

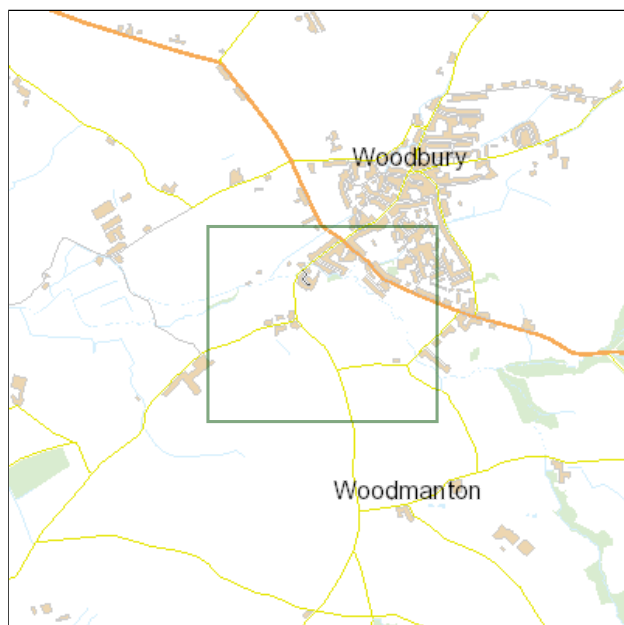
**Ward** Woodbury And Lypstone

**Reference** 22/1761/FUL

**Applicant** Mr R House

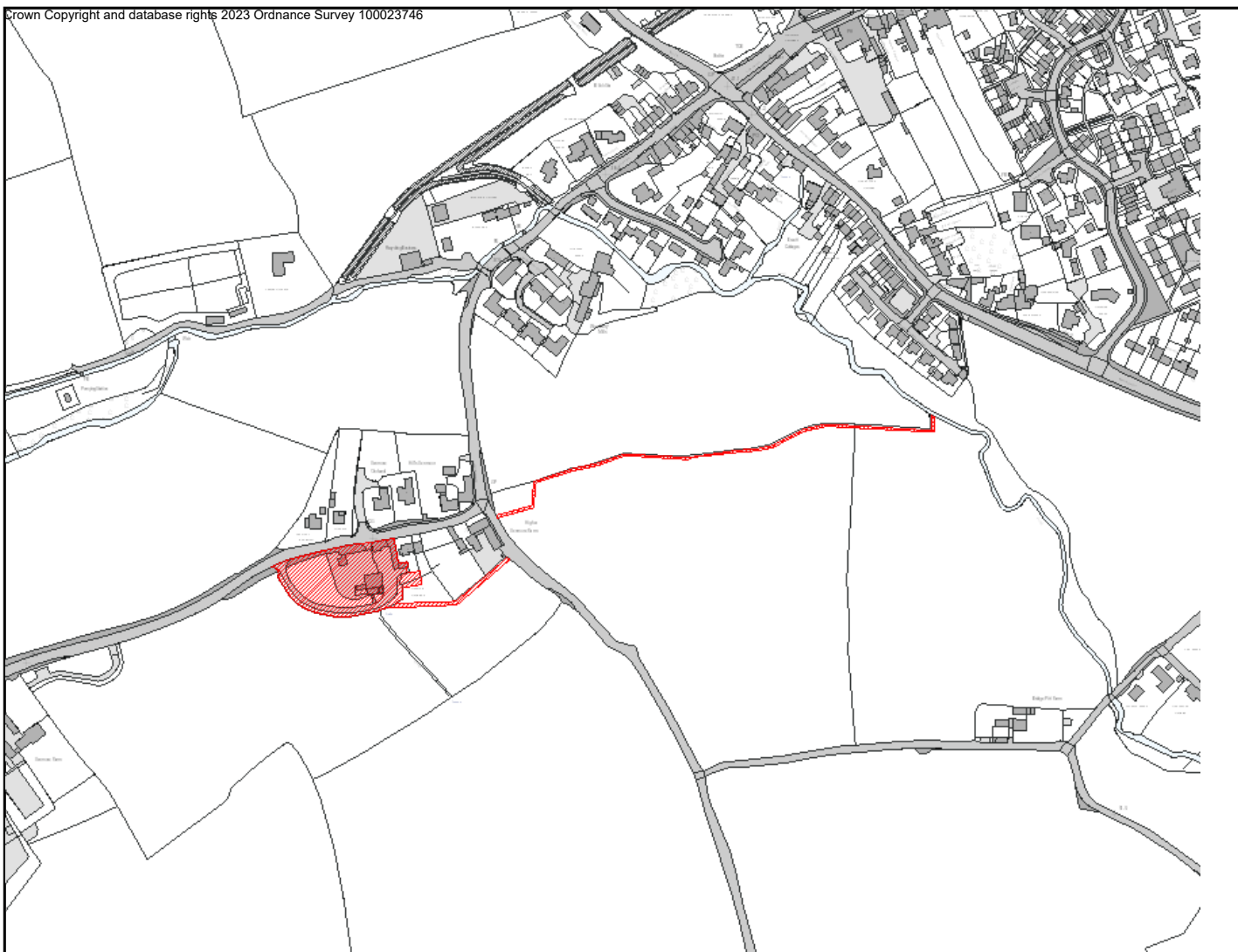
**Location** Land At Venmore Barn Woodbury Exeter EX5 1LD

**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

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		<b>Committee Date: 24.04.2023</b>
<b>Woodbury And Lympstone (Woodbury)</b>	<b>22/1761/FUL</b>	<b>Target Date: 05.10.2022</b>
<b>Applicant:</b>	<b>Mr R House</b>	
<b>Location:</b>	<b>Land At Venmore Barn Woodbury</b>	
<b>Proposal:</b>	<b>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.</b>	

**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 m<sup>2</sup>, 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 5m<sup>3</sup> 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 :            Landscaping            16.03.23  
landscape 02

List of Background Papers

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