to be **slight to moderate adverse**.

Visual Effects

Due to generally low lying topography and existing tree and shrub cover much of the site is screened from views from surrounding areas, although the northern most fields 18-21 are partially visible in mid to long distance views from the west and northwest and the southern fields 1-14 are partially visible in views from the south and southeast. Being on hill summits fields 5 and 14 are likely to be most prominent. The panels within the upper parts of fields 4 and 5 will break the skyline in views from the minor road to the south and Talaton footpath 6 and Rockwell Farm to the south, as shown in the submitted photomontages for viewpoint 3 and also in figure 2 Appendix A.

The LVIA assessment of visual effect for selected viewpoints as summarised in table 7 is generally considered appropriate, except that for viewpoint 6 magnitude of effect is likely to be **medium-high** initially reducing to **medium** after establishment of

mitigation rather than **medium** reducing to **low** as stated in the LVIA, due to the rising ground within field parcels 10 and 11 which will make the panels visible above the hedge lines.

Settlements – The LVIA assessment that there will be no significant changes in view from within any of the surrounding settlements and therefore no significant impacts is accepted, although some dwellings on the eastern edge of Clyst St Lawrence and western edge of Talaton may have partial views of the solar panels.

Individual dwellings – It is accepted that there are few individual dwellings with views of the site. Notable exceptions are for Rockwell Farm 130m to the east of the site which has direct views particularly over field 5 from its garden and ground floor living areas on the west facing elevation which will look directly towards the panels on rising ground above the eastern field hedge line. The degree of effect for occupants is likely to be **substantial adverse** initially reducing to **moderate to substantial adverse** with establishment of mitigation planting. Residents at the hamlet of Larkbeare comprising some 7 houses 1.5km to the southeast of the site will also have views over south-facing fields particularly 5 and 14 where the degree of effect is likely to be **moderate adverse** initially reducing to **slight to moderate** as mitigation measures establish.

Tourist and recreational facilities – Views of the development from publically accessible land to the eastern edge of Ashclyst Forest, Paradise Copse and White Down Copse are likely to be limited and towards the back of the panels and due to the distance are unlikely to be significant.

Motorists on A and B roads – It is accepted that there are no A or B roads affected by the proposals.

Users of local unclassified roads – For users of the minor lane to the south of the site it is accepted that there would initially be **moderate to substantial changes** in view for road users travelling on both directions along a 700m or so length of road reducing to **slight to moderate** once mitigation measures establish.

Rail passengers – The LVIA assessment of degree of effect on rail passengers as **substantial adverse** is questioned. Rail passengers should be considered to have medium sensitivity and given the proximity of the site to the railway and speed of travel, passengers are likely to have only a fleeting glimpse of the site. The magnitude of impact is likely to be no more than **medium** resulting in a **slight-moderate adverse** level of effect after establishment of mitigation measures.

Public rights of way- For users of Clyst Hydon footpath 14 the LVIA viewpoint assessment (para. 306) identifies **moderate to substantial/ substantial** long term effects for path users (viewpoints 7-10) and moderate effects from viewpoint 6. The visual impact of the development will be noticeable over a total length of 1.2km of the footpath, although viewpoints 8 and 9 are only seen at close quarters at field entrances and for the most part views of the solar arrays from the footpath to the western boundary of fields 12, 13, 16 and 17 will only be partial glimpsed views through and over the top of existing thick hedgerow. Nevertheless, given the baseline remote rural and tranquil character of the site and the introduction of uncharacteristic industrial apparatus over a wide area adjacent to the path, the overall visual impact on users of the footpath once mitigation is established is likely to be **moderate to substantial /**

substantial adverse and therefore significant rather than **moderate adverse** as indicated in the LVIA.

The LVIA (para. 308) assesses overall effects on users of Talaton footpath 6 as being **moderate to substantial adverse** initially reducing to **moderate adverse** on establishment of mitigation. While there will be some reduction in effect following establishment of mitigation measures over the northern section of the path, the solar arrays within field 5 are likely to remain visible over a distance of some 240m due to the rising ground and effects on views are likely to remain **moderate to substantial adverse** over this section.

Substation visual impact

The LVIA does not specifically consider the visual impact of the proposed substation although it is situated some distance from the main site. However, its location in a low lying field area away from roads and rights of way with nearby pylons will limit its visual impact from publically accessible viewpoints. It is possible that some properties on the edge of Whimble may have views towards it but the effect is likely to be **slight adverse**.

Glint and glare

Glint and glare effects are considered only in terms of guiding principles and no assessment is made of potential glint and glare effects likely to be experienced by identified visual receptors. Glare is defined at para. 164 of the LVIA as a continuous source of bright light typically received by static (or slow moving) receptors or from large reflective surfaces. Glare effects are most likely to occur at low sun angles (early morning or evening) and are experienced by receptors with a view of and across the solar panels towards the sun. Consequently users of Talaton footpath 6, the minor road to the south of the site and residents at Rockwell Farm and Larkbeare are the receptors most likely to be affected by glare effects.

Cumulative effects

Due to intervening topography and vegetation cover it is accepted that there is no direct intervisibility between the proposed development and the recently consented Paytherden solar farm to the north or other built or consented sites in the district. There is some potential for limited visibility of two or more sites in some views from higher ground to the northwest but overall the assessment of the LVIA that cumulative effects are likely to be **negligible** is accepted.

Table 2 - Comparative summary of effects on visual receptors as assessed in the LVIA and by EDDC landscape officer

Receptor	Assessor	Sensitivity	Magnitude of change at completion	Magnitude of change after mitigation established	Overall significance of effect
Residents in surrounding settlements	LVIA	High	No change	No change	No effect
	EDDC	High	No change	No change	No effect

Receptor	Assessor	Sensitivity	Magnitude of change at completion	Magnitude of change after mitigation established	Overall significance of effect
Residents at Rockwell Farm and (Larkbeare)	LVIA	High	Not assessed		
	EDDC	High	High (Medium/high)	Medium/high (Low)	Moderate to substantial (Moderate)
A and B road users	LVIA	Medium	No change	No change	No effect
	EDDC	Medium	No change	No change	No effect
Minor road users	LVIA	Medium	High	Low	Slight-moderate
	EDDC	Medium	High	Low	Slight-moderate
Clyst Hydon FP 14 users	LVIA	High	High	Low	Moderate adverse
	EDDC	High	High	Medium	Moderate-substantial/substantial adverse
Talatton FP 6 users	LVIA	High	High	Medium	Moderate adverse
	EDDC	High	High	Medium	Moderate-substantial adverse
Railway passengers	LVIA	High	High	High	Substantial adverse
	EDDC	Medium	Medium	Low	Slight to moderate adverse
VP1 –Minor road near A30	LVIA	Medium	Very low	Very low	Slight adverse
	EDDC	Medium	Very low	Very low	Slight adverse
VP2 - PROW to south of Whimble	LVIA	High	Negligible	Negligible	Negligible
	EDDC	High	Negligible	Negligible	Negligible
VP3 – Minor road west of fields 1 and 2	LVIA	Medium	High	Medium	Moderate adverse
	EDDC	Medium	High	Medium	Moderate adverse
VP4 –Minor road southeast of field 5	LVIA	Medium	High	Medium	Moderate adverse
	EDDC	Medium	High	Medium	Moderate adverse
VP5 - Talatton FP 6	LVIA	High	High	Medium	Moderate-substantial adverse
	EDDC	High	High	Medium	Moderate-substantial adverse
	LVIA	High	Medium	Low	Moderate

Receptor	Assessor	Sensitivity	Magnitude of change at completion	Magnitude of change after mitigation established	Overall significance of effect
VP6 – Clyst Hydon FP 14 south field 11	EDDC	High	Medium/high	Medium	Moderate-substantial
VP7 - Clyst Hydon FP14 south field 11	LVIA	High	High	Medium/high	Moderate to substantial/substantial
	EDDC	High	High	Medium/high	Moderate to substantial/substantial
VP8 – Clyst Hydon FP 14 fields 16/17	LVIA	High	High	Medium/high	Moderate to substantial/substantial
	EDDC	High	High	Medium/high	Moderate to substantial/substantial
VP9 – Clyst Hydon FP 14, fields 19/20	LVIA	High			
	EDDC	High	Medium-high	Medium	Medium adverse
VP10 - Clyst Hydon FP 14 North of fields 19/20.	LVIA	High	Low	Negligible	Low adverse
	EDDC	High	Low	Low	Low adverse
VP11 – minor road between Clyst St Lawrence and Aunk	LVIA	Medium	Low-medium	Low	Low adverse
	EDDC	Medium	Low-medium	Low	Low adverse
VP12 – Minor road between Clyst Hydon and White Down Copse.	LVIA	Medium	Very low	Very low	Slight adverse
	EDDC	Medium	Very low	Very low	Slight adverse
VP13 – Minor road between White Down Copse and Clyst St Lawrence	LVIA	Medium	Very low	Very low	Slight adverse
	EDDC	Medium	Very low	Very low	Slight adverse

3.2 Review of site layout, landscape proposals and associated infrastructure details

3.2.1 Proposed site layout (Sheets 1 and 2) Rev 1

The plans are presented in A3 format at 1:5000 scale. At this scale the detail indicated is unclear and dimensions shown on the drawings are not legible. For clarity the

drawings should be presented at a recognised scale on A1 or A0 sized drawings. Additional dimensions should be added to show offsets of security fencing from existing hedge lines and where there is no security fence the offset from the panels to existing hedgerow. The location of security gates, transformers and other structures should be more clearly marked.

The proposed permissive path along the northern site boundary is shown hard pressed against the security fence and should be offset from it by 2m.

There is insufficient space allowed for the proposed woodland area to the north of field 18 particularly accounting for the proposed permissive path and the security fence should be repositioned southwards to create a wider margin between it and the watercourse similar to that provided for fields 20 and 21.

3.2.2 Typical arrangement of solar panel rows Fig 4 rev 1

The arrangement drawing shows panels standing 3m high with 2.1m spacing between rows. By comparison the panel layout for the recently consented Paytherden Solar Farm to the north provided for 2.5m panel height with 3.2m width aisles between. The proposed additional 500mm height of the panels will add to visual impact particularly in near views and will cast additional shade which combined, with the narrow aisle width will severely limit the creation of a dense grass sward between panels.

3.2.3 Typical transformer unit Fig. 5 rev 1

Transformer units stand 2.9m high and are set on raised platforms typically 500m above existing ground level resulting in a net overall height of the units of 3.4m. By comparison the transformer detail for Paytherden is shown resting on existing ground level with the units standing 2.6m high. The design of the transformer units should be reconsidered to reduce height to that of Paytherden.

3.2.4 Connection compound indicative layout Fig. 7 rev 1

The proposed layout is schematic and given the extent and scale of the proposals detailed plans are required showing relationship to existing site features, existing and proposed levels and the extent of any associated earthworks.

3.2.5 Typical site fence Fig. 15 rev 1

The need for concrete post footings is questioned. Posts should be driven or if excavated holes are required they should be backfilled with suitable well rammed aggregate.

3.2.6 Proposed landscape and ecological mitigation plan

Proposed ecological and landscape mitigation and enhancement measures are rather limited compared with recently consented schemes. And particularly considering the narrow aisle width between solar arrays the opportunity for grass meadow to establish below, between and around solar panel arrays is very limited.

As noted above additional width of scrub/ woodland should be provided north of field 18.

A detailed planting plan and specification should be required by condition should the application be approved.

3.3 Additional information required

Typical sections should be provided at 1:50 scale to show:

- the relationship and minimum distance of perimeter fencing to existing hedgerow and end of panel rows.
- the corridor through fields 19/20 with the footpath and proposed landscape and fencing treatments to either side.
- the relationship of the proposed permissive path to the watercourse and perimeter security fence and associated landscape treatment.
- north-south and east-west sectional elevations through the connection compound showing control building and customer switch room and relationship with existing site features and existing and proposed ground levels.

A plan should be submitted showing proposed construction and maintenance access routes to all fields within the site should be provided. Where construction access is proposed directly from a highway, tracking details should be provided to demonstrate that turning movements can be achieved without adverse impact on adjacent hedgerow.

A copy of the LEMP referred to in the LVIA should be submitted. This could be provided by condition should the application be approved. The plan should include assessment of phosphate index in respect of wildflower meadow establishment on former intensively managed farmland. The plan should also include construction details for the proposed pond and supporting hydrological investigations to verify that it can retain standing water throughout the year from ground or surface sources. The LEMP could be provided by condition should the application be approved.

4 CONCLUSIONS AND RECOMMENDATIONS

4.1 Acceptability of proposals

Despite the scale of the proposed development and the proximity of nearby built and consented solar sites, due to the generally rolling landform with numerous trees and hedgerows, the cumulative effects of the development are considered to be very limited.

Many of the fields within the site have a good degree of enclosure and could accommodate solar arrays with little noticeable effect particularly fields 8, 9, 15, 18, 21 and 22.

Identified effects will be noticeable within the site and a localised area extending to some 500m around it including a number of moderate to substantial adverse effects. These will be manifest as changes in landscape character through the introduction of extensive power infrastructure uncharacteristic of its strongly rural setting and the closing off of several attractive views into the site and across the wider landscape. The omission of solar arrays from field 5 and 14 and the higher part of field 4 and their establishment as wildflower meadows would substantially reduce visual effects and provide landscape and biodiversity benefits.

There are significant adverse effects identified for users of PROWS Clyst Hydon FP 14 and Talaton FP6 that would affect the attractiveness of the paths contrary to Local Plan policy TC4. The inclusion of a permissive link connecting between Clyst Hydon

FP14 and Talaton FP6 would provide some compensation for this by improving the local footpath network.

Reducing the height of solar panels to 2.5m would reduce visual effects around the perimeter of the site particularly in respect of fields 12, 13, 16, 17, 19 and 20.

Overall subject to amendments as noted the scheme could be considered acceptable in terms of landscape and visual impact.

4.2 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) A full set of soft landscape details including:
 - i) Planting plan(s) showing locations, species and number of new trees and native hedge/ shrub planting and extent of new grass areas, together with existing trees, hedgerow and habitat to be retained/ removed.
 - ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.
 - iii) Soft landscape specification covering clearance, soil preparation planting and sowing; mulching and means of plant support and protection during establishment period and 5 year maintenance schedule.
 - iv) Tree pit and tree staking/ guying details
 - v) Method statement for creation and maintenance of species rich grassland habitats
 - b) Details of proposed colour finishes to housings for inverters, storage units and substations.
 - c) Details of proposed under and over ground cable routes together with method statements for taking underground cables through any hedgebanks.
 - d) Details of the design and locations of any security cameras or lighting proposed.
 - e) Details of finishes of framing elements of proposed pv panels.
 - f) 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 existing condition survey for each length of hedge, identifying its position on the [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 and cutting height and frequency and expected number of trees to be let up within each identified section.

The Plan shall cover a period of not less than 25 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.

g) A detailed decommissioning plan covering the removal of all temporary infrastructure from the site and identifying any areas of new habitat creation and any tracks and hardstandings which are to be retained. The plan should show how the site will be returned to agricultural use and shall include a demolition and restoration programme.

2) The works and subsequent management 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.

Chris Hariades CMLI

EDDC Landscape architect & Green Infrastructure Officer

*****See scanned document for appendix.*****

EDDC Landscape Architect

Comment Date: Thu 08 Sep 2022

Additional comments

Trackway construction

Further to my previous response dated 4 August the following additional comments are submitted in respect of proposed trackway construction as indicated on drawing no. Figure 14, revision 1

The proposed trackways are shown as 4m wide with 0.5m depth aggregate which seems excessive (although the drawing notes that final depth is to be determined by soil bearing capacity). By comparison the trackway detail for the recently consented Pathydern solar farm is 3.5m width x 0.2m depth which seems more reasonable. In both instances the aggregate is to be laid on geotextile.

Reducing the width and thickness of access tracks for Rutton to match Pathydern would reduce construction cost, save primary aggregate and reduce the number of lorry movements required by approximately 60%.

No detail is provided as to the means of disposal of excavated soil.

In a couple of places the proposed trackway crosses existing watercourses. An appropriate culverting detail should be provided if there is no existing provision.

Consequently, notwithstanding the submitted details the following additional pre-commencement condition should be imposed:

No works shall commence on site until details of soil bearing capacity and updated

access track construction details including path width and make up and any necessary culverts over watercourses together with confirmation of the means/ location(s) for disposal of excavated soil arising from track construction have been submitted to the LPA and approved in writing.

Chris Hariades CMLI
Landscape Architect & Green Infrastructure Officer
East Devon District Council

EDDC Landscape Architect

Comment Date: Thu 01 Dec 2022

1 INTRODUCTION

This report forms the EDDC's landscape response to additional/ amended information submitted in support of the above application. It should be read in conjunction with previous landscape comments.

2 REVIEW OF SUBMITTED INFORMATION

Additional/ amended plans

The omission of arrays from field 5 is welcomed. Panels should also be omitted from high point on field 4 as previously requested, alternatively reduce panel height.

Sub-station - No levels information has been provided. Proposed levels and extent of grading works should be indicated and supporting sections provided showing existing and proposed ground levels.

It is unclear why the sub-station has been sited in the indicated position.

Consideration should be given to positioning it southwards closer to the southern field boundary where it will be lower set. Mitigation tree planting and hedgerow management will be required to southern field boundary. The site plan and LEMP should be updated to include for this.

Spacing between panels - previous comments not addressed. Justification/ evidence should be provided with case examples to demonstrate that proposed 2.1m spacings between panels this will not shade out grass and will provide for sheep grazing.

Design of access track - width and base make up - previous comments not addressed

Design of footings for control cabinets etc. - previous comments not addressed

Fence post foundations - previous comments not addressed

Further landscape comments

Arb issues - In a number of instances panels appear too close to trees and encroach into RPAs. Examples include T23 and TG4 in field 6; T16-18 in field 4; T51 in field 13. As well as compromising rootzones/ canopies this may lead to pressure to remove trees due to shade/ safety concerns. Advice should be sought from EDDC tree service in relation to this.

Alignment of new track where it passes through fields 17, 19 and 20 does not seem logical. An alternative layout is suggested below which would improve screening of arrays from adjacent footpath, reduce bends in track and increase habitat creation (see map in report on document tab)

The site plan does not properly reflect proposed planting as indicated in viewpoint 5 photomontages to either side of the footpath through fields 19 and 20. Provide minimum 5m width tree/ scrub mix to either side with grassed access path between.

New pond construction - how will it be fed?

Review of LEMP

Section 3 should also include the objectives of providing screening to mitigate visual effects of the development and to enhance landscape quality and character.

Section 4

Objective 1, para. 4.4 - Clarification should be provided as to whether stated hedgerow heights are measured from top of bank or from adjacent field level. Hedgerows should be generally let up to provide a minimum height of 3m measured from field level to provide adequate screening - this is also likely to enhance biodiversity value.

A site plan showing the individual hedgerow reference numbers based on the ecological survey should be appended to the report.

Objective 2 - creation and management of grassland should provide a distinction between creation and management of existing arable fields and management and improvement of biodiversity within existing pasture swards. Both should account for soil nutrient status/ phosphate index.

Different grassland management regimes are proposed for a) aisles between and ground under the solar arrays, the electric fenced margins between the arrays and the security fence/ field boundary and the margin between the security fence and field boundaries. A typical plan should be provided to illustrate the different management types.

An additional objective should be added to cover established trees in hedgerows and free standing field trees.

Objective 10 Monitoring - para. 4.48 on

Annual inspections should be carried out by the arboriculturalist, landscape architect and ecologist in years 1-5 following commissioning of the development. Any issues

and defects noted should be recorded and an action plan prepared for dealing with them in the next available season. Annual arboricultural inspections should continue thereafter for the life of the development. Minimum 5 yearly inspections thereafter should be undertaken by ecologist and landscape architect to verify that management is being carried out in accordance with the approved plan and to identify any issues to be addressed and changes to management required to achieve the stated objectives.

Table 5.1 Management prescriptions

Objective 1 Hedgerows

First row - include formative pruning requirements for new hedgerow. Rows 2 and 3 - refer to Hedgeline hedgerow management cycle. Row 3 - Given that application is for 40 years it is highly likely that many of the hedgerows will require laying at some point. This should be noted and included for in the specification.

Objective 2 Grassland establishment/ management

Descriptions of grassland type in first column are confusing. There are 3 basic categories

- New grassland to existing arable fields.
- Modified grassland to existing pasture where ground preparations should comprise harrowing/scarifying and over-seeding bare patches with suitable simple wildflower mix to include species such as yellow rattle which are able to thrive in higher nutrient conditions.
- Field margins between security fence and field boundary hedgerow These should be clearly set out in the table and relevant establishment and management prescriptions provided for each. Proposed prescriptions should take account of soil fertility.

Individual trees

Add row for hedgerow and field trees. Include for replacement tree planting for any existing ash trees that succumb to die back over the life of the development.

Objective 10 - amend to reflect monitoring comments above.

Other matters

A plan should be provided showing the locations of bird and bat boxes and hibernaculae.

3 LANDSCAPE CONDITIONS

In the event that the application is approved landscape conditions should be imposed as set out in previous landscape response dated 4.8.2022

DCC Flood Risk SuDS Consultation

Comment Date: Thu 09 Jun 2022

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:

It is noted that the Flood Risk Assessment & Drainage Strategy v3 indicates that there are several surface water features draining towards the western ordinary watercourse which bounds the site. We would request that these are kept in open channels and continue to drain towards to the western watercourse. There should be a flood free corridor either side of the ditches as well as the larger watercourses to the north west and west of the site.

We would require swales to be used to intercept and convey the runoff from the solar panel units. The swales should discharge into the local watercourse which should have erosion protection measures to reduce the risk of erosion to the banks from the single point of discharge.

We are pleased to see a basin is being used to drain the substation however we would require calculations at this stage to demonstrate that the basin can cope with the design event (1 in 100 year storm plus 40% for climate change). This calculation should include long term storage as well as FEH13 rainfall data.

The applicant should state how the soil will be restored to pre-construction condition.

We would be happy to provide a further response if additional information is submitted to the local planning authority.

DCC Flood Risk SuDS Consultation

Comment Date: Tue 29 Nov 2022

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 revised the Horton Solar Farm Whimble East Devon Flood Risk Assessment & Drainage Strategy (Report Ref. 2728L, Rev. 4.0, dated 27th June 2022) together with a covering note addressing the EA and LLFA comments.

The applicant confirmed that some sections of solar panels will be located within the identified corridors as shown in Figure 8 of the report. We therefore request that the solar panels are setback so that a flood free corridor either side of the ditches will be maintained.

The applicant disagreed to the installation of the swales to intercept and convey the runoff from the solar panel units. The swales will help to promote infiltration across the site and intercept flow from the panel units. Check dams can also be used to slow down the flow and act as an erosion protection measures to reduce the risk of erosion to the banks. Should the swales are installed prior to the onsite construction works, it is anticipated that the runoff from the construction phase would be suitably managed.

For the proposed basin to drain the substation, the applicant mentioned that the attenuation basin has been sized to restrict the flow to 2.2l/s but no greenfield runoff calculation was provided. The applicant only submitted some storage calculations. Also, it is unclear how the surface water runoff of the proposed road and temporary construction compound will be managed.

The applicant is recommending that the contractor will provide the method statement to detail how the soil will be restored to pre-construction condition.

We would be happy to provide a further response if additional information is submitted to the local planning authority.

DCC Flood Risk SuDS Consultation

Comment Date: Wed 11 Jan 2023

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:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Horton Solar Farm Whimble East Devon Flood Risk Assessment & Drainage Strategy (Report Ref. 2728L, Rev. 5.0, dated 21st December 2022).

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) 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) - (g) 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:

Following my previous consultation response FRM/ED/0783/2022, dated 29th November 2022, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has revised the Drainage Strategy together with a covering note addressing the EA and LLFA comments.

The applicant has set back the solar panels from both the larger watercourse and ditches so that a flood free corridor either side of the ditches will be maintained.

The applicant has proposed the installation of the swales to intercept and convey the runoff from the solar panel units. The swales will help to promote infiltration across the site and intercept flow from the panel units. Check dams can also be used to slow down the flow and act as an erosion protection measures to reduce the risk of erosion to the banks. Should the swales are installed prior to the onsite construction works, it is anticipated that the runoff from the construction phase would be suitably managed.

For the proposed basin to drain the substation, the applicant mentioned that the attenuation basin has been sized to restrict the flow to 3.0l/s as the original greenfield runoff rate of 1.05l/s for an impermeable area of 0.205ha will result in a really small orifice which is prompt to blockage.

The applicant has also confirmed that the proposed access and maintenance roads will be created with permeable materials. The management of surface water runoff from the substation temporary construction compound will be detailed within the contractor's method statement.

The applicant is recommending that the contractor will provide the method statement to detail how the soil will be restored to pre-construction condition.

Environment Agency

Comment Date: Wed 25 May 2022

Thank you for your consultation of 09 May 2022 in respect of this planning application.

Environment Agency position

We object to this application as submitted because it is not supported by an adequate flood risk assessment (FRA). The further information required is set out below.

Reason - Inadequate flood risk information

Annex 3 of the National Planning Policy Framework (NPPF) defines solar farms as 'essential infrastructure' development. As such, in accordance with Table 3 in the flood risk and coastal change section of the Planning Practice Guidance, the proposal will need to satisfy the exception test, demonstrating that the proposal will be designed and constructed to remain operational and safe in times of flood.

Whilst flood modelling has been undertaken, flood levels across the site have not been detailed in the FRA. It is therefore not possible to determine whether the panels and associated infrastructure are above this level, taking freeboard into account. The FRA should be updated to provide flood levels and demonstrate that the infrastructure is above these levels and will satisfy the exception test requirements.

There must be an 8m easement from the banks of the watercourses to the development. This easement corridor should be 8m on both sides of the channel. Although the watercourse to the north of the site does look like an easement has been considered (along with proposed planting) the same has not been done for the watercourse to the south. The FRA has also not identified the watercourse running east to west through the centre of the site. The applicant should provide a drawing to demonstrate the watercourse easement corridors for all watercourses on the site.

In line with the Devon 'SuDS in flood zone' policy, other than for conveyance purposes, SuDS must not be located within flood zone 2 or 3.

In addition, it does not look like there will be safe access or egress during a flood event. Both the pedestrian and vehicle access routes pass through areas at risk of surface water flooding. Flood depths are predicted to be in the region of 150-600mm. We therefore recommend that a flood warning and evacuation plan is put in place for the routine and maintenance visits to the site.

This development will have an impact on surface water runoff and associated problems with water quality and biodiversity. To address the Water Environment Regulations/Water Framework Directive issues that arise from solar farm development a joint position stance between the Environment Agency and the Lead Local Flood Authority on this issue is currently under revision.

Once the matters above have been addressed we will be able to review our position.

Environment Agency

Comment Date: Mon 07 Nov 2022

Thank you for your consultation of 18 October 2022 following submission of further information in respect of this planning application.

Environment Agency position

We consider that further information is still required to ensure that the flood risk assessment is appropriate and that the proposal will be acceptable in terms of flood risk. We therefore maintain our objection until such time as the outstanding matters have been addressed. The reasons for our position are set out below.

Reasons - Flood risk assessment

We have reviewed the revised flood risk assessment from RAB consulting (Ref. RAB:2728L v.4). Whilst we can now largely support the conclusions and recommendations of this report, there are two outstanding issues which still need further clarification. These issues are as follows:

1. It is assumed that a perimeter/boundary fence will be erected around the development and it is apparent that this will cross several watercourses and surface water conveyance routes. Given the likely nature of the fencing (i.e. tight mesh), it is important that the assessment considers the design of such crossing points to ensure that flood risk issues are managed.

2. Building on a previous comment, it is considered that the assessment still does not provide suitable clarity of the requirement to maintain an 8m wide access/maintenance corridor on both sides of the watercourses and conveyance routes to allow for riparian maintenance.

It is important that the above two points are suitably referenced in the flood risk assessment, and the necessary detail reflected in the supporting information for the planning application. Once these matters have been addressed we will be able to revise our position.

Environment Agency

Comment Date: Fri 13 Jan 2023

Thank you for re-consulting us on the above planning application following the submission of further information to address our earlier concerns.

Environment Agency position

We consider that the additional information is sufficient to enable us to remove our objection to this proposal provided that a condition is included within any permission granted to secure the implementation of the updated Flood Risk Assessment (FRA).

Our suggested wording for this condition and associated advice is set out below.

Condition - Implementation of the FRA

The development shall be carried out in accordance with the submitted flood risk assessment by RAB consultants dated 21/12/2022 (version 5, ref. RAB: 2728L) and the mitigation measures it details in section 07 Recommendations. In particular, where the proposed boundary fence crosses ditches/watercourses, swing fences shall be installed to mitigate the risk of obstructions. An 8m easement from the two larger watercourses shall be maintained as detailed in Figure 6 of the flood risk assessment.

The mitigation measures shall be fully implemented before the solar farm comes into operation and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and elsewhere in the catchment.

Advice - Flood Risk

Our stance is based upon the fact that we deem Version 5 of the applicant's Flood Risk Assessment (FRA) as having adequately addressed the issues raised by us in our previous correspondence of the 25 May 2022 and 7 Nov 2022. Given that the FRA proposes adequate flood mitigation measures, we are now satisfied that in overall terms it has been demonstrated that the proposal satisfies the requirements of the NPPF. We recommend the inclusion of the recommended condition to secure these measures.

Advice - Pollution Prevention

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.

Devon County Archaeologist

Comment Date: Mon 23 May 2022

I refer to the above application and your recent consultation. The geophysical survey of the proposed development site has identified a series of anomalies that are indicative of an earlier field system that has the potential to date to the prehistoric or Romano-British periods. A programme of archaeological field evaluation investigating these anomalies has been partially completed and the Historic Environment Team is

awaiting the receipt of the final report once the fieldwork and post-excavation assessment work has been completed. The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

However, in the absence of this information the Historic Environment Team is unable to provide an informed response to the Planning Authority and, as such, would advise that consent is not granted until this information is available to inform the response from this office.

The requirement for such information is in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting, and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

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

Devon County Archaeologist

Comment Date: Tue 01 Nov 2022

I have now received a copy of the report setting out the results of the archaeological evaluation undertaken here. This work has shown that the archaeological potential of the majority of the area subject to this planning application is low. However, the location of a possible prehistoric or Romano-British ring ditch, indicating either settlement or funerary activity from these periods, was identified by these investigations in field 10 as shown on the proposed site layout plan submitted with this application. As such, groundworks for the construction of the solar farm have the potential to expose and destroy archaeological and artefactual deposits associated with this heritage asset. The impact of development upon the archaeological resource here 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 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 the archaeological excavation of the area occupied by the ring ditch identified during the course of the archaeological field evaluation (AC Archaeology report ACD2685/2/0, dated 20th October 2022) along with an adequate buffer to ensure that an appropriate record is made of the heritage assets prior to their destruction by the proposed development. 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/>.

Devon County Archaeologist

Comment Date: Thu 10 Nov 2022

I refer to the above application and your recent re-consultation. The Historic Environment Team has no additional comments to make to those already made, namely:

I have now received a copy of the report setting out the results of the archaeological evaluation undertaken here. This work has shown that the archaeological potential of the majority of the area subject to this planning application is low. However, the location of a possible prehistoric or Romano-British ring ditch, indicating either settlement or funerary activity from these periods, was identified by these investigations in field 10 as shown on the proposed site layout plan submitted with this application. As such, groundworks for the construction of the solar farm have the potential to expose and destroy archaeological and artefactual deposits associated with this heritage asset. The impact of development upon the archaeological resource here 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 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 the archaeological excavation of the area occupied by the ring ditch identified during the course of the archaeological field evaluation (AC Archaeology report ACD2685/2/0, dated 20th October 2022) along with an adequate buffer to ensure that an appropriate record is made of the heritage assets prior to their destruction by the proposed development. 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/>.

Devon County Archaeologist

Comment Date: Thu 19 Jan 2023

I refer to the above application and your most recent re-consultation. The Historic Environment Team has no additional comments to make to those already made, namely:

I have now received a copy of the report setting out the results of the archaeological evaluation undertaken here. This work has shown that the archaeological potential of the majority of the area subject to this planning application is low. However, the location of a possible prehistoric or Romano-British ring ditch, indicating either settlement or funerary activity from these periods, was identified by these investigations in field 10 as shown on the proposed site layout plan submitted with this application. As such, groundworks for the construction of the solar farm have the potential to expose and destroy archaeological and artefactual deposits associated with this heritage asset. The impact of development upon the archaeological resource here 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 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 the archaeological excavation of the area occupied by the ring ditch identified during the course of the archaeological field evaluation (AC Archaeology report ACD2685/2/0, dated 20th October 2022) along with an adequate buffer to ensure that an appropriate

record is made of the heritage assets prior to their destruction by the proposed development. 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/>.

Historic England

Comment Date: Mon 30 May 2022

Thank you for your letter of 9 May 2022 regarding the above application for planning permission.

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Historic England

Comment Date: Fri 28 Oct 2022

Thank you for your letter of 18 October 2022 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Historic England

Comment Date: Fri 11 Nov 2022

Thank you for your letter of 31 October 2022 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Historic England

Comment Date: Tue 10 Jan 2023

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

LAND EAST OF RUTTON FARM RULL LANE WHIMPLE EX5 2NX
Application No. 22/0783/MFUL

Thank you for your letter of 4 January 2023 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Yours sincerely

Rhiannon Rhys
Inspector of Historic Buildings and Areas
E-mail: Rhiannon.Rhys@HistoricEngland.org.uk

Conservation

Comment Date: Tue 07 Jun 2022

Application No. 22/0783/MFUL

Address of Site:

Land East Of Rutton Farm
Rull Lane
Whimble
EX5 2NX

Proposal

Construction and operation of a ground mounted solar farm, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development

Date: 7/6/22

BRIEF DESCRIPTION OF HISTORIC CHARACTER

The site is centrally located between Talaton, Westcott, Rataclyffe, Mount Pleasant and Whimble. There are no heritage assets in close proximity.

PROPOSED RECOMMENDATION - PROPOSAL IS ACCEPTABLE.

There is no objection to the proposed application as due to its location there is no adverse impact on built heritage assets which are some distance away.

Conservation

Comment Date: Tue 13 Feb 2023

CONSULTATION REPLY TO WEST TEAM

LISTED BUILDING CONSENT/CONSERVATION AREA

PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: Land East Of Rutton Farm Rull Lane Whimble EX5 2NX

GRADE: APPLICATION NO: 22/0783/FUL

CONSERVATION AREA:

PROPOSAL:

Construction and operation of a ground mounted solar farm, with permission being required for 40 years, comprising solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

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

Further to comments of 7/6/2022. The site is centrally located between Talaton, Westcott, Rataclyffe, Mount Pleasant and Whimble. There are no heritage assets in close proximity that this will have an impact on.

PROVISIONAL RECOMMENDATION – PROPOSAL

ACCEPTABLE

SUGGESTED CONDITIONS/REASONS FOR REFUSAL

EDDC District Ecologist

Comment Date: Wed 26 Oct 2022

Layout/Design

1. Do the proposals accurately consider hedgerow loss where the maintenance road meets the public road network? Refer to the picture below, showing the existing maintenance road/road network access point. If a visibility splay is required, hedgerow loss in this location will occur, and needs to be considered within the compensation measures proposed.

2. Can the applicant consider leaving gaps underneath security fencing to allow mammals (badgers, hedgehogs) to persist and commute through the site Great Crested Newts. In order to EDDC to determine the outcome of the application, greater clarification is required with regard to impacts on GCN.

3. No clear summary of which ponds received further survey (presence/absence and population class size assessment) is given. Please can the consultant confirm which ponds were subject to further GCN survey, beyond a HSI survey. Appendix section A6.1 shows all ponds as having a HSI score above 0.5. A HSI score below 0.6 does not mean that GCN are actually absent from ponds. This score is an indication of habitat suitability only. It is well documented that GCN can be present in sub-optimal habitat. GCN typically exist in widespread meta-populations within East Devon, within networks of loosely connected ponds, as are present on the site. Given that a breeding population has been found in pond 4, at the centre of the site, it is certainly possible, if not likely, that GCN are present in sub-optimal ponds (<0.6 HSI) within the site. If GCN are present in these ponds, then the proposals could result in the killing or injury of GCN and the destruction of their habitats, and would require a licence in excess of the extent of the licence proposed. If no survey has been carried out, then it is recommended that the consultant reconsiders this assessment and carries out presence/absence survey of all ponds on the site to gain an accurate assessment of potential impacts on GCN, and use this information to update the mitigation strategy.

4. No further survey of pond 8 was undertaken, despite it being a large pond with a high HSI score within the red line boundary shown. The ecological information submitted assumes presence of GCN in this pond, but makes no attempt to classify the population size of GCN present. It is entirely possible that a large breeding population of GCN is present in this optimal quality pond, and that the population detected in pond 4 is only a small sub-population. If a large population is present, then it is possible that the outcome of the survey would have an impact on the proposed mitigation strategy for GCN (i.e., affecting the potential area within which "most" GCN activity is focused, which is currently stated as 250 m from a pond).

5. The 250 m GCN licence zone has only been applied to pond 4, despite stating that presence if GCN is being assumed in pond 8. If presence is assumed, then a 250 m zone should be applied to pond 8 also.

6. No GCN avoidance/mitigation/compensation measures are proposed for sub-optimal GCN habitats (such as grassland), even when present immediately adjacent to the pond which contains GCN. GCN are less likely to be present in these habitats, but still may be present in these habitats. GCN present in pond 4 must disperse across the surrounding field of sub-optimal quality, as no other option is available due to the isolated position of the pond. This means that killing or injury of GCN could occur, even within sub-optimal habitats. Please consider the presence of GCN within sub-optimal habitat within the mitigation strategy. This is particularly important where major works are proposed within close proximity to ponds with confirmed GCN presence - such as fence installation and creation of the maintenance road adjacent to pond 4.

7. Can the applicant/consultant please submit the required information as above, and provide an updated mitigation strategy as appropriate.

LEMP

8. Section 4.28 and Objective 4 of the LEMP state that ponds are to be dredged/de-silted - Please confirm if this includes Pond 4. Given the limitations on the GCN survey listed above, please can this be reconsidered appropriately, pending updated survey/clarification. EDDC is not suggesting that the ponds are not de-silted, as de-silting would likely be of long-term benefit to GCN. EDDC only seeks that the application accurately considers impacts of these actions on GCN.

9. The proposed hedgerows either side of the footpath at the northern site boundary should be extended to connect to the wider landscape - they are currently proposed to be isolated from the surrounding hedgerow network, which reduces their value to dormice and other species. Hedgerows should be extended into the areas shown as thick red lines on the below markup.

Monitoring

10. As per objective 10 of the produced LEMP, EDDC would require that a monitoring report be submitted to EDDC after 5 years of implementation of the landscaping. The report should detail the progress of habitat creation, monitoring results and detail of any remedial actions undertaken. The monitoring report should make an assessment as to the success of the project in providing biodiversity enhancements for the ecological receptors referenced in the EclA and LEMP. This assessment should be made by a qualified ecologist. This assessment should include an assessment of the biodiversity value of the grassland underneath the proposed solar arrays, in order to accurately ascertain the biodiversity value of this habitat.

Floodlighting

11. Plan GBR.2260.DEV.M4 010. 4.0 (Planning Layout) shows four CCTV/floodlighting columns around the proposed substation to the north-west of the proposal. No reference to floodlighting is made in the EclA or LEMP. S10 of the EclA (page 5) states that "the proposals do not alter any light levels within the site", which is in contradiction with the installation of floodlights. Floodlighting has the potential to illuminate bat and dormouse habitats, and reduce the suitability of these habitats. Please can the applicant confirm how the impacts of this have been assessed and what mitigation measures are proposed in order to reduce potential lighting impacts to an acceptable, de-minimis level. It is noted that no bat activity survey has been carried out in the location of the proposed substation.

Conclusion

Please can the applicant provide the above information so that EDDC can determine the application in line with the East Devon Local Plan Policy EN5, Strategy 3 (a), Strategy 5 and Strategy 47, as well as the NPPF Paragraph 174 (d) and 180 (a).

EDDC District Ecologist

Comment Date: Tue 21 Feb 2023

I am happy with the proposals, and responses below.

They will need to update their EclA with the information highlighted in Green, below.

We will need to condition:

- o A CEMP (as per their EclA and below comments)
- o GCN Mitigation Strategy (as highlighted yellow below)
- o No external lighting (As highlighted yellow below)

Devon Wildlife Trust

Comment Date: Thu 19 May 2022

We object to the planning application because we consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 174d and 175d of the National Planning Policy Framework or the requirements of paragraph 99 of ODPM

Circular 06/2005 Biodiversity and Geological Conservation.

The comments provided below are based on an Ecological Appraisal produced by Tyler Grange (March 2022). We consider that insufficient evidence has been provided because -

1. Bat survey effort is not of an acceptable level. Two activity surveys spanning two months and extremely limited remote detector data is inadequate for a scheme of this scale and does not meet the minimum survey effort set out in the BCT Bat Survey Guidelines. Whilst it is noted that the development will result in a significant net gain and that the majority of hedgerow habitat will be retained, a significant length of hedgerow (100m) will be removed in order to accommodate the proposals, which will result in the creation of a number of breaches in the hedgerow network. This has the potential to have a negative impact on commuting/foraging bat species. Furthermore, large areas of habitat which are suitable for foraging bats will be modified or lost to the scheme. A full seasonal survey is required to provide information on the use of the site by commuting and foraging bats. The mitigation and design of the scheme must consider the direct impact to bats caused by loss of any foraging habitat identified by the survey.

2. The report does not provide details of the security fencing which will surround the solar panels following the completion of the works. Design needs to ensure the continued movement of wildlife through the site. This is particularly important given the level of badger activity recorded within the site.

For the reasons given above, we object to the planning application and recommend that it is refused.

NPPF para. 174

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"

NPPF para. 175

"When determining planning applications, local planning authorities should apply the following principles:

d) ?? opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."

ODPM Circular 06/2005 para. 99

Paragraph 99 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before a planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In cases where there is a reasonable likelihood of a protected species being present and affected by the development, surveys should be undertaken and any necessary measures to protect the species should be in place (through conditions and/or planning obligations), before a permission is granted.

Devon Wildlife Trust

Comment Date: Thu 12 Jan 2023

Thank you for your consultation request. Unfortunately my previous comments do not appear to have been addressed.

I attach a copy of my response (see comments 19/05/2022) which remains extant. Please don't hesitate to get back to me if you have any queries.

Natural England

Comment Date: Fri 27 May 2022

Thank you for your consultation email dated and received on 09 May 2022 relating to the above proposal. Based on the information provided we have the following comments (1).

Designated sites

Details of designated sites can be found at www.magic.gov.uk The proposal does not appear to trigger any relevant thresholds within Natural England's designated sites Impact Risk Zones² (IRZs). It is our advice, on the basis of the material supplied with the consultation, that, in so far as statutory designated sites are concerned, there are no potential impacts.

Protected Landscapes

The proposed development is for a site within 7km of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and the East Devon AONB, both nationally designated landscapes, and has triggered Natural England's Impact Risk Zones for solar developments greater than 10ha.

(1) This reply comprises our statutory consultation response under the provisions of

Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, Section 28 of the Wildlife and Countryside Act 1981 (as amended), the Habitat Regulations 2017 and the EIA Regulations 2017.

(2) Natural England has published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs to help consider whether a proposed development is likely to affect a SSSI and determine whether they need to consult Natural England to seek advice on the nature of any potential SSSI impacts, their avoidance or mitigation. The dataset and user guidance can be accessed from the gov.uk website.

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 paragraphs 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 Partnerships. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of their AONB statutory management plans, 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.

You may also find useful the Devon Landscape Policy Group Advice Note No. 2: 'Accommodating Wind and Solar PV Developments in Devon's Landscape' particularly with reference to cumulative impacts and siting and design.

Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 174, 179 and 180 of the NPPF, the Defra 25 year Environment Plan and the Environment Bill.

We advise you first to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence-based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions³ (under Section 40 NERC Act, 2006). Biodiversity metrics are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds, but the Environment Act sets a minimum 10% threshold.

When delivering net gain, opportunities should be sought to link delivery to relevant plans or strategies e.g. Local Nature Recovery Strategies where they are being developed, Green Infrastructure Strategies or biodiversity action plans.

Natural England's Technical Information Note Solar parks: maximising environmental benefits (TIN101) (4) includes advice on requirements for safeguarding the natural environment. You may also wish to note the industry guidance 'Solar farms and biodiversity opportunities'⁵

There may also be the potential for the development to have a wider positive impact by financially contributing to local environmental / social initiatives in the Parishes affected to help connect people and wildlife and we note that a community fund is proposed.

(3) <http://www.legislation.gov.uk/ukpga/2006/16/section/40>

(4)

<https://webarchive.nationalarchives.gov.uk/20150902172007/http://publications.naturalengland.org.uk/publication/32027>

(5) <http://www.bre.co.uk/filelibrary/pdf/Brochures/NSC-Biodiversity-Guidance.pdf>

Soils and Agricultural Land Quality

Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

From the description of the development this application is likely to affect 7.9ha of BMV agricultural land based on the applicants ALC survey. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may

permanently affect agricultural land this would be limited to small areas.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large scale solar farms on previously developed and non-agricultural land. Paragraph 174b and footnote 53 of the National Planning Policy Framework (NPPF) states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'

Footnote 53: 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.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013), and advise you to fully consider best and most versatile land issues in accordance with that guidance.

Local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's 'Guide to assessing Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land,

including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice (6) 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.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting (7). They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

Where security fencing is proposed it should be permeable allow the continued movement of species through the wider landscape.

Local sites and priority habitats and species

Your authority should ensure it has sufficient information to fully understand the impact of the proposal on any Local Sites such as County Wildlife Sites (CWS).

Rutton Farm CWS (Ref: SY09/004) adjacent to the site and designated for comprising an area of unimproved marshy grassland.

Natural England's 'Technical Information Note TIN101 encourages existing land drainage to be maintained. Any SuDS scheme to deal with surface run-off should be designed to ensure that it does not compromise the local drainage and affect the grassland by diverting water away from the wetland site.

The site is important for its hedgerow network. Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities

Act 2006 found here (8). Consideration should be given to how any loss will be avoided, mitigated or compensated.

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

(7) <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>

(8) <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

The proposals include the retention and protection of hedgerows (and compensation where necessary), trees, woodland and watercourses/waterbodies which are to be buffered from the proposals and includes the creation of orchard habitat. A Landscape and Ecological Management Plan (LEMP) would ensure retained and created habitats are managed favourably to maximise their benefit to wildlife and should be secured via conditions.

A Construction Environmental Management Plan (CEMP), which will set out the measures to protect retained features through appropriate fencing and reference best practice measures to avoid impacts to off-site receptors, such as from contaminated run-off should be secured via conditions.

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

The proposal is in close proximity to three public rights of way (PROW). We therefore advise you to seek the advice of the Rights of Way Officer for East Devon to ensure there are no adverse effects on the PROWs. Their knowledge of the location and wider landscape setting of the development should help to confirm whether it would impact significantly on the PROWs. Appropriate mitigation measures should be incorporated for any adverse impacts.

EDDC Trees

Comment Date: Wed 14 Dec 2022

14/12/2022: Comments in regards to layout: GBR.2260.DEV.M4.001. There appears to be many cases of solar panels being located in close proximity to canopy of trees or what appears to be within the RPA of a number of trees, which are categorised as A and B class trees in relation to BS5837. No panels should be located within the RPA of any trees. Many panels also appear to be directly to the north or east of large trees; therefore shading is considered to be a potential issue, however there appears to be no reference to shading in either the tree constraints plan or method statement. No justification appears to have been given to the location of the panels and at present, it would appear that there would be significant pressure to prune the trees. Enough space should be left around the trees so that no management in relation to the size of the trees is required in the future.

Examples

Field 21, T56 - surrounded by solar panels.

Field 17, T54 - panels directly to east

Field 16, T53, T52 - panels directly to east
Field 13, T51, panels to the south (not so much of a issue)
T50, panels to the north
T49, panels appear to be at a good distance in comparison to others.
Field 12, T48, panels to the east
Field 11, T46, panels to the east
T47, surrounded by panels.
Field 6, T25, panels to the east.
T23, panels within what appears the RPA to north
TG4, panels within what appears the RPA to north

As per the recommended tree works In the Arboricultural Impact Assessment, it is considered appropriate that where possible Ash trees should be reduced rather than felled as stated below. It should be noted though that the trees, are only a safety issue, if one were to put targets within falling distance of these trees. Therefore, it would be appropriate to retain the trees as habitat features and manage the surrounding areas appropriately to keep out any targets.

'Trees T40 and T57 are Ash trees showing advanced signs of disease and should be considered potentially dangerous. Complete removal is recommended but a reduction in height of 50% would allow the trees to remain safely whilst offering important standing deadwood habitat.'

EDDC Trees

Comment Date: Fri 06 Jan 2023

06.01.2023:Comments in regards to new amended layout: GBR.2260.DEV.M4.001 K.D.

Some changes to the location of panels has been made though there are still instances of panels surrounding trees in close proximity which could lead to the pressure for unnecessary pruning. The location of the panels should consider not only the RPA but the shade cast as the trees grow.

A clear tree constraints plan showing all RPA of retained trees and shading potential of trees at full size is required. In regards to tree and hedges, the location of panels should be based on this.

A detailed Tree Protection Plan for the whole site, showing protection of all trees and hedgerows is required.

Full details are required of all underground services and access tracks including method statement if any are located within the RPA (they should not)

Environmental Health

Comment Date: Mon 23 May 2022

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.

Environmental Health

Comment Date: Thu 20 Oct 2022

As per my comments made back in May

Environmental Health

Comment Date: Wed 18 Jan 2023

As per my previous comments

Exeter & Devon Airport - Airfield Operations+Safeguarding

Comment Date: Wed 19 Oct 2022

I acknowledge receipt of the amendments to the above planning application for the proposed development at the above location which relate to an amended site layout, substation layout, flood risk and drainage, ecology and biodiversity.

The amendments 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.

Exeter & Devon Airport - Airfield Operations+Safeguarding

Comment Date: Thu 03 Nov 2022

I acknowledge receipt of the amendments to the above planning application for the proposed development at the above location.

This amendments 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.

Exeter & Devon Airport - Airfield Operations+Safeguarding

Comment Date: Fri 06 Jan 2023

I acknowledge receipt of the amendments to the above planning application for the proposed development at the above location.

These amendments relate to Provision of revised or additional plans/details relating to an amended site layout, revised Flood Risk and Drainage Strategy, LEMP (Landscape Ecological and Biodiversity Management Plan) and replies to previous consultation responses, including photographs of grass around solar panels.

The amendments 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.

Network Rail

Comment Date: Mon 30 May 2022

Thank you for your email dated 9 May 2022 together with the opportunity to comment on this proposal.

Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

GROUND LEVELS

The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.

FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

Permitted:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees - Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash - Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebra"

Not Permitted:

Alder (Alnus Glutinosa), Aspen - Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

SOLAR PANELS

We would advise that the provision of any reflective material used in the solar collecting equipment should not interfere with the line of sight of train drivers and the potential for glare or reflection of light from the panels that may impact upon signalling must be eliminated.

Network Rail would expect the applicant to demonstrate that the panels are either not reflective or that appropriate fencing/mitigation or other screening is erected between the railway and the solar panels to avoid this happening.

DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels - if altered, to be

such that water flows away from the railway. Drainage is not to show up on Buried service checks.

Police Crime Prevention Officer

Comment Date: Thu 12 May 2022

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

Due to the somewhat isolated nature of the location, the risk of theft and damage is significant given that a determined effort can be made to gain access to the site with little chance of detection. Therefore, it is important that crime prevention measures are considered and embedded into the design.

1. I appreciate that deer fencing will be used for the site boundary which I understand is standard for such a scheme. Can it be confirmed that the compound fencing will be certificated to a nationally recognised security standard such as LPS 1175?
2. Will a CCTV system be installed and will it be monitored? Without any form of active monitoring or a monitored intruder detection system, the site will be vulnerable to unauthorised access, theft, damage etc. A monitoring capability enabling a proactive response to incidents as they occur would be beneficial.

I would appreciate it if further information on the two points above could be provided.

Other Representations

A total of 31 third party representations have been received. This number consists of 24 objections and 7 in support.

The planning matters raised in the objections are:

- Visual impact on the countryside.
- Detrimental impact on local communities.
- Loss of farmland.
- Flood risk.
- Negative heritage impact.
- Negative impact on ecology.
- Highway safety impacts.
- Contrary to the NPPF and Local Plan.
- No proven benefit to energy security from solar.
- Contrary to National Energy Policy.
- Cumulative impact with other solar development in the vicinity.
- Glint and glare toward neighbouring properties.
- High density of panels.
- Large quantities of crushed stone required.
- Will worsen food crisis.

The planning matters raised in support are:

- The development would contribute positively to the UK's energy security.
- Renewable energy is important due to the climate emergency.
- The proposal would provide ecological enhancements.

- The land is largely lower grade and will continue to be used for agriculture (by way of grazing around the panels).
- The land will not be permanently lost to agriculture, and will continue to be used for agriculture (by way of grazing around the panels).
- The community fund will benefit the local community.
- Renewable energy projects are supported by the NPPF.
- Diversification by farmers should be encouraged.

PLANNING HISTORY

None.

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)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN6 (Nationally and Locally Important Archaeological Sites)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Site Location and Description

Site Description.

This application relates to an area of land to the east of Rutton Farm, which is situated in a rural location approximately half way between Whimple and Talaton. There is a public highway running through the southern part of the site, and the Exeter to Waterloo railway line adjoins the southern edge of the site. The area is sparsely populated, with only a small number of residential properties immediately adjoining the site; those being at Rutton Farm, Rockwell Farm and Railway cottages. There is a public footpath running through the site, and another which passes close to the eastern edge of the proposed development.

The land which is the subject of this application consists of gently undulating agricultural fields, with hedges forming the boundaries between fields. There is a minor water course running along the northern edge of the proposed solar panels, in addition

to some other water features within, or close to, the area of panels. There are trees within the site; some forming part of hedges, and others within fields.

To the north of the proposed solar panels, it is intended to construct a substation which would be connected to the solar panels by an underground cable. The substation would be located close to a minor public highway to the north of its location, off which it would be accessed. There is an existing hedge to the east of the proposed substation, but it would face into an open field in other directions. The location of the substation is on a slight spur.

The site is not subject to any landscape designations. However, there is a County Wildlife Site (CWS) adjoining part of the western edge of the site.

Proposed development.

Planning permission is sought for the construction of a solar farm, and related infrastructure, for a period of 40 years. The proposal includes the development/construction of solar arrays, equipment housing, sub-station, fencing, ancillary equipment, landscaping and associated development, such as access tracks.

ANALYSIS

The key considerations in the determination of this application are:

1. Justification for site selection.

A detailed document explaining the site selection process undertaken has been submitted with this application (entitled Planning Addendum Statement, dated February 2023). The document details that a number of phases formed part of the site selection process. This was based around where a suitable connection to the grid could be established and agreed. In this case, the agreed grid connection was "at an existing tower on the 132 kV electricity circuit between Exeter Grid Supply Point and Tiverton Bulk Supply Point substations".

The aforementioned document then states that a search for previously developed land within 10km of the grid connection was undertaken. Whilst this did reveal some previously developed land, none was considered suitable by the developers, as demonstrated by paragraph 2.12 of the document states:

"Following completion of the Phase 1 sifting exercise, it was clear that none of the identified previously developed sites were suitable from the perspective of the amount of available land required for the Proposed Development. It was therefore concluded, in the absence of available or suitable previously developed land, that it would be necessary to utilise agricultural land for the Proposed Development."

Given the above, the addendum document then states that phase two of the site selection was based upon seeking a site within 10km of the agreed grid connection which took the following into account (paragraph 2.13 of the addendum):

- Solar irradiation levels;

- Separation from settlements and areas of local population, limiting visual impacts from residential dwellings;
- Existing screening provided by trees and hedges and space and suitability for additional planting;
- Flat topography;
- Field size/ shading;
- Suitable access to the Site for the purposes of construction and decommissioning;
- Agricultural land classification (seeking to avoid the use of best and most versatile land);
- Avoidance of landscape designations;
- Limited nature conservation designations and opportunities for biodiversity enhancements;
- Low flood risk; and
- The potential for a commercial/ land agreement with a landowner ('available' land).

With those factors in mind, a further search of the 10km zone was undertaken, which, as detailed in paragraph 2.14 of the addendum, took into account the following constraints:

- Areas of high quality agricultural land;
- Flood risk;
- Heritage assets;
- Environmental designations;
- Landscape designations;
- Planning designations;
- Proximity to sensitive receptors;
- Physical geographical constraints (i.e. topography, extensive existing trees and planting, small field parcels etc); and
- Suitable vehicular access.

This search showed that the selected site fell in an area not impacted by the constraints listed above. This is close to the connection point, meaning that an extensive cable run is not required as part of the development. Given these factors the site which is under consideration in this planning application was chosen.

It is considered that the applicants and their agents have been through a thorough and extensive search process. Given that, it is considered that the proposed site is the most suitable available to the applicants for their application. The Council is content with the site selection process undertaken. Notwithstanding this, the proposal must also be considered against all relevant policies and potential impact. The remainder of this report will focus on assessing those areas.

2. Impact on agricultural land.

The submitted Land Classification report shows that the proposed site consists of land which falls within agricultural land classifications 3a, 3b, 4 or 5; with 13.8% of the site being grade 3a, 80.8% falling in grade 3b, 4.7% classed as grade 4, and 0.7% being

grade 5. Grade 3a land is considered to be 'good', 3b land is deemed to be 'moderate', grade 4 land is 'poor' quality, and grade 5 is 'very poor'.

Policy EN13 (Development on High Quality Agricultural Land) of the East Devon Local Plan 2013 - 2031 (EDLP) states that land within classes 1, 2 and 3a shall be protected, and may only be developed if the following criteria are met:

- Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable or available lower grade land has an environmental value recognised by a statutory wildlife, historic, landscape or archaeological designation and outweighs the agricultural considerations. Or
- The benefits of the development justify the loss of high quality agricultural land.

In this instance, the site is a mixture of grades 3a, 3b, 4 and 5, and some fields within the proposed site contain areas of more than one class.

The land classifications shown above broadly concur with the information possessed by the Council relating to that matter. Given that, it is considered that there is no reason to doubt the findings of the submitted land classification report.

The fact that some fields contain land of more than one class presents a minor issue. This being, if it is considered that the grade 3a areas cannot be developed in any way, it is necessary to question whether it would be practicable to develop only the grade 3b, 4 or 5 areas within those fields, or whether the two classes can be farmed differently when they are in the same field. Certainly, in the past, it has been considered that dividing a field by its land classification would not be a practical way to farm. Indeed, the Council's Planning Committee approved applications 19/2832/MFUL and 21/3120/MFUL, which also related to a solar development, when that argument was made. It is considered that no strong case has been made to alter that view. Therefore, given that 86.2% of the site is not the Best and Most Versatile (BMV) land, it is considered that it would be unreasonable for the Council to object to the proposal on the grounds that a small amount of grade 3a land is within the site.

Furthermore, whilst the presence of solar panels would prevent the land being used for the purpose of crops, they would not prevent the land being used for grazing purposes, so the land would not be completely lost to agriculture should this development take place. This argument is supported by paragraph 2.21 of the aforementioned addendum, which says:

"As detailed within the Planning Application, it is proposed that during the operation of the Proposed Development, the Site will, via grazing, still allow for continued agricultural use."

Additionally, as the proposal is to retain the panels for 40 years, it is feasible that the land can be returned for full agricultural use following removal of them. Especially so, as it is generally accepted that the installation of solar panels is not detrimental to the agricultural quality of the land. Indeed, Natural England does not object to the proposal on the grounds of loss of agricultural land, where their comments state:

"We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas."

"In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised."

"Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade)."

In the event that this application is approved, such a condition is considered reasonable.

The above comments alone, however, are not sufficient for the proposal to be considered to comply with Policy EN13 of the EDLP. It is considered that the justification for the site is sufficient to meet criteria 1 of that policy, but criteria 2 remains unanswered.

However, a critical issue impacting the world at the current time is climate change and, whilst food supply is an issue linked with that, a key part of addressing the climate emergency is reducing the reliance on fossil fuels; renewable energy has a vital role to play in that. This is recognised in the EDLP, through Strategy 39 (Renewable and low Carbon Energy Projects), which makes provision for renewable energy projects. The pre-amble to that strategy states that

"significant weight will be given to the wider environmental, social and economic benefits of renewable or low carbon energy projects, whatever their scale".

Clearly, this does lend some support to the scheme. However, that support must be balanced against the impact on the agricultural land, in order to ascertain whether criteria 2 of policy EN13 has been met.

In this instance, planning permission is sought for 40 years. This would mean that, whilst, the land would be lost to all agricultural activity other than grazing for that period of time, it could be used again for agriculture upon expiry of the permission. Information supplied, and consultation replies, indicate that the presence of the solar panels would not be detrimental to the quality of the land; especially if the condition proposed by

Natural England were imposed. Consequently, taking into account those factors, as well as the climate emergency and the environmental benefits offered by solar parks, it is considered, on balance, that the proposal would meet criteria 2 of policy EN13, as there is sufficient justification for the partial and temporary loss of the land for agricultural purposes.

The National Planning Policy Framework 2021 (NPPF) is balanced with regard to the issue of using agricultural land for renewable energy. In paragraph 174 the NPPF states that planning decisions should take into account the impact of development upon BMV. However, in paragraphs 152 to 158, the NPPF recognises the challenges posed by climate change and seeks to encourage planning decisions which allow renewable energy projects. Given that the NPPF balances the two issues, it is considered that the proposal, which seeks permission for 40 years, and would not be considered to harm the quality of the land, would comply with the NPPF. This is on the basis that it retains the quality of the land, and would also provide renewable energy.

Natural England, in their comments about this proposal, states that the Council should consider whether the development is an effective use of the land. It is acknowledged that, Natural England, notwithstanding their quoted comment above, highlights that it is "likely" a reduction in agricultural productivity would arise during the lifetime of the development. However, given all the comments above, it is considered, on balance, that the proposal is a suitable use for the land; the use would be temporary, would not completely prevent the site being used for agricultural purposes, and would produce renewable energy.

The Council's Landscape Architect has drawn attention to the submitted photographs and plans, of which the latter show the panels being situated fairly close together compared to the photographs; to the extent that grass may not grow between them. However, the applicants have provided assurances that the panels in the photographs are of a similar nature to those which are proposed. Clearly grass is growing between the panels in the photographs, so, on that basis, officers are content that the distance proposed between the panels is acceptable.

3. The visual impact of the proposal.

The proposal has been considered by the Council's Landscape Architect, who questioned the visibility of some parts of the site. In response, the applicants have supplied amended details. The updated information includes updated landscaping, and the omission of solar panels from field 5. It is considered that these changes are sufficient to ensure that the proposal would not be overly visually harmful in the immediate setting.

The Landscape Architect identified that the site may be visible from some locations close to the site, such as the public highway between Talaton and Whimble or the public footpaths close to the site. Whilst the above amendments will reduce this impact, it is likely that some limited impact may remain at some times of year. However, the area which would be impacted by this would be limited, and it is considered that the benefits of the scheme, in terms of the production of renewable energy to help counter the climate emergency, outweighs this small harm.

Similarly, there are limited public view points from higher ground to the south of the site where the development would be visible. However, the enhanced landscaping, combined with those views of the site being part of a much wider view of a large area, mean that it is considered that any harm to those views would be very limited indeed.

In terms of the impact of glint and glare from the proposed development, the submitted report regarding that topic concludes that, with the mitigation proposed, the impacts from glint and glare would be minimal or none. The Council is not aware of any information to doubt those findings.

The Council's Landscape Architect concludes his initial comments relating to the proposal as follows:

"Despite the scale of the proposed development and the proximity of nearby built and consented solar sites, due to the generally rolling landform with numerous trees and hedgerows, the cumulative effects of the development are considered to be very limited."

Given that, and the comments raised above, it is considered that the proposal is acceptable in terms of its landscape impact.

4. The impact of the proposal on highway safety.

It is clear that the impact of the proposal upon local highways is an area of concern for local residents. The times at which the proposal would have the greatest impact upon the highways would be during the construction and decommissioning stages. Outside of those times, vehicle movements to/from the site would be limited.

The County Highway Authority (CHA) has assessed the proposal and is satisfied that the development can take place without causing harm to the highway network, or the safety of those using it. However, this is subject to the submission of a Construction and Environment Management Plan (CEMP), so the CHA has recommended a condition relating to that. Such a condition is considered reasonable, and can be imposed in the event that this application is approved.

Given this, it is considered that the proposal is acceptable in terms of its impact on the highway network.

5. The impact of the proposal on public footpaths.

There is one public footpath which runs directly through the site, and another which runs close to it at one point. Clearly, the path which runs directly through the site would be the one most impacted by the proposal. The submitted plans show that a buffer would be left either side of the path, and that the land within that would be landscaped to reduce the visibility to the site from that path. Despite this, the character of that area of path would change, and it is possible that solar panels may be visible from the path. This, however, would not impact upon the ability to use the path. Given that, with the

visual impact of the proposal considered to be acceptable, and noting that the County Council Rights of Way Officer has not objected to the proposal, it is the view of the Local Planning Authority that the proposal is acceptable in terms of its impact on public footpaths.

6. Conservation and Archaeology impact.

The County Archaeologist has stated that the majority of the site in question is on an area where the archaeological potential is low. However, the location of a possible prehistoric or Romano-British ring ditch, indicating either settlement or funerary activity from these periods, has been identified in field 10. Groundworks for the construction of the solar farm have the potential to expose and destroy archaeological and artefactual deposits associated with this heritage asset. The impact of development upon the archaeological resource here 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.

Consequently, the County Archaeologist has recommended that, should this application be approved, a condition requiring a Written Scheme of Investigation (WSI), which sets out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest, to be submitted prior to the commencement of the development. Such a condition is considered reasonable.

With regard to the impact on listed buildings on conservation areas, the Council's Conservation Officer has confirmed that the proposal would not have an adverse impact on any building or area covered by those designations.

Given the comments raised above, it is considered that the proposal is acceptable in terms of its impact on archaeology, listed buildings and conservation areas, subject to the aforementioned condition.

7. Residential amenity.

Concerns about the impact of the proposed solar farm on residential amenity have been raised by a number of people residing in the vicinity of the site. However, the proposal site would not immediately adjoin the curtilage boundary of any residential property, and the hedges on the boundary would be enhanced as part of the works. Consequently, given those factors, it is considered that the development would not have an overbearing impact on the residents of any property. In terms of the visual impact on residential properties, it is possible that parts of the site may be visible from some dwellings. However, the loss of, or impact on, a view cannot be taken into account when determining a planning application. Furthermore, it has been established earlier in this report that the landscape impact of the proposal is acceptable.

In terms of other possible impacts on neighbours, the Council's Environmental Health Department has confirmed that the proposal is acceptable from their perspective. Furthermore, the County Highway Authority has also found the proposal to be acceptable to them. No lighting is proposed, and a condition requiring details of any

future lighting to be submitted to the Local Planning Authority can be imposed, should this application be approved.

Given the above, it is considered that the proposal is acceptable in terms of its impact on the occupiers of residential properties, in accordance with Policy D1 (Design and Local Distinctiveness) of the EDLP as well as other related policies.

8. Arboricultural impact.

The Council's Arboricultural Officer has assessed the proposal and has confirmed that the development is acceptable in terms of its impact upon trees. However, the Arboriculturalist has recommended a condition to be imposed in the event that this application is approved. The condition would relate to the submission of a Arboricultural Method Statement (AMS), and a Tree Protection Plan (TPP) which would be required before any works take place on site.

It is considered that such a condition is reasonable to ensure that trees are retained, in order to preserve the character and appearance of the area, and also accord with Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the Local Plan. Furthermore, for the same reasons, it is considered reasonable to impose a condition to require the developers to seek the consent of the Local Planning Authority in order to undertake any works to trees within the site or on the site boundary.

9. Flood Risk/Drainage.

There is a flood zone, designated by the Environment Agency (EA) adjoining, and slightly within, parts of the red line for the proposed development. However, only a very small amount of the development would take place in those areas and, in most cases, no development will be taking place in those areas. Nevertheless, the EA and the County Council Flood Risk Department have assessed the application and provided comments.

The EA initially had concerns about the proposal, with regard to the proximity of the development to flood zones and also whether fences would represent a flood risk. In response, further information was submitted by the applicants, in the form of an updated Flood Risk Assessment (FRA). Subsequently, the EA confirmed that the updated FRA was sufficient for them to withdraw their objection, subject to the imposition of a condition to ensure that the development takes place in accordance with the submitted FRA. It is considered that imposing such a condition would be reasonable in the event that this application is approved.

With regard to drainage, the County Flood Risk Department initially raised concerns on the basis that, in their view, the proposal failed to comply with Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan. However, following submission of the aforementioned updated details, the County Flood Risk Department confirmed that it no longer objected to the proposal, subject to a condition to ensure that the proposal is carried out in accordance with the new FRA, and also seeking details of surface water and runoff management, adoption and maintenance of the drainage system and the submission of a plan detailing the management of

exceedance flows. It is considered that imposing such a condition would be reasonable in the event that this application is approved.

Given the comments above, it is considered that the proposal could proceed without giving rise to flooding or drainage concerns, in accordance with the relevant planning policy.

10. Aviation impact.

A Glint and Glare report was submitted with the application. That report, and any other relevant parts of the proposal, have been assessed by Exeter Airport Safeguarding, which has confirmed the following:

"The amendments 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."

Therefore, it is considered that the proposal is acceptable with regard to the impact upon aviation safety.

11. Ecology and Bio-diversity net gain.

The submitted Ecology Report highlights that some species of interest were identified on the site. However, it also details that any impacts on these can be avoided or mitigated through the overall biodiversity gains which the development could provide.

Natural England has been consulted on the proposal, and has not objected to the application in the grounds of harm to ecology. Furthermore, the proposal would appear to comply with the standing advice provided by Natural England.

The Council's Ecologist has stated that the proposal is acceptable, subject to some relevant conditions. It is considered that such conditions would be reasonable to impose in the event that this application is approved.

With regard to bio-diversity net gain, the submitted Ecological Assessment details how the proposal will lead to a gain in bio-diversity. In particular, paragraph S.13 states:

"Proposed native hedgerow enhancement along with creation of wildflower rich margins, species rich hedgerow, native scrub and new waterbodies will be included as part of the proposals such that the scheme seeks to achieve a 21.65 % net gain in habitats and 44.75% net gain in hedgerow biodiversity units. In addition, the provision of bat, bird and dormouse boxes on retained trees and hibernacula, will provide ecological enhancements at the site, leading to biodiversity gains and improving opportunities for UK and local Priority Species."

These benefits can be secured by condition in the event that this application is approved. Given the lack of concern raised about bio-diversity by Natural England or the Council's Ecologist, there is no reason to doubt the above statement.

Natural England has drawn attention to the CWS adjoining part of the site, and highlighted the potential for any changes to drainage to be detrimental to that designation. Such matters can be considered during the design of any SUDS/drainage alterations needed, and these matters can be conditioned. However, it is also noteworthy that the nature of the site and the proposed development is such that only limited drainage works would be required.

Despite the above, it is noted that the Devon Wildlife Trust has raised concerns about the proposal from an ecological perspective. These concerns are noted. However, given the lack of objection from Natural England and the Council's Ecologist, it is considered that, on balance, the proposal is acceptable in terms of its impact on ecology.

12. Railway impact.

Part of the site immediately adjoins the Exeter to London Waterloo railway. Network rail has confirmed that it has no in principle objection to the proposal. However, their comments contain a number of factors which the developers will need to take into account should this application be approved. Many of those matters are not planning considerations. However, the matter of glare impacting the railway is considered to be of planning relevance. In this regard, the submitted glint and glare report highlights a number of locations where glare could impact the railway. The report then continues to highlight the mitigation which would be put into place to prevent the identified potential for glare; this is detailed in paragraph 7.1 of the Glint and Glare report, which describes the planting which will take place for mitigation.

Consequently, whilst it is recommended that, should this development be approved, the developers take full note of the Network Rail comments, there are no planning reasons relating to the railway why the proposal is not acceptable in this regard.

13. Cumulative impact.

Whilst the main focus of this report has been the development to which it relates, it is a relevant consideration that other solar developments in the vicinity of the site are proposed; most notably, approximately 3 kilometres north of the site is the location of the Peradon Farm solar development which the Council's Planning Committee granted consent in July 2022 (application 21/3120/MFUL refers) and, around 1 kilometre north of there an application within the Mid Devon District which was granted permission on appeal in December 2022. Whilst it is considered that these sites are a sufficient distance away from the Rutton Farm site for there to be a cumulative visual impact, it is important to ensure that, if either of those sites were constructed at the same time as the Rutton Farm proposal, deliveries to the site do not create a cumulative negative highway impact.

In that regard, the submitted information details that the majority of the traffic movements required to construct the proposed development would not overlap with the routes used for the aforementioned sites. The only exception to this, would be a small number of deliveries to the proposed substation/connection point; they would partly overlap with the delivery routes proposed for the Peradon Farm site and the Mid

Devon development. However, given the modest number of movements which would be created on that route by the Rutton Farm development it is considered that there would not be a harmful cumulative highway impact. It is notable that the CHA has not objected on that basis.

Also relevant in terms of cumulative highway impacts is the solar proposal at Marsh Green (application 22/0990/MFUL refers). Despite that application being recently refused by the Councils Planning Committee, the applicants may choose to appeal that decision and, should that happen, the Inspector may conclude that the proposal is acceptable. There would be some degree of overlap between the delivery routes proposed for the Rutton Farm and Marsh Green sites, although much of this would be on the A30, rather than smaller roads. Given that, and the CHA comments, it is again considered that there would not be a harmful cumulative highway impact.

In terms of a cumulative visual impact between the Rutton Farm site and Marsh Green, the sites are around 4.5 kilometres apart, and the landscape is gently undulating between the sites. Therefore, a negative cumulative visual impact will not arise. For similar reasons, it is also considered that there would not be a negative cumulative visual impact with other existing solar development in the area.

14. Community Fund and other benefits.

It is noted that the Planning Statement details that a community fund will be donated to annually. This is however outside of the planning process.

In terms of other benefits, the planning statement also highlights that the business rates associated with the proposal will be retained by the Local Authority and will, therefore, benefit the community.

With regard to wider benefits, the most notable of these, which impacts us all, is the ability of the scheme to reduce reliance on less sustainable methods of energy production. The ability of solar to achieve this has been questioned by some objectors. However, the Environmental Report details that solar development can make a positive impact in this regard. This supports details submitted with other recent solar developments. The scheme will make a positive impact in terms of renewable energy production.

Conclusion.

This proposal is one of a number of solar developments recently under consideration in East Devon and close-by within Mid Devon. Clearly, this report relates primarily to the application at Rutton Farm. However, the potential cumulative impact in relation to any of the other proposals has also been considered.

As detailed in the main body of the report, the proposal has been considered with regard to many aspects and, following amendments to the proposals, the development is now considered to be acceptable in terms of all of those factors.

Whilst the following weigh against the proposal:

- Loss of some Grade 3A agricultural land (7.9ha);
- The visual impacts, although limited;
- Temporary impacts during construction and de-commissioning;

the following weigh in favour of the proposal:

- Environmental benefits from renewable energy production and support from Strategy 39 of the Local Plan;
- Environmental benefits from biodiversity net gain;
- Lack of landscape designation and availability of a grid connection;
- Benefits to the future of the farm.

In considering the above, it is clear to Officers that the benefits proposed significantly outweigh the harm created by the proposal. Particularly bearing in mind given that the harm identified can be mitigated through conditions related to planting and the control of construction, and as the Grade 3A agricultural land will still be available for grazing and could be returned to agricultural use in the future.

In light of this, the lack of wider amenity impacts, lack of highway safety concerns, lack of harmful visual impacts and lack of other harm, it is considered that the proposal complies with policy, and it is recommended that this application is approved.

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. Within 40 years and six months following completion of construction of development, or within six months of the cessation of electricity generation by the solar PV facility, or within six months following a permanent cessation of construction works prior to the solar PV facility coming into operational use, whichever is the sooner, the solar PV panels, frames, foundations, inverter modules and 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 five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, which includes restoration and aftercare plans in order to return the land to its original condition, that shall have been submitted to, and approved in writing by, the Local Planning Authority no later than three 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 Strategies 7 (Development in the Countryside), 39 (Renewable and Low Carbon Energy Projects) and 46 (Landscape Conservation and Enhancement and AONB's) and Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013 - 2031.)

4. The site, including the land around and beneath the solar panels, shall remain available for agricultural purposes, which shall include ecological purposes such as wildflower margins, hedgerow and tree maintenance, and conservation grazing.

(Reason - To ensure the continuation and retention of the land for agricultural purposes in addition to the solar farm, to safeguard countryside protection policies in accordance with Strategies 7 (Development in the Countryside) and 39 (Renewable and Low Carbon Energy Projects) of the East Devon Local Plan 2013- 2031.)

5. No external lighting shall be constructed or provided unless and until details of the lighting have been submitted to and approved in writing by the Local Planning Authority. Thereafter, any lighting shall be carried out and maintained in accordance with the approved details.

(Reason - To protect the character and appearance of the open countryside, to ensure that the wildlife in proximity to the site is safeguarded from the impacts of the proposed development, and to protect the amenity of nearby occupiers, in accordance with Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONB's) and Policies D1 (Design and Local Distinctiveness), EN5 (Wildlife Habitats and Features) and EN14 (Control of Pollution) of the East Devon Local Plan 2013 - 2031.)

6. Prior to the commencement of any works on site (including demolition and 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.)

7. During the operation and decommissioning phases, no felling of trees on or within the red line shown on the approved site location plan, other than those approved by this permission, shall take place without the prior written consent 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 Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the Adopted East Devon Local Plan 2013-2031.)
8. 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, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development).
9. 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) any road closures required;
 - (c) 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.;
 - (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) Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements.

Development shall be undertaken in accordance with the approved CEMP, and 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. 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, and to ensure that the development does not result in a danger to users of the public highway network, in order to comply with the provisions of Policies D1 (Design and Local Distinctiveness), EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013 - 2031.)

10. The Development hereby approved shall be undertaken in accordance with the submitted Landscape, Ecological and Biodiversity Management Plan, produced by Tyler Grange, dated 27th February 2023, report number 12428_R02G_JS_CW.

(Reason - In the interest of amenity and to enhance the landscape character and biodiversity value of the site and surrounding areas in accordance with Strategies 3 (Sustainable Development) and 47 (Landscape Conservation and Enhancement and AONBs), and Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031.)

11. The development shall be carried out in accordance with the submitted flood risk assessment by RAB consultants dated 21/12/2022 (version 5, ref. RAB: 2728L) and the mitigation measures it details in section 07 Recommendations. In particular, where the proposed boundary fence crosses ditches/watercourses, swing fences shall be installed to mitigate the risk of obstructions. An 8m easement from the two larger watercourses shall be maintained as detailed in Figure 6 of the flood risk assessment.

The mitigation measures shall be fully implemented before the solar farm comes into operation and maintained thereafter throughout the lifetime of the development.

(Reason - To reduce the risk of flooding to the proposed development and elsewhere in the catchment, in accordance with Policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2031 - 2031).

12. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Horton Solar Farm Whimble East Devon Flood Risk Assessment & Drainage Strategy (Report Ref. 2728L, Rev. 5.0, dated 21st December 2022).

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) 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) - (g) above.

(Reason - 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, and also to accord with Policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development) of the East Devon Local Plan 2031 - 2031).

13. The development hereby approved shall be carried out in accordance with the Ecological Assessment, produced by Tyler Grange, dated 18th March 2022 (TG Report No. 12426_R01a_RR_TW) and the Landscape and Ecological Biodiversity Management Plan also produced by Tyler Grange, dated 27th February 2023 (TG Report No. 12428_R02G_JS_CW) .

(Reason - To ensure that the development is not harmful to wildlife, in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013 - 2031).

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

a) A full set of soft landscape details including:

i) Planting plan(s) showing locations, species and number of new trees and native hedge/ shrub planting and extent of new grass areas, together with existing trees, hedgerow and habitat to be retained/ removed.

ii) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

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

iv) Tree pit and tree staking/ guying details

v) Method statement for creation and maintenance of species rich grassland habitats

b) Details of proposed colour finishes to housings for inverters, storage units and substations.

- c) Details of proposed under and over ground cable routes together with method statements for taking underground cables through any hedgebanks.
- d) Details of the design and locations of any security cameras or lighting proposed.
- e) Details of finishes of framing elements of proposed pv panels.

The works and subsequent management 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 2013 - 2031).

15. No works shall commence on site until details of soil bearing capacity and updated access track construction details including path width and make up and any necessary culverts over watercourses together with confirmation of the means/ location(s) for disposal of excavated soil arising from track construction have been submitted to the LPA and approved in writing.

(Reason - To ensure that the tracks do not have a detrimental impact on the land, in order to comply with the provisions of Policies D1 (Design and Local Distinctiveness), EN5 (Wildlife Habitats and Features), EN13 (Development on High Quality Agricultural Land), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development of the East Devon Local Plan 2031 - 2031).

16. Prior to the installation of the substation, details of its design and associated infrastructure shall be submitted to, and approved in writing by, the Local Planning Authority. The submitted details must include minimum 1:250 scale plans and sections showing the proposed layout, surfacings, drainage, planting, existing and proposed levels and existing trees and hedgerow to be retained/ removed. An arboricultural survey and impact assessment for the substation should also be provided which should consider also any tree/ hedgebank impacts arising from underground cabling required between the solar farm, substation and grid connection.

Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the development is suitable for its location and is not detrimental to the character and appearance of the area, in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031).

17. Prior to their installation, details of the following shall be submitted to, and approved in writing by, the Local Planning Authority:

- Design of access tracks, including their width and base make up
- Design of footings for control cabinets and any other related buildings/structures.
- Fence post foundations.

Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the development is suitable for its location and is not detrimental to the character and appearance of the area, in accordance with Policies D1 (Design and Local Distinctiveness), EN5 (Wildlife Habitats and Features), EN13 (Development on High Quality Agricultural Land), EN21 (River and Coastal Flooding) and EN22 (Surface Run-off Implications of New Development of the East Devon Local Plan 2031 - 2031).

18. 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, and in order to comply with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan 2013 - 2031).

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not 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.

Plans relating to this application:

fig 13 sheet 1 of 2	Other Plans	25.04.22
rev 1	: proposed	
site entrance		

fig 10 rev 1 : Other Plans typical connection compound fencing	25.04.22
fig 11 rev 1 : Other Plans typical cable trench detail	25.04.22
fig 12 rev 1 : Other Plans typical storage container	25.04.22
fig 13 sheet 2 of 2 rev 1 : proposed site entrance	25.04.22
fig 14 rev 1 : Other Plans typical access track detail	25.04.22
fig 15 rev 1 : Other Plans typical site fence	25.04.22
fig 16 rev 1 : Other Plans typical field gate	25.04.22
fig 4 rev 1 : typical arrangement	Other Plans 25.04.22
fig 5 rev 1 : typical transformer unit	Other Plans 25.04.22
fig 6 rev 1 : typical client metering cabinet	Other Plans 25.04.22
fig 7 rev 1 : Other Plans connection compound indicative layout	25.04.22
fig 9 rev 1 : typical substation buildings/custom er DNO control units	Other Plans 25.04.22

plate 21 : horton solar farm delivery route	Other Plans	25.04.22
plate 22 : horton solar farm delivery route	Other Plans	25.04.22
figure 1	Location Plan	07.04.22
18 march 2022	Ecological Assessment	07.04.22
geophysical survey report	General Correspondence	25.04.22
+ drainage strategy (version 5.0)	Flood Risk Assessment	03.01.23
12428_R02G_JS _CW	Landscape and Ecological Management Plan	01.03.23
GBR.2260.DEV. M4 001.0 ke : planning layout	Layout	01.02.23

List of Background Papers

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

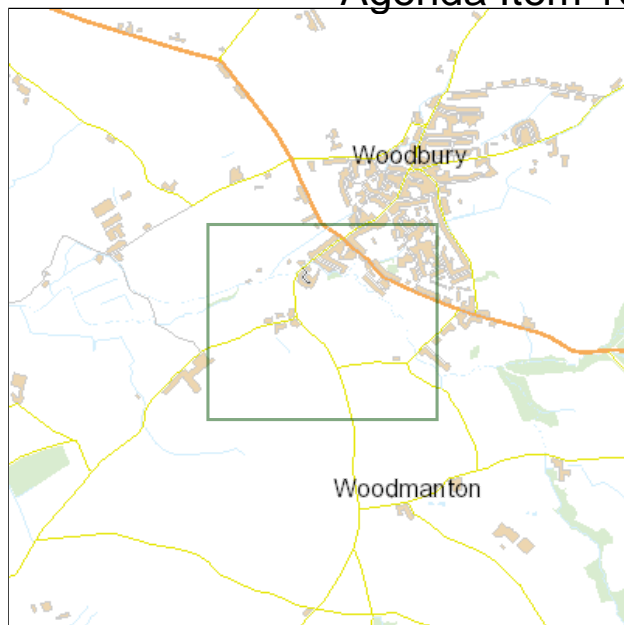
Ward Woodbury And Lypstone

Reference 22/1761/FUL

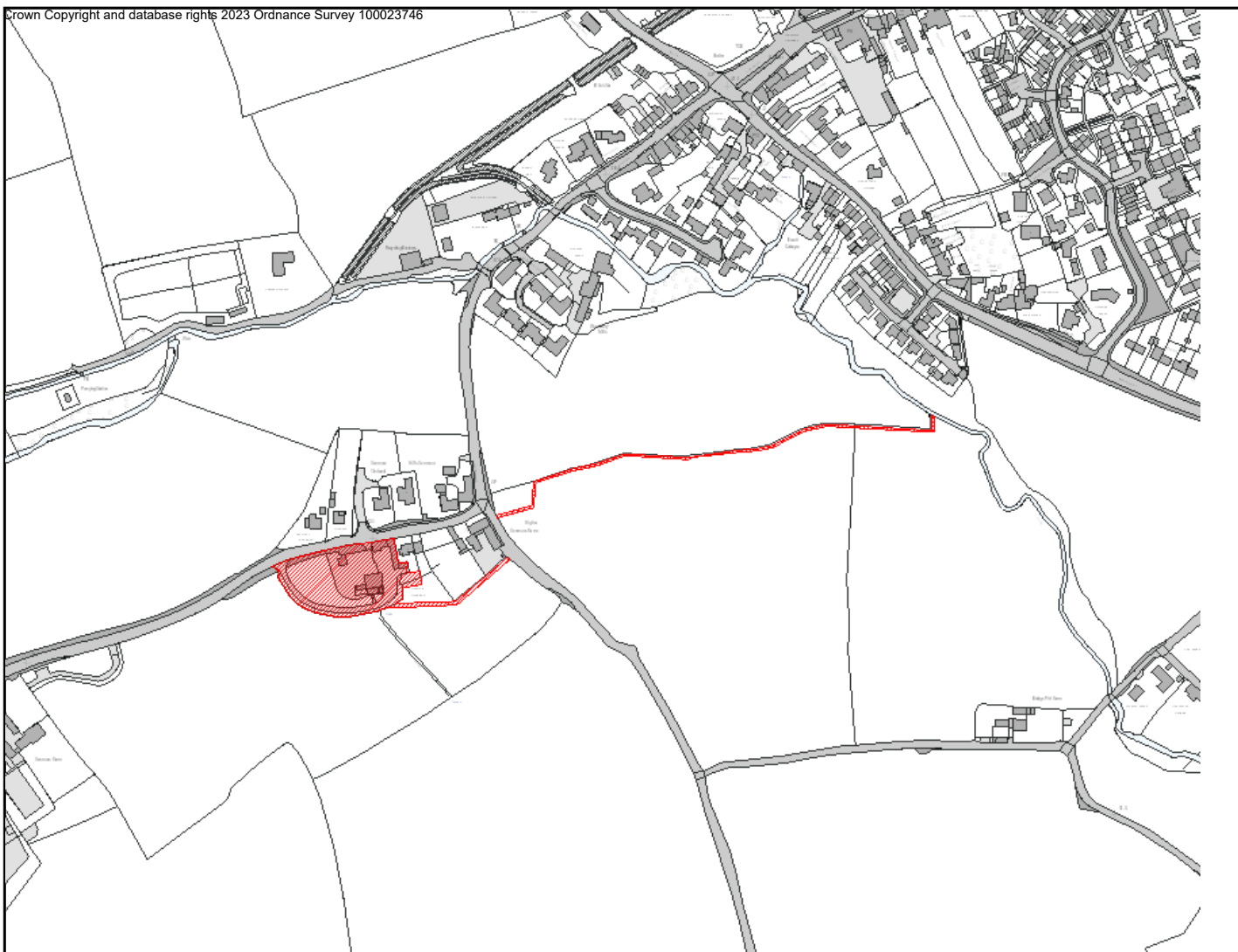
Applicant Mr R House

Location Land At Venmore Barn Woodbury Exeter EX5 1LD

Proposal Conversion and extension of existing buildings to create two residential dwellings, construction of 6no. dwellings with associated landscaping, infrastructure and works and demolition of existing buildings.



RECOMMENDATION: Refusal



		Committee Date: 24.04.2023
Woodbury And Lympstone (Woodbury)	22/1761/FUL	Target Date: 05.10.2022
Applicant:	Mr R House	
Location:	Land At Venmore Barn Woodbury	
Proposal:	Conversion and extension of existing buildings to create two residential dwellings, construction of 6no. dwellings with associated landscaping, infrastructure and works and demolition of existing buildings.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Members as the recommendation is contrary to the views expressed by the Ward Members.

The application site lies outside the built up area boundary of Woodbury, the application proposes to convert the existing agricultural buildings on site into 2 no. dwellings and construct 6 no. new dwellings. To facilitate the land for the new houses an existing business unit and associated outside storage area would be removed from the site.

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.

In this scheme, weight is attached to the offer of an affordable housing contribution of £231,664 that would provide social sustainability benefits in the parish. Similar importance is attached to the potential 8 new homes where the 5 year housing land supply means development plan policies important for decision making cannot be given full weight at this point in time.

There is no significant adverse impact on local residential amenity and an acceptable impact on the local and wider rural landscape and the setting of the town. 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 adverse. A similar conclusion is drawn on local heritage assets where special consideration has been given and whose significance would not been harmed.

However, the development would be located in an area that is not accessible by a range of transport means or on foot due to the absence of lit footways to Woodbury's amenities and facilities such that residents would need to resort to the private car for the majority, if not all of their journeys. The Council has/is undergoing allocation of preferred sustainable locations for housing growth, this site has previously been discounted at an early stage in these consideration due to its location and poor access to services required for daily living by any other means than the private motor vehicle. This weighs against the proposal

On balance the proposals are considered to represent unsustainable development in the light of the guidance in the National Planning Policy Framework and the benefits of the proposals are not considered to outweigh the environmental harm.

CONSULTATIONS

Local Consultations

Woodbury and Lympstone - Cllr Geoff Jung
22/1761/FUL

I have viewed the further documents for planning application supplied on 16th March 2023 for the planning application 22/1761/FUL for the conversion and extension of existing buildings to create two residential dwellings, construction of 7 dwellings with associated landscaping, infrastructure and works and demolition of existing buildings at land at Venmore Barn Woodbury.

I previously could not support this application. But I note that the Highways Authority state that the proposal 'provides a footway' and therefore Highways objection is not supported. I also understand that this site is a brownfield site as it was previously used for commercial purposes.

This site is outside the village boundary, and therefore classified as being in the open countryside, and therefore not compliant to the EDDC local plan, but in view of the site being a brown field site and the highways authority do not have concerns I withdraw my previous objections and now support the 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 Ben Ingham
I recommend this application for approval

Parish/Town Council

Woodbury Parish Council supports this application as this is a brown field site.

We, however suggest conditions which include access to pedestrian footway on the opposite side of the road to be provided.

No building or any part of the development is to be outside the curtilage of the site; the surrounding fields are only to be used for arable farming or animal husbandry; to provide a clear boundary and open space from other existing industrial site.

Technical Consultations

County Highway Authority

Observations:

The site access can achieve visibility in both the east and west direction in reference to Manual for Streets 1 and 2, for a 85th percentile speed of at least 45mph, which in assessment of the roads geometry and width, I believe is acceptable.

The proposed layout gives a turning head for vehicles to turn off-carriageway, each of the proposed dwellings will be supplemented with two parking spaces, and I would recommend that spaces for plots 1 and 2 are rotated 90 degrees and laid out individually as this can be much more practical for use as opposed to one behind the other.

This proposal would provide a footway along the southern side of the road entrance into Woodbury.

The site has an existed permitted agricultural use, and therefore has to be taken as the benchmark for vehicle trip generation in comparison to the proposed development, only a slight increase in trip generation would be expected.

Recommendation:

1. Visibility splays shall be provided, laid out and maintained for that purpose at the junction between in accordance with the submitted block plan, where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjoining carriageway level and the distance back from the nearer edge of the major road carriageway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the major road carriageway (identified as Y) shall be 73 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles

EDDC Trees

No arboricultural concerns subject to appropriate landscaping scheme showing replacement tree planting.

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 INFORMATION

The submitted scheme is generally acceptable in terms of landscape design. In respect of Landscape Plan 01 and 02 the following recommendations are made:

a) Hedgerow mixes - it is recommended that elder (*Sambucus nigra*) is omitted from hedge mixes as it tends to outcompete and shade out other species. Beech (*Fagus sylvatica*) is not a locally characteristic hedgerow species and should also be omitted.

b) The proposed oak to the southwest corner of plot 7 is likely to heavily overshadow the garden as it matures. A smaller tree such as field maple would seem more appropriate.

c) Oaks and field maple should be supplied as 12-14cm girth heavy standards rather than 8-10cm standards, to give greater initial impact.

Water butts should be provided to all rear gardens to collect roof rain water for watering purposes.

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

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

a) Details of proposed external surfacing materials, kerbs and edgings.

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) Details of proposed attenuation basin including plans and sections showing proposed profiles, levels and locations and construction details of check dams, inlets and outlets etc.

d) 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.

e) Tree pit and tree staking/ guying details

2) No development shall take place until a schedule of landscape maintenance for a minimum period of 10 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall cover hard and soft landscape elements and SuDS features and include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

3) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first occupation of the proposed buildings with the exception of planting, which shall be completed no later than the first planting season following first occupation.

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) and Policy D2 (Landscape Requirements) 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.)

Other Representations

Two representations have been received as a result of this application raising the following concerns:

- This development is outside the Built up Area Boundary.
- It goes against EDDC Policy as it would be a development in Open Countryside.
- This number of properties is far too high for this area of the village.
- Impact on residential amenity through overlooking.
- Loss of hedgerow.
- Unit 6 would be too tall and look into from windows of Glenora across the road.

PLANNING HISTORY

Reference	Description	Decision	Date
18/1470/FUL	Provision of new portakabin office, new storage container and relocation of existing storage container	Approval with conditions	20.08.2018
08/1515/FUL	Change of use of land to form new access road	Approval with conditions	23.07.2008

POLICIES

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

Strategy 5B (Sustainable Transport)

Strategy 35 (Exception Mixed market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries)

TC2 (Accessibility of New Development)

D1 (Design and Local Distinctiveness)

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)

EN14 (Control of Pollution)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN9 – (Development Affecting a Designated Heritage Asset)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The proposed development site is located in the open countryside approximately 0.45km to the southwest of the village of Woodbury and 1.6km to the northeast of the A376 (Exmouth Road). Vehicular access to the site is through an existing vehicular access that afford good visibility from and of emerging vehicles from the minor road which runs along the northern boundary of the site.

The site slopes gently up from the road in a southerly direction with fields in the ownership of the applicant to the south.

Residential properties known as Venmore cottages bound the site to the east and the properties of Gelonora, Venmore Bungalow and 1 and 2 Venmore Orchard lie on the opposite side of the public highway to the north.

Proposed Development

This application seeks full planning permission for the conversion of 2no. former agricultural buildings into dwellings using the courtyard in front of them as gardens and a parking area together with the erection of 6 no. dwellings on the land to the south and west of the existing agricultural buildings, to facilitate the use of the land for residential purposes an existing business unit and associated storage yard and parking area would be removed from the site.

The site would be accessed from the Woodbury to Pink House Corner which is a class C classified highway through an existing access which serves the agricultural buildings and business unit, an attenuation pond and wildlife area would be created immediately the east of the existing access onto the public highway.

A footpath link is proposed from the development to link into the existing public footpath network across agricultural fields to the east of the site.

Main considerations

The main considerations in the determination of this application relate to:

- The principle of the proposed development;
- Access to services;
- Affordable housing;
- The impact of the development on its surroundings;
- Heritage impact;
- The impact on highway safety;
- Ecology;
- Habitats Regulation Assessment;
- Drainage;
- Planning Balance

Principle of Development

The site lies outside of the built up area boundary for Woodbury under the currently adopted Local 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 has previously been considered by the Council as one that could accommodate additional houses (reference Wood 33), however, it was dismissed at an early stage in preferred site selection considerations as it was 'Remote from the village with poor pedestrian/cycle access' and therefore has not been included in the first draft of the emerging Local Plan as a site allocation.

There are two distinct residential elements to the proposal which have different policy considerations:

1. The conversion of 2no. existing agricultural buildings into open market dwellinghouses
2. The erection of 6no. open market houses.

Each of policy considerations will be addressed in turn:

1. The conversion of 2no. existing agricultural buildings into open market dwellinghouses

The application site is located in a rural location outside any defined built-up area boundaries or site specific allocations and therefore under the provisions of Strategy 7 (Development in the Countryside) of the East Devon Local Plan, is considered to be open countryside. Whilst there is an existing dwelling opposite, the site is otherwise

surrounded by agricultural fields which gives it a rural character. In such rural locations, Strategy 7 of the Local Plan states that development 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 cause landscape, amenity or environmental harm. In this case the site falls within the parish of Woodbury for which there is currently no neighbourhood plan

Policy D8 of the Local Plan (Re-use of redundant rural buildings) permits the conversion of rural buildings, where "the new use is sympathetic to and will enhance the rural setting and character of the building and surrounding area and is in a location which will not substantively add to the need to travel by car".

For residential purposes the policy requires that the building is no longer required for agricultural use or diversification purpose, its conversion will enhance its setting and is located close to a range of accessible services and facilities to meet the everyday needs of residents.

Furthermore, the NPPF as an exception does allow the conversion of rural buildings to dwelling houses

The proposed conversion would retain the buildings overall scale, form and mass, and a new use would benefit the appearance of the building which is need of roof repairs and the tidying up of the site would result in an improvement to its setting, though this is largely derived from its road side setting which would see little change). The site is adjacent to the public highway and its blank northern elevation screens the remainder of its form from public views assisted by established hedging along the roadside. The introduction of an active use would also lift its appearance and result in the building having more of a presence within its setting, which would not be harmful. There is potential for domestic paraphernalia to have an effect on the local character, but this is not considered to be harmful in the context of the building's past uses and associated paraphernalia in any event, especially as the site is largely screened from public view. As such, it is considered that the scheme would adequately enhance the rural immediate setting and character of the building, even if only minimally.

Through recent appeal decisions it has been found that Policy D8 adds another a requirement, by stipulating that rural conversions shall not substantively add to the need to travel by car, which undermines the purpose of the exception granted by Paragraph 80 of the Framework. It does not add more detail about how the Framework should be applied, it prevents the exception applying to a large number of rural buildings, which, by their nature, are more likely to be in areas not well served by public transport or suitable walking or cycling facilities such as the case with this application. Not all rural buildings will result in car reliance, where perhaps located on the periphery of a settlement, but for the most part, an understanding of what can be achieved in rural areas with pre-existing rural buildings is necessary, as also set out in the Framework.

An Inspector in appeal reference APP/U1105/W/22/3294599 considers that Policy D8 is out of compliance with the NPPF by stating:

However, the Braintree case has since clarified the application of national policy to isolated buildings. Additionally, some time has elapsed since the examination of the Local Plan which has affected its relevance considered in the context of what its policies have achieved or prevented in the intervening period. I acknowledge that some appeal decisions, including an aged one of my own, may have agreed that Policy D8 and the Framework are consistent, but the change in the collective understanding of the constraints to achieving sustainable development over time has affected the materiality of those decisions now. As such, I regard that the conflict between EDLP Policy D8 and the Framework in relation to its locational requirements can only mean that it should be regarded as out-of-date and favour should be given to the Framework policies in this situation.

Accordingly, it is considered that the proposed conversions under D8 would be acceptable in principle, the impact on their setting and design is commented later in this report.

2. The erection of 6no. open market houses.

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.

Point i) above does not apply in this case and so we must determine whether point (ii) is satisfied.

One of the Ward Members considers the site to constitute brownfield land or previously developed land as there was agricultural use and a business is being operated on part of the site. Whilst the land operated by the business would constitute previously developed land, the agricultural use is specifically removed from the definition of previously developed land. In any event, classifying any part of the land as previously developed has no bearing on the policy stance to be used unless the proposal was for an expansion of a commercial activity, therefore as the proposal is for a residential use the policy stance, whether it be greenfield or previously developed remain the same.

The application site is located around 450 metres, as the crow flies, 505 metres by road, to the south west of the centre of the village of Woodbury (190 metres from the built up area boundary established by the Villages Plan), which has a good range of services including, primary school, shop, public house and village hall together with bus stops for links to further afield settlements. However, these services are not reasonably accessible on foot as there are no footways and the road is largely unlit. The use of the bus is an option for some journeys, to access the wider facilities on offer in Exmouth and Exeter, although passengers would have to walk the unlit road with no footways to catch an Exeter bound bus and the re-routing of the bus to Exmouth means that it no longer passes this site. Overall it is considered that the lack of realistic travel options for future residents would mean that the majority of journeys to access services and facilities would be likely to be undertaken using a private car.

The applicant has offered a footpath link across agricultural land within his ownership so that it would link up with the public footpath close to the village of Woodbury so that occupiers of the proposed development would not need to use the public highway to access the services, however, whilst this could be secured through an appropriately worded legal agreement, officers are of the opinion that it would not provide an inviting or realistic proposition especially in the winter months, at times of darkness or times of inclement weather as the path would be unlit.

Therefore, whilst it is clear that there would be a modest uplift of 6 dwellings which would weigh in favour of the proposed development, the residents of the proposed dwellings would be forced to use the private motor vehicle for the majority, if not all, of their journeys to access daily services due to the location of the site in relation to those services and the lack of any public transport links or safe, suitable and lit footways to enable access by pedestrians which weighs heavily against the development contrary to Strategy 5B and Policy TC2 of the EDDC Local Plan.

These benefits and disbenefits will be addressed in the planning balance at the end of this report.

Affordable housing

Planning Policy Guidance and the National Planning Policy Framework set minimum thresholds where affordable housing can be sought. This states that the provision of affordable housing should not be sought for residential developments that are not major, other than in designated rural areas. In designated rural areas, East Devon District Council applies the threshold of 5 units or fewer. Major developments are schemes of 10 or more homes or where the site has an area of 0.5 hectares or more

In rural areas on sites which provide between 6 and 9 dwellings a contribution towards affordable housing will be sought, in these cases a commuted sum payment, payable after completion of units (phased) within the development. The affordable housing calculator has been used to determine that the commuted sum would equate to £231,664, the applicant's agent has confirmed the following in the heads of terms submitted with the application:

The applicant commits to the payment of the affordable housing contribution of £231,664 (£28,958 per unit) to be secured via a unilateral undertaking.

Accordingly, and subject to the prior signing of a legal agreement, the proposal would be acceptable in relation to Strategy 35 of the EDDC Local Plan together with the requirements of the NPPG and NPPF.

Impact of the development on its surroundings

The site lies in tranquil rural surroundings at the point where the rural area is in transition towards the settlement of Woodbury, its current use has a benign impact on its surroundings being a former agricultural yard with remnants of storage buildings being evident, together with a more recent addition of a prefabricated business unit, currently occupied by a tree consultancy and felling business with open storage area to the rear. It is well screened from the passing highway by mature vegetation along the roadside and forming a banked up area running perpendicular to the road together with the brick built existing agricultural buildings forming a visual screen.

The redevelopment of the site from its current use/form would therefore be likely to have a material impact on its countryside setting. However, through negotiation, officers have worked with the applicant and their agent to seek to overcome the serious concerns that were raised regarding the initial scheme that was submitted as it was considered to be an overdevelopment of the site and of a scale (height and massing) that was considered to be harmful and dominant in the rural setting. The amended plans have removed a unit from the scheme and significantly reduced the mass and bulk of the units adjacent to the road (units 3, 4 (now removed) and 5) together with a reduction in the height of the remaining units on site to one and a half stories rather than a full height two stories, save for unit 9 which is considered to be set in a position that would not be harmful and a greater height.

The overall development would assimilate well into its surroundings and be of a form that would not be read as a new development especially as the bank running north south across the western part of the site would be retained and enhanced as part of

the development, the modern approach to windows is acknowledged and would be a consistent theme running through the development which would look to use high quality materials of natural slate or clay roof tiles, brick and render elevations with limited use of timber cladding.

The conversion of the barns (units 1 and 2) would look to re-use the existing footprints, though unit 2 would have a small front extension which whilst unfortunate would provide a meaningful footprint without creating harm. The barns themselves are not particularly great examples of historic structures, their greatest asset is the roadside elevation and their relatively low form for these reasons they could not be classified as non-designated heritage assets. The works to create a useable amenity area in the courtyard area are usually resisted so as to retain the historic character of a communal space rather than subdividing it, however, as the land to the rear of both agricultural buildings is in third party ownership this is the only area where garden area could reasonably be placed, as there is little character remaining in the redundant barns, the use of the space for garden areas and parking is accepted in this instance.

The Council Landscape Architect has commented on the application raising no concerns over the impact of the proposal in the landscape, instead seeking clarification/additional detail over some of the detailed landscaping proposals internal to the site.

The nearest residential properties to the site are those immediately to the east (adjoining units 1 and 2) and those on the opposite side of the public highway. Units 1 and 2 would not have any windows on the eastern elevations and there would be no amenity space facing those residents such that there would be no harm to the amenity of the occupiers of the occupiers of 'Venmore Cottages'. The properties on the opposite of the public highway known as 'Glenora', 'Venmore Bungalow' and '1 Venmore Orchard' would witness a change in outlook across the road but onto blank elevations and those units that bound the road - units 1 and 3 would be single storey in form such that they would not appear overbearing or dominant and would not block any daylight from the front elevations of the aforementioned properties such that it is considered that there would not be detrimental impact on residential amenity.

Overall, the amendments that have been made to the proposal since its original submission have overcome officers concerns and have produced a high quality development that would assimilate well into its surroundings in accordance with Policies D1 and D2 of the EDDC Local Plan.

Heritage impact

The barns on site are historic agricultural buildings that have become redundant following advances in technology and a shift in farming practices away from this site, they are not great examples of machinery/hay storage buildings that warrant retention, however their re-use is welcomed and a new use would re-purpose the buildings and improve their overall appearance, they are not considered to be non-designated heritage assets.

Approximately 60 metres to the east of the application site lies Higher Venmore a grade II listed building whose setting has the potential to be impacted upon as a result

of this application. However, the significance of the listed property is derived from its historic use and its internal form together with its external appearance such that development of the proposal site, which is separated by a number of other residential properties in between would have no harm on the significance of the asset.

The proposal is therefore considered acceptable in relation to Policy EN9 of the EDDC Local Plan and advice contained in the NPPF.

Impact on highway safety

The site benefits from an existing bell-mouth junction onto the main public highway which affords good visibility from an of emerging vehicles in an easterly (72 metres) and westerly direction (75 metres), the existing hedge banks are set behind the visibility splays and there are no obstructions higher than 0.6 metres high within the visibility envelope. It is proposed to widen the access and associated track to provide a suitable width so that two vehicles can pass each other, works are also proposed to create a pavement on the eastern side of the development from the point of access towards unit 1. The parish council has stated that it wishes to see a further pavement on the opposite side of the road, however this land is not in the applicant's control and it would be difficult to justify a pedestrian safety improvements given that there are no existing footways for it to link into.

Each residential unit would benefit from 2 no. parking spaces and there would be sufficient space available on site for vehicles to manoeuvre so that they can enter and leave the site in a forward gear.

The refuse storage areas for each unit have been identified on a plan which is welcomed, however, there is no collection point identified, the Council's waste and recycling team have been consulted on this application but have not responded, therefore it is considered that it would be reasonable to condition a bin collection point close to the public highway on any approval as it would be unlikely that refuse vehicles would enter the site to collect bins/boxes.

Devon County Highways Engineer recommends approval of this application subject to conditions, the existing access is considered to provide adequate visibility and with the improvements proposed in the application it is considered acceptable in accordance with Policies TC7 and TC9 of the EDDC Local Plan and advice contained in the NPPF.

Ecology

The traditional barns on site have the potential to support bats and other protected species, therefore a preliminary ecological appraisal of the site was carried out which identified that bats were using the barns, a subsequent bat emergence survey was carried out with the following being found:

The combined survey results confirm the use of the traditional barn building (Building 1) by roosting bats, consisting of the following:

- Brown long-eared bat *Plecotus auritus* - utilised as a day roost and maternity roost (peak count: 8) from the internal spaces of the building;

- Common pipistrelle *Pipistrellus pipistrellus* - utilised as a day roost by individual/low numbers (peak count: 4) from three roosting locations.
- Soprano pipistrelle *Pipistrellus pygmaeus* - utilised as a day roost by an individual bat (peak count: 1) from one roosting location.

Accordingly, specific mitigation and compensatory measures would need to be incorporated into the proposal/s, including:

- Commencement of works relating to the bat roost/s with a pre-inspection and ecological supervision, required to safely exclude and remove any roosting bats from the working area/s;
- Due to the presence of a maternity roost, the works must be commenced outside of the bat maternity period, which is May to August inclusive;
- Positioning of temporary bat roosting provisions, consisting of at least three bat boxes positioned upon suitable building/s and/or tree/s at or immediately surrounding the property. These bat boxes would be used to relocate any bats found during the works;
- Incorporation of permanent bat roosting provisions, consisting of eight inbuilt bat roosting provisions within the external walls of the proposed converted building and proposed buildings (see Appendix 3);
- Creation of a bat roosting void located within the roof of the converted building or proposed building suitable for long-eared bat species. The void height (floor to ridge) should be at least 2 m, with a length and width of at least 4 m (see Appendices 4 & 5); and,
- The bat roosting provisions, bat access points, and a corresponding flight line/s linking the provisions to the surrounding environment must not be illuminated by external lighting.

These mitigation measures would ensure that the protected bat species that would lose their habitat on site would be retained and mitigated for in the new development. These would be conditioned on any approval.

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 maybe 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 re-use existing buildings for residential use close to an existing settlement rather than requiring the release of greenfield land for new development
- The development would make a positive contribution towards the Council's 5 year housing land supply
- The development would secure an affordable housing contribution of £231,664

2. there must be no satisfactory alternative;

In this case the former agricultural barns are currently redundant their retention would bring them back into an active use, instead of demolition the applicants seek their retention in an important roadside position that would maintain the character and appearance of the area. Great weight is given in local and national policy to the conversion of existing buildings close to settlements in favour of releasing greenfield land for new housing developments.

3. favourable conservation status of the species must be maintained.

To mitigate for the loss of the existing maternity roost habitat found in the former agricultural buildings, positioning of temporary bat roosting provisions, consisting of at least three bat boxes positioned upon suitable building/s and/or tree/s at or immediately surrounding the property. These bat boxes would be used to relocate any bats found during the works. Incorporation of permanent bat roosting provisions, consisting of eight inbuilt bat roosting provisions within the external walls of the proposed converted building and proposed buildings and creation of a bat roosting void located within the roof of the converted building or proposed building suitable for long-eared bat species together with sensitive lighting to avoid disturbance to flightlines would be suitable mitigation to ensure the status of the species found on site are maintained. As such there would be no loss of roosting provision as a result of the development and subject to a condition that requires the applicant to submit a copy of the licence from Natural England prior to demolition of the stables, and which requires the development to be carried out in accordance with the mitigation measures and ecological enhancement measures including the provision of the alternative bat roosting habitats outlined above, it is considered that the application does demonstrate that favourable conservation status of the long eared and common pipistrelle 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.

Furthermore, The National Planning Policy Framework outlines the Government's commitment to minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Therefore, in order for the development to result in a biodiversity gain (in addition to mitigation required for bat species - see Section 1.2.3), the development will need to include the following:

- Creation of a new species-rich hedgerow, set upon a traditional Devon bank along the southern site boundary allowed to grow at least 2 m tall x 2 m wide (from top of bank);
- Creation of replacement hedgerows along the northern site boundary and down the centre of the site to be set upon a new traditional Devon bank, be native species-rich and allowed to grow at least 2 m tall x 2 m wide (from top of bank);
- Any new planting should be of native wildlife attracting trees and shrub species of local provenance;
- Creation of at least one habitat pile consisting of logs, brash &/or grass cuttings 1 m², within a relatively undisturbed area of the site (see Appendix 8);
- Provide one inbuilt bird nesting provision per residential unit/plot - positioned within/upon external walls (see Appendix 6);
- Provide one invertebrate provision per residential unit/plot - positioned within the external walls (see Appendix 7); and,
- Any external lighting associated with the development is to be adapted to be based on a Passive Infrared Sensor (PIR) system (being motion-sensitive only to large objects) and on a short timer (no longer than 1 minute). Such lighting will specifically not be positioned where it could illuminate surrounding
- vegetation (e.g. woodland, trees, hedgerows, hedgebanks, etc.), any bat roosts or any areas beyond the site.

These have been included on the landscape plan and would be secured by condition together with a regime of maintenance of the features under a LEMP condition on any approval.

The proposal is therefore considered acceptable in relation to Policy EN5 of the EDDC Local Plan.

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.

Flooding and drainage

The site lies in flood zone 1 as defined by the Environment Agency's mapping system such there is no need to undertake a sequential test of the proposed development being located on land that is not liable to flooding.

Following development, the impermeable area would cover 38.2% of the site, and a formal surface water management scheme would be implemented to manage pluvial and surface water flows.

Roof water (collected by a series of gutters and downpipes) and the surface water generated from the access road will be directed to the attenuation basin which would discharge via a Hydrobrake flow control into a new combined water sewer that would be installed under the minor road that bounds the north of the site and across the field to the north (in third party ownership) into the Gill Brook, approximately 200m to the north of the site.

All surface water drainage has been designed for the 100 Year + 45%Climate Change event.

There is no SWW foul sewer in the vicinity of the development and it is therefore proposed to discharge foul water from the developmental a new high-quality effluent package treatment plan located in the west of the site. Flows from the plant would be discharged to the Gill Brook to the north via a new combined water sewer following treatment. It is expected that such a discharge will be permissible under the General Binding Rules (as less than 5m³ of flow will be expected per day).

Soakaway tests were undertaken at the site In April 2022 however infiltration is not a viable option for disposal of surface water or treated foul flows on this site.

The maintenance and management of the proposed accommodation buildings (surface water and foul water) drainage system sand associated devices would remain in private ownership and will be the responsibility of the landlord/ tenant.

The proposed drainage attenuation and management details are considered appropriate for the site and in accordance with Policies EN19 and EN22 of the EDDC Local Plan.

Planning balance

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 an affordable housing contribution of £231,664 that will provide social sustainability benefits in the parish. Similar importance is attached to the potential 8 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 8 new homes and the filter down effect this would have on the local and regional economy weigh 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 town. 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 adverse. 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 hedgerow around the site with minimal tree or hedge removal overall.

The development is outside of the floodplain with a site that can be drained by sustainable means.

However, the development would be located in an area that is not accessible by a range of transport means or on foot due to the absence of convenient and lit footways to Woodbury's amenities and facilities such that residents would need to resort to the private car for the majority, if not all of their journeys. The Council has/is undergoing allocation of preferred sustainable locations for housing growth, this site has previously been discounted at an early stage in these consideration due to its location and poor access to services required for daily living by any other means than the private motor vehicle. This weighs against the proposal

It is considered that there are social and economic benefits to development of the site. The affordable housing contribution, the open market housing and the benefit to the local economy should be given weight. The environmental impacts are however significant with development located where it would not be possible to access services other than by the private motor vehicle.

On balance the proposals are considered to represent unsustainable development in the light of the guidance in the National Planning Policy Framework and the adverse

impacts of the development significantly and demonstrably outweigh the benefits of the development.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed development would be poorly located and divorced from services and facilities and public transport. The absence of convenient pedestrian footways, lighting and the distance between the site and local services and facilities would lead residents to rely on travel by private motor vehicles. The site does not therefore occupy a sustainable location for residential development. As such, the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport) and Policy TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031, and guidance set out in the National Planning Policy Framework which concern actively managing patterns of growth in support of, the promotion of opportunities for walking, cycling and public transport in conflict with the environmental dimension of sustainable development. This environmental harm is considered to be an adverse impact that would significantly and demonstrably outweigh the benefits of the development when considering NPPF policies as a whole.
2. In the absence of a completed Section 106 Obligation the proposed development fails to provide a suitable mechanism to secure the off-site affordable housing contribution required to meet the requirement of developing small scale housing the rural area and habitat mitigation contribution required to mitigate the recreational impacts of the development on the Exe Estuary SPA and Pebblebed Heaths SPA, as a consequence these mitigation payments cannot reasonably be secured. The proposal is therefore contrary to Strategy 50 of the East Devon Local Plan.

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:

1609-PL403 C : Proposed roof plans 16.03.23
unit 3/5

1609-PL400 C : Proposed Floor Plans 16.03.23
unit 1/2

1609-PL401 C : unit 1/2	Proposed Combined Plans	16.03.23
1609-PL402 C : unit 3/5	Proposed Floor Plans	16.03.23
1609-PL210 C : AA+BB	Proposed Elevation	16.03.23
1609-PL211 C : CC+DD	Proposed Elevation	16.03.23
1609-PL212 B : E	Proposed Elevation	16.03.23
1609-PL01 E	Location Plan	16.03.23
1609-PL405 C : unit 6	Proposed roof plans	16.03.23
1609-PL406 C : unit 7/8	Proposed Floor Plans	16.03.23
1609-PL407 C : unit 7/8	Proposed roof plans	16.03.23
1609-PL410 C : unit 1	Proposed Elevation	16.03.23
1609-PL411 C: unit 2	Proposed Elevation	16.03.23
1609-PL412 C : unit 3/5	Proposed Elevation	16.03.23
1609-PL413 C : unit 6	Proposed Elevation	16.03.23
1609-PL414 C : unit 7/8	Proposed Elevation	16.03.23
1609-PL416 C : floor/elevations barn/bat loft	Proposed Combined Plans	16.03.23
1609-PL417 C : visibility splay	Other Plans	16.03.23
912/01 A : landscape 01	Landscaping	16.03.23

912/01 A :
landscape 02

Landscaping

16.03.23

List of Background Papers

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

Ward Budleigh And Raleigh

Reference 22/1279/FUL

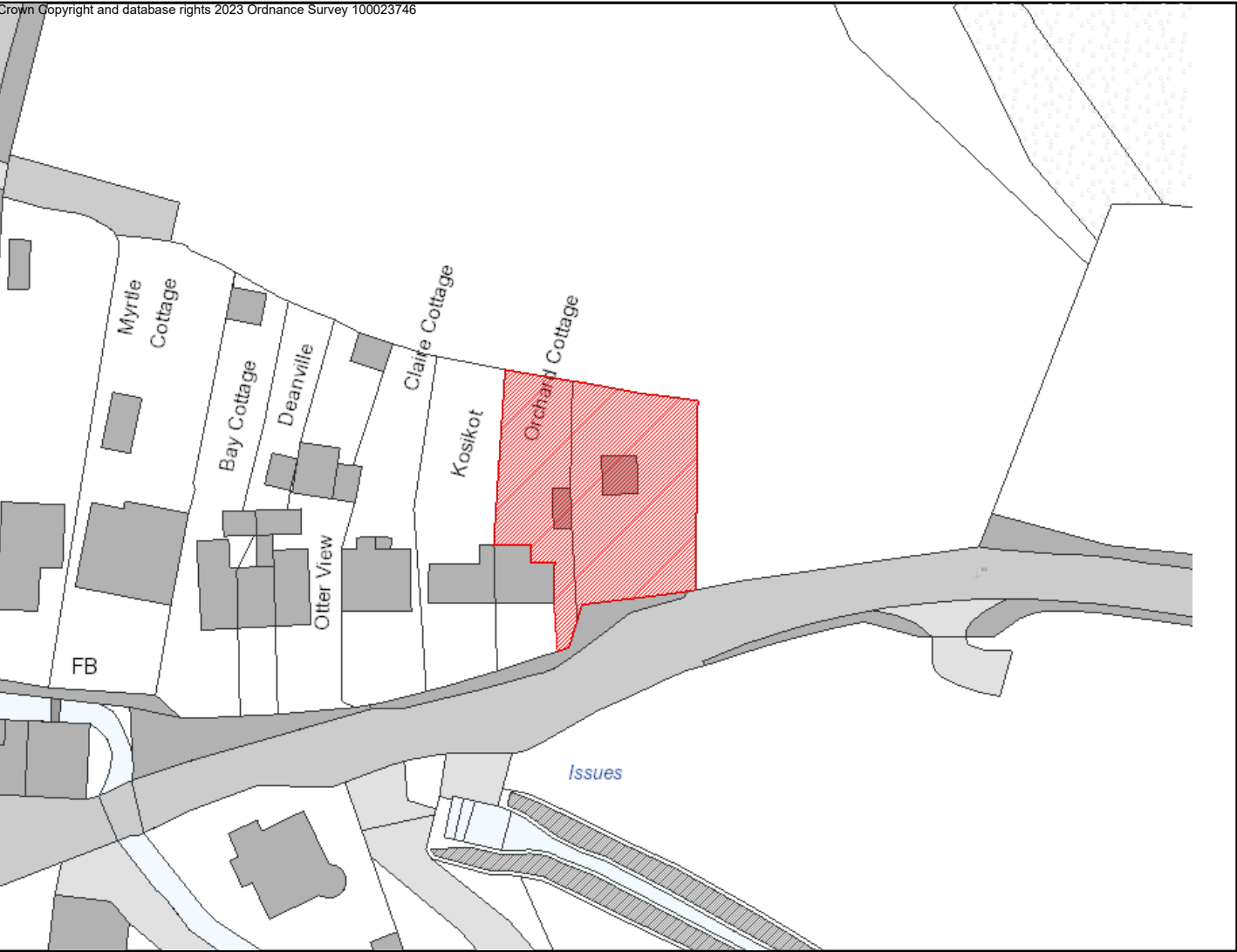
Applicant Clinton Devon Estates

Location Land At Frogmore Road East Budleigh

Proposal Demolition of detached garage and erection of proposed detached dwelling.



RECOMMENDATION: Approval with conditions



		Committee Date: 24.04.2023
Budleigh And Raleigh (East Budleigh)	22/1279/FUL	Target Date: 31.08.2022
Applicant:	Clinton Devon Estates	
Location:	Land At Frogmore Road East Budleigh	
Proposal:	Demolition of detached garage and erection of proposed detached dwelling.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Planning Committee because it is a departure from the local plan.

The site refers to a plot of land to the east of Orchard Cottage which currently contains a detached garage. To the east of the site is a development which has approval for the construction of five dwellings. It is proposed to demolish the existing garage and construct a two storey dwelling.

Strategy 7 of the East Devon Local Plan states that development within the countryside must be supported by a policy within the Local or Neighbourhood Plan. The site is located outside the built up area boundary for East Budleigh as defined within the Villages Plan and is therefore considered to be in the open countryside in planning terms. It is considered that there are no policies which would allow for the proposal in either the Local Plan or the Neighbourhood Plan.

However, the council cannot demonstrate a 5 year land supply and paragraph 11 of the NPPF is engaged. This states that where policies are out of date permission should only be refused if the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposed dwelling is not considered to have a detrimental impact upon the character of the area due to the appropriate scale and materials. Nor is it considered to have any detrimental impacts to the amenity of any neighbouring residents. The site would contain sufficient parking and, although there isn't space for vehicles to turn within the site it is not considered to have a detrimental impact on the safety of the highway. An ecology report makes recommendations for ecological enhancement of the site and a surface water drainage scheme would ensure that surface water does not enter the public combined sewer.

Therefore, on balance it is considered that the proposal would not have any significant or demonstrable adverse effects that would lead to refusal of planning permission. Therefore a recommendation of approval is made.

CONSULTATIONS

Local Consultations

Parish/Town Council

East Budleigh with Bickton Parish Council have the following recommendations:

The flint stone walls in East Budleigh are highly regarded and are one of the key characteristics in the Neighbourhood Plan (11.7). Neighbourhood Plan sections 12.13, 12.14, 12.15 reinforce the desirability of stone wall boundaries for new developments to retain the village vernacular.

The application seeks to breach the existing flint stone wall in three places: entry to new dwelling drive; pedestrian entry to new dwelling; entry to Orchard Cottage drive.

Although stonework will be retained to build a new wall section where the existing gateway is located, it would be desirable to eliminate the separate pedestrian entry in order to maximise the run of stone wall and preserve its integrity. The whole retained wall should be strengthened as it is reportedly compromised currently.

It is noted that this development falls outside the Built Up Area Boundary, but as the larger adjacent development (21/0163/RES) has already been approved, this small development forms an infill between the larger development and Orchard Cottage. Policies D1 and D2 of the Neighbourhood Plan call for affordable housing of up to 3 bedrooms in the context of development of this land parcel. However, the Parish Council is advised by the applicant that the plot was of insufficient size to accommodate a pair of semi-detached properties

Technical Consultations

South West Water

Good afternoon,

Proposal: 22/1279/FUL Demolition of detached garage and erection of proposed detached dwelling

Location: Land At Frogmore Road East Budleigh

Having reviewed the current information as to proposed surface water disposal for this development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

The applicant should demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Other Representations

No third party representations have been received.

PLANNING HISTORY

REFVAL	STATUS	PROPOSAL	DATE DECISION ISSUED
16/1673/OUT	Approval with conditions	Outline application for five no. dwellings (including three no. affordable units) with associated access (details of layout, scale, appearance and landscaping reserved).	25/05/2018
14/2959/MOUT	Withdrawn	Outline application for the construction of 18 dwellings (including 66 % affordable housing) with all matters reserved other than access.	10/05/2016
21/0163/RES	Approval with conditions	Construction of 5no dwellings (including 3no affordable dwellings) (Approval of details of layout, scale and appearance of buildings and landscaping of site pursuant to outline planning permission ref. 16/1673/OUT)	15/12/2021
22/0837/VAR	Approval with conditions	Variation of condition 2 (approved plans) of application 21/0163/RES. Addition of rooflights and second floor windows.	20/07/2022

The site itself does not have any relevant planning history. However, the adjacent site has been subject to applications for new housing developments. An approved

scheme for five dwellings was approved at outline in 2018 and a reserved matters application approved in 2021.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)
Strategy 7 (Development in the Countryside)
D1 (Design and Local Distinctiveness)
EN5 (Wildlife Habitats and Features)
EN22 (Surface Run-Off Implications of New Development)
TC2 (Accessibility of New Development)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

East Budleigh Neighbourhood Plan (Made)

Policy P3 Protection of highest grade agricultural land
Policy G2 Off Road Parking
Policy N1 (Protecting and enhancing the landscape, biodiversity and local countryside character)
Policy B2 (General Design Principles)
Policy D1 (Built-up Area Boundary of East Budleigh Village)
Policy D2 (Dwelling Size)

Government Planning Documents

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

Site Location and Description

The site refers to a plot of land east of the dwelling known as Orchard Cottage on Frogmore Road, East Budleigh. The land is currently open land used in connection with Orchard Cottage, a garage is located in the centre of the site. The site is bounded by an open field to the north and a development site to the east. To the west is Orchard Cottage and Frogmore Road is found to the south.

The site is located adjacent to but outside of the built up area boundary for East Budleigh. The site is also located within the East Devon Area of Outstanding Natural Beauty (AONB) and adjacent to Flood Zone 2. Frogmore Road adjacent to the site is a classified C road. There are no other constraints on the site.

Proposed Development

This application seeks planning permission for the construction of a two storey four bedroom detached dwelling with attached garage. A new access would be created to the east of the site and the existing access would be utilised as a driveway by Orchard Cottage.

The proposed dwelling would have a traditional design with a rectangular design with a pitched roof. The materials would be roughcast render and a slate roof.

ANALYSIS

Consideration and Assessment

The main issues for consideration are considered to be:

- Principle of development
- Sustainability of Location
- Impact to Character and Appearance of the Area Including AONB
- Residential Amenity
- Parking and Highways
- Ecology
- Surface Water Drainage
- Habitats mitigation

Principle of Development

The site lies adjacent to but outside the built up area boundary as defined within the Villages Plan and therefore Strategy 7 applies. This strategy is an overarching strategy for all development and states that "Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development".

It is not considered that there is any policy within the East Devon Local Plan or the East Budleigh and Bicton Neighbourhood Plan which would allow for the residential development of the site. Therefore, the proposal must be regarded as being contrary to the overarching spatial development approach set out in Strategy 1 (Spatial Strategy for Development in East Devon) relating to the location of new housing development and, as such, considered to be unacceptable in principle.

However, the council cannot demonstrate a 5 year land supply for housing. This means that the policies for the delivery of residential dwellings across the district are out of date. Although this does not mean that the policies of the Local Plan are irrelevant, it means that the tilted balance needs to be applied as per paragraph 11 of the NPPF. This paragraph states that planning permission shall be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF.

Therefore the impacts of the development shall be assessed and a planning balanced reached.

Sustainability of Location

The site is well located in relation to the edge of the built-up area of a settlement that is identified through Strategy 27 as itself being sustainable on account of the range of accessible services and facilities, including public transport, to meet the everyday needs of residents that it offers. One of the other criteria set out within Strategy 35 requires that these should include four or more of a school, pub, village hall, shop/post

office, doctor's surgery, place of worship or public transport service. In this case, East Budleigh offers all of these services/facilities apart from a doctor's surgery.

In addition, although located on the very edge of this part of the village, the site is itself within reasonable walking distance of the majority of these services/facilities with the village primary school, village hall and shop within between 600 and 700 metres and the parish church and public house within the centre of the village a short distance further. There is also reasonable provision of footways connecting the site with the village centre along Lower Budleigh, Middle Street and High Street.

Furthermore, there is a public house and repair garage positioned much closer to the site adjacent to the crossroads at the junctions of Frogmore Road and Lower Budleigh with the B3178/Oak Hill. This road itself is also part of a route used by regular bus services connecting the village with Budleigh Salterton, Exmouth, Sidmouth and Exeter.

It is therefore considered that the site occupies a sufficiently sustainable location in terms of its ready accessibility to this range of services and facilities as to be an acceptable site, in principle, to accommodate an additional dwelling.

Impact to Character and Appearance of the Area including AONB

The proposed dwelling would be a detached, four bedroomed, two storey dwelling with a pitched roof. It would have a two storey rear extension which would provide the master bedroom and the kitchen/diner.

The proposed dwelling would sit comfortably within the plot with a sizable gap to the existing neighbouring property, Orchard Cottage to the west and the terrace to the east approved under 16/1673/OUT and 21/0163/RES. The proposed dwelling would sit further back into the site than the adjacent Orchard Cottage and would be aligned with the previously approved terrace.

The proposed dwelling would have a total height of 8 metres which is a metre shorter than the adjacent terrace and the scale of the building would sit comfortably within the plot. It is proposed to use roughcast render with natural slate roofs which would be of a similar appearance to the existing nearby dwellings and proposed terrace. The scale and proposed materials means that the development would be in character with the grain of development along Frogmore Road and is considered acceptable.

Additionally, the flint wall is proposed to be retained with the exception of two new openings, one for a pedestrian access and the other as a driveway to the garage. The retention of this wall is welcomed as it is considered to be a feature which makes a significant contribution to the character of the road. The Parish Council have made concerns about the pedestrian opening stating that it removes more of the wall than necessary. Whilst these comments are noted, it is considered to be a minor section of the wall and would have limited impact upon the wider character of the area. Therefore, the plans are considered acceptable as proposed.

The site is located within the East Devon AONB. Strategy 46 states that development must help conserve and enhance the quality and local distinctiveness of the natural

landscape character. In this case the proposed dwelling would be located in a gap between two residential sites and would in keeping with the grain of development in the locality. Therefore the rural character of the AONB would be conserved.

It is considered that the siting of the dwelling would not harm the rural character of the area and in compliance with Policy D1 of the East Devon Local Plan and Policy N1 and B2 of the East Budleigh and Bicton Neighbourhood Plan.

Residential Amenity

The proposed dwelling would be located to the east of the dwelling known as Orchard Cottage. As previously this has a gap between the properties such that there would not be any concerns of overbearing or loss of light. Additionally, although the building is set back from the road, the front facing windows would be forward of the rear elevation of Orchard Cottage. Therefore there would be no concerns of overlooking from these windows. There is one side window on the ground floor of Orchard Cottage, however, due to the oblique angle it is not considered that this would lead to a loss of privacy due to its ground floor level and the low amenity value of the front garden of the proposed dwelling.

In regards to the adjacent terrace, there is a single storey garage in between the proposed dwelling and the approved terrace. This provides a gap which enables the development to not have an overbearing impact or result in a loss of light. Additionally there are no windows which would directly face each other as a result of the new dwelling. Therefore, it is not considered that the proposed dwelling would not result in a loss of residential amenity for any future occupier of the approved dwelling.

Parking and Highways

The site would be accessed off Frogmore Road which is a classified C road. The proposal does not provide space within the site so that vehicles could turn within the site, therefore vehicles entering and leaving the dwelling would have to reverse onto the highway. Although this is a classified road, it is rural and lightly trafficked with vehicles travelling at a low speed due to the proximity of the junction with Budleigh Hill and the shape of the road. Therefore, it is not considered that the lack of turning space and resultant reversing onto the highway would result in any significant highway safety concerns.

The dwelling has 4 bedrooms and would therefore require 2 parking spaces as per policy TC9. The garage would provide sufficient storage space for two cars whilst the driveway would provide space for an additional two cars. This is sufficient to satisfy the requirements of the above policy.

Ecology

The initial ecology survey was conducted in August 2020. The appraisal did not find any evidence of bats within the garage and it was not considered that a bat roost would be found in other locations in the site. Additionally there was no evidence of any nesting birds but an ornamental shrub was considered to have potential as a habitat.

The report makes a number of recommendations as mitigation against the loss of the shrubs and for ecological enhancement.

A supplementary updated letter was submitted with the application which updated the survey results from a survey undertaken on the 23rd March 2022. This found evidence of a disused wrens nest and evidence of a badger couch but no setts. This update provides further recommendations for mitigation and ecological enhancement.

With these recommendations it is considered that the proposal would mitigate any loss of habitats and would also provide an ecological enhancement to the site. The proposed development would therefore comply with Policy EN5 of the East Devon Local Plan.

Surface Water Drainage

Comments from South West Water have provided concerns that the surface water drainage would enter the combined mains sewer as stated on the application form. These concerns were raised with the agent of the application and an alternative scheme has been proposed.

The site is unsuitable for SUDS as there was poor infiltration of water into areas on site. Therefore, surface water will now drain into an attenuation tank within the front garden of the proposed dwelling. This would then discharge into the neighbouring development's private network with permission with the developer at a rate of 1l/s. This would then discharge into a watercourse at an unrestricted rate.

This scheme shall ensure that no surface water enters the combined mains sewer and follows SWW's runoff hierarchy that ground infiltration should be considered first, then a surface waterbody.

Habitats Mitigation

The site is located in close proximity to the East Devon Pebblebed Heaths and Exe Estuary Special Protection Area (SPA) 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. The formation of dwellings within 10km of the protected habitat has been demonstrated to have a material impact on the habitat due to recreational activity including dog walking and other activities on the heaths which can be detrimental to the habitat and require mitigation for a conclusion of no significant effects to be reached. A joint mitigation strategy with neighbouring authorities has been in effect for some years and has delivered and continues to deliver mitigation. A financial contribution towards the continued delivery of the strategy is required in this case. To ensure that overall the proposed development would not have a significant effect on the habitat.

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 Pebblebed Heaths and Exe Estuary 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 Pebblebed Heaths and the Exe Estuary and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.62 per dwelling which has been secured upfront with this application and a S111 form.

Planning Balance

The NPPF indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites the policies in the development plan are to be considered out of date. In such cases planning permission should be approved without delay unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme.

Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act (2004). The Framework is only one such material consideration and even where paragraph 11 applies, it remains necessary to reach a final conclusion against section 38(6).

It can be seen that this proposal would provide one additional dwelling towards meeting the housing need within the district. This can be achieved in a relatively suitable location with links to an appropriate level of services and facilities. It is not considered that the proposal would have any detrimental impacts upon the character of the area including the AONB nor would it have any residential amenity concerns. Additionally, there would not be any parking and highways concerns and any ecological and surface water concerns have been overcome.

The outcome of the Framework paragraph 11 d) process indicates that this decision should be taken otherwise than in accordance with the development plan. The proposal would therefore amount to sustainable development when assessed against the NPPF, taken as a whole.

Conclusion

Although the proposal would be located outside the built up area boundary, the proposal is considered to have limited harm and is compliant with the NPPF as a whole. Therefore a recommendation of approval is made.

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 development shall be carried out in accordance with the recommendations and mitigation measures contained within the Preliminary Ecological Appraisal Survey carried out by Richard Green Ecology Ltd dated August 2020 and the Updated Ecological Survey carried out by Richard Green Ecology Ltd dated 7th April 2022.
(Reason - In the interests of ecology in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.)
4. The development shall be carried out in accordance with the surface water drainage scheme (Drawing Ref: 2037_0500_P1) prepared by JRC Consulting Engineers dated December 2022.
(Reason - To avoid pollution of the environment in accordance with the requirements of Policy EN14 - Control of Pollution and to 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 the guidance contained within the National Planning Policy Framework.)
5. No works for the construction of the building hereby permitted shall be undertaken on Sundays or Public Holidays. On other days no construction work shall be undertaken outside of the following hours: 08:00 hours and 18:00 hours Mondays to Fridays inclusive and 08:00 hours and 13:00 hours on Saturdays.
(Reason - To protect adjoining occupiers from excessive noise in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no hardstanding, fences, gates or walls shall be erected within the curtilage of the dwellinghouse forward of the wall of the dwellinghouse which fronts onto the road.
(Reason - To retain the character of the landscaped frontage in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031).
7. 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 and any proposed hardsurfaces. 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.)

8. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls, windows, doors and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are 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.)

9. Prior to installation, details of the front pedestrian and vehicular gates shall be submitted to, and approved in writing by, the Local Planning Authority. The gates shall be installed in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

10. The existing front stone wall shall be made good to match the original wall prior to occupation of the dwelling. The materials and method (including mortar mix) shall match the existing stone boundary wall.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

11. Prior to occupation of the dwelling hereby approved the rear amenity area shall be subdivided as indicated on drawing number 200602 L 003 Rev A to ensure that adequate amenity space is provided for both Orchard Cottage and the dwelling hereby approved.

(Reason: To ensure adequate amenity for both existing and future occupiers in accordance with Policy D1 – Design and Local Distinctiveness of the East Devon Local Plan 2013 - 2031)

NOTE FOR APPLICANT

Informative:

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

Plans relating to this application:

200602 E 001	Proposed Elevation	08.06.22
200602 E 002A	Street Scene	08.06.22
200602 L 001	Location Plan	08.06.22
200602 L 003A	Proposed Site Plan	08.06.22
200602 P 001	Proposed Floor Plans	08.06.22

List of Background Papers

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