

Ward Budleigh And Raleigh

Reference 22/1279/FUL

Applicant Clinton Devon Estates

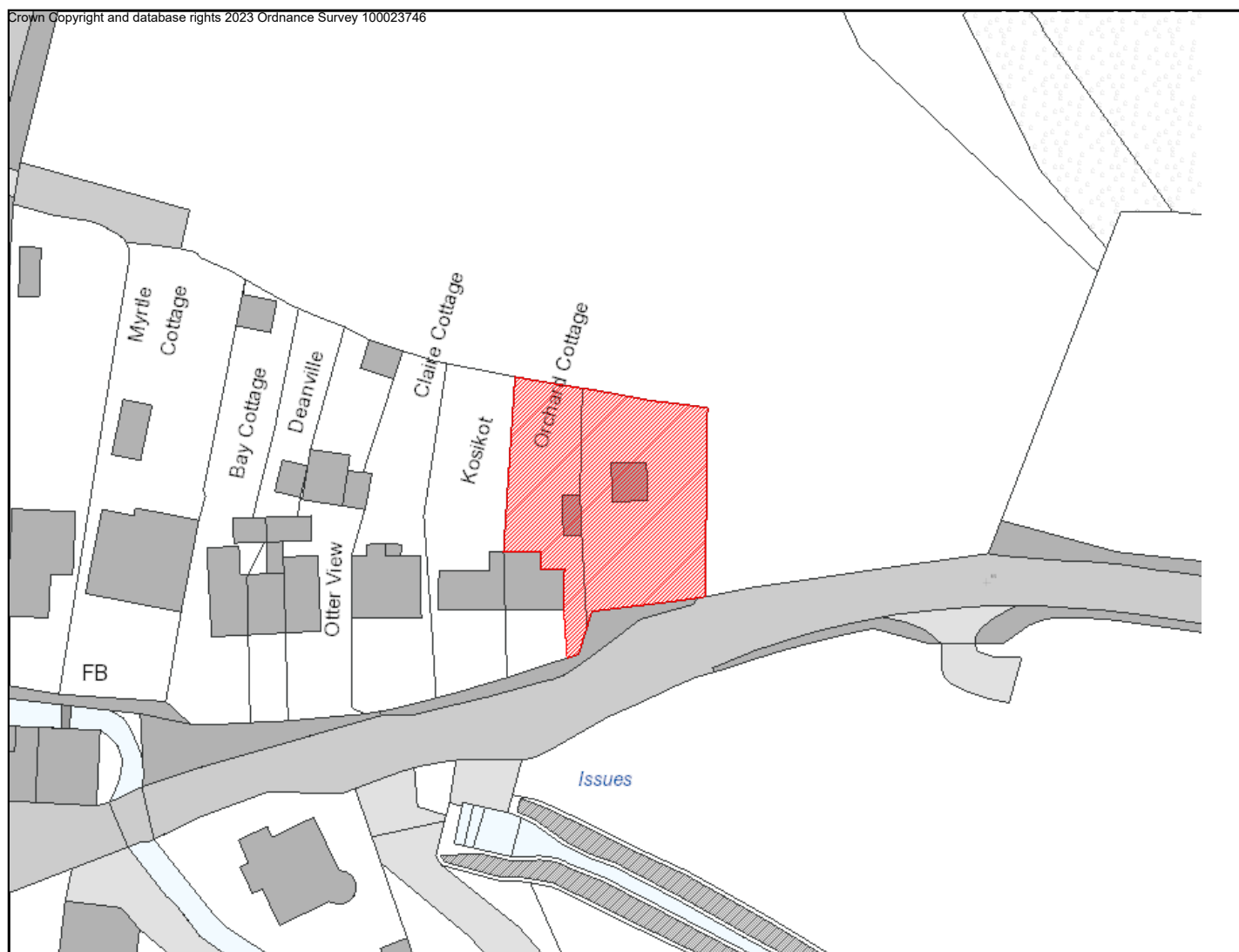
Location Land At Frogmore Road East Budleigh

Proposal Demolition of detached garage and erection of proposed detached dwelling.



RECOMMENDATION: Approval with conditions

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		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 This states that where policies are out of date permission should only be refused if the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.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.